

MINUTES OF THE MEETING
APPROPRIATIONS COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 25, 1985

The meeting of the Appropriations Committee was called to order by Chairman Bardanoue on March 25, 1985 at 8:03 a.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present. Representatives Bradley, Ernst and Thoft entered the meeting late and their entries are noted in the body of these Minutes.

(Tape 58:A:000)

Chairman Bardanoue discussed the order of business for the day.

Representatives Bradley and Ernst entered the meeting.

HOUSE BILL 513: "AN ACT ESTABLISHING A STATE VETERANS' CEMETERY; REQUIRING THE DEPARTMENT OF MILITARY AFFAIRS TO ADOPT RULES ON CRITERIA FOR ESTABLISHING BURIAL ELIGIBILITY; AND PROVIDING AN APPROPRIATION."

Representative Orval Ellis (038), District 81, sponsor of the bill, said he believes this cemetery will be a good memorial to veterans. He said private donations and in kind services will be sought if the entire \$62,000 appropriation is not available.

Representative Thoft entered the meeting.

Proponents:

Jack McGlynn (056), Chairman, Board of Veterans Affairs supports the bill (EXHIBIT 1). Hal Manson (065), State Commander, American Legion supports the bill. Bob Durkee (079), representing the Veterans of Foreign Wars supports the bill.

Opponents: None

Committee Discussion:

Representative Donaldson (105) said he does not understand where matching funds will come from. He asked if there are agreements which provide for these funds. Representative Ellison said, if the entire appropriation is not available, the veterans will seek private donations for the cemetery. He also said many services and labor can be donated.

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Representative Ellison said once the cemetery is plotted the federal government will donate 64 acres at Fort Harrison for the cemetery. He said this property is worth \$135,000 to \$140,000 and can be used as match to receive more federal dollars.

In response to a request from Representative Quilici, Rich Brown, Administrator, Veterans Affairs, said the \$62,000 will be used in the following way:

1. \$45,000 for architecture and engineering fees
2. \$7,000 for a human cultural resources study
3. \$7,000 for administrative costs
4. \$3,000 for soil testing

Mr. Brown said, if the \$62,000 is appropriated, the federal government will match it at a later date. He said the Army Core of Engineers will be donating the land which can also be used as match for receiving more federal funds.

Veterans receive burial benefits such as a \$45 marker fee and \$150 for burial expenses. The maximum amount a veteran can receive for burial benefits is \$1,100. Mr. Brown said he estimates the state will receive \$48,000/year in veterans' benefits. This can be used to offset operating costs (250 burials X \$195 = \$47,750).

Representative Hand (148) asked who will be responsible for maintenance once the cemetery is completed. Mr. Brown said the state will be, but the costs can be offset by the \$48,000 received each year in burial benefits. He said he does not believe operating expenses will be much higher than the estimated income from federal veterans benefits.

Representative Hand (162) asked if the federal benefits may be cut in the future. Mr. Brown said he cannot anticipate what funding cuts the federal government might make. He said present cuts are not being taken in burial allowances. He said the federal government may be cutting out matching funds for cemeteries in the future and this is why his office is trying to get the cemetery established now.

Representative Nathe (174) asked if a preference for combat veterans can be included when adopting rules or if it is already implied in the established criteria. Mr. Brown said this is not implied in the criteria, but the Board of Veterans Affairs will be establishing rules for the cemetery. These rules will then come back to the 1987 Legislature for its approval. Mr. Brown said he does not see any problem with establishing a priority for combat veterans.

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HOUSE BILL 473: "AN ACT REQUIRING CERTAIN PUBLIC EMPLOYEES TO USE SCORED PROCEDURES FOR SELECTING PERSONS FOR APPOINTMENT TO CERTAIN POSITIONS; GRANTING PREFERENCE TO CERTAIN MILITARY VETERANS AND THEIR ELIGIBLE RELATIVES IN APPOINTMENT TO THESE POSITIONS AND IN RETENTION DURING REDUCTIONS IN FORCE; ELIMINATING THE PREFERENCE PROVIDED TO VETERANS AND THEIR ELIGIBLE SPOUSES UNDER THE MONTANA VETERANS' AND HANDICAPPED PERSONS' EMPLOYMENT PREFERENCE ACT AND REVISING THE PREFERENCE PROVIDED TO HANDICAPPED PERSONS AND THEIR ELIGIBLE SPOUSES UNDER THAT ACT; AMENDING SECTIONS 10-2-402, 39-30-101 THROUGH 39-30-103, 39-30-201 THROUGH 39-30-203, 39-30-207, 42-2-405, AND 49-3-103 MCA."

Representative Robert Pavlovich (194), District 70, sponsor of the bill, said the purpose of the bill is to establish a point system for veterans and handicapped persons when they are being tested for state positions. He said he disagrees with the fiscal note attached to the bill. He gave members a letter from the Idaho Personnel Commission on the fiscal impacts of Idaho's Veterans' Preference Program (EXHIBIT 2).

Proponents:

The following people support House Bill 473:

Joe Brand (217), Helena

Dan Antonietti (256), State Director, Veterans Employment Training, United States Department of Labor (EXHIBIT 3)

Bernadette Opp (408), Vice Chairman, Board of Veterans Affairs (EXHIBIT 4)

Bill Wilson (433), Helena, Adjutant Quarter Master, Veterans of Foreign Wars

Hal Manson (439), State Commander, American Legion

George Poston (459), Helena, Deputy Commander, Helena Chapter of Disabled Veterans spoke in support of the bill for the State Department of Disabled Veterans.

Lorna Frank (463), Montana Farm Bureau (EXHIBIT 5)

Senator Bob Williams (475), District 15 (EXHIBIT 6)

Representative Bernie Swift (617), District 64

Opponents:

Chairman Bardanoue (621) said several witnesses appeared in opposition to this bill on March 22, 1985. He said their testimony is included in the Minutes of that meeting. The

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witnesses were from out-of-town and were mistaken about the hearing date for House Bill 473.

The following people oppose the bill:

Gail Kline (634), Women's Lobbyist Fund (EXHIBIT 7)

(Tape 58:B:006)

Jim Nys is a personnel officer for the state and was the Equal Opportunity Coordinator for Montana (EXHIBIT 8).

Ellen Feaver (081), Director, Department of Administration (DOA) (EXHIBIT 9)

Mrs. Feaver (135) said DOA tried to be conservative in preparing the fiscal note for this bill. She said DOA believes the cost of the Idaho program, which is similar to the program proposed in this bill, is over \$1 million/year. Mrs. Feaver said exam development, in Idaho, costs are \$320,000/year, exam administration costs are \$440,000/year and operating expenses are \$283,000 annually.

Mary Lou Garrett (149), Interdepartmental Coordinating Committee submitted opposing testimony on March 22, 1985.

Morris Jaffe (156), a World War II veteran from Bozeman, submitted opposing testimony (EXHIBIT 10).

Mary Vant Hull, Mike Ward and Frank and Joann Elliot, all of Bozeman, submitted silent testimony (EXHIBITS 11, 12, AND 13).

Committee Discussion:

Representative Quilici (244) asked if Idaho's system is comparable to House Bill 473. Dan Antonietti said the Idaho system is much stronger than the one introduced in this bill. He said the Idaho system gives an absolute preference to a service related disabled veteran.

Representative Quilici (256) asked if there is any chance of getting federal funding for the preference system. Mr. Antonietti said federal funds are currently given to states for the purpose of providing preferential treatment for veterans and spouses of veterans. He said the federal law mandates that handicapped persons must be tested upon applying for state employment.

Representative Menahan (266) said Mrs. Feaver indicated the majority of jobs, at DOA, are going to preferred applicants. He asked if this means handicapped persons or veterans. Mrs. Feaver said, in one division, over half of the people hired were preferred applicants and 3 out of 5 were veterans.

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She said department-wide 21 preferred people were hired and 18 of them are veterans.

Representative Peck (301) asked if the state is experiencing any problems with preferred applicants after they are hired. Mrs. Feaver said she is not aware of any problem employees who were hired as a result of the preference law.

Representative Swift (309) asked if the point system is already in place in Job Service offices. Representative Pavlovich said the Job Service claims it is not, but he said he feels it is. Representative Pavlovich said he believes the point system is in place under the General Aptitude Test Battery (GATB), which is funded by the United States Department of Labor. Chairman Bardanouve said there seems to be contradictory testimony on this. Mary Vant Hull (324), of Bozeman, said local governments do not have any point system set up for the preference program.

Representative Donaldson (328) asked Mr. Nys to respond to Representative Swift's question. Jim Nys said the GATB is given at Job Service offices, but it is not scored or used in the manner described to rank people. Mr. Nys said local Job Service offices are in the process of buying equipment to score the GATB in this manner.

Representative Peck (340) asked if the test is being given and not scored. Mr. Nys said the test is given and scored, but not on a 0 to 100 scale.

Representative Pavlovich (347) closed on his bill. He gave members a list of jobs, between December of 1983 and December of 1984, which required oral structured interviews and testing (EXHIBIT 14).

HOUSE JOINT RESOLUTION 4: "A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA AMENDING JOINT RULE 6-8 OF THE LEGISLATURE TO PROVIDE THAT NO BILL EARMARKING FUNDING MAY BE CONSIDERED UNLESS THE FUNDS ARE USED FOR THOSE FROM WHOM THEY ARE DERIVED OR THE CONSTITUTION PROVIDES FOR THE EARMARKING; AND PROVIDING AN EFFECTIVE DATE."

HOUSE BILL 67: "AN ACT PROHIBITING THE EARMARKING OF STATE FUNDS UNLESS THE FUNDS ARE CONSTITUTIONALLY EARMARKED OR DERIVED FROM THOSE FOR WHOM THEY WILL BE USED; AND INSTRUCTING THE DEPARTMENT OF REVENUE TO PREPARE LEGISLATION TO REMOVE EARMARKED FUNDING IN EXISTING LAWS."

The committee held the hearing on HJR 4 and House Bill 67 together because they have the same sponsor and deal with the same issue.

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Representative Jack Sands (389), District 90, sponsor of HJR 4 and House Bill 67, said the purpose of these two bills is to eliminate earmarking of funds. He said HJR 4 will apply only to future accounts and will not eliminate existing earmarked accounts.

Representative Sands said he believes earmarked funding is detrimental because a Legislature in the past can determine how money will be spent in the future. He said it limits the ability of the Appropriations Committee to judge each program on its merits and contributes to the development of strong special interests in legislation.

Representative Sands said he believes HJR 4 is a better mechanism for approaching the problem with earmarked funds. It prohibits the earmarking of accounts in the Legislature by allowing a legislator to make a point of order on the floor. He said he believes earmarking of accounts should be dealt with on the floor.

Representative Sands gave members a list of earmarked accounts which can be eliminated (EXHIBIT 15). He said DOA gave him this list and DOA believes these accounts are not that useful and can be eliminated without upsetting any particular interest too much. Representative Sands said if the committee wishes he will work with the Legislative Council and Office of the Legislative Fiscal Analyst to amend the bill and eliminate these accounts.

Proponents:

Harriett Meloy (564), League of Women Voters, supports the bill (EXHIBIT 16).

Representative Rehberg (592) and Chairman Bardanouve (595) said they are also proponents of the bill.

Opponents:

Brenda Schye (605) opposes the bill (EXHIBIT 17).

Les Graham (649), Executive Secretary, Board of Livestock, Department of Livestock, said he does not necessarily want to be recorded as an opponent. He said he does want to raise some questions about the bills. He said most of the department's accounts will be exempt under these acts, however, some like the Animal Health Emergency Fund will be eliminated because it is on DOA's list. He said ranchers contribute to this fund and it is reserved for disease control in emergency situations. In the long run these funds save ranchers money in emergencies.

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Representative Winslow said he has introduced a bill which uses alcohol tax user fees for the construction of jails.

(Tape 59:A:001)

He said 95% of the people recognize that the use of alcohol has an impact on jails. He asked if the user fee language in Representative Sands bill will pertain to this type of earmarking. Representative Sands said he believes the increase in alcohol taxes for use in jails will be in violation of this bill. Representative Winslow asked how gasoline can then be taxed to build highways. Representative Sands said he beleives there is a closer relationship between who pays the gas tax and who uses highways. He said the Rules Committee will have to make the final decision as to what can be considered an earmarked account and what cannot be.

Representative Lory (019) said earmarked accounts are now called special revenue accounts and perhaps amendments are needed to this effect.

Representative Manuel (022) asked, if the resolution passes, can the funds in the special revenue accounts on DOA's handout be transferred to the General Fund. Representative Sands said the resolution does not deal with the accounts listed in the handout. It deals with prospective accounts only. He said he is recommending to the committee that if it adopts HJR 4, it should also deal with some unnecessary and inactive accounts which can be deleted without much controversy. He said if there are reservations about any of the accounts on the DOA list, they can be left out and dealt with in the future. Representative Sands said he does not have any individual knowledge of the accounts on the list.

Representative Moore (044) said, if the resolution passes, any legislator wanting to establish a special revenue account must go to the Rules Committee to determine the validity of doing so. Representative Sands said a legislator will not necessarily have to go to the Rules Committee. However, if a bill creates a special revenue account and the source of funding has no connection with where the funds are being spent, the bill will be in violation of the rules of the House. Any legislator can then make a point of order on the floor concerning the creation of a special revenue account.

Representative Moore (060) said basically what the resolution does is to put more money into the General Fund and reduces the amount of money tied up in special accounts. Representative Sands said yes.

Chairman Bardanoue (070) said \$850 million are earmarked in the state budget. Judy Rippingale, Legislative Fiscal Analyst (LFA) said this figure is an old estimate.

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SENATE BILL 12: "AN ACT TO INCLUDE THE UNIVERSITY SYSTEM AND THE LEGISLATIVE AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN BUDGET AMENDMENT PROCEDURES; AMENDING SECTION 17-7-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

Senator Jack Haffey (082), District 33, bill sponsor, introduced Senate Bill 12. This bill will monitor the use of non-General Fund monies by three branches of the government between legislative sessions.

Proponents:

Representative Moore (128), District 37, supports the bill.

Opponents: None

Senator Haffey, in closing, said the bill will allow for more scrutiny in the budget amendment process.

HOUSE JOINT RESOLUTION 43: "A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE FINANCE COMMITTEE TO STUDY AND REPORT ITS FINDINGS ON THE USE OF VACANCY SAVINGS IN THE BUDGETING PROCESS."

Representative Lory (167), District 59, sponsor of the bill, said he has been interested in vacancy savings for some time and the use of these savings in agency budgets. He said he wanted the bill assigned to the Legislative Finance Committee because it is composed of legislators from the House Appropriations Committee and the Senate Finance and Claims Committee. He said he feels the members of these two committees will have a good knowledge of vacancy savings. Representative Lory said he feels it is appropriate to have these committee members perform the study.

Proponents:

Representative Menahan (188) and Representative Connelly (189) support the bill.

Opponents: None

There were no committee questions regarding HJR 43 and Representative Lory closed on his bill.

E X E C U T I V E A C T I O N :

Representative Menahan (218) made a motion that HJR 43 DO PASS. A voice vote was taken and the motion carried unanimously.

Representative Menahan (222) made a motion that Senate Bill 12 BE CONCURRED IN. A voice vote was taken and the motion carried unanimously.

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Representative Menahan (231) made a motion that House Bill 513 DO PASS.

Representative Thoft (233) said testimony was given to the effect that the appropriation could be less than \$62,000, but no one ever said how much less. Chairman Bardanouve said Representative Ellison indicated even a dollar appropriation would help them to raise donations.

Representative Hand (238) said he is concerned that federal burial benefits for veterans will be decreased and the state will be left with more and more of the maintenance cost. Representative Miller (246) said there was testimony which indicated \$48,000/year will be generated in veterans benefits and he does not believe the federal government will be cutting off these benefits.

Representative Moore (254) made a substitute motion to amend the bill as follows:

1. Page 1, line 22
Following: "\$250,000"
Strike: "\$62,000"
Insert: "\$1,000"

Representative Donaldson (260) made a substitute motion to amend the bill as follows:

1. Page 1, line 22
Following: "\$250,000"
Strike: "\$62,000"
Insert: "\$25,000"

Representative Thoft (265) said if \$1,000 is enough why give them \$25,000. Representative Donaldson said Mr. Brown told the committee \$45,000 could be spent on architecture and engineering fees alone. If they are given \$1,000 it will not do much for the project. Representative Thoft said if the property is acquired it can be used as match for federal funding. Representative Donaldson said the land will only be donated if the cemetery is plotted and this will cost \$45,000.

A roll call vote was taken with 11 members voting yes and Representatives Bardanouve, Ernst, Hand, Manuel, Moore and Thoft voting no. The motion carried.

Representative Moore (306) made a motion that House Bill 513 AS AMENDED DO PASS. A voice vote was taken with Representative Hand voting no on the motion. The motion carried.

HOUSE BILL 14: "AN ACT CREATING A LEGISLATIVE COMMITTEE ON INDIAN AFFAIRS; PROVIDING FOR THE COMMITTEE'S TERMINATION IN 1991; APPROPRIATING FUNDS FOR THE COMMITTEE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Representative Tom Asay (319), District 27, sponsor of the Bill, told the committee background information on the subcommittee for Indian Affairs. He said his bill will create a legislative committee for Indian Affairs, which will make it more effective and cause its recommendations to be regarded in a higher light.

Proponents: None

Opponents: None

Committee Discussion:

Representative Donaldson (386) asked if the subcommittee on Indian Affairs has made recommendations to this Legislature. Representative Asay said yes. These recommendations deal with cooperative agreements, land transfers on and off of reservations and several other issues.

Chairman Bardanouve asked if the subcommittee operated on a \$7,000 appropriation this biennium, why will it need \$12,000 for the next biennium. Representative Asay said the committee was not able to hold hearings in some portions of the state this biennium. He said hearings were held in Billings and Helena, but need to be held at Fort Peck or Poplar. More hearings will provide for better involvement with various tribes.

In response to a question from Representative Manuel, Representative Asay said the subcommittee was successful in bring about further negotiations with the tribes on water rights issues.

Representative Swift (442) asked if the necessary areas of the state can be covered with only four committee members. Representative Asay said it can be done, but with some difficulty.

Proponents:

Chairman Bardanouve allowed Louie Clayborn (466), Coordinator of Indian Affairs for Montana, to speak in support of the bill. Mr. Clayborn entered the meeting late and was not present to testify on the bill earlier. He said he believes the subcommittee has done very well in making decisions which have enhanced the relationship between tribal governments and the state. In response to Representative Swift's question about the size of the committee, he said he also feels it is possible to get the job done with four members, but eight could do even more.

In closing, Representative Asay said he believes it is important to recognize how far the Indian/state relationship has progressed.

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Recess: The meeting recessed at 10:06 a.m.

Reconvene: The meeting reconvened at 7:05 p.m.

(Tape 59:B:003)

HOUSE BILL 792: ~~"AN ACT EXPANDING-THE-OFFICE-OF-COORDINATOR OF-INDIAN-AFFAIRS-TO-PROVIDE~~ CREATING AN OFFICE OF STATE COORDINATOR OF ETHNIC AFFAIRS; PROVIDING FOR APPOINTMENT OF A COORDINATOR FOR ETHNIC AFFAIRS; DEFINING LEGISLATIVE POLICY CONCERNING ETHNIC MINORITIES; DEFINING THE DUTIES OF THE COORDINATOR FOR ETHNIC AFFAIRS; PROVIDING AN EFFECTIVE DATE."

Representative Rodney Garcia (006), District 93, chief sponsor, introduced House Bill 792. He said the State Administration Committee passed the bill with a vote of 17 to 1.

Proponents: None

Opponents: None

Committee Discussion:

Representative Swift (073) asked if the Coordinator of Ethnic Affairs can be combined with the Coordinator of Indian Affairs. Representative Garcia said this cannot be done because the Indian people are a nation within a nation. Minorities do not have government programs similiar to the Native Americans. Representative Garcia said combining the two offices was discussed earlier and Native Americans were opposed to the idea.

Representative Spaeth (084) asked if some of the overhead costs for the two offices can be shared. Representative Garcia said this could be worked out.

Chairman Bardanouve (098) said because the Office of Coordinator of Indian Affairs is stricken in the short title of the bill, and the Office of State Coordinator of Ethnic Affairs is added, it appears the two offices are being combined. Representative Garcia said the coordinators will be different. He wanted the Coordinator of Indian Affairs to be stricken from the title because he did not want people to thing the Indian coordinator will be working on other ethnic affairs.

HOUSE BILL 914: "AN ACT ESTABLISHING A SUSTAINABLE LOCAL ECONOMIC DEVELOPMENT ACCOUNT TO BE USED FOR ASSISTING LOCALITIES OR REGIONS OF THE STATE IN DEVELOPING AND IMPLEMENTING LONG-TERM ECONOMIC DEVELOPMENT STRATEGIES; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE."

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Representative Stella Jean Hansen (125), District 57, chief sponsor, introduced this bill. She said the bill was given an adverse committee report by the Local Government Committee, but many of the members on the committee were absent during the hearing on the bill.

Proponents:

Daniel Kemmis (158), Missoula, represented the Economic Development Coalition. Members of the coalition are Missoula, Lewis and Clark and Silver Bow counties. The coalition supports the bill.

Opponents:

Bob Robinson (231), Deputy Director, Department of Natural Resources and Conservation (DNRC) said the department does not oppose the bill concept, but does oppose using 1/2% of Alternative Energy funds. He said DNRC believes the best use for these funds is contained in House Bill 909.

Committee Discussion:

Representative Hand (244) asked how many dollars are being requested in the 1/2%. Mr. Kemmis said about \$259,000 for each year of the biennium.

Representative Menahan (250) asked what kind of a return the state has received on its investment in the Alternative Energy Program. Mr. Robinson said he does not have a dollar or percentage return on the money which has been spent in the program over the last 8 to 10 years. He said the program has initiated many fledgling businesses in these years, just as the economic development account proposed in House Bill 914 will. He listed several examples of the types of businesses which Alternative Energy has aided in getting established.

Representative Miller (274) asked if communities which have economic development boards will need the services funded by this bill. Mr. Kemmis said the funds will encourage and give incentive to local boards for coordinating efforts. In order to qualify for the funds a community will need to have a coordinated program involving the economic development board, local government and capital companies. He said the availability of these funds should broaden the effectiveness of local economic development boards.

Chairman Bardanouve (290) asked if the funds will be used to assist specific areas. Mr. Kemmis said he recommended the funds be available for all parts of the state. However, in the beginning there will be a pilot program which has

representation from every region of the state. He said loan packagers need to know the local financial institutions and it would be difficult to do this on a state-wide basis.

Representative Quilici (313) said the language on page 6, lines 7 and 8 may be troublesome. He asked Mr. Kemmis to explain "sustainable economic development purposes." Mr. Kemmis said much of Montana's economic activities are boom and bust operations. He said sustainable economic activities will try to steer clear of this boom and bust cycle.

Representative Stella Jean Hansen (334) closed on the bill.

HOUSE BILL 12: "AN ACT TO CLARIFY THE LAW RELATING TO APPROPRIATIONS BY DEFINING AND ESTABLISHING THE REQUISITES FOR VALID CONTINUING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 2-9-202, 2-18-812, 10-3-203, 10-3-312, 10-3-314, 13-37-304, 15-31-702, 15-36-112, 15-70-101, 16-1-404, 16-1-410, 16-1-411, 17-1-204, 17-3-212, 17-5-422, 19-9-702, 19-11-606, AND 20-8-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Chairman Bardanoue asked Mr. Nichols from the Office of the Legislative Fiscal Analyst to present House Bill 12 to the committee.

Curt Nichols (395), Principal Analyst, Office of the Legislative Fiscal Analyst explained the basic principles of the bill. Mr. Nichols gave members a copy of the proposed amendments to the bill (EXHIBIT 18). Mr. Nichols said in Item 6, of the amendments, the statute to be inserted is 17-5-804. He then explained the various amendments to the committee.

Proponents:

Mona Jamison (536), Chief Legal Counsel, Governor's Office said the office is in support of the bill, but there are some problems with the bill which should be amended and some which need to be discussed because they are not easily resolved.

Ms. Jamison gave the committee background information concerning statutory appropriations and the criteria used to establish them.

She said the Governor's Office supports the concept of this bill. The Legislature should clearly know what funds are available when possible and grant spending authority as it sees fit. She said she does not think the bill, in some areas, accomplishes this intent. She said she believes there is a cleaner, safer and more constitutional way to establish what statutory appropriations exist.

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Chairman Bardanouve (663) asked if these points of concern have been discussed with the Legislative Fiscal Analyst. Ms. Jamison said she has not discussed the constitutional points with Mrs. Rippingale. Chairman Bardanouve asked Ms. Jamison to take the technical points up with Mrs. Rippingale and to express her major concerns to the committee.

Ms. Jamison said one of her major concerns is on Page 2, line 13, Subsection (3). The use of the word "only" in this line raises a question of a constitutional nature. It is possible that there are other statutory appropriations which exist, but have not made it on the list contained in the bill. The use of the word "only" implies that all of these other statutory appropriations, which meet the criteria and exist in other sections of the law, and are not listed in the bill, will be repealed.

(Tape 60:A:001)

Ms. Jamison said, if this is intended, the title of the bill should say so and notice should be given. Agencies should be allowed the opportunity to prove why other statutory appropriations should be included in the bill. Ms. Jamison said if the statutory appropriation does not appear in the bill, but does exist, the agency may still be able to rely on this authority. She said implied repealers are frowned upon by the Montana Supreme Court.

Ms. Jamison said the Governor's Office needs to see those statutory appropriations which are intended to be repealed. Then agencies can make their case as to the need of the appropriation and the appropriation can either be added to the list or repealed.

Chairman Bardanouve (025) asked how every statutory appropriation can possibly be found. Ms. Jamison said perhaps the bill should contain language which deals with illusive statutes which are hard to find, or maybe the list can be expanded continually. She said doing this raises the question as to whether or not the bill is actually needed.

Representative Miller (031) asked why statutory appropriations found between sessions cannot be added at a later date. Ms. Jamison said they can be added during the next session, but this puts the Executive branch in an awkward position. Should agencies that have statutory appropriations be allowed to spend these funds when they are not included in the bill. Ms. Jamison said the legislative intent of the bill will be clear, and yet, the agencies may have the authority and a need to spend the funds in the statutory appropriation.

Ms. Jamison said there also needs to be coordinating language in bills passed this session which will establish new statutory appropriations not in House Bill 12.

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Ms. Jamison gave the committee an amendment to the bill (EXHIBIT 19).

The following people appeared as proponents of the bill and some offered amendments to the bill:

Bill Gosnell (115), Executive Staff Assistant, Department of Highways supports the bill as amended.

Bob Robinson (121) supports the bill as amended.

Jay McLeod (129), Administrator, Housing Division, Department of Commerce supports the bill as amended (EXHIBIT 20).

Ralph Peck (170), Deputy Director, Department of Agriculture, offered amendments to the bill (EXHIBIT 21).

Mrs. Rippingale (196) said her office will probably not recommend some of the Department of Agriculture's amendments be included in the bill. These amendments pertain to the Rural Development Program, Hail Insurance, the Alfalfa Seed Committee and Wheat Research and Marketing.

Mr. Nichols said the Rural Development and Hail Insurance funds are nonappropriated trust funds and will not be included in the bill. He said funds in Wheat Research and Marketing and Alfalfa Seed are traditionally appropriated by legislative committees. Gayle Patrick (220), Malta, is a member of the Alfalfa Seed Committee and said the Alfalfa Seed funds should not be included in House Bill 12.

Chairman Bardanouve (226) appointed a subcommittee to review and recommend which amendments should be included in the bill. Representatives Connelly, Manuel, Peck, Rehberg, Thoft and Winslow were appointed to this subcommittee.

Further proponents to House Bill 12 are:

Larry Barber (277), Director, Montana Wheat Research and Marketing Committee supports the bill with amendments (EXHIBIT 22).

Andy Poole (292), Acting Administrator, Management Services, Department of Commerce submitted amendments to the bill (EXHIBIT 23).

Rod Sager (297), Chief, Budget and Management Bureau, Centralized Services Division, Department of Labor and Industry submitted amendments (EXHIBIT 24).

John Scufca (303), Assistant Administrator, Centralized Services Division, Department of Livestock supports the bill as amended.

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Bob Stockton (312), Director, State Aid and Transportation, Office of Public Instruction (OPI) supports the bill and will give the LFA proposed amendments at a later date.

Ross Fitzgerald (318) supports the bill (EXHIBIT 25).

Opponents: None

Committee Discussion:

Representative Waldron (343) asked how the Legislature is to know if statutory appropriations have not been included in the bill. Chairman Bardanouve said there will always be the possibility of some statutes not being included.

Representative Waldron asked if there are any sanctions if funds are spent which are not listed in the bill. Mrs. Rippingale said there are no sanctions in the bill, but there is a section of law which pertains to over spending of budgets and the sanctions that apply to agencies which do this.

Mrs. Rippingale said it is very difficult to know how many statutory appropriations exist. She said her office did a printout with the most commonly used combinations of wording for statutory appropriations. There are 200 to 300 word combinations which applied to this type of appropriation. She said a person could spend forever looking for these appropriations and still not find them all.

Representative Waldron (402) asked why the bill is needed. Chairman Bardanouve said the bill is trying to determine what should be a legislative appropriation and what is appropriated by law.

HOUSE BILL 295: "AN ACT TO GENERALLY REVISE THE NEW MOTOR VEHICLE WARRANTY REMEDY LAW; INCREASING MINIMUM WARRANTY PERIODS; PROVIDING FOR REMEDIES, DISCLOSURES, AND PENALTIES; CREATING AN ARBITRATION PROCEDURE; AMENDING SECTIONS 61-4-501 THROUGH 61-4-503 AND 61-4-505 THROUGH 61-4-507, MCA; AND PROVIDING AN APPLICABILITY PROVISION AND AN IMMEDIATE EFFECTIVE DATE."

Representative Dan Harrington (436), District 68, chief sponsor, introduced this bill and gave members letters he has received from lemon car owners (EXHIBIT 26).

Chairman Bardanouve (495) said the reason the bill was sent to Appropriations is because of its financial impact and proponents and opponents should limit their testimony to this issue.

Proponents:

Briton Markle (507), Attorney, Department of Commerce said the Department will need \$31,000 the first year of the next biennium to set up the arbitration procedure. The second year \$12,000 will be needed. He said initially 1 FTE will be needed, but once the mechanism is in place full-time personnel will not be needed. Mr. Markel said the department estimates it will receive 10 complaints in 1986 and 20 in 1987. He said there is a similar arbitration procedure in Connecticut which is administered by the Attorney General's Office in that state. He said Connecticut is being sued by the Chrysler Corporation on some of the terms of its law.

Chairman Bardonouve asked who will pay for the cost of the suit. Mr. Markel said in Connecticut he assumes the Attorney General's budget covers it, but in Montana, the department could not afford to provide for legal expenses in such a suit.

Corrinne Reneau-Fay, Helena, lemon owner, supports the bill (EXHIBIT 27).

Julie DalSoglia (656), Montana Public Interest Research Group supports the bill (EXHIBIT 28).

Frank Obstarczyk (684), Great Falls, owns a lemon and supports the bill.

(Tape 60:B:001)

Carol McEvoy, Clancy, lemon owner described problems with her vehicle and supports the bill.

Opponents: None

Committee Discussion:

Representative Quilici (060) asked Mrs. McEvoy if she believes it is in the best interest of the people of Montana to spend \$40,000 to \$45,000 on this bill. Mrs. McEvoy said she believes the bill will help people in the long run, but it probably will not help in her particular situation because the problems have been going on for some time.

Representative Donaldson (079) asked, if there are more complaints, will more FTEs be needed to handle them. Representative Harrington said no, one FTE is needed to get the procedure started and after that 1/2 a FTE will be able to handle all complaints.

Representative Thoft (110) asked, if the bill is passed, will automobile corporations automatically sue the state. Representative Harrington said the suits in Connecticut

Appropriations Committee
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are counter suits. The arbitration panel has ordered the manufacturer to fix a car and the manufacturer is now counter suing the state.

Representative Waldron (141) asked if there will be enough complaints filed to offset the expense of the FTE. Representative Harrington said filing fees will cut the fiscal note in half.

SENATE BILL 382: "AN ACT TO REQUIRE THE BOARD OF PUBLIC EDUCATION TO SUBMIT ANY REQUEST FOR A LEGISLATIVE APPROPRIATION FOR STATE EQUALIZATION AID TO THE BUDGET DIRECTOR PRIOR TO A LEGISLATIVE SESSION; TO APPROPRIATE FUNDS TO THE BOARD OF PUBLIC EDUCATION FOR THE PURPOSE OF PREPARING SUCH A BUDGET REQUEST; AMENDING SECTIONS 17-7-111, 17-7-112, 20-2-121, AND 20-9-344, MCA."

Senator Ted Neuman (176), District 21, introduced his bill. He said he is concerned about how funding figures are determined for the Foundation Program each session. He said this bill will make an attempt at determining what the cost of basic public education is in Montana.

Proponents:

Ted Hazelbaker (209), Chairman, State Board of Public Education, supports the bill (EXHIBIT 29).

Hidde Van Duym (255), Executive Secretary, State Board of Public Education, supports the bill (EXHIBIT 30). Mr. Van Duym submitted silent testimony from Jacob Block, superintendent of an elementary school in Missoula (EXHIBIT 31).

Rod Svec (292), school superintendent from Hardin, appeared as a proponent of the bill (EXHIBIT 32).

Phil Campbell (332) represents the Montana Education Association and supports the bill.

Opponents:

Bob Stockton (359) gave the committee a computer printout which illustrates the detailed financial information OPI is currently collecting. He said no Board of Public Education, present or past, has asked to look at the summary of financial data collected by OPI. Mr. Stockton said he supports studying education on a programmatic basis. However, he wants the committee to have a clear understanding of the cost involved in collecting this kind of data. Mr. Stockton listed the following costs for getting financial data on a programmatic basis:

School Districts and Counties

- \$112,000 - The cost to 56 large districts which have computers but will spend \$8,200 each for programming expenses.
- \$877,400 - The cost to 107 medium size districts which will need to spend \$8,200 each for hard and software.
- \$1,915,200 - The cost to 56 county superintendent offices which will be purchasing hard and software for small school districts. These offices will also have ongoing expenses for 1/2 a FTE to do data input.
- \$2,904,600 - The total cost to school districts and counties.

OPI Expenses

- \$28,000 - One man year for programming costs.
- \$9,600 - Data entry expenses (960 hours at \$10/hour)
- \$12,600 - 30 hours of computer time for 6 months at \$70/hour.
- \$14,500 - 6 months of a statistician's time
- \$13,000 - Other professional help
- \$77,000 - The total cost to OPI on a yearly basis.

