

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN CAROLYN SQUIRES**, on January 10, 2005  
at 3:00 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Carolyn Squires, Chairman (D)  
Sen. Joe Balyeat (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mike Cooney (D)  
Sen. Jon Ellingson (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Rick Laible (R)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 118, 1/4/2005 SB 23, 1/4/2005;  
SB 69, 1/4/2005; SB 25, 1/4/2005;  
SB 72, 1/4/2005

Executive Action: None.

**HEARING ON SB 118****Opening Statement by Sponsor:**

**SEN. MIKE WHEAT (D), SD 32**, opened the hearing on SB 118, Revise employment-related protection for National Guard. He stated that this bill prohibits job discrimination for those employees that are called to active duty in the state of Montana. He said there are federal statutes that protect military people that are called to active duty. He referred to page 2 of the bill regarding the definition of state active duty, and stated that the state active duty doesn't specifically state federally-funded active duty. He said in this type of a situation that federal law provides for the rights and protection of the service men and women. He discussed the bill section by section. New Section 5 deals with entitlement of leave of absence. He stated that a member ordered to state active duty is entitled to a leave of absence from appointment for a period of that state active duty. New Section 6 talks about the right to return to employment without loss of benefits with some exceptions: after a leave of absence for state active duty the members are entitled to return to employment at the same seniority, status, pay, health insurance, pension, and other benefits. He stated that exceptions to this would be a probationary employee. **SEN. WHEAT** distributed an amendment (Exhibit 1). The employee must be employed for a minimum of six months to receive leave of absence with pay, which accrues at a rate of 15 working days in a calendar year for performing military service. This leave cannot be charged against the employee's annual vacation time. Unused military leave will be carried over to the next calendar year, but cannot exceed a total of 30 days in any calendar year.

**EXHIBIT (sts06a01)**

*{Tape: 1; Side: A; Approx. Time Counter: 11 - 20}*

**Proponents' Testimony:**

**Dan Antonetti, representing the VFW**, stated his support for SB 118. He urged the Committee to pass this bill.

**Randy Mosley, Adjutant Major General, Department of Military Affairs**, distributed his written testimony. He stated that the bill establishes the "Montana Military Service Employment Rights Act". This will update and clarify employment protections for those members who serve in the Montana organized militia or the federal reserves. He informed the Committee that SB 118 was drafted in consultation with the Department of Labor and Industry, and the Montana Attorney General's Office. He stated

that both of these offices will play key roles in the enforcement of the Act's rights and protections. The Federal Duty Act doesn't cover State active duty, and this bill will ensure that members of the Montana Armed Forces are protected. This Act will update military leave provisions related to disqualification for unemployment insurance benefits and repeals those sections of Title 10, which have either become outdated or will be superseded by the Act. He informed the Committee that Lieutenant Colonel James (Jim) Moran, the Department's attorney, is present to answer any questions the Committee members may have. He asked the Committee to support SB 118.

**EXHIBIT (sts06a02)**

**Ali Bovington, representing the Attorney General's Office (AG)**, stated the AG supports SB 118. She informed the Committee that SB 118 will clarify the roles and responsibilities of the Attorney General's office, and urged a do pass.

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.7}***

**Roger Hagan, Legislative Consultant of Enlisted and Officer Association of National Guard.** Mr. Hagan distributed his written testimony. He informed the Committee that he represents more than 3,000 member officers and enlisted members of the National Guard. He said this bill will make the Montana Code more user-friendly for Montana Code. Most of the old code is stricken, and new language inserted. The state Constitution provides for special consideration for service men and women, and veterans. This is a cleanup bill, and protects the Montana service members. He discussed the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA), which protects only the National Guard when they are called to active duty by the Governor's office. When the Guards and Reserves are called to federal duty they are protected only on the federal side. The Reserves cannot be called to protect the state of Montana for state active duty. This bill focuses only on the State active duty for the Montana National Guard. SB 118 addresses inactive duty, which is the monthly drill that National Guards attend. He stated that the associations are happy with this bill, because it gives them the opportunity to resolve issues with the military member's employer. He said this bill places the military on par with the federal sector. He thanked all those involved with the draft of this bill, and said that the associations welcome the amendment. He urged the Committee to pass SB 118.

