

STATE ADMINISTRATION  
FEBRUARY 19, 1981  
RM 436

#### EXECUTIVE SESSION

The meeting of the State Administration committee was called to order at 7:00 a.m. on February 19, 1981, with Chairman Feda presiding. Representatives Smith, O'Connell, Azzara, McBride, Dussault and Kennerly were absent at the start of the meeting.

#### HOUSE BILL 717

#### DO PASS AS AMENDED

Representative Winslow explained the amendments. He said that he got together with the the proponents and opponents of this bill and these amendments are a compromise between both groups. A copy of the amendments is attached and is EXHIBIT 1 of the minutes.

Representative Winslow moved a do pass on the amendments. A vote was taken and carried unanimously with those present.

Representative Sales made a motion to strike the section of the bill dealing with the \$200 fine. He said that they should not have this kind of authority. A vote was taken on the motion and carried with 9 YES and 3 NO. Representatives Winslow, Kanduch and Kropp voted no.

Representative Sales made a DO PASS AS AMENDED motion on HB 717. A vote was taken and carried unanimously with those present.

#### HOUSE BILL 565

#### DO PASS AS AMENDED

Discussion was held on the amendments presented by Representative Roth, sponsor of HB 565. A copy of these amendments is attached and is EXHIBIT 2 of the minutes.

Representative Spilker said that the legislature has complained about budget amendments for years and this is an attempt to do something about it. She made a motion to adopt the amendments. A vote carried unanimously.

Representative Briggs made a motion that HB 565 DO PASS AS AMENDED. Brief discussion was held on the motion. A vote was taken and carried with 12 YES, 3 NO and 4 absent. Representatives McBride, Dussault and Pistoria voted no.

EXECUTIVE SESSION (cont.)

HOUSE BILL 682

TABLED

Representative Kanduch made a do not pass motion on HB 682. Representative Dussault suggested that the bill be tabled and that the committee request a legislative audit of the Environmental Quality Council. She said she has talked to the members and the people involved and there were some serious questions raised concerning the documents that we received as testimony for HB 682. It is important, she stated, that we look at putting things in the proper perspective.

Representative Spilker suggested that the council should be the ones to request the audit and not the committee. Discussion on this followed. Representative Winslow suggest that the committee draft a letter to the EQC and they could initiate the audit.

Representative Dussault said that it is the committee's responsibility to request the audit because it is clear that the council has not performed properly in the past.

Representative Spilker suggested that the letter be drafted from the committee and the EQC and signed by the chairman of each. The committee agreed to this idea.

Representative Spilker made a motion to that effect. A vote was taken and carried unanimously with those present.

Chairman Feda said that Representative Dussault, Lois Menzies, Mr. Siecat and himself would get together and draft a letter.

Representative Mueller moved to TABLE HB 682. A vote carried unanimously

HOUSE BILL 637

DO PASS AS AMENDED

Representative Spilker moved the amendments. A copy is attached and is EXHIBIT 3 of the minutes. A vote was taken and carried with 14 YES, 1 NO and 4 absent. Representative Sales voted no.

Representative Kropp moved a DO PASS AS AMENDED. A vote was taken and carried with 14 YES, 1 NO and 4 absent. Representative Sales voted no. Representatives Smith, Azzara, O'Connell and Kennerly were absent for these votes.

EXECUTIVE SESSION (cont.)

HOUSE BILL 663

TABLED

Representative Spilker moved that the committee adopt the statement of intent and the amendments to HB 663. A vote was taken and carried unanimously.

Representative Spilker made a DO PASS AS AMENDED motion. Discussion on the motion followed.

Representative Dussault said that she would rather see a study of the administrative procedures.

Representative Phillips said that it would be nice to see how some other state operations work.

Representative Dussault said that an interim study would accomplish this.

Representative McBride agreed that the committee should put in a resolution for an interim study.

Representative Spilker withdrew her motion.

Representative Dussault moved that HB 663 be TABLED. A vote was taken and carried with 13 YES, 2 NO and 4 absent. Representatives Kropp and Sales voted no.

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At 8:00 a.m., Chairman Feda opened the meeting to a hearing on HB 752. All members were present except Rep. Azzara.

HOUSE BILL 752-SPONSOR, Representative Seifert, introduced this bill to the committee. This bill repeals the Human Rights Act, an act that prohibits discrimination in employment, public accommodations, housing, financing and credit transactions, and education. It also abolishes the Human Rights Commission, the agency authorized to enforce the Act. In addition, the bill removes references to the Act contained in other statutes. A copy of Representative Seifert's written testimony is attached and is EXHIBIT 4 of the minutes.

The following people submitted letters in support of House Bill 752. A copy of these letters is attached to the minutes and are EXHIBIT 5a, 5b, 5c, 5d, and 5e, respectively.

HB 752 (cont.)

Letters submitted in favor of HB 752:

DAVE GORTON, Commissioner, Yellowstone County  
DONALD K. PETERSON, City Attorney, Polson, Mt.  
KEITH L. ALLRED, Superintendent, district 5, Kallispell  
R. J. SOUHRADA, Superintendent, district 6, Columbia Falls  
RICHARD P. HEINZ, Lake County Attorney, Polson  
DEAN GREINER, Mayor, City of Polson, MT

DR. LEE CHRISTENSEN, Superintendent, Polson public schools, submitted a letter to the committee in favor of HB 752. A copy of his testimony is attached and is EXHIBIT 6 of the minutes.

WAYNE BUCHANAN, Montana School Board Assoc., stated that he concurred with Representative Seifert. He added that if these people had to go through the courts when they filed a complaint, it would make them consider the legality of the complaint more carefully.

#### OPPONENTS

SENATOR MATT HIMSEL, Chairman of the Legislative Audit committee, stated that after hearing the report of the Sunset Audit Committee that was made on the Human Rights Commission, I am of the opinion that the commission does serve a purpose. If the commission was abolished, the EEOC would continue to handle many of the cases the Commission now handles but parties would be forced to deal with federal employees in Denver who do not always understand local problems. The EEOC only handles cases for employees of an organization with 15 or more employees. The Labor Department estimates that 80 percent of private employers have 15 or less employees. These parties would have to take their grievances to the courts or have no redress.

DON JUDGE, AFL-CIO, stated that these additional duties on the court system would not be in the best interest of Montana.

KATHY KARP, League of Women Voters of Montana, stated the leagues opposition to this bill.

GREGG GROEPPER, Department of Labor and Industry, stated that the H.R.C. is administratively accountable to the Department of Labor and Industry. The department supports

JAN GERKE, Helena Women's Political Caucus, submitted written testimony. It is attached and is EXHIBIT 10.

HB 752 (cont.)

the present H.R.C. because it is similar to the federal commission. He stated that we could work with the system for a few years and improve it and not get involved with the federal government. There has been other legislation drafted this session dealing with the commission and that would be a more appropriate place to deal with the problem of duplication in the system.

ROD SAYEGUSH, Montana Inter-Tribal Policy Board, arose and stated that as a minority sector of Montana they would oppose this legislation.

JOHN FRANKINO, member, Human Rights Commission, arose in opposition to this legislation. A copy of the testimony submitted by the commission (Karen S. Townsend, Chair-person) is attached and is EXHIBIT 7 and 8 of the minutes.

DAVID SEXTON, Montana Education Assoc., stated that there are several thousand education teachers in Montana that support the Human Rights Commission and they oppose the bill.

CYNTHIA WEVERS, Helena Chapter of National Organization for Women, submitted a copy of her testimony to the committee. A copy is attached and is EXHIBIT 9 of the minutes.

PHYLIS BOCK, Montana Power to the People, arose and stated opposition to this bill.

SYLVIA STEVENS, Montana Coalition of the Handicapped, stated her personal case involving the H.R. C. She said that she could not have afforded an attorney and if the H.R.C. would not have been available she would not have had any recourse.

QUESTIONS BY THE COMMITTEE:

Kropp: Who appoints the commission and what is their salary?

Frankino: We are appointed by the governor and confirmed by the Senate. We are not paid by the state except for travel expenses to meetings in Helena.

Representative Sales asked Scott Seacat if he would clarify the situation that would exist if the commission were sunsetted, concerning employers with 15 or less employees.

Kanduch: What about the protection of the employers?

Dussault: From the information I have received, as many cases have been found in favor of the employer as the employee.

Himsl: I suggest you read the audit report.

Following further discussion, Representative Seifert closed the hearing on HB 752.

HOUSE BILL 733-SPONSOR, Representative Hurwitz, introduced this bill to the committee. This bill requires the Insurance Commissioner to prescribe a uniform disability insurance claim for hospitals and state and local government agencies and to encourage the use of this form by disability insurers conducting business in Montana. It also requires these insurers to issue separate checks for payment to each medical services provider unless the claim is accompanied by a disclaimer signed by the medical provider. He said that this bill will help smaller hospitals. He also stated that section 2 is the most important part of the bill. This section deals with signing the release of payment so the hospital will be paid directly by the insurance company.

#### PROPOSERS

Elmer SCHYE, White Sulphur, MT, stated that they have a real problem collecting money in their area. Loggers from out of state come in and they don't sign the release form and usually we never get paid.

#### OPPOSERS

ALLAN CAIN, Blue Shield, stated that a uniform claim form would mean that they would have to write new programs for all the computers. Issuing a check directly to each provider would also mean a substantial cost because of the extra work and mailing involved. It would confuse the bookkeeping process. This may also violate many insurance contracts.

JOSEPHINE DRISCOLL, Montana Insurance Department, stated that their main concern would be the extra duties involved. If there is a problem in the system, she stated, I think we can correct it without a uniform claim form.

RAY FISHER, Blue Cross, concurred with Mr. Cain and said that this procedure would cost Blue Cross an additional \$200,000 or more a year.

HB 733

QUESTIONS BY THE COMMITTEE:

Winslow: Why isn't the Montana Hospital Assoc. here in support of this bill?

Hurwitz: I talked to them and they said that they do not want to oppose the bill but there is a problem with the bill because a person who has insurance has a contract with the provider and this bill may violate that contract.

Jo Driscoll commented that this bill would not help in situations of people who have out of state insurance because there is no obligation on the part of the provider.

Representative Hurwitz closed the hearing on HB 733.

HOUSE BILL 736-SPONSOR, Representative Bardanouve, introduced HB 736 to the committee. This bill relates to the disclosure of the amount of money spent for lobbying in state government. Provisions in the bill define unprofessional conduct for a lobbyist; require a lobbyist to permit a public official to reimburse him for travel benefits; outlines lobbyist registration procedures; requires a principal to submit lobbyist authorization to the Commissioner of Political Practices; requires the commissioner to prepare a packet listing the names of registered lobbyists and other pertinent information; requires a state employee to register with the Governor's Office before lobbying on behalf of a state agency; describes the content of financial reports required from a registered principal; permits the Commissioner to suspend the registration or authorization of a lobbyist; provides penalties for violations of the act; and grants rulemaking authority to the Commissioner. He stated that this is a kind of compromise for the lobbyist. If the committee kills this bill, he stated, and the courts find initiative 85 constitutional, the lobbyist will be a lot worse off than if we pass this bill. He stated that the fines would be the same for all lobbyist no matter how large the organization they represent is because the publicity of the violation would be deterrent enough.

PROPONENTS

DON JUDGE, AFL-CIO, stated support of this bill.

MARGARET DAVIS, League of Women Voters of Montana, stated that HB 736 clarifies and facilitates the intent of I-85.

HB 736 (cont.)

KELLY JENKINS, volunteer lobbyist for Common Cause, stated that he supports the bill but it is inappropriate for the legislature to question whether this bill should be passed. He stated that the people of Montana have already spoken on what they want. The constitutionality of I-85 is being considered in the courts and it is not appropriate for a committee of the legislature to decide constitutionality questions. He said that important provisions of the bill have been modified that they would like restored. If further modifications are made, he stated, we would oppose this bill.

MARK MACKIN, Citizens Legislative Coalition, said that this bill is a qualitative improvement over I-85 in that it is simpler to understand and comply with. The bill is an attempt to deal with the complaints concerning I-85 by the lobbyists and the executive.

J. C. WEINGARTNER, State Bar of Montana, stated that the State Bar does not oppose this bill but would offer an amendment. A copy of the amendment is attached and is EXHIBIT 11 of the minutes. He further said that he disagreed with Mr. Jenkins' statement that the legislature does not have the authority to decide the constitutionality of this bill. I think it is the obligation of the legislature. He said some of the same constitutionality problems in I-85 exist in HB 736.

#### OPPONENTS

FORREST BOLE, Montana Chamber the Montana Stock Growers and Montana Taxpayers Assoc., stated that these groups were all involved with finding I-85 unconstitutional. He said this bill still has the same problems as I-85.

DON GARRITY, representing Montana Chamber, Montana Taxpayer and Montana Stock Growers Assoc., stated that he filed the challenge on I-85. He stated that there are extensive laws now on the books that promote and maintain the integrity of public office. I do not think, he stated, that reporting of these expenditures is going to maintain a high level of confidentiality. People will think what they want to think anyway. Section 4 of the bill is especially narrow. Also if you impose a penalty you must specify the kind of violation that would warrant the penalty. Another thing he mentioned is that I-85 exempts public officials from reporting these expenditures.



QUESTIONS BY THE COMMITTEE:

Kropp: Isn't this an attack on the integrity of the legislature.

Bardanoue: 87% of the people in Montana voted for I-85. That's more people than voted for any one legislator unless he was unopposed

Following Further discussion representative Bardanoue closed the hearing on HB 736.

HOUSE BILL 779-SPONSOR, Representative Bardanoue, introduced HB 779 to the committee. This bill creates a five-member Commission of Ballot Issues Advertising Practices with rulemaking enforcement, investigative, and hearing powers to regulate ballot issue campaign practices. This act prohibits a person or political committee from making, publishing or circulating a false or misleading statement, claim, message, etc. intended to influence the vote on any ballot issue. In addition, this bill requires material paid for by a person or political committee that is designed to affect ballot issue voting to contain a statement that such information represents the opinion of the person or committee disseminating the information. Representative Bardanoue stated that money can buy an initiative. This bill sets up a simple method of regulation without any bureaucracy.

PROPOSERS

MIKE MALES, Environmental Information Center, stated that HB 779 transfers authority for issuing opinions on ballot issue practices from the attorney general, under present law, to a bi-partisan commission. He also submitted an amendment to this bill that would set up a funding mechanism. A copy is attached and is EXHIBIT 12 of the minutes.

MIKE O'MALLEY, Common Cause, stated support of this bill and said that the voters have a right to be protected. He said the state government is not able to handle the problem that exists properly.

OPPOSERS

There were no opponents present for HB 779.

QUESTIONS BY THE COMMITTEE: HB 779

Mueller: Is there a fiscal note for this bill?

Bardanoue: No. This will be partly funded by the general fund. I also suggest you consider the amendment of Mr. Males.

Spilker: How did you come up with \$45 a day pay for the Commission?

Bardanoue: We felt it was a reasonable amount that would cover expenses, but this is subject to whatever the committee decides.

Representative Bardanoue Closed the hearing on HB 779.

