

SENATE BILL NO. 121

INTRODUCED BY JERGESON, GAGE, JACOBSON,  
KEATING, SIMON, COBB, BRADLEY

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
JANUARY 19, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 20, 1989	PRINTING REPORT.
JANUARY 21, 1989	SECOND READING, DO PASS.
JANUARY 23, 1989	ENGROSSING REPORT.
JANUARY 24, 1989	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 24, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 20, 1989	FIRST READING.
MARCH 8, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 92; NOES, 5.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 14, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *121*  
 2 INTRODUCED BY *Jerguson* *Jacobson*  
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE *Lehto*  
*Colts Bradley*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE FROM STATUTES  
 6 ALL LANGUAGE RELATING TO THE MERIT SYSTEM; ABOLISHING THE  
 7 MERIT SYSTEM COUNCIL AND THE MERIT SYSTEM THAT WERE DECLARED  
 8 UNCONSTITUTIONAL BY THE DISTRICT COURT; AMENDING SECTIONS  
 9 2-15-112, 2-15-2205, AND 2-18-404, MCA; AND REPEALING  
 10 SECTIONS 2-15-1006, 2-18-105, AND 39-71-207, MCA."  
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 2-15-112, MCA, is amended to read:

14 "2-15-112. Duties and powers of department heads. (1)  
 15 Except as otherwise provided by law, each department head  
 16 shall:

17 (a) supervise, direct, account for, organize, plan,  
 18 administer, and execute the functions vested in the  
 19 department by this chapter or other law;

20 (b) establish the policy to be followed by the  
 21 department and employees;

22 (c) compile and submit reports and budgets for the  
 23 department as required by law or requested by the governor;

24 (d) provide the governor with any information that he  
 25 requests at any time on the operation of the department;

1 (e) represent the department in communications with  
 2 the governor;

3 (f) prescribe rules, consistent with law and rules  
 4 established by the governor, for the administration of the  
 5 department; the conduct of the employees; the distribution  
 6 and performance of business; and the custody, use, and  
 7 preservation of the records, documents, and property  
 8 pertaining to department business. The lieutenant governor,  
 9 secretary of state, attorney general, auditor, and  
 10 superintendent of public instruction may prescribe their own  
 11 rules for their departments or offices, and the governor may  
 12 not prescribe rules for them. The rules described in this  
 13 subsection are limited to statements concerning only the  
 14 internal management of the agency and not affecting private  
 15 rights or procedures available to the public. This section  
 16 does not authorize the adoption of any rule as rules are  
 17 defined in the Montana Administrative Procedure Act.

18 (g) subject to the approval of the governor, establish  
 19 the internal organizational structure of the department and  
 20 allocate the functions of the department to units to promote  
 21 the economic and efficient administration and operation of  
 22 the department. The internal structure of the department  
 23 shall be established in accordance with 2-15-104(2).

24 (h) subject to law and ~~the state merit system~~, if  
 25 applicable, establish and make appointments to necessary

1 subordinate positions and abolish unnecessary positions;

2 (i) maintain a central office in Helena for the  
3 department and such other facilities throughout the state as  
4 may be required for the effective and efficient operation of  
5 the department.

6 (2) Except as otherwise provided by law, each  
7 department head may:

8 (a) subject to law ~~and the state merit system, if~~  
9 ~~applicable~~, transfer employees between positions, remove  
10 persons appointed to positions, and change the duties,  
11 titles, and compensation of employees within the department;

12 (b) delegate any of the functions vested in the  
13 department head to subordinate employees;

14 (c) apply for, accept, administer, and expend funds,  
15 grants, gifts, and loans from the federal government or any  
16 other source in administering the department's functions;

17 (d) enter into agreements with federal, state, and  
18 local agencies necessary to carry out the department's  
19 functions."

20 **Section 2.** Section 2-15-2205, MCA, is amended to read:

21 "2-15-2205. Division of visual services. There is a  
22 division of visual services within the department of social  
23 and rehabilitation services. The division head is an  
24 administrator appointed by the director of the department of  
25 social and rehabilitation services in accordance with merit

1 ~~system-and~~ classification requirements. The division is  
2 responsible for administration of rehabilitative and other  
3 services for blind and visually handicapped persons."

4 **Section 3.** Section 2-18-404, MCA, is amended to read:

5 "2-18-404. Payroll roster -- changes certified by  
6 appointing powers. (1) The state auditor shall establish and  
7 maintain a payroll roster of all persons employed by every  
8 state agency and may establish and maintain a roster of all  
9 established positions. The payroll roster shall include both  
10 ~~merit-system-and~~ exempt employees but shall not necessarily  
11 include emergency appointees or the equivalent.

12 (2) Each appointing power shall correctly and promptly  
13 certify to the state auditor all changes, modifications,  
14 additions, and deletions to the payroll roster in compliance  
15 with all applicable merit service, fiscal, and other  
16 pertinent laws and rules.