Mr. Stockton said he likes the concept of the bill, but does not want the committee to think this type of data can be collected for a small sum of money.

Committee Discussion:

Representative Donaldson (515) said expenses for public education are controlled at the local level and not really at the state level. He wonders how seriously the Board of Public Education's recommendations will be taken when the Legislature really cannot control local expenditures. Mr. Hazelbaker said the board needs to determine how much present educational standards are costing. Once this is determined the Legislature can decide if it should fund these standards or reduce the educational requirements placed on school districts. Representative Donaldson said he does not believe school curricula will be cut back once they have been developed.

Appropriations Committee
March 25, 1985

Representative Peck (571) asked how much money will be distributed under the Foundation Program this biennium. Mr. Stockton said about \$600 million. Representative Peck said he understood Mr. Stockton to say OPI knows how much is being spent, but does not know this for each school district. Mr. Stockton said he does know what is being spent in each district, but does not have information on a programmatic basis.

Representative Peck said the Legislature needs to know more than what is being spent. It needs to know what the \$600 million is buying.

Representative Spaeth (627) said, if the bill passes, will information on each level of funding for the Foundation Program be available. Senator Neuman said he is hopeful the bill will accomplish this.

Senator Neuman (728) closed on his bill.

(Tape 61:A:000)

HOUSE BILL 537: "AN ACT APPROPRIATING MONEY TO THE FLATHEAD BASIN COMMISSION TO FUND THE COMMISSION'S SHARE OF AN INTERAGENCY AGREEMENT TO MONITOR WATER QUALITY IN THE FLATHEAD BASIN."

Representative Ben Cohen (015), District 3, introduced House Bill 537 which he sponsors. Representative Cohen gave the committee a copy of the legislation which establishes the Flathead Basin Commission (EXHIBIT 33).

Proponents:

Representative Connelly (068) wants the record to show her as a strong supporter of this bill.

Opponents: None

Representative Cohen (086) closed on his bill.

SENATE BILL 189: "AN ACT TO ALLOW THE ENCUMBRANCE AT FISCAL YEAR END OF APPROPRIATIONS FOR CERTAIN STATE PROCUREMENTS OF SUPPLIES AND SERVICES; AMENDING SECTION 17-7-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Senator Richard Manning (099), District 18, sponsor of the bill, submitted his opening comments to the secretary (EXHIBIT 34).

Proponents:

Laurie Ekanger (151), Administrator, Purchasing Division, DOA, supports the bill. Ms. Ekanger said state agencies frequently

Appropriations Committee
March 25, 1985

do not make equipment purchases until the end of the fiscal year. If her division experiences any problems with equipment requisitions or bids, the money for the purchase is not encumbered in a Purchase Order by June 30. This bill will allow an agency requisition to encumber funds and then, if purchasing experiences any trouble in getting the equipment, the money is carried over into the next fiscal year for the purchase.

Opponents: None

Committee Discussion:

Representative Ernst (208) asked why agencies wait until the last minute to purchase their equipment. Ms. Ekanger said equipment purchases are one of the few discretionary items in agency budgets and that is why they are not made until the last quarter of the fiscal year.

Representative Winslow (239) asked what type of equipment is being purchased at fiscal year end. Ms. Ekanger said all types of equipment are purchased. Representative Winslow asked if any agency is doing inventory checks on equipment. Ms. Ekanger said there is an inventory system and the auditors are sending more and more surplus equipment to the Purchasing Division.

Representative Miller asked if the Purchasing Division set the deadline of May 1 for year end requisitions. Ms. Ekanger said yes, because this is the least amount of time needed to process the requisitions, bids and purchase orders.

Senator Richard Manning (288) closed on his bill.

HOUSE BILL 873: "AN ACT AUTHORIZING A MONTANA STATEHOOD CENTENNIAL OFFICE AND STAFF; PROVIDING FOR A MONTANA STATEHOOD CENTENNIAL COMMISSION; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

Representative Harry Fritz (295), District 56, introduced House Bill 873 which he sponsors. He said the appropriation in this bill is actually a loan from the General Fund to be repaid with revenue generated from the sale of Centennial Acres and products marketed by the state during the celebration. Representative Fritz gave the committee a copy of the Statement of Intent for the bill (EXHIBIT 35).

Proponents:

Lieutenant Governor George Turman (370) said the state is uncertain as to the revenue generating potential of the Centennial Acres measure. He said this will be a conservative operation, if the bill passes, and the full amount of the appropriation will not be borrowed immediately. Lieutenant Governor Turman said the entire process proposed in the bill will be subject to the scrutiny of the 1987 Legislature.

Appropriations Committee
March 25, 1985

Brenda Schye (395), Montana Arts Advocacy supports the bill (EXHIBIT 36).

Opponents: None

Committee Discussion:

Representative Waldron (431) asked what sort of assurances does the state have that the loan will be repaid. Lieutenant Governor Turman said the money will not be borrowed unless the project is pretty far along in the process. Funds will be borrowed bit by bit for programs which have reasonable assurance of repayment.

Representative Winslow (456) asked if the funding in this bill was considered under the Cultural and Aesthetic grant program. Representative Fritz said it was not his intention to use the Cultural and Aesthetic grant program for funding of the centennial activities.

Representative Donaldson (477) asked who will be making the rules for obtaining centennial grants and product endorsements. Lieutenant Governor Turman said his office will be responsible for making these rules.

Representative Fritz (511) closed on his bill.

HOUSE BILL 108: "AN ACT TO INCREASE THE AMOUNT PAID TO A COUNTY BY THE UNITED STATES OR THE STATE OF MONTANA TO HOLD A PRISONER COMMITTED TO A COUNTY JAIL BY THE UNITED STATES OR THE MONTANA HIGHWAY PATROL; AMENDING SECTIONS 7-32-2206 AND 7-32-2209, MCA."

Representative Cal Winslow (547), District 89, introduced House Bill 108 which he sponsors.

Proponents:

Gordon Morris (582), Executive Director, Montana Association of Counties supports the bill. He told the committee what it costs in various counties to house a prisoner for one day. The lowest cost per day was \$25.57 (Missoula County) and the most expensive cost per day was \$116.27 (Broadwater County).

Opponents: None

Committee Discussion:

Chairman Bardonoue (643) asked how it can possibly cost \$108 a day to house a prisoner. Mr. Morris said the cost at

Appropriations Committee
March 25, 1985

Broadwater County was \$116.27/day, but the sheriff calculated all expenses into this figure including lights and heating. Other counties just included prisoner related expenses such as meals, clothing, toothbrushes, etc.

Representative Spaeth (665) asked what type of person is committed to jail by the Highway Patrol and the asked where disposition money for the fine is deposited. Mr. Morris said state prisoners come from two types of detainings the Highway Patrol and the Department of Fish, Wildlife and Parks (FW&P). He said the Highway Patrol arrests people on the highways and hold them in lieu of bond. FW&P prisoners are detained for fish and game violations. He said the fines for FW&P violations go back to the department. In the case of the Highway Patrol the fines are levied in justice courts and are given directly to school programs. He said for every case heard in justice court there is a \$7.50 filing fee which goes into the county General Fund.

Representative Lory (708) asked how the per diem amount to be paid by the state is determined.

(Tape 61:B:006)

Representative Winslow said the federal government negotiates a rate with the counties and the state can do the same thing.

Chairman Bardanouve asked if law enforcement salaries are used to figure the per diem rate. Representative Winslow said no.

Representative Winslow (011), in closing, said the cost of taking care of prisoners is becoming a real drain on county budgets. He said he does not believe \$10/day is taking care of the needs of the jail or the prisoner.

E X E C U T I V E A C T I O N :

Representative Donaldson (022) made a motion that House Bill 411 be TABLED. A voice vote was taken and the motion carried unanimously.

Adjourn: The meeting adjourned at 10:05 p.m.


FRANCIS BARDANOUVE, Chairman

DAILY ROLL CALL

APPROPRIATIONS COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date MARCH 25, 1985

NAME	PRESENT	ABSENT	EXCUSED
BARDANOUVE	X		
DONALDSON	X		
BRADLEY	X		
CONNELLY	X		
ERNST	X		
HAND	X		
LORY	X		
MANUEL	X		
MENAHAN	X		
MILLER	X		
MOORE	X		
NATHE	X		
PECK	X		
QUILICI	X		
REHBERG	X		
SPAETH	X		
SWIFT	X		
THOFT	X		
WALDRON	X		
WINSLOW	X		

STANDING COMMITTEE REPORT

512

March 25

83

19.....

MR. SPEAKER.....

We, your committee on APPROPRIATIONS.....

having had under consideration SENATE..... Bill No. 12

Third reading copy (Blue color)

Budget amendment procedures - inclusion of University System,
Legislative, and Judicial.

Respectfully report as follows: That..... Bill No. SENATE 12

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

43

March 25

19 85

MR. **SPEAKER**

APPROPRIATIONS

We, your committee on

HOUSE JOINT RESOLUTION

having had under consideration

~~XXX~~ No. 43

First

White

reading copy ()
color

Requesting Legislative Finance Committee to conduct vacancy savings study.

HOUSE JOINT RESOLUTION

Respectfully report as follows: That

~~XXX~~ No. 43

DO PASS

FRANCIS BARDAMOUVE

Chairman.

STANDING COMMITTEE REPORT

513

March 25, 1985

MR. **SPEAKER**We, your committee on **APPROPRIATIONS**having had under consideration **HOUSE** Bill No. **513****Third** **Blue**
reading copy (**Blue**)
color**Establishing a state veterans cemetery at Fort Harrison.**Respectfully report as follows: That **HOUSE** Bill No. **513****BE AMENDED AS FOLLOWS:**

1. Page 1, line 22
Following: "250,000"
Strike: "\$62,000"
Insert: "\$25,000"

AND AS AMENDED**DQ.PASS.**

ROLL CALL VOTE

HOUSE COMMITTEE APPROPRIATIONS

DATE MARCH 25, 1985

BILL NO. 513

TIME _____

NAME Representative Donaldson	AYE	NAY
BARDANOUVE, FRANCIS (Chairman)		X
DONALDSON, GENE (Vice Chairman)	X	
BRADLEY, DOROTHY	X	
CONNELLY, MARY ELLEN	X	
ERNST, GENE		X
HAND, BILL		X
LORY, EARL	X	
MANUEL, REX		X
MENAHAN, WILLIAM	X	
MILLER, RON	X	
MOORE, JACK		X
NATHE, DENNIS	X	
PECK, RAY	X	
QUILICI, JOE	Absent	
REHBERG, DENNIS	X	
SPAETH, GARY	Absent	
SWIFT, BERNIE	X	
THOFT, BOB		X
WALDRON, STEVE	Absent	
WINSLOW, CAL	X	

JEAN CARROLL
Secretary

FRANCIS BARDANOUVE
Chairman

Motion: A substitute motion to amend the bill as follows:

1. Page 1, line 22

Following: "\$250,000"

Strike: "\$62,000"

Insert: "\$25,000"

(March 25, 1985)

EXHIBIT 1
3-25-85
HB 513

MR. CHAIRMAN, AND MEMBERS OF THE HOUSE APPROPRIATIONS COMMITTEE, MY NAME IS JACK MCGLYNN AND I AM THE CHAIRMAN OF THE BOARD OF VETERANS AFFAIRS.

I AM HERE TODAY IN SUPPORT OF HOUSE BILL 513.

AS MEMBERS OF THE HOUSE OF REPRESENTATIVES YOU ARE ALREADY AWARE THIS BILL PASSED SECOND READING BY A VOTE OF 89 TO 6. THIS BILL IS ALSO ALMOST IDENTICAL TO THE 1979 LEGISLATION SIGNED INTO LAW WHICH PROVIDED VETERANS WITH FUNDING FOR THE SAME PURPOSE, A CEMETERY. THIS IS NOT A NEW IDEA FOR MONTANA, ONLY THE LOCATION HAS CHANGED.

WE HOPE THAT YOU WILL SUPPORT HOUSE BILL 513.



EXHIBIT 2
3-25-85
HB 473
Pavlovich

Rec'd
3-1-85

IDAHO PERSONNEL COMMISSION

RICHARD J. HUTCHISON
State Personnel Director

700 WEST STATE, BOISE, IDAHO 83720
(208) 334-2263

JOHN V. EVANS, Governor

February 28, 1985

COMMISSION MEMBERS:

EMILY McDERMOTT, *Chairman*
RICHARD M. CHASTAIN, *Vice-Chairman*
ANNE PASLEY-STUART
FERD KOCH
ANNE SOLOMON

Mr. W. A. Hulet
State Director
Veterans Employment Service
Department of Employment
Statehouse Mail

Dear Bill:

You asked that I provide you with some information regarding the Idaho Personnel Commission's appropriation and, specifically, any costs I might allocate to providing veterans' preference.

First of all, our overall appropriation is approximately \$1.4 million. We do not allocate our appropriation down to such a small item as the cost to provide veterans' preference.

As you are aware, the statute provides veterans' preference in basically two ways. Designated war veterans receive 5 additional points added to their test score, or 10 additional points if disabled. This system is rather automatic, and may cause a very minimum amount of additional staff time. Nevertheless, I would say the cost associated with this type of preference is minimal at best.

Second, disabled veterans are able to come in and open up any of our registers and have their names placed on the register whether or not the job is under announcement at the time. When this occurs, it is somewhat out of the mainstream of our scheduled activities and requires a little special effort on our part. However, there have been so few disabled veterans take advantage of this preference that it has caused absolutely no problem for us.

In summary, providing veterans' preference to state classified employees through the merit system has very little fiscal impact.

Very truly yours,

Richard J. Hutchison
State Personnel Director

I
P
M
A

MEMBER

INTERNATIONAL PERSONNEL
MANAGEMENT ASSOCIATION

U.S. Department of Labor

(406) 444-2062
444-4500
(FTS) 585-5431

Office of the Assistant Secretary for
Veterans' Employment and Training
State Director - Montana
Employment Security Building
Room 210 P.O. Box 1728
Helena, Montana 59624



25 MARCH 1985

EXHIBIT 3
3-25-85
HB 473
Antonietti

THANK YOU MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE HOUSE
APPROPRIATION COMMITTEE, FOR THE RECORD MY NAME IS;

DAN ANTONIETTI, STATE DIRECTOR FOR VETERANS

EMPLOYMENT AND TRAINING, U.S. DEPARTMENT OF LABOR

LET ME STATE AT THE ONSET THAT THE MAJOR INTENT OF THE PROPOSAL
AS MENTIONED BY REPRESENTATIVE PAVLOVICH'S PLAN IN TESTING IS THE
CONCEPT OF USING A SYSTEM UTILIZED BY THE UNITED STATES EMPLOYMENT
SECURITY SINCE THE MID 1930's TO SELECT APPLICANTS FOR REFERRAL TO
JOBS AND AS AN AID IN RATIONAL CAREER DECISION MAKING. THIS
VEHICLE IS THE UNITED STATES DEPARTMENT OF LABOR'S GENERAL APTITUDE
TEST BATTERY COMMONLY REFERRED TO AS THE G.A.T.B..

THE UNITED STATES EMPLOYMENT SERVICE STATES THE G.A.T.B. THROUGH THE
USE OF VALIDITY GENERALIZATION EXPANDS G.A.T.B. COVERAGE TO ALL CANDI-
DATES FOR EVERY JOB IN THE DICTIONARY OF OCCUPATIONAL TITLES - OVER
12,000 POSITIONS. THE EMPLOYMENT SERVICE STATES IT CAN NOW REFER
JOB CANDIDATES ON A TOP DOWN PERCENTILE RANKING BASIS WHICH PERMITS
EMPLOYERS TO SELECT APPLICATANTS WITH GREATER PRODUCTIVE POTENTIAL.
THE G.A.T.B. HAS OTHER ADVANTAGES AND CAN BE USED FOR EACH POSITION
THE APPLICANT APPLIES FOR WITHOUT HAVING TO TAKE ANOTHER TEST FOR EACH
POSITION. DR. JOHN E. HUNTER, P.H.D., DEPARTMENT OF PSYCHOLOGY,
MICHIGAN STATE UNIVERSITY ALONG WITH DR. FRANK L. SCHMIDT, P.H.D.,
U.S. OFFICE OF PERSONNEL MANAGEMENT HAVE CONCLUDED FROM THEIR WORK

TESTIMONY - DAN ANTONIETTI, SDVETS

THAT VALIDITY GENERALIZATION IS VERY ROBUST. IN THERE FINDINGS, WHICH COVERED WIDE RANGES OF JOBS, THERE WERE NO JOBS FOR WHICH THE MAJOR COGNITIVE AND PERCEPTUAL TESTS WERE FOUND INVALID. (SEE EXHIBIT # 1)

A FURTHER CHECK WITH THE UNITED STATES OFFICE OF PERSONNEL MANAGEMENT WHOSE STAFF CRITICALLY REVIEWED KEY DOCUMENTS PERTAINING TO THE VALIDITY GENERALIZATION MODEL USED BY THE DEPARTMENT OF LABOR WITH THE GENERAL APTITUDE TEST BATTERY PROVED ACCEPTABLE.

BECAUSE ECONOMIC AND TECHNICAL JUSTIFICATION FOR V.G. ARE COMPELLING, A PILOT TEST OF V.G. WAS INITIATED IN NORTH CAROLINA TO DEVELOP OPERATIONAL PROCEDURES AND TO EVALUATE IMPACT ON PERFORMANCE. THE EVALUATION PERIOD WAS F.Y. '82, A TIME OF DECLINING ECONOMIC CONDITIONS, STAGNANT HIRING PATTERN AND EMPLOYMENT SERVICE STAFF CUTS. EVEN SO, THE RESULTS WERE UNIFORMLY POSITIVE AS SHOWN. (SEE EXHIBIT # 2)

VETERANS PRIORITY IN VALIDITY GENERALIZATION (SEE EXHIBIT # 3)

FEDERAL REGISTER 20 C.F.R PARTS 652 AND 653 "SERVICES FOR VETERANS";
FINAL RULE, SECTION 652.120 (SEE EXHIBIT # 4)

TITLE 38 - UNITED STATES CODE "VETERANS' BENEFITS"; (SEE EXHIBIT # 5)

SECTION 2002 "PURPOSE"

SECTION 2004 "EMPLOYEES OF LOCAL OFFICES"

SECTION 2012 " VETERANS' EMPLOYMENT EMPHASIS UNDER
FEDERAL CONTRACTS"

TESTIMONY - DAN ANTONIETTI, SDVETS

THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972; SECTION 712 (SEE EXHIBIT # 6)

CURRENTLY THE U.S. DEPARTMENT OF LABOR, VETERANS EMPLOYMENT AND TRAINING SERVICE, PROVIDES FUNDING IN THE AMOUNT OF \$601,546 TO THE STATE DEPARTMENT OF LABOR AND INDUSTRY, JOB SERVICE DIVISION FOR THE DISABLED VETERANS OUTREACH PROGRAM AND LOCAL VETERANS EMPLOYMENT REPRESENTATIVE GRANTS.

CHAPTER 41, TITLE 38, U.S. CODE, PROVIDES THAT THE ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING (A.S.V.E.T.) BE THE PRINCIPAL ADVISER TO THE SECRETARY WITH RESPECT TO THE FORMULATION OF POLICIES AND PROCEDURES TO CARRY OUT (1) THE PURPOSES OF CHAPTER 41, 42, AND 43 OF TITLE 38, U.S. CODE, AND (2) ALL OTHER DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING PROGRAMS TO THE EXTENT THEY AFFECT VETERANS.

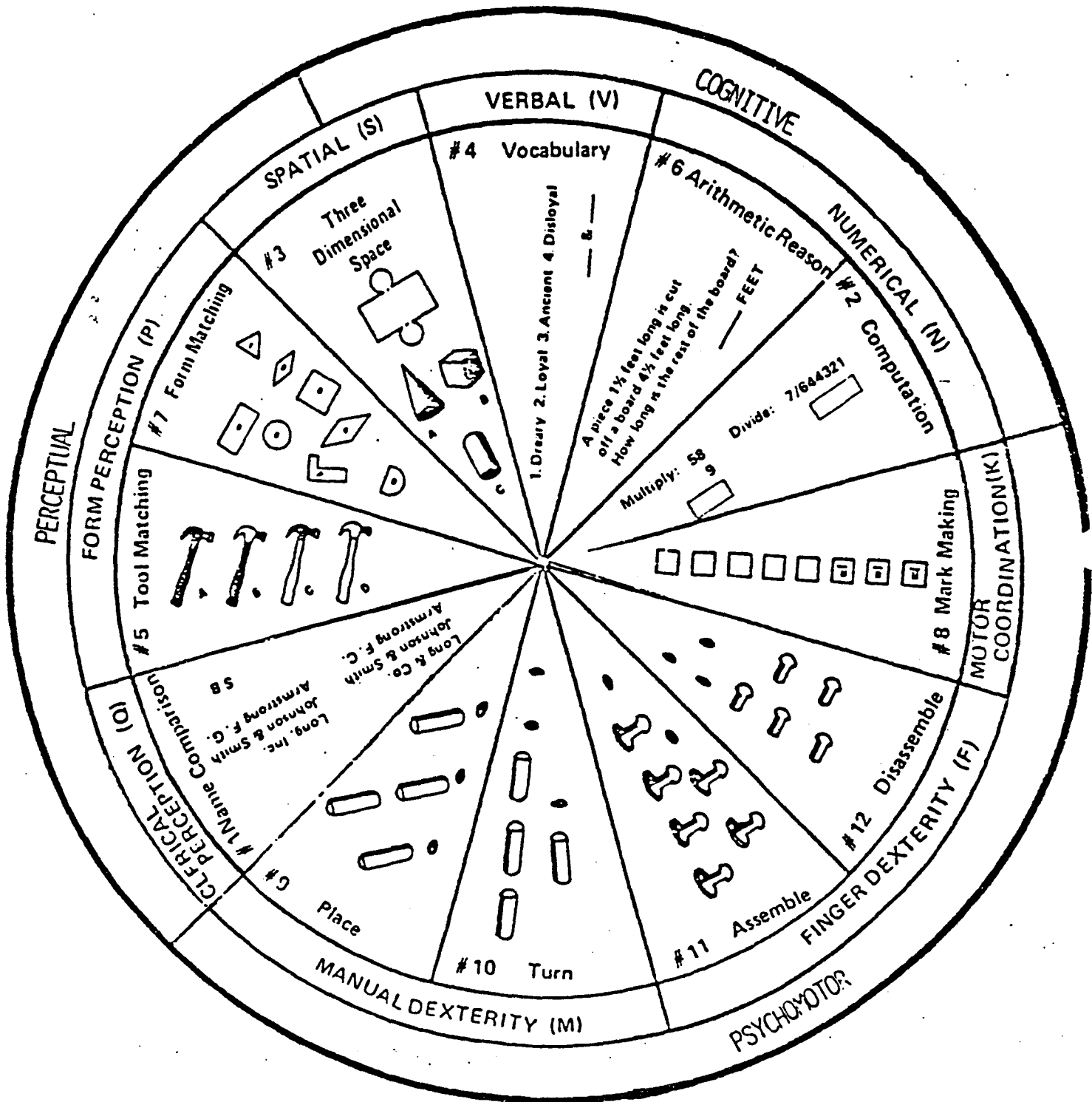
IN FISCAL YEAR 1984 THE STATE DEPARTMENT OF LABOR AND INDUSTRY, JOB SERVICE AND TRAINING DIVISION EXPENDED \$ 523,925 FOR THE DISABLED VETERANS OUTREACH PROGRAM AND LOCAL VETERANS EMPLOYMENT REPRESENTATIVE GRANTS.

THE FISCAL YEAR 1986 REQUEST TO CONTINUE THIS PROGRAM WILL BE IN THE AMOUNT OF \$ 621,538. (SEE EXHIBIT # 7)

MR. CHAIRMAN, THIS CONCLUDES MY TESTIMONY AND I WILL BE MORE THAN PLEASED TO ANSWER ANY QUESTIONS.

THE GENERAL APTITUDE TEST BATTERY

~~EXHIBIT~~ 1



APTITUDES MEASURED BY GATB

North Carolina, Per Cent Change, FY'81 to FY'82

<u>Variable</u>	<u>VG Offices</u>	<u>Non VG Offices</u>	<u>Matched Offices</u>
Non Agricultural Placements	+4%	-22%	-20%
Referrals Made	+5%	-17%	-22%
Penetration Rate	+23%	-13%	+1%
Placements Per Staff Year	+18%	-6%	-6%

A survey found that employers are very favorably disposed toward the VG concept and that they seem to be changing their hiring practices to hire a larger percentage of Employment Service applicants. Also, many employers reported hiring ES applicants for different kinds of jobs than previously.

A fortuitous plant opening by a large, well managed firm provided an opportunity for a unique case study. Phillip Morris, using their own well established and reliable evaluation procedures which are used in all of their production facilities, compared the performance of VG selected new hires with (1) their other plants, (2) transfers from other plants and (3) national industry averages. The company concluded that, "...out of the 14 comparisons for which data was available the GATB screened new plant employees exceeded the comparison groups in 13... On the (13) comparisons the average "improvement" was a whopping 41 percent ... Overall the new hires have more than exceeded expectations, and have created a workforce which can be characterized as faster learning, more disciplined, safer, more quality conscious and more productive."

Because of the positive operational experiences, favorable hard data and enthusiastic employer response, North Carolina is expanding the use of VG Statewide.

In order to verify the North Carolina results and to develop operational procedures for other settings, several other pilot projects were initiated at State request. Roanoke, Virginia, the most advanced at this point, has built upon the North Carolina experience. Observing that North Carolina had not been able to do the optimal amount of testing, Virginia has introduced operational efficiencies such as group applications, interview scheduling, mass testing, microprocessor assisted file search and test scoring, and discouraging repeat visits. Virginia has been able to test some 90 percent of their applicants and are using VG in almost all referrals. Although VG has been used for only 3 months in the period, the cumulative performance for the first half of FY'84 show placements up by 38 percent and job openings received up by 35 percent.

Other pilot sites will be using VG in a variety of contexts: Utah--Statewide computerized system; New Jersey--highly industrialized area; Michigan--variety of office sites; and South Carolina--integration into a computerized matching system.

U.S. Department of Labor

Office of the Assistant Secretary for
Veterans' Employment
Washington D.C. 20210



March 7, 1985

VETERANS' PROGRAM LETTER NO. 6-85

TO: ALL REGIONAL, STATE AND ASSISTANT STATE DIRECTORS
FOR VETERANS' EMPLOYMENT AND TRAINING SERVICE

ALL STATE EMPLOYMENT SECURITY ADMINISTRATORS

ALL REGIONAL ADMINISTRATORS, ETA (INFO)

FROM: DONALD E. SHASTEEN
Deputy Assistant Secretary for
Veterans' Employment and Training

SUBJECT: Veterans Priority in Validity Generalization

1. Purpose:

To establish policy guidelines to be observed by State Employment Security Agencies (SESAs) to ensure that legislatively mandated veterans' priority in referral is maintained in the administration and conduct of the Validity Generalization method of using the General Aptitude Test Battery (GATB) to assess applicants' relative ability to perform or learn jobs.

2. Background:

Validity Generalization (VG) is a new method of applicant referral based upon the large amounts of data generated by many years of validity research on the GATB. To develop operational procedures, it is currently being pilot tested in a number of States.

Currently, two major patterns of VG use are emerging. Optimal use of VG involves the "full-blown" approach, where the vast majority of applicants, around 80%, are tested and test results are used in referral to almost all jobs in conjunction with employers' requirements, picking from the highest scores and working down. The second approach, "SATB Replacement", uses VG only as requested by employers and/or for selected occupations and employers. The number of applicants tested is

demand-driven. Here also, referrals are top-down. As employer demand increases, the distinction between the two patterns may decrease or disappear.

As local office operations vary along such dimensions as character and size of labor market, size of local office, unemployment rate, degree of automation, acceptance of change of staff, and management style of the State agency, etc., variations of operational procedures will be required. Such operational procedures are currently being developed at the pilot sites.

Under VG, all of the qualifications required by the employer will ordinarily be met. In addition, in developing operational procedures for VG, it is essential that veterans' preference be maintained. Regulations at 20 CFR 652.120 require each State agency to provide maximum employment and training opportunities to veterans by giving them preference over non-veterans in employment and training services including but not limited to registration, counseling, referral to supportive services, job development, and referral. In making referrals of qualified applicants to job openings and training opportunities; the order of priority is to be (1) special disabled veterans, (2) veterans of the Vietnam era, (3) disabled veterans other than special disabled veterans, (4) all other veterans and eligible persons, and (5) non-veterans.

3. Policy on Veterans Priority in Validity Generalization

The policy principles applied to Validity Generalization are stated below:

- a. Veterans will be provided information on special services provided to veterans in addition to the orientation information provided to all applicants.
- b. All local office staff must be aware of and observe veterans' priority in making referrals to job openings
- c. The priority for veterans as specified in 20 CFR 652.120 must be followed in making referrals within the framework of VG principles.

These principles must be observed by any State Employment Security Agency undertaking Validity Generalization (VG) in any form.

4. Procedural Guidelines

SESAs shall adopt procedures deemed appropriate in achieving veterans' priority principles. The following guidelines are but a few ways to comply with the policy mandates expressed above. They are divided into general topics for ease of reference.

a. Implementation

- (1) When VG is initiated, veterans in the active file should be contacted, informed of the benefits of their being tested, and testing offered to them.
- (2) Veterans shall be tested on a priority basis before non-veterans.
- (3) If the need for testing is greater than the capacity, applicants should be tested in the veterans preference order of 20 CFR 652.120.

b. Selection and Referral

- (1) Employer qualifications must ordinarily be met by all applicants, including veterans.
- (2) The priority specified in 20 CFR 652.120 must be observed in making referrals of applicants who meet all of the other employer specifications. This can be achieved in several ways, some of which are listed below:
 - (a) Establishment of an "up-front" period such as 24 or 48 hours during which only qualified veterans may be referred on a given job order to allow for adequate file search provided that all local office staff with referral responsibility share in this effort.
 - b) Referral staff can ordinarily maintain the integrity of both 20 CFR 652.120 and VG principles by making referrals based on (i) their knowledge of the need to observe veterans' preference,

(ii) their familiarity with employers' hiring practices, (iii) their overall assessment of the applicant's qualifications in addition to the VG score, and (iv) results of interviews to determine applicants' acceptance of the job offer.

The effectiveness of these and any other veterans' priority procedures which any State implements in VG operations will be carefully monitored by Veterans' Employment and Training Service (VETS) staff to ensure satisfactory performance. If any procedures produce less than effective veterans' priority, as required by Federal law, additional guidance will be provided.

5. Action Required:

- (1) Each VETS field staff member shall utilize the contents of this VPL in the conduct of evaluations of local offices involved in VG. Findings and/or observations should be included in regular reports. Critical issues should be raised immediately through established channels.
- (2) SESA Administrators should ensure that VG operations in their States are carried out according to the guidelines established by this VPL.

~~EXHIBIT No 4~~

Friday
March 30, 1984

SECTION 652.120

Federal Register

Part V

Department of Labor

Employment and Training Administration

**20 CFR Parts 652 and 653
Services for Veterans; Final Rule**

~~EXHIBIT No. 5~~

98th Congress }
1st Session }

JOINT COMMITTEE PRINT NO. 1

TITLE 38—UNITED STATES CODE

VETERANS' BENEFITS
AS AMENDED THROUGH JANUARY 14, 1983
AND RELATED MATERIAL

PREPARED BY THE
COMMITTEES ON VETERANS' AFFAIRS
OF THE
HOUSE OF REPRESENTATIVES
AND
UNITED STATES SENATE



MARCH 1, 1983

Printed for the use of the Committees on Veterans' Affairs of the
House of Representatives and United States Senate

~~EXHIBIT No. 6~~
SEC 712

Page 15

92d Congress }
2d Session }

COMMITTEE PRINT

**THE EQUAL EMPLOYMENT OPPORTUNITY
ACT OF 1972**

Title VII of Civil Rights Act of 1964 Showing Changes Made by
Public Law 92-261 Approved March 24, 1972

SUBCOMMITTEE ON LABOR
OF THE
COMMITTEE ON LABOR AND
PUBLIC WELFARE
UNITED STATES SENATE



MARCH 1972

Printed for the use of the Committee on Labor and
Public Welfare

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1972

74-307 O

necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection.

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction hereof, shall be fined not more than \$1,000, or imprisoned not more than one year.

INVESTIGATORY POWERS

Sec. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of

the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply.

NOTICES TO BE POSTED

Sec. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than \$100 for each separate offense.

VETERANS' PREFERENCE

Sec. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

Sec. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under the section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

Sec. 714. The provisions of sections 111 and 1114 title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official

DEPARTMENT OF LABOR AND INDUSTRY

COMMISSIONER'S OFFICE

~~EXHIBIT No. 7~~

TED SCHWINDEN, GOVERNOR

STATE CAPITOL



STATE OF MONTANA

(406) 444-3661

HELENA, MONTANA 59620

SEE BUDGET
PAGES 9 and 12

July 18, 1984

Mr. John M. Jackson, RDVE
Region VIII 8TGV USDOL, VETS
U.S. Court House
1961 Stout Street
Denver, CO 80294

Dear Mr. Jackson:

Enclosed are the original and two copies of Montana's Grant Application for Disabled Veterans Outreach Program and Local Veterans Employment Representative grants.

If you have questions regarding the Grant Applications, please feel free to contact Laurie Lamson or Judy Beck of my staff.

