

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN CAROLYN SQUIRES**, on January 7, 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. Rick Laible (R)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Steven Gallus (D)

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 14, 1/7/2005; SB 17, 1/7/2005;
SB 16, 1/7/2005; SB 54, 1/7/2005
Executive Action: SB 14, SB 17

HEARING ON SB 14**Opening Statement by Sponsor:**

SEN. MIKE COONEY (D), SD 40, opened the hearing on SB 14, Repeal Capitol Restoration Commission. He said the bill was created to repair and restore the State Capitol building. The project is now completed. He said at the end of the project the state Legislature passed a statute creating the Capitol Complex Advisory Council. This Council is now the caretaker of the Capitol, and the Capitol Restoration Commission is no longer needed. He said this bill will eliminate any references to the Capitol Restoration Commission. **SEN. COONEY** informed the Committee of the Capitol Restoration Foundation, which will remain as a private non-profit organization. He said the former first lady Betty Babcock, is the chair of the organization. The organization's function is to assist in raising additional funds for the maintenance of the Capitol Building.

Proponents' Testimony:

Steve Bender, Deputy Director, Department of Administration (D of A), stated that the Department requested this bill, but it was late, and the reason why their name wasn't on it. He said this is a simple housekeeping bill. He urged the Committee for a do pass.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. COONEY closed by asking the Committee for a do pass recommendation.

HEARING ON SB 17**Opening Statement by Sponsor:**

SEN. MIKE COONEY (D), SD 40, opened the hearing on SB 17, Revise meeting schedule for Board of Examiners. **SEN. COONEY** stated this bill is also at the request of the Department of Administration. The Board of Examiners constitutes the Governor, Secretary of State, and the Attorney General. He informed the Committee that

at one time this board was one of the most powerful boards in the state of Montana. He said they literally approved or disapproved the payment of any bill. Over the course of time, their responsibilities have changed. **SEN. COONEY** stated that the two major issues the Board worked with when he served was the ultimate approval of GEO Bonds, and the selection of architects and engineers for state projects. The architect and engineer issue was changed several years ago by the Legislature, but the Board of Examiners still meets. The statute states that the Board of Examiners will meet monthly. The Board was audited by the Legislative Auditors, and it was determined that the Board only needs to meet when there is a sale of bonds, and when they have to examine and make the final approval of the bonds. SB 17 changes the current language in the statute from "meet on the 3rd Monday of each month" to "the Governor will call the Board together when needed".

Proponents' Testimony:

Steve Bender, Deputy Director, Department of Administration (D of A), stated this is a clean-up bill. He urged the Committee for a do pass motion.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. COONEY closed by stating the Board plays a valuable role by giving the final review of bonds. He said this bill allows the process for the state to go forward in the sale of the bonds. He urged a do pass for SB 17.

HEARING ON SB 16

Opening Statement by Sponsor:

SEN. JOSEPH (JOE) TROPILA (D), SD 13, opened the hearing on SB 16, Restrict public service announcements by certain elected officials. He distributed an amendment requested by the Secretary of the State. He informed the Committee that the bill requires an individual to file a declaration or petition for nomination acceptance or appointment as a candidate for public office as required by law.

EXHIBIT(sts05a01)**Proponents' Testimony:**

Brad Johnson, Secretary of State, stated his support for banning the involvement of elected officials that are candidates in public service announcements funded by state funds. He stated that the integrity of the electoral process is far too important to have politicians promoting themselves at taxpayers' expense under the guise of public service. This bill seeks to level the political playing field. He feels that a public servant should be elected and re-elected, because they have shown a sense of public responsibility. He asked the Committee to pass SB 16.

EXHIBIT(sts05a02)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. COONEY asked **SEN. TROPILA** about the new language in the bill that talks about state funds, and wanted to know if there is a definition of state funds. **SEN. TROPILA** responded that state funds are monies that belong to state government. He said if the money comes from another entity before it goes into the state fund to pay for public service announcements, it has to go through the state process before it can be expended. **SEN. COONEY** said that in the past, dollars have been collected as a result of penalties against corporations, insurance firms, etc., and felt that the money was never put into the state fund, but set aside for use toward public education. He wanted to know if an elected official would be prohibited from utilizing this money. **SEN. TROPILA** referred the question to Mr. Johnson.

SEN. COONEY asked **Mr. Johnson** under the provisions of the Help America Vote Act (HAVA, if there was a sum of money set aside to educate people on the process of taking their identification (I.D.) to the polls. He said if the HAVA dollars went to the state of Montana to use for public service announcements, would this bill prohibit him from participating in public service announcements. **Mr. Johnson** replied that it is his understanding that this money is federal and not state. He commented that this bill could technically be a loophole.

