

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

April 6, 1987

The 25th meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol. Following roll call the meeting was called to order by Senator Regan, Chairman to hear House Bills 38, 538, 744, 814 and 881.

ROLL CALL: All members present except Senators Keating and Stimatz.

CONSIDERATION OF HOUSE BILL 744: AN ACT APPROPRIATING MONEY FOR A COUNTY BOUNDARY COMMISSION; AUTHORIZING THE COMMISSION TO PREPARE A PLAN FOR CONSOLIDATING AND REORGANIZING COUNTIES AND A PLAN FOR CONSOLIDATING SERVICES, etc.

Representative Ramirez, House District 87, and chief sponsor of House Bill 744 said there are two purposes in this bill. It would share two plans to submit to the Legislature in the next session. The first plan would be a natural plan for consolidation of counties to 45 or fewer counties and the second plan would be to consolidate services. There are a number of services that would be considered by the commission in trying to reach a way to consolidate services. He said the commission would be nine members none of which would be public official, and they would be appointed.

Representative Ramirez went through the bill explaining the make up of the commission, how they were appointed, geographical balance, etc., as explained in the bill. He explained how the commission would work, and how it would pertain to the bill. Exhibit 1, H. B. 744 was given to the committee showing one plan for geographical division. He discussed the service consolidation with one district court, coroner, public administrator, district attorney, etc.

Representative Ramirez said he felt a couple of minor amendments should be made to the bill. On page 8, it shows the cities in which hearings should be held by the commission. I think you should add Glasgow or Wolf Point, and then the other thing -- I got carried away on a floor amendment and struck on page 10 everything on line 5 after the word "staff" and I struck the words "and sponsored by the Chairman of the Legislative Council". I should have just changed the word "sponsored" to "requested", so if you could just put the language back in and just say requested, then it could be drafted.

There were no further proponents, no opponents, and Senator Regan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Jergeson said, Representative Ramirez, what would happen if -- say this commission established a new county up here in 14. You mentioned that a county could refuse to join in a multi-county county. What would happen if -- say Valley County decided they did not want to be a part of a county, the other three did. Representative Ramirez said, actually you couldn't have it, even if -- let's say Phillips didn't want to be in this and the other 4 did. It would still be defeated because that is the way our existing constitution is. If you propose the consolidation each county has to agree whether they are contiguous or not, so every affected county in a consolidation would have to affirmatively vote by a majority or that aspect of the plan would be completely eliminated. He said, if it failed over here, but the counties over in an area in the western part of the state all voted for the part that affected them, that part could go in.

Senator Jergeson said, on the consolidation of services, I could almost subscribe to the concept of maybe prosecuting attorneys. Have you considered having a study on just the issue of having the prosecuting attorneys correspond to the district court? Representative Ramirez said, the commission could do that if they felt that was as far as the service plan ought to go.

Senator Bengtson asked, could you explain the involvement of the commission from the study that you had originally started out with. How did you come to having a commission? Representative Ramirez answered, It is really more of a name change because what I wanted to begin with was something that was more than just a study and the two bills as they came out of Legislative Council, even though it said study, it was still a group that was going to come back with a plan that would be put on the ballot.

Senator Bengtson mentioned a resolution sent out by Senator Gage for an interim study and Representative Ramirez said it was based on this.

Senator Hims1 asked, has any indication of a serious consideration be given to this? They talked about this 50 years ago, but I don't see any support now from MACO or anybody. I realize there would be an exercise in planning. Years ago when they talked about it they didn't have million dollar court houses and jails and that sort of thing in the Eastern part of the state that they do now, and have you any indication that they would seriously consider going together and abandoning their community services. Representative Ramirez said, there are a couple of things -- first there is

the consolidation issue. I don't know that you would or wouldn't get everybody to accept the plan, but if you don't start it will never happen. The force has to come from outside the counties. If you leave it up to the counties and say, why don't you consolidate and they'll never even give it serious consolidation. By the same token, the consolidation of services is your decision, it is not the counties decision. You can make that determination, and you have to have some information to base a decision like that.

Senator Keating asked, the commission has come back with a plan that will be a referendum to the people? Ramirez said, there are two plans; one for consolidation of the counties would go as a referendum to the people. The second would just be a recommendation to the Legislature for consolidation of services.

Senator Keating asked, on the first plan, would the issue be segregated so that if some counties wanted to accept their reorganization plan they could and others reject theirs, or would it have to be a total acceptance for the state? Representative Ramirez said it would have to be segregated so that one county couldn't defeat the whole plan for the whole state; it could only defeat the plan as it pertained to that district.

Senator Harding asked, on the district plan, is that based on population or just by district like a judicial district or a SRS district so it would not have anything to do with population. Representative Ramirez said, no it doesn't. As I said, it is just a picture, the commission doesn't have to follow what's on the map, it is just a starting point.

Senator Smith asked, we've talked about the consolidation and the executive reorganization being needed in the state. Do you think that it could work the same way it did in the state? Representative Ramirez said, well I don't know if you're very happy with consolidation of the state. A lot of benefits could come from this, and the one that comes to mind is the county attorney's office and the court. There is no reason to have that office in every single county seat.

Senator Smith said, I agree with you. I think we have to do consolidation. The thing that concerns me is that we were led to believe that with state reorganization and consolidation we were going to save lots of money, and that has increased instead. You made a reference -- if the counties refuse do you intend then to put a referendum on so they can vote by population of the state? Representative Ramirez said, the consolidation of the counties which are actually boundary changes and one county seat, etc. That has to go back on the referendum. The consolidation of services part of the plan is purely a recommendation to the

Legislature. If you then wanted to adopt all or part of the plan and then refer it to the people you could do that.

Senator Gage asked why the number was changed from 30 to 45 counties? Representative Ramirez said, that was, I guess to give more flexibility to the commission and make it less of a certainty of a drastic impact for those people who are concerned about one.

Senator Gage said, I see this act is effective upon passage and approval. Do you anticipate the \$50,000 to come out of the '88-'89 budget? Representative Ramirez said, that is what I was anticipating. They could start getting geared up July 1.

Representative Ramirez said in closing that he really believed the bill important and hoped the committee would give it favorable consideration.

Senator Regan declared the hearing on House Bill 744 closed.

CONSIDERATION OF HOUSE BILL 814: AN ACT ESTABLISHING A STATE MEAT INSPECTION PROGRAM; PROVIDING FOR ITS ENFORCEMENT AND APPLICATION BY THE BOARD OF LIVESTOCK; PROVIDING FOR LICENSING OF MEAT ESTABLISHMENTS; etc.

Representative Donaldson, House District 43 and chief sponsor of House Bill 814 said, what this bill basically does is to get the state back in the meat inspection business, which they were prior to 1971. At that particular point the Federal Meat Inspection Law came into effect and the state backed away from it. Clearly I think we have enough documentation to show that the federal law is not working very well for Montana.

Representative Donaldson said the law works well for the larger meat packing plants but not for the smaller ones. This bill would set up the meat inspection through the Department of Livestock that is currently doing inspection on milk and eggs and that sort of thing. He said they had tried to work out a method of financing by the use of fees but the federal regulations say you cannot do that because it might compromise the inspection in some way. Right now they go either state or federal inspection. If they go state we cannot transport products across the state line. There is some discussion in Congress at the present time that this might be changed and indeed you could market out of state. The economic benefits, he said, are great. If just half the steers could be raised to slaughter size and market them in the state the economic benefit would be over \$200 million, and this is a significant amount of jobs. He said they used to have one in the Helena Valley and it was closed in part because of federal inspection.

Representative Donaldson talked about efforts to start things like the low fat beef market, but the federal inspection and lack of packing plants in Montana make it very difficult to use Montana beef.

PROPOSERS TO HOUSE BILL 814: Mike Grove, served as chairman of the Agricultural Debt subcommittee for the Governor's Council on Economic Development for the past year or year and a half. He said, we quickly learned that the agricultural crisis was real in the state of Montana and there were many issues that were real severe. He said after studying the situation wondering what could be done they helped fund a study to look at the red meat industry in the state of Montana in conjunction with the Department of Agriculture and the Montana Beef Council. After looking at plants that were recently out of business and one trying to start up, they learned the meat industry was highly dominated by 6 to 8 companies in the state of Montana that control at least 80% of the production. He said the prospects of having a major beef processing plant in the state of Montana look very bleak because of the dominance. If a large independent house tried to reopen in the state of Montana it could easily be forced out through price domination. He said in 1971 when Montana released the inspection process to the federal government and it appears the federal inspection process has very much subjectability in it. One inspector can come in and say, yes this meat grinder looks suitable and the next can come in and say we don't allow any that are not stainless steel. The rules don't seem to be real. When the state of Montana was in it it seemed to work very well. The jobs were pretty obvious, packers, butchers, feed lot operators, hide business, rendering plants, etc.

John Scufca, Department of Livestock, Administrator of Centralized Services explained that this was a bill they supported and could be worked easily into their department since they were already handling this type of program.

Mons Teigen, representing the Montana Stockgrowers, Montana Cattle Women and the Montana Beef Council spoke about the meat packing plants that had gone out of business, the inconsistency of the federal inspections on equipment, etc., the difficulty of marketing Montana beef in Montana and the need for rural Montana to have some means of surviving.

Bob Gilbert, secretary for the Montana Sheep Council which promotes lamb and wool in this state and also secretary for the Wool Growers Association, told of the difficulty of getting lambs slaughtered and marketed in Montana. He said all of you have probably seen the advertisement for Sieben lamb at the Chapter 7. If we had local meat inspection it would save him money and make it more economical for him and others like him to market Montana products. He has to buy

the lambs directly from the Sieben Ranch north of Helena, make arrangements to truck them to Butte for the federal meat inspection, then bring them back to Helena for sale. He said, of interest to the sheep industry is that one of the problems is all of the lambs in Montana go to either Denver Colorado for slaughter, or to the Superior Packing Plant in Ellensburg, Washington. With local slaughter we could cut costs and compete. In the sheep business we only have about 3 major packers left that are slaughtering all the lambs in America, and that is not helping the competition for lambs in the United States.

