

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 13, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on February 13, 1987, at 9:00 a.m. in Room 437 of the State Capitol.

ROLL CALL: Rep. O'Connell was excused. All other committee members were present.

CONSIDERATION OF HOUSE BILL NO. 300: Rep. Lory, House District #59 and sponsor of the bill, stated the bill was being introduced at the request of the Board of Regents. It is a bill that gives an optional retirement system to members of the university system. This bill in no way affects the Teachers' Retirement System.

PROPOSERS: Carroll Kraus, Commissioner of Higher Education, stated this bill is important to the university system. He distributed a fact sheet to all committee members (Exhibit #1) and stated HB 300 has received a great deal of study over the last few years in order to accommodate the concerns of the TRD and to make the state of Montana a more attractive area for recruitment of teachers. Montana is not competitive from a salary standpoint; Montana teachers receive approximately \$2,300 per year less than those in the surrounding states. Portability of retirement benefits is important because it supports mobility between institutions of higher learning, and Montana students benefit from the interchange of ideas stimulated by the exchange of teachers from other institutions of higher learning.

Bruce Carpenter, President of Eastern Montana College, stated his agreement with Carroll Kraus' testimony. There is more and more difficulty in recruiting faculty to Montana. Compared to three years ago, they are receiving about 1/3 of the applications for available teaching positions. HB 300 will add flexibility in attracting faculty members to the Montana campuses which is important for the continuation of quality education in Montana. It will not have a negative impact on those already here.

Jim Koch, President, University of Montana, stated the provisions of HB 300 will not impose any significant financial penalty or liability for current or future members of TRS. The bill will enable faculty members to direct their pension contributions either to fixed income or to equities.

In times of a difficult economy, this is important. HB 300 will also provide faculty members with a benefit that will not cost the state much of anything.

Les Loble, a Helena attorney and representing TIAA-CREF, stated TIAA is a legal reserve life insurance and annuity company founded in 1918 by the Carnegie Corporation and the Carnegie Foundation for the Advancement of Teaching. It invests contributions in a broadly diversified group of bonds, mortgages and direct loans to business and industry. CREF, established in 1952, is a broadly diversified common stock fund and invests contributions in the common stock of companies in a wide range of industries. Over 3,700 educational institutions, including about 550 publicly supported colleges and universities in 35 states, provide participation in the TIAA-CREF retirement plan. TIAA-CREF has about one million participants and combined assets in excess of \$55 billion. TIAA has invested approximately \$36 million in Montana. He submitted written testimony (Exhibit #2) and stated an optional retirement program should be made available as an alternative to TRS for faculty members and administrators which will round out the offerings of the university system. He submitted amendments to the bill (Exhibit #3). These amendments are submitted to address the concerns of Teachers' Retirement Board regarding the TRS unfunded liability.

Terry Minnow, representing the Montana Federation of Teachers and the Montana Federation of State Employees, expressed support of HB 300. Although this bill will affect very few of the current faculty of the university system, it will affect future members. This bill is an attempt to make Montana more competitive in its recruitment of new faculty. The impact of TRS will not be major. HB 300 will play a major role in the quality of education in Montana in the future. She urged a do pass recommendation.

Coleen Holmes, a Montana College Coalition lobbyist, stated HB 300 will benefit the institutions, the university system, and the students.

Matthew Teague stated support for the bill and feels that anything that can be done for the professors during these difficult economic times will be appreciated.

OPPONENTS: Dave Senn, Administrator of the Teachers' Retirement Division, submitted written testimony outlining the Teachers' Retirement Board's opposition to HB 300 (Exhibit #4). He asked the committee to consider the possible long-range impact as well as the short-term solution offered by this bill. He urged a do not pass.

Eric Fever, Montana Education Association, stated HB 300 is not consistent with the mood of the times. We are looking at no salary increases for most teachers in the state. We are looking at reductions in force, particularly for those with least seniority. We are looking at the governor's proposal to tax teachers' retirement benefits for the first time. The legislature is looking at many bills that, in one way or another, attempt to shrink the benefits of the participants. There are many retirement systems in Montana. HB 300 proposes an additional retirement system that would be an adjunct to or a separation from an existing retirement system, the Teachers' Retirement System. We would be creating another retirement system which would be a competitor to the Teachers' Retirement System. He would not oppose HB 300 if the committee could assure him of three factors: 1) that this bill would have no impact on the unfunded liability for the remaining TRS participants; 2) that this bill would create no increase in employer or employee contributions within the system, and 3) that it would have no injurious effect on the future retirement benefit increases that participants of the TRS might place before the legislature at a future time, such as a long-term goal of all educators in the TRS to receive a cost-of-living increase for retirees.

DISCUSSION OF HOUSE BILL NO. 300: Rep. Cody asked Mr. Senn when the last actuarial study was done by the TRS. He replied "July 1, 1985". Rep. Sales asked Mr. Senn to comment on the amendments (Exhibit #3) as they relate to the fiscal note. Mr. Senn replied that the amendments do what Les Loble intended them to do. Rep. Fritz referred the committee to Section 12(2) of the amendments to HB 300 which states "if the actuarial study determines that the percentage contribution established in Section 6 (2)(b) has an adverse effect on the amortization of the unfunded liability, then the board of regents shall pay an additional sum over a period of 40 years to rectify the adverse effect." Rep. Fritz then asked Mr. Krause where that "additional sum" would come from, and he replied the funds for that purpose would come out of the regular personal services budget of the university system unit. Rep. Jenkins asked if that money was employee or employer contribution funds, and Mr. Krause stated it was part of the employment benefits appropriation.

Rep. Lory closed discussion on HB 300. The committee recessed at 9:50 a.m. and reconvened to hear HB 38.

CONSIDERATION OF HOUSE BILL NO. 38: Rep. Pavlovich, House District #70 and sponsor of the bill, stated that with less than 8,100,000 people in Montana, 106,000 are veterans. He feels the veterans are owed a debt by all of us. When these

men served their country, their lives and careers were either interrupted or stopped. They served with little pay, great hardship and with their lives endangered. Hundreds of thousands never returned. HB 38 does not give all the benefits that the federal law does, but it gives some benefit and our veterans are entitled to them. He submitted written testimony (Exhibit #5). He also distributed sponsor amendments to the committee members (Exhibit #6), a graph concerning Veterans' Performance Standards (Exhibit #7), a statement of intent (Exhibit #8), as well as a statistical handout based on the 1980 census of population (Exhibit #9).

PROPOSERS: Bob Durkee, representing the Veterans of Foreign Wars, strongly endorsed HB 38 and urged a do pass.

Hal Manson, representing the American Legion, stated the law that is presently in force does not give the Vietnam era veteran the protection that veterans from other wars had. HB 38 is a bill that proposes to give some protection to the Vietnam era veteran. The Vietnam era veteran is one of the largest numbers of unemployed. We feel they should be given a chance to obtain those jobs for which they are qualified, and HB 38 will provide that. The American Legion urged a do pass.

John Sloan, representing the Military Order of the Purple Heart, an organization for combat wounded veterans, stated many of these veterans sacrificed their career and education to serve their country. HB 38 will help restore to Montana veterans a small part of the inequities imposed upon them by their military service. The unfavorable treatment of Montana veterans for the last two legislative sessions was disgraceful. This bill should meet with approval by all right-thinking Montanans. His written testimony is included as Exhibit #10.

Marvin Schutt, a disabled veteran, rose in support of HB 38.

Joe Brand, a Helena resident, testified in behalf of himself. We have not treated our veterans fairly from the time of the legislative special session to the present time. If veterans' preference legislation is introduced in Montana, it is always defeated. There is a need for special privileges for equally qualified veterans. The veterans have given their lives and served their country in time of need. He urged the committee's favorable support of HB 38.

Kati Williams, testified as a private citizen and stated it is time to separate the veterans and the handicapped. She urged concurrence with the bill.

George Poston, representing the United Veterans Committee of Montana, spoke in favor of HB 38. I know personally of 12 young people that have had to leave the state because there was no preference given in employment. The vets need our help, especially the Vietnam veterans, that have such a high unemployment rate.

Ann Nelson, representing herself, stated this is not a man's or woman's issue; it is a community issue. We need to show appreciation to the veterans. We look very small spirited and cowardly in Montana to allow this issue to be debated year after year. The veterans preference says "thanks for doing your job".

Dan Antonietti, State Director for Veterans Employment and Training Service, submitted written testimony in support of HB 38 (Exhibit #11). He stated that too many forget too soon the sacrifices that veterans made in giving years from their lives, families and personal endeavors not to mention their physical and or mental health.

OPPONENTS: Laurie Ekanger, State Personnel Division, stated the state has an employee turnover of about 15% per year. Veterans in Montana comprise about 14% of the state's population. About 18% of the new hires for non-clerical jobs in state government have been vets since July of 1985 and have comprised about 29% of the new hires to management jobs. She stated HB 38 abandons the work of the 1983 special session and goes beyond hiring to include reductions in force and promotion. There is no reason to expect it to work any better than the present law, and HB 38 would increase the risk of litigation. Her testimony is included as Exhibit #12.

Debra Jones, Women's Lobbyist Fund, urged a do not pass and submitted written testimony (Exhibit #13). She stated the current system is working. Veterans are being hired at a rate comparable to or better than their representation in the population. She doesn't understand why so much time and money is being spent on this issue.

Written testimony was submitted on behalf of Morris J. Ward, retired Air Force Colonel (Exhibit #14) and Toni McOmer, a Vietnam veteran (Exhibit #15). These two individuals were not present at the hearing.

Jim Nys, a Vietnam veteran appearing on his own behalf, stated his opposition to HB 38 and submitted written testimony (Exhibit #16). He stated HB 38 is fatally flawed and is bad public policy.

