MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By REP. DICK SIMPKINS, CHAIRMAN, on Thursday, December 9, 1993, at 8:30 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chairman (R) Rep. Wilbur Spring, Vice Chairman (R) Rep. Ervin Davis, Vice Chairman (D) Rep. Beverly Barnhart (D) Rep. Pat Galvin (D) Rep. Bob Gervais (D) Rep. Harriet Hayne (R) Rep. Gary Mason (R) Rep. Brad Molnar (R) Rep. Bill Rehbein (R) Rep. Bill Rehbein (R) Rep. Sheila Rice (D) Rep. Sam Rose (R) Rep. Dore Schwinden (D) Rep. Carolyn Squires (D) Rep. Jay Stovall (R) Rep. Norm Wallin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council Pat Bennett, Committee Secretary

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

Committee Business Summa Hearing:	ary: Senate Bill 13 Senate Bill 6 Senate Bill 7 House Bill 58
Executive Action:	Senate Bill 13 Senate Bill 7 Senate Bill 6 House Bill 58

HEARING ON SENATE BILL 13

Opening Statement by Sponsor: SENATOR DON BIANCHI, SD 39, Belgrade, introduced SB 13 at the request of the State Auditor's Office. SB 13 would eliminate the duplicate warrant requirements. Under the current system, if an issued check is lost by its recipient, that recipient must either post a bond twice the amount of the warrant or he must have two Montana residents sign an affidavit stating that if both warrants are cashed, they will be responsible for restitution. The biggest problem with the current system relates to the out-of-state purchasers of hunting licenses. In a situation where the out-ofstate purchaser has lost his or her hunting license or permit refund and are incapable of attaining signatures from Montana land owners, an employee of the Fish, Wildlife and Parks Department has taken on this responsibility. The few times this has occurred, the person had honestly lost the warrant. SB 13 will improve the efficiency in government and will benefit the Auditor's Office and the Fish, Wildlife and Parks Department as well as provide a better service to the people who are doing business with the State of Montana.

Proponents' Testimony: Tom Crosser, Deputy of Fiscal Control and Management, State Auditors Office, informed the Committee that he was responsible for the state warrant writer system. The current law was established in 1909 prior to all current methods used to insure that warrants are not double cashed. Over the years many exemptions have been provided for this provision. The Fish, Wildlife and Parks Department currently sends out approximately 65,000 refund checks over a one week period during the spring. Due to the amount of junk mail, those out-of-state checks have been mistaken for junk mail and have been accidentally thrown It has put the Department in a bad situation, because their out. employees have been signing the affidavits and have put themselves on the line. The computer systems are capable of catching any double cashing, therefore, there is not that risk.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: SENATOR BIANCHI closed the hearing on SB 13.

EXECUTIVE ACTION ON SENATE BILL 13

Discussion: REP. WILBUR SPRING will carry SB 13.

Motion/Vote: REP. GALVIN moved SB 13 be concurred in. Motion carried unanimously.

HOUSE STATE ADMINISTRATION COMMITTEE December 9, 1993 Page 3 of 10

HEARING ON SENATE BILL 6

Opening Statement by Sponsor: REP. DORE SCHWINDEN, HD 20, Wolf Point, introduced SB 6 & 7 on behalf of SENATOR FORRESTER. SB 6 was drafted at the request of the Office of Budget and Program Planning (OBPP) and the Secretary of State's Office and would raise the filing fee for legislative candidates from \$15 to \$50. This fee has remained at \$15 since 1969. Approximately \$10,000 in revenue will be raised as a result of the increase.

<u>Proponents' Testimony</u>: Doug Mitchell, Deputy Secretary of State, was present as a proponent. EXHIBIT 1

Opponents' Testimony: None.

Informational Testimony: None.

<u>Questions From Committee Members and Responses</u>: REP. DAVIS asked why there is a difference is the fees for Representatives and not for Senators. The fees for Senators is not doubled.

REP. SCHWINDEN answered that the fees were computed on a salary basis which is the same for senators and representatives over the biennium even though it is true that a senator would serve a longer term. He deferred the question to the Secretary of State's Office.

Mr. Mitchell said the Secretary's Office dealt with this question with the OBPP. It was decided not to change the current system which treats the member of the House and of the Senate the same, i.e. based on annual salary and not length of term. The attempt was to fix an inequity in the law and not retool it altogether.