**EXHIBIT (sts06a03)**

**Opponents' Testimony:** None.

**Informational Testimony:**

**Kevin Braun, Labor Standards Division, Department of Labor and Industries,** informed the Committee that the Department supports this legislation. He is available to the Committee members for any questions they may have.

**Lieutenant Colonel James "Jim" Moran, Staff Judge Advocate, Montana National Guard, Montana Department of Military Affairs,** informed the Committee that some of the bill is for state active duty and some of the bill is for the reservists. A lot of the sections of the Montana Military Service Employment Act is specifically directed toward the Montana State Active Duty National Guard that is not covered under federal law. He discussed the 15-day leave for public employees, and the provisions for vacancies of elected public officials, and how it will cover both federal reservists, and the State active duty guards. He is available for any questions the Committee members may have.

**Questions from Committee Members and Responses:**

**SEN. SHOCKLEY** asked **Colonel Moran** about section 4, which has the main part of the bill, and if the Committee can provide the reserve components. **Colonel Moran** replied that the reservists are currently covered under federal law. He stated that when National Guard members are on federally funded military duty on the weekend they are covered under Uniform Services Employment and Re-employment Rights Act of 1994 (USERRA). He said USERRA doesn't kick in for state of Montana mobilization. **SEN. SHOCKLEY** asked if guardsmen or militia men who go to active duty under federal status still receive the benefit of section 4. **Colonel Moran** stated that it is not applicable, because they are covered under the USERRA. **SEN. SHOCKLEY** asked if there is a Hatch Act problem with elected officials being on active duty in any form. **Colonel Moran** replied no, and stated that Title 10 changed. In the old law it states if an elected official was ordered to federal duty they would have to resign from office if their active duty was more than 270 days. In the new language, an acting official can take or do the duties of the elected official's position while that member is on active duty, but the employer has to give that position back to that elected official when they return from active duty.

**SEN. SHOCKLEY** wanted to know what would happen if a militia member committed a misdemeanor. **Colonel Moran** stated that he would have to get back to **SEN. SHOCKLEY**. He said of all the

years he has been in the military, he has never had to confront anyone that has violated that issue.

**{Tape: 2; Side: A}**

**SEN. LAIBLE** asked if there is a fiscal note for this bill. He stated that it is noted in the bill that there will be some additional cost as a result of this bill toward public employees in local government. **Mr. Braun** replied that under current law the AG's office is responsible for some of the guardsmen that are public employees. He said they envision the Department of Labor will be using their existing resources, and their time and wage bureau, which will involve the Department's time and wages.

**Closing by Sponsor:**

**SEN. WHEAT** closed SB 118. He stated this legislation is long overdue. The language is cleaned up to protect the public employees who are in the military in the state of Montana. He urged the Committee for a do pass motion.

**{Tape: 2; Side: A; Approx. Time Counter: 11.4 - 19.9}**

**HEARING ON SB 23**

**Opening Statement by Sponsor:**

**SEN. KIM GILLAN (D), SD 24**, opened the hearing on SB 23, Summary of Information Technology (IT) impact for all branches of government. This bill was introduced by the request of the Legislative Council, which will expand and facilitate major IT projects for all state agencies. She discussed the Legislative Branch Computer System Planning Council meeting that was held during the interim. The legislature statutorily created the 9-member planning council to develop and maintain the Legislative Branch computer system plan. She mentioned some of the names of those on the council; Sen. John Brueggeman, Secretary of the Senate, Marilyn Miller, Chief Clerk of the House, Senate Sargent of Arms, Executive Directors, and the Chief Information Officer. During the interim the council expressed their concerns about changes that were made to the statewide information technology system. She said that the provision in this bill will facilitate communication. **SEN. GILLAN** said that in several occasions the executive branch has made changes to statewide systems that have impacted the Legislative Branch IT programs, which rely on data from the state system. She gave an example of the statewide accounting system (SABHRS) that has been upgraded. She said the Legislative Branch was forced to rewrite portions of their program that is used to audit the agencies financial reports and