HOUSE BILL 774, SPONSOR, Representative Winslow, introduced this bill to the committee. The bill authorizes the Department of Administration to develop and administer a state employee merit awards program to recognize and reward employees who have demonstrated superior job performance. Provisions of the bill delegate rulemaking authority to the Department to administer the program; require the Department to appoint a Merit Awards Advisory Council; outline eligibility requirements for merit awards; and define the type and source of these awards. A statement of intent is attached and is EXHIBIT 13 of the minutes.

PROPONENTS

TRISH MOORE, Department of Administration, stated that presently there is no incentive for an employee to do a better job. If there are persons who are doing a better job there is no way that the department can reward them. The state matrix sets all jobs of equal discription at equal pay. This bill would allow us to distinguish between those doing outstanding work and those who are doing poor work.

DAVE EVENSEN, Department of Administration, stated that the department feels they can administer this program effectively. He passed around samples of pins, plaques and other items that would be given as awards for the committee to look at.

MORRIS BRUSETT, Department of Administration, stated that he supports the concept of this bill. He said this bill may eliminate some of the problems the department has in trying to give deserving employees more pay through up-grades.

HB 774 (cont.)

ALLAN ROBERTSON, Secretary of State, stated that this would help to initiate through an incentive program, better quality work.

TOM SCHNEITER, stated that they are not opposed to the bill but would like to see the selection of the advisory council left up to the department. If there are problems they can be addressed at a later time.

#### OPPONENTS

REPRESENTATIVE O'CONNELL, stated that she has seen this program work before and there is favoritism. ' caused morale problems among the employees. She stated that she could not support this bill.

#### QUESTIONS BY THE COMMITTEE:

Phillips: Do you have a system of evaluation presently and how would this be taken care of?

Moore: The department of Administration developed a system last year that is now being implemented in the agencies now. The only problem is that an excellent evaluation doesn't get you anything.

Phillips: What kind of money are we talking about?

Moore: It could be up to 4% of the persons annual salary.

Representative Winslow closed the hearing on HB 774.

HOUSE BILL 730-SPONSOR, Representative Menahan, introduced HB 730 to the committee. This bill requested by the Department of Professional and Occupational Licensing, reestablishes for six additional years the Board of Athletics that is scheduled to terminate on July 1, 1981. It also authorizes the Board to license boxers, wrestlers, officials, and ring attendants who participate in professional boxing, sparring, or wrestling matches within the state. In addition, the bill permits the Board to charge a \$25 licensing fee and to adopt rules governing licensees.

#### PROPONENTS

MARY LOU CRAWFORD, Administrative Officer, Board of Athletics, stated that the board has had a very limited budget which

HB 730 (cont.)

has not allowed for enforcement even though revenues received were three times the amount appropriated to the Board. The board has dealt with Canadian officials on a wrestling complaint. A hearing was held and a promoters license suspended for violation of the law and rules. The Board has used the bonding requirements to insure payments to participants in two other cases in 1980. One of the main reasons for the Board, she stated, is to provide regulation for the health and safety of the participants, to insure impartial officials and ringside attendants and to authorize only qualified referees. The Board by requiring the promoter to post a bond, insures the participants, facilities and the public from "fly by nights" who would not pay for services. This is a three member Board that serves without compensation. I suggest limiting the terms for Board members in order to upgrade the operation of the Board.

#### OPPONENTS

SENATOR STEVE BROWN, stated that he does not disagree that there is a need for some regulation. There is a bill in the Senate that would delegate this authority at the local level and would allow for a tax to be levied on the proceeds. There has been evidence in the past that the Board has not been doing the job properly.

#### QUESTIONS BY THE COMMITTEE:

Pistoria: Isn't it true that if you leave it up to the local government there would be no standardization for out of town games?

Brown: Professional boxers have to meet WBA requirements.

Representative Menahan closed the hearing on HB 730. A statement of intent is attached and is EXHIBIT 14 of the minutes.

A motion was made to adjourn at 11:45 a.m.

Respectfully submitted,

  
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G. C. "JERRY" FEDDA, Chairman

Cathy Martin-Secretary

# STANDING COMMITTEE REPORT

EXHIBIT 1

2/19  
FEBRUARY 19,

81

19.....

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration ..... HOUSE Bill No. 717

**A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LICENSING LAW FOR DENTISTS AND DENTAL HYGIENISTS; TO DELETE THE BOARD EMERGENCY FUND; TO PROVIDE FOR BOARD MEMBERS TO ATTEND THE NATIONAL ASSOCIATION MEETINGS AND TO INCREASE THE COMPENSATION FOR ATTENDANCE; TO PROVIDE FOR A GENERAL RULEMAKING STATUTE FOR THE BOARD OF DENTISTRY; TO REVISE LICENSE AND EXAMINATION QUALIFICATIONS AND ANNUAL RENEWAL FEE FOR LICENSEES; TO PROVIDE AUTHORITY TO ASSESS A FINE; TO PROHIBIT A LICENSE FEE OR TAX ON DENTAL HYGIENISTS BY A LOCAL GOVERNMENT; AND TO MAKE RULEMAKING DISCRETIONARY REGARDING AUXILIARY PERSONNEL; AMENDING SECTIONS**

Respectfully report as follows: That..... Bill No. ....

37-4-203, 37-4-204, 37-4-301, 37-4-303, 37-4-307, 37-4-321, 37-4-412, 37-4-406, 37-4-408, MCA; AND REPEALING SECTION 37-4-403, MCA."

Respectfully report as follows: That HOUSE Bill No. 717 be amended as follows:

(continued)

DO PASS AS AMENDED

1. Title, lines 13 and 14.

Following: "LICENSEES;" on line 13

Strike: "TO" through "FINE;" on line 14

2. Title, line 15.

Following: "GOVERNMENT;"

Insert: "TO SPECIFY PROCEDURES THAT MAY NOT BE DELEGATED  
TO DENTAL HYGIENISTS;"

3. Title, line 18.

Following: "37-4-321,"

Insert: "37-4-401,"

4. Page 10, line 25.

Following: ";

Insert: "and"

5. Page 11, lines 2 and 3.

Following: "years" on line 2

Strike: ";" through "\$200" on line 3

6. Page 11.

Following: line 15

Insert: "Section 8. Section 37-4-401, MCA, is amended  
to read:

"37-4-401. Practice of dental hygiene. The practice of dental hygiene is the doing by one person for a direct or indirect consideration, with respect to the teeth of another person, an act or service, educational, therapeutic, prophylactic, or preventive in nature, as the board in writing defines and authorizes. However, this section does not allow the board or a licensed dentist to delegate any of the following duties:

(1) diagnosis, treatment planning, and prescription for drugs, medications, or work authorizations;

(2) surgical procedures on hard and soft tissues;

(3) restorative, prosthetic, orthodontic, and other procedures which require the knowledge and skill of a dentist;

(4) prescription-for-drugs, medications, or work authorizations administration of local anesthesia or induction of nitrous oxide analgesia.

DO PASS AS AMENDED

STATEMENT OF INTENT ATTACHED

A statement of Intent is required because section 3 delegates to the Board of Dentistry power to make rules for the implementation, continuation, and enforcement of all sections within Title 37, chapter 4. This provision is intended as a backup to the various provisions giving the Board rulemaking authority over portions of the chapter as are found in 37-4-301 (examination criteria for dental license), 37-4-307 (dentist license fees), 37-4-321 (defining unprofessional conduct), 37-4-402 (examination criteria for dental hygienist license), 37-4-406 (hygienist license fees), and 37-4-408 (scope of duties of dental assistants). Section 3 grants the Board the authority to interpret or implement other parts of the chapter that are not covered by existing delegations. The Board shall be bound by statements of intent adopted in 1979 for these other sections and may not use section 3 for rulemaking authority when a more specific delegation suffices.

# STANDING COMMITTEE REPORT

EXHIBIT 2

FEBRUARY 19,

1981

**SPEAKER**

MR. ....

We, your committee on **SENATE ADMINISTRATION**

having had under consideration **HOUSE** Bill No. **565**

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES  
FOR REQUESTING A BUDGET AMENDMENT; TO PROVIDE FOR  
ENFORCEMENT AUTHORITY OF THE ATTORNEY GENERAL AND FOR  
PENALTIES; AMENDING SECTION 5-12-401, MCA."**

Respectfully report as follows: That **HOUSE** Bill No. **565**

**be amended as follows:**

**1. Title, line 7.**

**Following: "AMENDING"**

**Strike: "SECTION"**

**Insert: "SECTIONS 5-12-102 AND"**

**2. Page 1, line 10.**

**Following: line 9**

**Insert: "Section 1. section 5-12-102, MCA, is amended  
to read:**

**"5-12-102. Definitions. In this chapter, the following  
definitions apply:**

**(1) "Budget amendment" means a request submitted through  
the budget-director appropriate authority to the committee  
for executive branch agencies to expend funds in excess  
of those appropriated by the legislature.**

**(2) "Budget director" means the budget director appointed  
pursuant to 17-7-103.**

DO PASS

(continued)



(3) "Committee" means the legislative finance committee created by this chapter.

(4) "State agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public moneys by virtue of an appropriation from the legislature, that handles money on behalf of the state, or that holds any trust or agency moneys from any source.

(5) "Appropriate approval authority" means:

(a) for the Montana university system, the board of regents;

(b) for the executive and legislative branches, the budget director;

(c) for the judicial branch, the supreme court."

Renumber: subsequent sections

3. Page 1, line 13.

Following: "the"

Strike: "budget director"

Insert: "appropriate approval authority"

4. Page 1, line 19.

Following: "section" on line 18

Strike: "2"

Insert: "3"

5. Page 1, lines 21 and 22.

Following: "the" on line 21

Strike: "budget director"

Insert: "appropriate approval authority"

6. Page 1, line 23.

Following: "particular"

Strike: "additional"

Insert: "goods, equipment, or"

7. Page 1, line 25.

Following: "other"

Insert: "more efficient or less costly"

8. Page 2, line 1.

Following: "the"

Strike: "additional"

Insert: "goods, equipment, or"

9. Page 2, line 2.

Following: "certify"

Strike: "that"

Insert: "whether"

Following: "proposed"

Insert: "goods, equipment, or"

(continued) G. C. Peda

9. Page 2, line 2.

Following: "certify"

Strike: "that"

Insert: "whether"

Following: "the"

Strike: "additional"

Following: "proposed"

Insert: "goods, equipment, or"

10. Page 2, line 3.

Following: "have" on line 2

Strike: "not"

Following: "considered"

Strike: "and rejected"

Following: "legislature"

Insert: "and if so, the disposition by the legislature"

11. Page 2, line 5

Following: "support"

Strike: ";

Insert: ".

12. Page 2, lines 6 and 7.

Following: "support;" on line 5

Strike: subsection (5) in its entirety

13. Page 2, line 11.

Following: "has"

Strike: "complied with"

Insert: "adequately fulfilled the requirements of"

Following: "2]"

Strike: "and"

Insert: "or has violated"

14. Page 2, line 12.

Following: "committee" on line 11

Strike: "determines"

Following: "not"

Strike: "complied with"

Insert: "adequately followed"

15. Page 2, line 14.

Following: "the" on line 13

Strike: all of line 14

Insert: "authority of the state agency requesting a budget amendment shall automatically be rescinded for the entire fiscal year during which the noncomplying budget amendment request was submitted, unless the requesting agency can show good cause for the approval of additional budget amendments to the appropriate approval authority and the committee.

(continued)

16. Page 2, lines 16 and 17.

Following: "prosecute" on line 16

Strike: "any " through "committee" on line 17

Insert: "a writ of prohibition action or other injunctive  
s suit or proceeding as is necessary against any state  
agency violating 5-12-401"

Following: "if"

Strike: "an allegation"

Insert: "any investigation"

17. Page 2, line 18.

Following: "made"

Strike: "in reference to"

Insert: "or proceeding brought concerning"

18. Page 2, line 21

Following: "such"

Strike: "an allegation"

Insert: "investigation or proceeding"

19. Page 2, line 22 through line 3, page 3.

Following: "allegation" on line 21

Strike: subsection 3 in its entirety.

29. Page 3.

Following: line 3

Insert: "NEW SECTION. Section 4. Applicability. nothing  
in [this act] shall be construed to alter or affect in  
any way the duties, liabilities or penalties imposed  
in sections 17-8-103 and 17-8-104, MCA."

Renumber: subsequent section

DO PASS AS AMENDED

# STANDING COMMITTEE REPORT

EXHIBIT 3

FEBRUARY 19, 1981

MR. **SPEAKER**

**STATE ADMINISTRATION**

We, your committee on

having had under consideration

**HOUSE**

Bill No. **637**

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE VETERANS OF THE VIETNAM CONFLICT ERA SERVICE CREDITS FOR THE TEACHERS' RETIREMENT SYSTEM COMPARABLE TO THOSE GRANTED VETERANS OF WORLD WAR II AND THE KOREAN CONFLICT; AMENDING SECTION 19-4-404, MCA."**

Respectfully report as follows: That.....**HOUSE**..... Bill No. **637**.....

**be amended as follows:**

**1. Title, line 7.**

**Following: "CONFLICT"**

**Insert: "AND TO PROVIDE FUNDING FOR THESE CREDITS THROUGH INCREASED EMPLOYER CONTRIBUTIONS"**

**Following: "AMENDING"**

**Strike: "SECTION"**

**Insert: "SECTIONS"**

**2. Title, line 8.**

**Following: "19-4-404"**

**Insert: "AND 19-4-605"**

**3. Page 1, line 14.**

**Following: "receive"**

**Strike: "service credits"**

**Insert: "up to 4 years of creditable service"**

XXXXXX

(continued)

4. Page 2.

Following: line 21

Insert: "Section 2. Section 19-4-605, MCA, is amended to read:

"19-4-605. Pension accumulation fund- employer's contribution. The pension accumulation fund is the fund in which the reserves for payment of pensions shall be accumulated and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions and payments from the pension accumulation fund shall be made as follows:

(1) Each employer shall pay into the pension accumulation fund an amount equal to ~~6.312%~~ 6.343% of the earned compensation of each member employed during the whole or part of the preceding payroll period.

(2) If the employer is a district or community college district, the trustees shall budget and pay for the employer's contribution under the provisions of 20-9-501.

(3) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a unit of the Montana university system, or the Montana state school for the deaf and blind, the legislature shall appropriate to the employer an adequate amount to allow the payment of the employer's contribution.

(4) If the employer is a county, the county commissioners shall budget and pay for the employer's contribution in the manner provided by law for the adoption of a county budget and for payments under the budget.

(5) All interest and other earnings realized on the moneys of the retirement system shall be credited to the pension accumulation fund, and the amounts required to allow regular interest on the annuity savings fund from the pension accumulation fund.

(6) All pensions and benefits in lieu thereof shall be paid from the pension accumulation fund.

(7) The retirement board may, in its discretion, transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund, as shown by actuarial valuation, and also an amount to cover expenses of administration.

Section 3. Coordination section. If both this act and HB 45, introduced in the 47th legislature, are passed and approved, the percentage amount contained in 19-4-605 shall reflect the sum of the increases in the employer contribution provided in HB 45 and this act."