Jane Reed Benson, a member of the Governor's Committee for Employment of the Disabled, spoke in opposition to HB 38 and submitted written testimony (Exhibit #17). She stated the present Montana Veterans' and Handicapped Persons' Employment Preference Act gives extra consideration equally to veterans and disabled persons. There are many disparities in HB 38.

Beverly Gibson, representing the Montana Association of Counties, stated we have supported veterans preference under the laws enacted in 1983. HB 38 would disrupt all of the work of the past.

Kathy Crigo, Director of Missoula County Personnel, stated opposition to HB 38 and stated HB 38 would have a negative impact on Montana veterans. She reiterated the testimony presented by Jim Nys.

Toni Hader, Hill County Commissioner, reiterated the testimony of those who preceded her. The present law is working, and the counties have made dramatic changes to implement it.

Mary Blake, representing the Interdepartmental Coordinating Committee for Women (ICCW), stated support for the continuance of our present statutes and urged a do not pass. Her written testimony is included as Exhibit #18.


Leroy Schramm, Chief Legal Counsel for the Montana University System, agreed with the other opponents that this bill is a mish-mash and merits a do not pass.

Lynnette Stern, representing the Department of Labor and Industry's Intradepartmental Committee for Women, stated opposition to HB 38 because it would treat veterans as well as women inequitably and unfairly. Her written testimony is included as Exhibit #19.

DISPOSITION OF HOUSE BILL NO. 38: Rep. Phillips asked Debra Jones to furnish the committee a copy of the listing of the 39 organizations she represents. She complied with his request. Rep. Sales asked Rep. Pavlovich where he obtained the information contained in the handouts he submitted to the committee members. He replied that he received his information from the Departments of Administration and Labor and Industry. Rep. Sales asked Rep. Pavlovich to provide Laurie Ekanger with a copy of the handouts. Based on the handout information submitted to the committee by Rep. Pavlovich, Rep. Sales stated that it appeared there was discrimination against rather than preference for veterans. Ms. Ekanger replied that the only figure her office was able to obtain from the Department of Military Affairs was the

total number of veteran population which is 14%. She stated she had not seen the workforce figures.

ADJOURNMENT: There being no further business to come before this committee, the hearing was adjourned at 11:05 a.m.



Walter R. Sales, Chairman

DAILY ROLL CALL

State Administration

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date

2/13/87

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales	✓		
John Phillips	✓		
Bud Campbell	✓		
Dorothy Cody	✓		
Duane Compton	✓		
Gene DeMars	✓		
Harry Fritz	✓		
Harriet Hayne	✓		
Gay Holliday	✓		
Loren Jenkins	✓		
Janet Moore	✓		
Richard Nelson	✓		
Helen O'Connell			
Mary Lou Peterson	✓		
Paul Pistoria	✓		
Rande Roth	✓		
Tonia Stratford	✓		
Timothy Whalen	✓		

H.B. 300

FACT SHEET OPTIONAL RETIREMENT PLAN

1. TIAA-CREF was founded by the Carnegie Foundation in 1918 as a nonprofit organization to provide retirement options for faculty at colleges, universities and certain other non-profit educational institutions.
2. The TIAA-CREF system has been designed as the major pension system of higher education in the United States with the key to the system being a fully funded contract which is vested immediately for the teachers and is portable. This enables the teacher to move freely during his/her career from one institution to another (state to state--private institution to public), without the teacher having to forfeit his/her accrued pension rights.
3. Approximately 3,700 educational institutions (public and private) are participants, 550 of these are public colleges and universities in 35 states. In Montana, Carroll College, College of Great Falls, and Rocky Mountain College are participants.
4. Assets of TIAA-CREF are over 55 billion dollars.
5. The Montana universities and colleges must compete nationally with other institutions of higher learning for faculty and staff. The competition can be severe and often involves recruiting both teachers in the beginning of their careers or experienced educators making mid-career changes. Frequently, a critical element affecting a person's decision to accept a position is the availability of a retirement plan that is compatible with the program that they have joined at some other college or university. Portability of benefits is important because it supports mobility between institutions of higher learning. Academic careers often involve service at several institutions. As careers advance at successive institutions, scholarship, experience and talents are developed and refined. Montana students benefit from the interchange of ideas stimulated by the exchange of teachers from other institutions of higher learning.
6. TIAA's present investments in the State of Montana total \$36,000,000.

2/13/87
300

NAME: LESTER H. LOBLE, II DATE: FEB 13, 1987

ADDRESS: P O BOX 176 HELENA

PHONE: 442-0070

REPRESENTING WHOM? TIAA/CREF

APPEARING ON WHICH PROPOSAL: HB 300

DO YOU: SUPPORT? AMEND? XX OPPOSE?

COMMENTS: Attached

[Multiple blank horizontal lines for additional comments]

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

THE ESSENTIAL FEATURES OF A
TIAA-CREF OPTIONAL RETIREMENT PLAN

I. Introduction. Teachers Insurance and Annuity Association (TIAA) and the College Retirement Equities Fund (CREF) are nonprofit, companion organizations whose services are limited to colleges, universities, educational and research institutions.

TIAA is a legal reserve life insurance and annuity company founded in 1918 by the Carnegie Corporation and the Carnegie Foundation for the Advancement of Teaching. TIAA invests contributions in a broadly diversified group of bonds, mortgages and direct loans to business and industry.

CREF, established in 1952, is a broadly diversified common stock fund. CREF invests contributions in the common stock of companies in a wide range of industries.

Today, over 3,700 educational institutions, including about 550 publicly supported colleges and universities in 35 states, provide participation in the TIAA-CREF retirement plan. Here in Montana, Rocky Mountain College, The College of Great Falls, and Carroll College are participating institutions. TIAA-CREF has about one million participants and combined assets in excess of 55 billion dollars. TIAA has invested 36 million dollars in Montana.

II. Type of Retirement Plan. This is a "defined contribution" plan under which employer contributions and employee contributions are defined as a percentage of basic earnings. TIAA-CREF defined contribution retirement plans are funded through individual TIAA and/or CREF regular annuity contracts owned by each participant.

The amount of a participant's retirement income depends upon the size of the accumulation in the participant's account, the income option elected, and mortality factors applicable to the participant. Thus, the State need never be concerned about the possibility of any future unfunded liability.

The annuities are fully funded and provide full immediate vesting of all contributions in the participant. The accrued benefit at any time for the participant is the current value of the annuity accumulation. They are fully portable from state to state.

If a participant dies before annuity income begins, the full current value of the participant's annuities, attributable to both employer and employee contributions, is payable to the beneficiary he or she has named.

III. Expense Charges for TIAA and CREF Regular Annuities.

TIAA and CREF employ no sales agents. No "load" is deducted from premiums paid to TIAA-CREF. Operating expenses incurred for individual annuities are deducted from investment earnings and are currently about 1/4 of 1% of annuity assets in TIAA and CREF.

IV. The Need. Montana's public colleges and universities must compete nationally with private and public institutions of higher education for faculty and professional staff. This competition involves recruiting educators either beginning their careers or making mid-career changes. Frequently, a critical element affecting a person's decision on whether to accept a position is the retirement plan: is there one which provides for

full and immediate vesting and complete portability of benefits? Currently, Montana's does not.

Portability of benefits is important. Academic mobility is a fact of life. As careers advance at successive institutions, scholarship, experience and talents are developed and refined. Faculty, and of course their students, benefit from the interchange of ideas stimulated by the movement of academic personnel.

The Teachers Retirement System of Montana (TRS) compares favorably with the public employees' retirement systems of other states and provides an adequate level of retirement income for employees who remain covered throughout their working careers. However, for those who don't, certain features can lessen the attractiveness of employment. In particular, vesting is delayed for 5 years, and even if vesting is achieved there is no portability of vested benefits for individuals who leave. Delayed vesting and the absence of portability hamper recruitment efforts. Montana competes with other states which do have TIAA-CREF plans that vest immediately and are portable.

To alleviate the competitive problem, which will in turn improve the overall academic quality of Montana's public colleges and universities, a TIAA-CREF optional retirement program (ORP) should be made available as an alternative to TRS for faculty members and administrators. This will round out the offerings of the university system.

Please give a DO PASS recommendation to HB 300.

Current Employees

EMPLOYEE _____
DATE _____
HR _____

Number of TRS participants	15,000
Number of TRS participants who are University employees (12.9% of TRS total)	1940*
Number of eligible employees electing ORP participation (assume 15% of current employees who are eligible for ORP elect it)	291
Payroll of employees electing ORP assumes \$24,000 average salary; those electing ORP will tend to be newer, lower salaried employees. The average salary of all University employees is \$28,500*	\$6,984,000
Loss in unfunded liability contributions = 1 1/3% of payroll {Employer contributes 2.956% to TIAA-CREF (10% of salary less employee contribution of 7.044% = 2.956%). Unfunded liability contributions = 7.428% - 2.956% = 4.472%. Loss in unfunded liability contributions = 5.8% - 4.472% = 1.328% (approximately 1 1/3%)}	\$92,748**

- Note Balancing Factors:
- 1) Current employees who elect ORP and who are not vested forfeit rights to accrued TRS benefits. Funds supporting these benefits revert to TRS.
 - 2) Current employees who elect ORP and who are vested have TRS benefits based on current salary rather than salary at retirement, representing a savings to TRS.

*Figures taken from the November, 1986 Montana University System payroll.

**This amount represents .0018 (about 2/10 of 1%) of the total current annual TRS premium of \$50,899,000.

New Employees

1,940 employees in eligible group x 10% assumed turnover*	194 employees
Assume \$22,000 average salary for new employees	\$4,268,000 payroll
Assume 80% of new employees elect ORP	\$3,414,400 payroll
Assume loss of 1.328% of unfunded liability contributions	\$ 45,343**

Note Balancing Factor: New employees electing ORP cannot increase unfunded liability by purchase of military service credit, etc.

