

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

Call to Order: By Senator Gary C. Aklestad, on March 16, 1989, at 1:00 p.m. in Room 415 of the state Capitol.

ROLL CALL

Members Present: All members were present. Senator Tom Keating, Vice-chairman, Senator Sam Hofman, Senator J.D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Chet Blaylock, and Senator Gary C. Aklestad, Chairman.

Members Excused: There were no members excused.

Members Absent: There were no members absent.

Staff Present: Tom Gomez, Legislative Council Analyst.

Announcements/Discussion: There were no announcements or discussion.

HEARING ON HOUSE BILL 700

Presentation and Opening Statement by Sponsor:

Representative Bob Pavlovich, House District 70, Butte, Montana, sponsor of the bill stated HB 700 is a Veteran's Preference Act. In 1972, the Legislature held a special session in order to compromise. Pavlovich stated he was an interim committee member, and, in Pavlovich's opinion, no compromise was reached. The Veteran have nothing. Yesterday (March 15, 1989), New Mexico enacted a veteran's preference law. Montana is the only state that does not have veteran preference. The Great Fall Tribune featured an article about the veterans' losing fight for medical aid. The following is a quote from the paper: "If any man shall be sent forth as a soldier and shall return maimed, he shall be maintained completely by the colony for his life." Pavlovich stated the soldier is called away and must fight on foreign soil. They may or may not come back. There is no preference for the returning soldier. HB 700 is patterned after federal law. Representative Pavlovich stated he would rather have HB 700 tabled, or killed if there are any amendments. The legislature compromised veterans preference,

and, now, Montana does not have veterans preference.
(Exhibit 1)

List of Testifying Proponents and What Group they Represent:

Joe Brand, 812 Saddle Drive, Helena, Retire, stated he appeared before the committee on his own initiative. Brand stated when he served in the Legislature, he introduced a similar bill during the 1972 special session. Brand stated he did not acquire a GA education, has not been treated in a veteran's hospital, and has not received VA health benefits or housing. Brand stated he did not need benefits, but there are other veterans who do need a source of encouragement in order to come into society's main stream. Montana maintained a good veteran preference bill for many years until the Crabtree Court case. The Crabtree case had nothing to do with veterans. The Crabtree case dealt with the disabled. The disabled were also included in veterans preference. The aim was to separate the two so each had individual identity. Mr. Brand stated he has not seen a veteran testify against an affirmative action program. Brand stated he has supported affirmative actions programs and handicap causes. Now the affirmative action and handicap people are testifying against veterans, saying the veterans are being taken care of by Administrative Procedures Act. This is not true. Brand stated the veterans can not let bureaucrats dictate policy, when the veterans do not have an opportunity to testify. The veterans have not testified against affirmative action, the handicap, or any other people who needed help. Montana is the only state in the Union that does not have a veteran preference act.

The national government is currently establishing an veteran's administrator. The new policy will require a new agency. The veterans feel strongly about HB 700, but stated he has heard some veterans are apposed to HB 700. Brand stated most veterans do not think HB 700 is detrimental. The people who oppose HB 700 are the ones that should be included, according to Brand. HB 700 is going to effect Vietnam Veterans and perhaps a few Korean Veterans. Montana and the nation have denied the Vietnam Veterans many things. Vietnam was an unpopular war. Brand asked why the government cannot do something for the Vietnam Vets. Brand urged the committee to support HB 700.

John E. Sloan, representing the service men and women who wear the Purple Heart, as charted by the US Congress, stated the organization is exclusively for combat wounded veterans. The organization strongly supports HB 700. Mr Sloan said he is talking about the young men and women who gave up the best years of their lives to serve their country during war

time. Many of the soldiers came home minus arms, legs, loss of vision, muscle injuries, post traumatic deformities, residuals from malnutrition, combat fatigue, loss of hearing, and with many other disabilities or diseases. 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. During the time the veteran served, their non-veteran peers were getting their education and furthering their careers. The veterans deferred their education and careers while serving their country. The five and ten percent preference provided by HB 700 will help restore the small part of the inequities imposed upon them by their military service. The unfavorable treatment of Montana war time veterans by the legislature during last sessions has been disgraceful. Mr Sloan asked the committee if these actions fully reflect the feelings of Montana people, and the belief of what the military fought for, or is this the legacy Montanans want to pass to their children. Sloan stated the benefits bestowed on veterans will meet with the unqualified approval of all "right thinking" Montanans. Sloan requested favorable consideration concerning HB 700.