DO PASS AS AMENDED

④ 752  
MR. CHAIRMAN,

MEMBERS OF THE COMMITTEE:

FOR THE RECORD, I AM CARL SEIFERT, DISTRICT 26, POLSON, MONTANA. I AM HERE THIS MORNING TO PRESENT TO YOU HOUSE BILL 752 WHICH IS BASICALLY AN ACT TO REPEAL THE HUMAN RIGHTS COMMISSION.

THIS BILL IS BEING BROUGHT TO YOU THIS MORNING BY REQUEST OF MANY CONSTITUENTS NOT ONLY IN MY AREA, BUT <sup>MONTANA</sup> ~~SOME~~ IN THE BILLINGS AREA ~~AND OTHER AREAS~~ THROUGHOUT THE STATE.

BECAUSE MY TESTIMONY MAY BE A LITTLE LONGER THAN POSSIBLE, I <sup>hope you</sup> ~~SEE~~ <sup>11) Be sure to</sup> TO THINK THE ISSUE WILL PROVE THAT IT WARRANTS THIS TESTIMONY.

THE COMMISSION FOR HUMAN RIGHTS WAS ESTABLISHED BY THE MONTANA LEGISLATURE IN 1974 TO IMPLEMENT FREEDOM FROM CERTAIN DISCRIMINATORY PRACTICES AS SPECIFIED IN PART 3 OF THE HUMAN RIGHTS ACT IN SECTIONS 49-2-301 THRU 49-2-303. THIS ACT WAS PASSED DESPITE THE FACT THAT SECTION 4 OF ARTICLE II OF THE NEW MONTANA CONSTITUTION PROVIDES ADEQUATE PROHIBITIONS AGAINST ANY DISCRIMINATORY PRACTICES BASED UPON RACE, CREED, SEX, OR ANY OTHER DISTINCTION BETWEEN PERSONS WHICH ARE NOT PROPERLY THE BASIS FOR ANY SUCH PRACTICES. THE COMMISSION IS AUTHORIZED A STAFF OF 8 FULL TIME EMPLOYEES ALTHOUGH ITS ACTIVITIES HAVE APPARENTLY BEEN LIMITED TO THE EXTENT THAT

ACCORDING TO THE "SUNSET REVIEW" REPORT IT HAS BEEN EMPLOYING LESS THAN THE AUTHORIZED NUMBER OF STAFF EMPLOYEES.

IT IS FUNDED FROM A STATE GENERAL FUND APPROPRIATION AND ALSO RECEIVES FEDERAL FUNDS FROM THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. IT HAS RECEIVED SOME CETA MONIES AND PUBLIC SERVICE EMPLOYMENT FUNDS.

GENERAL FUND APPROPRIATIONS FOR THE FIRST 2 YEARS OF ITS EXISTENCE TOTALED \$154,341. INCLUDING AVAILABLE FEDERAL FUNDS IT EXPENDED \$203,938 DURING THAT PERIOD. DURING THE FISCAL YEARS ~~1978 - 79~~ AND 1979 - 80 IT EXPENDED \$337,128 OF STATE AND FEDERAL FUNDS, ALMOST DOUBLE THE AMOUNT SPENT DURING ITS FIRST 2 YEARS OF EXISTENCE ALTHOUGH ITS SERVICES ARE DUPLICATIVE IN A NUMBER OF WAYS OF SERVICES WHICH THE FEDERAL GOVERNMENT AND OTHER STATE AGENCIES ARE AUTHORIZED TO PROVIDE AND WOULD PROVIDE IF THIS ACT WAS NOT ON THE BOOKS.

THE HUMAN RIGHTS COMMISSION CONSISTS OF 5 MEMBERS APPOINTED BY THE GOVERNOR FOR 4 YEAR TERMS AND ARE SUBJECT TO SENATE CONFIRMATION. ~~THE ONLY MEMBERSHIP QUALIFICATION OR REQUIREMENT IS THAT ONE MEMBER SHALL BE AN ATTORNEY LICENSED TO PRACTICE LAW IN MONTANA. THE GOVERNOR DESIGNATES THE CHAIRMAN WHO MAY MAKE AND SECOND MOTIONS AND MAY VOTE. NO FURTHER QUALIFICATION APPEARS IN THE STATUTE WHICH RELATES TO THE PAST EXPERIENCE OF A MEMBER. A~~ MEMBERS FAMILIARITY WITH EMPLOYMENT OR OTHER PRACTICES, NOR IS ANY MENTION MADE IN THE STATUTE THAT INDICATES ANY EFFORT TO

BALANCE THE PAST EXPERIENCE OR PHILOSOPHICAL BELIEF OF THE COMMISSION MEMBERS. THUS, DEPENDING UPON THE PHILOSOPHY OF THOSE WHO MAKE AND APPROVE APPOINTMENTS TO THE COMMISSION, THE COMMISSIONS ENFORCEMENT ACTIVITY CAN EITHER BE OVER-ZEALOUS OR REASONABLE BASED UPON THE BELIEF OF THE COMMISSION MEMBERS THEMSELVES. IT CAN ADOPT ITS OWN RULES AND REGULATIONS SO LONG AS IT COMPLIES WITH THE REQUIREMENTS OF THE MONTANA ADMINIS-  
<sup>TRATION</sup>~~TRATION~~ PROCEDURE ACT. IT CAN LEVY CIVIL PENALTIES IN THE FORM OF BACK PAY AND OTHER CIVIL PENALTIES AND THE ACT PROVIDES CRIMINAL PENALTIES FOR ENGAGING IN NAMED DISCRIMINATORY PRACTICES OR FOR INTERFERENCE IN COMMISSION ACTIVITIES OR FOR ANY WILLFUL VIOLATION OF AN ORDER OF THE COMMISSION. THUS ITS POWERS ARE BROAD AND TO A CONSIDERABLE EXTENT UNBRIDLED.

WE BELIEVE THAT THE COMMISSION FOR HUMAN RIGHTS HAS BEEN ESTABLISHED TO PERFORM DUTIES WHICH ARE UNNECESSARY AND DUPLICATE OF DUTIES OF OTHER STATE AND FEDERAL AGENCIES AND THEREFORE THAT IT SHOULD BE <sup>Repealed</sup>~~ABOLISHED~~. WE FURTHER BELIEVE THAT THE HUMAN RIGHTS ACT ALSO DUPLICATES PROVISIONS OF THE MONTANA CONSTITUTION AND OTHER STATE STATUTES AS WELL AS FEDERAL STATUTES WHICH ADEQUATELY PROVIDE PROHIBITIONS AGAINST DISCRIMINATION OF ALL KINDS. THE HUMAN RIGHTS ACT SIMPLY RESULTS IN DUPLICATIVE EFFORT, UNNECESSARY EXPENDITURES OF STATE FUNDS AND SHOULD BE REPEALED.



DUPLICATION OF EFFORT - FEDERAL -

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION -(EEOC)

7

THIS COMMISSION ENFORCES TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 AS WELL AS OTHER CIVIL RIGHTS STATUTES PASSED PREVIOUS TO THAT DATE AND THE ANTI DISCRIMINATION PROVISIONS OF THE U.S. CONSTITUTION. ITS JURISDICTION COVER STATE AND LOCAL GOVERNMENT AS WELL AS PRIVATE CONCERNS. WHILE ITS JURISDICTION AS TO PRIVATE CONCERNS IS LIMITED IN A NUMBER OF INSTANCES TO CONCERNS THAT EMPLOY 15 OR MORE PERSONS IT IS VERY ACTIVE AND DOES NOT HESITATE TO ACT WHEN A COMPLAINT IS LODGED WITH IT BY PRIVATE PARTIES INDIVIDUALLY OR IN A GROUP. THUS, IT DOES ESSENTIALLY THE SAME THING AS THE HUMAN RIGHTS COMMISSION.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

8

THIS FEDERAL AGENCY ENFORCES TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968 RELATING TO EQUAL HOUSING OPPORTUNITY. IT HANDLES CHARGES RELATING TO DISCRIMINATORY PRACTICES IN HOUSING. AGAIN THE HUMAN RIGHTS COMMISSION AND ACT DUPLICATES THIS.

OFFICE OF REVENUE SHARING

THIS FEDERAL AGENCY IS CHARGED WITH ASSURING THAT THERE IS NO DISCRIMINATION IN THE ANNUAL DISTRIBUTION OF GENERAL REVENUE SHARING FUNDS. NO NEED EXISTS FOR THE HUMAN RIGHTS COMMISSION  
*To Do*  
~~OR TO~~ THIS.

DEPARTMENT OF LABOR

THIS FEDERAL AGENCY ALSO ENGAGES IN INVESTIGATING CHARGES OF DISCRIMINATION IN EMPLOYMENT PRACTICES AND IN CONJUNCTION WITH THE EEOC ENFORCES FEDERAL STATUTES IN RELATION TO SUCH DISCRIMINATION. THIS COVERS THE SAME FUNCTIONS IN THIS AREA HANDLED BY MONTANA'S AGENCY.

STATE AGENCIES

IN ADDITION TO THE COMMISSION ON HUMAN RIGHTS THE MONTANA DEPARTMENT OF LABOR AND INDUSTRY'S LABOR STANDARDS DIVISION HAS THE RESPONSIBILITY FOR ENFORCING STATE AND FEDERAL LABOR LAWS AND ELIMINATING EMPLOYMENT BARRIERS FOR WOMEN. IT HAS JURISDICTION TO HANDLE EQUAL PAY AND MATERNITY LEAVE CASES. THE HUMAN RIGHTS ACT AND COMMISSION DUPLICATES THE MONTANA DEPARTMENT OF LABOR IN THIS AREA.

INDIVIDUAL COMPLAINTS CAN BRING PRIVATE ACTIONS COVERING DISCRIMINATORY PRACTICES IN THE STATE COURTS UNDER MONTANA'S CONSTITUTIONAL CIVIL RIGHTS PROVISIONS IF THEY DESIRE NOT TO USE FEDERAL AGENCIES OR FACILITIES.

~~IN FACT, THERE IS AN OVER-LAPPING WEB OF STATE AND FEDERAL AGENCIES WITH SIMILAR JURISDICTIONS. ALL OF WHICH RESULTS IN DUPLICATIVE EXPENDITURES OF TAX MONIES AND DUPLICATIVE AND WASTEFUL EXPENDITURES OF STATE EMPLOYEES TIME AND ENERGY.~~

THIS DUPLICATION OF EFFORT IS MIND-BOGLING TO MONTANANS WHO MUST COMPLY WITH FEDERAL REQUIREMENTS AND REGULATIONS AND THEN COPE WITH THE ACTIVITIES OF THE MONTANA COMMISSION. THE FEDERAL GOVERNMENT HAS ACTED IN THIS AREA AND ITS ASSUMPTION OF THESE ACTIVITIES HAS BEEN UPHELD. WHY CONTINUE TO FUND A STATE AGENCY TO DO WHAT THE FEDERAL GOVERNMENT IS DOING? WHY SHOULD WE SPEND THE TAX MONIES COLLECTED FROM US ON A STATE LEVEL TO DO THE SAME THINGS THAT THE TAX MONIES COLLECTED FROM US ON THE FEDERAL LEVEL ARE USED FOR?

THOSE SUPPORTING THE CONTINUATION OF THIS STATE COMMISSION AND THE HUMAN RIGHTS ACT WILL POINT TO THE FACT THAT OUR LOCAL COMMISSION AND STAFF ACTS IN CONJUNCTION WITH THE FEDERAL AGENCY, THE EEOC, AND THAT THUS THE MONTANA AGENCY IS NECESSARY TO IMPLEMENT THE ACTIVITIES OF THE E.E.O.C. IN FACT, THE MONTANA COMMISSION IS PAID BY THE FEDERAL COMMISSION TO PROCESS TITLE VII CASES. DURING THE FISCAL YEAR 1980 THE E.E.O.C. HAD MADE FUNDING AVAILABLE TO PROCESS 175 TITLE VII CASES (CASES UNDER THE FEDERAL STATUTE) AT \$350 PER CASE. COMPARE THIS FIGURE WITH THE FIGURE OF \$701 PER CASE AS THE COST OF PROCESSING EACH CASE DURING THE FISCAL YEAR 1979-80 AND THE FIGURE OF \$1,011 PER CASE WHICH WAS THE COST OF PROCESSING EACH CASE DURING FISCAL YEAR 1978-79. THE FACT THE COST OF PROCESSING INDIVIDUAL CASES BY THE MONTANA COMMISSION HAS BEEN AS HIGH AS \$1,573 PER CASE DURING FISCAL YEAR 1975-76. ACTUALLY THE FEDERAL GOVERNMENT IS USING OUR FACILITY FOR A PAYMENT FROM THE FEDS OF AN AMOUNT SUBSTANTIALLY LESS THAN OUR COST OF PROCESSING THESE MATTERS. THE FEDERAL

GOVERNMENT SHOULD PROCESS THEIR OWN CASES. THESE CASES ARISE UNDER TITLE VII<sup>7</sup> OF THE FEDERAL ACT AND SHOULD BE HANDLED ACCORDINGLY. IT DOES NOT MAKE SENSE FOR US TO MAINTAIN A MONTANA COMMISSION TO DO FEDERAL WORK.

SUPPORTERS OF THE CONTINUATION OF THE COMMISSION AND THE HUMAN RIGHTS ACT MAY POINT TO THE FACT THAT ENFORCEMENT OF THE FAIR PRACTICE ACT TITLE 49, CHAPTER 3, MCA AS LODGED IN THE COMMISSION. THIS ACT PROHIBITS DISCRIMINATION BY STATE AND LOCAL GOVERNMENTS IN THE AREA OF EMPLOYMENT, SERVICES, AND FUNDING. THERE VERY ACTIVITIES ON THE PART OF STATE AND LOCAL GOVERNMENTS ARE COVERED BY VARIOUS FEDERAL ACTS INCLUDING TITLE VII<sup>7</sup> OF THE CIVIL RIGHTS ACT OF 1964. IF I WERE TRYING TO COMPLAIN AGAINST A BRANCH OF STATE OR LOCAL GOVERNMENT, I WOULD MUCH RATHER TAKE MY COMPLAINT TO A DISINTERESTED THIRD PARTY THAN TO AN AGENCY OF THE VERY GOVERNMENT I WAS TRYING TO SUE. LET THE FEDERAL GOVERNMENT HANDLE THESE MATTERS. WE DON'T NEED TO DUPLICATE EFFORTS IN THIS REGARD.

WHAT WOULD HAPPEN IF THE ACT IS REPEALED AND THE HUMAN RIGHTS COMMISSION IS DISSOLVED.

LETS EXAMINE THE CASES HANDLED BY THE COMMISSION.

79.7% OF THOSE CASES ALLEGED DISCRIMINATION IN EMPLOYMENT PRACTICES. MOST OF THESE WOULD BE HANDLED BY THE EEOC UNDER TITLE VII<sup>7</sup>. THOSE CASES ALLEGING EQUAL PAY FOR EQUAL WORK VIOLATIONS OR MATERNITY LEAVE PROBLEMS COULD BE HANDLED BY THE MONTANA DEPT. OF LABOR AS WELL AS THE FEDERAL GOVERNMENT.

3.5% OF THE CASES ALLEGED DISCRIMINATION IN THE GOVERNMENTAL AREA. ALL OF THESE ARE COVERED BY THE EEOC.