*Montana State University has experienced a 10% annual turnover rate for each of the last 6 years and it is assumed this is typical of the University System as a whole.

**This amount represents .0009 (about 1/10 of 1%) of the total current annual TRS premium of \$50,899,000.

Handwritten notes:
Marsala
Hans...
Hans...
Hans...

1. Page 2, line 2.
Following: "chapter 4"

Insert: "as it exists at the effective date of [this act]"

2. Page 5, line 7.
Following: line 7
Insert:

"equal to the greater of
"(i) the employer contribution to the teachers retirement system not used to amortize past service unfunded liability as that unfunded liability is limited by [section 12], or

"(ii) an amount that, when added to the participant's contribution, is equal to 10% of the participant's earned compensation; and"

3. Page 5.
Strike: lines 8 and 9.

4. Page 6, line 6.
Strike: "a"
Insert: "any"

5. Page 14, line 2.
Insert a new section 12
NEW SECTION. Section 12. Actuarial study.

(1) As a part of its regular biennial actuarial study beginning June 30, 1991, the teachers retirement system board shall make an actuarial study which shall include a determination of the past service unfunded liability of active, inactive, and retired members of the Montana university system. The study shall determine the effect on the amortization of the unfunded liability of the teachers retirement system caused by participants selecting the optional retirement program.

(2) If the actuarial study determines that the percentage contribution established in [section 6(2)(b)] has an adverse effect on the amortization of the unfunded liability, then the board of regents shall pay an additional sum over a period of 40 years to rectify the adverse effect.

(3) Changes in the teachers retirement system after the effective date of [this act] which create additional unfunded liabilities may not be considered in the actuarial study and the board of regents may not be required to pay any additional sum on that account except to the extent that those changes benefit members of the teachers retirement system who are employees of the Montana university system.

(4) If the actuarial study determines that the board of regents is paying an amount in excess of that needed to amortize the unfunded liability, the teachers retirement board shall credit the board of regents for the excess payments. The board of regents shall credit the active participants in the optional retirement plan with the excess payments.

RENUMBER: Subsequent sections

EXHIBIT #4
DATE 2/13/87
-B 300

House Bill 300

TESTIMONY

prepared by
David L. Senn, Administrator
Teachers' Retirement Division

The Teachers' Retirement Board is opposed to House Bill 300 for the following reasons:

1. Under the optional retirement program only those members who find it to their financial advantage will tend to join the Teachers' Retirement System. Other employees, such as younger members and those anticipating termination within five years, will tend to join the optional retirement plan. The result will be a financial burden to the retirement system.
2. If this optional retirement plan were to be offered to all 15,000 members of the Teachers' Retirement System, the system could not support the financial burden unless funding were increased substantially.
3. The university system's portion of the current unfunded liabilities must be funded. This would require that the university contribute an amount of 5.8% for all members who are eligible for the Teachers' Retirement System regardless of whether they elect participation in the optional retirement program. This legislation contains a funding proposal of 4.472% of salary, instead of 5.8%.

The Board's concern is not whether another plan is permitted but rather, that the university system be required to continue funding their portion of the unfunded liabilities and that the members of the university system not be given an opportunity to select against the Teachers' Retirement System. If they are allowed to choose, there are many opportunities for selection against the Montana Teachers' Retirement System which will increase the overall cost to the remaining members.

In closing, the Teachers' Retirement Board ask that you consider the possible long-range impact as well as the short-term solution offered by this bill. They ask that you do not make changes which could risk the future funding of the Teachers' Retirement System and that this bill be given a do not pass recommendation.

DLS:dlh

I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE, AS ONE OF THE SPONSERS OF THE LEGISLATION YOU ARE NOW TO CONSIDER.

FIRST, I WOULD LIKE TO GIVE A LITTLE BACKGROUND OF MONTANA AND ITS VETERANS.

OUR STATE WAS SETTLED IN LARGE PART FROM THE VETERANS OF THE CIVIL WAR, THOSE THAT WORE THE BLUE AS WELL AS THE GRAY.

FOLLOWING STATEHOOD AND UNTIL THIS VERY DAY, MEN AND WOMEN FROM OUR STATE JOINED THE ARMED FORCES OF THE U.S. WHEN DANGER TO OUR COUNTRY THREATENED.

OUR STATE PRODUCED MORE MEN AND WOMEN PER CAPITA FOR THE ARMED FORCES IN TIMES OF WAR THAN NEARLY ANY STATE IN THE UNION AND IN FACT IN WORLD WAR II, THE MOST.

IMAGINE THAT TODAY WITH LESS THAN 8,100,000 PEOPLE IN MONTANA, 106,000 ARE VETERANS.

I AM PROUD OF THESE MEN AND WOMEN, AND I FEEL THAT THEY ARE OWED A DEBT BY US ALL.

FOR WHEN THESE MEN AND WOMEN WERE CALLED ON OR VOLUNTEERED FOR SERVICE AND SENT AROUND THE WORLD TO FIGHT IN THE JUNGLES OF ASIA, PLAINS OF AFRICA, THE BEACHES AND COUNTRYSIDE OF EUROPE, IN THE SKYS, ON AND UNDER THE SEAS, THEIR LIVES AND CAREERS WERE EITHER INTERRUPTED OR STOPPED. THEY WENT WITH LITTLE PAY, GREAT HARDSHIP, AND WITH THEIR LIVES ALWAYS THREATENED, AND HUNDREDS OF THOUSANDS NEVER RETURNED. AT THE SAME TIME, THOSE THAT DIDN'T GO WERE ABLE TO PURSUE THEIR CAREERS AT GOOD SALARIES AND WERE ABLE TO TAKE THE JOBS AVAILABLE.

LOOKING BACK AFTER WORLD WAR II, WE SAW THE VETERANS WRITE AND THEN PASS BY A HIGH VOTE OF THE PEOPLE OF MONTANA AN "HONORARIUM" WHICH OPENED THE WAY FOR TAXING OF CIGARETTES AND WHICH LATER BY THIS SAME TAX GAVE THE STATE THE MONEY TO ENLARGE OUR CAMPUSES BY THE CONSTRUCTION OF MANY NEEDED BUILDINGS.

THE VETERANS BY THE PURCHASE OF HOMES, FARMS, AND BUSINESSES UNDER THE G.I. BILL IMPROVED THE ECONOMIC BASE OF OUR STATE, AND CHANGED FOREVER, OUR WAY OF LIVING.

THE VETERANS ALSO FLOODED OUR COLLEGES AND HELPED BRING THEM TO THE LEVEL THEY ARE TODAY.

THE REASON FOR THIS BACKGROUND IS BECAUSE NOW IN BAD TIMES, WHEN THE VOICES OF THESE VETERANS WENT TO DEAF EARS AT THAT SPECIAL SESSION OF DECEMBER 1983, WHEN THEY ASKED AT A JOINT COMMITTEE OF THE HOUSE AND SENATE, "WHY CALL A SPECIAL SESSION TO SEE THAT A VET WON'T GET A JOB?" WHEN THE VETS HAD ALREADY TOLD THE GOVERNOR THEY WOULD WORK OUT ANY PROBLEMS THAT A SUPREME COURT DECISION HAD CAUSED, "IF A SPECIAL SESSION WAS CALLED, IT SHOULD HAVE BEEN CALLED THEN DUE TO THE THOUSANDS OF LAYOFFS THEN OCCURRING BY (1) THE CLOSING OF THE ANACONDA SMELTER, (2) CLOSING OF THE MINES IN BUTTE, (3) CLOSING OF THE SMELTER AND MILLS IN GREAT FALLS, (4) BANKRUPTCY OF THE MILWAUKEE RAILROAD, (5) THE CRISIS IN FARMING, AND (6) CLOSING OF LUMBER MILLS, AS WELL AS OTHER INDUSTRIES, WHICH MEANT THAT SOON MONTANA WOULD BE FACING A FINANCIAL CRISIS - NOW ITS HERE.

I NOW ASK YOUR SUPPORT FOR THIS LEGISLATION THAT WILL GIVE "RETENTION" TO VETERANS DURING THESE TIMES OF ECONOMIC TROUBLES.

ALSO IT GIVES 5 POINTS FOR VETERANS AND 10 POINTS FOR THE
DISABLED AS THE U.S. AND MOST STATES DO. IT DOESN'T GIVE ALL
THE BENEFITS THAT THE U.S. LAW DOES BUT SOME, AND OUR VETERANS
ARE ENTITLED TO THEM.

SPONSOR AMENDMENTS TO HOUSE BILL NO. 38:

1. Title, lines 4 through 6.
Strike: "REQUIRING" on line 4 through ";" on line 6
2. Title, line 8.
Strike: "THESE"
Insert: "CERTAIN"
3. Page 1, line 20.
Strike: "7"
Insert: "6"
4. Page 2, line 19.
Following: ";"
Insert: "or"
5. Page 2, line 20.
Strike: ", divorced" through "separated"
6. Page 2, line 21.
Strike: "or"
Insert: "and"
7. Page 2, lines 22 through 24.
Strike: subsection (iii) in its entirety
8. Page 3, line 2.
Following: "disabled"
Insert: "or"
9. Page 3, line 3.
Strike: ", divorced" through "separated"
10. Page 3, lines 4 through 7.
Strike: ";" on line 4 through "claimed" on line 7
11. Page 5, line 20 through line 4, page 6.
Strike: section 2 in its entirety
Renumber: subsequent sections
12. Page 6, line 22.
Strike: "3"
Insert: "2"
13. Page 7, line 3.
Strike: "5"
Insert: "4"
14. Page 7, line 10.
Strike: "3"
Insert: "2"
15. Page 7, line 12.