REP. GALVIN asked why the bill states it will be based on salary and yet item 6 states it separates candidates from the legislature.

Mr. Mitchell informed the Committee that this is how it has typically been done. The Office discussed changing the fee to a flat calculation of 1% of the base salary. The reason this was separated is that would be a hard calculation. There is a base salary for the legislature, however, when there is a special session there is a question of whether each legislator should have to pay a fee. The salary changes for legislators are based on length of the sessions, interim service, etc. but does not change for United States congressmen or governors. This part was separated in 1969.

REP. REHBEIN asked what difference it makes what the salaries are, and if it should not be based on what it costs the Secretary's Office to do the paper work.

Mr. Mitchell said they do not disagree, however, there is a difference between who does the work in this particular case.

HOUSE STATE ADMINISTRATION COMMITTEE December 9, 1993 Page 4 of 10

The Secretary's Office collects the money, and yet Commissioner Argenbright does the work. The Secretary's Office has tried to collect general fund revenue sufficient to assist the Commissioner's Office. The Commissioner's office is the one doing the work and yet they do not get to collect the fees. This is why the Secretary's office has attempted to collect fees commensurate with the level of playing field and trying to correspond with the services, however, understanding that they could never charge enough in filing fees to pay for the costs of administering licenses in the State of Montana.

<u>Closing by Sponsor:</u> REP. SCHWINDEN closed the hearing on SB 6.

EXECUTIVE ACTION ON SENATE BILL 6

Motion/Vote: REP. SPRING moved SB 6 to be concurred in. Motion carried 15-1, with Rep. Rehbein opposing.

HEARING ON SENATE BILL 7

Opening Statement by Sponsor: REP. DORE SCHWINDEN, HD 20, Wolf Point, introduced SB 7 on behalf of SENATOR FORRESTER. SB 7 was drafted at the request of the Office of Budget and Program Planning (OBPP) and the Secretary of State. The Secretary of State's Office in the past has conducted election work shops every year. SB 7 would change the work shops from being held once per year to once every other year. These work shops discuss information changes in the legislature, etc. The Secretary of State's Office feels that every other year would be sufficient and the savings would be approximately \$5,000 per biennium.

<u>Proponents' Testimony</u>: Doug Mitchell, Deputy Secretary of State, was present as a proponent and was available for questions.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: REP. ROSE asked if there is a large participation.

Mr. Mitchell said there has been usually around 60 to 70 attend. It has been difficult for the counties to send anyone during the even numbered years. There is not any new news in an even numbered year since there has not been a session.

<u>Closing by Sponsor</u>: REP. SCHWINDEN closed the hearing on SB 7.

EXECUTIVE ACTION ON SENATE BILL 7

Motion/Vote: REP. DAVIS moved SB 7 to be concurred in. Motion carried unanimously.

HEARING ON HOUSE BILL 58

Opening Statement by Sponsor: REP. HAL HARPER, HD 44, Helena, introduced HB 58, a bill which would increase severance pay to state employees who have been involuntarily terminated as a result of budget cuts. Last session the Legislature addressed early retirement, severance pay and benefits. The problem with a new window of opportunity for retirement systems is the difference within a number of retirement systems. The window currently in place through HB 517 will close at the end of December 1993. A number of people who are eligible to retire are waiting to see if this window would be extended beyond December. If it is extended those people will not retire just yet. REP. HARPER said the proper way to handle this is to provide a severance cash pay out, to anyone who is fired or terminated, "RIFed" (Reduction In Force), and let them buy their years of service. Another problem with the window is that there are those people who do not quite have enough years to be qualified for retirement. HB 58 would provide a week of severance pay for every week of public service. As an example, an employee who has 14 years service, would get 14 weeks severance pay. The bill is structured so that the employee has a choice. They can either take the severance pay or they can take the opportunities provided in Part 12, Title 2, Chapter 18, MCA, which is the State Employee Protection Act. HB 58 would provide a gesture by the Legislature to those people who have been committed to the state and have decided to stay on a few more years. There will be a cost with HB 58 and Mark Cress, Department of Administration, is present to address that. These positions are jobs that will be eliminated and there will be absolute savings. The cost of the bill is a fraction of the money saved through attrition.