Jo Brunner, representing the Montana Grange, the Montana Cattle feeders and the Montana Cattlemen here today. She said she agreed with what had been said, and feels the bill not only is needed but is a very necessary piece of legislation.

Senator Paul Boylan spoke in favor of House Bill 814. He said at one time there were 70 meat packing plants in Montana when the Livestock gave this up, we had dairys all over the state, elevators, flour mills -- now we have nothing left in any of these areas. The university trains the people to be inspectors and all they do is close places down, and so has the economy in the state of Montana. He said there is very little cottage cheese, ice cream, etc. made in the state now and feels inspectors should be trained to keep Montana small operators in mind and not be bought out or pushed to eliminate them from competition.

Ralph Yeager with the Department of Commerce and speaking in behalf of the Governor's Council on Economic Development. The Council devoted a considerable amount of attention to this issue, primarily through its Agricultural Debt subcommittee during its deliberations in 1986. The council feels that for a minimal cost there could be some great economic benefits both for beef producers and the packers.

There were no further proponents, no opponents, and Senator Regan asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Tveit asked, when did the state give this up on the inspection? Representative Donaldson said he believed it was in '71. When the federal act came into place the state backed off.

Senator Tveit asked, in other words the state would have jurisdiction if so, on the inspection of meat and the feds would give that up and the state would have some control in the state as long as the meat didn't go across state lines I suppose? Representative Donaldson answered, this would only apply to sales within the state. Congress is now looking at that and may accept state inspected plants for interstate commerce, but at this point they do not.

Senator Tveit said, all the meat under state inspection has to be sold in the state then? Representative Donaldson said, yes at this point. If you want to go federally inspected you could sell out of the state.

Senator Jergeson asked, if a plant wanted to sell to a niche market say the Yuppie market in Denver or San Francisco, they would have to choose to be federally inspected. Representative Donaldson answered, that is correct.

Senator Hims1 said, Representative Donaldson, I remember well when this change was brought about, and the idea was to eliminate duplication. Now, if this goes into effect there will still be duplication and the federal inspection would prevail over the state inspection of these plants. Would that not be true? Representative Donaldson answered, if in effect a plant wants to do business outside the state you have to go federal. If they want to do business just within the state they can go to state. They would not be inspected by both entities.

Senator Hims1 asked, the Public Health interest in this. They can shut down a plant by a federal inspector, could they not? Representative Donaldson said there would be a federal overview. An audit, so to speak, of all the state. The rules and regulations that apply now on federal inspection would also apply to the state. The problem we see now is the interpretation of those rules. We could give you example after example of where that has gotten the smaller packing plants some real problems.

Senator Hims1 said, the answer is yes? The federal can shut down the local plant even though it has been inspected locally? Representative Donaldson said, unless the state inspection is up to par.

Senator Keating said he had several questions. Is there a fee charged to cover the cost of federal inspections? Representative Donaldson answered, I don't believe so. When we put this together we tried to use a fee since we felt it would be in the best interests of the Livestock producer to get this done. The feds said no. I don't think there are any fees charged to the Livestock producer.

Senator Keating asked, from the standpoint of Public Health and Public Safety, when we were doing our own inspecting before 1971, were there problems with people getting sick, meat getting tainted? We had a pretty clean industry, a pretty clean record so to speak. Representative Donaldson answered yes. He gave a couple of examples in the state of the regulations required by the state.

Senator Keating asked, on some of the other special revenue things that finance these things, rather than earmarking taxes specifically for a project, taxes would go into the general fund and general fund appropriated at the other end. Would the federal law preclude a general tax on animals, a state severance tax on livestock? Right now we have a county tax on livestock that is somewhere in a repealer around here, but could there be a state severance tax on livestock that would be marked for the general fund that would be used to offset the inspection costs. Representative Donaldson answered, As you know, the Livestock Department itself for the most part is run from fees and also levies against livestock. We had investigated this and it seems to be a kind of grey area. We tried to see if that couldn't help and I think it could be done but we couldn't get a definite answer on it.

Representative Donaldson closed by saying he felt the quality would be better with state inspection. He said those in the industry do not want to see any poor quality, they are talking about better quality and an opportunity for those small packers to get on their feet and help develop the packing industry. It would have a great economic impact on the state of Montana.

Senator Regan said the hearing would be closed on House Bill 814 and take up House Bill 881.

CONSIDERATION OF HOUSE BILL 881: THE MONTANA ADULT COMMUNITY CORRECTIONS ACT; AUTHORIZING LOCAL GOVERNMENTS AND PRIVATE AGENCIES TO ESTABLISH AND OPERATE COMMUNITY CORRECTIONAL FACILITIES AND PROGRAMS, etc.

Representative Bradley, House District 79 and chief sponsor of House Bill 881 said this bill had been rewritten several times, and most recently with the help of Carrol South and the Department of Institutions corrections experts, and I think it is to their satisfaction at this point and they are also here to testify on it. She said, this is a fairly new kind of a concept in Montana. We have the prerelease centers, and the difference is you are talking here about diverting people from prison prior to getting there instead of sending them out early. She said the statement of intent sets out the goals (she read subsections 1 through 8 of the statement of intent attached to the bill).

Representative Bradley said she wanted attention called to the bill in stating anyone involved in a crime of violence is not eligible to go to a community correction facility, and in other sections there is a great deal of community authority to turn individuals away.

PROPOSERS TO HOUSE BILL 881: Representative Ron Miller spoke in favor of House Bill 881 and said he was going to

speak on the dollars and cents point of view. He said in this session alone we passed 10 bills through the House and they are on the way to the Governor to be signed that will incarcerate a minimum of 20 to a maximum of 40 people more a year. The impact of the prison system will according to the worst case scenario by 1993-95 would be 3,000 prisoners in the prison at Deer Lodge and Curt Chisholm estimates the best would be 2100 by that time. He said the Department of Institutions which were a bit more conservative had what they call the nightmare scenario. This would be 1750 prisoners by 1995. Right or wrong, in everyone's mind the prison population will expand. If we are going to pass the laws, he said, we should have a committee set up to start working and building the prisons if we don't want an alternative. He said this bill would keep them from being institutionalized, and become just like the people in there.

Judge Gordon Bennett said he would like to introduce the committee to one of the state's leading growth industries; the incarceration of criminal offenders. He said it is probably growing faster than any other part of the economy. Building prisons and putting prisoners away at a higher rate. He said he represented himself, not the judges or anyone else, but would make bold to state that if more prisons were built they would fill them. The estimate of \$70,000 a year to keep a prisoner conservative, and he assumed it did not include the cost laid out for Welfare, job programs after prison and all the other social costs that are dependent upon incarceration. He said in 1972 the Constitutional Convention laid down a principle that the laws for the punishment of crime shall be found on the principles of prevention and reformation. He said prisons now do little or nothing except keep them out of circulation and practically nothing on reformation. He said a study which had been made reported that these institutions (prisons) create crime rather than prevent it. Their very nature ensures failure. He said the trend toward community based corrections is one of the most promising developments in corrections today, it is based on the recognition that delinquency and crime are symptoms of failure of the community as well as the attendant and a successful reduction of crime requires changes in both. He told of the different studies that had been made and they had come out with much the same concept.

At this point Senator Himsel took over the chair since Senator Regan had another hearing.

Ronald Strahle, a former Representative and speaker of the House, he was a Representative for 20 years, and has gone back to practicing law. He is from Colorado, and during his term in Legislature he chaired the Prison Population Committee. He said he would reiterate everything Judge Bennett said, and in their view it works. He said they feel

there are only 2 things in the prison system that works; one is the community corrections, they think and the one that they know that works is the concept of adverse population. It has been proven that for some reason those persons who become professional criminals get to be involved with criminal justice when they are about 18 or 19 years old and continue on what has been called the revolving door process and come back in many cases for successively more serious crimes until they are about 30 or 40 and then largely quit coming back. He said community correction systems will cut the cost of the prison system, it cuts the rate of recidivism, and stop the graduation of criminals from the prison system. He said part of the correction system policy is that they have to work and it is not in a sheltered work area. He told of some of the problems they had had and some of the problems we would expect both in prison population as a result of longer sentences and more inmates, and as hard core prisoners as well as some to expect on correctional facilities.

Curt Chisholm, Deputy Director, Department of Institutions, said when they were preparing budgets they were in a dilemma because of the problem of continuing prison population is a problem they face daily. It is a problem difficult to deal with not just financially, but in terms of programs. Now they have 930 incarcerated adult felons in Montana State Prison, and everything else is filled to capacity. Based on our projection of about 1205 inmates at the end of the biennium, given the current capacities and the fact they did ask for a little money to increase the budget of the prison to accommodate about 30 more inmates in the operational capacity and some additional in the prerelease centers they thought they might minimally get by, but more than likely as this population continues to increase we will be in 2 years from now with more expensive requests whether it is more beds for the prison, more intensified supervision in the community, or whatever. This is a bold stroke that Representative Bradley has, but it is very very sound. We agree with the concept. We worked with Representative Bradley and she has been open to our suggestions, and I think the bill as written, will impact the prison population, it will work because it clearly stipulates that the sentencing courts cannot just fill this 30 bed facility up with individuals that would normally be given deferred sentences or deferred imposition of sentences. They must certify that these individuals would be ones they would normally have to send to Montana State Prison, irrespective of the crime this individual would have had to go to Montana State Prison and would not have been given a deferred or suspended sentence. In either case, I think this is an experiment well worth trying.