Strike: "4"
Insert: "3"

16. Page 8, line 5.
Strike: "3"
Insert: "2"

17. Page 8, line 21.
Strike: "7"
Insert: "6"

18. Page 8, line 23.
Strike: "7"
Insert: "6"

19. Page 10, line 6.
Strike: "6"
Insert: "5"

20. Page 10, line 13.
Strike: "3"
Insert: "2"

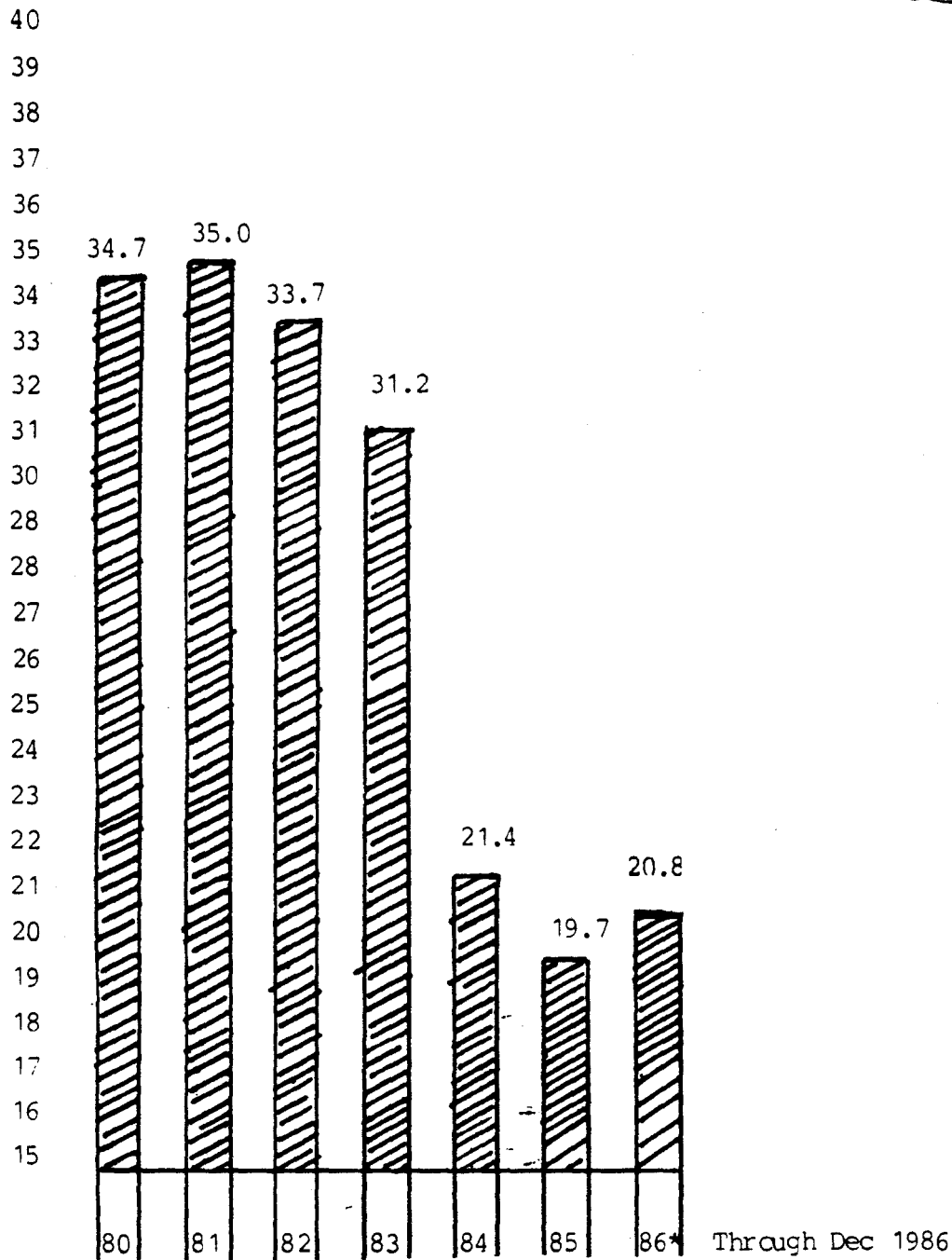
21. Page 10, line 14.
Strike: "3"
Insert: "2"

22. Page 21, line 11.
Strike: "7"
Insert: "6"

23. Page 22, line 8.
Strike: "7"
Insert: "6"

7045a/CNCL87

#7
2/13/87
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SOURCE:
MONTANA JOB SERVICE
VETERANS PERFORMANCE STANDARDS

STATEMENT OF INTENT

House Bill No. 38

A statement of intent is required for this bill because section 6 requires the department of administration to adopt rules implementing sections 1 through 5. The legislature intends the rules to adequately provide for the administration of the point preference provided for in section 2 and the retention preference provided for in section 5, but to include only those rules that are reasonably necessary.

It is the desire of the legislature that the department take all necessary steps in formulating, proposing, and adopting rules to ensure that the public, particularly those persons and organizations that have shown past interest in the employment preference law, is afforded sufficient time and opportunity to participate in the rulemaking procedure. The department should give such notice and hold such hearings as will ensure adequate public participation.

Rules adopted by the department apply to both state and local government employers. In formulating its rules, the department should take this into consideration and adopt rules that can be used and applied by the broad spectrum of public employers.

It is the intent of the legislature that the department formulate and adopt rules relating but not limited to the following matters and take into account the following considerations:

- (1) Claiming preference -- documentation and verification. Rules relating to the job application process should include the manner in which a preference should be claimed when a job is applied for. They should prescribe the means by which the applicant must document and submit evidence of such things as the applicant's status as a veteran, disabled veteran, eligible

relative, and United States citizen. It is the intent of the legislature that rules for claiming and documenting a preference do not place unreasonable burdens upon applicants and that, once an applicant has substantially complied with the rules, a public employer should make every reasonable attempt to verify the existence of the preference.

(2) Military conflicts. The legislature intends the rules to apply federal law to determine what constitutes a campaign or expedition for which a campaign badge is authorized by the congress of the United States or department of defense.

(3) Separations and discharges. The legislature intends the rules to apply federal law and further define separations under honorable conditions and the various types of discharges.

(4) Hiring decision notices and explanations. The legislature intends the rules to provide for the form and content of written notices of hiring decisions, including whether the position was obtained as the result of application of the point preference by the public employer, written requests for explanations of hiring decisions, and written explanations of hiring decisions.

(5) Reopening of selection process. The legislature intends the rules to provide for a method of reopening the selection process for a job should a court order the selection process reopened and include a method of giving notice to those who applied for the job, informing them of the reopening and the reason therefor.

(6) Appraisal methods. The legislature intends the rules to assist public employers in developing methods of appraising employee performance for the purpose of applying the retention preference.

SOURCE: "1980 CENSUS of POPULATION"

DATE 2/17/87
#9
HS 38

CIVILIAN LABOR FORCE

	TOTAL	%	VETERANS	%	NON-VETERAN	%
TOTAL	357,846	100.0%	87,085	24.3%	270,761	75.7%
MALE	213,143	59.6%				
FEMALE	144,703	40.4%				

GOVERNMENT WORKERS

FEDERAL	18,390	100.0%	5,846	31.8%	12,553	68.2%
STATE	21,451	100.0%	4,336	20.2%	17,115	79.8%
LOCAL	31,626	100.0%	6,276	19.7%	25,550	80.3%

IT IS EVIDENT THAT VETERANS ARE NOT BEING HIRED IN STATE GOVERNMENT IN PROPORTION TO CIVILIAN LABOR FORCE DATA.

24.3% OF THE CIVILIAN LABOR FORCE ARE VETERANS.

20.2% OF STATE WORKERS WERE VETERANS BASED ON 1980 CENSUS INFORMATION.

4.9% OF NEW HIRES IN STATE GOVERNMENT WERE VETERANS FOR ALL JOB CATEGORIES COVERING THE 7/1/85 - 12/31/86 PERIOD.

17.9% OF NEW HIRES IN STATE GOVERNMENT WERE VETERANS FOR ALL CATEGORIES EXCLUDING CLERICAL AND TECHNICAL JOBS COVERING THE 7/1/85 - 12/31/86 PERIOD.

THE PRESENT LAW IS LIKE NOT HAVING A LAW - - IT HAS NO TEETH.

ALL DEPARTMENTS HAVE PERSONNEL PERSONS WHO CERTAINLY CAN HANDLE THIS WITHOUT ADDITIONAL HELP OR MONEY, IF THEY CAN'T, THEY SHOULD BE REPLACED.

WHETHER ITS A TEST OR INTERVIEW TO ADD 5 OR 10 POINTS CERTAINLY ISN'T VERY HARD.