2.4% OF THE CASES INVOLVED DISCRIMINATION ALLEGATIONS WITH RESPECT TO HOUSING. THESE ARE COVERED BY TITLE VIII<sup>8</sup> OF THE CIVIL

RIGHTS ACT OF 1968. HUD ENFORCES THESE AT THE FEDERAL LEVEL.

2.3% ALLEGED DISCRIMINATION IN FINANCING PRACTICES. THESE ARE COVERED AT THE FEDERAL LEVEL.

1.7% COVERED ALLEGATIONS OF DISCRIMINATION WITH RESPECT TO PUBLIC ACCOMODATIONS, FEDERAL LAWS COVER THESE MATTERS. THE FEDERAL ACT ALSO COVERS "VIOLATION" PRACTICES BY EMPLOYERS AS THE RESULT OF AN EMPLOYEE BRINGING OR RAISING A DISCRIMINATION ISSUE.

3.9% COVERED ALLEGATIONS CONCERNING "RETALIATION". THESE NORMALLY ARISE AS THE RESULT OF CONCERTED ACTIVITIES BY EMPLOYEES MOST OF WHICH ARE COVERED BY THE NATIONAL LABOR RELATIONS ACT.

4.0% INVOLVED ALLEGATIONS OF DISCRIMINATION BECAUSE OF TRAINING AND EDUCATION. THIS IS AN AREA FOR ENFORCEMENT BY THE EEOC, THE FEDERAL DEPT. OF LABOR AND THE STATE DEPT. OF LABOR.

2.5% OF THE COMPLAINTS COVERED "OTHER" AREAS OF DISCRIMINATION ACCORDING TO THE REPORT OF THE HUMAN RIGHTS COMMISSION CITED IN THE "SUNSET REVIEW" REPORT. ALL OF THESE FIGURES ARE FROM THAT REPORT-- FIGURES COMPILED BY THE LEGISLATIVE AUDITOR FROM THE HUMAN RIGHTS DIVISION RECORDS. I DON'T KNOW WHAT "OTHER" REFERS TO, BUT I'M CONFIDENT THAT ONE OTHER EXISTING AGENCY OR ANOTHER COULD HAVE HANDLED THEM.

THUS, WE SEE THAT IF WE HAD NOT HAD THE HUMAN RIGHTS COMMISSION SOME OTHER AGENCY, FEDERAL OR STATE, WOULD HAVE BEEN AVAILABLE, THERE'S NO NEED FOR DUPLICATION.

ONE LAST MATTER DESERVES DISCUSSION. RESPONSIBLE PROSECUTION AND DEFENSE OF DISCRIMINATION CASES REQUIRES SPECIAL KNOWLEDGE AND SPECIFIC SKILLS. IT ALSO REQUIRES THE AVAILABILITY OF TRAINED STAFF AND ADEQUATE FACILITIES. THE FEDERAL GOVERNMENT HAS EXPERT LEGAL COUNCIL, TRAINED STAFF AND A MULTITUDE OF FACILITIES TO HANDLE THESE MATTERS. I DON'T WISH TO TAKE SPECIFIC ISSUE WITH THE CAPABILITY OF OUR MONTANA COMMISSION AND ITS STAFF, BUT IT SIMPLY

STANDS TO REASON THAT THE FEDERAL GOVERNMENT, WHICH HAS BEEN ACTIVE IN THIS AREA SINCE 1965, AND WHICH HAS EVERY NEEDED FACILITY AT ITS COMMAND, IS BETTER ABLE TO HANDLE THESE MATTERS THAN OUR STAFF IN MONTANA. THE EXPERTISE OF THE FEDERAL AGENCIES RESULTS IN DECISIONS BASED UPON EXPERIENCE AND CASE LAW BUILT UP OVER MANY YEARS OF INVOLVEMENT. *At This Point*

COSTS OF DEFENSE OF A CIVIL RIGHTS COMPLAINT TO AN EMPLOYER OR A PRIVATE PARTY ARE STAGGERING. AT THE FEDERAL LEVEL THESE CAN BE RECOVERED BY A DEFENDANT FROM THE GOVERNMENT IF IT CAN BE SHOWN THAT A COMPLAINT WAS BROUGHT CAPRICIOUSLY OR WITHOUT GOOD CAUSE. *Govt* NO SUCH OPPORTUNITY FOR SUCH PROTECTION EXISTS UNDER MONTANA LAW. AS AN EXAMPLE: *30,000" To 50,000" Tax Payer's Pay Twice For Same Protection Expert Int Portion Lee's Test*

IF SUCH ACTIONS ARE BROUGHT UNDER THE FEDERAL STATUTES A DEFENDANT IN SUCH ACTION DOES HAVE THE OPPORTUNITY OF RECOUPMENT OF HIS EXPENDED COSTS FOR LEGAL FEES AND RESEARCH EFFORTS IF HE IS SUCCESSFUL AND CAN SHOW THAT THE AGENCY WAS ACTING WRONGFULLY IN BRINGING THE ACTION. ~~NO SUCH OPPORTUNITY EXISTS UNDER THE MONTANA ACT.~~

~~WE URGE YOU TO VOTE "DO PASS" ON HOUSE BILL #752. LETS DO AWAY WITH DUPLICATION OF EFFORT AND FUNDS. LET US LET OTHER TRAINED AGENCIES, BOTH FEDERAL AND STATE, THAT HAVE THE PROPER EXPERTISE AND FACILITY ADMINISTER THESE MATTERS RATHER THAN CONTINUING THE EXISTENCE OF AN UNNECESSARY COMMISSION.~~

IN CLOSING, I'M GOING TO FIRST OF ALL GIVE YOU THE WORDS OF A GROUP OF COUNTY COMMISSIONERS THAT WROTE ME A LETTER RELATING TO THE ISSUE.

THESE ARE THE WORDS:

IN MY EXPERIENCE THE ABSOLUTE WORST AGENCY IN MONTANA IS THE HUMAN RIGHTS COMMISSION. INSTEAD OF HANDLING THE CLAIMS BEFORE IT AS UNBIASED FINDER OF FACTS, THE COMMISSION IN MY EXPERIENCE, PRESUMES DISCRIMINATION ON THE PART OF THE EMPLOYER. ITS INVESTIGATIONS ARE UNIVERSALLY INCOMPLETE, ONE-SIDED, OR NON-EXISTENT, AND ANY SENSE OF FAIR PLAY IS TOTALLY MISSING. ITS WORK IS SLOPPY, EXCEEDINGLY SLOW, AND PREDICATABLY BIASED AGAINST EMPLOYERS, REGARDLESS OF THE FACTS. MORE SO THAN ANY OTHER AGENCY, THE HUMAN RIGHTS COMMISSION HAS THE ABILITY, AND PROBABLY THE DESIRE, TO BANKRUPT BOTH PUBLIC AND PRIVATE EMPLOYERS THROUGHOUT THE STATE.

I DO FEEL THAT THE EEOC DEPARTMENT OF LABOR AND INDUSTRY AND OTHER FUNCTIONS OF STATE GOVERNMENT HAVE THE AUTHORITY AND THE POWERS TO CONTROL AND HANDLE ANY PROBLEMS THAT SHOULD ARISE.

51 152

# County of Yellowstone



COMMISSIONERS

BILLINGS, MONTANA  
59101

February 16, 1981

Representative Cal Winslow  
Montana House of Representatives  
State Capitol  
Helena, Montana 59601

Re: Sunsetting of Human Rights Commission

Dear Cal:

I am writing to express my support for the elimination of the Montana Human Rights Commission.

I have dealt with the Human Rights Commission many times over the past 5½ years, first as a Deputy County Attorney, and now as a Commissioner in Yellowstone County. I have also dealt with virtually every other agency in Montana, usually on the agencies' behalf.

In my experience, the absolute worst agency in the State of Montana is the Human Rights Commission. Instead of handling the claims before it as an unbiased finder of fact, the Commission, in my experience, presumes discrimination on the part of the employer. Its investigations are universally incomplete, one-sided, or non-existent, and any sense of fair play is totally missing. Its work is sloppy, exceedingly slow, and predictably biased against employers, regardless of the facts. More so than any other agency, the Human Rights Commission has the ability, and probably the desire, to bankrupt both public and private employers throughout the State.

Undoubtedly the greatest public service you can perform as a Legislator this Session would be to eliminate the Human Rights Commission. If you can't do that, please consider placing its function in the hands of a more competent agency such as the Department of Labor & Industry.

Very truly yours,

DAVE GORTON, Commissioner  
Yellowstone County, Montana




Representative Seifert  
Page Two  
February 17, 1981

It is unfortunate that one arm of the government is pitted against another as it was in our two experiences with the Human Rights Commission. It is not necessary that this occur in that a person whose human rights have been violated has more than adequate relief through the Equal Employment Opportunity Commission or through the District Courts of the State of Montana.

The City Council of the City of Polson unanimously supports this House Bill in repeal of the Human Rights Act. This department of State government is not necessary for the promotion of human rights and in fact is a detriment to futherance of that end.

Sincerely,

CITY OF POLSON

  
Donald K. Peterson  
City Attorney

KEITH L. ALLRED  
SUPERINTENDENT  
KEN SIDERIUS  
ASST. SUPERINTENDENT

TOM TRUMBULL  
BUSINESS MANAGER  
GARY ROSE  
ADMINISTRATIVE ASST

# SCHOOL DISTRICT NO. 5

Phone 755-5015 - 233 1st AVE. EAST - KALISPELL, MONTANA 59901

FLATHEAD HIGH SCHOOL  
PRINCIPAL WILLIAM YOGT  
KALISPELL JUNIOR HIGH  
PRINCIPAL LARRY SCHULZ  
LINDERMAN SCHOOL  
PRINCIPAL LARRY SCHULZ  
ASST. PRINCIPAL JOSEPH SUPER  
ELROD SCHOOL  
PRINCIPAL CHARLES HIDE MAN  
ASST. PRINCIPAL KARLA JONES  
RUSSELL SCHOOL  
PRINCIPAL FRED POSEY  
PETERSON SCHOOL  
PRINCIPAL LEANNA ISAACSON  
HEDGES SCHOOL  
PRINCIPAL CHARLES HIDE MAN  
EDGERTON SCHOOL  
PRINCIPAL RICK DAVIS

February 18, 1981

To Whom It May Concern:

The experiences this School District has had with the Human Rights Commission go back a few years, but they are very vivid in my mind.

This Commission operates and performs in such a manner that the following is very evident:

1. The agency reported seems to be considered guilty by the Commission upon first contact.
2. Rules and regulations for their operation are not clear or consistent.
3. They assume responsibility for issues beyond the scope of the discrimination delineations of law; (Sex, age, race, etc.)

I question the continued operation of such an agency and the value of their deliberations. Consideration of their need to exist needs careful examination.

Sincerely yours,

*Keith L. Allred*  
Keith L. Allred  
Superintendent

KLA/ph

# SCHOOL DISTRICT NUMBER SIX

COLUMBIA FALLS, MONTANA 59912

OFFICE OF THE SUPERINTENDENT  
TELEPHONE (406) 892-4321

---

MONTANA'S LARGEST SCHOOL DISTRICT STRETCHING FROM  
CANADIAN BOUNDARY INTO BOB MARSHALL WILDERNESS.  
AND INCLUDING HALF OF GLACIER NATIONAL PARK AND THE  
NORTHEAST PORTION OF FLATHEAD VALLEY

---

February 18, 1981

Carl Siefert, Legislator  
House of Representatives  
State Capitol  
Helena, Montana 59601

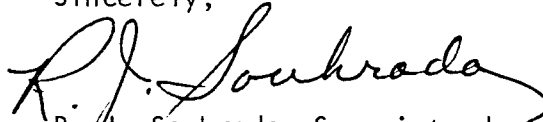
Dear Mr. Siefert,

This letter is being written to express the concern  
of the philosophy regarding the Human Rights Department.

Although our District has not been involved in such  
cases I have observed the dilemma presented to other dis-  
tricts. It appears that those Districts are determined  
guilty until proven innocent.

With that sort of harassment possible by this depart-  
ment I would solicit your support to alter this procedure  
in some fashion, making it adhere to the judicial philoso-  
phy of "innocent until proven guilty".

Sincerely,

  
R. J. Souhrada, Superintendent

RJS:ca

# LAKE COUNTY, MONTANA

**COUNTY COMMISSIONERS**

DON CORRIGAN  
Polson

WESLEY W. LEISHMAN  
St. Ignatius

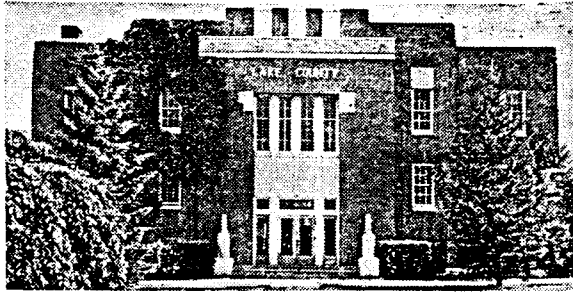
WILSON A. BURLEY  
Ronan

**TREASURER**

MARJORIE D. KNAUS

**CLERK AND RECORDER**  
ETHEL M. HARDING

**ASSESSOR**  
WILL TIDDY



POLSON, MONTANA 59860

**SHERIFF AND CORONER**

GLENN FRAME

**CLERK OF COURT**

ETHEL HARRISON JAMES

**SUPERINTENDENT OF SCHOOLS**

GLENNADENE FERRELL

**COUNTY ATTORNEY**

RICHARD P. HEINZ

**JUSTICES OF THE PEACE**

VIRGINIA MALLORY

Polson

CHARLES C. MEYER

Ronan

February 18, 1981

State Representative Carl Seifert  
House of Representatives  
Capitol Station  
Helena, Montana 59601

Re: Proposed legislation concerning Human Rights Commission  
of the State of Montana

Dear Carl:

I ask your Committee's consideration of the performance of the Human Rights Commission of the role it was intended to serve when created. We have no quarrel with the statutory language as the legislature considered it to have plain meaning. The Commission, however, has apparently sought to expand the legislatures otherwise plain meaning in the area of "marital status" to achieve to them a social acceptance code, that is, protection of unmarried persons cohabiting. As you know, this issue is especially important to school district boards of trustees because of the example such life styles present to the children entrusted to them.

It is because of the Commission's departure from the plain meaning of the "marital status" that I and many others in our home county find ourselves at odds with the Commission. If the Commission is not to be abolished, one would hope, at least, that the plain meaning of the term "marital status" could be re-enforced by legislative definition to mean persons lawfully united in marriage (including common law marriages, if marriage was entered by that process).

With kindest personal regards, I remain

Yours, truly,

RICHARD P. HEINZ  
Lake County Attorney

RPH/r1

# City of Polson

P. O. Box 238

Polson, Montana

February 17, 1981

Rep. Carl Seifert  
House of Representatives  
State Capitol  
Helena, MT 59601

Re: House Bill for the Repeal  
of the Human Rights Act

Dear Representative Seifert:

It is with great interest that the City of Polson read about your most recent proposal to repeal the Human Rights Act. The City of Polson has had two encounters with the Human Rights Commission and both have been most distasteful.

