# SENATE BILL NO. 51

# INTRODUCED BY GAGE, REAM, HALLIGAN, T. NELSON, KADAS

#### IN THE SENATE

DECEMBER 10, 1993 INTRODUCED AND REFERRED TO COMMITTEE

ON STATE ADMINISTRATION.

FIRST READING.

DECEMBER 15, 1993 COMMITTEE RECOMMEND BILL

DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING RECORT.

DECEMBER 16, 1993 SUTONO READING, DO PASS.

E. ROSSING REL DRT.

THIRD READING, ASSED. AYES, 48; NOTS, 1.

TRANSMITTED I HOUSE.

# IN THE HOUSE

DECEMBER 17, 1993 INTRODUCED AND REFERRED TO COMMITTEE

1 LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.

AYES, 94; NOES, 4.

RETURNED TO SENATE.

# IN THE SENATE

DECEMBER 17, 1993 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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2	INTRODUCED BY	Day	Reamilelly	Jan Olyan	Kadas
a		70			

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE EMPLOYEE PROTECTION ACT: AMENDING SECTION 2-18-1203, MCA; 5 6 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

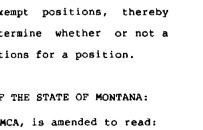
WHEREAS, under Mead v. McKittrick, 223 Mont. 428, 727 8 P.2d 517 (1986), it appears that the judicial branch of 9 10 state government is immune from the provisions of the State Employee Protection Act; and 11

WHEREAS. reasoning of the court in Mead v. the McKittrick, that "public policy is best served when newly-elected officials are free to select their own key staff members", should apply equally to the several positions, exempt from state classification statutes, of certain elected officials as it does to newly elected judges; and

WHEREAS, the state personnel classification system does not apply to a number of other exempt positions, thereby complicating the ability to determine whether or not a person meets the minimum qualifications for a position.

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

Section 1. Section 2-18-1203, MCA, is amended to read:



1 \*2-18-1203. (Temporary) General protection -register -- seniority preference. (1) An employee whose position is eliminated as a result of privatization, 3 reorganization of an agency, or closure of or a reduction in force at an agency is entitled to:

- (a) notice of announcements for jobs for which the employee may qualify that arise within the terminating agency or within state government. Notices must be provided by the state for a period of 1 year from the date of separation.
- (b) access to any job retraining and career development 12 programs provided by the state through the Job Training Partnership Act service delivery areas dislocated worker 13 programs, provided that the employee begins participating in 15 a program within 1 year after the elimination of the 16 employee's position; and
  - agencies, exempt an agency attempting to hire for a position exempt under 2-18-103 or 2-18-104, shall attempt to hire employees prior to seeking applications from the general public. The employee must be listed in the job register

(c) inclusion in a special job register from which all

- according to the occupational categories in which the
- 23 employee is qualified for employment.
  - (2) (a) An agency attempting to hire from the job register shall consider the employee's qualifications and

- length of state service. If two or more employees listed in
- 2 the job register are equally qualified for a vacant
- 3 position, the agency shall select the employee with the
- 4 longest continuous state service.
- (b) If there is not an employee listed on the job
- 6 register who meets the job qualifications for the vacant
- 7 position, the agency may hire a qualified external applicant
  - or establish a training assignment, according to state
- 9 policy. (Terminates July 1, 1995--sec. 11, Ch. 477, L.
- 10 1993.)"

- 11 NEW SECTION. Section 2. Effective date. [This act] is
- 12 effective on passage and approval.

# APPROVED BY COMMITTEE ON STATE ADMINISTRATION

1	SENATE BILL NO. 51
2	INTRODUCED BY GAGE, REAM, HALLIGAN, T. NELSON, KADAS
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE
5	EMPLOYEE PROTECTION ACT; AMENDING SECTION 2-18-1203, MCA;
6	AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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8	WHEREAS, under Mead v. McKittrick, 223 Mont. 428, 727
9	P.2d 517 (1986), it appears that the judicial branch of
10	state government is immune from the provisions of the State
11	Employee Protection Act; and
12	WHEREAS, the reasoning of the court in Mead v.
13	McKittrick, that "public policy is best served when
14	newly-elected officials are free to select their own key
15	staff members", should apply equally to the several
16	positions, exempt from state classification statutes, of
17	certain elected officials as it does to newly elected
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19	WHEREAS, the state personnel classification system does
20	not apply to a number of other exempt positions, thereby
21	complicating the ability to determine whether or not a
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24	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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2	register seniority preference. (1) An employee whose
3	position is eliminated as a result of privatization,
4	reorganization of an agency, or closure of or a reduction in
5	force at an agency is entitled to:
6	(a) notice of announcements for jobs for which the
7	employee may qualify that arise within the terminating
8	agency or within state government. Notices must be provided
9	by the state for a period of 1 year from the date of
10	separation.
11	(b) access to any job retraining and career development
12	programs provided by the state through the Job Training
13	Partnership Act service delivery areas dislocated worker
14	programs, provided that the employee begins participating in
15	a program within 1 year after the elimination of the
16	employee's position; and
17	(c) inclusion in a special job register from which all
18	agencies, exempt EXCEPT an agency attempting to hire for a
19	position exempt under 2-18-103 or 2-18-104, shall attempt to
20	hire employees prior to seeking applications from the
21	general public. The employee must be listed in the job
22	register according to the occupational categories in which
23	the employee is qualified for employment.

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(2) (a) An agency attempting to hire from the job register shall consider the employee's qualifications and

- length of state service. If two or more employees listed in
- 2 the job register are equally qualified for a vacant
- 3 position, the agency shall select the employee with the
- 4 longest continuous state service.
- 5 (b) If there is not an employee listed on the job
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by the state for a period of 1 year from the date of

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  18 agencies, exempt EXCEPT an agency attempting to hire for a
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  20 hire employees prior to seeking applications from the
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