17 (3) The state central payroll system shall disburse or  
18 otherwise act in reliance upon all payroll roster  
19 certifications and attendance reports certified to the state  
20 auditor by the respective appointing powers."

21 NEW SECTION. **Section 4. Repealer.** Sections 2-15-1006,  
22 2-18-105, and 39-71-207, MCA, are repealed.

-End-

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1  
2 INTRODUCED BY *Senate* BILL NO. *121*  
3 *Jerguson* *Jacobsen*  
4 *Colts* *Bradley*  
5 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE FROM STATUTES  
7 ALL LANGUAGE RELATING TO THE MERIT SYSTEM; ABOLISHING THE  
8 MERIT SYSTEM COUNCIL AND THE MERIT SYSTEM THAT WERE DECLARED  
9 UNCONSTITUTIONAL BY THE DISTRICT COURT; AMENDING SECTIONS  
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11 SECTIONS 2-15-1006, 2-18-105, AND 39-71-207, MCA."

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13 **Section 1.** Section 2-15-112, MCA, is amended to read:

14 "2-15-112. Duties and powers of department heads. (1)

15 Except as otherwise provided by law, each department head  
16 shall:

17 (a) supervise, direct, account for, organize, plan,  
18 administer, and execute the functions vested in the  
19 department by this chapter or other law;

20 (b) establish the policy to be followed by the  
21 department and employees;

22 (c) compile and submit reports and budgets for the  
23 department as required by law or requested by the governor;

24 (d) provide the governor with any information that he  
25 requests at any time on the operation of the department;

1 (e) represent the department in communications with  
2 the governor;

3 (f) prescribe rules, consistent with law and rules  
4 established by the governor, for the administration of the  
5 department; the conduct of the employees; the distribution  
6 and performance of business; and the custody, use, and  
7 preservation of the records, documents, and property  
8 pertaining to department business. The lieutenant governor,  
9 secretary of state, attorney general, auditor, and  
10 superintendent of public instruction may prescribe their own  
11 rules for their departments or offices, and the governor may  
12 not prescribe rules for them. The rules described in this  
13 subsection are limited to statements concerning only the  
14 internal management of the agency and not affecting private  
15 rights or procedures available to the public. This section  
16 does not authorize the adoption of any rule as rules are  
17 defined in the Montana Administrative Procedure Act.

18 (g) subject to the approval of the governor, establish  
19 the internal organizational structure of the department and  
20 allocate the functions of the department to units to promote  
21 the economic and efficient administration and operation of  
22 the department. The internal structure of the department  
23 shall be established in accordance with 2-15-104(2).

24 (h) subject to law ~~and--the--state--merit--system--if~~  
25 ~~applicable~~, establish and make appointments to necessary

subordinate positions and abolish unnecessary positions;

(i) maintain a central office in Helena for the department and such other facilities throughout the state as may be required for the effective and efficient operation of the department.

(2) Except as otherwise provided by law, each department head may:

(a) subject to law ~~and--the--state--merit--system,--if applicable,~~ transfer employees between positions, remove persons appointed to positions, and change the duties, titles, and compensation of employees within the department;

(b) delegate any of the functions vested in the department head to subordinate employees;

(c) apply for, accept, administer, and expend funds, grants, gifts, and loans from the federal government or any other source in administering the department's functions;

(d) enter into agreements with federal, state, and local agencies necessary to carry out the department's functions."

**Section 2.** Section 2-15-2205, MCA, is amended to read:

"2-15-2205. Division of visual services. There is a division of visual services within the department of social and rehabilitation services. The division head is an administrator appointed by the director of the department of social and rehabilitation services in accordance with merit

system-and classification requirements. The division is responsible for administration of rehabilitative and other services for blind and visually handicapped persons."

**Section 3.** Section 2-18-404, MCA, is amended to read:

"2-18-404. Payroll roster -- changes certified by appointing powers. (1) The state auditor shall establish and maintain a payroll roster of all persons employed by every state agency and may establish and maintain a roster of all established positions. The payroll roster shall include both ~~merit-system-and~~ exempt employees but shall not necessarily include emergency appointees or the equivalent.

(2) Each appointing power shall correctly and promptly certify to the state auditor all changes, modifications, additions, and deletions to the payroll roster in compliance with all applicable merit service, fiscal, and other pertinent laws and rules.

(3) The state central payroll system shall disburse or otherwise act in reliance upon all payroll roster certifications and attendance reports certified to the state auditor by the respective appointing powers."

NEW SECTION. **Section 4. Repealer.** Sections 2-15-1006, 2-18-105, and 39-71-207, MCA, are repealed.

-End-

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 2 INTRODUCED BY *Jerguson* *By* *Jacobsen*  
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE *Feeling*  
*John Colby Bradley*

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