Representative Bob Gervais, House District 9, Richland County, stated he is retired from Federal Government, and is a Korean combat infantry veteran. Representative Gervais stated HB 700 may not help Korean Veterans. Gervais compared the native American Indian with the veteran. The Native American Indian had the highest percentage rate of military service people. Montanan Native Americans have the highest ethnic percentage statistics in the nation when comparing Veterans to Native Americans. Representative Gervais stated the Native Americans were taken away from their homeland, sent over seas, lost property, lost a way of life, and lost families while they were gone. The situation represents broken promises. Representative Gervais stated he received his job under Federal preference and recommended to the committee a do pass recommendation.

Dan Antonietti, Director of Veterans Employment and Training Division, U.S. Department of Labor stated he served on the American Legion National Committee. Mr. Antonietti stated HB 700 defines a permanent, temporary, or seasonal position, as defined in 218-101 in Montana statutes. An external recruitment record for the Department of Revenue shows the department recruits within a local, region, or national area, on campus, as well as other places. All of the announcements require the applicant to fill out Montana state employment application, PV 25. The application includes the veterans and handicapped section. Job seekers are being asked for this information. One would think the Civil Rights law would be a vehicle for those who would

challenge veterans preference. Today, there are 47.1 percent women working in state government. This figure denotes an approximate 100% employment gain since the Vietnam era. The assistant Secretary of Labor through a state Department of Labor and Industry grant, claims both positions. The performance is measured by negotiated standards, which is negotiated between Veterans Employment, Training divisions, and state people. In total placement between veterans and eligible people, Montana is out of compliance. Montana is approximately 1,500 placements short from July 1 to March 1989. The Vietnam veterans are out of compliance: 1,299 were placed, but 1,651 should have been placed. The disabled veterans is out of compliance: 146 v. 167. HB 700 follows the pattern of federal law, which is supported by national veteran organizations: 1988 and 1989 policy goals and priorities.

Hal Manson, Helena, representing the American Legion of Montana, stated when the WWII and Korean Veterans came home, Montana had a veteran preference. Some veterans used the preference and some did not, but preference was available. The Vietnam Veterans do not have preference. Manson stated he did not say the Vietnam War worse than WWII, but it was every bit as bad. The veterans took time out of their lives. The Montana veterans preference law ended in December 1988. HB 700 takes nothing away from the nonmilitary disabled. The disabled people still have their law, and the law adequately protects them. HB 700 does not create another disabled persons law, but creates a new law giving preference to veterans, asking for five additional points for the disabled veterans. Women are included under HB 700. There are approximately 3,000 women veteran in Montana. Approximately 1,500 of the women are Vietnam Veterans. These women will have the added benefits if they are in the labor market seeking jobs covered by HB 700. The Vietnam Veteran are among the largest number of unemployed persons in Montana and the nation. The veteran, who serve the country in time of war, deserves a chance to gain "a little better" than those who do not serve, considering all other matters being equal. The Montana American Legion strongly supports HB 700 without amendments.

Rich Brown, Administrator of the Montana Veterans Affairs Division, stated he is appearing on behalf of Chairman Bob Durkee and all members of the Montana Board of Veterans who unanimously endorse HB 700. In five years of working with numerous bills surrounding the veterans preference, Mr. Brown is comfortable in supporting HB 700. Personally, professionally, and as a Vietnam combat veteran, Brown stated HB 700 is the best preference bill ever offered.

John Mahan, past national commander of the VFW, Helena, stated Mahan became involved as an attorney because of the right of retention. Mahan stated he was hired as an attorney by veterans who worked for Montana for 16 to 21 year, but were terminated. In a 1960 opinion, Attorney General Forrest Anderson stated veteran preference also applies to retention: to hire a veteran one day and fire him the next does not make sense. Retention is what makes HB 700 worthwhile. Most veterans have lived in the state from 20 to 50 years. They are told they can retire after a specified number of years. When these people become approximately 50-55 years old, the state agencies have reorganization. New people come in wanting their friends to have particular merit system jobs. These jobs are not political jobs appointed by the governor, but jobs within the Merit System. The reorganization does away with the jobs, and the person who has worked for many years is out. For this reason, Mahan stated he believes HB 700 is a just law. There are 106,000 veterans in Montana. Mr. Mahan believes Montana should not be the only state without veterans preference statute. Mr Mahan stated, concerning women, he has had the privilege during the past few weeks to interview high students for national and state level scholarships. Mr. Mahan stated approximately half of the girls interviewed are entering military service in order to receive scholarships. More women than men are applying for scholarships. Therefore, Mr. Mahan believes the law will equalize, if given a chance.