Sincerely,

A handwritten signature in cursive script, reading "David E. Wanzenried".
DAVID E. WANZENRIED
Commissioner

FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION (Mark up appropriate box)
- ☐ NOTICE OF INTENT (OPTIONAL)
- ☐ PREAPPLICATION
- ☒ APPLICATION

2. APPLICANT'S APPLICATION IDENTIFIER

NA

b. DATE

Year month day

19 84 07 18

3. STATE APPLICATION IDENTIFIER

NOTE: TO BE ASSIGNED BY STATE

a. NUMBER

NA

b. DATE

ASSIGNED

NA

19

Leave Blank

4. LEGAL APPLICANT/RECIPIENT

- a. Applicant Name Department of Labor and Industry
- b. Organization Unit Job Service and Training Division
- c. Street/P.O. Box P.O. Box 1728
- d. City Helena
- e. County Lewis & Clark
- f. State MT
- g. ZIP Code 59624
- h. Contact Person (Name & Telephone No.) T. Gary Curtis (406) 444-4500

5. EMPLOYER IDENTIFICATION NUMBER (EIN)

6. PROGRAM

(From CFDA)

a. NUMBER

117180

1780

MULTIPLE ☐

b. TITLE

DVOP/LVER

7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project)

Disabled Veterans Outreach Program
Local Veterans Employment Representative

8. TYPE OF APPLICANT/RECIPIENT

- A—State
B—Interstate
C—Substate
D—County
E—City
F—School District
- G—Special Purpose District
H—Community Action Agency
I—Higher Educational Institution
J—Indian Tribe
K—Other (Specify)

Enter appropriate letter ☐ A

9. AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)

State of Montana

10. ESTIMATED NUMBER OF PERSONS BENEFITING

11,500

11. TYPE OF ASSISTANCE

- A—Basic Grant
B—Supplemental Grant
C—Loan
- D—Insurance
E—Other

Enter appropriate letter(s) ☐ A

12. PROPOSED FUNDING

- a. FEDERAL \$ 601,546.00
- b. APPLICANT .00
- c. STATE .00
- LOCAL .00
- d. OTHER .00
- f. Total \$ 601,546.00

13. CONGRESSIONAL DISTRICTS OF:

a. APPLICANT

Statewide

b. PROJECT

Statewide

15. PROJECT START DATE

1984 10 01

16. PROJECT DURATION

12 Months

18. DATE DUE TO FEDERAL AGENCY

19 84 07 20

14. TYPE OF APPLICATION

- A—New
B—Renewal
- C—Revision
D—Continuation
- E—Augmentation

Enter appropriate letter ☐ A

17. TYPE OF CHANGE (For 14c or 14e)

- A—Increase Dollars
B—Decrease Dollars
C—Increase Duration
D—Decrease Duration
E—Cancellation

F—Other (Specify):

Enter appropriate letter(s) ☐ ☐ ☐

19. FEDERAL AGENCY TO RECEIVE REQUEST

a. ORGANIZATIONAL UNIT (IF APPROPRIATE)

U.S. Department of Labor

b. ADMINISTRATIVE CONTACT (IF KNOWN)

John M. Jackson, RDVET

20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER

E-9-M-4-0016

c. ADDRESS

U.S. Court House
1961 Stout Street
Denver, CO 80294

21. REMARKS ADDED

☐ Yes ☐ No

22. THE APPLICANT CERTIFIES THAT:

To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE

b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 ☐
OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW ☐

23. CERTIFYING REPRESENTATIVE

a. TYPED NAME AND TITLE

David E. Wanzenried,
Commissioner

b. SIGNATURE



24. APPLICATION RECEIVED

Year month day

19

25. FEDERAL APPLICATION IDENTIFICATION NUMBER

26. FEDERAL GRANT IDENTIFICATION

27. ACTION TAKEN

- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE
- ☐ e. DEFERRED
- ☒ f. WITHDRAWN

28. FUNDING

- a. FEDERAL \$.00
- b. APPLICANT .00
- c. STATE .00
- d. LOCAL .00
- e. OTHER .00
- f. TOTAL \$.00

29. ACTION DATE

Year month day

19

31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

30. STARTING DATE

19

32. ENDING DATE

19

33. REMARKS ADDED

☐ Yes ☐ No

SF 424 BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

GRANT PROGRAM, FUNCTION OR ACTIVITY (a)	FEDERAL CATALOG NO. (b)	ESTIMATED UNOBLIGATED FUNDS		NEW OR REVISED BUDGET		
		FEDERAL (c)	NON-FEDERAL (d)	FEDERAL (e)	NON-FEDERAL (f)	TOTAL (g)
1. DVOP		\$	\$	\$ 258,874	\$	\$ 258,874
2. LVER				342,672		342,672
3.						
4.						
5. TOTALS		\$	\$	\$ 601,546	\$	\$ 601,546

SECTION B - BUDGET CATEGORIES

6. OBJECT CLASS CATEGORIES	GRANT PROGRAM, FUNCTION OR ACTIVITY				TOTAL (g)
	(1) DVOP	(2) LVER	(3)	(4)	
a. PERSONNEL	\$ 152,200	\$ 234,365	\$	\$	\$
b. FRINGE BENEFITS	30,440	46,880			
c. TRAVEL	1,900	1,730			
d. EQUIPMENT	5,725	2,365			
e. SUPPLIES	1,350	1,900			
f. CONTRACTUAL					
g. CONSTRUCTION					
h. OTHER	43,025	16,060			
i. TOTAL DIRECT CHARGES	234,640	303,300			
j. INDIRECT CHARGES	24,234	39,372			
k. TOTALS	\$ 258,874	\$ 342,672	\$	\$	\$
7. PROGRAM INCOME	\$	\$	\$	\$	\$

SECTION C - FEDERAL RESOURCES

(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS

	TOTAL FOR 1ST YEAR	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER
13. FEDERAL DVOP LIVER	\$ 601,546	\$ 149,380	\$ 153,394	\$ 149,380	\$ 149,392
14. NON-FEDERAL					
15. TOTALS	\$ 601,546	\$ 149,380	\$ 153,394	\$ 149,380	\$ 149,392

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (years)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION (attach additional sheets if necessary)

21. DIRECT CHARGES:

22. INDIRECT CHARGES:

23. REMARKS:

STATE OPERATING PLAN
DVOP/LVER PROGRAMS

STATE AGENCY Department of Labor & Industry
Job Service Division

FISCAL YEAR 1985

DATE 07-17-84

	Personal 'Services	Benefits	Non-Personal ' Services	Total Funds	Staff ' Years	Average Cost Per S (Total + SY
I. DVOP						
A. DVOP Base	152,200	30,440	52,000	234,640	8.00	29,330
B. DVOP Overhead (Inc. AS&T)	15,150	3,030	6,054	24,234	0.60	40,390
	167,350	33,470	58,054	258,874	8.60	30,102
II. LVER						
A. LVER Base	234,365	46,880	22,055	303,300	10.50	28,886
B. LVER Overhead (Inc. AS&T)	24,600	4,920	9,852	39,372	0.75	52,496
	258,965	51,800	31,907	342,672	11.25	30,460
	426,315	85,270	89,961	601,546	19.85	30,305

SUBTOTAL:

SUBTOTAL:

GRAND TOTAL:

1984 Actual. 523,925

1986 Request- 621,538

DVOP/LVER State Obligations
Staff Years and Dollar Levels

U.S. Department of Labor

Office of the Assistant Secretary for Administration and Management



State Montana Fiscal Year 1985

Total Positions		Total Dollars
DVOP	8.60	258,874
LVER	11.25	342,672
Total	19.85	601,546

Budget Item	Plan by Quarters										Total	
	1st Quarter		2nd Quarter		3rd Quarter		4th Quarter		Total		Staff Years	Dollars
	Staff Years	Dollars	Staff Years	Dollars	Staff Years	Dollars	Staff Years	Dollars	Staff Years	Dollars		
1 DVOP-Base PS	8.00	38,050	8.00	38,050	8.00	38,050	8.00	38,050	8.00	38,050	8.00	152,200
2 PD		7,610		7,610		7,610		7,610		7,610		30,440
3 DVOP-AS&T PS	0.60	3,788	0.60	3,788	0.60	3,787	0.60	3,787	0.60	3,787	0.60	15,150
4 PB		757		757		758		758		758		3,030
5 DVOP-IPS		13,510		17,524		13,510		13,510		13,510		58,054
6 DVOP-PS (1+3)	8.60	41,838		41,838		41,837		41,837		41,837		167,350
7 DVOP-PB (2+4)		8,367		8,367		8,368		8,368		8,368		33,470
8 DVOP-Total (1 thru 5)	8.60	63,715	8.60	67,729	8.60	63,715	8.60	63,715	8.60	63,715	8.60	258,874
9 LVER-Base PS	10.5	58,590		58,590		58,590		58,590		58,590		234,365
10 PB		11,720		11,720		11,720		11,720		11,720		46,880
11 LVER-AS&T PS	0.75	6,150		6,150		6,150		6,150		6,150		24,600
12 PD		1,230		1,230		1,230		1,230		1,230		4,920
13 LVER-IPS		7,975		7,975		7,975		7,982		7,982		31,907
14 LVER-PS (9+11)	11.25	64,740		64,740		64,740		64,745		64,745		258,965
15 LVER-PB (10+12)		12,950		12,950		12,950		12,950		12,950		51,800
16 LVER-Total (9 thru 13)	11.25	85,665		85,665		85,665		85,677		85,677		342,672
17 Grant Total (8+16)	19.85	149,380		153,394		149,380		149,392		149,392		601,546

ASSURANCES

The Montana Department of Labor and Industry hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements, including OMB Circulars No. A-102 and No. A-87, as they relate to the application, acceptance and use of Federal funds for this federally-assisted project. Also the Department assures and certifies to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.
3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.
4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs.
5. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
6. It will comply with the minimum wage and maximum hours provision of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of state and local governments.
7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
8. It will give the sponsoring agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant.
9. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

10. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

12. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

STATE OPERATING PLAN
STATE OF MONTANA

STATEMENT OF WORK

DVOP

1. Description of Program. Section 2003A of 38 U.S. Code authorizes funding to support a disabled veterans outreach program designed to meet the needs of veterans, especially disabled veterans of the Vietnam-era. Montana DVOP specialists will provide intensive employment and employability development services to the most disadvantaged veterans. One DVOP specialist will be employed for each 5,300 veterans of the Vietnam-era and disabled veterans residing in Montana. The DVOP specialists will be located at appropriate sites within the state to best serve Vietnam-era and disabled veterans.
2. Activities to be Performed. The Montana Department of Labor and Industry will operate the program in such a way that the following functions are performed on a statewide basis:
 - a. Development of job and job training opportunities for priority group veterans through contacts with employers, especially small and medium-size private sector employers.
 - b. Promotion and development of apprenticeship and other on-job training positions pursuant to section 1787 of 38 USC.
 - c. Outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.
 - d. Provision of appropriate assistance to community-based groups and organizations and appropriate grantees under other Federal and federally funded employment and training programs in providing services to such veterans.
 - e. Provision of appropriate assistance to local Job Service office employees with responsibility for veterans in carrying out their responsibilities under this grant.
 - f. Consultation and coordination with other appropriate representatives of Federal, State, and local programs for the purposes of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.
 - g. Other activities as will promote the development of entry-level and career job opportunities for such veterans.

- h. Development of outreach programs in cooperation with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of 38 USC, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.

3. Reporting Requirements.

- a. Fiscal. The Department of Labor and Industry will provide quarterly plans and reports against the budget categories included in Part III.B. of SF 424 for DVOP. The Department will utilize the existing Cost Accounting System and format for accounting and reporting of accrued expenditures.
- b. Workload Activity. The Department will provide quarterly reports, statewide and by service delivery point or local office, of the numbers of disabled veterans, Vietnam-era veterans, and other veterans who were provided the following services (e.g., standard ESARS definitions unless otherwise noted) under the DVOP:
 - i. Referral to jobs
 - ii. Placement in jobs
 - iii. Referral to training programs
 - iv. Placement in training programs
 - v. Job development contacts
 - vi. Number of veterans contacted to ascertain their need for employment services (non-ESARS)

The Department will utilize ESARS for reporting.

4. Special Assurances.

- a. Each DVOP specialist shall be a veteran with preference in such appointments given to disabled veterans of the Vietnam-era, other disabled veterans, and any veterans, in that order, and each shall be compensated at a rate not less than the rate prescribed for an entry level professional to the State Government of Montana.
- b. DVOP specialists shall be in addition to and shall not supplant local veterans' employment representatives in local Job Service offices.
- c. The DVOP specialist shall be assigned only those duties directly related to meeting the employment needs of eligible veterans with priority for the provision of services in the following order:
 - i. Services to disabled veterans of the Vietnam-era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of 38 USC.

- ii. Services to other disabled veterans.
 - iii. Service to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphasis set forth in chapter 42 of 38 USC.
 - iv. In the provision of services under this grant in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.
 - v. (a) Not more than three-fourths of the DVOP specialists in each state shall be stationed in local Job Service offices in such State, unless a waiver is provided by the OASVET.

(b) Specialists not stationed in Job Service offices shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 612A of 38 USC, veterans assistance office established by the Veterans' Administration pursuant to section 242 of 38 USC, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.
5. Allowable Costs. Costs may be attributed to activities directly in support of program functions and for indirect support including a fair share of overhead such as AS & T staff.
6. The position description for Disabled Veterans Outreach Program staff is attached.

PERSONNEL DIVISION		POSITION DESCRIPTION	Personnel Use Only	(PIQ and PD combined 1/79)
<p>The Position Description should provide a detailed statement of the duties and responsibilities assigned to an employee. As the building block of an effective personnel administration program, the Position Description must be completed to assist in classification, pay, recruitment, select performance evaluation, training, staffing analysis and other management functions. Thus, in order for this form to be effective, adequate time effort must be expended in following its instructions, in understanding its intent and in completing it.</p> <p>Each agency may decide who should complete the form. Considerations that affect this choice are the circumstances for completing it, desire to stimulate employee participation and interest, and the authority and responsibility of management to determine the duties and responsibilities of positions. The form does require that management complete the sections concerning physical demands, supervision received and requirements. Signature blocks have been provided to allow larger agencies several levels of review and approval. Each agency should establish its policy and procedure regarding the review and approval of the form.</p> <p>Before proceeding, PLEASE READ THE ENTIRE FORM to understand how sections relate to each other and to avoid repeating information. If there are any questions about completing this form, contact your agency personnel officer or the State Personnel Division at 449-38</p> <p>PLEASE TYPE OR PRINT CLEARLY</p>				

PART I: TO BE COMPLETED BY EMPLOYEE OR SUPERVISOR / MANAGEMENT	1	Classification	Current:	Title	Class Code	Grade	Position No.
				Employment Interviewer	166002	11	1085
			Proposed:				
	2	Agency	Department, Agency or University Unit		Division or equivalent		
			Labor & Industry		Job Service & Training		
			Bureau or equivalent		Section or equivalent		Unit or equivalent
			Job Service		Local Office		
	3	Address	City	Building & Street	Room Number	Business Telephone	
			Statewide/Helena Lockey & Roberts			444-4500	
	4	Prepared by:	<input type="checkbox"/> Employee <input checked="" type="checkbox"/> Supervisor/Management		Name of Employee:		
5	Describe the activity, function, product or service of the office or work unit in which the position is situated: Work in local Job Service Office under the Disabled Veterans' Outreach Program (DVOP). The primary function of this position is to locate unemployed disabled veterans and inform them about education, job training, employment opportunities, and benefits for which they are eligible. The end result is placement on the job.						
6	DUTIES AND RESPONSIBILITIES OF POSITION: Describe the duties, tasks and responsibilities of the position. Begin with a general statement of what the position does and then organize the description into duties and tasks beginning with the most important duties. A duty is a large segment or category of work performed and can be used to group related tasks. Task statements are effectively written by using the following format: an action verb, an object, an output and how accomplished. Use language that will enable a person not familiar with the work of the position to understand what is taking place in the work activities described. Avoid words that are not graphic, such as "assists", "develops", "handles", "processes" and "works with". Complete this section by estimating the percent of time spent on each duty. Provides outreach and employability development services to disabled and other veterans. Conducts outreach to locate disabled veterans through direct contact with local veterans organizations, colleges, trade schools, Veterans Administration Hospitals, U.S. Veteran Assistance Centers, and other community groups. Interviews applicants to obtain work history, training, education, interests and other vocational or personal data relevant to placement on a job, referral to training and/or other supportive services. Completes necessary application forms and assigns appropriate D.O.T. Code(s). Will complete referral, enrollment or related forms as necessary. Contacts employers in person, by phone or other means to develop job or training opportunities for veterans.						

ing contracts with employers or per established departmental guidelines and manual instructions.

Takes job orders from employers, writes up specific job requirements, qualifications, wages, working conditions and hours. Assigns appropriate D.O.T. Code.

Search local office applicant files to locate priority veterans for referral to job openings or training opportunities. Evaluate applicants suitability, then refer as appropriate.

Refer applicants with disabilities, or other employment barriers, to counseling, testing or other services provided by our agency, the Veterans Administration, or other organizations who provide rehabilitative and related services to veterans and other eligible applicants.

Provide applicants with information on local labor market conditions, special benefits, training programs, unemployment insurance and other sources of assistance.

Provide assistance to LVER in the office with placement, or other service to veterans whenever possible.

Coordinate with Federal, State and other program operators in the community in order to establish linkages which will insure a full range of services are available to veterans, without duplication of efforts. Provides them with information and any assistance available through the D.V.O.P. Program.

(Attach additional sheets if necessary)

7 SUPERVISION EXERCISED: List the position number and title of positions directly supervised.

Position No.	Title	Position No.	Title
	N/A		

Describe the nature of supervision exercised in the following areas: setting policies, objectives, work plans, work methods and priorities; assign, review, evaluate, train, hire, discipline.

8 EQUIPMENT OR MACHINERY USED: Indicate the percent of total work time.

Type	%	Type	%
N/A			

PERSONAL CONTACTS

Describe the types, reasons for and frequency of personal contacts necessary to perform the work of this position by using the following as a guide:

WHO		WHY	FREQUENCY
clerical	clientele	to provide information	daily
professional	general public	to make arrangements	weekly
management	private business	to negotiate	monthly
	etc.,	to persuade	yearly
		to advise	
		etc.	

Indicate whether contacts are within work unit, within agency or external.

Contacts are made outside of the agency to all types of professionals and management staff who are either private or public employers to include Community Groups and organizations. Contacts are to provide and gather information, solicit job openings, and stimulate interest in the employment of veterans. The frequency of these contacts can be daily to employers and can range from weekly to monthly regarding Community organizations.

DECISIONS AND COMMITMENTS: SCOPE AND EFFECT

Describe areas, kinds and impact of decisions and commitments; the effects, influence and significance of the work of the position; the consequence of error and subsequent accountability, and limitations on the extent and finality of actions and decisions.

All decisions regarding eligibility requirements of veterans follows prescribed guidelines. Independent decisions are made by the individual in this position when contacting employers regarding job development, training, referral, and follow-up.

Balance of duties follow established agency procedure. Consequence of error in performing placement services would result in employer complaints.

To the best of my knowledge, the duties & responsibilities described herein are accurate & complete.

Employee
Signature: _____

IMMEDIATE SUPERVISOR:

Name: _____

ADDITIONAL COMMENTS OR INCORRECT ITEMS:

SUPERVISION RECEIVED

Describe how this position is supervised by using the following as a guide:

- How is work assigned, i.e., in what format, by whom, etc.?
 - How are work methods, procedures and priorities determined?
 - What guidelines, manuals, procedures & references are available & how are they used?
 - What assistance is available from others, i.e., supervisor, coworkers, outside specialists, etc.?
 - How is work reviewed, i.e., by whom, how often, by task, by objective, what methods, etc.?
1. Work assignments are made by local office manager.
2. Work methods follow established local office procedures & priorities are set by manager.
3. Operational manuals, program letters, and reference materials are available.
4. Assistance is available from local office manager, unit supervisor, assigned LVER, and employment specialists. Assistance from State Central Office is also available as needed.
5. The quality and quantity of work is reviewed by the local office manager. Evaluation of placement activities can be daily and employer or community contacts may range from weekly to a monthly basis. Methods of review can range

KNOWLEDGES, SKILLS AND ABILITIES

Describe the knowledges, skills and abilities (KSA's) that are specifically job related, essential to perform the work of this position and are essential for appointment to this position. Do not include those things typically learned on the job.

Working knowledge of interviewing methods and techniques; current social and labor market conditions in the area. Some knowledge of pertinent social and labor legislation. Ability to establish and maintain effective working relationships with employees, other agencies and the public; to communicate effectively orally and in writing; to show an interest in helping others; to learn rules, regulations and other aspects of employment programs; to analyze and evaluate information and make sound judgements.

Which of the above can be used to distinguish superior performance?

16 EDUCATION AND EXPERIENCE

Describe specific kind, amount and level of education (curriculum, courses, specialization) and experience that indicate the source of KSA's and that can be used in selecting a person for this position.

Two years of college with course work in such areas as business, human services, economics, education, psychology, social work and sociology and two years of public contact experience in such areas as direct sales, teaching, investigating, counseling and supervising, or a Bachelors Degree in one of the above curriculum areas and one year of public contact experience as outlined above. Combinations of education and experience will also be evaluated.

17 PHYSICAL DEMANDS AND WORKING CONDITIONS

Describe any physical demands, working conditions or job hazards that affect how the incumbent performs the job or that impose additional requirements in selecting a person for the position or that affect the complexity and nature of work.

N/A

18 To the best of my knowledge, the statements in Parts I and II are accurate and complete.

Supervisor's Signature: _____

ADMINISTRATIVE REVIEW AND APPROVAL: Agency option except number 3

Comment: _____

☐ Additional comments attached

1. Signature: _____

Date: _____

Comment: _____

☐ Additional comments attached

2. Signature: _____

Date: _____

Comment: _____

☐ Additional comments attached

3. Agency Director or Designee: _____

Date: _____

STATE OPERATING PLAN
STATE OF MONTANA

STATEMENT OF WORK

LVER PROGRAM

1. Description of Program. Section 2004 of the U.S. Code requires that each local office of the Employment Service in each state have a full-time Local Veterans' Employment Representative (LVER) unless a demonstrated lack of need is determined by the Assistant Secretary for Veterans' Employment and Training (authority delegated by the Secretary). Section 2004 states that the LVER is to perform the duties prescribed for the federal veterans' employment representative set forth in Section 2003 of 38 U.S. Code. The primary purpose of the LVER program is to ensure that there is local supervision of employment service agency compliance with Federal regulations, standards of performance, and grant agreement provisions for special services and priorities for veterans. LVERs may also provide direct services to veterans.
2. Activities to be Performed. The Department of Labor and Industry will operate the program ensuring that each LVER shall perform, at the local office level, the following duties prescribed by 38 U.S. Code:
 - a. Be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs;
 - b. Engage in job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of 38 U.S. Code and in the conduct of job fairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities;
 - c. Assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's or an eligible person's particular qualifications with an available job or on-job training or apprenticeship opportunity commensurate with those qualifications;
 - d. Promote the interest of employers and labor unions in employing eligible veterans and eligible persons in conducting on-job training and apprenticeship programs for such veterans and persons;

- e. Maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keep eligible veterans and eligible persons advised of opportunities for employment and training;
- f. Promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam-era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as required by law or regulation;
- g. Assist in every possible way in improving working conditions and the advancement of employment and eligible veterans and eligible persons;
- h. Supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of 38 U.S. Code;
- i. Be responsible for ensuring that complaints of discrimination filed under section 2012 are resolved in a timely fashion;
- j. Work closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of 38 USC, cooperate with employers to identify disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;
- k. Cooperate with the staff of programs operated under Section 612A of 38 USC in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance;
- l. When requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans; and
- m. Each LVER shall be administratively responsible to the service delivery point manager and provide periodic reports to the manager regarding compliance with the standards of performance pertinent to services to Veterans and eligible persons.

3. Reporting Requirements

- a. Fiscal. The Department of Labor and Industry will provide quarterly plans and reports against the budget categories included in Part III.B. of SF 424 for LVERs. The Department will use the existing Cost Accounting System and format for accounting and reporting of accrued expenditures.

- b. Workload Activity. The Department will have available upon request a copy of each LVER's reports to the manager regarding compliance with the standards of performance pertinent to services to veterans.

4. Special Assurances.

- a. The Department will maintain ESARS workload reporting system to enable each LVER and other LVER program staff to analyze on at least a quarterly basis, data required by Section 2007 of 38 U.S. Code, and veterans service data required to analyze accomplishments versus standards of performance set forth by the Secretary of Labor.

Data elements required by 38 U.S. Code are:

- i. Numbers of eligible veterans, veterans of the Vietnam-era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the employment service and, of each of such categories, the number referred to jobs, the number placed in permanent jobs, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some service; and
 - ii. Number of Federal contractors listing suitable employment openings; the nature, types and numbers of the positions listed and the number of special disabled veterans and veterans of the Vietnam-era receiving priority referrals to such employment openings.
- b. The grantee may assign additional staff to perform LVER duties, but must assure that:
 - i. Each service delivery point or local office which had 1,000 or more new or renewed applications from veterans and other eligibles in the previous fiscal year, or which has a total of 6,000 or more veterans and other eligibles in the service delivery area or local office, will have a full-time LVER assigned, unless a demonstrated lack of need waiver is granted by the ASVET; and
 - ii. Service delivery points or local offices not required to have full-time LVERs will be functionally supervised by a part-time LVER; the portion of time to be charged to this grant agreement will be determined by the State Director and the SESA.
 - c. The LVER positions shall be in addition to and not supplant to DVOP specialists positions.

- 5. Allowable Costs. Costs may be attributed to activities directly in support of program functions and for indirect support including a fair share of overhead such as AS & T staff.

Montana Department of Labor and Industry
FY 1985 Local Veterans Employment Representative (LVER) Plans
Program Narrative

1. Objective and Need for Assistance:

The policy of the Montana Department of Labor and Industry is to provide the maximum of employment and training opportunities for disabled, Vietnam Era, and other veterans. All employment services -- including intake, counseling and testing, job development, referral to supportive services and placement -- will be made available to veterans as appropriate for their abilities and needs.

The Department intends to continue cooperative linkages between the Regional Office of the Veterans Administration, the state office and local offices of Vocational Rehabilitation, as well as the Bureau of Apprenticeship and Training, state approving agency, veteran centers, VA hospitals, Department of Veterans Affairs, veterans organizations, Private Industry Councils, service delivery agencies under the Job Training Partnership Act, and the state director of Veterans Employment and Training Service.

2. Results or Benefits Expected:

By providing quality employment services and referral to supportive services, the Department intends to improve the employment and financial status of Vietnam Era, disabled, and other Montana veterans.

Attachment 1, Montana Veterans Performance Standards, outlines the levels of service required for FY 1984. The Department is currently renegotiating these levels for FY 1985. Refer to Item 5, Workload Estimates, for numerical estimates of results anticipated from this project.

3. Approach

a. Plans:

The LVER assigned to each local office will continue to perform the duties prescribed in the Statement of Work in accordance with Section 2003 of 38 U.S. Code. An annual LVER training session is planned for FY'85.

In automated offices, LVER's have access to the 8100 system which allows computerized file searches of veterans qualified for jobs. In routine file searches, veterans appear first in lists of applicants qualified for job listings. A file search can also be done solely for qualified veteran applicants. Service to veterans would be more efficient because of faster file searches and more up-to-date and accessible statistics.

We will maintain linkages with the Veterans Administration and other state and local agencies which provide services to veterans.

- b. Quantitative Projections of Accomplishments:
The Department of Labor and Industry intends to meet or exceed the Veterans Performance Standards currently under negotiation with the State Director for Veterans Employment and Training for Montana. See Attachment 1 for FY '84 Performance Standards.
 - c. Evaluation Criteria:
The Montana Department of Labor and Industry will use ESARS for reporting and evaluation. See Attachment 2, Analysis of Veterans Performance Standards, for the performance summary used to evaluate services to veterans in Montana.
 - d. NA.
4. Geographic Location:
The Department intends to serve all veterans in the state of Montana through its local offices and outreach efforts. Specific locations are as follows:

LVER DUTY STATIONS

Anaconda
*Billings East
Billings West
Bozeman
*Butte
Cut Bank
Dillon
Glasgow
Glendive
*Great Falls
Hamilton
Havre
*Helena
*Kalispell
Lewistown
Libby
Livingston
Miles City
*Missoula
Polson
Shelby
Sidney
Thompson Falls
Wolf Point

*Full Time Assignments

5. Workload Estimates:

An estimate of workload done by all staff under the functional supervision of LVER staff is being provided for informational purposes:

1.	New applications and renewals	11,500
2.	Individuals placed	3,198
3.	Enrolled in training programs	2,502
4.	Counseling	4,170
5.	Job development contacts	3, 840

Montana Department of Labor and Industry
FY 1985 Disabled Veterans Outreach Program (DVOP) Plans
Program Narrative

1. Objective and Need for Assistance:

The policy of the Montana Department of Labor and Industry is to provide the maximum of employment and training opportunities for disabled, Vietnam Era, and other veterans. All employment services -- including intake, counseling and testing, job development, referral to supportive services and placement -- will be made available to veterans as appropriate for their abilities and needs.

The Department intends to continue cooperative linkages between the Regional Office of the Veterans Administration, the state office and local offices of Vocational Rehabilitation, as well as the Bureau of Apprenticeship and Training, state approving agency, veteran centers, VA hospitals, Department of Veterans Affairs, veterans organizations, Private Industry Councils, service delivery agencies under the Job Training Partnership Act, and the state director of Veterans Employment and Training Service.

2. Results or Benefits Expected:

By providing quality employment services and referral to supportive services, the Department intends to improve the employment and financial status of Vietnam Era, disabled, and other Montana veterans.

Refer to Item 5, Workload Estimates, for numerical estimates of results anticipated from this project.

3. Approach

a. Plans:

The DVOP will continue to perform the duties prescribed in the Statement of Work in accordance with Section 2003A of 38 U.S. Code. An annual DVOP training session is planned for FY'85.

If funding allows, the Department hopes to purchase a minimum of one IBM Personal Computer for the Disabled Veterans Outreach Program. This would allow the DVOP to enter the plan and timeline of services to veterans, and easily monitor compliance with the plan. Areas of weakness would be quickly evident, and service to veterans would be more efficient because of faster file searches and more up-to-date and accessible statistics.

We will maintain linkages with the Veterans Administration and other state and local agencies which provide services to veterans.

b. Quantitative Projections of Accomplishments:

The Department of Labor and Industry intends to meet or exceed the Veterans Performance Standards currently under negotiation with the State Director for Veterans Employment and Training for Montana. See Attachment 1 for FY '84 Performance Standards. The DVOP's intend to meet numerical estimates of workload in Item 5, Workload Estimates.

c. Evaluation Criteria:

The Montana Department of Labor and Industry will use ESARS for reporting and evaluation. See Attachment 2, Analysis of Veterans Performance Standards, for the performance summary used to evaluate services to veterans in Montana.

d. NA.

4. Geographic Location:

The Department intends to serve all veterans in the state of Montana through its local offices and outreach efforts. Specific locations are as follows:

DVOP DUTY STATIONS

Butte	1.0
Missoula	1.0
Billings	2.0
Great Falls	1.0
Kalispell	1.0
Bozeman	1.0
Helena	<u>1.0</u>
Total	8.0

Disabled Veterans Outreach Program (DVOP) staff will continue to be outstationed to ensure that 25% of their time is spent in veteran outreach activity, in accordance with Section 2003A(b)(2), Chapter 41, 38 U.S. Code and local Memoranda of Understanding. This ensures that direct contact is made with veterans, especially disabled and Vietnam Era veterans, and with staff of the outstation agencies to promote the mutual goal of maximum employment and training opportunities for veterans.

Billings - One DVOP spends 50% of scheduled work time in the V.A. Vet Center.

Missoula/Kalispell - DVOP spends 25% of scheduled work time in the Veteran's Affairs Division offices in Missoula and Kalispell.

Great Falls - DVOP spends 25% of scheduled work time in the Malmstrom Air Force Base Personnel Office.

Helena - DVOP spends 25% of scheduled work time in the Veterans Services Division's Interviewing Unit, V.A. Medical and Regional Office Center, Fort Harrison.

Butte - DVOP will spend 25% of scheduled work time in the State Veteran's Affairs Office Naval Reserve. A Memorandum of Understanding to this effect is currently under negotiation.

5. Workload Estimates:

An estimate of workload done by all staff under the functional supervision of DVOP staff is being provided for informational purposes:

	<u>Vietnam Era Veterans</u>	<u>Disabled Veterans</u>
1. New application and renewals	4,600	504
2. Individuals placed	1,260	168
3. Enrolled in training programs	672	84
4. Counseling	N/A	N/A
5. Job development contacts	389	68



Reply to the Attention of:

NOTICE OF GRANT AWARD

GRANT NO. E-9-M-5-0012

GRANT PERIOD: FROM: 10/1/84 TO: 9/30/89

AMOUNT OF FEDERAL FUNDING: See Special Provision III

GRANTEE'S NAME AND ADDRESS

Montana Department of Labor and Industry
Job Service and Training Division
Post Office Box 1728
Helena, Montana 59624

ISSUING OFFICE:

U.S. Department of Labor
Office of Procurement Services
200 Constitution Avenue, NW, S5526
Washington, D.C. 20210

This grant is funded by the U.S. Department of Labor, Veterans' Employment and Training Service, hereinafter referred to as grantor, in support of Department of Labor and Industry, hereinafter referred to as grantee. The purpose of this grant is to provide and support services for veterans under the Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER) program as authorized under Title 38, Chapter 41, U.S. Code and 20 CFR Part 652, Subpart B. This grant incorporates the following additional documents and will be administered in accordance therewith.

1. Special Provisions (attached)
2. General Provisions (attached)
3. Approved State Operating Plan (attached)
4. The grantee's Application for Federal Assistance dated July 18, 1984. (incorporated by reference)

APPROVED FOR THE GRANTOR:

BY

DANIEL P. MURPHY, Grant Officer

DATE

9/28/84

SPECIAL PROVISIONS

I. SCOPE

The grantee shall provide and support services for veterans as required under the disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER) program. Performance of this effort shall be in accordance with the grantee's application and all other terms and conditions of this grant.

II. GRANT PERIOD

All work to be accomplished hereunder shall be performed during the period October 1, 1984, through September 30, 1989.

III. GRANT AMOUNT

- A. The total amount of funds approved for this grant is \$601,546, which is allocated to DVOP and LVER as follows:

<u>Fiscal</u> <u>Year</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
DVOP:	\$258,874	\$_____	\$_____	\$_____	\$_____
LVER:	\$342,672	\$_____	\$_____	\$_____	\$_____

- B. Availability of Fiscal Year 1985 - 1989 funds is subject to: (1) Congressional action on the U.S. Department of Labor appropriation; and (2) an approved State operating plan for the fiscal year. Notification of obligation authority will be issued to the grantee by the Regional Director for Veterans' Employment and Training.
- C. The U.S. Code requires that funds required to operate the programs be separately identifiable. Therefore, costs attributable to a specific program (DVOP or LVER) may be charged only to the funds available for that program. Neither costs nor funds may be moved between the two programs or any other program operated by the grantee without prior approval of the Grant Officer. In the event the grantee incurs costs for either program in excess of the amount available for that program, such excess shall be borne by the grantee. Funds available shall be expended in accordance with the grantee's "DVOP/LVER State Obligations" plan. (See paragraph IV.A.).