John Ortwein, Montana Catholic Conference, spoke in favor of the bill, his testimony is attached as exhibit 2, House Bill 881.

Ted Gaines, President of Northwest Community Correction Centers spoke in favor of the bill, his testimony is attached as exhibit 3, H. B. 881.

Anne Moylan, Montana Association of Churches, spoke in favor of House Bill 881.

Joy McGrath, Mental Health Association of Montana. She said they are supporting the bill for a lot of reasons they have already heard. It is very cost effective in controlling the prison population. They were here because of increased ability for those persons to receive mental health treatment and to receive better services and a follow up in a community setting where they hope they can get some community services and return them to society.

There were no further proponents, no opponents, and Senator Himsl asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Boylan asked, how are the prerelease centers working in the state of Montana? Are they really working good or have they kind of fallen flat? Dan Russell, Department of Institutions answered, they have been working since 1981. We currently have over 100 people in those programs. They have capacity of 100, but there are a few extra beds and we have been using them. We have waiting lists for virtually every program and we've heard from very few communities in terms of any kinds of adverse problems, or any problems at all. They work extremely well, and we've requested in the executive budget 20 more beds that they will be making available in those centers and we think that will also help alleviate some of the prison population problems.

Senator Boylan said, they talk about putting these people back in the communities, they are the losers, a lot of them; but by association you get them back with the rest of the losers, especially in the small towns in Montana and the whole thing blows up.

Senator Himsl said, I had the same question. Maybe Mr. Strahle could refer to them. We have two problems with this thing in the small communities, and I was one of those that went through this deal in Iowa. Their operation in Des Moines is big enough so the identity can be absorbed. How can the identity in a small community be absorbed so that it is not an abrasive thing and so they can accept it. Mr. Strahle answered, this is not a totally open facility so they can come and go as they please. They are released to work and that is all. They come back, there is a head

check, and of course we have some walk-aways but it is a felony and they know it is trouble. You want a strong local group. They don't have to take the judge's sentence if they think it is going to be either disruptive or not helpful.

Senator Himsl said, in Iowa, the person instead of being sentenced to an assignment. He is assigned to one of these institutions. The institution then made arrangements to get jobs for these people, they were picked up in the morning by a bus, taken to the work station, then the bus picked them up again, but their identity was lost because they were in large numbers. This was administered by the state. In fact I was in the room when a call came in that one of them wasn't at his station, he stopped at a beer parlor instead, and the employer was interceding for this operator asking them to wave the penalty and forgive him for the infraction and this fellow said absolutely not. There was no deviation made to this, and this fellow was then sent up to the big house. We asked him, does the milk of human kindness sour that much and he said, you cannot have an exception with this program, if they violate the rules you have to be sent up. Mr. Strahle said, basically that is the way we run our system. The decision as to whether they will be discharged from the system and sent to prison is made by the local board in our system, but they're tough. These guys need to understand that there is one thing that does happen in our criminal justice; the punishment is swift, sure and effective.

Senator Himsl asked, are any of these contracts made with private providers in Colorado? Mr. Strahle answered, oh yes, many of them.

Senator Himsl asked, in the small communities, and you have them in Colorado too, where you try to work these things. How to you keep the identity of these people from being offensive in the community? Mr. Strahle said, we do that again through the excellent power of the community board. They don't have to take anybody, and they can send anybody up.

Senator Keating asked, of the prerelease centers, I have a couple of questions. What is your recidivism factor now in the prerelease centers? Dan Russell answered, those are real comparable to what they are at the prison right now. A little bit less; I think they are somewhere in the 30% range.

Senator Keating said, with the unemployment factor what it is, are the prerelease participants able to find jobs in the community fairly easily, or do you have benefactors of the program that hire people, or do they have to compete for jobs on the market? Mr. Russell answered, I think it is a combination of all of these things. First of all a lot of

these people are going to work for a minimum wage and in many communities, like we have Missoula, Great Falls, Billings and Butte, there have been minimum wage jobs. The other things, there are some benefactors. There have been people who have hired these individuals, liked them, and they are willing to hire them back. The other part is, they compete with anybody else.

Senator Keating said, the other question I have would be of Representative Bradley. Apparently the appropriation here is \$750,000 to the Department of Institutions is for the state to be able to pay providers of this service on the behalf of the prisoners, is that correct? Representative Bradley answered, yes that is correct.

Senator Keating asked, why can't the communities who are the generators of these people, why can't they suffer this expense themselves. Why can't the city of Billings or the county of Yellowstone pay for this program themselves for the people from their community that fall into this category and need to be handled this way? Representative Bradley said, since we are only doing one pilot project on a kind of experimental basis, you would have individuals coming in there from all over the state and I don't think it would be fair to put that financial burden on the one location. It would seem to me to be the only fair thing is to spread the financial burden and have the payment come from the state level.

Mr. Strahle said, once they become adjudicated to a prison system they are wards of the state. They fall under state jurisdiction, and I think that would be the over riding factor there.

Senator Hammond asked, I am real high on the idea when we say they are going to pay board and room. Do they get these jobs on their own? Representative Bradley answered, yes, they do. There is a very strong incentive to do that because they cannot stay there unless they do.

Senator Hammond said, the \$750,000 appropriation is mostly for the facility then, is that true? Representative Bradley said no, the facility is to be taken care of by whatever organization puts the project in place. That is one of the beauties for us. We don't even have to worry about that, all we are paying for is an up-front amount per bed per person. They would probably end up paying, and they can't pay too large a percentage of what they are earning, they would probably pay about \$5 in addition to the amount the state is subsidizing.

Senator Hammond said, they're not taking care of the board and room then. Representative Bradley said, they may be getting really low wage kinds of positions and they have to

get some kind of employment. In the mean time they would pay a small portion of the room and board, they would start a savings account, if they have a family they would be helping to support the family and they would be paying restitution to the victims. All of that would be worked out on a case by case basis.

Senator Smith said, I understand that employment is a very important part of this whole program. As I look around the state it is almost impossible for a person to get a job that hasn't committed a crime. Will these people be competitive, or how are we going to work this out so we will be competitive with a better business attitude and more people employed in the state? Representative Bradley answered, a couple of things. They have been very successful in Colorado getting jobs. I think the location of this would have to be a fairly large community just so some sort of a job would be available whether it is sweeping floors, or something. In Colorado it seems they have not really had that much problem, even in some of the smaller communities. Some of the businesses there are used to working with the community correction facility and get a fairly nice deal. They don't have to pay a great deal, they get used to working with those facilities and they hire them on a fairly revolving and ongoing basis. In some cases, even after they left maintained the job they had.

Senator Gage said he would like to address a question to Mr. Strahle. We talked about the physical well being of these people and I had an opportunity to go through a thing in a county in Washington and attended as a part of that seminar on the chaplaincy program they have going out there. As a part of that they indicated the degeneration of the spiritual well being of these people had been pretty successful. Has your program addressed that part of these people at all? Mr. Strahle said, I can't answer that with hard figures. I know that the facility in my own home town has a program where several of the local clergymen come around regularly. They rotate Sunday services. There is a program there, not so much as a result of the efforts of the community, but of the clergy themselves who want to do what they can to help these people.

Representative Bradley said she would not add more in closing, and Senator Himsel closed the hearing on House Bill 881. A sheet of testimony was handed in, exhibit 4, HB 881, and is attached to the minutes.

CONSIDERATION OF HOUSE BILL 538: AN ACT REORGANIZING THE DELIVERY OF HUMAN SERVICES BY STATE GOVERNMENT; PROVIDING FOR THE ELIMINATION OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES, THE DEPARTMENT OF INSTITUTIONS, AND THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES, etc.

Representative Winslow, House District 89 and chief sponsor of House Bill 538 said, this bill is dramatic in the approach it takes in attempting to reorganize the state Human Services Program. Montana is presently suffering budget shortfalls of historic magnitude. Much of the problem area is Human Services. When the state moved out of its last downward cycle in the mid sixties and proceeded into a much more robust economy in the seventies, state services were increased and continued to be increased to meet the anticipated needs of people in Montana.

Representative Winslow said he honestly believed after the years he had sat on the Human Services field was that they would have to get a handle on it by restructuring, prioritize, and reorganize, and in many cases make people accountable for the programs that the state has to offer. This bill he said is an attempt to bring into line some of the things we have going on in the state right now. He gave the example of disabled people being spread out among 6 agencies. He said, we looked at DD in a group home, Institutions looks at DD in Boulder, Special Ed in some of the DD programs over in Education and how are we as legislators ever going to get a handle on it unless we consolidate and bring them before us and we can say, okay here are the programs.

Representative Winslow explained what the bill did to bring about the reorganization, and said the object of dealing with the low income people should be employment, so he felt the low income people in SRS and the job service in labor. He said he felt this bill could bring things together and they did not have to leave it up to the Executive branch of the government to do it, the Legislature could do so. He said most of the people who receive services are very much in support of this bill.

PROPOSERS TO HOUSE BILL 538: Representative Cobb spoke in support of House Bill 538. He said in the 70's under the reorganization, that was more for bureaucratic administration. More for trying to consolidate authority lines, and it was not for the convenience of patients or clients. The structure is not working as well as it can, we have too many duplications out there.

Steve Waldron, Montana Community Mental Health Centers said he wanted to assure the committee that the Mental Health Centers was not one that had received the 118% increase. He said, I sat down with the Council I represent and it gave the number of different departments etc. He said you have to make a decision on this so we know where you want to go with it.

Mr. Waldron explained how different members had different ideas and they reached the decision that rather than

reorganizing immediately they study the situation -- at least as far as the mental health situation is concerned, to see where the best place for them. He said so far as his board was concerned they thought it premature to reorganize by the next legislature, but that they should start looking at the situation to see where they would best fit and be able to enhance the services they give and work with other organizations that have similar services.