Proponents' Testimony: Tom Schneider, Montana Public Employees Association, (MPEA), testified in support of HB 58. He stated they spent a great deal of time researching different ideas. HB58 seemed to be the best solution. One of the problems after last session was with the Office of Public Instruction (OPI) where many of those people also belong to the teacher's system because they were teachers prior to working for the state. Through the requirements to remain certified these state employees must stay with the Teacher's Retirement System. The bill past last session did not provide an incentive for the members of the Teacher's Retirement System and as a result, those recently laid off from OPI did not have access to the early retirement. Others were inadvertently left out of the bill such as the Game Wardens. One of the problems of extending the window, is there are those who will drop back and not retire during the current window. In the area of severance pay, it does

HOUSE STATE ADMINISTRATION COMMITTEE December 9, 1993 Page 6 of 10

not seem fair that whether you work one year or ten years and you get RIFed, you still get only one week severance pay. If you work twenty years and get RIFed there is a mental stress attached to that and then to pay that person the same as the person who only worked one year just is not fair. This bill covers all the problems.

REP. CAROLYN SQUIRES, HD 58, Missoula, testified in support of HB 58. She said she worked on HB 522, HB 517 and also the State Employees Protection Act and there was a small portion of people who were inadvertently left out. It is only fair to provide this pay to those state employees who have been good employees.

Tom Foley, American Federation of State & County Municipal Employees, testified in support of HB 58.

Opponents' Testimony: None.

Informational Testimony: None.

<u>Questions From Committee Members and Responses</u>: REP. ROSE asked if people who have been fired will be eligible for the severance pay.

REP. HARPER said although he did say that, it was a misleading term. Those he was referring to are the people who are terminated due to reorganization, restructural purposes, or closure.

REP. SPRING, referring to page 1, line 22, asked what the limit for severance pay would be.

REP. HARPER said an laid off employee would get one week of severance pay for every year worked and no more.

REP. MASON asked if there was a termination date for HB 58.

REP. HARPER said this section of law would terminate July 1, 1995.

CHAIRMAN SIMPKINS, for clarification, informed the Committee that after the termination date in the second section on page 2, line 8 & 9 would become law from that point on.

REP. MOLNAR, said the testimony during the last session regarding severance pay was that the average person in the private sector receives two weeks severance pay and asked why should state employees receive more.

REP. HARPER said he did not know what would be considered average. There have been many people from bankers to laborers laid off and the packages have ranged from very generous to very little. The bill being referred to ran into complications because it involved the union negotiations. At the time the two

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HOUSE STATE ADMINISTRATION COMMITTEE December 9, 1993 Page 7 of 10

weeks was being considered there were no other options being offered such as the windows. When you get down to the bottom line, all those people will receive after giving twenty years of service is what's in HB 58.

REP. REHBEIN asked **REP. HARPER** if he could give an estimate of what the figures will be on the fiscal note.

REP. HARPER said the cost would be somewhere between \$900,000 and \$1 million.

Mark Cress, Department of Administration, said they do not know how many will be laid off. An average employee works for 8 years making \$10 per hour. Based on that number, on an average, the severance pay would be approximately \$2,800 per employee.

REP. WALLIN asked if a person who has been hired temporarily for one year would be able to get the severance pay.

REP. HARPER said the positions would be permanent lay offs that no one anticipates ever filling again.

REP. WALLIN asked if OPI were to lay off ten employees next month, would it mean that OPI would continue to operate forever without the ten positions.

REP. HARPER said it would be difficult for the legislature, with its financial problems, to come back and add that much spending authority. The only way this could happen, is if the people were coming back to the legislature saying it is a mess and they are losing federal funding.

CHAIRMAN SIMPKINS said the bill as written, it would be an FTE lost as well as the employee.

REP. HARPER agreed.

REP. MASON asked how many employees have received termination pay to date.

Mr. Cress said he did not have those figures. The majority of the employees have taken the benefits under Part 12 because they get up to 6 weeks of insurance contribution which is usually more than two weeks severance pay.

REP. MASON asked of those who took the benefits, would the Department have to go back and equalize if the bill is passed.

Mr. Cress said the way the bill was drafted it would not be necessary. The Department would not go back and make adjustments.

CHAIRMAN SIMPKINS recommended changing the effective date to January 1. In the event the Governor signed the bill before the

end of the year, the bill would be in effect before the end of the year. Having an January 1 effective date would prevent any such situations.

REP. GERVAIS said the bottom line is that there would be permanent savings. Some of the positions being discussed are the low skilled positions. The other alternative would be privatization.