SEN. BALYEAT wanted to know if an amendment would help that states all of the funds from whatever source must go through the

state's checking account. **SEN. TROPILA** replied only if it is amendable.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 19.9}

SEN. COCCHIARELLA asked **Mr. Johnson** if an public official attended a function to raise public awareness for the historical museum, and state money was used for the newspaper ad, could that be affected by this bill. **Mr. Johnson** responded yes if state money was used this bill would apply. She questioned if an amendment could be proposed so an state-wide official could appear in an ad to promote a private entity's efforts to raise funds for a historical museum, and would it be affected by this bill. **Mr. Johnson** responded that wasn't the intent of the bill.

SEN. LIABLE asked how this would affect elected officials, and the ability to do their job. **SEN. TROPILA** responded that public officials have three years to file public service announcements.

{Tape: 1; Side: A; Approx. Time Counter: 19.9 - 25}

{Tape: 1; Side: B}

SEN. LEWIS asked if the language could be changed from state funds to government funds. He stated that former Secretary of State, Bob Brown, had private entities pay for public service announcements, then Mr. Brown could make the announcement. **SEN. LEWIS** made the comment that it was determined in 1991 that fines from corporations, companies, and etc., go into the general fund. He stated that all funds paid into the state goes into the general fund.

Dave Bohyer, LSD, said that state officers as defined in 2.2.103 subsection 11, states "a state officer includes all elected officers and directors of the executive branch of state government". He stated that the bill doesn't include; any state employee, a bank president, anyone that works for a non-profit organization, or a private attorney. He said this bill only includes state officers and directors of the executive branch.

Closing by Sponsor:

SEN. TROPILA closed stating this bill doesn't preclude anyone from making public service announcements.

SEN. COONEY, VICE CHAIRMAN, opened the hearing for **CHAIRWOMAN SQUIRES** while she presented SB 54.

HEARING ON SB 54**Opening Statement by Sponsor:**

SEN. CAROLYN SQUIRES (D), SD 48, opened the hearing on SB 54, Clarify state mileage reimbursement rate for use of a private vehicle by state officers and employees while doing their duties. She stated that this bill is at the request of the Department of Administration. If a public employee or officer uses their own car, when a state motor vehicle is available the reimbursement will only be at the rate of 52 percent or 3 cents less per mile than the mileage rate allowed by the United States Internal Revenue Service (IRS) for the current year. If a government-owned or leased motor vehicle is not available, then a rate equal to the mileage allotment allowed by the IRS must be paid for the first 1,000 miles and 3 cents less per mile for all additional miles traveled within a given calendar month. **CHAIRWOMAN SQUIRES** stated the Committee needs to reevaluate how the state will pay individuals for using personal vehicles.

Proponents' Testimony:

Steve Bender, Deputy Director, D of A, stated that the basic problem the Department is trying to address is the reference to the low IRS mileage rate. He stated that this term was not defined when it was added during a special session. The term was supposed to simplify the issue, but it actually caused problems. He stated that they do not know what the low IRS rate is. Through the interpretation of all those involved the decision was made to use the old law, which is the IRS rate less the 3 cents. He distributed a handout on state policy from the Montana Operations Manual (MOM) on personal car/airplane mileage rates. He informed the Committee that this legislation is another housekeeping bill. They are trying to define current travel policy formula in statute. This bill will do away with the problem by referencing the low IRS rate and change the statute to reflect current policy so they will not create a fiscal impact. He stated this will reduce the reimbursement rate by half of the 52 percent, and reduced it by 48 percent. The reimbursement rate was greater than what it cost to rent a motor pool vehicle, and people are generating another day of pay by using their own vehicle. This will reduce cost and give the people the incentive to use motor pool vehicles. He urged a do pass for SB 54.

EXHIBIT (sts05a03)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. SHOCKLEY asked if it would be in the best interest to simplify the language and pick a percentage such as 50 percent and forget the 3 cents less per mile. **Mr. Bender** replied that it would probably be more simple to state 50 percent of the IRS rate. He stated the way they do it now is to calculate the formula one time a year to reimburse everyone.

{Tape: 2; Side: A}

Closing by Sponsor:

CHAIRWOMAN SQUIRES closed urging the Committee to pass SB 54.

EXECUTIVE ACTION ON SB 14

{Tape: 2; Side: A; Approx. Time Counter: 1.9 - 3}

Motion/Vote: **SEN. TROPILA** moved that SB 14 DO PASS. Motion carried unanimously by voice vote. **SEN. GALLUS** voted yes by proxy.

EXECUTIVE ACTION ON SB 17

{Tape: 2; Side: A; Approx. Time Counter: 3.5 - 4}

Motion/Vote: **SEN. TROPILA** moved that SB 17 DO PASS. Motion carried unanimously by voice vote. **SEN. GALLUS** voted yes by proxy.

CHAIRMAN SQUIRES closed the Committee hearing.

ADJOURNMENT

Adjournment: 4:00 P.M.

SEN. CAROLYN SQUIRES, Chairman

CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

EXHIBIT ([sts05aad0.PDF](#))