conduct budget analysis. To rewrite these programs has been extensive and time consuming. She stated that this bill will facilitate communication between state agencies, which will be reviewed by the Planning Council before plans are developed or existing systems replaced, and the impact on other agencies systems will be identified. She said that the Governor's budget office in cooperation with the Department of Administration will include in its IT project budget summary a list of existing IT resources for all state agencies that may be affected by a new major IT project, upgrade, or replacement of a system. The bill requires that the estimate of the cost of the impact to the state agencies be identified. The Planning Council feels that by verifying the impact and the cost, the agencies will be able to plan and prepare for the necessary changes to their system. She said that there will be some amendments.

**Proponents' Testimony:** None.

**Opponents' Testimony:** None.

**Informational Testimony:**

Amy Sassano, Office of Budget and Program Planning (OBPP), stated that the Governor's office support the concept of this bill. She stated that the OBPP has worked with the Legislative Council, and feels the communication issue will be resolved with this bill. She urged a do pass for SB 23.

**Questions from Committee Members and Responses:**

**CHAIRWOMAN CAROLYN SQUIRES** informed the Committee that the largest budget she ever had to deal with in all her years in the legislature was the cost to purchase computers for the state agencies. She asked **Lois Menzies** about being able to retrieve information that is compatible with other systems instead of getting a message, "sorry, we (computer systems) cannot talk to each other". She wanted to know if this bill will assist in coordinating those activities so there will not be any "mismatching" systems. **Lois Menzies, Legislative Services Division (LSD)**, replied that the bill will serve as notification to systems that will be impacted by upgrades, or changes to major statewide systems. She discussed the Statewide Accounting Budgeting Human Resource System (SABHRS), and how this system impacts all state agencies.

**SEN. LEWIS** asked **Amy Sassano** if the OBPP will make a list noting the major system changes in the executive budget or will that be a separate report. **Ms. Sassano** replied that the OBPP is required to report a list of systems in statute, such as new IT projects

that are major. She stated that anything the OBPP treats as major is greater than \$300,000. They do not report any system that is paid for out of the base budget. Those projects are reported in IT plans for the state agencies. The projects her office will list are those that have a major impact on other state agencies. She stated that the cost of updating SABHRS was over \$500,000. She discussed the various costs to other state agencies when this change came on board. The cost to one agency was \$10,000, and another agency's cost was \$20,000 to update their system in order to use the SABHRS system.

**Closing by Sponsor:**

**SEN. GILLAN** closed stating the changes that the OBPP discussed was the new system versus major change to the current system. This bill will require that IT make a list of the resources that will be impacted if there is a change or update of the IT system, and its' affect on other state agency systems. She said there are amendments that need to be agreed on before executive action. She urged a do pass on SB 23.

**{Tape: 2; Side: B}**

**HEARING ON SB 69**

**Opening Statement by Sponsor:**

**SEN. JOHN COBB, SD 9, AUGUSTA,** and **SEN. SAM KITZENBERG, SD 18, GLASGOW,** are co-sponsors for SB 69. **SEN. KITZENBERG** presented the bill, Designation of state poet laureate. **SEN. KITZENBERG** distributed a handout prepared by himself and **SEN. COBB** explaining what is a poet laureate (see Exhibit 4). He presented background information on how the poet laureate started. He said it started back in the 1600's, when the British royal family wanted to create birthday poems for other members of the royal family. The original poet laureate in the United States started in 1937, but at that time it was called the Poetry Consulate to the Library of Congress. The title was changed to Poet Laureate in 1985, by the Library of Congress. This bill creates a commission post for a Poet Laureate with a salary of \$35,000. The person in charge will promote poetry, which is a large part of Montana culture. He said Montana has many poets. The person that will be hired in this position will be in charge of the education process. He informed the Committee members how the position will be nominated, and how the person(s) that are nominated will go through the Arts Council. He talked about receiving an e-mail from the Director of the Montana Community for Humanities, and the Montana Center for the Book who would like to be included in this process. He discussed an amendment