REP. SQUIRES noted that the severance pay, the employee Protection Act and this bill would also terminate at the end of the biennium so the fear of run away is not here. She said the state needs to be a responsible employer. The Legislature needs to complete the process started last session and include that fraction of staff that was left out.

REP. ROSE asked how the bill would affect the seasonal workers such as those with the Fish, Wildlife and Parks.

Mr. Cress said he did not think the bill would cover temporary employees, only permanent employees.

REP. ROSE asked if the temporary employees would be able to accumulate the total time so that if they are ever laid off they could get the severance pay. If they work six months are they credited for one year.

REP. HARPER said it made sense to only allow the time worked to be accumulated. He said he understands the Committee's concerns that there be a direct relationship between someone receiving severance pay and that position being absolutely terminated. He said he would be in agreement if the Committee feels a need to clarify that an FTE will be dropped before anyone receives severance pay.

REP. RICE said a part time employee could be a permanent employee who has worked for the state for 20 years, whereas, the temporary employee is one who takes a job with the understanding it is not a regular job.

REP. HARPER said even a temporary position could be reduced immediately because of a reduction in force.

CHAIRMAN SIMPKINS said there needs to be clarification regarding part time, full time and temporary as to what the bill covers.

Mr. Cress said under current law, the temporary employee is one who works less than nine months. The way the bill is written those employees would not be included. He recommended that an amendment be included to be sure the bill only applies to those permanent positions. There are temporary part time people who work nine months and there are permanent part time seasonal people who have worked for the state for a long time. The issue is the way time is accumulated which is full calendar time. If a HOUSE STATE ADMINISTRATION COMMITTEE December 9, 1993 Page 9 of 10

person is seasonal and works six months each year for two years they would have two years of service for the state. If the Committee feels that employee should only have one year accumulated time then that needs to be clarified.

REP. SIMPKINS recommended an amendment to insert on line 19, following employee and insert "in a permanent position."

REP. HARPER said he would agree with both amendments suggested. The amendment for an effective date of January 1 and the permanent position amendment.

REP. SIMPKINS expressed a concern regarding the liquor store employees and their packaged deal, if the bill passes would it preclude a negotiated package between the union and the state. Would there need to be an exception included in the bill that is negotiated with the bargaining unit and the state.

REP. HARPER said one of the cautions made by Rep. Ewer who sponsored the bill last session, was to not get mixed up in that. He stated they want the bill to cover everyone regardless of who they are covered by.

REP. GALVIN referring to comments about how other businesses handle these situations and said there is a Public Service Commissioner who last year received \$80,000 which was for 15 to 18 months service. It makes you realize that the laid off state employee is not getting very much.

REP. MOLNAR asked if the bill does not pass, will those employees still be able to get the two weeks severance pay and the training allowance along with the other packages. HB 58 is over and above what was provided last session. There are many laid off people who have been affected by past legislation to tax their unemployment checks over 25% and now the legislature is going to give that money to the laid off state worker. He said this is unfair.

REP. HARPER clarified that they either get the two weeks or the other package, they do not get both. The state employees are being laid off due to the cuts the legislature makes. You have to play off the cuts that are being made against everything and you cannot single out one program.

REP. MOLNAR said he sees this as singling out the privately employed laid off people being taxed on their unemployment to make up or to pay for programs such as this and it is not fair.

Closing by Sponsor: REP. HARPER closed the hearing on HB 58.

EXECUTIVE ACTION ON HOUSE BILL 58

<u>Discussion</u>: Ms. Heffelfinger explained the proposed amendments.

HOUSE STATE ADMINISTRATION COMMITTEE December 9, 1993 Page 10 of 10

On page 1, line 19 after "a" insert "a permanent state employee" and on line 23 after the stricken part insert "for purposes of this section, years of service must be based on time in paid status." This will define that the employee must be in a permanent position. A permanent position can be held by a temporary seasonal or full time employee and must be listed as a permanent employee. Years of service based on time in paid status ties the calculation of their years in service to actual compensation. **EXHIBIT 2**

Motion/Vote: REP. BARNHART moved HB 58 do pass.

Motion/Vote: CHAIRMAN SIMPKINS moved to amend HB 58 to change the effective date to January 1, 1994 on line 14. Motion carried unanimously, with Rep. Schwinden and Rep. Gervais voting by proxy.

<u>Motion/Vote</u>: CHAIRMAN SIMPKINS moved to amend HB 58 on page 1, line 19, inserting "a permanent state employee" and line 23, following the stricken severance pay insert "for purposes of this section years of service must be based on time in paid status." Motion carried unanimously with Rep. Schwinden and Rep. Gervais voting by proxy.