Each of the incidents involved applicants for positions with the City who were allegedly discriminated against through our employment procedure because they were of the female sex. In both instances we were contacted immediately upon the filing of the complaint with the Human Rights Commission by personnel of that department. The staff personnel in both cases were female and from the time of the first contact they presumed our guilt. We made the City Hall and City employees available for an information gathering meeting in order to resolve one of these matters but the hearing was first continued two different times by the Human Rights Commission and then canceled without any further follow-up. The City heard nothing further on this one particular matter until it received in the mail a determination that a violation of the Act had in fact occurred. This determination was made unilaterally by the Human Rights staff without the benefit of any formal fact finding process.

Fortunately, at the hearing stage, the City of Polson was able to maintain its innocence and the hearing officer found in favor of the City. At the hearings, the City of Polson presented evidence from two doctors and one university professor. The hearing officer did not award attorney fees or costs to the City of Polson and we therefore had to bear a substantial cost in this litigation.

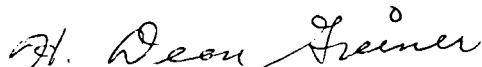
Representative Seifert  
Page Two  
February 17, 1981

It is unfortunate that one arm of the government is pitted against another as it was in our two experiences with the Human Rights Commission. It is not necessary that this occur in that a person whose human rights have been violated has more than adequate relief through the Equal Employment Opportunity Commission or through the District Courts of the State of Montana.

The City Council of the City of Polson unanimously supports this House Bill in repeal of the Human Rights Act. This department of State government is not necessary for the promotion of human rights and in fact is a detriment to furtherance of that end.

Sincerely,

CITY OF POLSON

A handwritten signature in cursive script, reading "H. Dean Greiner".

H. Dean Greiner, Mayor

DKP:lp

## POLSON PUBLIC SCHOOLS

111 4th Avenue East  
Polson, Montana 59860

I. LEE CHRISTENSEN  
Superintendent

DONALD J. FRESHOUR  
High School Principal

DARRYL DUPUIS  
Middle School Principal

PHIL ADAMSON  
Elementary Principal

February 18, 1981

Mr Jerry Feda, Chairman  
House Committee on State Administration  
Montana House of Representatives  
State Capitol  
Helena, MT 59601

Dear Mr Feda and Committee:

I am taking this means of expressing support for Representative Carl Seifert's House Bill 752 - Repealing the Human Rights Commission. I take this means because quite frankly I am fearful that as a result of verbal testimony, I would alienate the Human Rights Commission in a case which my employers have pending before them.

Our experiences with the Human Rights Commission date back to March 24, 1977, in which a charge of discrimination on the basis of marital status was filed against School District No 23. From the very onset of the investigation by the Human Rights Commission we have been constantly amazed at their presumption of guilt on the part of the employer, their non-reliance on generally accepted methods of judicial inquiry, their attempt to coerce a settlement rather than to establish the facts in the matter, their inefficiency in following through on the matter and bringing it to a speedy solution, and the inequity of having to defend in front of an administrative court while at the same time defending ourselves in judicial court. I would explain that at the same time the complaint was filed with the Human Rights Commission alleging discrimination on the basis of marital status, the complainant also filed an action with the County Superintendent with subsequent appeal to the State Superintendent, District Court, and presently to the Montana State Supreme Court. As I explained, the original complaint was filed with the Human Rights Commission on March 24, 1977. On March 30, 1978, the Human Rights Commission determined that a reasonable cause existed for the complaint. On December 5, 1979, a hearing was held in front of a hearing examiner. The hearing examiner took nine months to reach a decision and finally rendered a decision on September 17, 1980, adverse to School District No 23. The entire procedure has taken four years and I am sure potentially we are looking at two more years before the complaint filed with the Human Rights Commission would be finally heard by the Montana State Supreme Court. The cost to School District No 23 and, in this case, the cost to the taxpayers of the State of Montana has been at least \$30,000.00.

February 18, 1981

Page 2

House Committee on State Administration

The actual investigation by the Human Rights Commission was a very cursory one involving no visit to Polson and no personal contact with the employer other than two semi-threatening phone calls. In phone call number one I indicated to the investigator that we did not discriminate on the basis of marital status (the complaint had as its basis the alleged living arrangements of a single non-tenured school teacher) and that we in fact had not dismissed the complainant because of her living arrangements and that we had others in our school system who were also living without the benefit of marriage but that they had kept it a private matter and not a matter for discussion in their classrooms. At which point she replied, and I quote, "Yes, I know you do. I have a list of your employees that are now living like that." I indicated to her that I thought it was ridiculous for the Human Rights Commission to keep a list of school teachers in Polson, Montana, that were living together without the benefit of marriage, and she hung up on me. In the second phone conversation that we had with them, an attempt was made to coerce us into a settlement in statements made by the investigator, and I quote, "If it goes to a hearing you will have to retain counsel and this will be expensive so you better settle now."

I cite the above in an attempt to show you that the Human Rights Commission has not operated in a fair and equitable manner.

Human rights is a valid concern of all and certainly is not something that can be ignored. However, I think that there are other branches of government which can insure that human rights are protected. If an employee explains his problem to just about any attorney in the state and the attorney feels that he has a just cause for the complaint, I'm sure most attorneys would take the case to district court and seek a solution to the problem in this manner, or file a complaint with the Equal Employment Opportunity Commission.

I see no way to justify the inequities that have been perpetrated by the Human Rights Commission at this point and urge that you take action to eliminate the commission.

Sincerely,



Dr Lee Christensen  
Superintendent

encl



A HUMAN RIGHTS COMMISSION CASE HISTORY

March 24, 1977      Complaint filed with Human Rights Commission -  
alleging Discrimination on the Basis of Marital Status

Feb. 27, 1978      Written Interrogatory Filed

March 30, 1978      Human Rights Commission determines that Reasonable  
Cause exists

Dec. 5, 1979      Hearing held in front of Hearing Examiner  
(Took nine months for decision)

Sept. 17, 1980      Hearing Examiner rules against Employer

Feb. 18, 1981      Hearing on Damages supposed to be held -- Cancelled  
by Hearing Examiner -- To be re-scheduled in March

---

4      Years      \$30,000 - \$50,000 Defense Cost

REPORT TO THE HOUSE STATE ADMINISTRATION COMMITTEE  
ON HOUSE BILL 752

February 19, 1981

Karen S. Townsend, Chair  
Montana Human Rights Commission

Raymond D. Brown, Administrator  
Montana Human Rights Division

Contents

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Basic Information . . . . .	2
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## BASIC CONSIDERATIONS

HB 752 A bill for an act entitled: "AN ACT TO REPEAL THE HUMAN RIGHTS ACT AND TO ABOLISH THE HUMAN RIGHTS COMMISSION; AMENDING SECTIONS 49-4-211 AND 49-4-214, MCA; REPEALING SECTIONS 2-15-1706, 49-2-101 THROUGH 49-2-601, AND 49-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE."

### I. Does Montana need a Human Rights Act?

- A. Equality is guaranteed by the Federal and State Constitutions.
- B. The Human Rights Act is the legislative interpretation of how equality should be achieved.
- C. Based on the Montana Constitution, Montana's law is more comprehensive than the federal law.

Answer: Yes, Montana does need a Human Rights Act.

### II. Is the Montana Human Rights Commission the best mechanism for enforcing the Human Rights Act?

#### A. Alternatives:

- 1. Other state agencies or combination thereof. "There is no reason to believe that disbursing the Commission's functions among other state agencies would provide better service or cost savings for the state." (Sunset Report, page 37)
- 2. Judicial. Under an informal administrative system, more cases can be more quickly and economically resolved than through the courts. Less than 1 percent of actual complaints (1480) and one-tenth of 1 percent of all inquiries (7859) received by the Human Rights Commission have been appealed to the court system (13), resulting in cost and efficiency benefits to all parties.

#### B. The Montana Human Rights Commission.

- 1. The Legislative Audit Committee, after review of a thorough study conducted by the Office of the Legislative Auditor, unanimously recommended the reestablishment of the Human Rights Commission. The Committee's recommendation was in Senate Bill 311 which passed the Senate on Third Reading on February 16, 1981 with a vote of 38-11.
- 2. In the absence of a state enforcement agency, the federal government will investigate discrimination complaints in Montana. Presently, 47 states have some type of state enforcement agency and/or a civil rights law.

Summary: The Legislative Audit Committee presented SB 311 for reestablishment of the Montana Human Rights Commission. The Commission is in agreement with this bill and opposes HB 752 which would also abolish the Human Rights Act.

## MONTANA HUMAN RIGHTS COMMISSION

### Basic Information

#### I. ORGANIZATION

The Montana Human Rights Commission is a 5-member citizen Commission (not state employees) appointed by the Governor and confirmed by the Senate. Their staff is the Montana Human Rights Division, presently 6.75 FTEs. (For respective roles of the Commission and Staff, see flow chart.)

#### II. OBJECTIVITY

A basic guiding principle of the American judicial system is that a person is innocent until proven guilty (Exhibit A). As a quasi-judicial agency, the Montana Human Rights Commission is sworn to uphold the law. The Commission must be objective. A review of determinations made by the Division for Commission review shows that 371 have been found No Cause, 343 have been found Reasonable Cause, and 193 have been settled prior to finding.

#### III. ACCOUNTABILITY

The decisions, policies, budget and funding of the Human Rights Commission are continually being scrutinized. Indeed, it may fairly be stated that the Human Rights Commission is subject to more accountability and scrutiny than most agencies of state government. Not only does the Commission answer to the three branches of government (legislative, executive, and judicial), but further to the Equal Employment Opportunity Commission (EEOC), client groups, and the business community.

#### IV. PERFORMANCE

Montana ranks fourth in the nation for the number of cases closed per employee (34), the average closure 21.4 (Exhibit B). The Rapid Charge Process has resulted in an increase of informal and conciliated settlements which "speed up the complaint process and provide more timely resolutions." (Sunset Review, p. 16) New cases are being processed within an average of 126 days.

Montana's cost per case is \$701, less than one-half the national average of \$1,404.31 (Exhibit C). With a small staff and immense geographical distances, this is a remarkable achievement.

#### V. OUTREACH

Some 20 seminars and workshops have been conducted in FY 80 for the business community. Approximately 1,000 persons total have been in attendance. (N.B. This is more than twice the number of presentations for "client" groups.) Some 10 workshops and conferences were conducted for client groups. Approximately 300 persons total were in attendance (Exhibit D).

## VI. SUMMARY

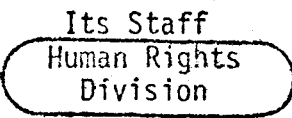
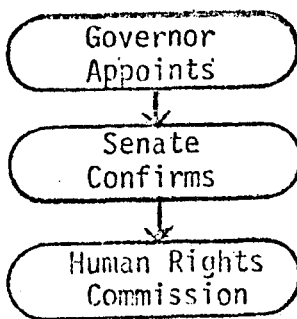
In FY 80, the Montana Human Rights Commission underwent an extensive Sunset Review. The review was as positive as an objective audit could possibly be. "There is no reason to believe that disbursing the Commission's functions among other state agencies would provide better service or cost savings to the state." (Sunset Review, p. 37) As a result of the review, the Legislative Audit Committee unanimously recommended the reestablishment of the Montana Human Rights Commission. Such diverse groups as the Montana Federation of Business and Professional Women and the Montana United Indian Association have indicated their support for the reestablishment of the Commission (Exhibits E and F).

The Montana Human Rights Commission is an effective and efficient mechanism for the enforcement of the Montana Human Rights Act.

2/9/81

# MONTANA HUMAN RIGHTS COMMISSION Flow Chart

5 Citizen  
Members



## Responsibilities

- 1) Quasi-judicial
- 2) Budget
- 3) Hire and Fire

} Direct Staff

## 4) Complaint Process

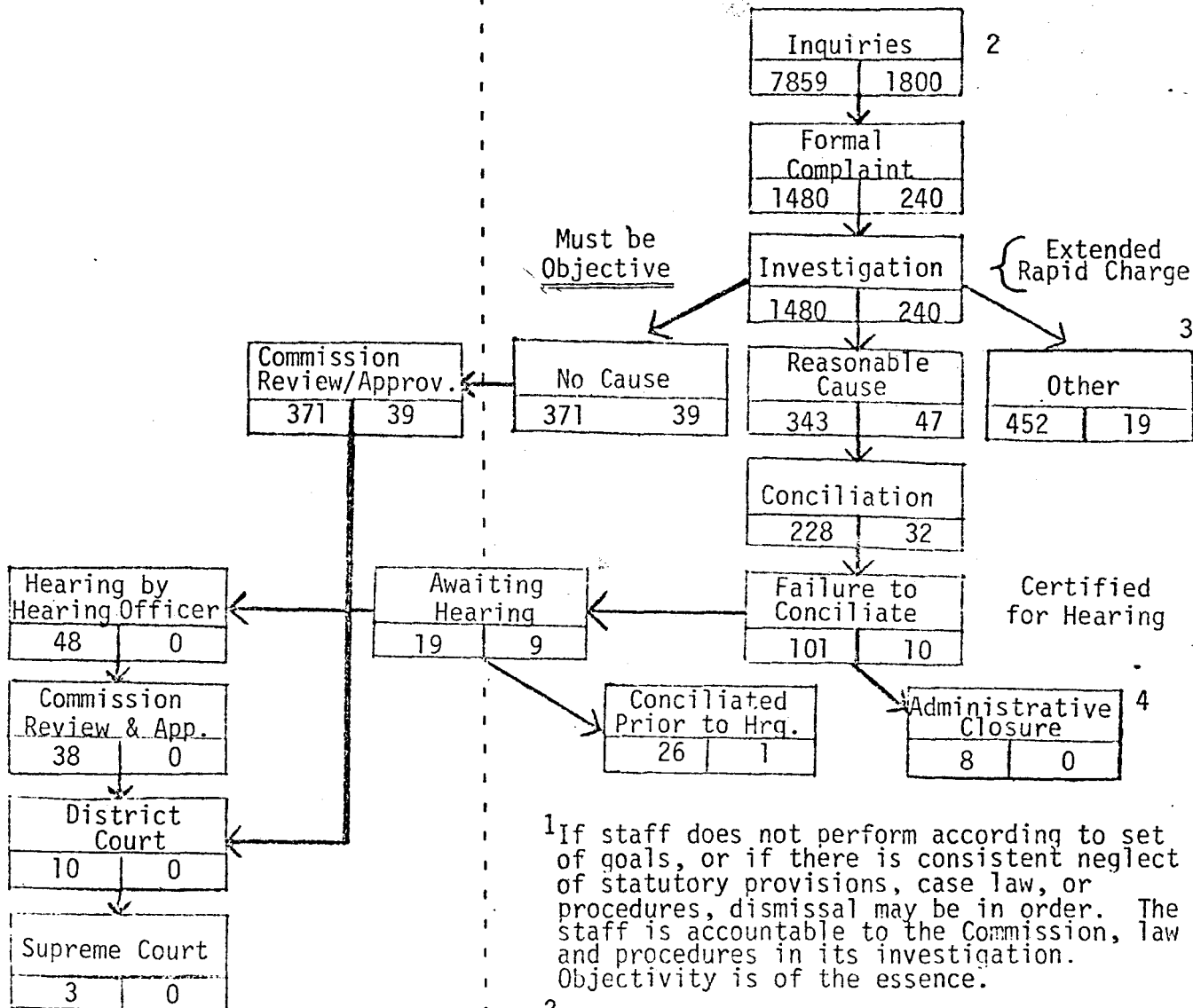
### COMMISSION

Role: Judge

(By law and by Code of Ethics cannot interfere with investigation)

### STAFF<sup>1</sup>

Role: Investigation  
Guides: Statute & Case law



<sup>1</sup>If staff does not perform according to set of goals, or if there is consistent neglect of statutory provisions, case law, or procedures, dismissal may be in order. The staff is accountable to the Commission, law and procedures in its investigation. Objectivity is of the essence.