Representative Ron Miller spoke in favor of the bill. He said he had been on the subcommittee for several years and this goes hand in glove with 325. If we can eliminate 3 departments and get 2, I think it is a good move.

Joy McGrath, representing the Mental Health Association of Montana. She said, I am here representing an organization of consumers who are primarily receiving services, and their family members of public, private professionals and concerned citizens. We sincerely feel there is a need for reorganization and consolidation of services for streamlining access to the services. Our only concern is making a real fast move. The association felt there should be a little more study as to the way the departments lay--which parts go together in this. She said she felt there should be an oversight committee which had more flexibility in putting mental health where it worked the best and not be given an ultimatum of where it goes. She said they support the bill, but would like to see the changes in it.

There were no further proponents to House Bill 538 and Senator Himsl asked if there were opponents.

OPPONENTS TO HOUSE BILL 538: Gene Huntington, appearing for the Governor said, in the House I appeared as a proponent hoping to get some amendments to the bill. I think the major differences with the administration and Representative Winslow on this bill have to do with approach. We acknowledge that certainly Family Services is a good idea. We also acknowledge that the proposal in the bill to create a Department of Human Development is also an idea that has had some study and is a reasonable approach that could be approached in the way Representative Winslow sets out in the bill. The problem we have is the approach to the rest of Human Services is to make proposals that will become law 2 years from now that we probably know from the beginning are imperfect. Everyone acknowledges that there are problems that haven't been dealt with, tough issues that probably need a lot more discussion but we will put those in law and I think Representative Winslow feels we can force some action. I guess we feel that a Legislative study and an Executive study could bring about action. I think the action that will probably pass this session in regard to Family Services will force the Legislature to some further

examination of Human Services. I believe the federal welfare reform that is now in Congress will force some further re-evaluation.

Mr. Huntington said he felt re-examining those agencies should have a lot of local input. I think we will find that changing the organizational chart and covenant is the easy part. The hard part will be able to reorganize and relocate the agencies in the local communities.

There were no further opponents and Senator Himsl asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Boylan said, you said you wanted a bunch of local input on this and the county commissioners came in against a deal we finally set up. It looks like the local deal didn't work out too good. Mr. Huntington said, the Human Services thing did provide for local input, there was a county commissioner on the committee and we were in contact with MACO throughout it. You've received a lot of mail and comments from those people, and I guess I feel that the kind of reaction we got when we did involve them is nothing compared to the reaction we are going to get if you just pass this into law and they find out 2 years from now that they're going to be changed. There will be input, we all know that. There will be tremendous input in the next 2 years whether you pass it now or then, but there is no short cut. You have to deal with it.

Senator Hammond asked, do you agree that SRS has become so large that it is pretty ineffective. Mr. Huntington answered, I think what has happened with Executive reorganization, we set up a theory of government where we took like things and put them together and there was an association that these organizations are similar in nature. What Representative Winslow has introduced here is a good idea, that you organize things more on the continuum of service. From the community to the highest level of state service so that you handle the people all through the system, and that is a good idea. It is a totally different idea than the way we are organized, and I think that idea is the reason we need to look at SRS because they pulled a whole lot of things together but have never looked at it for instance with people in need of rehabilitation from where they enter the system to where they get to Warm Springs. I think that is a good idea. I think this is the problem rather than SRS just being too large.

Senator Hammond said, you are probably aware of the fact that we have a youth ranch in northern Montana and we've had a lot of problems with SRS and we've had the Governor there and the Director of SRS and they all agree that what we are doing is good and what we are trying to do is fine, but they

can't seem to get their fingers on the people within SRS who seem to be playing games. How do you get at those things if you say SRS isn't too large? Mr. Huntington said, Dave Lewis has discussed with me to some extent the problems we need to have and the continuity we need to deal with their problems. What we have proposed to do in Family Services, and the proposal that came from the community, and that would be dealt with either through our bill or this bill, both of them deal with it. My own feeling as to how you deal with that is, as maybe you allude to, you break it down in smaller units, but also those units should be more localized. You break it down geographically instead of functionally. Instead of having someone specialized in children, you give more general authority to people who are supervising in smaller geographical areas. That's the way you make sure people don't become lost in the system. In the study on Family Services, the charge to the committee doing the study was to find ways to reorganize so that people aren't lost in the system and we hope we've come up with a solution.

Senator Bengtson said she would like to ask Representative Winslow a question on the logistics of how this committee will work. In other words, you are laying this before the oversight committee -- you are spelling out in this bill the things they must review. Representative Winslow answered, that is right, we are laying out the blueprint for them.

Senator Bengtson asked, then what flexibility do they have? You have outlined what should be done other than having the public hearing and asking for suggested changes by the Governor. You are mandating these changes. These are the changes you are asking the committee to come in and review and have the agencies come in and respond and propose new legislation to change the codes to make everything fit. In this bill you are saying "hey, these things are screwed up here so we need to have this, this and this. Over the next biennium the Governor will come forth as to what his concerns are, the agencies will work with their constituents and their clientele and the local people involved and come in to the next session with what statute changes need to be made. It won't be a mess like we have with 325 because you are not coming into the session with "maybe we'll have it and maybe we won't". We sat in Appropriations and didn't know whether we were going to have a 325 or not. This would say there are going to be these agencies and the budget would reflect that.

Representative Winslow closed by telling a story about building blocks, and told about sitting in committee not knowing what changes were made and not knowing what to do. He said he would suggest to the committee if they want to study it, kill the bill, we need to see through it and do

something so that we can get through and provide the services we need to perform.

Senator Himsl declared the hearing closed on House Bill 538 and would consider House Bill 38.

CONSIDERATION OF HOUSE BILL 38: AN ACT GRANTING PREFERENCE TO CERTAIN MILITARY VETERANS AND THEIR ELIGIBLE RELATIVES IN APPOINTMENT TO CERTAIN POSITIONS AND IN RETENTION DURING DEDUCTION IN FORCE; etc.

Representative Pavlovich, House District 70, and chief sponsor of House Bill 38. He gave some background of veterans on up to the present time, and what they were required to do. He said he had an amendment for page 6 and on page 19 where they did have the word "in an initial hiring" on page 9, that was not supposed to be in the amendment. Also on the fiscal note, page 6, section 2 on the scoring procedure. That eliminated the fiscal note. By the LFA office it's a washout, by the budget director's office it costs 46,500.

PROPOSERS TO HOUSE BILL 38: Representative Miller, House District 34, Great Falls said, I think this bill pertains mainly to Vietnam, veterans, a lot of whom did not want to be over there. I think it is a needed bill and I would urge its passage.

John E. Sloan, representing the Military Order of the Purple Heart, his testimony is attached as exhibit 1, H.B. 38.

Hal Manson, American Legion, state of Montana said the World War II and the Vietnam era vet was pretty well taken care of by the state of Montana as far as veterans' preference was concerned. We were quite happy for it and very grateful for it; however these young people who came back from the Vietnam

era are not getting the same kind of treatment.

Mr. Manson said there is a lot of unemployment and a large portion of that is Vietnam era veterans. He said these people went into a war that was no more popular and probably less popular than most wars and came home without any great treatment as veterans. They are now being discriminated against in regard to employment because the bill that was passed in the 1983 session does not adequately take care of them. We request this bill be passed to give these people the dues they have coming to them.

Dan Antonietti, State Director for the Veterans Employment and Training Service, U. S. Department of Labor spoke in favor of House Bill 38. His testimony is attached as exhibit 2, H. B. 38.

George Poston, United Veterans Committee of Montana spoke in favor of the bill. He said he would like to make 3 points. The first one, if the present law is working so good, then why is the Vietnam era veteran is one of the highest prime unemployment rate in the state? The second point is the present law dies on the 20th of December of next year while the affirmative action thing goes on. The 47 page document I looked through makes no mention of veterans in the affirmative action program. The third point is we are giving this preference to these people and the individual who receives that preference may have contributed, but in most cases they did not contribute anything. They receive a preference by birth, race, etc., whereas every veteran served his time.

Joe Brand, speaking as a private citizen and an ex-veteran. He said, I have never applied for a veterans' preference, and never made any application for any. We supported the affirmative action and think they are great, but preference is needed for the veterans. He said Montana is one of only 2 states that do not have a point system. He said all the veterans organizations are displeased with the way the Legislature and the state government are handling the veterans preference getting jobs. The administrators of the departments are saying to you that veterans are being treated fairly and that they're getting job applications according to the amount of veterans in the state. They are using apples and oranges. In the one case they take the percentage of applicants and in the other the percentages of the state wide availability of those people.

Raymond Callaghan, a disabled Vietnam combat veteran. I am very much in support of House Bill 38 and urge its passage.

Paul Gruell, disabled Vietnam veteran and in favor of House Bill 38 and hope you vote for it.

There were no further proponents and Senator Himsl asked if there were opponents to House Bill 38.

OPPONENTS TO HOUSE BILL 38: Laurie Ekanger, Administrative Personnel Division, Department of Administration and speaking in behalf of the Executive branch agencies. She handed in her testimony, attached as exhibit 3, H. B. 38.

Debra Jons, representing the Womens' Lobbyist Fund spoke as an opponent said the Womens' Lobbyist Fund continues to support the current preference we have. We feel this law is a total change in the current way we administer preference and it is unnecessary to change. She said some veterans have told them that this would actually cut back their preference and did not support the bill.

Jane Benson, representing the Governor's committee on Employment of the Disabled, spoke in opposition to the bill. Her testimony is attached as exhibit 4, H. B. 38.

There were no further opponents to House Bill 38 and Senator Himsel asked if there were questions from the committee.

QUESTIONS FROM THE COMMITTEE: Senator Hammond asked, 106,000 veterans, what percentage of them were veterans of war time activity? Representative Pavlovich answered, there are less than 5,000 of them drawing service connected benefits, in the whole state of Montana. I am talking about veterans who have war time disabilities gotten during war time.