# of Apps	Agency	# of Veterans	% of Apps	# of Pref. Elig.	% of Apps.	Vets Hired	% of Apps.	% of Veterans	Non Vet Hired	% of Apps.	Total Hired	DISPARITY		Total Hired	Veteran Hired	% Vet Hired	DISPARITY	
												% Vets Hired	% Non Vet Hired				Non Vet Hired	% Non Vet Hired
228	Military Affairs	111	48.6	83	36.4	4	1.7	3.6	5	2.1	9	44.4	55.6	4	2	50.0	2	50.0
3929	Institutions	898	22.8	485	12.3	70	1.7	7.8	214	5.4	284	24.7	75.3	253	67	26.5	186	73.5
149	Agriculture	25	16.7	12	8.0	4	2.6	16.0	16	10.7	20	20.0	80.0	3	1	33.3	2	66.7
2734	Highways	387	14.1	301	11.0	56	2.0	14.4	283	10.3	339	16.5	83.5	136	35	25.7	101	74.3
201	PSC	35	17.4	20	9.9	1	0.4	2.9	6	2.9	7	14.3	85.7	3	1	33.3	2	66.7
302	State Auditor	44	14.5	30	9.9	2	0.6	4.5	18	5.9	20	10.0	90.0	9	2	22.2	7	77.8
1792	F.W. & P.	269	15.0	228	12.7	12	0.6	4.4	93	5.1	105	11.4	88.6	76	9	11.8	67	88.2
2692	Revenue	475	17.6	271	10.1	18	0.6	3.8	163	6.0	181	9.9	90.1	40	9	22.5	31	77.5
2021	Labor & Industry	320	15.8	272	13.4	11	0.5	3.4	104	5.1	115	9.6	90.4	56	9	16.1	47	83.9
2589	State Lands	336	12.9	196	7.5	6	0.2	1.8	62	2.3	68	8.8	91.2	55	6	10.9	49	89.1
505	Justice	128	25.3	54	10.6	1	0.1	0.7	12	2.3	13	7.7	92.3	9	1	11.1	8	88.9
2200	Administration	517	23.5	259	11.7	7	0.3	1.3	90	4.0	97	7.2	92.8	40	7	17.5	33	82.5
901	Health	108	11.9	50	5.5	3	0.3	2.8	44	4.8	47	6.4	93.6	26	3	11.5	23	88.5
1141	D.N.R.C.	191	16.7	100	8.7	3	0.2	1.5	45	3.9	48	6.3	93.7	24	0	-	24	100.0
440	Historical Soc.	38	8.6	23	5.2	1	0.2	2.6	17	3.8	18	5.6	94.4	6	0	-	6	100.0
3643	S.R.S.	223	6.1	152	4.1	11	0.3	4.9	224	6.1	235	4.7	95.3	122	9	7.4	113	92.6
1168	Commerce	142	12.1	96	8.2	1	0.08	0.7	43	3.6	44	2.3	97.7	29	1	3.4	28	96.6
42	Secr. of State	0	-	0	-	0	-	-	4	9.5	4	-	100.0	0	0	-	0	-
109	Deaf and Blind	18	16.5	13	11.9	0	-	-	2	1.8	2	-	100.0	0	0	-	0	-
29	State Library	3	10.3	2	6.8	0	-	-	2	6.8	2	-	100.0	2	0	-	2	100.0
26815	Actual	4268	15.9	2647	9.8	211	1.8	4.9	1447	5.3	1658	12.7	87.3	893	160	17.9	732	82.1
27034	Dept of Adm.	4293	15.8	2586	9.6	211	1.8	4.9	1456	5.3	1667	12.7	87.3	892	160	17.9	732	82.1

CLF VietNam Era	882																			
VietNam Era Vet Pop	1106																			
CLF Veterans	1968																			
Veteran Population	4066																			
CLF Non-Veteran	142735																			
CLF	144703																			
Population, Female	370863	*																		
FEMALE POPULATION		370863																		
CLF VietNam Era	24336																			
VietNam Era Vet Pop	30340																			
CLF Veterans	85117																			
Veteran Population	104524																			
CLF Non-Veteran	128026																			
CLF	213143																			
Population, Male	370038	*																		
MALE POPULATION		370038																		
CLF VietNam Era	25219																			
VietNam Era Pop	31446																			
CLF Veterans	87085																			
Veteran Population	108590																			
CLF Non-Veteran	270761																			
CLF	357846																			
Population	740901																			
TOTAL POPULATION MALE & FEMALE 1980 Census	740901																			
CLF VietNam Era	25219																			
VietNam Era Vet Pop	31446																			
CLF Veterans	87085																			
Veteran Population	108590																			
CLF Non-Veteran	270761																			
CLF	357846																			
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CLF Veterans	87085																			
Veteran Population	108590																			
CLF Non-Veteran	270761																			
CLF	357846																			
Population	740901																			

CLF = Civilian Labor Force (16 Yrs +)

* = % of Total Population Chart

EXHIBIT #10
DATE 3/13/87
HB 38

DISTINGUISHED GUESTS AND MEMBERS OF THIS COMMITTEE:

I AM JOHN E. SLOAN, REPRESENTING THE MILITARY ORDER OF THE PURPLE HEART, AS CHARTERED BY THE U.S. CONGRESS.

OUR ORGANIZATION IS EXCLUSIVELY FOR COMBAT WOUNDED VETERANS. WE STRONGLY SUPPORT H.B. 38 FOR VETERANS PREFERENCE. REMEMBER, WE ARE TALKING ABOUT THE YOUNG MEN AND WOMEN WHO GAVE UP THE BEST YEARS OF THEIR LIVES TO SERVE THEIR COUNTRY DURING WARTIME! MANY COMING HOME MINUS ARMS, LEGS, LOSS OF VISION, MUSCLE INJURIES, POST-TRAUMATIC DEFORMITIES, RESIDUALS OF MALNUTRITION, COMBAT FATIGUE, LOSS OF HEARING AND MANY OTHER DISABILITIES OR DISEASE RESULTING FROM CIRCUMSTANCES OF SERVICE.

HISTORICALLY, MONTANA HAS HAD MORE VETERANS PER CAPITA THAN MOST OTHER STATES. WHILE THESE VETERANS WILLINGLY SERVED THEIR COUNTRY, THEY DID SO AT THE EXPENSE OF THEIR CAREERS. WHILE THEIR NON-VETERAN PEERS WERE GETTING ON WITH THEIR EDUCATION AND CAREERS, THE VETERANS HAD TO DEFER THEIRS WHILE SERVING THEIR COUNTRY. THE 5% AND 10% VETERANS PREFERENCE PROVIDED BY THIS BILL WILL HELP RESTORE TO MONTANA VETERANS A SMALL PART OF THE INEQUITY IMPOSED UPON THEM BY THEIR MILITARY SERVICE.

THE UNFAVORABLE TREATMENT OF MONTANA WARTIME VETERANS BY THE LAST TWO LEGISLATIVE SESSIONS WAS DISGRACEFUL. I ASK YOU, DO THESE ACTIONS TRULY REFLECT THE FEELINGS OF MONTANA PEOPLE AND THE BELIEFS WE FOUGHT FOR? IS THIS THE LEGACY WE WANT TO PASS TO OUR CHILDREN AND OUR CHILDREN'S CHILDREN?

I SUBMIT THAT THE BENEFITS BESTOWED ON VETERANS BY THIS BILL WILL MEET WITH THE UNQUALIFIED APPROVAL OF ALL RIGHT THINKING MONTANANS.

38
U.S. Department of Labor

(406) 449-5431
(FTS) 585-5431

Office of the Assistant Secretary for
Veterans' Employment and Training Service
State Director - Montana
Capitol Plaza - Up Stairs
515 North Sanders
P.O. Box 1728
Helena, Montana 59624

EXHIBIT 11
DATE 2/13/87
UP 28



TESTIMONY OF
DANIEL P. ANTONIETTI
STATE DIRECTOR FOR VETERANS
EMPLOYMENT AND TRAINING SERVICE
U.S. DEPARTMENT OF LABOR
BEFORE THE
HOUSE STATE ADMINISTRATION COMMITTEE

FEBRUARY 13, 1987

MR CHAIRMAN AND MEMBERS OF THE STATE ADMINISTRATION COMMITTEE:

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO TESTIFY ON HR 38, A BILL INTENDED TO GIVE VETERANS SPECIAL CONSIDERATION IN THE GOVERNMENT'S HIRING PROCESS.

MY NAME IS DAN ANTONIETTI, AND IT IS MY PRIVILEGE TO SERVE THE SECRETARY OF LABOR THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS EMPLOYMENT, ON BEHALF OF ALL VETERANS AND ELIGIBLE PERSONS SEEKING EMPLOYMENT.

SINCE THE TIME OF THE CIVIL WAR, VETERANS OF THE ARMED FORCES TRADITIONALLY HAVE BEEN GIVEN SOME DEGREE OF PREFERENCE IN INITIAL APPOINTMENTS TO GOVERNMENT JOBS. RECOGNIZING THAT AN ECONOMIC LOSS IS SUFFERED BY THOSE WHO SERVE THEIR COUNTRY IN THE ARMED FORCES, CONGRESS ENACTED LAWS TO PREVENT VETERANS SEEKING PUBLIC EMPLOYMENT FROM BEING PENALIZED BECAUSE OF THE TIME THEY SPENT IN SERVICE.

MR. CHAIRMAN, PREFERENCE DOES NOT HAVE AS ITS GOAL THE PLACEMENT OF A VETERAN IN EVERY PUBLIC JOB IN WHICH A VACANCY OCCURS; THIS WOULD BE INCOMPATIBLE WITH THE MERIT PRINCIPLE OF PUBLIC EMPLOYMENT. IT DOES PROVIDE HOWEVER, A UNIFORM METHOD BY WHICH SPECIAL CONSIDERATION IS GIVEN TO QUALIFIED VETERANS SEEKING PUBLIC EMPLOYMENT.

IN 1883 CONGRESS CREATED CIVIL SERVICE AND PREFERENCE BECAME A REALITY IN FEDERAL EMPLOYMENT. PRESENTLY, THE UNITED STATES CIVIL SERVICE CODE GIVES VETERANS PREFERENCE TO ALL VETERANS WHO DEFENDED THEIR COUNTRY IN TIME OF NEED, DISABLED VETERANS, AND SURVIVING SPOUSES OF DECEASED VETERANS IN HIRING AND IN DETERMINING RETENTION CREDITS IN A REDUCTION-IN-FORCE.

IN JUNE 1944, THE MONTH ALLIED FORCES MADE THE NORMANDY LANDINGS AT TREMENDOUS HUMAN COST, THE 78TH CONGRESS PASSED PL 359: THE VETERANS' PREFERENCE ACT OF 1944. THIS LAW CODIFIED THE VARIOUS STATUTORY, REGULATORY, AND EXECUTIVE-ORDER PROVISIONS THAT HAD ALREADY BEEN IN EXISTENCE.