Motion/Vote: REP. BARNHART moved HB 58 do pass as amended. Motion failed 9-7 on a roll call vote.

Motion/Vote: REP. MOLNAR moved to table HB 58. Motion carried 9-7 on a roll call vote.

ADJOURNMENT

Adjournment: 10 a.m.

REP. DICK SIMPKINS, Chairman Pat Bennett la PAT BENNETT, Secretary Muiden Muilen

DS/PB

HOUSE OF REPRESENTATIVES STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 12/9/93

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NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIRMAN			
REP. WILBUR SPRING, VICE CHAIRMAN			
REP. BEVERLY BARNHART			
REP. ERVIN DAVIS			
REP. PAT GALVIN			
REP. BOB GERVAIS			
REP. HARRIET HAYNE	V		
REP. GARY MASON	V		
REP. BRAD MOLNAR	V		
REP. BILL REHBEIN	V		
REP. SHEILA RICE	V		
REP. SAM ROSE	V		
REP. DORE SCHWINDEN			
REP. CAROLYN SQUIRES	\checkmark	-	
REP. JAY STOVALL	V	·	
REP. NORM WALLIN	V		
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HOUSE STANDING COMMITTEE REPORT

December 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 6 (first reading copy -- white) be concurred in.

Signed: Dick Simpkins, Chair

Carried by: Rep. Schwinden



Committee Vote:



HOUSE STANDING COMMITTEE REPORT

December 9, 1993 Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 7 (first reading copy -- white) be concurred in.

Signed: Dick Simpkins, Chair

Carried by: Rep. Schwinden



Committee Vote:



HOUSE STANDING COMMITTEE REPORT

December 9, 1993 Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 13 (first reading copy -- white) be concurred in.

lin Signed; Dick Simpkins, Chair

Carried by: Rep. Spring

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Committee Vote: Yes No

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HOUSE OF REPRESENTATIVES STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE 1 9-7 93 BILL NO. HB 58 NUMBER DATE 12 Rep. Barnhart moved HB 58 DO PASS As Amended. Motion failed 9-7. MOTION:

NAME	AYE	NO
REP. DICK SIMPKINS, CHAIRMAN		
REP. WILBUR SPRING, VICE CHAIRMAN		レ
REP. BEVERLY BARNHART		
REP. ERVIN DAVIS		
REP. PAT GALVIN		
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REP. BRAD MOLNAR		\checkmark
REP. BILL REHBEIN		
REP. SHEILA RICE		
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REP. DORE SCHWINDEN	~ ~	
REP. CAROLYN SQUIRES	~ ~	•
REP. JAY STOVALL		
REP. NORM WALLIN		V

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HOUSE OF REPRESENTATIVES STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE 2 12/9/93 BILL NO. HB 58 NUMBER 9-7 Bep. Molnar moved to takle HB 58. Motion carried. DATE MOTION:

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NAME	AYE	NO
REP. DICK SIMPKINS, CHAIRMAN		
REP. WILBUR SPRING, VICE CHAIRMAN		
REP. BEVERLY BARNHART		V
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REP. BOB GERVAIS		
REP. HARRIET HAYNE		
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REP. BRAD MOLNAR		
REP. BILL REHBEIN		
REP. SHEILA RICE		\checkmark
REP. SAM ROSE		
REP. DORE SCHWINDEN		
REP. CAROLYN SQUIRES		
REP. JAY STOVALL		
REP. NORM WALLIN		
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Salary and Filing Fee Comparison 1969 to 1995

	1969	1969	1995	1995	Percent
	Salary	Fee	Salary	Fee	Change
Attorney General	\$15,500.00	\$155.00	\$50,841.00	\$508.41	228%
Auditor	\$10,500.00	\$105.00	\$37,526.00	\$375.26	257%
Superintendent of Public Instruction	\$13,750.00	\$137.50	\$44,177.00	\$441.77	257%
Secretary of State	\$10,500.00	\$105.00	\$37,526.00	\$375.26	257%
Legislator Fee1969 and Proposed		\$15.00		\$50.00	233%

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House Committee on State Administration December 9, 1993

Exhibit #2 was not transmitted with the minutes.

PAGE 1 OF

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER BILL NO. 9 alincommitter DATE 2 SPONSOR (S)

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

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