SPECIAL PROVISIONS

IV. PAYMENTS UNDER THE GRANT

- A. Payments to the grantee will be made by cash advances under the Letter of Credit - Treasury Financial Communications Systems (LOC-TFCS). Advances will be secured by the grantee's presentation of a completed and signed TSF Form 5805 to its financial institution. Although advances will be made against a single letter of credit for both DVOP and LVER, the grantee must specify the amount of funds requested for each program separately in the "Third Party Information" block of the TSF Form 5805. Detailed procedures are included in the LOC-TFCS instructions booklet which will be provided to the grantee.
- B. The LOC-TFCS is designed to make Federal funds available to a grantee on the first workday following receipt of a request for funds by the Department of Treasury. Therefore, the amount requested should be based on actual, immediate cash requirements in order to minimize Federal cash on hand in accordance with policies established in Treasury Department Circular 1075. The timing and amount of advances shall be as close as is administratively feasible to actual disbursements by the grantee for direct program costs and a proportionate share of any allowable indirect costs. "Disbursement" is considered to be the time of the actual release of checks by the grantee to payees. In addition, the grantee shall impose the same standards of timing and amount upon any subgrantees or subcontractors.
- C. If a grantee receiving advance payments demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between the receipt of cash advances and the disbursement thereof, the Grant Officer may, after notice to the grantee, discontinue the advance payment method and make payments by reimbursement.
- D. The grantee is placed on notice that notwithstanding the fact that the Letter of Credit may indicate that full funding for the grant period is available, the Government's obligation is contingent upon the availability of a legal appropriation. If a timely, legal and complete appropriation is not enacted by the U.S. Government, the Department of Labor reserves the right, upon proper notice to the grantee, to unilaterally reduce the amount of the Letter of Credit to reflect the actual appropriation available.

SPECIAL PROVISIONS

V. ADJUSTMENTS

In order to insure national accomplishment of projected workload, the Veterans' Employment and Training Service regional office will make quarterly reviews of uncommitted funds. Uncommitted funds may be recaptured and redistributed among states as necessary in accordance with Veterans Program Letter #10-84, dated March 23, 1984.

VI. REPORTING REQUIREMENTS

A. DVOP/LVER State Obligations (Staff Years and Dollar Levels) Plan

This plan, submitted with the approved application, shall be revised and resubmitted whenever a major modification to the state operating plan occurs.

B. Financial Status Reports - SESA Cost Accounting Systems - In keeping with the grantee's proposal to estimate and distribute costs in accordance with the established SESA Cost Accounting System, reporting requirements under this grant are based on that system. The grantee shall produce the following reports in the detail and format customary to the SESA Cost Accounting System. Applicable fund ledger codes are 92025 (LVER) and 92035 (DVOP).

<u>Report No.</u>	<u>Report Name</u>
-------------------	--------------------

61	Status of Obligational Authority
94B	Activity Cost and Positions Paid

For those states that opt to discontinue the present CAS and implement a revised system, the following minimal cost accounting information is required for both DVOP and LVER base and DVOP and LVER AS & T: Personal services, personal benefits, non-personal services and full-time equivalent positions paid.

These reports shall be submitted quarterly in hard copy not later than thirty calendar days after the end of the reporting period.

C. Performance Reports

1. DVOP Workload Activity Report - The grantee shall report statewide and by service delivery point or local office the numbers of disabled veterans, Vietnam-era veterans, and other veterans who were

SPECIAL PROVISIONS

provided the following services (e.g., standard ESARS definitions unless otherwise noted) under the DVOP:

- a. Referral to jobs
- b. Placement in jobs
- c. Referral to training programs
- d. Placement in training programs
- e. Job development contacts
- f. Number of veterans contacted to ascertain their need for employment services (non-ESARS)

This report shall be submitted not later than thirty calendar days after the last day of each Federal fiscal year quarter.

2. LVER Workload Activity Reports - The grantee shall have available upon request a copy of each LVER's reports to the manager regarding compliance with the standards of performance pertinent to services to veterans.
3. Technical Performance Report (DVOP and LVER)
 - a. The recipient shall submit quarterly technical performance reports containing the following information on performance of the DVOP and LVER programs.
 - (1) A comparison of actual accomplishments to established goals, if any, for the reporting period and any findings related to monitoring efforts.
 - (2) Reasons for slippage if established goals have not been met.
 - (3) Other pertinent information including analyses and explanations of any cost overruns.
 - b. Quarterly performance reports shall be submitted not later than 30 calendar days

SPECIAL PROVISIONS

after the last day of each Federal fiscal year quarter.

- c. A final technical performance report shall be submitted not later than 90 calendar days after the end of the grant period and shall summarize accomplishments, activities, and conclusions.

D. Distribution

Reports shall be submitted as follows:

Two copies State Director for Veterans'
of all Employment and Training
reports:

One copy Office of the Assistant Secretary for
each of Veterans' Employment and Training
financial U.S. Department of Labor
status Room S-1316
reports and 200 Constitution Avenue, NW
the "DVOP/
LVER State
Operating
Plan:

One copy Grant Officer
of all Office of Procurement Services
reports: U.S. Department of Labor
Room S-5526
200 Constitution Avenue, NW
Washington, D.C. 20210

VII. GRANT ADMINISTRATION

- A. The State Director for Veterans' Employment and Training (SDVET) shall serve as the Grant Officer's technical representative and will monitor performance by the grantee. He is authorized to review and recommend approval of:

1. Technical matters not involving a change in the scope, cost, or conditions of this grant.
2. Progress reports.
3. Funding requests.

SPECIAL PROVISIONS

- B. Requests for actions requiring grant officer approval, such as requests for budget revisions and purchases of nonexpendable personal property, shall be submitted by the grantee to the SDVET for review and recommendation concurrent with submission to the Grant Officer.
- C. The SDVET is not authorized to direct any action that results in a change in the scope, price, terms or conditions of this grant.

September 1984

GENERAL PROVISIONS
GRANTS AND COOPERATIVE AGREEMENTS

I. ADMINISTRATIVE PROVISIONS

This grant is subject to the administrative standards governing U.S. Department of Labor grants and agreements set forth in 41 Code of Federal Regulations (CFR) 29-70.

II. MODIFICATIONS TO THE GRANT

This grant may be unilaterally modified in writing by the Grant Officer whenever there has been a change in any Federal statute, regulation, Executive Order, or other Federal law, which, as determined by the U.S. Department of Labor, is relevant to the financial assistance provided under the grant.

III. ALLOWABLE COSTS

Payment up to the amount specified in the grant shall be made only for allowable, allocable, and reasonable costs actually incurred in conducting the work under the grant. The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles:

State and Local Governments - OMB Circular A-87
Educational Institutions and Hospitals - OMB Circular A-21
Non-profit Organizations - OMB Circular A-122
Profit-making Commercial Firms - Federal Procurement Regulations 1-15.2

IV. INTEREST EARNED AND PROGRAM INCOME

Requirements for the use and disposal of interest earned and program income are set forth in 41 CFR 29-70.205. When required to do so by this provision, the grantee shall remit interest earned to the Grant Officer. Program income earned during the period of the grant shall be added to funds committed to the project and used to further eligible program objectives.

V. GRANT CHANGES REQUIRING GRANT OFFICER APPROVAL

41 CFR 29-70.211 sets forth requirements for obtaining Grant Officer approval for deviations from the grant objectives, scope or budget, including the transfer of

substantive work by a non-profit organization. Expenditures requiring prior written approval are found in the applicable Federal Cost Principles listed in paragraph III of these General Provisions.

VI. PROPERTY ACQUISITION AND MANAGEMENT

41 CFR 29-70.215-5, as amended, requires prior Grant Officer approval for acquisition of non-expendable personal property with a unit acquisition cost of \$500.00 or more unless it has been identified and itemized on the approved budget. The Department of Labor reserves the right to take title to any and all property with a unit acquisition cost of \$1,000.00 or more purchased with grant funds when the grant terminates or if the property is no longer required for its original purpose. A unit shall be construed in its broadest sense to encompass component parts, sets, etc. CFR 29-70.215 and any subsequent amendments thereto, must be followed in the acquisition, accounting for, and disposition of property and are incorporated into the grant.

VII. GRANT CLOSEOUT PROCEDURES

A. Definitions

1. Grant closeout. The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.
2. Date of completion. The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends.
3. Disallowed costs. Disallowed costs are those charges to a grant which the grantor agency or its representative determines to be unallowable in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

B. Grants shall be closed out in accordance with the following procedures:

1. Upon request, the grantor shall make prompt payments to a grantee for allowable reimburseable costs under the grant being closed out.
2. The grantee shall immediately refund to the grantor any balance of unobligated (unencumbered) cash advanced to the grantee that is not

authorized to be retained by the grantee for use on other grants.

3. Within 90 days after completion of the grant the grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may request extensions when requested by the grantee.
4. The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.
5. The grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of 41 CFR 29-70.215.
6. In the event a final audit has not been performed prior to the closeout of the grant, the grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

VIII. SUSPENSION AND TERMINATION PROCEDURES

A. Definitions

1. Termination. The termination of a grant means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.
 2. Suspension. The suspension of a grant is an action by the Grant Officer which temporarily suspends Federal assistance under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the Grant Officer.
- B. When a grantee has failed to comply with the terms, conditions or standards of the grant the Grant Officer may, on reasonable notice to the grantee, suspend the grant, and withhold further payments, or prohibit the grantee from incurring additional obligations of grant funds, pending corrective action by the grantee or a decision to terminate in accordance with paragraph C. below. The Grant Officer shall allow all necessary and proper costs which the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable Federal Cost Principles.

C. This grant may be terminated for cause of convenience.

1. Termination for cause. The Grant Officer may terminate this grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the grant. The Grant officer shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to the grantee or recoveries by the grantor under grants terminated for cause shall be in accord with the legal rights and liabilities of the parties.
2. Termination for convenience. The grantor or grantee may terminate this grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Grant Officer shall allow full credit to the grantee for the Federal share of the noncancellable obligations, properly incurred by the grantee prior to termination.

IX. ENCUMBRANCE OF GRANT FUNDS

Grant funds may not be encumbered/obligated by the grantee prior to the fiscal year for which funds are obligated. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations shall involve only specified commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/obligations incurred during the grant period shall be liquidated within 90 days after the end of the grant period, if practicable.

X. SITE VISITS

The grantor, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control

systems and to provide such technical assistance as may be required. If any site visit is made by the grantor on the premises of the grantee or a subcontractor under this grant, the grantee shall provide and shall require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay the work.

XI. ORDER OF PRECEDENCE

In the event of any inconsistency between any provisions of this grant, the following order of precedence shall apply:

- A. Special Provisions
- B. General Provisions
- C. Grantee's Application for Federal Assistance

STATE OPERATING PLAN
DVOP/LVER PROGRAMS

MONTANA

Department of Labor & Industry
Job Service Division

STATE AGENCY

FISCAL YEAR

1985

DATE 07-17-84

	Personal 'Services	Benefits	Non-Personal ' Services	Total Funds	Staff ' Years	Average Cost Per SY ' (Total + SYs)'
I. DVOP						
A. DVOP Base	152,200	30,440	52,000	234,640 ✓	8.00 ✓	29,330
B. DVOP Overhead (Inc. AS&T)	15,150	3,030	6,054	24,234 ✓	0.60 ✓	40,390
SUBTOTAL:	167,350	33,470	58,054	258,874 ✓	8.60 ✓	30,102
II. LVER						
A. LVER Base	234,365	46,880	22,055	303,300 ✓	10.50 ✓	28,886
B. LVER Overhead (Inc. AS&T)	24,600	4,920	9,852	39,372 ✓	0.75 ✓	52,496
SUBTOTAL:	258,965	51,800	31,907	342,672 ✓	11.25 ✓	30,460
GRAND TOTAL:	426,315	85,270	89,961	601,546	19.85	30,305

RECEIVED

OCT 4 - 1984

DEPT. OF LABOR & INDUSTRY
COMMISSIONER'S OFFICE

GRANT MODIFICATION

GRANT
NUMBER

E-9-M-5-0012

MODIFICATION
NUMBER

11

Grantee Name, Address:

Montana Department of Labor and Industry
Job Service and Training Division
Post Office Box 1728
Helena, Montana 59624

The above numbered grant is hereby modified to make an administrative change as follows:

1. Under Article II, entitled Grant Period add the following:

"All work under the DVOP/LVER Fiscal 1985 funds must be accomplished during the period October 1, 1984, through September 30, 1985."

Approved By

Name and Title

MELVIN GOLDBERG
Chief, Division of
Contract Administration
Office of Procurement Services
Signature

Date

9/28/84

(March 25, 1985)

EXHIBIT 4
3-25-85
HB 473
Opp

MR. CHAIRMAN AND MEMBERS OF THE HOUSE APPROPRIATIONS COMMITTEE, MY NAME IS BERNADETTE OPP AND I AM THE VICE CHAIRMAN OF THE BOARD OF VETERANS AFFAIRS.

I AM HERE TODAY ON BEHALF OF THE BOARD IN SUPPORT OF HOUSE BILL 473.

WE BELIEVE MONTANA'S 108,000 VETERANS AND PARTICULARLY THE 31,000 VIETNAM ERA VETERANS, AND THOSE THAT SERVED IN GRANADA AND LEBANON ARE IN NEED OF AN "EQUALIZER" OR "PREFERENCE" IN ORDER TO OBTAIN EMPLOYMENT WITHIN THIS STATE.

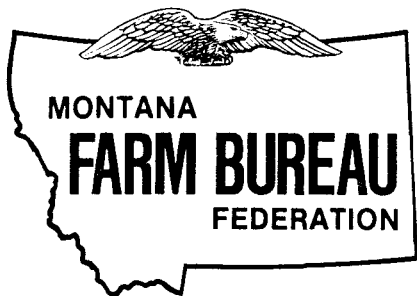
MONTANA'S VETERANS HAVE ALREADY SERVED THIS NATION AND STATE PROUDLY. THEY HAVE ALREADY PAID THE PRICE. IN OVER 250 INSTANCES THEY HAVE PAID THE MAXIMUM PRICE, WHILE THOUSANDS OF OTHER VETERANS PAY THE PRICE ON A DAILY BASIS BY BEARING THE PHYSICAL AND MENTAL SCARS OF WAR.

TODAY, YOU ARE ASKED TO WEIGH THE PRICE TAG OF HOUSE BILL 473 AGAINST THE PRICE ALREADY PAID BY MONTANA VETERANS.

WE ARE ASKING YOU TO ASSIST IN BALANCING THE SCALES OF EMPLOYMENT TODAY. EVERY VETERAN KNOWS HE OR SHE HAS ONE GUARANTEE AT THE END OF SERVICE AND THE GUARANTEE IS UNEMPLOYMENT. HOUSE BILL 473 IS DESIGNED TO LESSEN THE IMPACT OF THIS GUARANTEE.

AS A VETERAN AND A MEMBER OF THE BOARD, I WOULD APPRECIATE YOUR SUPPORT FOR HOUSE BILL 473.

THANK YOU.



502 South 19th

Bozeman, Montana 59715

Phone (406) 587-3153

TESTIMONY BY: Lorna FrankBILL #: HB 473 DATE: 3/25/85SUPPORT XXX OPPOSE

Mr. Chairman, Committee members, for the record my name is Lorna Frank, representing the Montana Farm Bureau.

Farm Bureau members believe the State Veterans and Handicap Preference Law be changed to coincide with the Federal Law. We believe HB 473 does this and whole heartedly supports HB 473. We urge this committee to recommend a do pass.

SIGNED: Lorna Frank

House Bill 473

Last morning Mr. Chairman, members of the Committee. I appreciate the opportunity to appear before you this morning as a proponent of HB 473. I'm ~~Bill Williams~~ ^{Bill Williams} senator from senate dist 15. ~~I have just been able to hear all of the previous testimony and need to present a bill of my own and attend a committee meeting at the evening. I would like to ask a favor of you.~~

There is no reason for me to repeat the same testimony you've heard or will hear, so with your permission I would like to conduct a short Q&A and maybe see a show of hands. - - -

- (1 How many of you know of any WW I vets looking for employment?
- 2 How about WW 2 vets that are in the ^{work} job market?
- 3 Now the Korean conflict gets us maybe a little closer to the job market, but even that war is aging pretty fast. That's the time span I was in and I'm retired after working for 35 years so even this group is fading out of the job market pretty well established in the Korean conflict.
- 4 Now, how many of you know a veteran of the Vietnam conflict?
This is the largest group of veterans that I would like to relate to.
- 5 How many of you know that I was state commander of the ¹⁹⁷⁴ ~~1974~~ ^{MI} ~~MI~~

F

6. I'm sure most of you are aware of the fact the Vietnam conflict started in August of 1964 but how many know that it has lasted almost 11 years?

My term as Commander of the Region was about in the middle of this conflict and about this time several were returning home to see what was then a hero's welcome.

7. How many here today realize that about this time early 1970 we were finally ~~finding~~ finding out that we possibly had some C.I.'s in prison camps in Vietnam.

I found out about it at a meeting in Salt Lake City and for the next 3 or 4 years my wife & I became quite active in the P.O.W. & M.I.A. program.

8. How many people here today know how many identified P.O.W.'s and M.I.A.'s were from Montana?

I'll tell you, we had one returned P.O.W. - Paul Kuntzen. He's 3 years to this month, at the time I was working with him and met about 15 more ex P.O.W.'s. They had spent 5 to 7 1/2 years in prison with well over 1/2 the time in solitary confinement. This group had love for this country that you wouldn't believe could exist.

You know, none of these ex P.O.W.'s should have a living out by the same token I don't believe that any veteran that would be eligible to see some small benefit in H.B. 973 would feel they were owed a living either.



9. I hope I am not taking up too much of your time, but guess a couple of hours spent here on this issue is a mighty short time, measured against 6 or 7 years in a POW camp.

10. Oh yes, the M.I.A. missing in action. How many of you may have read Field 11's. I'd like to read Chitty there if you did let the paper get a check the week-end ball scores? Well in your 3A Did very many of you notice the head lines - Victims of the remains of 5 M.I.A.'s (readers) Now these remains have not been identified yet but if they should identify them by name only and no address I'll tell you how you could maybe tell if they were Montanans.

11. How many of you have gone out the back door of the capitol, gone to the left and headed to the Mitchell building or one of the other buildings in the complex? Now, if I don't hear from you so, a letter - get if you will make it a point to get before you take a departure action in this H.E. 1973, you can walk sorta slow when you get 40 or 50 feet past the east end of the capitol and look in the ground to your left.

You will see a small monument there with several names on it. It is directly behind it is a tree that was planted on the day that 9 M.I.A.'s were found. This tree is a living monument to the M.I.A.'s but also should remind us that we are not at the 11th.

IV risk of having his name on that monument.

I suppose plan to wait till you the names
of the veterans on that monument in hopes that
you will go by it and give a moment and
think as you were said as such they were as
what they would maybe be doing today if they
were with us.

Introduces

Kelly Holmes
Rep. Wm. L. Carter

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



EXHIBIT 7
3-25-85
HB473
Kline

March 22, 1985

Testimony for the Women's Lobbyist Fund (WLF) by Gail Kline, before Appropriations, opposing HB 473.

Mr. Chairman and members of Appropriations:

For the record, my name is Gail Kline, representing the Women's Lobbyist Fund, whose membership increased last Saturday by adding 11 new organizations accepted at our board meeting to the existing 17 groups who had a membership of around 3,000. The Women's Lobbyist Fund represents a broad spectrum of interests and share a common goal that shapes our opposition to HB 473.

Our position on the issue of veteran's preference has been long and involved. We began holding public meetings, polling our membership, and talking with representatives of veterans and the disabled during mid-1983. The legislature also took a similar approach through an interim committee formed during the 1983 legislative session, as you attempted to find an equitable solution to the dilemma of preference. The legislature spent an entire week in special session in December 1983, at considerable expense to ourselves, the taxpayers, to reach a compromise on the issue.

The compromise reached during the special session of the legislature was not an easy one. All possible angles of the preference question were discussed, researched and debated. The result was a bill that appears to be a fair and reasonable approach to the difficult question of employment preference. The Women's Lobbyist Fund supports our existing law that was developed through careful balancing of the rights and interests of all parties involved.

HB 473, before you today, would throw out the work of the past two years. The bill separates the interests of veterans from those of handicapped civilians in employment preference, and creates a separate-but-not-equal system of applying preference. The bill would disrupt the delicate balance of rights achieved by the special legislative session for disabled persons.

HB 473 would insert a costly system of points in determining who should get a job. All open jobs in state government would need to be filled based on testing or interview procedures that could be scored. Development of testing and scored interview procedures with statistical reliability for predicting the most qualified candidate is expensive. In order to insure the scored procedures do not contain bias that lead to discrimination in the hiring process, test development experts need to review each test and determine it is non-biased. Such a review may take months for a single test or scored procedure.

HB 473 would change, for no good reason, compromises reached painstakingly during the special legislative session in December, 1983.

HB 473 destroys the balance of rights and interests achieved for those seeking public employment. There is no evidence that veterans are not being preferred under existing law--in fact, the evidence shows that veterans are being preferred over non-veterans in all covered public employment.

It has never been the intention of the Women's Lobbyist Fund to pit one disadvantaged group against another. We are not against veterans. My father is a veteran, as are other family members, friends and relatives. All we ask is that you consider what is truly fair to everyone--all Montanans, whether they be male or female, veteran or nonveteran, disabled or not, minority or majority, employed or unemployed, as well as their children. Current law has been pieced together to take into consideration all these needs and interests and requires no additional funding.

The Women's Lobbyist fund urges you to support existing preference and oppose funding for HB 473.

EXHIBIT 8

3-25-85

HB473

Nys

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JIM NYS, I AM A PERSONNEL OFFICER IN STATE GOVERNMENT AND WAS FOR SEVERAL YEARS THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATOR FOR THE STATE OF MONTANA. I AM APPEARING HERE TODAY ON MY OWN BEHALF TO OPPOSE HB 473 ON THE FOLLOWING GROUNDS. *I Am A Vietnam Veteran*
(1) SECTION 703(H) OF THE OF THE CIVIL RIGHTS ACT OF 1964 AUTHORIZES EMPLOYERS TO

" GIVE AND ACT ON THE RESULTS OF ANY PROFESSIONALLY DEVELOPED ABILITY TEST"

THIS SECTION HAS BEEN GIVEN MEANING THROUGH HUNDREDS OF LAWSUITS DECIDED BY FEDERAL COURTS UP TO AND ON MANY OCCASSIONS INCLUDING THE UNITED STATES SUPREME COURT. THIS BODY OF LAW HAS BEEN INCORPORATED INTO THE FEDERAL GOVERNMENT'S UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (UGESP)- REGULATIONS JOINTLY ISSUED BY THE U. S. DEPARTMENTS OF LABOR, JUSTICE, TREASURY AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

SIMPLY PUT, THESE FEDERAL REGULATIONS REQUIRE THAT ANY SELECTION DEVICE USED TO HIRE, PROMOTE OR RETAIN EMPLOYEES BE VALID- OR IN OTHER WORDS BE CAPABLE OF ACTUALLY PREDICTING SUCESS ON THE JOB.

MANY PUBLIC JURISDICTIONS HAVE BEEN SUED OVER THE USE OF NON -PROPERLY VALIDATED SELECTION DEVICES AS A RESULT OF THESE GUIDELINES. FOR EXAMPLE:

THE U.S. OFFICE OF PERSONNEL MANAGEMENT HAS ABANDONED THE USE OF BOTH THE FEDERAL SERVICE ENTRANCE EXAM (FSEE) AND THE PROFESSIONAL AND ADMINISTRATIVE CAREER EXAM (PACE) BECAUSE IT COULD NOT SHOW THEM TO BE LEGALLY VALID EVEN THOUGH THEY WERE DEVELOPED BY PROFESSIONAL TEST DEVELOPERS.

THE STATE OF NEW YORK HAD ITS CORRECTIONAL OFFICER EXAM INVALIDATED IN PART, BECAUSE OF THE ARBITRARY ESTABLISHMENT OF 70% AS THE PASS/FAIL POINT.

ON AUGUST 20, 1976 A FEDERAL DISTRICT JUDGE ORDERED THE STATE OF ALABAMA TO HALT ALL EMPLOYMENT TESTING AND TO NOT USE ANY TEST AS A RANKING DEVICE "UNLESS AND UNTIL IT HAS BEEN VALIDATED IN ACCORDANCE WITH THE PROVISIONS OF THE UNIFORM SELECTION GUIDELINES"

IN 1982, THE STATE OF CONNECTICUT'S SOCIAL WORKER TEST WAS INVALIDATED PROMPTING THE U.S. SUPREME COURT TO OBSERVE THAT CONGRESS ENACTED TITLE VII OF THE CIVIL RIGHTS ACT IN PART BECAUSE OF ITS "CONCERN OVER THE WIDESPREAD USE BY STATE GOVERNMENTS OF INVALID SELECTION TECHNIQUES"

ADMITTEDLY SECTION 712 OF THE ACT EXEMPTS VETERAN'S PREFERENCE LAWS , BUT HE 473 REQUIRES THE USE OF SCORED PROCEDURES IN ALL CASES AND IT IS IN THE CASE OF A NON VETERAN BEING DENIED A JOB BECAUSE OF AN INVALID PROCEDURE THAT SUBSTANTIAL ADDITIONAL LEGAL LIABILITY COULD ACCRUE TO STATE AGENCIES IF THEY ARE FORCED TO "HOMEGROW" TESTS OR TO USE PROCEDURES THAT CANNOT LEGALLY BE VALIDATED FOR USE IN MONTANA.

(2) HB 473 IMPLIES A NUMBER OF REQUIREMENTS SUCH AS THE REQUIREMENT TO SELECT ONLY THE TOP SCORING APPLICANT IN ANY SELECTION PROCEDURE. ASIDE FROM THE OBVIOUS PROBLEMS ASSOCIATED WITH SUCH AN APPROACH , HB 473 FAILS TO ESTABLISH A MECHANISM FOR DEALING WITH THE THOUSANDS OF DIFFERENT PROCEDURAL ISSUES THAT WERE FOR EXAMPLE EMBODIED IN THE MERIT SYSTEM COUNCIL'S RECENTLY INVALIDATED RULES. HB 473 , IF ADOPTED , SHOULD BE AMENDED TO INCLUDE RULE MAKING AUTHORITY AND A QUASI-JUDICIAL OVERSIGHT BOARD TO ESTABLISH SUCH PROCEDURES .

I HAVE NO INHERENT OPPOSITION TO THE USE OF SCORED DEVICES BUT I DO FEEL A PROFESSIONAL OBLIGATION TO USE DEFENSIBLE AND PROFESSIONALLY DEVELOPED VALID SCREENING DEVICES.

THE FEDERAL GOVERNMENT, I AM TOLD, SPENDS AN AVERAGE OF 15 HOURS , DEVELOPING EACH QUESTION THAT IT USES ON IT WRITTEN TESTS AND EVEN THEN THEY MAY NOT PASS LEGAL MUSTER IN THE FEDERAL COURTS.

MANY WILL POINT TO SUCH ALTERNATIVES AS AS PURCHASING TESTS OR USING THE JOE SERVICE GATB TEST- AN APPROACH THAT HAS SO FAR NOT BEEN APPROVED BY THE COURTS HB 473 IMPOSES A NUMBER OF REQUIREMENTS ON STATE AND LOCAL GOVERNMENTS TO DEVELOP SCORED SELECTION PROCEDURES. THE UGESP STATE" THE GUIDELINES PERMIT RANKING WHERE THE EVIDENCE OF VALIDITY IS SUFFICIENT TO SUPPORT THAT METHOD OF USE. STATE LAWS WHICH COMPEL RANK ORDERING GENERALLY DO SO ON THE ASSUMPTION

THAT THE SELECTION DEVICE IS VALID. WHERE THERE IS ADVERSE IMPACT AND THE VALIDITY EVIDENCE DOES NOT SUPPORT THAT METHOD OF USE, THE PROPER INTERPRETATION OF SUCH STATE LAW WOULD REQUIRE VALIDATION PRIOR TO USE. UNDER THE SUPREMACY CLAUSE HOWEVER, FEDERAL LAW OR VALID REGULATION OVERRIDES ANY CONTRARY PROVISION OF STATE LAW.

IF HB 473 SHOULD PASS, I HOPE THE LEGISLATURE PROVIDES FOR ITS PROPER IMPLEMENTATION. I BELIEVE THE CURRENT FISCAL NOTE TO BE INADEQUATE TO PROPERLY FUND THE BILLS EXPRESS AND IMPLIED REQUIREMENTS.

I HAVE ASSEMBLED A LIST OF MORE THAN A DOZEN OTHER TECHNICAL PROBLEMS THAT SHOULD BE ADDRESSED IF THE COMMITTEE DECIDES TO APPROVE THE BILL. IN THE INTEREST OF TIME I SHALL SUBMIT THEM AS WRITTEN TESTIMONY BUT I WOULD BE HAPPY TO RESPOND TO QUESTIONS FROM MEMBERS OF THE PANEL

MY NAME IS JIM NYS. I AM A PERSONNEL OFFICER IN STATE GOVERNMENT BUT AM APPEARING TODAY ON MY OWN BEHALF. I AM ALSO A VIETNAM ERA VETERAN AND A 19 YEAR MEMBER OF THE U.S. ARMED FORCES.

I AM OPPOSED TO HB 473 FOR THE FOLLOWING REASONS:

THE DEFINITION OF ACTIVE DUTY IS DEFECTIVE IN THAT IT WOULD ELIMINATE A LARGE NUMBER OF RESERVES WHO SERVED ON FULL ACTIVE DUTY AS RESERVES. IT SHOULD BE RE-WRITTEN TO ELIMINATE " ACTIVE DUTY FOR TRAINING PURPOSES".

THE BILL ELIMINATES THE 30% DISABLED REQUIREMENT THAT IS THE THRESHOLD FOR VA PURPOSES AS THE LEVEL OF A DISABILITY THAT AFFECTS THE ABILITY TO FIND EMPLOYMENT. IT ALSO ESTABLISHES A LOWER STANDARD THAN FOR HANDICAPPED CIVILIANS.

THE BILL IS SEXIST IN THAT IT ALLOWS THE PREFERENCE TO BE USED UNDER SOME CIRCUMSTANCES BY A VETERANS MOTHER BUT NOT FATHER.

THE BILL APPEARS TO GIVE PREFERENCE TO THE UNQUALIFIED SPOUSES OF DISABLED VETERANS.

THE BILL IMPLIES THAT THE ONE PERSON WITH THE HIGH SCORE MUST BE EMPLOYED- A DANGEROUS APPROACH THAT OVERSTATES THE ABILITY OF SCORED DEVICES TO MEASURE JOB SUITABILITY AND IGNORES IMPORTANT TRAITS THAT ARE DIFFICULT OR IMPOSSIBLE TO QUANTIFY.

THE BILL REQUIRES THE USE OF EXPENSIVE AND TIME CONSUMING SCORED PROCEDURES EVEN FOR TEMPORARY POSITIONS.

THE BILL WOULD REQUIRE VIETNAM ERA VETERANS TO SERVE 180 DAYS BUT WWII AND KOREAN VETS TO SERVE ONLY ONE DAY. IT ALSO INCLUDES PEACE TIME VETERANS.

THE BILL SEEMS TO ARBITRARILY CREATE A PASSING SCORE OF 70%. THIS APPROACH WAS STRUCK DOWN WHEN USED BY THE STATE OF NEW YORK.

THE BILL FAILS TO STATE WHAT THE PROCEDURE IS TO BREAK TIES BETWEEN PERSONS. DO HIRING OFFICIALS USE ONLY WHOLE SCORES OR RULE OF RANKS OR WHAT?

I BELIEVE THE REMEDY OF 150% OF ALLEGEDLY LOST WAGES WILL MORE THAN MAKE A PERSON WHOLE AND WILL CREATE A WHOLE NEW SET OF LAWSUITS AGAINST PUBLIC EMPLOYERS.

I AM ESPECIALLY OPPOSED TO THE REDUCTION IN FORCE SECTION THAT WOULD FORCE THE RETENTION OF A MEDIOCRE VETERAN OVER A SUPERIOR NON-VETERAN. IF SUCH A PUBLIC POLICY IS ADOPTED I FEEL THAT IT WILL HAVE DIRE EFFECTS ON THE RETENTION OF QUALIFIED PERSONS IN PUBLIC SERVICE.

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FOR EXAMPLE: HANDICAPPED PERSONS MUST BE RESIDENTS, BUT NOT VETERANS; SCHOOL DISTRICTS, UNIVERSITIES AND THE LIKE WOULD HAVE TO PREFER VETS BUT NOT HANDICAPPED.

I BELIEVE THE BIGGEST PROBLEM IN HB 473 IS THAT IT REQUIRES SCORED PROCEDURES WITHOUT THE RESOURCES TO PROPERLY DESIGN OR APPLY THEM.

INFORMATION FROM THE STATES SURROUNDING MONTANA INDICATE THAT THE FISCAL NOTE FOR HB 473 IS FAR TOO LOW. AS PROPOSED, WITHOUT PROPER RESOURCES THE BILL

WOULD REQUIRE ME TO COMPROMISE MY PROFESSIONAL STANDARDS AND VIOLATE FEDERAL LAW TO CARRY OUT ITS PROVISIONS. I FEEL THAT THIS IS EQUIVILENT TO TELLING AN ACCOUNTANT TO IGNORE "GENERALLY ACCEPTED ACCOUNTING PROCEDURES" AND JUST "COME UP WITH THE FIGURES."

THE PRESENT LAW IS WORKING WELL, I SEE NO NEED TO CHANGE IT AND DESTROY IT FOR SOMETHING THAT WILL TAKE PERSONNEL MANAGEMENT BACK TO THE DARK AGES. THE APPROACH WE ARE USING- THAT OF SUBSTANTIALLY EQUAL- WORKS WELL IT MAY BE DIFFICULT TO UNDERSTAND FOR THOSE WITHOUT PERSONNEL TRAINING BUT THE FACT THAT ORBITAL MECHANICS IS BEYOND ME HASNT KEPT THE SHUTTLE FROM FLYING

FRIDAY, AUGUST 25, 1978
PART IV



**EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION**

**CIVIL SERVICE
COMMISSION**

DEPARTMENT OF LABOR

**DEPARTMENT OF
JUSTICE**



**ADOPTION BY FOUR AGENCIES
OF UNIFORM GUIDELINES ON
EMPLOYEE SELECTION
PROCEDURES (1978)**

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JIM NYS. I AM A PERSONNEL OFFICER IN STATE GOVERNMENT AND WAS FOR SEVERAL YEARS THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATOR FOR THE STATE OF MONTANA. I AM APPEARING HERE TODAY ON MY OWN BEHALF TO OPPOSE HB 473 ON THE FOLLOWING GROUNDS. *I Am A Vietnam Veteran*
(1) SECTION 703(H) OF THE OF THE CIVIL RIGHTS ACT OF 1964 AUTHORIZES EMPLOYERS TO

" GIVE AND ACT ON THE RESULTS OF ANY PROFESSIONALLY DEVELOPED ABILITY TEST"

THIS SECTION HAS BEEN GIVEN MEANING THROUGH HUNDREDS OF LAWSUITS DECIDED BY FEDERAL COURTS UP TO AND ON MANY OCCASSIONS INCLUDING THE UNITED STATES SUPREME COURT. THIS BODY OF LAW HAS BEEN INCORPORATED INTO THE FEDERAL GOVERNMENT'S UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (UGESP)- REGULATIONS JOINTLY ISSUED BY THE U. S. DEPARTMENTS OF LABOR, JUSTICE, TREASURY AND THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

SIMPLY PUT, THESE FEDERAL REGULATIONS REQUIRE THAT ANY SELECTION DEVICE USED TO HIRE, PROMOTE OR RETAIN EMPLOYEES BE VALID- OR IN OTHER WORDS BE CAPABLE OF ACTUALLY PREDICTING SUCESS ON THE JOB.