George Poston, Helena, Montana, United Veterans of Montana, stated there are veterans testifying to say they don't need HB 700. The law, as it is, is working for others because the veterans are not getting jobs. Statistics show the working age veterans represents the highest group, or level of people leaving the state, so many so, that Montana may lose one of our U.S. Representatives. The 22-44 age bracket is the group leaving, and the majority are veterans.

Walt Wheeling, 1120 Billings, Ave, Helena, representing the Ex-prisoners of War and the American Defenders of the Corregidor, stated support of HB 700.

Larry Longfellow, Quartermaster Adjutant, Veterans of Foreign Wars, offered support of HB 700. Mr. Longfellow submitted written testimony. (Exhibit 1)

Andy Gruel, 1823 Broadway, Helena, MT, stated support of HB 700.

John Denherder, 3333 Canyon Ferry Road, East Helena, Department of Montana Disabled Veterans and 32nd Degree Mason, stated he is a veteran of three war time eras and

three uniformed services. Mr. Denherder wonders what has happened to America's respect when Americans lose veteran preference acts. Mr. Denherder believes it a national and ship-of-state disgrace.

Dick Baumberger, 5495 N. Montana Ave., Helena, Montana, representing the Disabled American Veterans, stated he finds the situation frustrating. Baumberger stated he sat through the House hearing and heard the handicapped testify concerning their needs for handicapped parking, which they received. Mr Baumberger stated he (as a veteran) feels like a second class Montana citizen. He has not voted against school bills issues, and, now, he finds it frustrating to hear others testify against veterans's needs.

List of Testifying Opponents and What Group They Represent:

Lauri Ekanger, Administrator, representing the State Personnel Division.

TESTIMONY:

Laurie Ekanger, State Personnel Division, Administrator of the Personnel Division, representing the State Executive Branch, State Revenue, stated she has heard proponents imply veterans are not getting state government jobs. The department surveyed the work force in August to find 20% of the state managers are veterans. The proponents of HB 700 say there is no preference, this is not true. There is a preference period, which is 15 years after a war. We have not had a recent war. The Vietnam War preference period has expired. The preference kicks in again any time there is a new war or preventive campaign, like Grenada or the Persian Gulf. The way the existing preference works is: The non-veteran must be significantly more qualified in order to get a job over the veteran. By contrast, HB 700 will set up a preference for peace time veterans, volunteers, non-resident veterans, retired veterans, and anyone who serves for six months in the military. HB 700 also includes relatives. HB 700 vastly expands veterans preference. Unlike the federal government, Montana does not administer civil service tests for all state jobs. If the state had sophisticated resources, Montana could add points to the task force. Hiring for Montana state jobs is completely decentralized. Each state agency has devised its own unsophisticated methods of hiring. Actually, HB 700 means there is no preference because there are no tests on which to add points. The legislature is being asked to take someone else's law and slap the law on Montana, even though it doesn't fit. State managers believe it is one thing to give preference to someone starting work in state government, but after the initial hiring, everyone should have an equal

chance for advancement. No one should be able to sit back and enjoy preference for their entire career. People, who deal with "advantaged people", know when personnel issues are decided on issues other than merit, and the highest achievers are not rewarded, and the entire work force is discouraged. The highest achievers are especially discouraged.

Ekanger stated work forces were reduced in 1982 with massive layoffs in state agencies, local government, non-profit organization and vocational technical centers. The Department of Labor and Industry were two division devastated by the layoffs. The department made one division out of two divisions. Both divisions had collective bargaining agreements. HB 700 does not apply to collective bargaining, nor would it have covered the 1982 layoff situation. HB 700 provides solutions, but does not fit the problem. HB 700 does not exempt temporary provision and job training programs from hiring preference. Temporary positions will be a major problem. The Department of Institutions characterized the state agency problems concerning temporary situations. The purpose of the law is to give the state agencies direction. HB 700 fits the federal bureaucracy, but does not present useful direction. Veterans hold 36% of state management jobs, 41% of Law Enforcement Jobs, 52% of state skilled craft jobs. Ekanger asked the committee to let government concentrate on excellence and to service to the public. Ms Ekanger encouraged the committee not to pass HB 700. (Exhibit 2)