<sup>2</sup>Total 7859; FY 80 1800.

<sup>3</sup>Other includes withdrawn; administratively closed; withdrawn with settlement 193/11.

<sup>4</sup>Charging Party does not obtain attorney.

## APPENDIX

### Exhibit A

Memorandum to John Frankino from Raymond D. Brown

### Exhibit B

Comparison of Numbers of Cases Closed

### Exhibit C

Cost Per Case Per Total Revenue

### Exhibit D

Letter from Personnel Systems Inc.  
Letter from Job Service Office, Helena, MT  
Letter from Mountain View School  
Letter from Skaggs Companies, Inc. (Respondent)  
Letter from Kathleen Barron (Charging Party)  
Letter from EEOC

### Exhibit E

Position Statement from Montana Federation of Business and  
Professional Women's Clubs

### Exhibit F

Press Release from Montana United Indian Association

January 31, 1981

MEMORANDUM

TO: John Frankino  
FROM: Raymond D. Brown  
RE: Legislative Objections

OBJECTION: The Montana Human Rights Commission/Division presumes a Respondent guilty until proven innocent.

ANSWER: A basic philosophical principle in the American judicial system is that a person is innocent until proven guilty. As a quasi judicial agency, the Montana Human Rights Commission is sworn to uphold the law. If it were to adopt a contrary philosophical or legal stance, a complaint might be dismissed by an appeal court for technical reasons, i.e. lack of due process. The process is designed to protect both parties.

a. How accomplished: Complaints are screened. They must pass the "prima facie test": MacDonald Douglas v. Green, U.S. S. Ct., frivolous complaints are weeded out. The test includes:

1. Must be a member of a protected class.
2. Must be qualified for the job in question
3. Must be a job
4. The candidate must be rejected.

In other words a charging party cannot make "wild" accusations that a Respondent discriminates.

If the basic test is met, the complaint is accepted and a copy mailed to the Respondent. The Respondent is given the opportunity to give his or her side or in the words of the U.S. Supreme Court to "articulate a legitimate non-discriminatory reason for his action." (Note: the burden of proof is still on the Charging Party for discrimination. The above merely moves the case forward.)

The Charging Party has the opportunity to show that the Respondent's non-discriminatory reasons were pretextual. Again, note the burden is on the Charging Party.

The Division must make a decision whether or not it is "reasonable" (different than "guilty") to believe some discrimination occurred.

If no cause to believe discrimination occurred, sent to Commission for review. If reasonable to believe some discrimination did occur, conciliation attempted. If the conciliation fails, the case is set for hearing (de novo). Both parties submit evidence.

The process and all steps must be impartial and objective.



COMMISSION FOR HUMAN DEVELOPMENT  
COMPARISON OF NUMBERS OF CASES CLOSED  
STATE CIVIL RIGHTS AGENCIES  
FISCAL YEAR 1978-79

<u>Rank</u>	<u>State</u>	<u>Number of Closures</u>	<u>Staff Size</u>	<u>Closure Rate Per Employee</u>
1	Arizona	778	20	38.9
2	Nebraska	1,280	33	38.8
3	Colorado	1,435	40	35.9
4	Montana	238	7	34.0
5	New York*	7,418	244	30.4
6	New Hampshire	118	4	29.5
7	Georgia	404	14	28.9
8	Delaware	284	10	28.4
9	Wisconsin	2,004	73	27.5
10	New Jersey	2,807	108	26.0
11	South Dakota	123	5	24.6
12	Idaho	143	7	20.4
13	Wyoming	59	3	19.7
14	Michigan	5,254	277	19.0
15	Ohio	3,648	200	18.2
16	Alaska	427	24	17.8
17	Missouri	894	52	17.2
18	Kansas	580	43	15.8
19	Rhode Island	225	15	15.0
20	Connecticut	1,417	116	12.2
21	Florida	368	37	9.9
22	Tennessee	189	24	7.9
23	Kentucky	300	40	7.5
24	South Carolina	100	42	2.4
Average Closure per Employee (All States Responding)				21.4

\*Figures are for fiscal year 1979-80.

Source: Division of State Audit survey.

\*\*Excerpt from Program Evaluation on the Tennessee Commission for Human Development, January 1981, State of Tennessee, Comptroller of the Treasury, Department of Audit.

# EXHIBIT C

## COST PER CASE PER TOTAL REVENUE\*\*

<u>Rank</u>	<u>State</u>	<u>Number of Closures</u>	<u>Total Revenue</u>	<u>Cost Per Case</u>
1	Nebraska	1280	\$ 598,502	\$ 467.50
2	Delaware	284	140,000	492.95
3	New Hampshire	118	58,217	493.36
4	Colorado	1435	814,164	567.36
5	Arizona	778	501,460	644.55
6	New Jersey	2807	1,828,772	651.50
7	Montana	238	167,000	701.68
8	South Dakota	123	98,278	799.01
9	New York	7418	5,970,500	804.86
10	Georgia	404	338,287	837.34
11	Missouri	894	750,902	839.93
12	Wisconsin	2004	1,798,157	897.28
13	Ohio	3648	3,850,000	1,055.37
14	Rhode Island	225	241,297	1,072.43
15	Connecticut	1417	1,567,959	1,106.53
16	Idaho	143	175,150	1,224.82
17	Wyoming	59	77,792	1,318.50
18	Tennessee	189	301,638	1,595.96
19	Michigan	5254	8,703,400	1,656.52
20	Kansas	580	1,049,446	1,809.38
21	Florida	368	926,045	2,516.42
22	Kentucky	300	769,700	2,565.66
23	Alaska	427	1,228,500	2,877.04
24	South Carolina	100	670,769	6,707.69

Average Cost Per Case from States Responding: \$1,404.31

Average Cost Per Case Without South Carolina: \$1,124.83

\*\*Figures compiled from Program Evaluation on the Tennessee Commission for Human Development, January 1981, State of Tennessee, Comptroller of the Treasury, Department of Audit, pp. 21-22.

2/9/81



**PERSONNEL SYSTEMS INC.**  
*"A Full Service Personnel Agency"*

**EXHIBIT D**

Suite 204 — Glacier Bldg.  
111 North Higgins  
Missoula, Mont. 59801  
Phone: (406) 543-8308

December 3, 1980

Raymond D. Brown, Administrator  
Human Rights Division  
616 Helena Avenue, Suite 300  
Helena, MT 59601

**RECEIVED**

DEC 4 1980

**HUMAN RIGHTS DIVISION**

Dear Ray:

A special note of thanks and appreciation should have been forthcoming to you and Joyce a long time ago. The program was most worthwhile, and the time and effort which you both put forth was greatly appreciated. A number commented on how much they got from the program, and how worthwhile they felt it had been.

If time can be found, and your schedule permits, it may be worthwhile to see if we could schedule a similar program for early next spring.

Best wishes for the holiday season.

Sincerely,

William M. Chase  
Vice President

WMC/jw

EXHIBIT D

E.E.O. Workshop  
9:45 A.M. - 3:00 P.M.  
November 18, 1980  
Chamber of Commerce Meeting Room  
Missoula, Montana

Jointly sponsored by Missoula Chamber and Personnel Systems, Inc.

Workshop Leaders

Raymond D. Brown -- Administrator, Montana Human Rights Division

Joyce F. Brown -- E.E.O. Coordinator, State of Montana

Agenda

9:45 Registration

10:00 Discrimination: Fact or Fancy Recent Court Actions  
and Directions

10:30 Laws Affecting Employees and Employers  
1) Title VII  
2) Montana Human Rights Act  
3) Rehabilitation Act 1973  
4) Equal Pay (comparable worth)  
5) Montana Maternity Leave Act  
6) ADEA

11:15 Theories of Discrimination

11:30 Questions and Answers

12:00 Lunch

1:00 Preventing Discrimination  
1) Applications  
2) Referrals  
3) Screening  
4) Interviewing  
5) Selection

Record Keeping  
Employers Guide

2:30 Questions and Answers

3:00 Adjourn

The charge for the Workshop is \$5.00, which includes lunch.  
The workshop will be limited to 40 participants, so reservations  
are necessary. They can be made by calling The Chamber 543-6623  
or Personnel Systems, Inc. 543-8308.

RECEIVED

DEC 27 1979  
HUMAN RIGHTS DIVISION



State of Montana  
Dept. of Labor & Industry

Employment  
Security  
Division

EXHIBIT D

715 Front Street  
Helena, Montana

December 21, 1979

Ray Brown, Administrator  
Human Rights Division  
7 W. 6th Avenue  
Helena, Montana

Dear Ray,

We would like to thank you for being our guest speaker at our JSIP luncheon last week. Both the employers and the Job Service staff found it most pertinent, informative and helpful.

We would also like to extend our Season's Greetings and wish you a Happy Holiday Season.

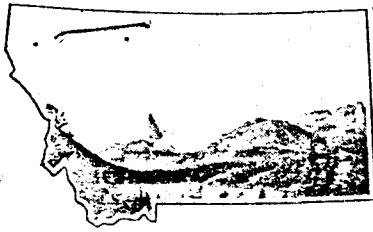
Thank you, again.

Sincerely,

Bob Botterbusch, Co-Chairperson

John Lowrey, Co-Chairperson

Gene Severson, Manager  
Helena Local Office



STATE OF MONTANA

## MOUNTAIN VIEW SCHOOL

2260 SIERRA ROAD EAST  
HELENA, MONTANA 59601

EXHIBIT D

RECEIVED

OCT 6 1980

HUMAN RIGHTS DIVISION

~~XXXXXXXXXXXXXXXXXXXX~~ - - DIRECTOR OF INSTITUTIONS

Lawrence Zanto

October 3, 1980

DONALD P. ROBEL - - SUPERINTENDENT

Montana Human Rights Division  
Raymond D. Brown, Administrator  
Suite #300, Steamboat Block Annex  
Helena, Montana 59601

Dear Mr. Brown,

"Thank you" for speaking to our student body on September 30, 1980.

We were delighted to have such a knowledgeable source to draw upon to educate our students in career awareness.

Our faculty reports indicated that the students were very interested in, and gained much from your presentation. We were particularly impressed with your ability to field questions from a skeptical audience.

If possible we would like to draw upon your experience and expertise in the future. Thank you again.

Sincerely,

Jack Oberweiser  
Field Learning Coordinator

JoAnne Sherwood  
Field Learning Coordinator

JO/jajs

**SKAGGS COMPANIES, INC.**

P. O. BOX 30658, 310 BEARCAT DRIVE, SALT LAKE CITY, UTAH 84125. (801) 487-4531

**EXHIBIT D**

October 3, 1980

**RECEIVED**

OCT 8 1980

**HUMAN RIGHTS DIVISION**

Mr. Raymond D. Brown  
Administrator  
Human Rights Division  
State of Montana  
Suite 300, 616 Helena Avenue  
Helena, Montana 59601

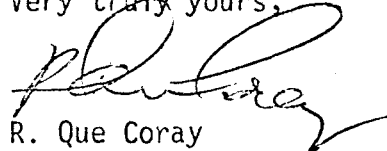
Case No. SAE80-1323  
Nelson vs. Skaggs Drug Store

Dear Mr. Brown:

We acknowledge receipt of your letter of September 26, 1980, advising that the Human Rights Commission has affirmed the No Cause determination of the Division Staff in the matter of the complaint brought by Bertha Nelson against our Company.

We again wish to express our appreciation for the service of your office in conducting the review of this complaint.

Very truly yours,



R. Que Coray  
Vice President  
Employee Benefits

RQC:vs

cc: Tom Curran  
Joe Bowman  
Mike Tilton

EXHIBIT D

27 October, 1980

RECEIVED

OCT 31 1980

HUMAN RIGHTS DIVISION

Ray Brown, Director  
Human Rights Commission  
State of Montana  
Suite 300, 616 Helena Ave.  
Helena, Montana 59601

Dear Mr. Brown,

I want to thank you and the staff of the Human Rights Commission for the diligent and successful work towards the completion of my case against School District No. 1 of Butte, Montana. In particular, Rick Sherwood, who represented me, was always helpful, informative, and concerned. It has been very reassuring to have competent people working with me over the past four years.

It is my hope that your agency will continue as long as there are needs for your services. Any time you or your clients need a vote of confidence, I have one ready.

Thank you again.

Sincerely,

*Kathleen Barron*

Kathleen Barron (Ms.)  
Oldfields School  
Glencoe, Maryland 21152





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DENVER DISTRICT OFFICE  
1531 Stout Street, 6th Floor  
Denver, Colorado 80202  
303/837-2771

**EXHIBIT D**

September 16, 1980

Mr. Raymond D. Brown  
Administrator  
Montana Human Rights Division  
616 Helena Avenue  
Suite 300  
Helena, Montana 59601

Dear Mr. Brown:

This is to congratulate the Montana Human Rights Commission on its fine performance during Fiscal Year 1980. Your outstanding performance is evidenced by a 10% increase during the Fiscal Year 1981 contract period for meeting four of four quality Federal performance standards.

Your Agency gives every indication of completing its Fiscal Year 1980 contract goal of 175 charge resolutions and is currently performing at a 96% acceptance rate. In addition, you have agreed to initially process dual filed charges in the State of Montana.

You are to be truly commended for your effectiveness in Title VII enforcement in an efficient and timely manner. We look forward to your continued performance in the upcoming contractual year.

With respect to the Montana Department of Labor processing pregnancy discrimination charges, this Commission cannot give substantial weight or review that department's findings. Again, as I have expressed, this Commission's position in the past, the Equal Employment Opportunity Commission will not fund a new 706 Agency within a State where there exists a working designated State 706 Agency such as the Montana Human Rights Commission.

Sincerely,

Donald P. Burris  
Supervisor, State & Local

DPB:d1

## MONTANA FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS

### 1980-81 Legislative Platform

#### ACTION ITEMS

##### Constitutional Amendment

Actively work to retain Montana's ratification of the Equal Rights Amendment and support the ratification process in unratified States.

##### Legislation

Support and seek implementation of State legislation that will:

Item 1. Effect, on a State level, Action Items 1, 2, 3 and 4 of the National Federation's Legislative Platform. Thos items are:

###### Item 1

Secure equal treatment for women in all areas of employment including the Congress of the United States and the armed services.

###### Item 2

Reform laws governing Social Security and pension programs to achieve equity and adequacy for women.

###### Item 3

Bring about equal treatment of women and men, regardless of marital status, in all phases of economic life, with special emphasis on reforming the income tax system and elimination of discrimination in insurance.