MANY PUBLIC JURISDICTIONS HAVE BEEN SUED OVER THE USE OF NON -PROPERLY VALIDATED SELECTION DEVICES AS A RESULT OF THESE GUIDELINES. FOR EXAMPLE:

THE U.S. OFFICE OF PERSONNEL MANAGEMENT HAS ABANDONED THE USE OF BOTH THE FEDERAL SERVICE ENTRANCE EXAM (FSEE) AND THE PROFESSIONAL AND ADMINISTRATIVE CAREER EXAM (PACE) BECAUSE IT COULD NOT SHOW THEM TO BE LEGALLY VALID EVEN THOUGH THEY WERE DEVELOPED BY PROFESSIONAL TEST DEVELOPERS.

THE STATE OF NEW YORK HAD ITS CORRECTIONAL OFFICER EXAM INVALIDATED IN PART, BECAUSE OF THE ARBITRARY ESTABLISHMENT OF 70% AS THE PASS/FAIL POINT.

ON AUGUST 20, 1976 A FEDERAL DISTRICT JUDGE ORDERED THE STATE OF ALABAMA TO HALT ALL EMPLOYMENT TESTING AND TO NOT USE ANY TEST AS A RANKING DEVICE "UNLESS AND UNTIL IT HAS BEEN VALIDATED IN ACCORDANCE WITH THE PROVISIONS OF THE UNIFORM SELECTION GUIDELINES"

IN 1982, THE STATE OF CONNECTICUT'S SOCIAL WORKER TEST WAS INVALIDATED PROMPTING THE U.S. SUPREME COURT TO OBSERVE THAT CONGRESS ENACTED TITLE VII OF THE CIVIL RIGHTS ACT IN PART BECAUSE OF ITS "CONCERN OVER THE WIDESPREAD USE BY STATE GOVERNMENTS OF INVALID SELECTION TECHNIQUES"

ADMITTEDLY SECTION 712 OF THE ACT EXEMPTS VETERAN'S PREFERENCE LAWS , BUT HB 473 REQUIRES THE USE OF SCORED PROCEDURES IN ALL CASES AND IT IS IN THE CASE OF A NON VETERAN BEING DENIED A JOB BECAUSE OF AN INVALID PROCEDURE THAT SUBSTANTIAL ADDITIONAL LEGAL LIABILITY COULD ACCRUE TO STATE AGENCIES IF THEY ARE FORCED TO "HOMEGROW" TESTS OR TO USE PROCEDURES THAT CANNOT LEGALLY BE VALIDATED FOR USE IN MONTANA.

(2) HB 473 IMPLIES A NUMBER OF REQUIREMENTS SUCH AS THE REQUIREMENT TO SELECT ONLY THE TOP SCORING APPLICANT IN ANY SELECTION PROCEDURE. ASIDE FROM THE OBVIOUS PROBLEMS ASSOCIATED WITH SUCH AN APPROACH , HB 473 FAILS TO ESTABLISH A MECHANISM FOR DEALING WITH THE THOUSANDS OF DIFFERENT PROCEDURAL ISSUES THAT WERE FOR EXAMPLE EMBODIED IN THE MERIT SYSTEM COUNCIL'S RECENTLY INVALIDATED RULES. HB 473 , IF ADOPTED , SHOULD BE AMENDED TO INCLUDE RULE MAKING AUTHORITY AND A QUASI-JUDICIAL OVERSIGHT BOARD TO ESTABLISH SUCH PROCEDURES .

I HAVE NO INHERENT OPPOSITION TO THE USE OF SCORED DEVICES BUT I DO FEEL A PROFESSIONAL OBLIGATION TO USE DEFENSIBLE AND PROFESSIONALLY DEVELOPED VALID SCREENING DEVICES.

THE FEDERAL GOVERNMENT, I AM TOLD, SPENDS AN AVERAGE OF 15 HOURS , DEVELOPING EACH QUESTION THAT IT USES ON IT WRITTEN TESTS AND EVEN THEN THEY MAY NOT PASS LEGAL MUSTER IN THE FEDERAL COURTS.

MANY WILL POINT TO SUCH ALTERNATIVES AS AS PURCHASING TESTS OR USING THE JOE SERVICE GATB TEST- AN APPROACH THAT HAS SO FAR NOT BEEN APPROVED BY THE COURTS HB 473 IMPOSES A NUMBER OF REQUIREMENTS ON STATE AND LOCAL GOVERNMENTS TO DEVELOP SCORED SELECTION PROCEDURES. THE UGESP STATE" THE GUIDELINES PERMIT RANKING WHERE THE EVIDENCE OF VALIDITY IS SUFFICIENT TO SUPPORT THAT METHOD OF USE. STATE LAWS WHICH COMPEL RANK ORDERING GENERALLY DO SO ON THE ASSUMPTION

THAT THE SELECTION DEVICE IS VALID. WHERE THERE IS ADVERSE IMPACT AND THE VALIDITY EVIDENCE DOES NOT SUPPORT THAT METHOD OF USE, THE PROPER INTERPRETATION OF SUCH STATE LAW WOULD REQUIRE VALIDATION PRIOR TO USE. UNDER THE SUPREMACY CLAUSE HOWEVER, FEDERAL LAW OR VALID REGULATION OVERRIDES ANY CONTRARY PROVISION OF STATE LAW.

IF HB 473 SHOULD PASS, I HOPE THE LEGISLATURE PROVIDES FOR ITS PROPER IMPLEMENTATION. I BELIEVE THE CURRENT FISCAL NOTE TO BE INADEQUATE TO PROPERLY FUND THE BILLS EXPRESS AND IMPLIED REQUIREMENTS.

I HAVE ASSEMBLED A LIST OF MORE THAN A DOZEN OTHER TECHNICAL PROBLEMS THAT SHOULD BE ADDRESSED IF THE COMMITTEE DECIDES TO APPROVE THE BILL. IN THE INTEREST OF TIME I SHALL SUBMIT THEM AS WRITTEN TESTIMONY BUT I WOULD BE HAPPY TO RESPOND TO QUESTIONS FROM MEMBERS OF THE PANEL

MY NAME IS JIM NYS. I AM A PERSONNEL OFFICER IN STATE GOVERNMENT BUT AM APPEARING TODAY ON MY OWN BEHALF. I AM ALSO A VIETNAM ERA VETERAN AND A 19 YEAR MEMBER OF THE U.S. ARMED FORCES.

I AM OPPOSED TO HB 473 FOR THE FOLLOWING REASONS:

THE DEFINITION OF ACTIVE DUTY IS DEFECTIVE IN THAT IT WOULD ELIMINATE A LARGE NUMBER OF RESERVES WHO SERVED ON FULL ACTIVE DUTY AS RESERVES. IT SHOULD BE RE-WRITTEN TO ELIMINATE " ACTIVE DUTY FOR TRAINING PURPOSES".

THE BILL ELIMINATES THE 30% DISABLED REQUIREMENT THAT IS THE THRESHOLD FOR VA PURPOSES AS THE LEVEL OF A DISABILITY THAT AFFECTS THE ABILITY TO FIND EMPLOYMENT. IT ALSO ESTABLISHES A LOWER STANDARD THAN FOR HANDICAPPED CIVILIANS.

THE BILL IS SEXIST IN THAT IT ALLOWS THE PREFERENCE TO BE USED UNDER SOME CIRCUMSTANCES BY A VETERANS MOTHER BUT NOT FATHER.

THE BILL APPEARS TO GIVE PREFERENCE TO THE UNQUALIFIED SPOUSES OF DISABLED VETERANS.

THE BILL IMPLIES THAT THE ONE PERSON WITH THE HIGH SCORE MUST BE EMPLOYED- A DANGEROUS APPROACH THAT OVERSTATES THE ABILITY OF SCORED DEVICES TO MEASURE JOB SUITABILITY AND IGNORES IMPORTANT TRAITS THAT ARE DIFFICULT OR IMPOSSIBLE TO QUANTIFY.

THE BILL REQUIRES THE USE OF EXPENSIVE AND TIME CONSUMING SCORED PROCEDURES EVEN FOR TEMPORARY POSITIONS.

THE BILL WOULD REQUIRE VIETNAM ERA VETERANS TO SERVE 180 DAYS BUT WWII AND KOREAN VETS TO SERVE ONLY ONE DAY. IT ALSO INCLUDES PEACE TIME VETERANS.

THE BILL SEEMS TO ARBITRARILY CREATE A PASSING SCORE OF 70%. THIS APPROACH WAS STRUCK DOWN WHEN USED BY THE STATE OF NEW YORK.

THE BILL FAILS TO STATE WHAT THE PROCEDURE IS TO BREAK TIES BETWEEN PERSONS. DO HIRING OFFICIALS USE ONLY WHOLE SCORES OR RULE OF RANKS OR WHAT?

I BELIEVE THE REMEDY OF 150% OF ALLEGEDLY LOST WAGES WILL MORE THAN MAKE A PERSON WHOLE AND WILL CREATE A WHOLE NEW SET OF LAWSUITS AGAINST PUBLIC EMPLOYERS.

I AM ESPECIALLY OPPOSED TO THE REDUCTION IN FORCE SECTION THAT WOULD FORCE THE RETENTION OF A MEDIOCRE VETERAN OVER A SUPERIOR NON-VETERAN. IF SUCH A PUBLIC POLICY IS ADOPTED I FEEL THAT IT WILL HAVE DIRE EFFECTS ON THE RETENTION OF QUALIFIED PERSONS IN PUBLIC SERVICE.

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FOR EXAMPLE: HANDICAPPED PERSONS MUST BE RESIDENTS, BUT NOT VETERANS; SCHOOL DISTRICTS, UNIVERSITIES AND THE LIKE WOULD HAVE TO PREFER VETS BUT NOT HANDICAPPED.

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DEPARTMENT OF ADMINISTRATION
DIRECTOR'S OFFICE

EXHIBIT 9
3-25-85
HB473
Feaver



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

(406) 444-2032

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL 473
ELLEN FEAVER, DIRECTOR
DEPARTMENT OF ADMINISTRATION

I would like to begin by summarizing briefly what this bill does to the existing veterans and handicapped civilians employment preference.

1. It separates veterans and disabled civilians into two separate acts. Two separate acts with different provisions.
2. It requires the use of scored selection procedures in nearly all public sector jobs. The scored procedures must total 100 points with a pass point of 70 points.
3. The act provides for 5 additional points for veterans, 10 points for disabled veterans and 5 points for disabled civilians. It does not say whether one must hire the applicant with the most points.
4. It states the employer has the burden of proving that the points were applied and that a reasonable hiring decision was made.
5. If this burden is not carried, the remedy includes reopening the selection procedure, paying 150% of back wages, and paying legal fees and court costs.
6. The act provides no back pay for disabled civilians who file an action under the act.
7. The bill includes a preference for the retention of veterans in reduction-in-force. This reduction-in-force preference does not extend to disabled civilians.
8. Preference to veterans is not restricted to "initial hires" although this restriction continues for disabled civilians.
9. The time restrictions on the use of the preference (15 years and 5 years) have been removed.
10. The residency requirements continue for the disabled civilian and have been removed for the veteran.
11. Temporary positions are now included for veterans preference but not for disabled civilians employment preference.

During the special session this legislature worked very hard to achieve a balance between all of the parties impacted by employment preference: women, minorities, veterans, and the disabled. I believe there was a sincere attempt at an equitable solution. The solution didn't give anybody everything they wanted, but it gave everybody something. The resulting veterans and handicapped civilians employment preference act has been in effect less than a year.

This bill, House Bill 473, represents an attempt by its sponsors to get everything they wanted without regard to the needs of other groups. They set the veterans above the disabled civilian, providing a separate act, a separate preference, and a separate remedy. For example, disabled veterans under this bill get 10 points while disabled civilians get only 5. The current law treats them equally. Veterans get back pay at time and a half if they file a successful claim, the disabled civilian does not. Veterans are protected from reductions-in-force while the disabled civilian is not. Veterans preference applies to all hiring positions, including apparently promotion, while preference for the disabled civilian is restricted to initial hire. There are residency requirements for the disabled civilian but none for the veteran. I'm sure that a careful examination of this bill would reveal other differences between the two separate laws that would result.

House Bill 473 attempts to resurrect most of the major features not included in the law during the special session:

1. It removes the time limits on the use of preference.
2. It removes the requirement of a minimum 30% disability determined by the veterans administration.
3. It gives disabled veterans greater preference than disabled civilians.
4. It applies the preference to reductions-in-force and to promotions.
5. It includes temporary positions.
6. It assigns points and requires scored procedures.

The legislature worked diligently in the special session called specifically to address these decisions. You heard hundreds of hours of testimony and deliberations. You made decisions on all these issues a little over one year ago. The sponsors of House Bill 473 are asking you to go through that entire process again. They haven't identified any major problems with the administration of the existing act, it's too early for that. They're not addressing problems, they're just asking you to do the work of the special session over again because they didn't get everything they wanted the first time.

The Department of Administration testified at length on all of these issues during the special session. We are prepared to give you our views on all

these issues again, if necessary. I would urge you that repeating that entire debate is not necessary.

I would, however, like to take this opportunity to speak briefly on a couple of issues of concern to us.

The first, is the use of scored procedures. We presented a considerable amount of testimony on this issue during the special session, so I'll be brief today. The sponsors of this bill envision merely adding points to existing selection procedures, but I'm afraid it's just not that simple. Just the problem of trying to insure that 70 points represents a realistic passing point for all selection procedures on all public jobs in Montana is a significant project. But more importantly is the impact this can have on the legal defensibility of selection procedures.

Quite simply, if numbers are attached to a selection device it implies a higher level of precision than if no numbers are attached. The assumption is made that you can distinguish between the suitability of an applicant who scores an 81 and the suitability of an applicant who scores a 76 or perhaps a 78. The federal government and the courts have clearly required that if you use a procedure to do this kind of ranking, you have to be prepared to defend that the procedure can make those kinds of fine distinctions.

In other words, attaching numbers makes a selection procedure significantly more difficult to defend and makes it significantly more likely that it could be successfully challenged in a court of law. In order to develop scored procedures which are defensible would require expert staff and considerable expense. We went into quite a bit of detail during the special session on what would be required.

I believe the state, as an employer, would have difficulty in complying with this bill. I'm quite confident that small cities, counties, and school districts would face considerable difficulty.

One other thing I'd like to comment on very briefly is the administrative problems that would be caused were this act to pass. The existing law passed in the special session is itself quite complex. However, I think public agencies are doing a good job of implementing the law. The Department of Administration has adopted rules on employment preference and rules on recruitment and selection. We have developed and implemented a new state application form. We are modifying our automated record keeping systems to keep track of preferred applicants. We prepared informational brochures and posters for local governments and the job service offices. We provided training for state agencies, job service offices, and local governments, and we've provided hundreds of hours of assistance to public hiring authorities. If this bill were to pass, all of these efforts would have to be redone. Where we currently have one law to administer, we'd have two. Two laws with different provisions, different eligibility requirements, and different remedies. I respectfully request of you, don't do that to public employees in Montana. Don't do that to the cities, counties, and the school districts and the applicants. Please vote "Do Not Pass" on House Bill 473.

THANK YOU.

1311 South Black
Bozeman, Montana 59715
March 25, 1985

TO: House Appropriations Committee; Hon. Francis Bardanouve, Chairman
FROM: Morris Jaffe
SUBJECT: H. B 473;

I am opposed to H. B. 473.

I am a veteran of World War II. I enlisted in October of 1941, entered pilot training in January 1942, piloted a B-17 at Guadalcanal in 1942-43, trained pilots until the end of the war, and was released from active duty in January 1946. I received no benefits of any kind because of military duty. *I did not use the G.I. Bill*

I firmly believe that veterans should be given certain considerations. I believe the G. I Bill enacted after WWII was one of the most enlightened socio-economic laws ever enacted by an enlightened legislative body. It provided tuition free training and subsistence to veterans to make them more productive, higher earning citizens. Incidentally, because of higher earnings the monies advanced by the government was repaid in taxes in seven years. I would enthusiastically support a bill which would emulate the G. I. Bill, which would furnish funds and means for training or retraining Veterans, the Disabled and their spouses to bring them into today's economy which requires highly trained and highly skilled employees.

But I urge this committee to defeat H. B. 473 because. although it is well meaning, it is a bill that would only put band-aids on deep and bleeding wounds in our society. And not only is a band-aid approach, it is a slap dash band-aid approach because it would be unfair, it would be expensive, and it would costly and time consuming and awkward to administer. Allow me to elucidate the above three points.

1: It would be unfair because it discriminates. It is a bill written to discriminate. You have heard it discriminates against women. It does. But it also discriminates against men. Others have pointed out the specifics so I won't burden you by repeating them.

2: It will be expensive to administer. Judy Rippingale says it will cost the State about \$150,000.00 per year, which is not a great amount. But--and this is a big but--every village, every city, every county, every facet of government (except those ~~excepted~~ in the bill) will have to accede to the provisions of H. B. 473 if it is enacted into law. Because 70% of local government expenditures are for personnel, it means the cost of administering the requirements of this bill will be exorbitant. For example: A city the size of Bozeman will need a personnel officer and a part time and perhaps a full time lawyer to see the city complies.

Though State taxes may not have to be increased, local taxes surely will to pay for the added personnel needed to administer the requirements of this bill.

3: It would be awkward to administer. I would like to point out Section 5, which states that if a veteran is not hired and appeals, there must be:

- a. Written explanation by the employer.
- b. Petitions to District Court.
- c. Court hearings to show cause--and to digress, the burden of proof is put on the employer to show he made the right decision. He is guilty until proven innocent--a far cry from our system of justice that postulates that all are innocent until proven guilty.
- d. If the employer erred according to the court decision, the job must be reopened and applicant is to receive attorneys fees, court costs, and 150% of the wages ~~he~~ she would have received had he been appointed to the position.

WHAT A MESS!!!!!!!!!!!!

What administrator would have the courage not to hire a veteran--even if the administrator knew the vet was less qualified. The whole process would be horribly expensive, it would be time consuming, it would be cumbersome and it would be wasteful. It would open such opportunities for law suits that Montana would become an attorney's paradise.

And in Section 6 it says "A veteran etc. whose performance has not been rated unacceptable"---is clearly an absolute lock on the job as long as he wants to hold it. Anyone whose performance is "unacceptable" should be dismissed!

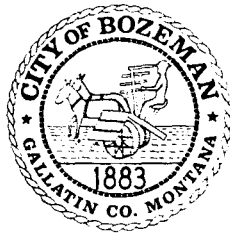
Again we run into the evaluation of the administrator. Who is acceptable? ~~Who~~ Who is unacceptable? This bill denies managerial discretion and responsibility and authority. How can we expect efficiency, economy, and smooth operation if we take away from the manager his/her right to run his department. Will the administrator be willing to go through the red tape to declare a vet etc. "Unacceptable" knowing the red tape, the chance of a law suit, the added expense to the local or state government? I doubt it.

And so ladies and gentlemen of this committee, it has been said that the passage of H. B. 473 will open a can of worms. It would be far worse. Worms can be collected and put back into the can. I believe it would open a veritable Pandora's box, which, if you remember your Greek Mythology, loosed all the ills of mankind which then spread over the earth. While H. B.473 would not loose all the ills, it would loose unnecessary burdens and costs on our local and state governments.

I commend the sponsors of H. B. 473 for their care and concern and compassion for the veterans and the disabled, but enactment of this bill would create more problems than it would cure, and I urge this committee to recommend Do Not Pass.

Silent Testimony

MEMORANDUM



From the Office of
The City Commission
Bozeman, Montana

Date 3/25/85

Opposing HB 473

This bill would cost local government a lot of money in at least 3 ways:

1 - In effect, because of fear that we would be sued, we would not be able to hire the most qualified person; we would feel we would merely have to hire the veteran even though he was less qualified. Not ~~hiring~~ hiring the best qualified person, over many, many years would cost much money.

2 - To hire the personnel to carry out this program would probably cost us, locally, in Bozeman, at least 3 mills in property tax each year.

3 - We would undoubtedly have many more law suits, even though we tried hard to follow the law. Law suits are filed all the time against local government, with little reason.

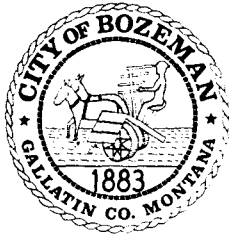
Please vote against HB. 473

Mary Vant Hull (Vant Hull)

416 E. 5th St. Bozeman, MT 59715

Silent Testimony

MEMORANDUM



From the Office of
The City Commission
Bozeman, Montana

Date 3/25/85

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This bill would cost local government a lot of money in at least 3 ways:

1 - In effect, because of fear that we would be sued, we would not be able to hire the most qualified person; we would feel we would merely have to hire the veteran even though he was less qualified. Not ~~hiring~~ hiring the best qualified person, over many, many years would cost much money.

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3 - We would undoubtedly have many more law suits, even though we tried hard to follow the law. Law suits are filed all the time against local government, with little reason.

Please vote against HB. 473

Mary Vant Hull (Vant Hull)
416 E. Story, Bozeman 59715

~~SECRET~~
EXHIBIT 12
3-25-85
HB473
Ward

THE HOUSE APPROPRIATIONS COMMITTEE

TESTIMONY OPPOSING HB-473 -- by Mike Ward, Bozeman

Mr. Chairman - Members of the Committee

Last Friday, I spoke in favor of allowing public employers to hire the best qualified applicants for jobs, because I believe this bill would seriously undercut that principal.

On the way back to Bozeman, I listened to a tape from the National League of Cities and Towns -- the key point of which was that 70% of the cost of local government is for employees. That figure startled me, so I played it again to be sure. Its meaning for us seems clear: It is essential that local governments and higher education not have to add to personnel costs -- which this bill would surely do -- and that only the best qualified applicants be hired and retained.

My final point is this: In this age of celebration of the private entrepreneur -- and the constant drumbeat from the Montana business community that we have an anti-business climate here -- I suggest that entrepreneurs doing business in Montana be compelled to adopt a mandatory preference system just like this one. I find it hard to imagine that Apple Computer would prosper under HB-473 -- but no doubt Reps. Moore and Miller would volunteer to sell it to Montana businesses . . .

Exhibit Testimony

EXHIBIT 13
3-25-95
HB473
Elliott

3900 SOURDOUGH ROAD
BOZEMAN, MT 59715
MARCH 22, 1985

THE HONORABLE FRANCIS BARDANOUVE
HOUSE OF REPRESENTATIVES
STATE CAPITOL,
HELENA, MT

DEAR REPRESENTATIVE BARDANOUVE:

WITH REFERENCE TO HB 473, THE VETERANS' PREFERENCE
BILL, WE BELIEVE IN THE EQUALITY OF OPPORTUNITY FOR PUBLIC
EMPLOYMENT WITH A TIME-LIMITED REINTEGRATION PREFERENCE
FOR OUR VETERANS.

HB 473 (REP. PAVLOVICH) WOULD ESTABLISH A POINT
SYSTEM FOR PREFERENCE IN HIRING AND WOULD, IN EFFECT,
REPEAL THE PREFERENCE LAW PASSED IN THE SPECIAL SESSION
LAST YEAR.

WE STRONGLY OPPOSE HB 473 AND ASK YOU TO MAINTAIN
THE EXISTING LAW.

SINCERELY YOURS,

Mr. & Mrs. Frank Elliott
FRANK AND JOANN ELLIOTT

CC: REPRESENTATIVE DOROTHY BRADLEY
APPROPRIATIONS COMMITTEE

DECEMBER '83		
Dept of Institutions	Project Evaluator	I
84-101	Programmer Analyst III	B
Workers Compensation	Training Officer II	I
Office of Legislative Analyst	Fiscal Analyst	I
JANUARY '84		
Dept. of Commerce	Administrator	I
84-103	Revenue Agent I	I
Fish Wildlife & Parks	Accountant II	B
Commerce	Information Officer III	I
Institutions	Eduaction Director II	I
Administration	Technical Writer I	T
Dept of Natural Resources	Bureau Chief	I
" " "	Water Rights Specialist	I
Agriculture	Market Research Analyst	I
"	Environmental Sepeclaist III	B
Institutions	Social Worker II	B
Fish Wildlife & Parks	Assistant Administrator	B
Natural Resources	Financial Specialist	I
" "	Energy Education Specialist II	I
" "	Project Evaluator	I
FEBRUARY '84		
Dept of Commerce	Information Officer II	I
Fish Wildlife & Parks	Airline Pilot II	B
Adminsitration	Personnel Specialist Supervisor	I
Montana Highway Patrol	Highway Patrol Cadet	T
Administration	Systems Manager- Typhography	I
Blaine County- Appraisal Office	Appraisal Supervisor I	B
Revenue	Programer Analyst III	B
"	Programer Analyst II	B
Natural Resources	Energy Education Specialist	I
Institutions	Accounting Technician I	I
Institutions	Psychologist V	I
Institutions	Psychologist IV	I
Natural Resources	Economist III	I
Natural Resources	Contaract Monitor	I
Workers Compensation	Lawyer V	B
MARCH '84		
Dept. of Highways	Personnel Specialist II	B
Dept of Highways	Right of Way Agent II	B
Dept of Highways	Systems Analyst	B
Workers Compensation	Safty-Health Specialist II	I
Dept of Revenue	Appraiser Supervisor I	B
Dept of Administration	Personnel Specialist	I
Dept of Commerce	Word Processor Operator	I
Dept of Commerce	Auditor I	I
Dept of Commerce	Loan Officer	I
Dept of Administration	Telecommunications Development Specialist	B
Dept of Justice	Lawyer IV	B
84-282	Park Operations Specialst I	B
Dept of Commerce	Municipal Auditor III	I
Dept of Administration	Staff Development Specialist I	I
APRIL '84		
Dept of Fish Wildlife & Parks	Lawyer III	B
Dept of Institutions	Accounting Technician I	I
Dept of Commerce	Administror Assistant IV	B
Dept of Commerce	Research Specialist III	B
Dept of Administration	Administrator	I
Dept of Natural Resources	Soil Scientist	I
Dept of Commerce	Administrative Officer IV	B
Dept of Revenue	Apraiser Supervisor II	B
Dept of Revenue	Lawyer	B
Dept of Administration	Program Analasist- Typography	I
Dept of Highways	Drafter II	B
Dept of Fish Wildlife & Parks	Warden Trainee	B
Dept of Administration	Electrical Codes Inspector	B
Dept of Administration	Architect Plan Reviewer	B

I= Oral Structured Interview
T= Testing
B= Both, Interview and Testing

MAY '84		
Dept of Highways	Civil Engineer II	B
Dept of Institutions	Maintenance Worker IV	I
Dept of Commerce	Commissioner of Financial Institution	B
Dept of Commerce	Principal Investment Officer	B
Board of Public Education	Administration Assistant (Clerical)	T
Dept of Natural Resources	Lawyer I	I
Dept of Administration	Personnel Specialist	I
Dept of Workers Comp.	Claims Investigator	B
Dept of Justice	Lawyer II	B
Dept of Fish Wildlife & Parks	Park Operations Specialist	B
Dept of Revenue	Appraiser I	B
Montana Fire Services		
Training School	Training Representative/Fire coordinator	B
Dept of Highways	Safety Program Manager	B
Dept of Natural Resources	Bureau Chief	I
Dept of Highways	Safety/Health Specialist II	B
JUNE '84		
Property Assessment Div.	Tax Appraisal Specialist II	B
Dept of Revenue	Fraud Investigator I	I
Dept of Highways	Systems Analyst	B
Dept of Commerce	Administrative Officer V	B
Dept of Administration	Software Specialist II	I
Dept of Administration	Buildings Inspector	B
Dept of SRS	Counselor Voc. Rehab	I
Dept of SRS	Social Worker II	B
Dept of Commerce	Compliance Specialist II	B
Dept of Commerce	Railroad Transportation Planner	B
Div of Conservation & Education	Information Officer II	B
Dept of Fish Wildlife & Parks	Fisheries Biologist IV	B
Montana State Hospital		
(Warm Springs)	Personnel Services Manager II	I
Water Rights Bureau	Field Manager	I
Dept of Commerce	Auditor I	I
City of Hamilton	Administrative Assistant I	I
JULY '84		
Dept of Workers Comp.	Administrative Officer III	B
Dept of Natural Resources	Project Manager I	I
Dept of Natural Resources	Project Officer II	I
Dept of Commerce	Bank Examiner I	B
Dept of Administration	Accountant II	I
Dept of Commerce	Administrative Officer V	B
Dept of Commerce	Municipal Auditor I	I
Dept of Administration	Duplicating Machine Operator II	I
Dept of Natural Resources	Geohydrologist	I
Dept of Highways	Civil Engineer I	B
Dept of Revenue	Appraiser III	B
Dept of Revenue	Appraiser I	B
Dept of Commerce	Program Analyst II	B
Dept of Workers Comp.	Lawyer Hearing Exam	T
Dept of Administration	Informational Systems Planner	I
Dept of Administrations	Telecomm. Delevry Specialist	I
Dept of Workers Comp	Training Officer	I
Dept of Highways	Purchasing Agent I	B
Dept of Commerce	Word Processor Operator III	B
Dept of Revenue	Appraiser II	B
Dept of Administration	Budget Analasist III	I
AUGUST '84		
Dept of Natural Resources	Hydropower Legal Counsel	I
Dept of Institutions	Project Evaluator II	I
Billings County Prosecutor		
Services Bureau	Lawyer IV	B
Montana Veterans Home	Social Worker-Medical	I
84-627	Legislative Researcher	I
Dept of Natural Resources	Lawyer II	I
Dept of Administration	Securities Analyst	I
Dept of Administration	Software Specialist	I

SEPTEMBER '84		
Dept of Highways	Civil Engineer II	B
Dept of Workers Comp	Bureau Chief Insurance Compensation	B
Dept of Workers Comp	Claims Examiner I	I
Dept of Highways	Right-of-Way Agent II	B
OCTOBER '84		
Dept of Commerce	Program Officer II	B
Dept of Administration	Lawyer	B
Dept of Highways	Planner III	B
84-768	Bank Examiner IV	B
Dept of Fish Wildlife & Parks	Fish/Wildlife Biologist IV	B
Dept of Natural Resources	Water Rights Technician	I
Dept of Administration	Duplicating Machine Operator	I
Dept of Administration	Personnel Officer II	B
Dept of Highways	Right-of-Way Agent I	B
Dept of Highways	Chief Field Maint. Bureau	B
Dept of Administration	Electrical Codes Inspector	B
Dept of Highways	Manager informational Unit	B
NOVEMBER '84		
Dept of Administration	Accountatnt II	I
Dept of Revenue	Appraisal Supervisor I	B
Dept of Health & Environmental Sciences	Environmental Engineer II	I
Dept of Justice	Lawyer III	B
Human Rights Commission	Hearings Officer III	I
Dept of SRS	Social Worker II	B
Dept of Fish Wildlife & Parks	Program Officer II	B
Dept of Administration	Management Specialist (Telecommunication Project)	B
Dept of Administration	Development Analyst (Telecom.)	B
Dept of Administration	EEO Coordinator	B
Dept of Administration	Accountatnt III	I
Dept of Fish Wildlife & Parks	Fish Hatchery Worker II	B
Dept of Highways	Civil Engineer II	B
Dept of Highways	Planning Technician I	B
Dept of Fish Wildlife & Parks	Wildlife Biologist III	B
Dept of Natural Resources	Energy Program Officer II	I
Dept of Commerce	Administrative Assistant IV	B
84-835	Appraisal Supervisor	B
Dept of Highways	Program Specilist II	B
Dept of Highways	Civil Engineer IV	B
Public Service Commission	Administrative Secretary II	B
Dept of Highways	Anthropologist/Archaeologist II	B
Dept of Commerce	Plumbing Licensing Inspector	I
Dept of Natural Resources	Civil Engineer II	I
84-819	Accounting Technician II	B
DECEMBER '84		
Governors Office (Clark River Basin Project)	Fisheries Biologist IV	I
Dept of Commerce	Secretary III	B
Dept of SRS	Social Worker II	B
Dept of SRS	Administrative Assistant III	T
Disaster & Emergency Services Division	Emergency Management Specialist I	B
Dept of Workers Comp	Claims Investigator II	B
Dept of SRS	Social Worker II	B
Dept of SRS	Auditor IV	I
Dept of SRS	Social Worker II	B

DEPARTMENT OF ADMINISTRATION
ACCOUNTING DIVISION

EXHIBIT 15

3-25-85

HJR 4

HB67

Sands

ROOM 255, MITCHELL BUILDING



TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

(406) 449-3092

HELENA, MONTANA 59620

MEMORANDUM

TO: Representative Jack Sands

FROM: Kathy Fabiano *Kathy*
Administrator

DATE: February 14, 1985

RE: SPECIAL REVENUE ACCOUNTS

Attached is a list of special revenue accounting entities which, in my opinion, could be considered for elimination. I have attempted to place the entities into groups, based on certain shared characteristics.

The attached entity descriptions and statutory references were, for the most part, taken from forms completed by agencies when the State's fund structure was changed. I did not contact agencies or do additional research to determine if this information is still complete and accurate.

Please call me at 444-3092 if you have any questions or require more information.

Attachment

The following special revenue accounting entities are used for programs that also receive General Fund support.