Senator Hammond asked, we could have people in this 106,000 who are people who enlisted in the service and ROTC, and that sort of thing and went to school and did become veterans. You don't know what percentage? Representative Pavlovich answered, no I don't know the percentage of that.

Senator Regan said, one of the gentlemen indicated some question about constitutionality based on residency. That is not in your bill, it is in the old bill? Representative Pavlovich answered, that is the old bill. Senator Regan said, that could just be challenged and that section thrown out? Representative Pavlovich answered, that is true.

Senator Bengtson asked, I had a question about "disgraceful, unfavorable treatment" that veterans get. John Sloan, what sort of an example do you have of that? John Sloan answered, I think, as all veterans' organizations think, that veterans are or should be entitled to a veterans preference over and above disabled civilian persons. After all, they have given up the best years of their lives, some of them in service for 20 or more years and they come home disabled and up until -- I forget what year -- Montana did have a veterans preference that worked. I don't see any reason to discontinue it.

Senator Manning asked, Mr. Sloan, the question that the Senator asked you just a minute ago in regard to how many veterans were drawing this etc., isn't it true that there were an awful lot of veterans that came back with a disability and are not drawing any benefits to this day? Mr. Sloan answered yes, that's true. There's all kinds of veterans that have filed claims that have been disallowed by the V.A., but we're talking about veterans that have established service connection for the disability that are a matter of record and are drawing compensation.

Senator Keating asked, will our current veterans preference law sunset very shortly, is that the idea behind this? Representative Pavlovich said, yes, in December of 1988,

there will be no veterans' preference in the state of Montana.

Senator Keating said, I would like to ask the personnel, Laurie, does that mean we will be changing our hiring procedures then if there is no more veterans' preference after that date? Laurie Ekanger answered, the law reads that any veteran is entitled to the preference for 15 years after they've been discharged from a combat in some kind of a campaign -- for example Grenada is a campaign and Beirut is a campaign. There aren't very many veterans obviously but should there be another major conflict, then for non-disabled veterans the preference would kick in again and they would have that preference. For disabled persons and handicapped persons the preference lasts as long as they are disabled, so we would still continue to track our progress. There would be fewer people applying unless there is another major combat.

Senator Keating said, but the disabled vet does not sunset in December? Laurie Ekanger answered, no.

Senator Hammond asked, you said you have a very decentralized system as far as hiring is concerned. We found that to be the case when we were on this veterans' preference. I served on the committee. Why is that? Laurie Ekanger answered, I don't know. I think it was that way before Executive reorganization -- salary was that way until 1971, every board and commission did their own thing on salaries, on classification, on working rules and conditions, and then after Executive reorganization each agency, each director, did their own thing. It is sort of a tradition. In 1973 a whole bunch of centralization legislation was passed. The central collective bargaining act, the central classification and pay act, and at that time in '73 there was centralized selection passed. I don't know, we didn't go back and research, but I do know that 2 years later in 1975 the centralized selection was scrapped and it went back to everybody doing their own thing. Through Executive order, all state agencies are required to recruit through the job service, so if you are trying to get a job with the state of Montana, you can at least find out about the openings with the job service.

Senator Hammond said, that was one of the real situations that I felt was bad was that it was a kind of a "buddy" system as far as getting jobs, and you say now that they do advertise the jobs and someone else knows besides the bulletin in that building, is that correct? Laurie Ekanger said, our rules say that if an agency wants to hire a position they have certain things they have to do to fill the position and we have rules that have the force of law for our state agencies that say how long they have to recruit and advertise, how people get to know about it and

what they can use for selection. They do have to make sure that their selection is based on job criteria.

Senator Hammond asked, but that wasn't true back in the time that this veterans' preference committee met. We found then that there wasn't any criteria, so that has happened since then. Laurie Ekanger answered, yes, that's right.

Senator Hammond said, it seemed at that time that all the agencies came in and were very much opposed to anything that the committee tried to bring about. They wanted to have a great deal of freedom in hiring. They came out in the papers and said that you were going to cheat the agencies from being able to hire the very best people, but we found that there weren't any job descriptions. Do you have job descriptions now? Laurie Ekanger said, our rules say that an agency shall have a job description at a minimum to start their hiring with.

Senator Hammond asked, is that something that's just happened in the last 3 or 4 years? Laurie Ekanger said, yes, that's correct. Senator Hammond said, that is an improvement, anyway; but they were so opposed to objective tests. They wanted to do it with interviews and something subjective but no job descriptions so it looked to me like the agencies that are the ones that are very much opposed to this and that bothers me a great deal and I think the committee ought to be aware of that. It looks to me like that hasn't changed a whole lot. Laurie Ekanger answered, it is still very decentralized for selection and we certainly don't provide any services for oversight.

Senator Regan asked, I looked through the bill. The veteran gets 5 points, a disabled veteran gets 10 points, or a relative of a disabled veteran gets 10 points. Representative Pavlovich answered, mother or widow.

Senator Regan asked, why would the mother or widow get more than the veteran? Representative Pavlovich answered, because it is a disabled veteran or a handicapped veteran.

Senator Regan asked, the handicapped -- what do the handicapped get? Representative Pavlovich answered, the handicapped gets a 5 or 10 points under the handicapped preference. Senator Regan said, 5 points for what? For being handicapped? Representative Pavlovich answered, no, 10 points -- the same as a veteran. Senator Regan said, and the relative gets 10%? Representative Pavlovich said, just the handicapped, not the relative.

Senator Regan asked, in the Veterans' preference they get initial hiring, it is the point system if it is used -- Representative Pavlovich said, we had that in there and it was taken out. Senator Regan asked, what do these points

apply to? Everything -- initial, advancement, etc.? Representative Pavlovich answered, yes ma'am. Senator Regan asked, it applies to everything? He answered yes. Senator Regan said, and the old law says the initial hiring. Representative Pavlovich answered, yes. We had retention in there and that was taken out on the house floor but I want to put that back in.

Senator Regan said, now in handicapped. What does the handicapped get? Is it initial, do they also get promotion, how do they compare. In other words I want to see if they're really being treated fairly -- equally. Debra Jons answered, that is one of the difference that House Bill 38 creates, is that the handicapped civilian would not have any kind of preference applying to lay-offs, for example if in state publications, say -- we had a lot of lay-offs and handicapped persons would not have any preference and veterans would, even if he were an able veteran. It is the same with promotions. The way House Bill 38 is written, a veteran either able or disabled would have preference during any promotion, and it could last throughout the career. The handicapped civilian person would have it applied only on initial hiring.

Senator Regan asked, and nothing else and was answered, no. She then asked, and you have used your 10 points to get in and then if there is a promotion you get to use another 10 points to qualify for promotion? Representative Pavlovich said to qualify they take the test and they score whatever it may be.

Senator Regan asked, what happens -- and this is one of the things I see wrong with this bill -- what happens if there are no score procedures used what happens? Representative Pavlovich answered, it states in the bill if they give a test and it is a written or oral test they apply it, if no test -- but Laurie says they give job description so they must give some kind of a test. That's what the problem has been.

Senator Regan asked, if this thing passes, what are you going to want 2 years from now to strengthen it, because I don't think you've got much here? Mr. Antonietti answered, I sort of disagree with the lady representing the Governor.

Senator Regan said there would be no "attacking" other witnesses, please, and Mr. Antonietti answered that the handicapped people -- Senator Regan said that is not the question. The question is simply what do you think is fair? Mr. Antonietti answered, I don't think the veterans will be back wanting anything 2 years from now. If they get this --

Senator Regan said, I want that in the minutes, and Mr. Antonietti answered, put that in the minutes, but providing

the initial hiring is excluded, and as amended the veterans would not be back and you can quote that in the minutes and in the record.

Senator Manning asked Mr. Antonietti, you had some question about the statement made here a minute ago in regard to disabled veterans versus disabled people as to what their qualifications are. Would you explain that?

Mr. Antonietti answered, disabled veterans are less than 30% are not covered in the existing state law, nor will they continue to be covered. This will cover a service connected disabled veteran. 30% isn't mentioned in the present law, but yes, and also handicapped civilians are covered by affirmative action in hiring, firing, promoting and training and their clients have been removed by the state department of Personnel and accepted through this calendar year. That's why veterans will not be back, if we can just get equal with the other classes, and veterans comprise all classes, creeds, sects, etc.

Senator Manning said, we are dealing with a handicapped person that is not handicapped because of war or otherwise. Is the same criteria used, 30%, or is it just the affirmative action? Mr. Antonietti answered, the definition in my judgement is that the present law does not address the 30/%. Some of those who would qualify for handicapped would not qualify for 30% service connection.

Senator Smith, in regard to a comment made by the Governor's hiring person. The comment was made that the system was working very well; then I heard another comment saying they had not track record on the number of veterans being hired. If the present system is working so well, why isn't there a track record on the number of veterans being hired? Laurie Ekanger said we know how many veterans we have hired in the last year and a half. I made the comment that we called 8 other states that do have a point preference that they didn't track their veterans so they couldn't give me any statistics. We've been tracking our hiring for the last year and a half.

Senator Smith, then what is your number of veterans compared to handicapped? Disabled veterans versus other handicapped? Laurie Ekanger answered one of the things we have discovered is that very very few handicapped have applied for the preference. Those that have, it seems to have worked for. To apply for the handicapped preference, the person has to be certified by the Department of SRS as to having a handicapped condition, and they have to bring that certificate with them as proof when they apply. Very few people are applying for that.