Leroy H. Schramm, 33 S. Last Chance, Helena, Montana University System lobbyist, stated the university system is the second largest public employer covered by HB 700. (Exhibit 3) A war time veteran qualifies for one preference no longer than 15 years following separation of service or no longer than 5 years following December 20, 1983, the year the act was passed, or whatever is later. Effectively, December 20, 1988, the war time preference is no longer, except for those who have received campaign badges. If there is going to be a preference, something has to be done. HB 700 raises so many questions, and it is not the answer. The present act, which expired in part on December 20, 1988, is still on the books, but covers only war time veterans. The Korean and the Vietnam Vet deserve something for defending their country. HB 700 does not limit jurisdiction to just these people. HB 700 allows retirees to get preference. HB 700 is supposed to be modeled after the federal act. According to federal retention standings, a retired member of a uniform service is considered preference eligible only if the members meets at least one of the following consideration: 1) The person is a disabled veteran; 2) The person's retiree pay is based on less than twenty years service; 3)

the person has been in the civil service for more than twenty-five years; 4) The person is retired at the rank of major or above is eligible only if disabled. The federal government puts a real restriction on retirees. HB 700 does not. HB allows double dipping. The present act says in order to get extra benefits, the disabled veteran must have a 30% compensable service connected disability. The present act requires the person have a honorable discharge. The government education project, called military discharge upgrading, tries to get people with general discharge upgraded to honorable discharges. Congress has differentiated between general discharges and honorable discharges. The present law requires the individual to be a Montana resident before collecting preference eligibility is granted. HB 700 allows any veteran from any state to qualify. The coverage is further broadened to include all educational institutions. Among those covered are student employees who work as temporary and part time employees. Under the state work-study program, if there is a vet and a non-vet who start working at the same time together, but due to cuts, the vet will stay and the non vet will be terminated. The education sector would like to be able to make a termination decision based on a need factor. Written testimony was submitted. (Exhibit 3)

Jim Nys, Box 5 Clancy, MT, handicapped Vietnam Veteran, State agency personnel officer and personnel consultant to many private businesses, stated opposition to HB 700. (Exhibit 4)

Connie Cole, Interdepartmental Coordinating Committee for Women, submitted written testimony. (Exhibit 5)

Bob Anderson, Helena, Montana School Board Association, stated when the previous act was drafted in 1982 the schools were not included. The main reason, in many cases, was the people who hire within the school systems are volunteers. Any time the law is complicated, litigation results. An example HB 700 could bring. On page nine, the bill deals with automatic preference for veterans during a reduction in force. An example: Teacher A has taught for four years and has obtained tenure. Teacher B has taught for only one year, but has taught for eight years elsewhere. Teacher B is a nontenure teacher, but is a veteran. Under HB 700, as Mr. Anderson understands the bill, the person with the veterans preference would automatically be rehired over the person with tenure. Mr. Anderson questioned whether or not the person would be rehired due to possible litigation. The case could be litigated for a long time. Mr. Anderson urged the committee not to accept HB 700.

SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

March 16, 1989

Page 9 of 14

Beverly Gibson, Montana Association of Counties, presented written testimony prepared by John Pemberton, Director, Personnel and Labor Relations, Missoula County. Mr. Pemberton could not attend the hearing due to inclement weather. (Exhibit 6)

Tim Harris, Montana Independent Living Project, 38 S. Last Chance, Helena, MT, stated somewhere, sometime, in society determines between Legislative attitudes of the minds and hearts and people making law. Tim Harris believes a person's ability, not his disability counts. The idea of a veterans preference, separate from disability preference, has been introduced in the past sessions. The concept has been a cause of division between veterans and the disabled, and has led to non-productivity in other important areas. Name calling and mistrust on both side has been an issue. Why there are sides, in either cases, is a mystery. There is too much to be done which requires cooperation on everyone's part. Working together brings about advancement. Mr Harris stated he is not in favor of preference. Anyone who is hired in or retained in any position should be the most qualified person. A good working situation does not result when a person is forced to hire a particular person because of a disability. Veterans, disabled veterans, and disabled civilians should be treated equally in employment. There are a number of disabled who were injured prior to age eighteen and did not have an opportunity to join the armed services. Mr. Harris stated he is included in this category, and he would have joined if he had a choice. Mr. Harris urged the committee not to accept HB 700.

Corlan Gee (Corkey) Bush, Directory, Montana State University, Human Resources, Affirmative Action, Bozeman, MT, submitted written testimony. (Exhibit 7)

Diane Sands, Executive Director of the Montana Women Lobby, Helena, MT, submitted written testimony. (Exhibit 8)

Mary Vant Hull, City Commissioner, 416 E. Story, Bozeman, MT 59715, submitted written testimony. (Exhibit 9)

Questions From Committee Members:

Senator Hofman, stated a constituent, a thirty-year veteran and former Gallatin County Democratic Chairman, finds HB 700 to be discriminatory against women. Representative Pavlovich stated women belong to the armed forces, therefore they would be included in the legislation.