Fiscal Year 1984					
<u>Accounting Entity Description</u>	<u>Administering Agency</u>	<u>Statutory Reference</u>	<u>Revenues & Transfers-In</u>	<u>Expenditures & Transfers-Out</u>	<u>Ending Fund Balance</u>
02001 - School Lunch Program This account is used to record costs related to the distribution of food commodities to private schools. The cost of distributing food commodities to public schools is paid from a General Fund appropriation to the school foods program.	OPI	20-10-203,MCA	\$ 14,828	\$ 36,000	\$ 639
02013 - Law Enforcement Academy The academy is funded primarily with federal funds and a General Fund appropriation. This account is used to record student fees that are used for operating the Academy.	Justice		\$ 53,387	\$ 62,480	\$ 12,843
02018 - Driver Rehabilitation This account receives fees from persons attending the driver rehabilitation program. The driver rehabilitation program is within the Department of Justice's Driver Services Bureau, which is funded primarily with a General Fund appropriation.	Justice	61-2-302,MCA	\$ 31,460	\$ 53,000	\$ 15,278

Fiscal Year 1984					
Accounting Entity Description	Administering Agency	Statutory Reference	Revenues & Transfers-in	Expenditures & Transfers-Out	Ending Fund Balance
<p>02400 - Administrative Rules This account receives subscription fees from persons/organizations receiving the Administrative Rules of MT (ARM). A General Fund transfer to this account is made to cover the cost of ARM provided to certain individuals/organizations without charge.</p>	Secretary of State	2-4-313, MCA	\$200,581	\$173,086	\$ 43,497
<p>02803 - Central Payroll Operating The source of funding for this account is a system of charges for services rendered to other departments or agencies of the State. Central Payroll also receives a General Fund appropriation. The Central Payroll operation is included in the Statewide Indirect Cost Plan, therefore, accounting for this operation entirely with General Funds would ensure that the Federal Government is not charged twice for payroll services to federal programs.</p>	State Auditors Office	2-18-403, MCA	\$257,841	\$233,327	\$ 74,034

The following accounts receive insurance proceeds which are used for the repair/replacement of damaged/lost state property.

Fiscal Year 1984			
<u>Accounting Entity</u>	<u>Administering Agency</u>	<u>Revenues & Transfers-in</u>	<u>Expenditures & Transfers-out</u>
			<u>Ending Fund Balance</u>
02014 Justice Insurance Clearing	Justice	\$ 1,647	\$ 1,264
			\$ 383
02839 Insurance Proceeds	Institutions	\$ (5,290)	\$ 75,672
			\$ (147)
02023 Insurance Proceeds	Fish, Wildlife & Parks	-0-	-0-
			\$ 252
02021 Casualty Loss	Historical Society	-0-	-0-
			\$ 476

The Governor's Executive Budget requests that funding for the five Vo-Tech Centers be appropriated to the Office of Public Instruction for distribution to the centers. Transfers of funds would be made from the Office of Public Instruction to the centers' current unrestricted fund for operating expenses. If this change is made, the following accounting entities will be unnecessary and will be eliminated.

Fiscal Year 1984				
<u>Accounting Entity</u>	<u>Revenues & Transfers-in</u>	<u>Expenditures & Transfers-out</u>	<u>Fund Balance</u>	
02003 Billings Millage	\$ 308,606	\$ 302,993	\$	-0-
02004 Butte Millage	80,827	77,283		-0-
02005 Great Falls Millage	143,931	143,931		-0-
02006 Helena Millage	96,379	87,682		-0-
02007 Missoula Millage	211,862	211,862		-0-
02037 Billings Tuition	255,336	242,820		12,066
02038 Butte Tuition	178,695	178,695		-0-
02039 Great Falls Tuition	241,065	241,065		-0-
02040 Helena Tuition	343,530	343,530		-0-
02041 Missoula Tuition	299,781	297,000		2,273
02054 Billings - Coal Tax	117,930	117,930		-0-
02055 Butte - Coal Tax	79,736	79,736		-0-
02056 Great Falls - Coal Tax	182,652	182,652		-0-
02057 Helena - Coal Tax	117,931	117,931		-0-
02058 Missoula - Coal Tax	117,931	117,931		-0-

The following accounting entities receive State revenues which are expended for a particular purpose. Any revenues received and not needed for that purpose are transferred to the General Fund.

		Fiscal Year 1984			
Accounting Entity	Administering Agency	Statutory Reference	Revenues & Transfers-in	Expenditures & Transfers-Out	Ending Fund Balance
02401 - Police/Fire Retirement Fund	State Auditors Office	Title 19	\$ 5,150,000	\$ 4,425,019	\$ (892,667)
This account receives an insurance premium tax, a portion of which is transferred to PERD and local governments for police and firemen's pension and disability funds. Amounts received in excess of the required transfer to pension funds are transferred to the General Fund.					
02441 - Cigarette Enforcement	Revenue	16-11-124, MCA	\$ 16,000	\$ 15,405	\$ 595
This account receives license fees from wholesalers, subjobbers, retailers & cigarette vendors. Fees are used to operate the Cigarette Enforcement Division. Sums appropriated in excess of \$7,500 that are not needed by the division are transferred to the General Fund.					

The following accounts receive monies as a transfer from other accounting entities.

Fiscal Year 1984					
Accounting Entities	Administering Agency	Statutory Reference	Revenues & Transfers-in	Expenditures & Transfers-Out	Ending Fund Balance
02027 - Resource Indemnity Trust Fund Interest Investment earnings from the Resource Indemnity Trust Fund are deposited in this accounting entity. Transfers are made to other earmarked accounting entities based on appropriations of the interest monies by the Legislature.	Revenue	-	\$ 2,976,391	\$ 2,643,642	\$ 1,739,656
02030 - Architecture & Engineering Construction Revenues deposited in the Long Range Building Capital Projects Fund are transferred to this accounting entity and used for A&E administrative expenditures.	Administration		\$ 502,839	\$ 460,740	\$ 42,237
02804 - Escheated Estates This account receives money from the sale of unclaimed property. Current statutes allow the Dept. of Revenue to deduct certain administrative costs before crediting the public school nonexpendable trust fund with the proceeds from such sales.	Revenue	70-9-309,MCA	\$ 19,433	\$ 19,520	\$ -0-

I believe the following accounting entities are no longer needed, but before they can be eliminated, the administering agencies must determine the proper disposition of the account fund balances.

Fiscal Year 1984				
<u>Accounting Entity</u>	<u>Administering Agency</u>	<u>Revenues & Transfers-in</u>	<u>Expenditures & Transfers-out</u>	<u>Ending Fund Balance</u>
02043 Merit System Council	Administration	\$ -0-	\$ 2,863	\$ 12,355
02900 State Deficiency Levy	OPI	12,298	-0-	22,905
02033 Lands - Resources Indemnity Trust The fund balance in this account will be eliminated when a contract with ISD is paid.	Lands	-0-	-0-	132,938
02032 Forest Resource Indemnity Trust	Lands	-0-	-0-	8,710

The following accounting entities had little or no current year expenditure/transfer-out activity in Fiscal Year 1984.

		Fiscal Year 1984			
Accounting Entities	Administering Agency	Statutory Reference	Revenues & Transfers-In	Expenditures & Transfers-Out	Ending Fund Balance
02047 Copying Fees This account receives fees paid by the public to copy campaign finance reports.	Office of Political Practices	None	\$ 821	\$ 175	\$ 710
02015 Criminal Lab The Crime Lab makes and sells rape evidence kits to doctors and hospitals. Sale proceeds are used to buy supplies for more kits.	Justice	None	\$ 836	\$ -0-	\$ 4,218
02020 Museum Renovation Fund This account receives funds donated to create new exhibits.	Historical Society	None	\$ -0-	\$ -0-	\$ 93
02429 Weather Modifications This account receives weather modification permit fees which are used by DNRC for administrative expenses.	DNRC	85-3-213,MCA	\$ 199	\$ -0-	\$ 4,860
02426 Animal Health Emergency This account receives transfers of revenue recorded in Livestock's accounting entity 02427, Animal Health, at the discretion of the Board of Livestock. This account also keeps its own interest earnings. The moneys may be expended only when the Dept. of Livestock determines that a livestock disease emergency exists.	Livestock	15-24-923,MCA 81-1-104,MCA	\$ 23,632	\$ -0-	\$ 506,719

Fiscal Year 1984					
<u>Accounting Entities</u>	<u>Administering Agency</u>	<u>Statutory Reference</u>	<u>Revenues & Transfers-in</u>	<u>Expenditures & Transfers-Out</u>	<u>Ending Fund Balance</u>
02438 Floodway Obstruction Removal When an obstruction to a designated floodway has been created by fallen trees, debris, etc., the DNRC may remove the obstruction and pay the costs from this entity. This entity receives moneys specifically appropriated by the legislature and related covered costs from the owner of an obstruction.	DNRC	76-5-207, MCA	\$ -0-	\$ -0-	\$ 400
02836 Milk Testing This account receives an assessment by Commerce on milk producers. The monies are to be used to sample raw milk. There appears to be a conflict in the law since the Dept. of Livestock also receives and expends monies for milk testing.	Commerce	81-23-105, MCA	\$ 1,759	\$ -0-	\$ 1,759

The following accounting entities receive various vehicle license & permit revenues, and both had significant fund balances at fiscal year-end 1984.

		Fiscal Year 1984			
<u>Accounting Entities</u>	<u>Administering Agency</u>	<u>Statutory Reference</u>	<u>Revenues & Transfers-in</u>	<u>Expenditures & Transfers-Out</u>	<u>Ending Fund Balance</u>
02845 Junk Vehicle Disposal This account receives monies collected from the sale of junk vehicles, recycling of materials, and license and disposal fees. Monies are expended for the control, collection, recycling and disposal of junk vehicles and component parts.	Health	75-10-533,MCA	\$ 738,459	\$ 728,038	\$1,641,624
02404 Motor Vehicle This account receives fees collected by the Registrar of Motor Vehicles for vehicle registration, title fees, etc. These monies may be expended for operating costs of the motor vehicle division, the forensic science division, the law enforcement academy, the law enforcement teletype system, and the criminal law enforcement center. Prior to March, 1983, the fund balance in the motor vehicle account was transferred to the General Fund (HB 136, 48th L).	Justice	61-3-108,MCA	\$3,399,886	\$2,908,200	\$1,653,364

HB 67 Earmarking

The LWV of Montana spent four years studying, taking consensus, and establishing a position on state government financing. During that study, dedicated revenues was an issue that was discussed at length. We know how important it is to secure funding for programs, and how difficult it is to exclude an option for securing those funds.

However, our belief in the need for effective program planning budgeting, and an accountable, responsive legislative process to the practical effects of revenue dedication led to the conclusion that the growth of dedicated accounts ultimately has a detrimental effect on the budget process.

Earmarking in government has been compared to the private sector function of supply and demand. Linking a service cost to its benefit tends to ration the service. However, realistically, dedicated revenues are generally used for other reasons, such as:

- gaining support for an otherwise unpopular tax

- insuring preferred funding for a program

- obtaining a majority consensus among legislators who must decide how revenue should be generated and spent

and the result is always the same — generally lessened future scrutiny of the funding of such programs by the legislature, and possibly revenues continuing to be dedicated in situations where linking the revenue and program benefits is not clear.

The League does support licensing fees and user fees where there is a clear linking relationship between the revenue source and the program involved, but in order to insure that Montana has the most effective program planning budgeting, we believe other earmarking must not proliferate, and that other already established earmarked funds must be looked at for sunseting.

We urge that you seriously consider the passage of HB 67.

Joy Bruck
LWV of Montana

WITNESS STATEMENT

Name Brenda Schye Committee On Approp.
Address _____ Date 3-25-85
Representing Montana Arts Advocacy Support _____
Bill No. HB 67 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: I represent the Montana Arts Advocacy, a broad cross-section of Montanans who are committed to the development of our state's cultural resources. The decision that the Legislature faces every session on how to appropriate money is similar to the process that families face every year when they plan the annual household budget. The same frustration is present when it becomes obvious that there won't be enough money to do everything you would like to do. A process of prioritizing then becomes necessary. It has been my experience that there has always been a temptation to allocate all money for the present rather than the future. There is always a desire for something that can be argued to be more pressing than putting money into the savings account. Yet, a wise budgeter makes savings one of the very highest priorities, coming just after the most basic needs of food and shelter. If I don't automatically earmark a certain amount for that purpose, it gets neglected.

There is an analogy between money invested in savings and money invested in cultural programs. They are both investments in the future. They are always a temptation to neglect. Yet to do so would be shortsighted.

Just like education, cultural programs may not seem like bread and butter issues. Yet they have to do with quality of life, and the future of this state, and their benefits should not be limited only to those who can afford to obtain them through private means. It is access to such programs that make Montana a desirable place to live, not only for our native

Montanans, but for out-of-state corporations looking for a place to locate their businesses.

Earmarking revenues for libraries and the arts is Montana's way of ensuring that cultural programs will not be neglected. It is a reasonable approach, and should not be abandoned.

Proposed Amendments to HB 12

EXHIBIT 18
3-25-85
HB12
Nichols

1. Title, line 10.
Strike: "17-1-204,"
Following: "17-3-212,"
Insert: "17-5-404,"
Strike: "17-5-422,"
Insert: "17-5-804, 19-8-504,"
2. Title, line 11.
Following: "19-9-702,"
Insert: "19-9-1007, 19-10-205, 19-10-305, 19-10-506,
19-11-512, 19-11-513,"
Following: "19-11-606,"
Insert: "19-12-301, 19-13-604,"
3. Page 2, line 6
Following: "(2)"
Strike: "To"
Insert: "Except as provided in subsection (4), to"
4. Page 3, line 2.
Strike: "(m) 17-1-204;"
5. Page 3
Following: line 3
Insert: "(o) 17-5-404;"
ReNUMBER: subsequent subsections
6. Page 3, line 4
Strike: "17-5-422"
Insert: "17-5-~~894~~ 804
(p) 19-8-504;"
7. Page 3, line 6.
Following: line 5
Insert: "(r) 19-9-1007;
(s) 19-10-205;
(t) 19-10-305;
(u) 19-10-506;
(v) 19-11-512;
(w) 19-11-513;"
ReNUMBER: subsequent subsections
Following: "19-11-606;"
Strike: "and"
8. Page 3, line 7.
Following: line 6
Insert: "(y) 19-12-301;
(z) 19-13-604; and"
ReNUMBER: subsequent subsection
9. Page 3.
Following: Line 7.
Insert: "(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuance incurred on all bonds, notes, or other obligations as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into

agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments."

10. Page 19, lines 11 through 19.

Strike: Section 15 in its entirety.

Renumber subsequent sections

11. Page 20, line 6 through line 1 on page 21.

Strike Section __ in its entirety.

Insert: "17-5-404. Use of capital projects fund. The capital projects fund shall be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of the long-range building program, ~~upon order of the department acting within the limits of the authority conferred upon it by the legislature.~~ The department may transfer all money authorized by the legislature for its administrative expenditures from the capital projects fund to a special revenue fund, and for such purposes the money is statutorily appropriated as provided in [section 2]."

Section 18. Section 17-5-804, MCA, is amended to read:

"17-5-804. Use of capital projects account. The capital projects account must be segregated by the treasurer from all other money in that or any other account in the state treasury and used only to pay costs of the projects for which bonds were issued, in accordance with the respective bond accounts, ~~upon order of the department acting within the limits of the authority conferred upon it by the legislature.~~ The department may transfer all money authorized by the legislature for its administrative expenditures from the capital projects account to a special revenue fund, and for such purposes the money is statutorily appropriated as provided in [section 2]."

Section 19. Section 19-8-504, MCA, is amended to read:

"19-8-504. State's contribution. Each month the state treasurer shall pay to the account, out of the department of fish, wildlife, and parks moneys, a sum equal to 7.15% of the total of all members' salaries, and out of the moneys collected as fines and forfeited bonds under the provisions of 87-1-601, all such collections until the unfunded liability in the account is

solvent and a verification statement to that effect is given to the state treasurer by the board."

Renumber subsequent sections. 12. Page 21, line 16.

Following: line 15

Insert: "Section 19. Section 19-9-1007, MCA, is amended to read:

"19-9-1007. Supplement to certain pensions. (1) The payment for each fiscal year to the police officers, surviving spouses, or dependent children described in subsections (2)(a) through (2)(c) may be not less than one-half of the base salary paid in the previous calendar year in the appropriate city or town to newly confirmed police officers, except that for the fiscal year beginning July 1, 1979, all retirees and their beneficiaries who received a supplement to their retirement allowance on July 1, 1978, and are receiving an allowance on July 1, 1979, shall receive a 3% increase in their retirement allowance in lieu of any other increase.

(2) On or before April 1 of each year, the department of administration shall make a report including the following information:

(a) the names of all police officers who are receiving payments from the plan as of the date of the report and were receiving payments from a prior plan before July 1, 1975;

(b) the names of all surviving spouses or dependent children who are receiving payments from the plan because of the death of a police officer who was receiving payments from a prior plan before July 1, 1975;

(c) the names of all surviving spouses or dependent children who are receiving payments from the plan and who were receiving payments from a prior plan before July 1, 1975, or in the case of dependent children, whose parent, the spouse of a police officer, was receiving payments from a prior plan before July 1, 1975;

(d) for the purpose of determining the base figure for the computations set forth in subsection (3), the following information relating to the base fiscal year commencing July 1, 1976:

(i) the amount of the payments made in the base fiscal year to each police officer described in subsection (2)(a);

(ii) the amount of the payments made in the base fiscal year to each surviving spouse or dependent child (or children) described in subsection (2)(b) or (2)(c);

(iii) upon the death after April 18, 1977, of any police officer on the retired list who was receiving payments from a prior plan before July 1, 1975, his surviving spouse or dependent children are entitled to receive payments from the plan, the amount which would have been paid

to an eligible surviving spouse of such police officer had that spouse been receiving payments in the base fiscal year;

(e) the base salary for the previous calendar year of a newly confirmed police officer of each city or town participating in the plan.

(3) The department of administration shall compute the difference between each amount reported under subsections (2)(d)(i) through (2)(d)(iii) and one-half the base salary for the previous calendar year of a newly confirmed police officer of the appropriate city or town. The difference shall be reported to and paid by the state auditor out of the premium tax collected on insurance sold in this state to insure against the risks enumerated in 19-11-512(3) to the administrator after the end of each fiscal year, but no later than September 1. The premium tax amount paid by the state auditor is statutorily appropriated, as provided in [section 2]. This payment is in addition to the payment to be made by the state auditor under 19-9-702. The administrator shall use the funds received under this subsection to supplement the monthly payments to persons described in subsections (2)(a) through (2)(c) so that the requirements of subsection (1) are met.

(4) In addition to the payments made by the auditor as provided in subsection (3), the auditor shall make annual payments of \$100,000 after the end of each fiscal year but no later than September 1, until the sum of \$500,000 has been paid to the administrator for deposit in the retirement account. These payments are statutorily appropriated as provided in [section 2]. These payments are to be made to reimburse the retirement account for funds advanced to implement this section.

(5) If more than one dependent child is entitled to supplementary payments under this section by virtue of the death of a common parent police officer, the minimum payment to such dependent children under this section shall be determined as if there were one such dependent child and the supplementary payment shall be made to the dependent children collectively."

Section 20. Section 19-10-205, MCA, is amended to read:

"19-10-205. Actuarial valuation of police retirement fund. (1) The city treasurer shall submit to the department of administration before October 1 of each odd-numbered year all information requested by the department necessary to complete an actuarial valuation of the city's police retirement fund. The valuation shall consider the actuarial soundness of the police retirement fund for the 2 preceding fiscal years. (2) The valuation is to be prepared by a qualified actuary selected by the department. A

report and were receiving such payments prior to July 1, 1975;

(b) the names of all spouses or minor children who are receiving payments from the police retirement fund because of the death of a police officer who was receiving such payments prior to July 1, 1975;

(c) the names of all spouses or minor children who are receiving payments from the police retirement fund and who were receiving such payments prior to July 1, 1975, or in the case of minor children, whose parent, the spouse of a police officer, was receiving such payments prior to July 1, 1975;

(d) for the purpose of determining the base figure for the computations set forth in subsection (4), the following information relating to the base fiscal year commencing July 1, 1976:

(i) the amount of the payments made in the base fiscal year to each police officer described in subsection (2)(a);

(ii) the amount of the payments made in the base fiscal year to each spouse or minor child (or children) described in subsection (2)(b) or (2)(c);

(iii) upon the death after April 18, 1977, of any police officer on the retired list who was receiving payments from the police retirement fund prior to July 1, 1975, and who is survived by a spouse or minor children entitled to receive payments therefrom, the amount which would have been paid to an eligible spouse of such police officer had that spouse been receiving payments in the base fiscal year.

(3) Each fiscal year immediately after the adoption by a city or town having a police retirement fund of its budget for that fiscal year, each such city or town shall report to the state auditor the salary for that fiscal year of a newly confirmed police officer of that city or town.

(4) The state auditor shall, upon receipt of the reports referred to in subsections (2) and (3), compute the difference between each amount reported under subsections (2)(d)(i) through (2)(d)(iii) and one-half the salary for the current fiscal year of a newly confirmed police officer of the appropriate city or town. The difference shall be paid by the state auditor out of the premium tax collected on insurance, as provided in 19-10-305(2), to the treasurer of the appropriate city or town at the same time as and in addition to the payment to be made by the state auditor under 19-10-305(1). The payment is statutorily appropriated as provided in [section 2].

(5) The treasurer of each city or town receiving funds under subsection (4) shall immediately deposit them to the credit of the city or town's

PROPOSED AMENDMENT TO H.B. NO. 12

EXHIBIT 20
3-25-85
HB12
McLeod

1. Title, line 11
Following: "20-8-111"
Insert: "90-6-107"
2. Page 3.
Following: line 7 (r) "20-8-111"
Insert: () "90-6-107"
3. Page 24.
Following: line 3
Insert: Section _____. Section 90-6-107, MCA, is amended to read:

"90-6-107". Deposit and expenditure of funds. (1) There is a housing authority enterprise fund in the proprietary fund type as provided for in 17-2-102 (1)(b). All funds from the proceeds of bonds issued under this part, fees, and other moneys received by the board, moneys appropriated by the legislature for the use of the board in carrying out this part, and moneys made available from any other source for the use of the board shall be deposited in the housing authority enterprise fund except where otherwise provided by law. All funds deposited in the housing authority enterprise fund, except funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part, are ~~continuously~~ statutorily appropriated, as provided in [Section 2], to the board and may be expended by the board for the purposes authorized in this part.

Renumber: subsequent sections



TED SCHWINDEN
GOVERNOR

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE

OFFICE OF THE DIRECTOR
AGRICULTURE/LIVESTOCK BLDG.

CAPITOL STATION
HELENA, MONTANA 59620-0201

EXHIBIT 21

3-25-85

HB12

Peck

TELEPHONE:
AREA CODE 406
444-3144

KEITH KELLY
DIRECTOR

TESTIMONY OF MONTANA DEPARTMENT OF AGRICULTURE
FOR THE HOUSE APPROPRIATION COMMITTEE
ON HOUSE BILL 12
MONDAY, MARCH 25, 1985
HELENA, MONTANA

Chairman Bardanouve, members of the Committee, the Department of Agriculture comes here today, not to oppose House Bill 12, but to request a few short amendments to facilitate the department's duty in properly administering some programs unique to the department. I will briefly explain the programs that the department desires to have within the authority of the act to receive statutory appropriation status. Then, I will suggest amendments that will clear up any problems that House Bill 12 would cause to the Department of Agriculture.

In all cases, these programs involve money received from sources other than the general fund. Because of that feature the programs can never accurately predict the amount of money flowing through them during the biennium. These programs presently, and will continue to, receive legislative review of their expenditures. With all of these programs, the distribution of funds to these entities who provide money, depends entirely upon the amount available from the sources of receipts of the funds.

The Rural Development Program provides small low-interest loans to individuals involved with agriculture. The money comes from the U.S. Department of Agriculture to be administered by the state for said purposes. Money generated from interest and repayment of principle on the loans returns to be reloaned. This turnover of money cannot be predicted accurately because changing conditions may change forecasts for appropriation authority. Therefore, continuous statutory appropriation is necessary to properly conduct the program.

The Hail Insurance Program may not even be subject to the scope of House Bill 12. But in the event it comes under the veil of the bill, then, it too should receive statutory appropriation status. This program receives its funds from the farmers through the payment of premiums. It then operates a low-cost insurance program that is needed by the agricultural industry. It returns unused premiums to the farmers who participate. Last year, due to very few hail storms, it returned almost 90 percent of the premium money back to the farmers. This program, because it can never know how many farmers will participate, how many hail storms will occur in any given year, or if it will need to use its reserves to pay out claims, cannot accurately present a figure for budgeting purposes. It can be said that the program has operated efficiently and has a very good record over its decades of providing service in the state. But to place the program under the appropriation process could hamper a program vitally needed that operates very well under the present format.

The Alfalfa Seed Committee and the Wheat Research and Marketing Committee both administer funds that come from the sales of their commodities. They, in turn, spend the money through grants and loans for improving the market of their commodities through research and promotion. The amount of money received by the programs depends on: the market prices, the harvest production, and the condition of the industry. Therefore, it is impossible to say how much money should be appropriated during any one given year because it cannot be determined how much money will be available to be spent on the program.

The Montana Agricultural Loan Authority must have statutory appropriation authority to operate. Because it is involved with bond sales on an ongoing basis and other financial dealings involving agricultural loans, it cannot be restricted to the appropriation process each biennium. The Loan Authority should not be tied by the appropriation process for the same reasons given, as are all other state bond programs.

In conclusion, the department requests the Rural Development Program, the Hail Insurance Program, the Alfalfa Seed Committee, the Wheat Research and Marketing Committee, and the Montana Agricultural Loan Authority either be exempted out of the limitations of House Bill 12 or be given statutory appropriation authority. It should be noted because of the radical sweeping effect of House Bill 12, if this legislature refuses to accept these amendments, then we request it to delay the effective date

of this legislation. This will permit the department time to fully review the effect of this bill on these programs and determine what changes may be necessary to prevent House Bill 12 from damaging the programs mentioned here today.

Proposed Amendments to HB 12

Amend Title

Line 11 add 80-2-103, 80-2-228, 80-11-224, 80-11-310, and
80-12-311

Amend page 3, Section 2, line 8

Add: (s) 80-2-103

(t) 80-2-228

(u) 80-11-224

(v) 80-11-310

(w) 80-12-311

Amend page 24, line 4, section 21

Section 21. Section 80-2-103 is amended and reads:

80-2-103. Administration of trust assets. Funds and the proceeds of the trust assets which are not authorized to be administered by the secretary of agriculture under 80-2-102 shall be received by the department and paid by it to the state treasurer for deposit in the expendable trust fund and

*shall be statutorily appropriated, as provided
in [section 2] to be*

used for expenditure or obligation by the department for the purposes of 80-2-102 or for the rural rehabilitation purposes permissible under the charter of the now dissolved Montana rural rehabilitation corporation as may be agreed upon between the department and the secretary of agriculture, subject to Public Law 499.

Section 22. Section 80-2-228 is amended and reads:

80-2-228. Reserve fund. (1) Each year when the hail board makes its annual levy for the payment of current losses, expenses of administration, and for an addition to the reserve if conditions permit, it may not increase the levy enough in any year so that such addition to the reserve will exceed 5% of the maximum risk written for that year.

(2) The board may engage the services of a qualified actuary to conduct an actuarial valuation of the reserve. This valuation shall include the actuary's determination of the amount of reserve necessary to absorb all reasonably anticipated catastrophic losses. This amount shall be the maximum permissible reserve fund for the next year.

(3) The reserve hereby created shall be deposited in an expendable trust fund, and *is statutorily appropriated as provided*

in [section 2]
the board is hereby granted the power to draw from its moneys in the fund such amounts as it considers necessary for the purpose of paying costs of administration, interest, and losses. *in the program*

(4) The board may not draw on the reserve for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration, exceeds the amount of the estimate made by the board for the current year pursuant to 80-2-221.

Section 23. Section 80-11-224 is amended and reads:

80-11-224. Determination of amount and allocation of assessment. (1) The committee shall set the amount of the assessment each year in accordance with 80-11-206.

(2) Money deposited in the wheat research and marketing account pursuant to 80-11-210 is *statutorily appropriated as provided in [section 2]* to the committee for purposes of wheat

research and marketing under this part.

(3) The committee may be assessed costs by the department for the services it provides upon request or pursuant to 2-15-121. However, the costs charged must have a substantial relationship to the cost of services supplied.

Section 24. Section 80-11-310 is amended and reads:

80-11-310. Deposit and disbursement of funds — records — investment. (1) As soon as possible after receipt, all money received by the department from the assessment levied under 80-11-307 and all other money received shall be deposited in the other special revenue funds.

(2) All money referred to in subsection (1) of this section may be used only for the payment of expenses incurred in carrying out the provisions of this part. The committee may be assessed costs by the department for the services it provides upon request or pursuant to 2-15-121; however, the costs charged must have a substantial relationship to the cost of services supplied.

(3) Money received under this section, 80-11-312, and 80-11-313 not immediately required for the purposes of this part must be invested under provisions of the unified investment program established in Title 17, chapter 6, part 2.

(4) Money received under this section, 80-11-312, and 80-11-313 is *statutorily appropriated as provided in [section 2]*

to the committee for the purposes of this part.

Section 19. Section 30-12-311 is amended and reads:

30-12-311. Accounts of the authority. There is an agricultural loan authority enterprise fund in the enterprise fund type provided for in 17-2-102. All funds from the proceeds of bonds issued under this chapter, fees and other money received by the authority, money appropriated by the legislature for the use of the authority in administering this chapter, and money made available from any other source for the use of the authority must be deposited in the agricultural loan authority enterprise fund except as otherwise provided by law. All funds deposited in the agricultural loan authority enterprise fund are continuously

as provided in Section 21,

not only appropriated

~~appropriated~~ to and may be expended by the authority for the purposes authorized in this chapter.

Renumber subsequent sections

TESTIMONY OF STATE BOARD OF HAIL INSURANCE

FOR THE HOUSE APPROPRIATION COMMITTEE

HOUSE BILL 12

MONDAY, MARCH 25, 1985

HELENA, MONTANA

Chairman Bardanouve, Members of the Committee,

The Hail Board comes here today not to oppose House Bill 12, but to support the amendments that are being submitted by the Department of Agriculture. The program is funded by the collection of premiums for hail insurance. When dealing with nature the program has seen fluctuation in policy numbers ranging from 1,326 to 2,002 in a two year period. The losses versus the collection will also range from a 99.6% loss ratio to a 15.6%. The 15.6% loss ratio allowed the Board to refund 90% of the producer's premium which amount to \$2.1 million in 1984. The money to administer the program stays in the expendable trust and earns interest on it until it is needed for salaries or adjuster per diem. The whole point to the above is that when the premium is collected from the producer it is always earning interest. Due to the fluctuation caused by nature the Board has tried to submit a budget that would reflect an average year. If a season has heavy losses, the Board may have to expend more but if it is not the Board leaves the money in the expendable trust to earn interest for producers. The Hail Board has never abused the use of this money and its 67 years of success speak for itself.

BEFORE THE
MONTANA
HOUSE OF REPRESENTATIVES
APPROPRIATIONS COMMITTEE

HOUSE BILL 12

TESTIMONY OF
GLENN MOORE, DIRECTOR
AND
LARRY BARBER, DIRECTOR
OF THE
MONTANA WHEAT RESEARCH
AND MARKETING COMMITTEE

MARCH 25, 1985

The Montana Wheat Research and Marketing Committee respectfully requests that HB 12 be amended to include this organization as one with "statutory appropriations," thereby allowing it to retain the authority it has now.

There are two compelling reasons why the Committee is asking for this amendment to HB 12. Both reasons relate to the fact that the MWR & MC budget is the result of collections from the sale of wheat and barley entirely. There is no general fund money involved, and this budget is written by farmers for the farmers they represent.

The first reason for calling on the Legislature to allow the Committee to set their own budget is because of the fluctuation of income from the wheat and barley check-off. The upcoming budget for 1985-86 is a perfect example. We are anticipating writing a budget in excess of \$500,000 less for the coming year as compared to this past year. The sharply-reduced 1984 crop following two good years will cause this sharp realignment of income and, as a result, programs. No one, with the limitation of mortal intelligence, can predict a level of income related to yearly production in biennium increments. That makes annual budget amendments a matter of course.

Second, Montana wheat and barley farmers have a history of reacting negatively to anyone other than themselves controlling "their" budget process. Witness the legislation that went into effect only two years ago after agricultural organizations successfully lobbied for legislation to give full authority for budget making to their MWR & MC directors. This was the result of a four-year period in which the legislature "line-itemed" as much as twenty-eight percent of available funds. While the legislature mandated programs that were worthwhile, the farmers felt they should have been part of the same budgeting process as the other research and marketing projects before the Committee. The 47th Legislature agreed and granted statutory appropriation to the Committee.

The net effect of giving the legislature veto power on MWR & MC budget items is the same as giving the legislature control of programs and limiting the powers of those who pay the assessment.

With this in mind, we ask you to amend the list of those with statutory appropriations status to include 80-11-224 (2) and the Montana Wheat Research and Marketing Committee.

HB 12

DESCRIPTION OF PROPOSED AMENDMENTS

The proposed amendments would specify that the existing authority of the Transportation Division, Montana Economic Development Board and the Health Facility Authority to payout:

- (1) principal and interest on bonds
- (2) cost of issuance of bonds
- (3) reserve and guarantee funds

is a "continuing statutory authority." The amount and size of payments is determined by the individual bond issues.

Section 17-5-1606 deals with Industrial Revenue Bonds.
Section 17-5-1514 deals with Pooled Municipal Bonds.
Section 60-11-1107 deals with Railroad Rehabilitation Revenue Bonds.
Section 60-11-1207 deals with Rolling Stock Revenue Bonds.
Section 90-7-306 deals with Health Facility Bonds.

Amendments to H.B. 12 Title

page 1. line 11

Following: line 10

Insert: "17-5-1514, 17-5-1606"

page 1, line 11

Following: "19-11-606,"

Strike: "AND"

page 1, line 11

Following: "20-8-111,"

Insert: "60-11-1107, 60-11-1207, and 90-7-306,"

Amendments to H.B. 12, Section 2.

page 3, line 4

Following: line 4

Insert: "(p) 17-5-1514"

Reletter the following subparagraphs

page 3, line 4

Following: line 4

Insert: "(q) 17-5-1606"

Reletter the following subparagraphs

page 3, line 7

Following: line 7

Insert: "(s) 60-11-1107"

"(t) 60-11-1207"

"(u) 90-7-306"

Page 21

Following: line 1

Insert: the following section

Renumber following sections

Section 18. Section 17-5-1606, MCA is amended to read:

"17-5-1606. Bonds, bond anticipation notes, and notes of the board. (1) The board may by resolution, from time to time, issue negotiable notes and bonds to finance loans or refinance its loans to local government units and its purchases of their bonds and notes, to establish or replenish reserves securing the payment of its bonds and notes, and to finance all other expenditures of the board incident to and necessary or convenient to carry out this part.

(2) The board may by resolution, from time to time:

(a) issue notes to renew notes and bonds to pay notes, including interest;

(b) whenever it considers refunding expedient, refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured; and

(c) issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) The board may by resolution, from time to time, in anticipation of the sale of its securities under this part, issue temporary notes and renewal notes.

(4) Except as otherwise expressly provided by resolution of the board, every issue of its notes and bonds shall be an obligation of the board payable out of any revenues, assets, or money of the board, subject only to agreements with the holders of particular notes or bonds pledging particular revenues, assets, or money.