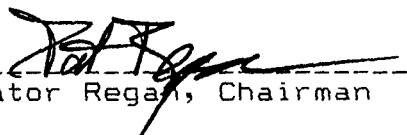
There were no further questions and Representative Pavlovich closed by saying, I do have some amendments that I would like to submit on page 6 and page 9 on the initial hiring and the other is on the the retention preference that was taken out on the House floor. attached as exhibit 5, H. B. 38. He said he sat on the subcommittee and feels they did not get a preference and so submits this bill. He left some testimony with the Chairman; none was received for the minutes, giving numbers of veterans in the 1880 population census.

Testimony handed in without being referenced in testimony are attached as exhibits 7, 7 and 8; House Bill 38.

Senator Himsel declared the hearing closed on House Bill 38.

Senator Regan said tomorrow we would hear House Bills 599, 702, 787, 854, 855, 867.

The meeting was adjourned.



Senator Regan, Chairman

ROLL CALL

50th LEGISLATIVE SESSION - - 1987

Date

4/6/87

NAME	PRESENT	ABSENT	EXCUSED
<u>SENATOR REGAN</u>	✓		
<u>SENATOR HIMSL</u>	✓		
<u>SENATOR JACOBSON</u>	✓		
<u>SENATOR BENGTON</u>	✓		
<u>SENATOR STIMATZ</u>			✓
<u>SENATOR HARDING</u>	✓		
<u>SENATOR HAFLEY</u>	✓		
<u>SENATOR SMITH</u>	✓		
<u>SENATOR KEATING</u>	✓		
<u>SENATOR STORY</u>			
<u>SENATOR BOYLAN</u>	✓		
<u>SENATOR JERGESON</u>	✓		
<u>SENATOR TVEIT</u>	✓		
<u>SENATOR MANNING</u>	✓		
<u>SENATOR HAMMOND</u>	✓		
<u>SENATOR GAGE</u>	✓		

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
RAYMOND Callahan	Self	HB 38	X	
Laurie Ekanger	Dept. of Admin	HB 38		X
Mark Cross	Dept. of Admin	HB 38		X
HAL MANSON	AMERICAN Legion	HB 38	X	
John Skufca	Dept. of Livestock	HB 814	X	
Mike Grove	Gov. Council of Econ	HB 814	X	
John Bennett	Self - Vendor	HB 881	X	
John O'Brien	Int Cath Cong	HB 881	X	
Paul G. Lued	Self	HB 38	X	
Cathy Day	Self - MAC	HB - 88	X	
Jan Benson	Mr. Committee on Emplo. of the Disabled	HB 38		X
George Poston	United Veterans Committee	HB 38	X	
Dan Antonietti	USDL - VETS	HB 38	X	
John E Sloan	MOPH	HB 38	X	
JOE BRAND	SELF	HB 38	X	
JO BRUNNER		HB 744		X
JO BRUNNER	Ag	HB 814	X	
Curt Chisholm	Dy I	HB 881	X	
Dan Russell	Dy I	HB 881	X	
Gordon Morris	MACO	744	PRESENT	
Debra Jones	WLF	38		X
JOHN FOUNASTONE	MT ASSOC CLERKS of Court	HB 744		X
Mary Tergeu	MT Stockgrowers Assn	HB 814	X	
Bob Gilbert	MT Woodgrowers Assn	HB 814	X	
Anne Doylan	MT Assoc. of Churches	HB 881	X	
Barbara Archer	WLF	38		X

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with agent.)

[illegible]

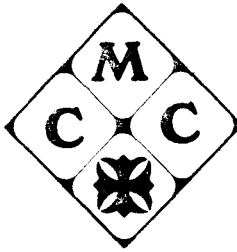
Helena

EXHIBIT NO. 1 27

BILL NO. 412

BILL NO. 412

Estimated 1981



Montana Catholic Conference

April 6, 1987

CHAIRMAN REGAN AND MEMBERS OF FINANCE AND CLAIMS COMMITTEE:

I am John Ortwein representing the Montana Catholic Conference.

We support H.B. 881 because Community Correctional Facilities focus personally on non-violent offenders and help them with their individual problems. Not only is this a more humane way to deal with non-violent offenders, it also raises the possibility of attaining the ideal goal of successfully restoring these reformed individuals to an active role in society.

We urge you to support H.B. 881.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2
DATE 4-6-87
BILL NO. HB 881

24-3 11-80

NORTHWEST COMMUNITY CORRECTION CENTERS

(406) 388-7620

P.O. Box 4072
Bozeman, MT 59772

Q. WHY DOES MONTANA NEED COMMUNITY CORRECTION CENTERS?

- A. (1) COMMUNITY CORRECTIONS WILL ALLEVIATE SERIOUS OVERCROWDING AT THE PRISON AND SAVE THE STATE SUBSTANTIAL SUMS BY AVOIDING LARGE CONSTRUCTION COSTS.
- (2) COMMUNITY CORRECTIONS ALLOW A WIDER RANGE OF SENTENCING ALTERNATIVES FOR MONTANA JUDGES, RATHER THAN LIMITING THE CHOICES TO PROBATION OR THE PENITENTIARY.

Q. WHAT STATUTORY CHANGES ARE NEEDED?

- A. (1) ALLOW DIRECT SENTENCING BY JUDGES.
- (2) ENABLE PRIVATIZATION OF THE CORRECTIONS UNITS.
- (3) ENABLE COMMUNITY ADVISORY COUNCILS.
- (4) APPROPRIATION OF MONEY.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 3
DATE 4-6-87
BILL NO. HB 881

Q. WHAT ARE NEARBY STATES DOING?

- A. (1) WYOMING INSTITUTED PRIVATE COMMUNITY CORRECTIONS LAST YEAR AND THEIR THREE, PRIVATE, FOR-PROFIT, COMMUNITY CORRECTION CENTERS ARE OPERATING EFFECTIVELY.
- (2) COLORADO HAS A TEN YEAR OLD COMMUNITY CORRECTIONS PROGRAM WITH 24 SUCCESSFUL, PRIVATELY OPERATED CENTERS, BOTH FOR-PROFIT AND NON-PROFIT.

Q. WHAT HAPPENS AT COMMUNITY CORRECTIONS CENTERS?

- A. (1) PARTICIPANTS HOLD JOBS; THEY PARTICIPATE IN RESTITUTION OF VICTIMS; THEY HELP PAY FOR THEIR ROOM AND BOARD; THEY CONTINUE TO SUPPORT THEIR FAMILIES AND PAY TAXES; THEY BENEFIT FROM DRUG AND ALCOHOL COUNSELING; THEY ARE CLOSELY SUPERVISED ON A 24 HOUR BASIS; THEY BEGIN A SAVINGS ACCOUNT; THEY RECEIVE COUNSELING AND EDUCATION TO HELP RE-ENTRY INTO SOCIETY.

Q. WHAT IS THE BIENNIAL COST?

- A. (1) AN APPROPRIATION OF ~~\$1.2 MILLION~~ ^{\$750,000} WOULD SUPPORT ~~TWO~~ ^{ONE} 30 BED FACILITIES FOR TWO YEARS. BECAUSE OF THE NATURE OF THIS SYSTEM, THESE FACILITIES COULD BE INSTITUTED ALMOST IMMEDIATELY AND HELP AVOID SERIOUS PROBLEMS THAT WILL RESULT FROM OVERCROWDING AT THE PENITENTIARY.

Q. WHAT ARE THE BENEFITS OF PRIVATIZING CORRECTIONS?

- A. (1) THE RECORDS IN OTHER STATES SHOW THAT COMPETITION HAS INSURED COST EFFECTIVE OPERATIONS AND GOOD SERVICES.

COMMUNITY CORRECTION CENTERS ALLOW A MORE EFFICIENT SYSTEM WITH BETTER RESULTS. PLEASE VOTE FOR HOUSE BILL 881.

Considering the Alternatives

Crowded prisons spark less confining punishments

Jim Guerra sells cars today in Dallas. He used to sell cocaine in Miami. In 1984, after being robbed and even kidnapped by competitors, he decided it was time for a career change. He gave up drugs—and the drug trade—and headed out to Texas for a new law-abiding life. The old life caught up with him anyway. In December 1985 federal agents arrested him on charges connected to his Florida

Even as crime rates generally declined during the first half of the 1980s, inmate numbers tracked wild ballistics of their own, increasing by nearly 60%. The nation's prison population now stands at a record 529,000, a total that grows by 1,000 each week; new cells are not being built in matching numbers. While virtually everyone convicted is a candidate for prison, many experts believe perhaps half the in-

day. The despairing Texas solution has been to close its prison doors briefly whenever it reaches the court-mandated limit. At least Guerra did not go scot-free.

So "alternatives" to incarceration, which once inspired social workers and prison reformers, have become the new best hope of many beleaguered judges—and jailers too. In courts across the nation, people convicted of nonviolent crimes, from drunken driving and mail fraud to car theft and burglary, are being told in effect to go to their rooms. Judges are sentencing them to confinement at home or in dormitory halfway houses, with permission to go to and from work but often no more—not even a stop on the way home for milk. The sentences may also include stiff fines, community service and a brief, bracing taste of prison.

Some supporters of alternative schemes look to the day when prison cells will be reserved exclusively for career criminals and the violent, with extramural penalties held out for the wayward of every other variety. "We're all against crime," says Herbert Hoelter, director of the National Center on Institutions and Alternatives, a nonprofit group that designed Guerra's package of penalties and persuaded the judge in his case to accept them. "But we need to convince people that there are other ways to get justice."

Anyway, who can afford to keep all offenders behind bars? Depending on the prison, it can cost from \$7,000 to more than \$30,000 to keep a criminal in a cell for a year. Most alternative programs, their backers argue, allow lawbreakers to live at home, saving tax dollars while keeping families intact and off welfare. Since the detainees can get or keep jobs, part of their salaries can be paid out as fines or as compensation to victims. And alternatives give judges a sentencing option halfway between locking up offenders and turning them loose.