that he had prepared for the bill, and distributed it to the Committee members (see Exhibit 5). He said the three bodies will make a recommendation to the Governor after the nominees are picked for the Governor to appoint. He stated that this position is a two-year appointment. He said other states have run into problems when they made this a lifetime position, because the Poet Laureate wanted to be the poet of the state for life, and it took some time to have that poet relinquish this post. By making the appointment for two years will alleviate this problem. He stated that there may be an amendment that will allow private funds so the Poet Laureate will be able to travel around the state. He said "we are all poets at some time". With the passage of this bill, the people in Montana will have the opportunity to express their literary expertise.

[EXHIBIT \(sts06a04\)](#)

[EXHIBIT \(sts06a05\)](#)

**Proponents' Testimony:**

**Arlynn Fishbaugh, Executive Director, Montana Arts Council,** stated her support for SB 69. She distributed written testimony which she read. She stated that Montana is well known nationally for its writers. When Montana writers send their manuscripts to publishers in New York City, and it has a Montana post mark on it, it is likely to be read. She urged the Committee to pass this bill.

[EXHIBIT \(sts06a06\)](#)

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. BALYEAT** asked **Arlynn Fishbaugh** how the three bodies will vote on the nominations for this position, and how many members will there in each of these committees. **Ms. Fishbaugh** replied that process hasn't been determined at this time. She felt that it will probably be one member from the Arts Council, one member from the Center for the Book, and one member from the Center for Humanities.

**SEN. BALYEAT** wanted to know what is the Center for the Book, and how do you get appointed to the Center for the Book. **Ms. Fishbaugh** stated that she really didn't know, but did state that the Center for the Book is one of the primary sponsors behind the Montana Book Festival, and they are also involved in publishing.

She said there is a connection between the Montana Book Festival and the Library of Congress. She will find out more about the Center for the Book and get the information to him.

**Closing by Sponsor:**

**SEN. KITZENBERG** closed by reading a poem written by a professor he had at the University of Montana. He urged the Committee to pass SB 69.

*{Tape: 2; Side: B; Approx. Time Counter: 9.6 - 22}*

**HEARING ON SB 25**

**Opening Statement by Sponsor:**

**SEN. VICKI COCCHIARELLA (D), SD 47**, opened the hearing on **SB 25**, Simplify payment of wages for pages. She stated that the Legislative Council requested this bill. She said it is the legislators' responsibility to make every opportunity available to the citizens of Montana to make government work better. One of the ways is to invite pages (high school students) to visit the Legislature. She discussed the information on the fiscal note noting that there is a total of sixteen pages, eight on the Senate side and eight on the House side, that are invited each week to come to the Legislature, and assist in distributing notices to the legislators, and whatever is required of them. These pages are paid \$5.15 per hour, Monday through Saturday, and are paid for 44 hours. The Legislature is considered an employer, and the state has to pay benefits, such as; unemployment, workers' compensation, and FICA/Medicare are paid out for a total of 7.97 percent of their salary. The total cost paid out for all pages for the 8 week period is \$31,315. It takes approximately three hours per week for House and Senate personnel to ensure that the pages complete state and federal employment forms and report hours worked, and the financial office is provided information to hire and process payroll. Then the Legislative Services Division mails the paychecks and the W-2s to the pages, which take approximately 7 hours per week. This bill will bring pages in for "Civic Training", instead of being hired as an employee, and having to fill out all the paper work, and receive a 1099 (self employment tax) document. She stated that other states are currently doing this. She said that the bill will go into effect immediately upon passage, which will be approximately halfway through the Legislature. She urged the Committee to pass SB 25.

**Proponents' Testimony:** None.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. BALYEAT** asked **Lois Menzies** if this bill is to make the pay system better for the Legislative Council, why is there a negative fiscal note. **Ms. Menzies** responded that she was reluctant when putting the fiscal note together to suggest that the hours saved will generate money. She said that the money saved is through the time it takes the staff of the House and Senate, and the Legislative Services Division to process the paperwork. She said there could be a wage increase for the pages if this bill is approved, but she didn't feel that it would make an impact on the fiscal note.