(5) The notes and bonds must be authorized by resolutions of the board, shall bear a date, and shall mature at times as the resolutions provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at a rate or rates; be in denominations; be in a form, either coupon or registered; carry registration privileges; be executed in a manner; be payable in a medium of payment, at places inside or outside the state; and be subject to terms of redemption as provided in resolutions of the board. The notes and bonds of the board may be sold at public or private sale at such prices, which may be above or below par, as are determined by the board.

(6) The board may create funds and accounts necessary to implement this part. Funds in such accounts are statutorily appropriated, as provided in (Section 2)."

Page 21, line 16

Following: Section 18

Insert: the following section

Renumber following sections

3. Section 19. Section 17-5-1514, MCA is amended to read:

"17-5-1514. Accounts. The board may create funds and accounts necessary to implement this part. The funds and accounts may include:

- (1) a fund into which bond proceeds are deposited;
- (2) a common bond fund consisting of:
 - (a) a common debt service account;
 - (b) a capital reserve account as provided in 17-5-1515, and
 - (c) an operating account for defraying the operational costs of the board; and
- (3) other funds or accounts.
- (4) such funds and accounts are statutorily appropriated, as provided in (section 2).

Page 24, line 4

Following: Section 20

Insert: the following section

Renumber following sections

Section 21. Section 60-11-1107, MCA, is amended to read:

60-11-1107. Bond accounts - appropriation. (1) There is a railroad rehabilitation account in the state special revenue fund provided for in 17-2-102. All bond proceeds shall be placed in the railroad rehabilitation account, and all money deposited in the account is continuously ~~appropriated~~ and statutorily appropriated, as provided in (section 2), to the department and may be expended by the department for the purposes authorized in this part.

(2) There is a railroad rehabilitation reserve debt service fund as provided for in 17-2-102. Loan repayments and required capital reserves shall be deposited in the railroad rehabilitation reserve debt service fund, and all money deposited in the debt service fund is continuously ~~appropriated~~ and statutorily appropriated, as provided in (section 2), to the department and may be expended for the payment of principal and interest on the bonds as they become due.

(3) If the department enters into a trust indenture pursuant to 60-11-1106, it may provide for the establishment of funds and accounts to be held by the trustee and may pledge and appropriate the bond proceeds, capital reserves, and loan payments to such funds and accounts notwithstanding the provisions of subsections (1) and (2). Such funds and accounts are statutorily appropriated, as provided in (section 2).

Page 24, line 4

Following: section 21

Insert: the following section

Renumber following sections

Section 22. Section 60-11-1207, MCA, is amended to read:

60-11-1207. Bond accounts - appropriation. (1) There is a railroad rolling stock account in the state special revenue fund provided for in 17-2-102. All bond proceeds shall be placed in the railroad rolling stock account, and all money deposited in the account is continuously ~~appropriated~~ and statutorily appropriated to the department, as provided in (section 2), and may be expended by the department for the purposes authorized in this part.

(2) There is a railroad rolling stock debt service fund as provided for in 17-2-102. Loan repayments and required capital reserves shall be deposited in the railroad rolling stock fund, and all money deposited in the fund is continuously ~~appropriated~~ and statutorily appropriated to the department as provided in (section 2) and may be expended for the payment of principal and interest on the bonds as they become due.

(3) If the department enters into a trust indenture pursuant to 60-11-1206, it may provide for the establishment of funds and accounts to be held by the trustee and may pledge and appropriate the bond proceeds, capital reserves, and loan payments to such funds and accounts, notwithstanding the provisions of subsections (1) and (2). Such funds and accounts are statutorily appropriated, as provided in (section 2).

Page 24, line 4

Following: section 22

Insert: the following section

Renumber following sections

Section 23. Section 90-7-306, MCA is amended to read:

"90-7-306. Trust funds. All money received pursuant to this chapter, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, are trust funds to be held and applied solely as provided in this chapter. Any officer with whom or any bank or trust company with which such money is deposited shall act as trustee of the money and shall hold and apply it for the purposes of this chapter, subject to such regulations as this chapter and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust agreement securing the obligations may provide. Such funds are statutorily appropriated as provided in (Section 2)."

PROPOSED AMENDMENT TO HOUSE BILL 12

1. Title, Line 10

Following: "17-3-212"

Insert: "17-5-411"

2. Page 3

Following: Line 3

Insert: "17-5-411"

3. Page 20

Following: Line 5

Insert: "Section 17. Section 17-5-411, MCA,
is amended to read:

Agreement with division of workers' compensation. If the proceeds of any bonds issued pursuant to 17-5-410 are appropriated for the purpose of constructing a workers' compensation building in Helena, the board of examiners and division of workers' compensation shall enter into an agreement pursuant to which the division shall agree to pay the state treasurer for deposit in the debt service account established pursuant to 17-5-405 amounts sufficient to pay as due the principal of and interest on those bonds from which the appropriation was made and to accumulate and maintain the required reserve attributable to those bonds. The agreement shall provide that, to the extent not required for costs of completing the building, the income from investment of the bond proceeds prior to expenditure and from investment of the reserve shall be credited against the division's payment obligation and is statutorily appropriated, as provided in (Section 2). The agreement shall allow for accumulation of the reserve during the first year the bonds are outstanding. The payments under the agreement shall be made from revenues and money of the division available therefor."

PROPOSED AMENDMENT TO HOUSE BILL 12

1. Title, Line 10

Following: "17-3-212"

Insert: "17-5-412"

2. Page 3

Following: Line 3

Insert: "17-5-412"

3. Page 20

Following: Line 5

Insert: "Section 17. Section 17-5-412, MCA,
is amended to read:

Agreement with department of labor. If the proceeds of any bonds issued pursuant to 17-5-410 are appropriated for the purpose of constructing employment service buildings, the board of examiners and department of labor and industry shall enter into an agreement pursuant to which the department shall agree to pay the state treasurer for deposit in the debt service account established pursuant to 17-5-405 amounts sufficient to pay as due the principal of and interest on those bonds from which the appropriation was made and to accumulate and maintain the required reserve attributable to those bonds. The agreement shall provide that, to the extent not required for costs of completing the building, the income from investment of the bond proceeds prior to expenditure and from investment of the reserve shall be credited against the department's payment obligation and is statutorily appropriated, as provided in (Section 2). The agreement shall allow for accumulation of the reserve during the first year the bonds are outstanding. The payments under the agreement shall be made from revenues and money of the division available therefor."



P.O. Box 1165 • 750 6th Street S.W. • Great Falls, Montana 59403 • 406/761-4596

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS COMMITTEE ON HB 12
March 25, 1985

Mr. Chairman, Members of the Committee:

For the record, my name is Ross Fitzgerald. I am a grain producer from Power. I am also the Vice-President of the Montana Grain Growers Association and would like to testify in opposition to HB 12 unless it can be ammended to include the Montana Wheat Research and Marketing Committee.

The MGGA very strongly believes that the MWR & MC must retain the "statutory appropriation" status that it now has, a status that we worked hard to achieve in the 47th Legislative session. The MWR & MC is charged with using funds collected from farmers for the benifit of those same farmers. The seven man board of the Wheat Commission must retain control of their budgeting process. The control must remain in the hands of those who are paying the assessment. The Wheat Commission's record in developing markets for Montana's wheat and barley and promoting research that benifits Montana farmers is a good one. We cannot allow anything that would hinder that success story.

Therefore, if you are considering giving HB 12 a "do-pass" reccomendation, we ask that you ammend it to include the MWR & MC.

Mr. Chairman, the MGGA would also like to go on record urging you to give the State Hail Board the same consideration. The Hail Board, is once again using monies collected in good faith from farmers to benifit the same farmers who take part in the program.

Thank you.

d, the purchaser or lender shall pay to the department the assessment provided for in 80-11-206 for deposit in the wheat research and marketing account in the other special revenue funds.

3) The statement referred to in subsections (1) and (2) of this section shall be legibly written and shall be entirely free of any corrections or erasures. A person may not alter any part of a statement.

4) After 30 days and before 90 days following the deduction of the assessment by the first purchaser or the first lender, the grower may, upon submission of a written, verified request to the department, obtain a refund of the assessment. The request shall be accompanied by the original receipts received by the grower at the time of settlement. The department shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed 2 years after the refund is made. All original invoices shall be returned to the grower with the refund statement.

History: En. Sec. 13, Ch. 314, L. 1967; and, Sec. 2, Ch. 201, L. 1971; and, Sec. 112, Ch. 218, 1974; and, Sec. 6, Ch. 71, L. 1975; R.C.M. 1947, 3-2915; and, Sec. 43, Ch. 281, L. 1983.

Compiler's Comments
1983 Amendment: At end of (2), substituted "the other special revenue funds" for "the wheat research and marketing fund".

80-11-208. Receipt of gifts, grants, or donations for research purposes. The department may receive any gifts, grants, or donations for research or scientific inquiries conducted under this part and may spend them in compliance with the conditions of the gifts, grants, and donations.

History: En. Sec. 15, Ch. 314, L. 1967; and, Sec. 113, Ch. 218, L. 1974; R.C.M. 1947, 3-2915.

80-11-209. Official bonds of employees. Employees of the department participating in the handling of assessment receipts or other receipts shall be bonded for the faithful and safe handling and accounting for the receipts while in their hands and for faithful compliance with this part.

History: En. Sec. 16, Ch. 314, L. 1967; and, Sec. 114, Ch. 218, L. 1974; R.C.M. 1947, 3-2916.

80-11-210. Research and marketing account — sources — use — expenditures. (1) There shall be an account in the other special revenue funds known as the wheat research and marketing account. The following shall be placed in the account:

a) the proceeds of all millage levies collected under this part; and
b) the proceeds from all gifts, grants, or donations to the department for research authorized under this part.

2) The account shall be maintained for the purposes of this part and shall be separate from all other accounts of the department.

3) The department may direct the board of investments to invest funds from the account pursuant to the provisions of the unified investment program for state funds. The income from such investments shall be credited to the wheat research and marketing account.

History: En. Sec. 17, Ch. 314, L. 1967; and, Sec. 2, Ch. 70, L. 1973; and, Sec. 115, Ch. 218, 1974; and, Sec. 2, Ch. 16, L. 1977; R.C.M. 1947, 3-2917; and, Sec. 2, Ch. 277, L. 1983.

Compiler's Comments
1983 Amendment: Substituted "other special revenue funds" for "federal and private revenue funds".

80-11-211. Violation — penalty. Any person violating any of the provisions of this part shall be guilty of a misdemeanor and shall upon conviction be fined not less than \$25 or more than \$500.

History: En. Sec. 19, Ch. 314, L. 1967; R.C.M. 1947, 3-2919. *John Fitzgerald*

80-11-212. (Temporary) Insurance contracts — rules — administration — purpose. The department shall, through rules it adopts, administer the purchase of insurance contracts authorized under 80-11-205(1)(e) and administer the dispersal of money received for losses covered by the insurance contracts. The insurance contracts shall be purchased for the benefit of growers who have delivered grain to grain dealers. It is the goal of the legislature that the insurance contracts, within available resources, compensate growers for up to 80% of losses to their grain while it is in the control of a grain dealer. (Terminates July 1, 1985—sec. 6, Ch. 630, L. 1983.)

History: En. Sec. 3, Ch. 630, L. 1983.

Compiler's Comments
Statement of Intent: The statement of intent attached to HJR 545 (Ch. 630, L. 1983) provided: "This bill requires a statement of intent because [80-11-212] requires the department of agriculture to adapt rules to implement the purchase of insurance contracts authorized under [80-11-205]. Rules adopted under [80-11-212] should establish procedures for submitting loss claims, calculating the amount of loss, adjusting for overcompensation, and any further requirements necessary to ensure that insurance contracts are properly administered for the benefit of the growers." (Note: Chapter 630, L. 1983, terminates July 1, 1985; sec. 6, Ch. 630, L. 1983.)

80-11-213 through 80-11-220 reserved.

80-11-221. Repealed. Sec. 2, Ch. 31, L. 1983.

History: En. Sec. 2, Ch. 530, L. 1979.

80-11-222. Repealed. Sec. 2, Ch. 31, L. 1983.

History: En. Sec. 3, Ch. 530, L. 1979; and, Sec. 2, Ch. 615, L. 1981.

80-11-223. Repealed. Sec. 2, Ch. 31, L. 1983.

History: En. Sec. 4, Ch. 530, L. 1979.

80-11-224. Determination of amount and allocation of assessment. (1) The committee shall set the amount of the assessment each year in accordance with 80-11-206.

(2) Money deposited in the wheat research and marketing account pursuant to 80-11-210 is appropriated to the committee for purposes of wheat research and marketing under this part.

(3) The committee may be assessed costs by the department for the services it provides upon request or pursuant to 2-15-121. However, the costs charged must have a substantial relationship to the cost of services supplied.

History: En. Sec. 1, Ch. 615, L. 1981.

Part 3

Alfalfa Seed Industry

80-11-301. Short title. This part may be cited as the "Alfalfa Seed Industry Act".

History: En. Sec. 2, Ch. 405, L. 1981.

80-11-103. Department's marketing duties. The department shall:

- (1) keep abreast of research results in the subject matter area of marketing;
- (2) coordinate work with local, state, and national planning groups and other interested parties in helping them identify major problem areas and needs in marketing;
- (3) develop and carry out appropriate action programs that will result in significant improvements being made by those people concerned with problems of marketing;
- (4) coordinate efforts with representatives of other agencies or organizations or persons who are concerned with related programs;
- (5) investigate the costs of marketing;
- (6) gather and disseminate information concerning supply, demand, favorable marketing information, prevailing prices, and changes in marketing movements, practices, and rates, including common and cold storage of food products;

(7) promote, assist, and encourage the organization and operation of cooperative and other associations and organizations for improving the relations and services among producers, distributors, and consumers of food products; and

(8) investigate the practice and methods concerning the marketing of agricultural products;

(9) act as mediator or arbitrator, when invited, in a controversy or issue that may arise between producers and distributors;

(10) assist producers and distributors in the economical and efficient distribution of agricultural products at fair prices;

(11) appear and be heard at any hearing involving agricultural marketing affecting Montana.

History: En. Sec. 4, Ch. 330, L. 1969; Sec. 3-119, R.C.M. 1947; and, and *reides*, 3-3003 by Sec. 7, Ch. 218, L. 1974; R.C.M. 1947, 3-3003.

Cross-References

"Department" defined, 80-1-101.

80-11-104. Cooperation of state agencies. All agencies of the state which participate in marketing shall cooperate with and assist the department.

History: En. Sec. 8, Ch. 330, L. 1969; Sec. 3-123, R.C.M. 1947; and, and *reides*, 3-3004 by Sec. 8, Ch. 218, L. 1974; R.C.M. 1947, 3-3004.

Part 2

Wheat Research and Marketing

80-11-201. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Commercial channels" means the sale of wheat or barley for any use when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any wheat or barley or product produced from wheat or barley.
- (2) "Committee" means the Montana wheat research and marketing committee provided for in 2-15-3002.

(3) "First purchaser" means any person, public or private corporation, association, or partnership buying, accepting for shipment, or otherwise acquiring the property in or to wheat or barley from a grower and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, where the actual or constructive possession of such wheat or barley is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim.

(4) "Grain" means wheat or barley.

(5) "Grain dealer" means any person, association, dealer, partnership, or corporation or its agent or representative who is licensed by the state or federal government and engaged in the business of buying, receiving, selling, exchanging, warehousing, or negotiating for the sale of grain. The term also includes anyone who solicits the sale, resale, exchange, or transfer of any grain purchased from a grower; receives grain on consignment from a grower; or receives grain to be handled on a net return basis from the grower.

(6) "Grower" means any landowner personally engaged in growing wheat or barley, a tenant of the landowner personally engaged in growing wheat or barley, or both the owner and the tenant jointly; and includes a person, partnership, association, corporation, cooperative, trust, sharecropper, and any and all other business units, devices, and arrangements.

(7) "Loss" means any monetary loss to a grower resulting from the delivery of grain to a grain dealer due to an extraordinary cause, including but not limited to bankruptcy, embezzlement, theft, or fraudulent disposition by the grain dealer.

(8) "Sale" includes any pledge or mortgage of wheat or barley after harvest to any person, public or private.

(9) "Warehousing" means any method by which grain owned by another is held for him by one who is not the direct owner of the grain. The term does not include transportation of grain for another. (Subsections (4), (5), (7), and (9) terminate July 1, 1985—sec. 6, Ch. 630, L. 1983.)

History: En. Sec. 4, Ch. 314, L. 1967; and, Sec. 109, Ch. 218, L. 1974; and, Sec. 2, Ch. 71, L. 1975; R.C.M. 1947, 3-2904; and, Sec. 1, Ch. 630, L. 1983.

Compiler's Comments

1983 Amendment: Inserted (4), (5), (7), and

(9). Amendment terminates July 1, 1985, sec. 6,

Ch. 630, L. 1983.

80-11-202. Declaration of policy. In the presence of the facts that wheat is the principal grain crop produced in Montana and as such is an agricultural resource of the first magnitude in the economy of the inhabitants of Montana, a prime factor in the production of wealth and the development and stabilization of property values and of activities and enterprises which are bases and sources of important contributions by taxation to the public revenues, and that Montana wheat is a commodity which enters a world market highly competitive in character and that barley is also an important crop, it is hereby declared to be the public policy of the state of Montana to protect and foster the health, prosperity, and general welfare of its people by encouraging and promoting intensive, scientific, and practical research into all phases of wheat and barley culture and production, marketing, and use

nd into the development of markets for wheat and barley grown in Montana by the department.

History: En. Sec. 2, Ch. 314, L. 1967; and, Sec. 108, Ch. 218, L. 1974; and, Sec. 1, Ch. 71, L. 1975; R.C.M. 1947, 3-2902.

80-11-203. Compensation — per diem. Members of the committee shall receive no salary but shall be paid from the wheat research and marketing account in the other special revenue funds a per diem of \$25 for each day they are engaged in the transaction of official business, together with their actual and necessary travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while on official business.

History: En. Sec. 6, Ch. 314, L. 1967; and, Sec. 110, Ch. 218, L. 1974; and, Sec. 3, Ch. 71, L. 1975; and, Sec. 5, Ch. 439, L. 1975; R.C.M. 1947, 3-2906; and, Sec. 2, Ch. 277, L. 1981.

Compiler's Comments
1983 Amendment. Substituted "other special revenue funds" for "federal and private revenue and".

80-11-204. Election of chairman — time of meetings. At the first meeting of the administrative committee, it shall elect a chairman from among its members. The committee shall meet at least once every 3 months and at such other times as called by the chairman or by any three members of the committee.

History: En. Sec. 8, Ch. 314, L. 1967; R.C.M. 1947, 3-2908.

80-11-205. Powers of the committee. (1) The committee may:

- (a) adopt rules necessary for the administration of this part;
- (b) provide, through the department, for the enforcement of this part;
- (c) provide for the conduct of research into the production, marketing, and uses of wheat and barley;
- (d) enter into contracts or agreements with Montana state university and other local, state, or national organizations, public or private, for the purposes of improving wheat or barley quality, increasing the efficiency of production, developing marketing knowledge, developing markets, determining new uses for wheat or barley, developing alternative crops for wheat or barley, and carrying out all research and marketing contemplated by this part. The committee may not establish research units or agencies of its own.
- (e) authorize the department to enter into insurance contracts and pay premiums therefor from the wheat research and marketing account for the purpose of providing insurance coverage to growers who, after the contract has been entered into, suffer a loss as defined in 80-11-201.
- (2) No researchers or professional or scientific personnel may be employed to carry out this part except as provided in subsection (1)(d) of this section.

(3) None of the powers or duties provided for in this part permit participation in state or federal political action by the committee. (Subsection (1)(e) terminates July 1, 1985—sec. 6, Ch. 630, L. 1983.)

History: En. Sec. 9, Ch. 314, L. 1967; and, Sec. 111, Ch. 218, L. 1974; and, Sec. 4, Ch. 71, L. 1975; R.C.M. 1947, 3-2909; and, Sec. 2, Ch. 630, L. 1983.

Compiler's Comments
1983 Amendment. Inserted (1)(e). Amendment terminates July 1, 1985; sec. 6, Ch. 630, L. 1983.

80-11-206. Maximum annual assessment on wheat and barley grown. (1) There is hereby levied an annual assessment of not more than 10 mills per bushel upon all wheat grown and not more than 15 mills per hundredweight on all barley grown in the state of Montana and sold through commercial channels. The assessment is hereby levied and imposed on each grower of wheat or barley in the state of Montana:

(a) in the case of sale of wheat or barley, at the time of any sale of wheat or barley by a grower, and shall be collected by the first purchaser of the wheat or barley from the grower at the time of each settlement for wheat or barley purchased; or

(b) in the case of a pledge or mortgage of wheat or barley as security for a loan under any federal price support program, the assessment shall be collected by deducting the amount thereof from the proceeds of such loan at the time the loan is made by the agency or person making the loan.

(2) The assessment levied under the provisions of this part shall be deducted and collected as provided by this part, whether such wheat or barley is stored in this or any other state. The assessment shall attach to each transaction, but no grower shall be subject to assessment more than once irrespective of the number of times it shall be the subject of a sale, pledge, mortgage, or other transaction, the assessment being imposed and attaching on the initial sale, pledge, mortgage, or other transaction in which the wheat or barley grower parts with title to the wheat or barley, or creates some interest therein in a pledge, mortgage, or other person.

History: En. Sec. 11, Ch. 314, L. 1967; and, Sec. 1, Ch. 201, L. 1971; and, Sec. 5, Ch. 71, L. 1975; R.C.M. 1947, 3-2911; and, Sec. 1, Ch. 530, L. 1979; and, Sec. 1, Ch. 31, L. 1983.

Compiler's Comments
1983 Amendment. Increased the maximum annual assessment on wheat from 5 to 10 mills and on barley from 10 to 15 mills.

80-11-207. Buyer's delivery of invoice to grower — form — filing of sworn statement — payment of assessment — refund. (1) The purchaser of the wheat or barley at the time of sale or the pledgee, mortgagee, or other lender at the time of the loan or advance shall give separate invoices for each purchase to the grower. The invoices shall be on forms approved by the department and shall show:

- (a) the name and address of the grower and seller;
- (b) the name and address of the purchaser or the lender;
- (c) the number of bushels of wheat or hundredweights of barley sold, mortgaged, or pledged;
- (d) the date of the purchase, mortgage, or pledge and the amount of assessment collected and remitted to the department.

(2) The purchaser, mortgagee, or pledgee shall file with the department, on forms prescribed by the department, within 20 days after the end of a month in which he purchases a grower's wheat or barley or in which a lender makes a loan or advance on a grower's wheat or barley, a sworn statement of the number of bushels of wheat or hundredweights of barley purchased in Montana or the number of bushels of wheat or hundredweights of barley mortgaged or pledged or otherwise transferred or lien as security for a loan during the preceding calendar month. At the time the sworn statement is

Garlick Helicopters, Inc.

EXHIBIT 26
3-25-85
HB295
Harrington
TELEX. NO. 467-523

February 21, 1985

Honorable Dan Harrington
Capitol Post Office
Helena, Montana 59601

Joyce Garlick
P.O. Box 1522
Hamilton, MT 59840

Re:(Lemon Law II) House Bill

Dear Mr. Harrington:

In response to an article published in the Missoulian one of our local newspapers. I strongly support your efforts to establish a strickter and more efficient law behind the consumer. As one of the consumers who is now in a legal battle for numerous defects in a Chevrolet purchased in 1983, I feel that I have first hand experience with dealing with the manufacturers and dealers in trying to resolve any problem that I have incurred. The basic answer I seem to receive is go ahead and file suit. I have had numerous problems with the 1983 Chevy Blazer 4X4 since it was first purchased some of the problems that occured were covered under the dealers "so called warranty, but after I had put twelve thousand miles on the vehicle it was a different story. If the defects I encountered had been minor, I would have just gone and fixed them myself. Instead the transfer case started leaking at 3500 miles, this was followed by the tie-rods that keep the front end aligned being not even connected. This results in tires wearing out on the outer edges. Which by the way no warranty covers! From there I had problems like the handles on the back window falling off, (which I fixed myself), from there at 8,000 miles all the belts that run the engine just came off and to this day I still do not know where they went, I just paid for more replacements (again, not covered under warranty). I guess the final straw was when the transmission started leaking,

con't

Rep. Dan Harrington

con't

this occurred when the vehicle had 18,000 miles on it and since a major component is covered until 24,000 miles I took it back into our local dealer, at that time I was told that Chevy was having several problems with a pump that they designed for the small blazer, and that it would be taken care of; well to make a long story short this local dealer ended up trying to fix the leaking three times, the last being when the truck started smoking and throwing transmission fluid all over the highway, because of this the truck overheated.

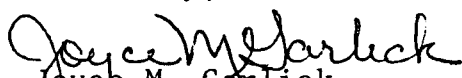
I was then referred to the GM representative, he suggested that I take the truck to another dealer. I did and again they tried another three times to fix the transmission without any luck. After seven months of this I finally gave the vehicle back at the advice of my attorney.

I am now since November 17, 1984, still trying to resolve the matter, which will have to be in court.

I have enclosed a couple of the letters I had at hand from the dealer as to their attitude on settlement. By the way the last offer would end up with me owing the dealer an additional 1,600.00 on top of what I already have put into the truck not including the additional options I purchased outside and added on, basically you could say this has now cost me approximately 15,000.00 and I do not even have the truck, the dealer does and is driving it around and has been since I dropped it off.

I sincerely hope that this will help you in your efforts and if I may be of any further assistance, please feel free to contact me at either my business or residence numbers below.

Sincerely,


Joyce M. Garlick
Vice President

Garlick Helicopters, Inc.

Home: 821-3735

Business: 363-6121

Representative Dan Harrington
Capitol Station
Helena, Mt. 59620

MAN Bauer Dr.
1700 Valley Wind Lane
Missoula, Mt. 59801

Dear Mr. Harrington—

Re: Lemon Law

In regards to your request for information, I would offer the following. I have enclosed a copy of letters sent concerning a 1983 GMC truck I purchased.

I was not aware there was any "lemon law" or I would have pursued the matter in that fashion. The letters summarize problems I had with the unit and the dealer. Since the letters, the truck has been in for several more brake problems, the engine failed when an oil cooler line broke and the radio still has not been repaired. The engine was rebuilt (I had to pay a 100 deductible?) and I have been waiting for 6 months for reimbursement for a \$155 towing bill. The unit was under warranty when the engine failed.

I sincerely hope your proposed legislation passes since I and my family have gone thru a lot of hardship and stress in trying to get the vehicle problems solved. Because of fear of brake failure, my wife and children were scared to ride in the vehicle, and my brother narrowly avoided a wreck because of the brake problem.

Maybe the public will be more aware of the law if your legislation is accepted. I wish I had known of the law, and I am sure a lot of other people are not aware of it.

Sincerely,

and the kindness of their heart, they reimbursed me \$500.00 which I accepted, being I couldn't get another car. I paid \$7550.00 cash for the car and wanted one that would last me for the rest of my life but believe that when it goes bad again it will be junked, which it was in the first place.

Sincerely,

Daisy Groshart

Daisy Groshart
Box 127

Sidney, Montana

150X 127

Sidney, MT 59270

Feb. 21, 1985

Att. Rep. Dan Harrington.

You have asked other people with car problems to voice their woes to you:

In 1981 I had turned 61 and decided to buy one more new car planning on it to last me without alot of repair bills. It didn't seem to have any power so took it back to the dealer he adjusted the timing. This happen three times. Finally took it to another Ford dealer it cost \$121.00 to work on the carburetor.

(The problem was I would be out on the hi-way, maybe stopping then when I started up again the car would just died on me. I would have to raise the hood, take the air filter off pry the choke open run around and start the car.)

Was in Wyoming took it to a Ford dealer \$14.00 and was supposed to be fixed. When I got back to Sidney, I took it to a shop \$16.00/Finally took it to a Carburetor shop. Still didn't work very good. Finally after all this time I took it to a ex-Ford mechanic who had opened his own shop. He tore into the motor and found a piston that had been cracked when the car was put together. I took it back to the dealer and showed his shop foreman and was told the car was off warranty and I would have to contact some one in Denver. That little repair cost me \$454.65. The car didn't do to bad until I took a trip then it started all over again. I took it back to the shop and the mechanic tore into the motor and had to replace pistons, #2 head cost \$830.50. I finally decided to call the Detroit office and voice my grip in a letter form. They referred me to a number in Denver, which I called and out of the whole thing

MORSE LAW FIRM
ATTORNEYS AT LAW
P. O. BOX ~~525~~ 550
ABSAROOKEE, MONTANA 59001
TELEPHONE 406-328-2671
406-328-2661

February 21, 1985

WM. R. MORSE
~~MICHAEL R. MORSE~~

Representative Dan Harrington
House of Representatives
Capitol Building
Helena, Montana 59620

Dear Representative Harrington:

You may recall that I was somewhat involved in the original "lemon law" hearings. I note your appeal in the Billings Gazette for contact by other "lemon" victims in connection with the proposed revision of the current law. I also note that there has been testimony that there were only 30 known "lemons" since the Bill was originally passed. In my opinion, this figure must be horribly distorted since I have had nearly that many presented to me alone! In the past 10-days I have had three complaints and I have no hesitation in identifying them to you:

- (1) Judy Reinhardt vs. Rice Motors involving a brand new vehicle which had countless problems documented;
- (2) Janet Cross vs. Arnlund Auto Plaza involving a new Plymouth with countless documented problems;
- (3) Nina Vandersloot vs. Davey Ford Motor of Columbus with the same kind of problems.

It is my experience that the motor companies continue to stonewall these victims and unless there is a provision for payment of costs and attorney fees, these people generally don't have the funds for a fight against the giants. It would also simplify proceedings if all service could be made against a named agent, perhaps the Secretary of State. Further, it appears that federal arbitration

MORSE LAW FIRM
Wm. R. Morse
February 21, 1985
Page 2

proceedings are being used as a tool of the manufacturer and the customer lacks the experience and know-how to intelligently protect himself in those proceedings; in the cases which have come to my attention those proceedings have already taken place before the customer has had occasion to approach an attorney. It may be that the Action Line Section of the Billings Gazette would be of some help to you in determining the volume of consumer complaints, as they have recently referred two to me.

Please feel free to use these remarks as you deem appropriate.

Very Sincerely,


WM. R. MORSE

WRM/lh

cc: Action Line (Billings Gazette)

ROBERT F. TURNER
107 High Park Way
Missoula, MT 59803

2/20/85

Rep. Dan Harrington D-Butte
Montana Legislature
Helena, Montana

Dear Mr. Harrington:

We read w/ interest your article on
"lemon victims". I am sending
along a copy of my latest letter
to Gen'l. Motors.

In my opinion we have been
assaulted by the dealer & by GM.
Money that we have spent in
putting the car back together
should have been given to our
children for education.

Hoping the enclosed letter will
help you.

Sincerely
Robert F. Turner

107 High Park Way
Missoula, MT. 59803
February 18, 1985

cc to: T & W Chevrolet - Missoula, Mt.
UAW Detroit
Customer Relations - Salt Lake City
Ralph Nader - Consumer Advocate - Wn DC

General Motors Corp.
3044 West Grand Boulevard
Detroit, Michigan 48202

Sirs: REF: 1981 Citation
ID # 1GLAX 6851 B6 216676

This letter is a followup to various memos I wrote in early 1983, one year after we purchased the car new and to bring to your attention what has occurred since that time. The vehicle now has 60,000 miles on the odometer.

The following items have failed during the four year period:

Clutch @ 19,000	Heater control broke
Front axle @ 49,000	Oil leak from valve cover
Rear shocks @ 32,000	Shift knob spring broke
Brake master cylinder	Seat belt still not adjusted
Battery @ 29,000	Front end misaligned from factory
Brakes - twice	Power steering stiff when cold
Emergency Brake (numerous)	Exhaust line to emission control
Engine tune (every 4-6 mo.)	burned off
Fit of all doors (unadjustable)	Window door knob fell off
Radio speaker	Plastic gear, on shift, replaced twice
Visor fell off (\$25)	Head light switch - excessive heat on
	control
	Starting safety switch broken

During the Winter of 1984, brake/ lock-up causing a high velocity 360 Degree turn while going downhill at 30 MPH.

Previous to this ownership we had purchased (3) new Impala Station Wagons and (3) used Chevrolet vehicles. The Citation has cost us more money and grief than all the previous vehicles. It is hard to believe this is really happening to us.

We have the following concerns:

1. Treatment by "Customer Relations", in Salt Lake City, was terrible. They accused us of mishandling the car and spent some effort in justifying all the breakdowns. They acted like a typical "hit squad".
2. We were told by T & Ws Chief Mechanic (Riech) that because of our driving habits - we live in a hilly residential area - that our clutch would fail again in the 2nd 19,000 miles (clutch, installed by another company, is still working). He also said the clutch was designed for level terrain & highway use only (What a Ridiculous statement)
3. After one year my wife called T & W asking about a trade-in. She was told they weren't interested because they still had a lot full of new Citations.
4. The materials in the car are cheaply made. The "Fisher-Body" label is a joke-as is the rest of the car. I'm happy not to be a workman forced to install such poor materials- he must realize that as soon as the car hits the road it will start to disintegrate.
5. As a long time "patriot", I wouldn't have considered purchase of a foreign made car. I and thousands of others have really learned our lesson.

In conclusion, I wish to state that if this was some other situation, it would be classed as a felony criminal action.


Robert F. Turner

TESTIMONY ON HB 295

By

Corrinne Reneau-Fay

EXHIBIT 27
3-25-85
HB295
Reneau-Fay

I SPEAK AS A CONCERNED CITIZEN REGARDING THE^{LACK OF} FAIRNESS OF BATTLES PITTING MAJOR CAR MANUFACTURERS AGAINST THE AVERAGE CONSUMER. I AM CURRENTLY INVOLVED IN SUCH AN ISSUE WITH THE DODGE CORPORATION AND CAN TELL YOU IT DOES NOT MAKE IT EASIER WITH A WARRANTY AS THE DIFFICULTIES AND OBSTACLES ARE STILL IN YOUR PATH. I DO NOT HAVE A LARGE CIRCLE OF FRIENDS, BUT I PERSONALLY KNOW OF TWO CASES WHERE NEW CARS ARE FALLING APART AND CAUSING HEADACHES FOR THE PEOPLE WHO PURCHASED THEM. IN MY JOB HERE AT THE LEGISLATURE I HAVE SPOKEN WITH MANY PEOPLE AROUND THE STATE WHO HAVE HORRIBLE STORIES OF TRANSMISSIONS AND ENGINES GOING OUT, PAYING FOR THE REPAIRS OUT OF THEIR OWN POCKETS, AND THEN NOT GETTING REIMBURSED FOR THE COSTS FROM THE MANUFACTURER. WHY SHOULDN'T A MANUFACTURER STAND BEHIND A DEFECTIVE \$15,000 OR \$20,000 ITEM WHEN ANY RETAILER WILL GLADLY TAKE BACK A DEFECTIVE 59 CENT ITEM? WITH PASSAGE OF THIS BILL, THE CONSUMER WILL HAVE A PLACE TO START THE LONG TASK OF DEALING WITH THE HEARTBREAK OF PURCHASING AN EXPENSIVE ITEM THAT WAS NOT BUILT RIGHT. A LOT OF PEOPLE HERE IN THIS STATE ARE TRYING TO FIGHT THIS BATTLE ALONE - THEY DO NOT HAVE A PLACE TO SEEK ADVISE OR SOMEONE TO ACT AS AN ADVOCATE FOR THEM. I REALIZE YOU HAVE A LOT OF APPROPRIATION DECISIONS, BUT THIS ONE IS SMALL IN RELATION TO THE GOOD IT WILL DO THE CONSUMER WHO HAS NO PROTECTION.