It remains to be seen, however, whether the new programs will have much appeal for a crime-wary public and law-enforcement establishment. That prison time can be harrowing is to some minds its first merit. The living-room sofa is by comparison a painless instrument of remorse. "Until the alternatives are seen by the public as tough, there won't be support for them," says Thomas Reppetto of the Citizens Crime Commission in New York City. The problem is even plainer when the offenders are well heeled. Will justice be served if crooked stock traders are confined to their penthouses?

Most such misgivings will remain unsettled while officials try out the range of possibilities before them. In September, suburban Nassau County, near New York City, began testing one of the most talked about new approaches, electronic house arrest. Probationers selected for the program are required to be housebound when not at



Instead of prison, Guerra was fined and sentenced to help a group that entertains the critically ill
The work may be admirable, but is a stint of public service the just deserts of crime?

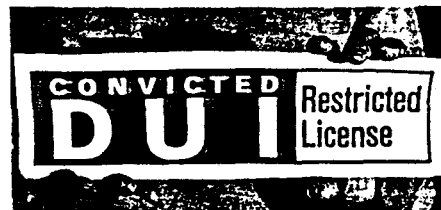
coke dealing. After pleading guilty last spring, Guerra faced 15 years in prison.

He never went. These days Guerra, 32, is putting in time instead of doing it, by logging 400 hours over 2½ years as a fund raiser and volunteer for Arts for People, a nonprofit group that provides artists and entertainers for the critically ill at Dallas-area hospitals and institutions. His sentence, which also includes a \$15,000 fine, means that a prison system full of bursting need not make room for one more. He sees a benefit to the community too. "I just love the job," he says. "I'll probably continue it after the sentence is up."

The work may be admirable, but is a stint of public service the just deserts of crime? Many people would say no, but they may not be the same ones who must contend with the bedlam of American prisons. In recent years, a get-tough trend toward longer sentences and more of them has had a predictable consequence.

mate population need not be incarcerated at all.

The dismal result is evident almost everywhere. Throughout the country, convicts have been crammed into existing facilities until their numbers have pressed against the outer limits of constitutional tolerance. Currently in 38 states the courts have stepped in to insist on, at the least, more acceptable levels of overcrowding. In Guerra's new home state of Texas, a federal judge earlier this month gave officials until March 31 to improve inmates' living conditions or risk fines of up to \$800,000 a



Auto-biography: drunk-driver bumper sticker

work. To make sure they comply, each wears a kind of futuristic ball and chain: a 4-oz. radio transmitter that is attached to the ankle with tamperproof plastic straps. The device broadcasts a signal to a receiver hooked up to the wearer's home phone, which in turn relays it to a computer at the probation department. If the wearer strays more than 100 ft., the computer spits out a note for the probation officer.

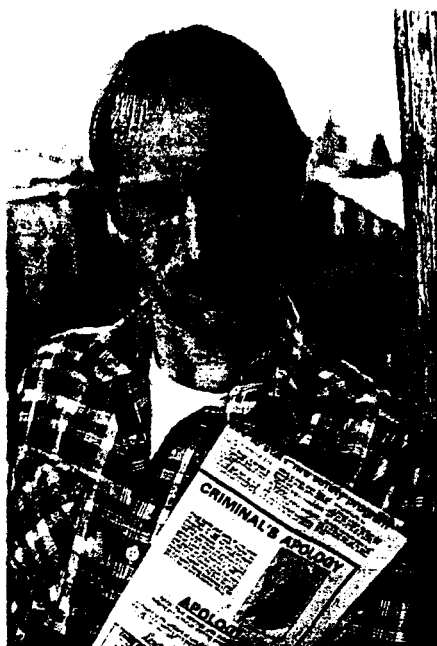
"They can't leave home without us," quips Donald Richberg, coordinator of the program. Following an initial outlay of \$100,000, the project has cost the county only about \$10 a day per probationer. The anklets have been tried in at least eight states since New Mexico introduced electronic monitoring in 1983. The cost accounting looks favorable, but technical gremlins have been showing up too, resulting in reports of false disappearances or failures to report real ones.

Until the high-tech methods are perfected, more conventional alternatives remain the most popular. About 30 states have funded "intensive probation supervision," in which participants are typically required to work, keep a curfew, pay victims restitution and, if necessary, receive alcohol or drug counseling. Instead of the usual caseload—the nationwide average is 150—a probation officer in such experiments oversees just 25 people. Even with the added staff expense, the programs still cost less than incarceration.

The experience of Ron Rusich, 29, a house painter in Mobile, was typical. In 1984 he received a 15-year sentence for burglary. But an intensive probation scheme used in his state since 1982 eventually sent him back outside, and back to work, under strict supervision. A 10 p.m.-to-6 a.m. curfew was enforced during the first three months after release by at least one surprise visit each week from the corrections officer. There were three other weekly meetings, with restrictions eased as his time in the program increased. Living at home, as he was required to do for 2½ years, Rusich cost the state \$8.72 a day, less than a third the expense of keeping him in prison. The experience was a "lifesaver," says Rusich, who is now on parole.

Alabama and a number of other states also have a similar but more restrictive option: the work-release center, a sort of halfway house where offenders must live out their sentences. The system allows them to work, often at jobs found by the local government, but maintains more of the trappings of confinement, such as dormitory life and security checks. In Indiana, where there are ten such centers, offenders do prison time first, with the hope of work release as a carrot for good behavior. That method lets the state consider, through observation and psychological testing, which inmates are likely to succeed in the program. "We want to see how they'll perform," says Vaughn Overstreet of the department of corrections.

A few localities have resorted to the most low-tech deterrent of all: shame. Sarasota County, Fla., is trying the "scarlet let-



Lawbreaker Smith advertised his regret

ter" approach, by requiring motorists convicted of drunk driving to paste bumper stickers on their cars announcing the fact. In Lincoln County, Ore., a few felons have even been given a choice between prison and publishing written apologies, accompanied by their photographs, in local newspapers. Roger Smith, 29, paid \$294.12 to announce his contrition in two papers after a guilty plea growing out of a theft charge. A published apology "takes the anonymity out of crime," insists Ulys Stapleton, Lincoln County district attorney. "People can't blend back into the woodwork."

Do alternatives work? That depends on what they are asked to accomplish. If the goal is cost efficiency, the answer is a qualified yes. They often seem cheap enough, but there are concerns that they may actually add to the bill for corrections because judges will use them as a halfway measure to keep a rein on people who would otherwise go free in plea bargains. James K. Stewart, director of a Jus-



A high-tech manacle for house arrest

They hope he can't leave his house

tice Department research institute, contends that the cost to society of crimes committed by those not imprisoned must be factored in as well. For certain offenders, Stewart concludes, "prison can be a real, real cheap alternative."

If the goal is a society with fewer criminals, then firm judgments are even harder to draw. Criminology is a dispiriting science. Its practitioners commonly caution that no criminal sanction, no matter how strict, no matter how lenient, seems to have much impact on the crime rate. But prison does at least keep criminals off the street. Home confinement cannot guarantee that security. Some data, tentative and incomplete, do suggest, however, that felons placed on intensive probation are less likely to commit crimes again than those placed on traditional probation or sent to prison. Joan Petersilia, a Rand Corp. researcher, says the recidivism rate of such offenders is impressively low, "usually less than 20%." And many keep their jobs, she adds. "That's the real glimmer of hope—that in the long run these people will become functioning members of the community."

The benefits of alternatives will remain mostly theoretical unless more judges can be persuaded to use them. That may require changes in some mechanisms of government. For instance, fines are a crucial part of many alternative sentencing packages. But they frequently go unpaid. Courts and prosecutors are not good at collecting them, says Michael Tonry of the nonprofit Castine Research Corp., which specializes in law-enforcement issues. He proposes that banks and credit companies be deputized to fetch delinquent fines, with a percentage of the take as their payment. "To make fines work as a sentencing alternative," he says, "they must be both equitable, based on a person's ability to pay, and collectible."

One essential for getting courts to consider alternative sentencing, says University of Chicago Law Professor Norval Morris, is to develop a publicly understood "exchange rate" between prison time and other forms of punishment, a table of penalties that judges can use for guidance on how to sentence offenders. "We should be able to say that for this crime by this criminal, either x months in prison, or a \$50,000 fine plus home detention for a year plus x number of hours of community service," Morris contends.

A similar table is already in use in Minnesota, where alternative sentencing has become well established since the 1978 passage of a law that limits new sentences to ensure that prison capacity is not exceeded by the total number of inmates. The crime rate has not increased, supporters boast. Other states remain far more hesitant. Still, the present pressures may yet bring a day when the correctional possibilities will be so varied and so widely used that prison will seem the "alternative" form of punishment. —By Richard Lacayo.

Reported by Anne Constable/Washington and Don Winbush/Mobile

Montana

Association of
Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

March 20, 1987

CHAIRMAN DONALDSON AND MEMBERS OF THE APPROPRIATIONS
COMMITTEE:

WORKING TOGETHER:

American Baptist Churches
of the Northwest

American Lutheran Church
Rocky Mountain District

Christian Church
(Disciples of Christ)
in Montana

Episcopal Church
Diocese of Montana

Lutheran Church
in America
Pacific Northwest Synod

Roman Catholic Diocese
of Great Falls-Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
MT-N.WY Conference

United Methodist Church
Yellowstone Conference

Presbyterian Church (U.S.A.)
Glacier Presbytery

Presbyterian Church (U.S.A.)
Yellowstone Presbytery

I am Mignon Waterman representing the Montana Association
of Churches.

As leaders of Christian Churches, and participators in
and observers of the justice system in Montana, the
Montana Association of Churches strongly supports
HB881.

Community correctional facilities and programs allow
an individualized focus on the personal and social
needs of non-violent offenders, thus raising the chances
of successful rehabilitation.