**Closing by Sponsor:**

**SEN. COCCHIARELLA** closed stating that SB 25 will produce a better method for paying the wages to the pages as a training fee and not as an employee. She urged the Committee for a do pass motion.

*{Tape: 3; Side: A}*

**HEARING ON SB 72**

**Opening Statement by Sponsor:**

**SEN. JEFF MANGAN (D), SD 12**, opened the hearing on **SB 72**, Continuation of health insurance as a retirement incentive. He said this bill will provide a continuation of employer or retiree contributions to the state group health insurance. For every five years that the employee has contributed hours of service to the state the employee will receive one year of health benefits. He said there are a number of state employees who would like to retire or can retire, but they are not Medicare eligible. They continue to work because they need the health insurance. He stated this bill will save the state a lot of money, and allow those employees to retire that can or would like to, and bring fresh new employees into the system. **SEN. MANGAN** said this bill will be a significant savings for the state, and felt it would place money in the general fund. He said there is a fiscal note, which isn't available at this time.

**Proponents' Testimony:**

**Tom Schneider, Executive Director for the Montana Public Employees Association (MPEA)**, informed the Committee that the MPEA felt this is the best bill that could be brought before the legislature. **Mr. Schneider** distributed his statement. He stated that he represents 7000 members of the MPEA who supported and adopted SB 72 by resolution at this years' convention. He reiterated that state employees are not able to retire when they would like to or should, because of the cost of health insurance. He said if a state employee retires before they are Medicare-eligible the cost is \$425 per person per month to stay on the state health insurance. If that person is retiring from the University system the cost is \$462 per month. He stated that productivity probably isn't as high as it should be, because the state is not bringing in young people like they should. **Mr. Schneider** stated this is a good bill, and he is willing to work with the legislators if they have any questions. He asked the Committee for their support, and urged them to pass this bill.

**EXHIBIT (sts06a07)**

**Opponents' Testimony:** None.

**Informational Testimony:**

**Melanie Symons, Attorney for the MPEA**, stated her support for SB 72. She distributed statistics on the number of state employees available for retirement, and their years of service. She informed the Committee members that the total number of employees eligible for retirement is 825. She said this bill is a cost savings to the state, and urged the Committee to pass SB 72.

**EXHIBIT (sts06a08)**

*{Tape: 3; Side: A; Approx. Time Counter: 9.8 - 18}*

**Questions from Committee Members and Responses:**

**SEN. LAIBLE** asked **Tom Schneider** about vacancy savings, and if he had any concern by replacing these highly qualified, experienced personnel with entry level employees to take over these jobs. **Mr. Schneider** responded that he does see the need for "fine tuning" when replacing these higher skilled positions. He said that MPEA envisions replacement employees as those that are very qualified, and will have worked with the person that is eligible for retirement. He said what happens is people that are hired to replace the retiree, either isn't hired before that person is gone or the new employee doesn't start work until the retiree is

gone, so the person hired to replace the retiree doesn't receive any training. He said a lot of these positions are also filled with entry level employees.

**SEN. ESSMANN** asked about unfunded liability. **David Senn, Executive Director, Montana Teachers Retirement System (TRS)**, responded that it is a one time assumption in a very narrow window with a small period of time. The impact of long-term projection, and what is seen in the retirement system is very minimal. He said there are very few state employees who participate or are eligible to retire, and stated there are approximately 35 employees who could retire at this time. He stated they average approximately five employees per year from all the state agencies, which excludes the University System. There will not be an impact on state funding. **Mr. Senn** said there are about 335 employees within the University System that could retire, but these employees are staying in the work force longer. He didn't know if it was for the reason of the health insurance. He feels this bill will not have any real fiscal impact due to early retirement.

**Closing by Sponsor:**

**SEN. MANGAN** closed stating this is a positive bill, and urged the Committee for a do pass motion.

**ADJOURNMENT**

Adjournment: 5:05 P.M.

---

SEN. CAROLYN SQUIRES, Chairman

---

CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

**EXHIBIT ([sts06aad0.PDF](#))**