AMONG ITS SEVERAL SECTIONS, THE ACT PROVIDED FOR AN ADDITION OF FIVE POINTS TO THE CIVIL SERVICE TEST SCORES OF NONDISABLED VETERANS. TEN POINTS WERE ADDED TO THE PASSING TEST SCORES OF DISABLED VETERANS AND TO THE WIDOWS AND WIVES OF SEVERELY DISABLED VETERANS. PL359 PASSED THE 78TH CONGRESS WITH ONLY ONE NEGATIVE VOTE. IT WAS CLEARLY THE INTENT OF CONGRESS TO PLACE NO RESTRICTIONS ON THE NUMBER OF TIMES AN ELIGIBLE INDIVIDUAL COULD UTILIZE VETERANS PREFERENCE.

WHILE CONGRESS ENDED FIVE-POINT PREFERENCE FOR POST WORLD WAR II VETERANS, IT LATER GRANTED FIVE-POINT PREFERENCE TO THOSE NONDISABLED VETERANS WHO SERVED ON ACTIVE DUTY DURING THE KOREAN WAR. TEN-POINT PREFERENCE WAS RETAINED FOR VETERANS DISABLED EVEN DURING PEACETIME AND THAT POLICY EXISTS TO THIS DAY. INDIVIDUALS ENTERING THE MILITARY BETWEEN 1955 AND 1966 WERE GRANTED FIVE POINTS UPON THE EXPANSION OF THE VIETNAM WAR. IN SEPTEMBER 1967 CONGRESS PROVIDED THE FIVE-POINT PREFERENCE RETROACTIVELY FOR NONDISABLED VETERANS WHO SERVED DURING THE YEARS 1955-67. THE GRANTING OF THIS FIVE-POINT PREFERENCE TO THOSE ENTERING ACTIVE DUTY WAS NOT TERMINATED UNTIL THE PASSAGE OF PL 94-502 IN OCTOBER 1976. HENCE, THE VIETNAM WAR RESULTED IN FIVE-POINT ELIGIBILITY BEING EXTENDED TO INDIVIDUALS WHO SERVED DURING THE NEARLY 22 YEAR SPAN BETWEEN 1955 AND 1976.

IN THE YEARS FOLLOWING THE PASSAGE OF PL 359 IN 1944, 49 STATES HAVE ADOPTED VETERANS PREFERENCE POLICIES. ONLY NEW MEXICO IS WITHOUT A LAW TODAY BUT HAS INTRODUCED STATE LEGISLATION SIMILAR TO HS 38.

MR. CHAIRMAN, FIVE-POINT PREFERENCE ALSO IS GIVEN TO HONORABLY SEPARATED VETERANS WHO SERVED ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES IN A CAMPAIGN OR EXPEDITION FOR WHICH A CAMPAIGN BADGE HAS BEEN AUTHORIZED INCLUDING THE LEBANON AND GRENADA OPERATIONS.

IT MIGHT APPEAR THAT CIVIL RIGHTS ACT OF 1964 WOULD PROVIDE AN EFFECTIVE VEHICLE FOR ESTABLISHING A PRIMA FACIE CASE OF DISCRIMINATION AGAINST WOMEN THROUGH THE USE OF STATISTICS. THIS WOULD THEN SHIFT THE BURDEN TO THE DEFENDANT (GOVERNMENT) TO JUSTIFY ITS PRACTICE OF EXTENDING PREFERENCE TO VETERANS. HOWEVER, IN ENACTING SECTION 712 OF THE CIVIL RIGHTS ACT OF 1964 [42 U.S.C., SECTION 2000(e), CONGRESS SPECIFICALLY EXEMPTED VETERANS PREFERENCE FROM ATTACK UNDER THE ACT: "NOTHING CONTAINED IN THIS SUBCHAPTER SHALL BE CONSTRUED TO REPEAL OR MODIFY ANY FEDERAL, STATE, TERRITORIAL, OR LOCAL LAW CREATING SPECIAL RIGHTS OR PREFERENCE FOR VETERANS." AS A RESULT, THE CIVIL RIGHTS ACT HAS GENERALLY NOT BEEN AN AVENUE OF APPROACH FOR THOSE WHO WOULD CHALLENGE VETERANS PREFERENCE.

MR. CHAIRMAN, APPARENTLY, TOO MANY FORGET TOO SOON THE SACRIFICES THAT VETERANS MADE IN GIVING YEARS FROM THEIR LIVES, YEARS FROM THEIR FAMILIES AND YEARS FROM THEIR PERSONAL ENDEAVORS IF NOT, ALSO, THEIR PHYSICAL OR MENTAL HEALTH.

IN CONCLUSION, MR. CHAIRMAN, AGAIN I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE AND I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Department of Administration
Testimony Opposing HB 38

1. Current law, passed December 20, 1983, is working.
 - A. Since July 1, 1985, Veterans have been:
 1. 14% of the states population.
 2. About 18% of the new hires to non-clerical jobs in state government.
 3. 20% of the new hires to management jobs.
 4. Nearly 40% of new hires to law enforcement.
 - B. Disabled veterans (0.47% of the population) were hired in 0.7% of the non-clerical jobs.
 - C. Law is only three years old.
 - D. Managers are trained on how to apply current law.

2. HB 38 is a complete change.
 - A. Abandons the work of the 1983 special session.
 - B. Goes beyond hiring to include RIF and promotion.
 - C. Changes all the definitions and eligibility requirements for veterans.
 - D. Preference is expanded to many more people than now, for example, many peacetime veterans.
 - E. Requires specific hiring tests.
 - F. No reason to expect it will work any better than present law.

3. HB 38 separates disabled civilians and veterans into two different preference laws. For example:
 - A. Different employers are covered.
 - B. Veterans law includes promotions, layoffs, temporary jobs, mothers of veterans (not fathers), the disabled law does not.
 - C. There is a residency requirement for disabled, but not for veterans.

4. A major policy change like this costs money!
 - A. The state will have to:
 1. Rewrite the rules covering all public employers.
 2. Retrain managers, county commissioners, city officials.
 3. Set up a centralized system to design selection measures (Idaho spends \$1,000,000 on test design).
 - B. The changes would increase legal risk.
 1. More mistakes may be made due to the increased complexity of two laws and the extension of preference to promotions and RIF's.

For more information call Laurie Ekanger, State Personnel Division, 444-3871.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



EXHIBIT #13
DATE 2/13/87
HB 38

February 13, 1987

TESTIMONY IN OPPOSITION TO HB 38

Mr. Chairman and Members of the House State Administration Committee:

My name is Debra Jones. I represent the Women's Lobbyist Fund, a coalition of 39 organizations representing over 6500 individuals in Montana. I urge this committee to oppose HB 38. Opposing this bill is not voting against vets. It's voting against a bad bill.

The Women's Lobbyist Fund continues to support the current Veteran's and Handicapped Persons' Employment Preference Act. As many of you know and well remember, the preference issue was addressed by the 1983 and 1985 legislatures as well as the 1983 special session. The sole purpose of the 1983 special session was to address preference. The resulting compromise law of 1983 was carefully engineered to give a fair preference while not discriminating against non-vets. HB 38 would discard all the work of the past.

The Personnel Division has already pointed out the logistical and financial problems that this bill creates, as well as its arbitrary changes in definition. I would like to point out some other ramifications of this bill that concern the WLF.

The current time-limited veterans' preference gives vets a boost in re-entry into the civilian workforce and is an appropriate way for Montana to help vets with reintegration. A lifetime preference is unfair and discriminates against the rest of the population. Likewise, expanding the preference to promotions and reductions in force further defeats the original purpose of the law.

Since 96 percent of Montana vets are men, women would clearly be at a disadvantage in seeking and maintaining employment. The 1980 Montana Census shows that the average household income for a family with a veteran was \$21,000. By contrast, the average income for a female-headed family was \$9,000. Among state employees in 1986, full-time female employees earned 77 cents for every dollar that full-time male employees earned. Clearly, women are already at a disadvantage in the state workforce. Additional preference for veterans would only exacerbate this situation.

Finally, I must reemphasize that the current system works. Vets are being hired at a rate comparable to or better than their representation in the population. I fail to understand what the problem is with the current law, and why we keep spending so much time and money on this issue.

It has never been the intention of the WLF to pit one disadvantaged group against another. All we ask is that you consider what is truly fair to all Montanans, whether they be veteran or non-veteran, disabled or able-bodied, minority of majority, male or female. Current law has been pieced together to balance out all of these needs and interests. I would like to remind you that in 1983 the WLF supported legislation that prevented any veterans' preference from interfering with affirmative action. We subsequently withdrew this position as part of the 1983 compromise.

I urge you to support the existing preference law and give HB 38 a "do not pass" recommendation.

February 11, 1987

SUBJECT: HB-38 - Veterans' Preference

TO: Freshman Legislators and Those Others with Short Memories.

This bill is intended to bring on a guilt trip for those of you who ~~who~~ have not charged a machine gun nest single-handed and subsequently been awarded a Medal of Honor by the President.

HB-38 is not only not good legislation, but carries a very heavy price tag for a special interest group which is already the most generously treated of any in the U.S.

I speak with some authority, and have done so previously when bills of this kind have been introduced, as they have on several occasions in the past couple of years. I am a 30 year veteran of the U.S. Army and U.S. Air Force -- a "mustang", meaning a person who served several years as an enlisted man before commissioning -- and one who has seen at first hand what this kind of legislation eventually leads to:

- Millions of dollars in costs to administer;
- A new bureaucracy at the state level;
- Confusion, litigation and personnel problems at all levels.