We believe this bill proposes a correctional system
that will effectively and humanely deal with individual
offenders.

Please support HB881.

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 4

DATE 4-16-87

FILE NO. HB 881

TO: MONTANA LEGISLATIVE COMMITTEE

ROOM #108 - 8A.M. - 4/6/87

Mrs. M. Chairman
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.

WHILE ALL OF US SYMPATHIZE WITH THE NON-VETERAN DISABLED PERSONS, I HOPE YOU WILL AGREE THAT DISABLED VETERANS HAVE VALIDLY, HONESTLY AND COURAGEOUSLY EARNED THEIR VETERANS PREFERENCE.

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.

Thank you for your time.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 1
DATE 4-6-87
FILE NO. 11 R 38

266
H. P. [unclear]

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

SENATE FINANCE AND CLAIMS COMMITTEE

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 2

DATE 4-6-87

BILL NO. HB 38

APRIL 6, 1987

MADAM CHAIRMAN AND MEMBERS OF THE FINANCE AND CLAIMS COMMITTEE:

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO TESTIFY ON HB 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.

MADAM 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 HB 38.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2 pg 2
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MADAM 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.

MADAM 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, MADAM 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.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2 pg 3
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Department of Administration
Testimony Opposing HB 38

1. A major policy change like this is extremely disruptive and costs money.
 - A. The state will have to:
 1. Rewrite the rules covering all public employers.
 2. Retrain managers, county commissioners, city officials.
 - 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.
2. Current law, passed December 20, 1983, is working.
 - A. Since July 1, 1985, Veterans have been:
 1. 14% of the state's 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.
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. HB 38 is a complete change.
 - A. Changes the employers covered.
 - B. Changes the definition of preference.
 - C. Changes all the definitions and eligibility requirements for veterans -- including many more people than now, for example, many peacetime veterans.
 - D. Changes how promotions are made.
 - E. There is no evidence that the changes will work better than the present law.

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

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 4
DATE 4-6-87
BILL NO. HB 38

708 Second St.
Helena, MT 59601
April 6, 1987

TO: Members of Senate Finance and Claims Committee

SUBJECT: Opposition to H.B. 38 Regarding Veterans Preference

My name is Jane Reed Benson and I'm speaking today to represent the Governor's Committee for Employment of the Disabled. We oppose H.B. 38 for several important reasons.

The present law, the Montana Veterans and Handicapped Persons Preference Law, came into effect in December of 1983 as a result of a special session called for that purpose. It grants the same kinds of preference rules to both veterans and disabled civilians. Both groups must have similar qualifications for jobs, must meet similar requirements to be eligible for preference, and have the same limited number of relatives who might also qualify under special circumstances. We see no reason to create differences between the two groups. H.B. 38 attempts to do just that in many ways:

- It will grant privileges to more relatives of veterans than the disabled civilians.
- It will make the citizenship requirements easier for veterans than disabled civilians who would still need to be Montana citizens and, depending on the job, also residents of cities or counties.
- It will make it easier for more veterans to qualify than previously--no longer an honorable discharge is required, no longer must they have served in active duty. There is nothing in H.B. 38 to make it open to even more disabled civilians.
- It will grant preference in layoffs and in promotions throughout careers, but only to the veterans.
- It will require two sets of rules two sets of forms, two different laws, for employers, which makes hiring more difficult for smaller cities and counties.

In short, H.B. 38 will make it harder for disabled civilians to compete for jobs in public employment even though they need the same sort of boost in employment that has been recognized as important in the past in this state. There are increasing numbers of disabled persons in this state, whether through wartime or through accident, birth, or disease. They all need to be able to fight past prejudice and receive better access, training and consideration in order to be employed. The Governor's Committee for the Disabled opposes H.B. 38 because it cannot find any valid reason for the veterans to receive more privileges than what they have now.

The Governor's Committee would like to offer one more important point. In keeping with our philosophy of equality between the two groups, we propose that one change be made to the present 1983 law. Remove the lines in the law that specify that the preference for veterans will expire 15 years after their service or in 1988. That way both veterans and disabled civilians will have the benefits of the present law for as long as there are both veterans and disabled civilians.

The only cost of that proposed change would be the simple elimination of expiration times for one group. We urge you to consider the issue of fairness to both groups who need and deserve our special consideration, and therefore urge you to vote NO on H.B. 38 as presently written.

Thank you.

Julie Reed Benson
GCEP

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 4 pge 2
DATE 4-6-87
BILL NO. HB 38

HOUSE BILL 38
3rd READING BLUE COPY

1) STATEMENT OF INTENT, page 1, line 10.

Following "3"

Insert: "and the retention preference provided for in section 5"

2) STATEMENT OF INTENT, page 3, following line 14

Insert: "(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.

3) Page 9, following line 23

Insert: "NEW SECTION. Section 6. Retention during reduction in force. (1) Except as provided in subsections (2) and (3), during a reduction in force, a public employer shall retain in a position a:

(a) veteran, disabled veteran, or eligible relative whose performance has not been rated unacceptable under a performance appraisal system, over other employees with similar job duties and qualifications and same length of service; and

(b) disabled veteran with a service connected disability of 30% or more whose performance has not been rated unacceptable under a performance appraisal system, over other veterans, disabled veterans, and eligible relatives with similar job duties and qualifications and same length of service.

(2) No employee is entitled to preference in retention under subsection (1) unless the person is a United States citizen.

(3) The preference in retention under subsection (1) does not apply to position covered by a collective bargaining agreement.

Renumber: subsequent sections

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 5
DATE 4-6-87
BILL NO. HB 38

Amended

AMENDMENTS TO HB 38, THIRD READING COPY, PREPARED FOR REP.
PAVLOVICH.

Page 6, line 9 and lines 23 and 24 of page 17.

Strike: "IN AN INITIAL HIRING"

AHB38a/JM/JM3

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 5 P92

DATE 4-6-87

BILL NO. H.B. 38

STATE OF MONTANA
Office of the Governor
EXECUTIVE ORDER NO. 24-81

Executive Order Directing the Department of Administration to Implement and Maintain an Equal Employment Opportunity Program in State Government

WHEREAS, equal opportunity in state government is a goal to which I am committed, and

WHEREAS, discriminating barriers to employment in state government must be eliminated, and

WHEREAS, an effective state equal employment opportunity program must be implemented and maintained.

NOW, WHEREOF, I, GEORGE TURMAN, by the authority vested in me as Governor of the State of Montana, pursuant to Article VI, Section 4, of the Constitution of the State of Montana and Sections 2-7-103, 2-15-103, and 2-15-201, Montana Codes Annotated, do hereby order the Department of Administration as follows:

1. Implement and maintain an Equal Employment Opportunity Program for all state government employees. Specifically the Department shall provide such regulations, standards, and other guidelines as may be necessary to implement and maintain an effective equal employment opportunity program throughout state government. The program objectives shall be to eliminate discrimination in personnel salaries and procedures, job structuring and classification, hiring, firing, promoting and training.
2. Monitor the Equal Employment Opportunity Program and submit a status report to me within 90 days of the end of each year.

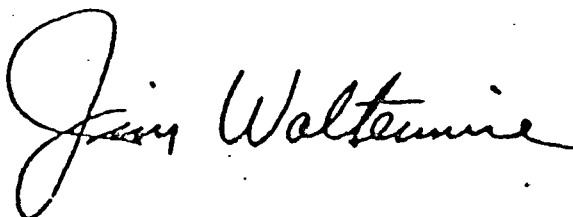
This order is effective immediately.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 13th day of October in the year of our Lord One Thousand Nine Hundred Eight-One.



GEORGE TURMAN, Acting Governor

ATTEST:



JIM WALTERMIRE, Secretary of State

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 6
DATE 4-6-87
BILL NO. HB 38

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING



TED SCHWINDEN, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

MEMORANDUM

TO: Representative Robert Pavolovich

FROM: David L. Hunter
Budget Director

A handwritten signature in dark ink, reading "David L. Hunter".

RE: HB38 - VETERANS PREFERENCE

DATE: February 16, 1987

If HB38 were amended to eliminate Section 2, the fiscal impact would be as follows:

Assumptions:

1. No scored procedures would be required.
2. Current selection procedures would not change.
3. Application materials, explanation of rights under preference act would have to be revised.
4. Use current State Application Form until supply is deleted.

Fiscal Impact:

These would be implementation costs and includes counties/cities.

Rule Adoption - 2 rules	\$2,020
Technical Assistance	950
Training for Hiring Authorities	2,349
Revise State Application Form	200
Recordkeeping System (PPP)	1,000
TOTAL	\$6,519

Technical Concerns:

The veterans preference in reduction of force (RIF) would increase the complexity of layoffs and the risk of litigation. It is impossible to estimate these potential additional costs to the state and local government.

The fiscal note submitted on HB38 reflected an annual fiscal impact of \$250,000. In comparison, the deletion of Section 2, would indicate a one time charge of \$6,500.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 7
DATE 4-6-87
BILL NO. HB 38



JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA
Office of the Legislative Fiscal Analyst
STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

February 13, 1987

Representative Robert Pavlovich
Seat #64
Montana House of Representatives

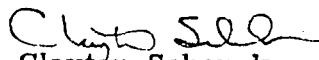
Dear Representative Pavlovich:

I have reviewed House Bill 38 for the fiscal impact if the requirements for scoring procedures are removed.

If section two of the bill is deleted as well as references to scoring procedures in other parts of the bill, there would be no significant costs involved in the administration of the bill requirements. As the point of the bill is to give employment preference to veterans through a scoring process, you may want to consider if your objective is still accomplished if section 2 is deleted.

Please contact me if I can be of further assistance.

Sincerely,


Clayton Schenck
Senior Fiscal Analyst

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 8
DATE 4-6-87
BILL NO. HB 38

CLS1:kj:rp2-13.