###### Item 4

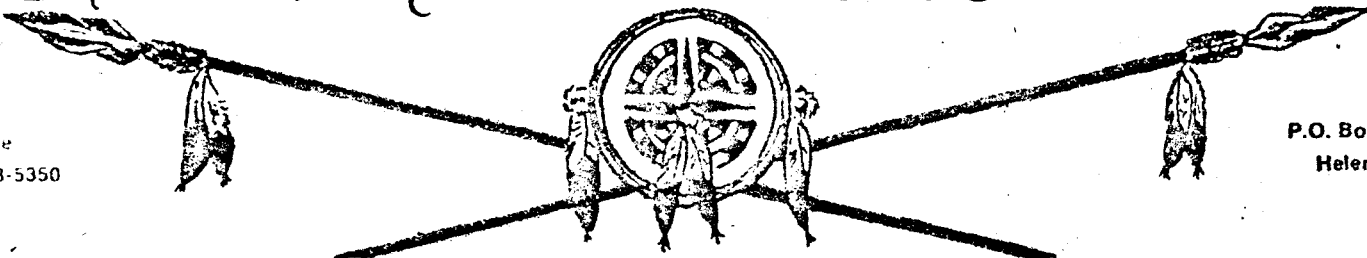
Promote research on and prevention of all types of family violence, violence against women, and provision of services to victims of such violence.

Item 2. Assure the continuance of, and provide funding for, the Montana Human Rights Commission as a separate State Agency. (Under the so-called Sunset Law, many State boards and commissions were terminated effective at the end of fiscal 1981. The Human Rights Commission is included. It must be recreated and funded by the 1981 Legislature or go out of business.)

Item 3. Keep in tact Montana's 30% Coal Severance Tax by opposing Congressional action to limit State coal severance taxes to 12%.

Adopted by the Montana Business and Professional Women's Clubs at the Meeting of the Board of Directors November 16, 1980, Butte, Montana

# Montana United Indian Association



Phone  
443-5350

P.O. Box 5988  
Helena, MT  
59601

PRESS RELEASE  
FOR IMMEDIATE RELEASE  
NOVEMBER 15, 1980

The goal of the Montana United Indian Association is to improve the social and economic self sufficiency of the Off-reservation Indian people in the state of Montana, although we are deeply concerned with the preservation of all inherent rights of all Indian people as guaranteed in treaties with the United States Government.

The Montana United Indian Association wishes to go on record in support of issues that are of concern to us and the Indian people of Montana.

1. The Montana United Indian Association strongly supports the continuation of the Montana Human Rights Commission as an autonomous agency with adequate funding for sufficient staff to carry out the full intent of the law.
2. Full dedication to a good and effective affirmative action plan to be developed by the State.
3. We support the freedom of self determination by the Indian people of this great state in areas of, but not limited to; Water rights, Tribal land acquisition, Religion, particularly in the transportation of eagle feathers for religious purposes.
4. The Montana United Indian Association supports the idea of a "concerns coalition" to meet the unmet needs of apparent powerless groups of people.

-----MUIA IS AN EQUAL OPPORTUNITY EMPLOYER-----

GRANDS AMERICAN INDIAN COUNCIL  
HELENA, MONTANA

NORTH AMERICAN INDIAN ALLIANCE  
HELENA, MONTANA

HELENA INDIAN ALLIANCE  
HELENA, MONTANA

MISSOULA QUA-QUI CORPORATION  
MISSOULA, MONTANA

NORTH AMERICAN INDIAN LEAGUE  
DEER LODGE, MONTANA

ANACONDA INDIAN ALLIANCE  
ANACONDA, MONTANA

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE

February 9, 1981

By Karen S. Townsend, Chair  
Montana Commission For Human Rights

INTRODUCTION

In 1977, the Montana State Legislature passed the "sunset bill" That law provides that the Commission for Human Rights automatically terminates July 1, 1981 unless reenactment legislation is approved by the 47th Legislature. That law further provides that the Legislative Audit Committee is to conduct performance reviews prior to termination. Such a review was conducted by the staff of the Legislative Auditor. It began approximately a year ago and culminated in the Report that you have before you. That staff report was reviewed by the Legislative Audit Committee at a public hearing last September. The Committee then voted unanimously to recommend to the 47th Legislature that the Commission be reestablished. SB 311 is the concrete form of that recommendation.

The 1974 Legislature passed the Human Rights Act which prohibited discriminatory practices and created the Montana Commission for Human Rights. The Commission together with its staff was designated as the enforcement agency in the Human Rights Act. The basic purposes of the Human Rights Act were to protect Montanans from discriminatory practices and to implement the equal dignities provision of the 1972 Constitution. Montana did not act alone in this area. Similar agencies and commissions were set up in other states. Today 47 states, the District of Columbia, Puerto Rico, the Virgin Islands and 42 counties or cities have agencies that administer anti-discrimination laws. The Equal Employment Opportunity Commission (EEOC) is responsible for administering and enforcing most of the federal anti-discrimination laws.

STRUCTURE (SUNSET REPORT PG. 4-5)

The Commission itself is composed of 5 citizen volunteers appointed by the Governor. Because the Commission is a quasi-judicial board, one of those 5 must be an attorney licensed to practice in the Montana. I have served in that capacity for the last 4 years. Members of the Commission are not state employees. All but one of us was employed full time in other capacities. Those of us who work for the state or a political subdivision of the state receive no compensation for the time we put in on Commission business. Two of us have been in that category for the past 2 years. The other members of the Commission receive our travel expenses up to the limits of state per diem. The Commission must meet 4 times per year. We have usually met every other month in order to conduct commission business. We have frequently conducted some additional meetings by conference call in order to save travel expenses.

The Commission is authorized by the Human Rights Act to employ a staff. Our staff is known as the Human Rights Division. The individuals who work there are state employees. Although we are authorized for 8 FTE's, budgetary constraints have forced us to reduce personnel to 6.75 FTE. We also have contracts with 4 attorneys to serve as hearings officers. Two of those attorneys are members of the Attorney General's staff in the Agency Legal Services Bureau. One is a private attorney in Billings and one is a private attorney here in Helena. His contract is for 1 case only and was required because the Agency Legal Services attorneys are defending one of the Respondents in that case.

#### FUNDING (SUNSET REPORT PGS. 5-7, 25)

The Commission is funded by appropriations from the State General Fund and contract funds from the EEOC. The Commission has an agreement with EEOC and is known as a "706" Agency. Many of the areas and causes of discrimination under Montana law are also illegal under Title 7 of the 1964 Civil Rights Act, the major federal anti-discrimination act. Thus 1 investigation can determine the facts for both the state and the federal agency. A 706 agency receives federal money for investigating these cases and the EEOC must give "substantial weight" to our final determination. The Commission receives \$350.00 for each Title 7 case we complete. A complete case is one where a final determination has been made. That determination can be either there was discrimination or just as importantly, there was not. To date we have completed approximately 800 cases. Our findings have been accepted by EEOC in all but 3 cases. Our acceptance rate this past year was 100%. In 1979-80 we completed a total of 248 cases at an average cost/case of \$701.00. In 175 of those cases, violations of both state and federal laws were claimed. We received \$350.00 for each of those 175 cases from EEOC because their case was considered completed at the same time our state case was completed. This 706 funding not only subsidizes the cost of state investigations, but allows Montanans to deal with local people and not the federal agency that is located in Denver.

#### PROCESS (SUNSET REPORT PGS. 11-20)

The following procedures are followed by the staff and the Commission in processing complaints.

- 1.) Inquiry - All inquiries are handled by the staff's intake officer. The intake officer screens out frivolous complaints and accepts no case for further treatment unless the person calling can present sufficient facts to establish a prima facie case. Last year 1800 inquiries were made and only 240 cases accepted and opened. Although inquiries are increasing rapidly, this screening process has resulted in a decrease in the actual numbers of complaints opened. Once a formal complaint is filed, the Respondent is notified.

- 2.) Investigation - One of the 2.75 investigators is assigned the case once a formal complaint is opened. This person begins an investigation to see if there are facts to substantiate the complaint. This person can and will examine documents, speak to potential witnesses who can shed light on the allegations and also ask for the Respondent's side and speak to persons who can shed light on those statements.
- 3.) Fact-Finding Conference - If the fact situation is simple and if both sides agree, the investigator will set up a fact finding conference. The investigator acts as mediator, each side presents the facts as he or she sees them and a proposed solution. The Conference is designed as a "no-fault" solution to quickly resolve the problem. There is no determination of whether or not discrimination occurred - there is only an attempt to reach a mutually satisfactory solution. Aproximatley 50% of our cases are handled in this matter.
- 4.) Finding - If no mutually agreeable solution can be reached at the fact finding conference or if no conference is held, the investigator must next prepare a finding. That finding is either that there is or is not reasonable cause to beleive that a discriminatory act took place. Sometimes more facts must be gathered before that determination can be made. The investigator's proposed finding must be concurred in by the staff attorney and the staff administrator. That finding must be objective. Last year, out of 240 cases opened, 105 of those have moved through the investigation stage. Cause was found in 47 of those 105 cases or 47%. No cause was found in 39 of those 105 cases or 37%. Settlements before finding were made in 11 of those 105 cases or 10%. The rest (8) have been closed for other reasons. 135 cases are still under investigation. All no cause findings and settlements must be approved by the Commission.
- 5.) Concilliation - If there has been a finding of reasonable cause, the staff must attempt to concilliate the matter. Concilliations are reached frequently. Out of the 240 cases filed last year, with reasonable cause found in 47 of those cases, concilliations have been reached in 32 of those 47 cases or 68%. In 10 of those 47 cases it has been determined that no concilliation is possible. In 5 cases there are still attempts being made to consilliate.
- 6.) Contested Case Hearing - If there is no concilliation the case is certified for hearing and one of the hearing officers is appointed and assigned the case. The parties are still free to settle the case prior to hearing and many do. If the hearing is conducted, the

rules of evidence are followed and the burden is on the complainant to prove that discrimination took place. Hearing officers take testimony and receive exhibits and draft a proposed Order for the Commission. Either side may contest the proposed order in an appeal to the Commission.

- 7.) Commission Review - If one party wishes to contest the proposed Order, written objections and briefs are filed with the Commission and a hearing is provided if requested with the opportunity given each side to present oral arguments. After the hearing the Commission issued a final Order in the case. If the Commission finds that discrimination occurred, monetary damages can be awarded. If they find no discrimination took place, the case is dismissed. As of June 30, 1980, 31 orders have been issued. In 14, the Commission found in favor of the complainant. Monetary damages were awarded in 13 of those cases. In 17 cases, the Commission found in favor of the Respondent and the case was dismissed.
- 8.) District and Supreme Court Review - The final Commission Order can be appealed to the district court. Four cases which have been decided by the Commission have been appealed to district court in which the Merits of the cases have been at issue. In one of those cases the Commission's decision that there was no discrimination was reversed. In another case, the Commission's decision that there was discrimination and the monetary award was reversed. That case is presently on appeal to the Montana Supreme Court. In the two other cases, the Commission's decision was affirmed. In one of those two cases, the Commission found discrimination and awarded damages, in the other we dismissed the complaint.

## CONCLUSION

This Committee and ultimately the 47th Legislature must decide whether or not to continue the Commission for Human Rights. The Legislative Audit Committee has unanimously recommended that the Commission continue. Pages 35-37 of the Sunset Report discusses the effect of Commission termination. The bottom line of that report is, and I quote:

"There is no reason to believe that disbursing the Commission's functions among other state agencies would provide better service or cost savings to the state."

Let's examine briefly the areas of service and cost savings.

EEOC would continue to handle many of the cases we now handle for them -- but parties would be forced to deal with federal employees in Denver who do not always understand local problems and who are not required to come to the local community to hold hearings. Title VII does not, however, cover all that Montana's law does. Any employee of an organization of less than 15 is not covered. The Labor Department estimates that 80 percent of private employers are in that category. Title VII does not cover marital status cases, age cases for those under 45 years of age, political belief cases, or handicap cases -- about 30 percent of our cases. These parties would have to resort to our overcrowded court system for redress or have no place to go. The Report suggests that internal grievance procedures or the Personnel Appeals Division might be able to take state agency complaints, but without major legislative changes, no monetary damages or reinstatement orders could be given in those cases where the complainant prevails. Such increased work on these agencies would no doubt require increased funding without the benefit of EEOC contract assistance to offset the cost of the state's investigation.

The Commission and its staff have experienced numerous growing pains as we have evolved from our beginning in 1974. Our efficiency has increased dramatically. The Sunset Report on page 18 shows that the number of cases completed per year has increased 5 times while the average cost of completing a case has been cut in half. Continued emphasis has been given by the Commission to its staff that we are an agency of state government that is designed to be a neutral, investigative agency and not an advocacy agency. Staff members who do not reflect that position do not remain on the staff. Members of the Commission have actively sought out criticisms of our operating procedures and personnel in an attempt to improve what we do and in order to properly exercise our responsibility to this state.

Members of the Judiciary Committee, on behalf of John Frankino, the incoming Chair of the Commission, and the other members of the Commission who have just completed service or who will



continue, and the staff of the Division, I urge that you concur with the Audit Committee and that a recommendation of "do pass" be given to SB 311.

Submitted on behalf of the Human Rights Commission, John Frankino, Chair Designee, by Karen S. Townsend, outgoing Chair.

2/9/81



MONTANA CHAPTER  
JEANNETTE RANKIN CHAPTER  
HELENA, MONTANA

House Standing Committee Hearing  
House Bill 752  
February 19, 1981

Committee Members:

It has been nearly twenty years since the racial upheavals of the Sixties and subsequent passage of the Civil Rights Acts. But, with the passing of these twenty years, we still do not have equal pay for women. Very few management positions are held by women and minorities. The handicapped are hardly visible in the work force. Sexual harassment on the job is still very much in evidence.

We have strong state and federal laws to prevent discrimination in Montana, and we need to keep them. We also need a strong, independent agency to enforce these laws; the Montana Human Rights Commission.

I am here as a woman, and as a member of the National Organization for Women, who is interested in equal opportunity and objectivity for all people so that their cases may stand or fall on their own merits. I believe that, in the past, the Montana Human Rights Commission has fulfilled its obligation to the citizens of Montana to objectively, and without bias, investigate and determine discrimination claims within the framework of our Montana State Constitution.

I urge you to vote NO on House Bill 752. Thank you.

Sincerely,

Cynthia L. Wevers  
President, Jeannette Rankin Chapter

## HOUSE BILL 752

## OPPOSITION TESTIMONY

## TESTIMONY OF HELENA WOMEN'S POLITICAL CAUCUS

Nearly 80% of Human Rights Commission complaints have been for discrimination in employment. Of these, about 78% have involved women.

Without the Human Rights Act, those with discrimination complaints who work for large employers could turn to the Equal Employment Opportunities Commission for help. But we must remember that 80% or more of the employers in Montana are not under the authority of the EEOC. Women and men working for small employers would have no place to turn. It would be legal to discriminate against them.

Unlike the Montana Human Rights Act, Title VII of the Federal Civil Rights Act does not cover discrimination in areas other than employment, or that based on creed, physical or mental handicap, age, marital status or political belief. People who are discriminated against because of these things could not turn to the EEOC but would have to suffer in silence. Charges of discrimination because of creed, physical or mental handicap, age, marital status or political belief have comprised 37.5% of Human Rights cases--a substantial number.