1. The Fiscal Note, inadequate as it is, should be sufficient to disqualify this bill from any further consideration. (Please do not fail to read Page 2, Fiscal Note, which warns you that not only would there be excessive costs, but many years for the growth of the bureaucracy that would inevitably take root.)

2. Aside from the excessive costs, and the lack of credible evidence that veterans are suffering disproportionately in Montana, the passage of this legislation would surely discriminate against women and others not qualifying for special favorable discrimination. Men would quickly dominate this bureaucracy, as they do every veteran's grouping.

3. I have personally been involved with variations on this theme in other states, and can attest that where it has taken root, it is more difficult than crab grass to eradicate. I believe that most states that enacted such legislation -- in misguided belief that their veterans needed such help -- would not do so again.

It is my firm and well-informed conviction that legislation such as HB-38 is not only not desirable, but that it carries a heavy price-tag in dollar costs, bureaucratic sprawl, personnel turbulence and conflict, and litigation.

RECOMMENDATION: Do not pass.



Morris J. Ward
Colonel, USAF
Retired

Exhibit #15
DATE 2/3/87
HB 38

House of Representatives
State Administration Committee
Helena, MT 59601

February 8, 1987

Dear Mr. Chairman and members of the House State Administration Committee:

I wish to submit the following to be read as testimony against the passage of House Bill 38, sponsored by Representative Pavlovich. It is my understanding that this legislation would substantively alter the current veteran's preference law

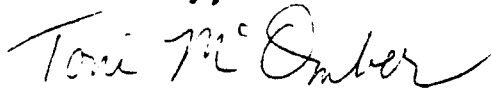
First, I'll give you a little background about myself. I was born and raised in Butte. I enlisted in the Army during the VietNam conflict, served my country for three years and was honorably discharged. I am also female.

As a woman who works in a social service agency in Missoula, I have become acutely aware of the effects of poverty on women, especially women who are heads of households. 34% of the female-headed households in this country are poor and you stand to increase that percentage with the passage of House Bill 38, which will increase the percentages of men who are newly hired - and promoted.

It angers me that the carefully negotiated legislation of the 1983 session may be thrown out the window. This legislation also leaves me questioning: How expensive will these radical changes be to administer? More importantly, in light of Montana's budget crisis, why aren't legislators working on an equitable economic solution which will benefit all Montanans?

I will admit that I have used veteran's preference in my own employment search in Montana. But I would gladly give up that privilege since I believe that it seriously discriminates against women in this state. Please vote against the passage of House Bill 38.

Sincerely,



Toni McOmber
5743 Meadow Vista Dr.
Florence, MT 59833

EXHIBIT #16
DATE 2/13/87
HB 38

My Name is Jim Nys. I am a Vietnam Veteran with 21 years of Naval service who is appearing on my own behalf in opposition of HB 38. In 1983, in response to public outcry over an absolute veterans preference, the Legislature met in special session and gave a week of its undivided attention to developing the policy of the State of Montana towards employment preference for veterans and handicapped persons.

This bill would, if enacted, reverse all that work and re-create absolute preference for veterans and their relatives. I base that statement on the basis of the fact that the implication of this bill is that a public employer must hire the one person who scores highest on a "test" for a public position. Given the fact that no non veteran can be hired if there is a veteran who scores 95 or more or a disabled vet or relative who scores 90 or above (a very common situation) we will once again have a absolute preference in a large percentage of hiring situations.

The present law works very well in my opinion, resulting in veterans being hired in excess of their representation in the population. State and local governments in Montana do not need to spend \$1,000,000 or more of very scarce tax dollars to create a new system for administering preference. I am not aware of any veteran who feels that they have been wronged by the present arrangement enough to utilize the very powerful appeal procedure contained in current law.

A second basis for objection is the creation of an reduction in force preference for veterans who "have not been rated unacceptable". Public employers are constantly being criticized for not running government like a private business would. Bills like HB38 do not help. As a taxpayer and a voter with an interest in governmental efficiency, I believe sole basis for retention in public employment should be performance not a non job related status like being the divorced mother of totally disabled veteran.

The third major objection is efficiency of government: This bill would require the development and application of a valid scored device for all jobs. In California, it takes 9 to 12 months to develop a new employment test that can pass legal muster in the federal courts. That means if we wish to hire a new type of position or promote someone we may have to wait as much as a year before the position could be filled unless we wish to ignore federal laws on employment testing. Since temporary jobs are covered, a possible scenario could involve forest fire suppression efforts having to wait while persons are tested and scored.

The bill has a great potential for creating litigation particularly in small state agencies and local governments who do not have the staff with the expertise demanded by federal law to develop lawful tests. The state of Alabama tried to use unvalidated tests in the 1970's. A federal judge took supervision of the state's testing program and prohibited the use of any test until it was validated.

OVER

The bill creates a hodge-podge of new rules treating veterans much more preferentially than disabled civilians. Veterans receive preference in promotion, handicapped civilians do not, disabled civilians must meet residency requirements, but not veterans. Veterans get preference in reduction in force, but not the handicapped. A civilian has to meet a higher standard to be disabled than does a veteran.

The bill also treats union members different than unorganized public employees, it would require legislative and judicial agencies to grant preference to disabled civilians but not to veterans.

There are many other problems with the bill. A few include:

- The bill gives preference to peacetime veterans after WWII and Korea but not after Vietnam.

- mothers of certain veterans will receive preference but not fathers.

- eligible relatives, receive a higher preference than war veterans.

- federally mandated affirmative action programs in many governmental agencies would be incapacitated by the implied rule of one

- the bill arbitrarily determines 70% to be a passing score- an approach rejected Kirkland v. New York.

- The bill requires public sector personnel officers to violate professional and legal standards by requiring the use of tests before they could possibly be validated.

House Bill 38 is fatally flawed and is bad public policy. I strongly urge you to kill this bill.

GREAT FALLS TRIBUNE

Tuesday, October 18, 1983

8-A

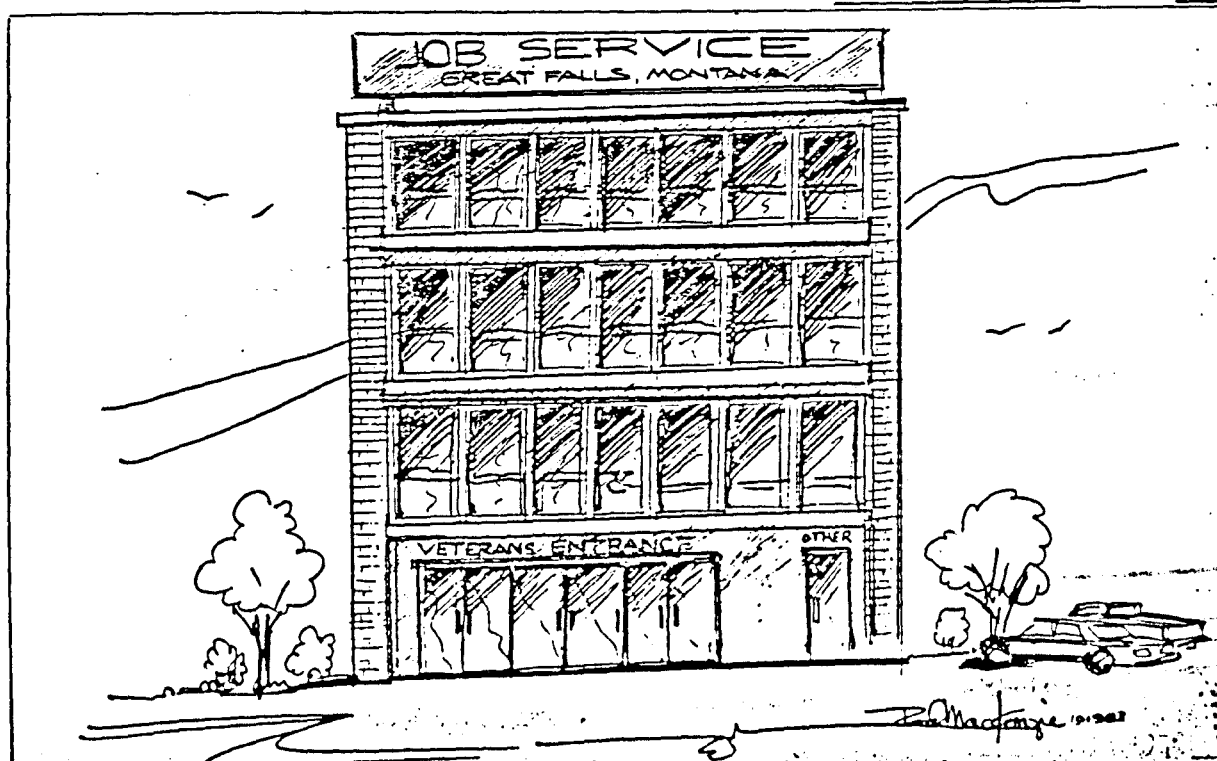


EXHIBIT F 17
DATE 2/13/87
HB 38

708 Second St.
Helena, MT 59601
Feb. 13, 1987

Members of State Administration Committee
House of Representatives
State Capital
Helena, MT 59620

TESTIMONY IN OPPOSITION TO H.B. 38 VETERANS' PREFERENCE

My name is Jane Reed Benson and I am a member of the Governor's Committee for Employment of the Disabled, a long-time Montana citizen, and a resident of Helena. Speaking for the Governor's Committee, let me point out the main reasons we are opposed to the proposed changes in the Veterans' and Handicapped Persons' Employment Preference Act.

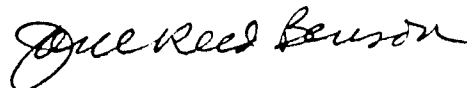
This bill attempts to separate the two groups who benefit from the present law and to provide greater advantages to the veterans, whether disabled or not. For example, if there is a public employer's reduction in workforce, the veterans would have preference during the decision of who must be cut and who could stay; no such preference is extended to disabled civilians. If there are layoffs it will be equally difficult for disabled civilians or disabled veterans to find new employment, and--relatively speaking--easier for an able veteran.

