SENATE STATE ADMIN.
EXHIBIT NO. 5
DATE 1.12.05
BILL NO. SB81

MT DEPARTMENT OF MILITARY AFFAIRS INFORMATION SHEET
SB 81

A BILL TO AMEND SEC. 10-1-902 (MT NATIONAL GUARD CIVIL RELIEF)(DEFINITIONS), MCA, REDUCING THE NUMBER OF DAYS (FROM 30 TO 10 DAYS) THAT A MEMBER OF THE MT NATIONAL GUARD MUST BE ON QUALIFYING MILITARY DUTY BEFORE BEING ELIGIBLE FOR RELIEF UNDER THE MT NATIONAL GUARD CIVIL RELIEF ACT AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

INTENT

SB 81 reduces the number of days (from 30 to 10 days) that a member of the Montana National Guard must be on State Active Duty ("SAD"), or non-federalized full-time national guard duty ("FTNGD"), before being eligible for relief under "Montana National Guard Civil Relief Act" (the "Act"). The Act provides relief (ex. postponement or suspension) from civil actions related to mortgage, lease or rental payments and general relief from civil court actions. The limited relief is intended to enable the National Guardsman to devote their full attention to their military duties.

In 2003, the Montana Legislature passed Senate Bill 75, which established the Act (Title 10, Part 9, MCA). The Act is patterned after, on a limited scale, the federal "Servicemembers Civil Relief Act of 2003 ("SCRA") (formerly known as the "Soldiers' and Sailors' Civil Relief Act of 1940"). As currently written, the Act provides National Guardsmen, who serve at least 30 consecutive days on SAD or FTNGD, with SCRA-like protections. National Guardsmen do not qualify for SCRA protections when they are on either SAD or most types of FTNGD.

Traditionally, most SAD orders are for 15 days or less. Therefore, most MT National Guardsmen currently cannot take advantage of the Act's protections when they are performing SAD. The Act should be amended to provide our Guardsmen with meaningful protections. A more appropriate minimum duty period, for protection under the Act, would be "at least 10 consecutive days" of qualifying military duty.

CONCLUSION

The Montana National Guard Civil Relief Act ("Act") currently postpones or suspends certain civil obligations of Montana National Guardsmen who are called to perform State Active Duty, or federally funded active duty (that is not covered by the "Servicemembers Civil Relief Act"), for at least 30 consecutive days. The intent of the Act was to allow Guardsmen to devote full attention to their military duties.

Most Guardsmen are called to State Active Duty for 15 days or less and do not qualify for protection under the Act. The Act should be amended to provide these Guardsmen with protections if they are ordered to qualifying military duty for at least 10 consecutive days.

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