The Human Rights Act and the work of the Human Rights Commission make the guarantees in Article II, section 4, of the Montana Constitution real guarantees--not simply words on paper.

The Helena Women's Political Caucus urges continuation of the Human Rights Act and the Human Rights Commission--its work is important to all Montanans. We believe that the Commission should remain an independent state agency. Distributing the functions to other agencies would require additional staffing for those agencies and would be less efficient and less cost-effective.

The legislative auditor's report on the Human Rights Commission shows that in the past two years the handling of cases has been faster and more economical than in the early days of the Commission. In spite of the increase in cost-effectiveness, the number of pending cases is increasing. We must conclude that increased staff is needed to deal with the pending cases not the elimination of the Commission.

The Women's Political Caucus believes that the social and political environment is every bit as important to the happiness of the citizens of Montana as is the physical environment. The work of the Commission on Human Rights substantially increases the quality of our social and political environment. The Commission should be retained.

Testimony delivered by  
Jan Gerke  
1014 Cherry Ave.  
Helena, MT 59601

⑪

HOUSE BILL 736

Proposed Amendments - submitted by J.C. Weingartner, State Bar of Montana.

Page (3) Line 15.

After line 15 insert the following language.

"(IV) The term lobbyist does not mean an Attorney, who has been admitted to practice in the State of Montana by the Montana Supreme Court and who is representing his client before any Board, Commission, Agency, or Department, whether it be State, Local, or County Government. If an Attorney appears before the Legislature, or its Committees, Said Attorney is considered to be a lobbyist as defined in this Act."

AMENDMENT TO HB 779, BALLOT ISSUE CAMPAIGN PRACTICES

Page 5, line 24, add:

"Section 11. Funding of Commission. (1) The commission shall be funded by the following schedule of filing fees against each political committee formed to support or oppose a ballot issue:

(a) 1% of the first \$10,000 contributed in aggregate to a political action committee,

(b) 3% of the next \$40,000 contributed in aggregate to a political action committee, and

(c) 5% of the aggregate contributions exceeding \$50,000 to a political action committee.

(2) If the expenses of the commission are less than the total raised by the filing fees in subsection (1), the commission shall refund the excess to each assessed political action committee in proportion to that committee's filing fee. If the expenses of the commission are greater than that provided by the filing fees, the difference shall be made up by appropriations from the state's general fund.

(3) Each political committee formed to support or oppose a ballot issue shall pay to the commissioner of political practices the filing fee required by subsection (1) due on the date of, accompanying, and based on the aggregate contributions reported in each campaign finance report required under Title 13, Chapter 37, MCA.

(4) The commissioner of political practices shall turn over all ~~filing fees~~ paid under subsection (1) to the secretary of state for deposit in the earmarked revenue fund for the commission. The **filing fee** shall be used to reimburse any general fund appropriations for interim financing of the commission pending collection of the **filing fees**."

HB 774  
STATEMENT OF INTENT

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP AND ADMINISTER A STATE EMPLOYEE MERIT AWARD PROGRAM."

A statement of intent for this bill is necessary in that Section 2 grants the Department of Administration the authority to adopt rules to equitably administer the employee merit award program.

It's contemplated that the rules will address the following:

- a) The composition of the Advisory Council created in the bill.
- b) The bylaws that the Advisory Council will follow when conducting its business.
- c) Rules for the performance evaluation programs that are necessary in order to implement this bill.
- d) Procedures for the review of employee concerns regarding the administration of the program.
- e) Procedures and standards regulating the granting of certificates, plaques, medals and monetary awards.
- f) Time table for the review and granting of awards.
- g) Procedures to maintain the integrity of the program through the review of Merit Awards to see that they are equitably granted and that the reasons for granting merit awards are made public.

HOUSE BILL NO. 730STATEMENT OF LEGISLATIVE INTENT

THE INTENT IS TO ALLOW THE BOARD OF ATHLETICS TO ADOPT RULES GOVERNING LICENSE'S FOR BOXER, WRESTLER, OFFICIAL OR RING ATTENDANT. THE INTENT OF THE RULES SHALL BE TO ENSURE COMPLIANCE WITH THIS CHAPTER AND TO PROVIDE FOR PHYSICAL AND HEALTH STANDARDS, BUT NOT LIMITED TO PHYSICAL AND HEALTH STANDARDS IF DEEMED NECESSARY BY THE BOARD OF ATHLETICS.

NOTE: It should be pointed out that the Board of Athletics has a more general rule making authority in this same section (23-3-201) in sub-sections (4) and (5).

THE STATIONERY OF INTENT IS REQUIRED FOR THIS BILL BECAUSE SECTION 2 GRANTS RULEMAKING AUTHORITY TO THE BOARD OF ATHLETICS. THE BILL PERMITS THE BOARD TO ADOPT RULES GOVERNING LICENSED BOXERS, WRESTLERS, OFFICIALS, AND BEING ATTENDANTS TO INSURE COMPLIANCE WITH THE PERFORMANCE CONTAINED IN TITLE 23, CHAPTER 3. THE BOARD MAY ALSO REQUIRE AN APPLICANT TO MEET SPECIFIC HEALTH AND PHYSICAL REQUIREMENTS AND OTHER RELATED QUALIFICATIONS BEFORE GRANTING A LICENSE.

Adopted



Statement of Intent - HB 779

1. A statement of intent is required for this bill because it grants rulemaking authority in section 9 to the Commission created by this act.

2. The authority delegated to the Commission by House Bill 779 is for the purpose of establishing:

(a) the procedures for claimants to file a claim before the Commission;

(b) the criteria for determining whether a person has violated the provisions of the act concerning issuance of false or misleading statements and failure to specify that a statement is the issuer's opinion;

(c) the procedures for making an offending party issue a public disclaimer or withdraw his or its statement intended to affect a ballot issue campaign;

(d) procedures for the expedited hearing;

(e) criteria for determining frivolous complaints; and

(f) procedures for obtaining judicial review.

3. The Commission in issuing rules must be mindful of the fact that the complaint, hearing, and review process is intended to be brief, expeditious, and nonduplicative, and that the entire review and enforcement process is intended to correct only abuses in the ballot campaigning process in the few months before each general election.

AMENDMENTS TO HB 637 (INTRODUCED COPY):

1. Title, line 7.  
Following: "CONFLICT"  
Insert: "AND PROVIDING FUNDING FOR THESE CREDITS THROUGH  
INCREASED EMPLOYER CONTRIBUTIONS"  
Following: "AMENDING"  
Strike: "SECTION"  
Insert: "SECTIONS"
2. Title, line 8.  
Following: "19-4-404"  
Insert: "AND 19-4-605"
3. Page 1, line 14.  
Following: "receive"  
Strike: "service credits"  
Insert: "up to 4 years of creditable service"
4. Page 2.  
Following: line 21.  
Insert: "Section 2. Section 19-4-605, MCA, is amended to read:

6.3+3%

**19-4-605. Pension accumulation fund — employer's contribu-**  
**tion.** The pension accumulation fund is the fund in which the reserves for  
payment of pensions shall be accumulated and from which pensions and ben-  
efits in lieu thereof shall be paid to or on account of beneficiaries credited  
with prior service. Contributions to and payments from the pension accumu-  
lation fund shall be made as follows:

(1) Each employer shall pay into the pension accumulation fund an  
amount equal to ~~6.312%~~ <sup>6.3+3%</sup> of the earned compensation of each member  
employed during the whole or part of the preceding payroll period.

(2) If the employer is a district or community college district, the trustees  
shall budget and pay for the employer's contribution under the provisions of  
20-9-501.

(3) If the employer is the superintendent of public instruction, a public  
institution of the state of Montana, a unit of the Montana university system,  
or the Montana state school for the deaf and blind, the legislature shall  
appropriate to the employer an adequate amount to allow the payment of the  
employer's contribution.

(4) If the employer is a county, the county commissioners shall budget  
and pay for the employer's contribution in the manner provided by law for  
the adoption of a county budget and for payments under the budget.

(5) All interest and other earnings realized on the moneys of the retire-  
ment system shall be credited to the pension accumulation fund, and the  
amounts required to allow regular interest on the annuity savings fund and  
the annuity reserve fund shall be transferred to the respective funds from the  
pension accumulation fund.

(6) All pensions and benefits in lieu thereof shall be paid from the pen-  
sion accumulation fund.

(7) The retirement board may, in its discretion, transfer to and from the  
pension accumulation fund the amount of any surplus or deficit which may  
develop in the reserve creditable to the annuity reserve fund, as shown by  
actuarial valuation, and also an amount to cover expenses of administration."

Section 3. Coordination section. If both this act and  
HB 45, introduced in the 47th legislature, are passed and approved,  
the percentage amount ~~CONTAINED IN 19-4-605~~

shall reflect the sum of the increases in the employer  
contribution provided in SECTION 9 OF HB 45 AND SECTION 2  
OF THIS ACT."

7.  
HB-663 AMENDMENT

THE ATTACHED AMENDMENT WILL ALLOW THE LEGISLATURE TO REVIEW THE PROPOSED RULES BEFORE THEY ARE IMPLEMENTED. IT CREATES THE POLICY OFFICE WHO SHALL DEVELOP AND SUBMIT THE RULES TO THE 1983 LEGISLATIVE SESSION. THE LEGISLATORS CAN THEN MAKE ANY MODIFICATIONS DESIRED AND THEN ALLOW IMPLEMENTATION OF THE LAW JULY 1, 1983.

THE STATEMENT OF INTENT HAS BEEN MODIFIED TO INCORPORATE THE EFFECTS OF THIS AMENDMENT.

Amendment to HB 663

1. Page 83, line 16.

Following: line 15

Insert: "Section 117. Implementation. (1) In the period from July 1, 1981 and July 1, 1983, the policy office shall evaluate the need for continuation, termination, or modification of existing state agencies performing procurement functions. The criteria to be used are:

(a) effectiveness of administration;

(b) efficiency and adequacy in terms of the purposes and policies of [section 2] and the program the agency is authorized to perform;

(c) duplication of efforts between agencies performing procurement functions;

(d) quality of service being rendered.

(2) The policy office shall make a report to the legislature of its recommendations for continuation, modification, or termination and submit a proposal for the unsuing legislative session.

(3) The policy office shall submit with its report, the rules proposed for implementation of this title.

(4) The policy office shall utilize performance audits of the legislative auditor to the extent available in meeting the requirements of this section."

Statement of Intent Re: HB 663

A statement of intent is required for HB 663 because it grants rulemaking authority to the policy office and chief procurement officer and provides for delegation of procurement authority by the policy office and chief procurement officer.

The purposes and policies stated in [section 2] clearly provide the broad guidelines for implementation of the bill and by their implications, state the problems to be solved. If not otherwise addressed in the statement of intent, section 2 should be read with each grant of rulemaking authority or discretionary authority.

In addition, the policy office shall use such model rules as are adopted by the American Bar Association for its Model Procurement Act, after which this act is patterned, as a guide for the adoption of rules under this title unless in conflict with the provisions of this title or otherwise provided for in the statement of intent.

Sections 9, 12, and 13. The legislature intends by these sections to concentrate responsibility in the policy office and the chief procurement officer. However, the legislature intends for the rules of the policy office to broadly delegate the authority of the chief procurement officer to existing state agencies performing procurement functions, including but not limited to the architecture and engineering division, purchasing division, and surplus property bureau of the department of administration; design and construction division of the department of highways; and engineering bureau of the department of natural resources and conservation.

In the period from July 1, 1981 to July 1, 1983, the policy office shall evaluate the need for continuation, termination, or modification of existing state agencies performing procurement functions. The criteria to be used are:

- (1) effectiveness of administration;
- (2) efficiency and adequacy in terms of the purposes and policies of [section 2] and the program the agency is authorized by law to perform;
- (3) duplication of efforts between agencies performing procurement functions;
- (4) quality of service being rendered.

The policy office shall make a report to the legislature of its recommendations for continuation, modification, or termination and submit a proposal for the ensuing legislative session.

The policy office shall submit with its report, the rules proposed for implementation of this title.

HB 736  
Proposed statement of intent for ~~LC 1259~~

A statement of intent is required for this bill in that it provides for rulemaking in section 16. It is the intent of the legislature that all rules adopted under the act be designed to effect and promote the purposes of the bill. The legislature intends that the rules be as simple and easily complied with as possible.

The legislature recognizes three areas in particular where rule-making will be required and where rule-making is more appropriate to the problem to be solved than is legislation. In section 5, the term "actual and necessary personal expenses" is used. The legislature intends that the commissioner should from time to time publish guidelines as to what this term means in actual dollar amounts as well as the kinds of expenses that ought to be allowed. Actual costs of travel, lodging, and meals for the individual lobbyist are certainly included here. The reporting categories in section 11 are necessarily brief and may require clarification as experience develops. The commissioner should adopt rules to clarify these provisions. The commissioner should also adopt rules necessary to allocate salary, expenses, and any other expenses between overlapping categories and between lobbying and nonlobbying activities.

The commissioner will need to adopt rules to allow for situations that arise under section 12 for organizations based nationally that have

lobbyists in the State of Montana and have undifferentiated national dues structures that have little relevance or meaning to Montana so that their report can be made relevant. There will be a need under section 13 to adopt rules governing the manner of the administrative suspension provided under that section.

## VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

LL HB 779

Date FEBRUARY 19

**SPONSOR** **BARDANOUE**

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

LL HB 730

Date FEBRUARY 19

**SPONSOR**                      **MENAHAN**

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



HOUSE STATE ADMINISTRATION COMMITTEE

Date FEBRUARY 19

**SPONSOR SEIFERT**

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE STATE ADMINISTRATION COMMITTEE

ULL

SPONSOR WINSLOW

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE STATE ADMINISTRATION COMMITTEE

LL

Date FEBRUARY 19

**SPONSOR**

BARDANOUE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



### N.B. 730 - Reestablishing So of athletes

The board has had a very limited budget which has not allowed for enforcement - which was cited by the Sunset auditors although revenues received were 3 times the amount appropriated to the board.

The board has dealt with Canadian officials in a wrestling complaint. Had a hearing & suspended a promoter license for violation of the law & rules, & has used the bonding requirements to insure payments to participants in 3 other cases in FY80.

One of the main reasons for the need of the board is to provide regulation for the health & safety of the participants, to insure impartial officials & ringside & to authorize only qualified referees.

The Board was created  
by a people's referendum -  
Nov 2, 1920. effect governors  
proclamation 12-6-1920.

~~Commission~~ consists 3 member  
board, who serve without  
compensation.

The purpose of the Board is to  
regulate prof boxing, sparring  
& wrestling.

Besides granting sanctions, providing  
rules for the regulation of matches,  
physical exams for participants.

~~They~~ The board by  
requiring the promoter to post  
a bond, insures the participants,  
facilities & the public from  
"fly by nights". In other  
words the board assures  
all concerned with payment for  
services.

The Board requests the Committee  
note a Due Pass on H.B. 730.

Thank You

Mary Lou Crawford  
Admin. Officer  
Board of Athletics

Suggest limited number of  
terms for board members  
& this will upgrade operation of  
Board.