There are many other proposed changes that grant extra privileges to veterans but not to disabled civilians. The mothers of certain veterans have preference, but there is no preference for either parent of disabled civilians. Disabled veterans need have no minimum percentage of disability for preference benefits, but disabled civilians must have the equivalent of approximately 30 per cent. Veterans--either able or disabled--need not be state, city or county residents, but disabled civilians must.

Many of these points are the same ones debated in 1985 when such a bill was introduced. The Governor's Committee that I speak for and many other groups stated then that such disparities are unfair. Our state's military veterans, and especially the disabled ones, deserve many extra considerations because their lives were disrupted. However, there are other persons in Montana who also need extra hiring consideration because of their disrupted lives. They are the disabled civilians. The present Montana Veterans' and Handicapped Persons' Employment Preference Act of 1983 gives extra consideration equally to both groups. We believe that there must be no difference.

Thank you for the opportunity to testify regarding H.B. 38.

Jane Reed Benson



Mr. Chairman, Members of the Committee:

My name is Mary Blake. I represent the Interdepartmental Coordinating Committee for Women (ICCW), a committee formed by the Governor to identify policies and procedures in state government which directly or indirectly result in discrimination against women. The ICCW has been closely following the issue of employment preference for veterans and handicapped individuals for several sessions.

ICCW recognizes the services that all veterans have given to our country and supports the current preference for veterans, a preference that is fair to women, to veterans, to all persons looking for employment and particularly to the taxpayers of Montana.

ICCW opposes HB 38. This bill would provide unnecessary preference in securing and retaining employment for veterans at the expense of those who have already been hindered in finding employment. Labor statistics show that even when veterans are at a disadvantage in finding employment, it is women who are at an even greater disadvantage than any other group of applicants. We believe, however, that the current preference given veterans has greatly enhanced their ability to find employment.

All of us here worked very hard in the past few years with this Legislature to establish this preference. We should be proud-- it's working. As you heard from Personnel, the percentage of all hires is 17% veterans, even in clerical positions, it's about 4%.

Veterans are being hired in state government and the best qualified people are being hired. This is a time when it is critical to operate state government efficiently. Hiring and promoting the most qualified person to state jobs provides the taxpayer the best return on salary dollars.

ICCW supports the current preference in hiring, but does not believe veterans preference should be extending to reduction in force, promotion, etc.

The Interagency Coordinating Council for Women strongly supports the current preference statute and opposes HB38. We urge a "do not pass" on this legislation.

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DATE 2/13/87
38

TESTIMONY FOR HOUSE BILL 38

FEBRUARY 13, 1987

MY NAME IS LYNNETTE STERN, AND I HAVE TAKEN PERSONAL TIME TO BE HERE TODAY TO REPRESENT THE DEPARTMENT OF LABOR AND INDUSTRY'S INTRADEPARTMENTAL COMMITTEE FOR WOMEN. I WILL SPEAK ONLY TO THE VETERAN'S PREFERENCE PORTION OF HOUSE BILL 38.

WE OPPOSE HOUSE BILL 38. WE BELIEVE, IF PASSED, THIS BILL WOULD TREAT VETERANS AS WELL AS WOMEN INEQUITABLY AND UNFAIRLY.

IT DOES NOT COVER ALL VETERANS SEEKING PUBLIC EMPLOYMENT. THOSE SEEKING JOBS IN THE EXECUTIVE BRANCH OR THE UNIVERSITY SYSTEM ARE COVERED, BUT THOSE SEEKING THE SAME KIND OF EMPLOYMENT IN THE LEGISLATIVE BRANCH OR IN A SCHOOL DISTRICT ARE NOT COVERED. WHY THIS INEQUITY?

VETERANS WILL HAVE FIVE POINTS ADDED TO THEIR JOB EXAMINATION SCORES. BUT THE UNMARRIED SURVIVING SPOUSE OF A VETERAN WILL HAVE TEN POINTS ADDED TO THE EXAMINATION SCORE. WHY THIS DISPARITY? SPOUSES DID NOT SERVE IN THE ARMED FORCES AND MANY WERE NOT MARRIED AT THE TIME THEIR HUSBANDS SERVED IN THE ARMED FORCES. WHY SHOULD THEY GET MORE POINTS THAN THE VETERAN HIMSELF? IN FACT, WHY SHOULD THEY GET ANY POINTS AT ALL?

VETERANS WHO ARE RETIRED UNDER A RETIREMENT SYSTEM SUCH AS THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OR TEACHER'S RETIREMENT ARE NOT ELIGIBLE FOR PREFERENCE, BUT SURVIVING SPOUSES WHO ARE RETIRED ARE ELIGIBLE. WHY?

HOUSE BILL 38 GIVES VETERAN'S PREFERENCE IN RETENTION IN LAYOFF SITUATIONS IF THE POSITION IS NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT. BUT IF THE VETERAN IS A GOOD UNION MEMBER COVERED BY A COLLECTIVE BARGAINING AGREEMENT, HE DOESN'T GET PREFERENCE.

IF I WERE A VETERAN, I WOULD OBJECT TO ALL OF THESE INEQUALITIES.

THIS BILL ALSO TRIES TO ESTABLISH SOME TYPE OF MERIT SYSTEM BY USING A BACK DOOR APPROACH. WE DON'T OBJECT TO A MERIT SYSTEM -- IN FACT, WE WOULD LOOK FAVORABLY ON ONE. BUT A REAL MERIT SYSTEM MUST ENSURE THAT EXAMINATION QUESTIONS ARE RELATED TO SUCCESSFUL JOB PERFORMANCE AND THE SAME KNOWLEDGES, SKILLS AND ABILITIES ARE APPLICABLE TO THE SAME TYPE OF JOB WHETHER IN CITY, COUNTY OR STATE GOVERNMENT.

A SYSTEM SUCH AS THIS DOESN'T JUST HAPPEN, IT MUST BE PURPOSEFUL. IT TAKES A LOT OF WORK BY A LOT OF PEOPLE AND UNFORTUNATELY COSTS A LOT OF MONEY.

WE BELIEVE THAT THE CURRENT VETERANS PREFERENCE LAW IS PREFERABLE AND FAIR.

THANK YOU.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 300

DATE 2/13/87

SPONSOR Loney

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
James W. Koch	Univ. of Montana	x	
Earl Lony	Pist-SS	✓	
Carol Krause	Comm of H. CO	✓	
HUGH BURNER	TIME-CREF	x	
James - J. Camaiter	SMU	x	
Don Hebb	Univ of Montana	x	
John A.	*	
MATTHEW ...	ASS. Student VGM	x	
FERRI MINEN	MFT	x	
David Sen	TRS		x
Eric Loney	MEA		x

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 38

DATE 2/13/87

SPONSOR Parlovich

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Laurie Ekanger	Dept of Admin		X
Lynnette Stern	Dept of Labor - Committee of Women		X
Mark Cress	Dept of Admin		X
James Daily	Self Interest	X	
Kathleen Harrington	AAVW - Marlina Partners		X
Laura Colson	Russia - Economic Commission		X
Marla Schreder	Dept of Labor		
Jim NYS	Self		X
Doc Manser	American Legion	X	
John E. Slown	MILITARY ORDER OF THE PURPLE HEART	X	
HOON JOYNER	ITAA - CREW	X	
J.P. Higgins	NAACP		X
Kathy L. Crisp	NAACP		X
Terrence Barnes	SE - F	X	
George E. Poston	United Veterans Committee	X	
Joe Ross Benson	Am. Com. on Disability of the Disabled		X
Donna King	Comm. American Legion	X	
Harold R. Sargent	DAV	X	
Gian Antonietti	USSDL - VETS	X	
Anne Nelson	Vet Vets - S.O.		X

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VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. _____

DATE 2/13/87

SPONSOR 38 Parlovich

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<u>Ross Durkin</u>	<u>VIEW</u>	<u>X</u>	
<u>Carl Knutsen</u>	<u>SELF</u>	<u>X</u>	
<u>JOE BRAND</u>	<u>SELF</u>	<u>X</u>	
<u>Beverly Gibson</u>	<u>MACO</u>		<u>X</u>
<u>Kate Williams</u>		<u>X</u>	
<u>Leontine Williams</u>		<u>X</u>	
<u>David Shannon</u>		<u>X</u>	
<u>John J. Tomich</u>	<u>SELF</u>	<u>X</u>	
<u>Raymond G. Cochran</u>	<u>SELF - DISABLED VET.</u>	<u>X</u>	
<u>Karl A. Arenal</u>	<u>Disabled Vet</u>	<u>X</u>	
<u>John J. Tomich</u>	<u>MT Foundation (Ginn)</u>		<u>X</u>
<u>Antoinette Drummond</u>	<u>Vet's daughter</u>	<u>X</u>	
<u>Debra Jones</u>	<u>Women's Library + Etc</u>		<u>X</u>
<u>Dave Brown</u>	<u>State Rep. Butler</u>	<u>X</u>	
<u>Kathy Kemp</u>	<u>Mail Secy of Women Veter</u>		<u>X</u>
<u>John Gary Gato</u>	<u>Self</u>	<u>X</u>	
<u>John J. Tomich</u>	<u>SELF</u>	<u>X</u>	
<u>John J. Tomich</u>	<u>SELF</u>	<u>X</u>	

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. 38 DATE 2/13/87

SPONSOR ~~JP~~ ~~Parlonic~~

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Diane Smith	Woman's Voluntary Fund		X
Ms. [unclear]	[unclear]		X
Debi Hartie	ay		t

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.