Montana Public Interest Research Group

729 Keith Avenue • Missoula, MT. 59801 • (406) 721-6040
532 NORTH WARREN HELENA, MT 59601 406-443-5155



TESTIMONY BEFORE THE COMMITTEE ON
BUSINESS AND LABOR OF THE
HOUSE OF REPRESENTATIVES

MARCH 25, 1985

GOOD EVENING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.
MY NAME IS JULIE DALSOGLIO AND I AM HERE TODAY ON BEHALF OF THE
MONTANA PUBLIC INTEREST RESEARCH GROUP (MONTPIRG), A NON-PROFIT,
NON-PARTISAN RESEARCH AND ADVOCACY ORGANIZATION DIRECTED BY
UNIVERSITY OF MONTANA STUDENTS. I AM HERE TO SPEAK IN FAVOR OF
HOUSE BILL 295, MONTANA'S "LEMON LAW II."

MONTPIRG WAS A STRONG PROPONENT OF THE LEMON LAW THAT
PASSED THE 1983 LEGISLATURE.

MONTPIRG OPERATES A CONSUMER HOTLINE WHICH DOES RECEIVE
INQUIRIES FROM CONSUMERS ABOUT THE LEMON LAW. TO DATE WE HAVE
RECEIVED INQUIRIES FROM ABOUT 15 LEMON OWNERS. I HAVE BROUGHT
WITH ME SEVERAL LETTERS FROM CONSUMERS WHO WOULD HAVE BENEFITTED
FROM PASSAGE OF THE LAW BEFORE YOU TODAY. I WOULD LIKE TO ENTER
THESE INTO THE RECORD AND ALSO READ EXCERPTS THAT I THINK PERTIN-
ENT TO THIS BILL.

THE CURRENT LEMON LAW WAS PASSED WHEN ONLY TWO OTHER STATES
HAD PASSED SUCH A BILL, NOW OVER 17 STATES HAVE SUCH LEGISLATION.
MONTANA'S LEMON LAW ESTABLISHES A DEFINITION OF WHAT A LEMON
AUTOMOBILE IS. IT ALSO SUGGESTS WHAT THE MANUFACTURER SHOULD
DO IF THE AUTOMOBILE IS DETERMINED TO BE A LEMON. IF THE
MANUFACTURER IS COOPERATIVE THEN THE CONSUMER IS SIMPLY OUT TIME,
TAXES AND OTHER ADDITIONAL NEW CAR CHARGES. UNFORTUNATELY, THIS
IS SELDOM THE CASE WITH THE CONSUMERS WE HAD CONTACT WITH. THAT
IS WHY WE SUPPORT THE CURRENT BILL BEFORE YOU.

WE FAVOR THE FOLLOWING PROVISIONS:

- 1- EXTENSION OF WARRANTY PERIOD;
- 2- THE DISCLOSURE PROVISION IN LINES 7 THROUGH 13 ON PAGE 4;

PAGE 2

HB 295 - LEMON LAW II

- 3- COLLATERAL CHARGES AND INCIDENTAL FEES;
- 4- DEALER NOT LIABLE AS DESCRIBED IN LINES 17 THROUGH 21 ON PAGE 5;
- 5- SECTION 7 ON DISPUTE SETTLEMENT BEGINNING ON PAGE 6;
- 6- THE NOTICE FOR RESALE ON LINES 8 THROUGH 16 ON PAGE 9.

WE SUPPORT HB 295 AND ARE PARTICULARLY SUPPORTIVE OF THE SECTIONS WE HAVE POINTED OUT TO YOU. THESE SECTIONS WOULD ADDRESS THE PROBLEMS WE HAVE HEARD FROM CONSUMERS WITH THE CURRENT LEMON LAW.

I WOULD NOW LIKE TO READ EXCERPTS FROM LETTERS ADDRESSED TO THIS COMMITTEE FROM LEMON OWNERS CONTACTED BY OUR OFFICE.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE FOR YOUR TIME.

January 25, 1985

To Whom It May Concern:

I am writing this letter in regards to an automobile I purchased from Arnlund Auto Plaza on February 4, 1984. I have had it in the shop numerous times for various problems and defects in the car (attached are the work-orders). I realize that any car needs service done on it, but I feel that this one has needed excessive work done on it. Many things were not normal bugs to be worked out, such as a defective gas tank, gas gage, air conditioner condenser and hydraulic clutch hose to name the major ones.

I have had the car in the shop 15-20 times in the 11 months that I have owned it, and each time it took me the extra time and inconvenience of having to take it out of my way to get it to the shop and be without a vehicle for the rest of that day. On two other occasions, it was necessary to leave the car for the whole week. I then had the added expense of borrowing or renting a loaner car. (I should add that the service dept. did only charge me for the insurance on the rented car.)

What this letter is driving at is that I am concerned that I will continue to have problems with this car after the warranty period is up, and will then be charged for the repairs. I am going on record here, with this complaint about my car, to make all parties concerned aware of the problems I have had with this car and to be sure that I will have no problem getting all repairs done to my satisfaction, should I have to take the car in for any service work on any of the previously documented problems. I was assured by the Dealership that this would be the case, and I was also informed by a representative from Mont. P.I.R.G. that I have this right under the Montana "Lemon Law" provisions.

I don't think I will have any problem with the service department taking care of any further repairs, at no charge to me, if they are things that should have been taken care of in the first place. If I do, then I will have to take legal action against the Dealership.

I am sending a copy of this letter to the House Business and Labor Committee in Helena in support of HB 295 calling for a stronger "Lemon Law" in our state in hopes of avoiding problems like this in the future.

Sincerely,

Dorothy A. McIntock

CC: Rep. Dan Harrington
C.B. Pearson- Mont. P.I.R.G.
AMC Service Rep.-
Bert Arnlund Auto Plaza

1/22/85

Dear Montana Representatives,

I took delivery of a 1984 Jeep Cherokee from Flanagans in Missoula on June 1, 1984. The following morning when I started the vehicle I engaged the choke, following the instructions in the owners manual. The exhaust smoked and pulsed like a misfiring cylinder and the vehicle shook badly. After a minute or two the idle would smooth out and begin to operate on fast idle. The dealer told me to let it break in. This Jeep, at idle, displayed an unusual feature from the car I traded in; when stopped at a light or stop sign, the engine idle speed would increase for a period of time and then drop back to a normal, low smooth idle. If, while at idle, the steering wheel were turned, even slightly, the engine idle speed would increase to compensate for the load on the engine. It would decrease when the steering wheel was released. It idled like this, normally, until I experienced a complete electrical system failure. After this electrical system failure, the engine idled erratically and I experienced a constant, intermittent problem with engine dieseling. It would run on after the ignition was turned off.

I was driving out on logging roads and came back to town and stopped the Jeep. The next time I started it, I heard an electrical clicking noise, a popping noise, an arcing noise and a strange smell was present, and the vehicle was dead. No lights, no horn, no radio, no nothing. After getting quite frustrated that my 10 day old Jeep had just had a major electrical malfunction, I started fiddling with the battery cables. It still wouldn't start so I started walking

to a friend's house. I remembered experiencing a similar problem with another vehicle that I had owned and I knew that the immediate problem most likely was a bad ground. I fiddled with the battery cables again, heard another clicking noise and the power was restored. The biggest mistake I made was not going back to the dealer and demanding that the contract be cancelled. I knew this electrical malfunction would be very difficult to find. The Jeep has never idled like it did before the first electrical failure and the dieseling problem became apparent after it also. There was another electrical failure, on the dealer's lot, one Sunday a few months later.

I've had problems in five major areas:

1. Fuel System; with bad choke operation, dieseling and rough inconsistent idle operation.
2. Electrical System Failures,
3. Transmission; grinding noises, a bad clutch, pressure plate, release bearing and problem with the flywheel.
4. Engine oil leaks; the rear main seal and the valve cover.
5. Fit and finish defects; consisting of a defective rear door, the fiberglass was cracking and on a fender the paint was peeling because it did not properly adhere to the primer at the factory.

To date this Jeep has made 13 visits for a total duration of 49 days in the repair facility in the 7½ months I've owned it. Luckily, the dealer loaned me a vehicle for about half that time, which did minimize the inconvenience, but did not eliminate it. He did not have to loan me a vehicle either, but he did, and I was grateful.

On January 11, 1985 the service department finally went into the vehicle with the attitude of fixing it. It had recently begun an occasional, non-start situation in which the electrical system was not controlling the fuel system properly and the vehicle would not start easily and when it did, it would just turn on, the engine would not rev; then there'd be a clicking noise in the engine and it would return to it's normal, always erratic idle. They recently kept it 13 days, drove it 135 miles and replaced a number of major components. The service technician told me he found a number of things wrong. Even after all these parts were replaced it still shows signs of dieseling, runs rough on choke, though not near as rough as when I took delivery, and the non-start situation has occurred once and it still does not idle like it did before the first electrical system failure. I feel quite confident it will not ever idle like that again.

No one at the dealership could tell me anything about the procedures to follow when encountering continuing problems like these. I had to dig for any information I found. I learned of Montana Autocap and contacted them. They told me they couldn't help me because they were not sanctioned by Jeep Corporation and I'd have to contact an arbitration panel in Denver. I had no intentions ^{of dealing} ~~to deal~~ with an arbitration panel based in Denver. The lawyer I spoke to in Helena said send him \$200.00 and couldn't tell me what the final figure would cost. Luckily, I'm a student here in Missoula and the Student Legal Services agreed to take the case.

4

I completely believe that I took delivery of a defective Jeep. It's been a constant nuisance and I cannot believe it will ever be trouble free. It never has been trouble free. It has been defective the entire warranty period; a number of major components were recently replaced at Jeep's expense out of the expressed written warranty's duration. At 15,000 miles on the odometer, I'm out of warranty, my Jeep's never been right and I'm out of warranty. If I win the Lemon Law case I will still have to pay new vehicle taxes again, which bring licensing and taxes to near \$300.00 on this vehicle. If I hadn't taken delivery of a defective vehicle I wouldn't have to pay these taxes again.

The law must be strengthened, a state sanctioned arbitration panel with enforcement capabilities set up for individuals ^{and situations} where hiring a lawyer might prove an additional, real burden. Any steps which might reduce the burden on the lemon owner must be taken. A Corporation is a faceless entity. I talked to the factory service representative and he gave me the impression that he thought I was imagining these problems. Having a lemon is a very discouraging experience. You spend your money on a new, expensive investment. You expect it to be right.. If it's not you have to fight to get it fixed, and fight to get it replaced, if it can't be fixed. Vehicles that fall under the regulations of the lemon law should be replaced as soon as the defects are proven.

Sincerely,

Daniel DeFrank

Daniel DeFrank

Jan. 25, 1985

Business and Labor Committee
c/o Representative Dan Harrington

To the Committee:

Please use this following testimony for enactment of House Bill 295.

In August of 1984 my wife and I purchased a 1984 Chevrolet Citation from the only Chevrolet dealer here in Gillingham Mt. For a five month period we had continuous problems with this motor vehicle. For the last two months of Nov. and Dec. of 1984 this vehicle was totally inoperative. Here is a list of some of the overall needed repair:

Vehicle would not start

Vehicle hesitation

Vehicle engine would die out at low and highway speeds

Transmission leaked

Carburetor leaked - Gas in engine oil

Brakes froze in cold weather

Power steering did not work

Heater did not work

Air conditioning stalled out engine when engaged

Loose windshield

Electrical surges

Misc. Rattles

Window wipers did not work right

Front end out of line

The engine problems forced this vehicle to remain in our garage or in the repair shop some time for the months of Nov. & Dec. 1984, while we continued to make bank payments on the vehicle.

During this short period of time my wife and I both had full time jobs while working different shifts. We spent more time at the dealership with this vehicle than at work. The dealership refused us a loaner car. This was the only vehicle we had.

Our greatest concern was the safety of our family, we have one child. This car at numerous times died out while at intersections, interstate on-ramps, stop signs, while passing other vehicles, crosswalks, and while engaged in general. The dealership did not care at all!! They said it might be a computer control problems but they really did not know and did not offer any suggestions.

After trying all avenues at the dealership we proceeded with contacting several consumer outlets. We ended up with an attorney from Helena who specialized with the current Montana Lemon Law. The only way he suggested a win situation was to store our vehicle - pull off the registration plates and go the court route for maybe a year or so. This seemed to us as bad if not worst than having no law at all. What good is the current law? After having informed the dealership of our intent with our attorney they simply laughed in our face and said this current law was a joke and an insult to the public!

Also, behind the situation was the fact that we had bank payments on this vehicle of over \$300.00 a month plus the money inputted for registration, insurance, general maintenance, and other cash we had used on our own to rectify the vehicle's problems by a private garage! Simply wasting 4,000 dollars or so over a years time on an inoperative vehicle seemed to high a price to pay. The attorney could not ^{give} guaranty on any financial return or even a positive outcome. Again the current law seems to protect the auto dealer and or the manufacturer! a bad vehicle is a bad vehicle and can be easily proved. They have your money and you have a proved bad vehicle they don't want anything to do with.

at last in early January we sold this vehicle in an as is condition for 8,000 dollars having paid over 11,000 new for it. Hopefully no one will now come after us! However, we had to refinance a new loan at our bank to pay off the original vehicle loan. We now have a 150 dollar loan per month on a vehicle we do not even own.

With such large amounts of money needed to purchase a new vehicle, with most Montanians having low per capita income, long distances between places, hard winters, and high fuel costs why are we not stopping this rip-off. Let's make the dealers at least somewhat human! It apparently will take God himself to straighten out the manufacturers.

In our opinion the current Montana law is worthless at best. The lawyers make money and the dealers keep saying they can fix it if it takes two or three years. Most of us take our lick, dump the bad vehicle, and buy a used one that is in better condition than the new defective one. Have you got the time, the money, the emotional stability, and does your boss at work really understand.

Please help others that will lose their shirt in the near future! Thank you

Sincerely,



Ellen L. Bryan

2724 River Oaks
Billings, Mt. 59105
406-259-8213

SENATE BILL 382

My name is Ted Hazelbaker and I am presently serving as Chairman of the State Board of Public Education.

The Board feels strongly that there is a need for greater fiscal accountability in the cost of school programs. Essentially, the Board is in the same position as you Legislators. We do not get a report on the relationship between the money spent and the educational services provided. We are as anxious to establish this relationship as you are, particularly at a time when state revenues are decreasing. The Board feels that there must be this assessment of the relationship between policy decisions, past and present, and local district budgets. Passage of Senate Bill 382 will insure fiscal accountability, and allow the Board to provide you with a report on what money is being spent for what educational services.

The State Board is charged with developing Accreditation Standards. Should it not also be charged with being accountable for the moneys needed to meet these standards? I would think it should be.

Why the Board of Public Education? Simply because of the make up of the Board. Comprised of a teacher, an administrator, present and former local board members and businessmen/taxpayers, the Board is beholden to no particular political party or philosophy. It's not concerned with elections, nor is it a member of any "Good Old Boys" club. The Board can, I feel, judge the information it receives without external pressures in the bright light of what is needed to provide a good educational background for the children of Montana, and what it will cost to provide that education. Certainly, it's not that the Board is smarter than anyone else, it's simply the fact that the Board is a full player in the entire education game, yet it can step back from the forest a little further than others so that it can see the trees one at a time.

The School Administrators took a step this last fall in addressing accountability and I applaud that effort. That was a start and if Senate Bill 382 passes, I see the Board working closely with that group, OIP and others to further define what the State is paying for and refine the estimates of the revenues needed.

The Administrators Committee certainly took a step towards accountability - passage of this bill will be a giant leap for all of us towards accountability.

I urge your support of Senate Bill 382



Board of Public Education

March 25, 1985

EXHIBIT 30
3-25-85
SB382
Van Duym

Hidde Van Duym
Executive Secretary

BOARD MEMBERS

EX OFFICIO MEMBERS:

Ted Schwinden, Governor

Ed Argenbright, Superintendent of
Public Instruction

Irving E. Dayton, Commissioner
of Higher Education

APPOINTED MEMBERS:

Ted Hazelbaker, Chairman
Dillon

James Graham, Vice Chairman
Ismay

Sarah "Sally" Listerud
Wolf Point

Alan Nicholson
Helena

Arthur "Rocky" Schauer
Libby

Bill Thomas
Great Falls

Thomas A. Thompson
Browning

Chairman Bardanoue, members of the Committee:

I am Hidde Van Duym, Executive Secretary to the Board of Public Education.

It is time that there is an analysis of cost in elementary and secondary education, and it is time that there is a formal process for submitting the budget for elementary and secondary education to the Legislature. Claims have been made that the cost of the basic education program has outstripped the foundation and that any new policies impose a burden which can only be handled through additional voted levies. But, we haven't got the basics to address the issue, namely the figures that give us a state picture of what the money is being spent on.

Why the Board of Public Education? The Constitution assigns the duty of submitting the education budget requests to the State Board of Education and the statutes designate the Board of Public Education as part of one of the twenty departments of the executive branch with the duty to prepare and submit budget estimates. But, so far this process has not been carried out as far as the public schools system budget is concerned.

With regard to the school finance process, the statutes charge the Board of Public Education with adopting policies for the regulation of the distribution of state equalization aid and ordering its distribution and they charge the Superintendent with the supervision of the procedures. The mechanism is there, but the final product, namely the relationship between the money distributed and the programs mandated by the Board of Public Education is missing.

This bill, SB 382, addresses that relationship. It provides a submission process which allows the Board to follow the normal procedure that any state department has to follow when it seeks funding from the legislature. And, it fulfills the intent of the law. The Constitution and the statutes ask for unified budget requests; they ask that the Board administer and order the distribution of the state equalization aid, and they assign the Board the task of evaluating the programs in existence.

This bill provides for a process that is long overdue. I urge you to pass this bill.

To the House Appropriations Committee

March 25, 1985

Chairman Bardanoue, members of the Committee:

I am Jacob Block, Superintendent, Elementary School District #1, Missoula.

I speak as proponent of SB 382. This bill provides an orderly systematic process for developing a request to appropriate funds for state equalization aid. It is submitted that there must be a relationship between what is required of schools by statute, policy and regulation, and the costs to implement these requirements. It is not sufficient to simply allege that schools should be funded based on what programs exist in each school district. What may be the program of a school district is presumably what the constituents of that district wish for their children. It does not follow that such offerings are necessarily required by the state. A school program may never be less than the minimum prescribed by the state but may easily exceed those minimums. The state has a responsibility to fund the minimums set forth by the state. Local school districts must assume funding responsibility for programs and activities beyond the minimum.

SB 382 will serve as a mechanism to provide the state budget director with a legislative appropriation request which is supported by a rationale founded in statute, policy and regulation.

Rod Svee

Mr. Chairman - members of the committee
& for the record I am -

I speak tonight as a proponent for SB382
for one ^{very} basic reason -

1. ~~There~~ A perceived need for a clarification
of the ~~fiscal~~ legislative fiscal request for
elementary and secondary education.

~~2.~~ a. In observing the funding
requests for ~~el~~ + secondary education
over the past 11 years, a definite pattern
has ~~been~~ been apparent. The legislature
is bombarded with figures relative to
the proper funding for el + sec ed. This
year for example, a rarity occurred, the
ed. organizations unified their foundation
program requests to 7% ^{however,} in each year
of the biennium. Once the initial
request was presented, each organization
presented figures to substantiate the request.
These figures appear to contradict themselves
and doubt concerning their authenticity
is created.

I believe that a unified system is
necessary. A system that the legislature
is familiar with and ^{also} finds acceptable,
~~is a necessity.~~

Such a system must include the
information that is required for quality
decisions.

When I present a budget to the trustees
of my district, the budget is presented as the
culmination of a process that informs
the trustees about all of the items that
they feel ~~is~~ are pertinent. The process must

in order to allow quality decisions to be reached,

Such a process - a process that is acceptable without question - is a necessity. All of the ^{budgetary} information necessary for quality decisions is available within the state agencies and organizations in Helena. I can think of no ^{budgetary} information ~~utilized~~ in local districts that is not gathered by some state agency. This ~~information~~ is not always accessible by computer but only because no one has established the proper programming.

~~Whenever funding is In this period of tight governmental funding, it~~

I appeal to this committee to begin the establishment of such a budgetary process. The educational agencies that serve Montana's ~~in~~ elementary and secondary programs can deliver to you ~~the~~ the type of information that you require; please allow us to serve you and in this way serve the young people ~~in our~~ entrusted to our care. SB 382 will hopefully ~~accomplish this task~~

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EXECUTIVE BRANCH OFFICERS AND AGENCIES

2-15-231

Flathead Basin Commission

SB 161, 1983

MCA

2-15-213. Flathead basin commission — membership — compensation. (1) There is a Flathead basin commission.

- (2) The commission consists of 15 members selected as follows:
- (a) four members appointed by the governor from industrial, environmental, and other groups affected by Title 75, chapter 7, part 3, one of whom must be on the governor's staff and who also serves as the executive director;
 - (b) one member who shall be the commissioner of state lands or his designee;
 - (c) one member appointed by the Flathead County commissioners;
 - (d) one member appointed by the Lake County commissioners;
 - (e) one member appointed by the Confederated Salish and Kootenai Tribes;

- (f) one member appointed by the United States department of agriculture, forest service regional forester for the northern region;
- (g) one member appointed by the United States department of interior national park service, regional director for the Rocky Mountain region;
- (h) five ex officio members appointed respectively by the chief executive of the provincial government of the Province of British Columbia, the regional administrator of the United States environmental protection agency, the administrator of the Bonneville Power Administration, the chief of engineers of the United States army corps of engineers, and the holder of a license issued for the Flathead project under the Federal Power Act.

- (3) The commissioners shall serve without pay. Commissioners mentioned in subsection (2)(a), except the commissioner on the governor's staff, are entitled to reimbursement for travel, meals, and lodging while engaged in commission business, as provided in 2-18-501 through 2-18-503.
- (4) The commission is attached to the governor's office for administrative purposes only.

History: En. Sec. 4, Ch. 424, L. 1983.

2-15-214. Flathead basin commission — term of appointment — quorum — vacancy — chairman — vote. (1) The commission members shall serve staggered 4-year terms.

- (2) A majority of the membership, other than ex officio members, constitutes a quorum of the commission.
- (3) A vacancy on the commission must be filled in the same manner as regular appointments, and the member so appointed shall serve for the unexpired term to which he is appointed.
- (4) The commission shall select a chairman from among its members. The chairman may make motions and vote.
- (5) A favorable vote of at least a majority of all members, except ex officio members, of the commission is required to adopt any resolution, motion, or other decision of the commission.

Part 3

Flathead Basin Commission

75-7-301. Short title. This part may be cited as the "Flathead Basin Commission Act of 1983".

History: En. Sec. 1, Ch. 424, L. 1983.

75-7-302. Purpose. The purpose of the Flathead basin commission is to protect the existing high quality of the Flathead Lake aquatic environment; the waters that flow into, out of, or are tributary to the lake; and the natural resources and environment of the Flathead basin.

History: En. Sec. 2, Ch. 424, L. 1983.

75-7-303. Definitions. As used in this part, the following definitions apply:

- (1) "Aquatic resources" means all beneficial uses of water, including but not limited to water quality and water supply; recreational, scenic, and aesthetic values; and fish, wildlife, and other organisms.
- (2) "Commission" means the Flathead basin commission established in 2-15-213.
- (3) "Flathead basin" means all land and water areas the water from which drains into Flathead Lake or its tributaries.

History: En. Sec. 3, Ch. 424, L. 1983.

75-7-304. Duties of the commission. Duties of the commission are:

- (1) to monitor the existing condition of natural resources in the basin and coordinate development of an annual monitoring plan. This plan must

involve a cooperative strategy among all land and water management agencies within the Flathead basin and identify proposed and needed monitoring which emphasizes but is not limited to the aquatic resources of the Flathead basin.

(2) to encourage close cooperation and coordination between federal, state, provincial, tribal, and local resource managers for establishment of compatible resource development standards, comprehensive monitoring, and data collection and interpretation;

(3) to encourage and work for international cooperation and coordination between the state of Montana and the Province of British Columbia concerning the undertaking of natural resource monitoring and use of consistent standards for management of resource development activities throughout the North Fork Flathead River drainage portion of the Flathead basin;

(4) to encourage economic development and use of the basin's resources to their fullest extent without compromising the present high quality of the Flathead basin's aquatic environment;

(5) to, in the discretion of the commission, undertake investigations of resource utilization and hold public hearings concerning the condition of Flathead Lake and Flathead basin;

(6) to submit a biennial report to the governor and the appropriate committees of the legislature that includes:

(a) a summary of information gathered in fulfillment of its duties under this section;

(b) information on monitoring activities within the Flathead basin concerning the condition of the basin's natural resources, with particular emphasis on Flathead Lake;

(c) the identification of land use and land development trends in the Flathead basin;

(d) any recommendations the commission considers appropriate for fulfillment of its duties and for continued preservation of the Flathead basin in the present high quality of its aquatic resources; and

(e) an accounting of all money received and expended, by source and purpose, for the period since the last report; and

(7) to meet at least semiannually within the Flathead basin, alternating the meeting site between the cities of Kalispell and Polson.

History: En. Sec. 7, Ch. 424, L. 1983.

75-7-305. Commission authority. (1) The commission may make recommendations to the legislature and the governor and to federal, tribal, provincial, and local agencies for maintenance and enhancement of the quality of natural resources of the Flathead basin.

(2) Subject to appropriation by the legislature, the commission may receive and expend donations, gifts, grants, and other money necessary to fulfill its duties.

History: En. Sec. 8, Ch. 424, L. 1983.

75-7-306. Establishment of account. There is established in an other special revenue fund a Flathead basin commission account. Money received by the Flathead basin commission under 75-7-305 and such other

funds as are designated or appropriated for its use must be deposited in the account.

History: En. Sec. 9, Ch. 424, L. 1983; and, Sec. 48, Ch. 281, L. 1983.

Compiler's Comments

1983 Amendment: Substituted "an other special revenue fund" for "the federal and private revenue fund".

75-7-307. Special county government authority. The governing body of any county within or bordering upon the Flathead basin may allocate to the Flathead basin commission a portion of any money available from coal severance tax allocations or other sources and designated for planning activities.

History: En. Sec. 10, Ch. 424, L. 1983.

75-7-308. Cooperation with other agencies and organizations.

To fulfill its duties, the commission shall develop and maintain cooperative programs with federal, state, provincial, tribal, and local agencies or organizations that are responsible for natural resource management and monitoring in the Flathead basin. Participating federal and provincial agencies must be requested to provide adequate funds to participate on the commission and to monitor resources within their areas of responsibility.

History: En. Sec. 11, Ch. 424, L. 1983.

BILL NO. #189
(ENCUMBRANCES)
TESTIMONY

EXHIBIT 34
3-25-85
SB189
Manning

AT THE REQUEST OF THE DEPARTMENT OF ADMINISTRATION

"AN ACT TO ALLOW THE ENCUMBRANCE AT FISCAL YEAR END OF APPROPRIATIONS FOR CERTAIN STATE PROCUREMENTS OF SUPPLIES AND SERVICES; AMENDING SECTION 17-7-302, M.C.A.; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Purpose

Under current law, State Agencies are allowed to encumber funds at fiscal year end, when a "valid obligation" exists. The proposed act defines a "valid obligation" to include a requisition, under special circumstances.

Rationale

When an Agency submits a requisition to the Department of Administration's Purchasing Division, within the required time, Purchasing is responsible for insuring that a purchase order is issued by June 30. However, occasionally the Division is unable to issue a purchase order by June 30 because no acceptable bids were received or because a formal protest of the bid was filed. When this happens, a State Agency could be left with an unsatisfied request for goods for the fiscal year - through no fault of their own.

Goals of the Bill

This bill has been drafted to rectify this situation. If enacted, Agencies will be able to encumber funds at year end through a requisition form only with the approval of the Purchasing Division when these special conditions exist. Sound fiscal controls will still exist, and agencies will still receive the goods or services they need from the proper appropriation.

BILL NO. #189
(ENCUMBRANCES)

TESTIMONY

AT THE REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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49th Legislature

LC 1078

STATEMENT OF INTENT

_____ BILL NO. _____

A statement of intent is required for this bill because section 6 grants rulemaking authority to the Montana centennial office.

It is intended that the rules promulgated pursuant to that section address the needs of persons and organizations who wish to obtain endorsement of centennial projects and obtain grants from the office. The rules would supply information and direction so that such grants and endorsements reflect general themes or decisions relating to centennial activities or observances. In this manner persons or organizations can clearly plan their submissions and thus avoid unnecessary problems that can arise when goals, objectives, and criteria are unknown or even unformulated at the state level.

WITNESS STATEMENT

Name Brenda Schye Committee On Approp.
Address North Star Rte, Glasgow Date 3-25
Representing Montana Arts Advocacy Support X
Bill No. H.B. 873 Oppose _____
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Represent the Mont. Arts Advocacy, a broad cross-section of Montanans who are committed to the development of our state's cultural resources.
2. State has a rich multi-cultural heritage of which her residents are very proud. Marking the 100th birthday of our statehood will certainly be cause for celebration.
3. Important to begin now:
 - * to initiate revenue-raising mechanisms to fund the celebration
 - * to ensure the thorough planning that this occasion deserves.
- One reservation we have — want to register our disappointment that the commission established under this bill will serve only in an advisory capacity. We would prefer that there be more decision-making authority vested in this group.
With the exception of that provision, we heartily support this bill.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>William M. von</i>	<i>Willard Mt</i>		
<i>Harry Parker</i>	<i>Lehigh River S.M.A.</i>		
<i>Cione Christiansen</i>	<i>Helena</i>		
<i>Jim NYS</i>	<i>Helena</i>		473
<i>BERNADETTE A. OPP</i>	<i>Missoula</i>	473	
<i>Les Graham</i>	<i>Livestock</i>	12	
<i>John Skufca</i>	<i>" "</i>	12	
<i>Gail Kline (WLF)</i>	<i>Great Falls</i>		473
<i>Jac. Brand</i>	<i>Helena</i>	473	
<i>Mona Jannson</i>	<i>Helena</i>	12	
<i>Rod Sager</i>	<i>"</i>	12	
<i>Bill Gosden</i>	<i>MDOT</i>	12	
<i>Jim Stephens</i>	<i>Boz</i>	12	
<i>DAN Antonietti</i>	<i>USDL-VETS</i>	473	
<i>Jack M. Glynn</i>	<i>Vet Affairs Dir. Helena</i>	513	
<i>Bob Durkee</i>	<i>UFW</i>	513	
<i>Bob Durkee</i>	<i>UFW</i>	473	
<i>Bob Durkee</i>	<i>Helena</i>		

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VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE _____

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VISITORS' REGISTER

APPROPRIATIONS COMMITTEE

BILL NO.

HB-513DATE MARCH 25, 1985 a.m.

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
C. HAL MANSON	HELENA - ANTER LEGION	X	
BERNADETTE A OPP	MISSOULA	X	
Joe Brand	HELENA	X	
George Poston	HELENA	X	
Nick Brown	HELENA	X	

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VISITORS' REGISTER

APPROPRIATIONS COMMITTEE

BILL NO. HB 473DATE MARCH 25, 1985 a.m.

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mary Lou Garrett	Helena - ICCW	X	X
Hal Hanson	Helena - Amer Legion	X	
Lorna Frank	Boz. Mt. Farm Bureau	X	
Rich Brown	Helena		
Joe Brand	Helena	X	
Bob Miller	Hobson	X	
George Foster	Helena	X	
Ellen Flager	Dept. of Administration		X
Maries Coffe	Bozeman Citizen		X
Bill Miller	Helena VFW	X	

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VISITORS' REGISTER

Appropriations COMMITTEEBILL NO. VariousDATE March 25, 1985 p.m.SPONSOR Various

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<u>Daniel Kemmis</u>	<u>Missoula</u>	<u>HB 914</u>	
<u>CORRIANNE RENEAU-FAY</u>	<u>HELENA</u>	<u>HB 295</u> ✓	
<u>MICHAEL S. FAY</u>	<u>HELENA</u>	<u>HB 295</u>	
<u>JAY McLeod</u>	<u>Helena</u>	<u>HB 12</u>	
<u>Gayle Patrick</u>	<u>Malta</u>		
<u>Mike Madala</u>	<u>OPT</u>		<u>SB 382</u>
<u>Wendy Bandagen</u>	<u>Board of Public SA</u>	<u>SB 382</u>	
<u>El Morris</u>	<u>MALCO</u>	<u>108</u>	
<u>ROSE H. FITZGERALD</u>	<u>POWER, MT. MONT BRANN</u> <u>CONCRETE ASS'N</u>	<u>HB</u>	<u>HB 12</u>
<u>Larry Bailes</u>	<u>Office Bldg MT</u> <u>Chesapeake</u> <u>5 MKR</u>		<u>HB 12</u>
<u>Sharon Mann</u>	<u>Wallard - wheat Creek</u>		<u>HB 12</u>
<u>Dana Fitzgerald</u>	<u>Helena - M G G A</u>		<u>HB 12</u>
<u>Ralph Peck</u>	<u>Montana Dept of A</u>		<u>HB 12</u>
<u>Rodney Sweet</u>	<u>Hardin</u>	<u>SB 382</u>	
<u>Frank Obertus</u>	<u>El Falls</u>	<u>HB 295</u>	
<u>B. Maiba</u>	<u>Helena</u> <u>Dept of Commerce</u>	<u>295</u>	
<u>PHIL HAUCK</u>	<u>HELENA</u>	<u>29</u>	<u>294</u>
<u>Bill L. Luman</u>	<u>Helena</u>		<u>294</u>
<u>Julio Valloglio</u>	<u>Mont PIRG</u>	<u>295</u>	

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BILL NO.

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