Senator Hofman asked why the vet's father is discriminatory against, when his mother is given special treatment according to the language of the bill. Representative stated

perhaps it is assumed the father has a job within the category.

Senator Hofman asked about the constitutionality of HB &700. Representative Pavlovich stated the question of constitutionality may arise if an out-of-state veteran was not hired, due to the fact when the person entered the military service, the nation did not care which state he signed the papers to enlist. Pavlovich stated the other states have the language, and they are in compliance to federal law.

Senator Hofman asked why the bill excludes collective bargaining. Collective bargaining is dealt with in the same manner, in compliance to federal law.

Senator Blaylock stated, as he understands the legislation, HB 700 opens veterans preference wide open for veterans. Anyone, who served in the armed forces, are classified as veterans. The 350,000 troops currently serving in Europe will be veterans upon dismissal. Senator Blaylock stated there are good points to HB 700, but the testimony given today is concerning the individuals who fought. Senator Blaylock stated he is prepared to offer an amendment to specify and define combat veterans. Senator Blaylock asked Representative Pavlovich if he would object to the amendment. Representative Pavlovich stated he would object because the Veterans presented HB 700 and asked no amendments be attached.

Senator Lynch stated the constitutionality of the "resident" has been ruled unconstitutional. The case concerned a welfare issue. A residential requirement cannot be adopted since the resident requirement has been ruled unconstitutional by the U.S. Supreme Court.

Senator Lynch asked Dan Antonietti about "reduction in force". Mr. Antonietti stated the federal law is an absolute. There are three federal government registers concerning "reduction in force: They are: 1) the non-veteran; 2) the veteran with 20% service connected; and 3) the veteran with 30% or more. This issue would be the "tie breaker" in the law. Everything must be equal before a veteran's preference can be made.

Senator Lynch questioned the general discharge status, stating there is nothing dishonorable about a general discharge. The federal law calls both an honorable discharge and a general discharge to be a discharge under honorable conditions. There is a certain stigma attached to a general discharge. Ninety-five percent of discharged people receive an honorable discharge. Senator Lynch stated the five additional percentile would included bad conduct, dishonorable

discharge or other conditions. Mr. Antonietti stated he was seventeen when he enlisted in the US Navy. Prior to active duty, Mr. Antonietti stated he was in an automobile accident and confined in a private hospital for forty-three days. The Navy could not transfer Mr. Antonietti to a military hospital, Farragut, Idaho, due to medical conditions. Mr. Antonietti stated he has a U.S. Navy Certificate of Discharge Under Honorable Conditions. Later, Mr. Antonietti served in the army, and was discharged. The discharge was an U.S. Army Discharge under honorable conditions. The difference is "under honorable conditions". The federal definition qualifies and defines military separation. There is an "other than honorable discharge" classification. HB 700 does not include any veteran discharged under other than honorable conditions.

Senator Keating stated at one time the State had HB 700 law in Montana law. Mr. Antonietti stated the previous 1921 law was stronger, absolute. The point system was in the law. The 1921 law was amended thirteen different times to consider WWII, Korea, Vietnam, and public law. The civilian handicapped was included in 1927. This is the bill that was repealed by the 1983 special session. Currently, the states of Massachusetts, New York, Illinois, and other states are absolute law. Montana legislation is a mini version of federal law. Senator Keating stated Montana does not have a point hiring system, but section 2 and section 6 alleges to point hiring systems. Senator Keating asked if HB 700 will replace the present hiring system. Senator Keating stated section 2 qualifies whenever a public employer uses a squared procedure, they use the term regarding point preference. If a public employe uses a point system, they must employ the specified procedure. Since there is not a point system, the law doesn't apply. HB 700 continues to read in section 6: "now the department of Administration shall adopt rules implementing sections one through five, which sets up a point system. Senator Keating stated HB 700 will replace what we already have. The legislation says the state of Montana shall adopt a point system. This is a change of the current hiring system.

Laurie Ekanger stated the department does not feel the law requires the point system. The department would draft rules that reflect the intent of the law. The department would write rules that would read: "If you use the point system, then this is how the department will apply the preference." A mandate to make all agencies adopt a point systems would be beyond the scope of the law. Senator Keating stated if any hiring point in state and local government wanted to employ a point system, they could, but if they did not want to they did not have to. Senator Keating stated the veteran preference would only apply in those areas where a point

system was utilized. There would not be a veterans's preference if there were no agencies using a point system. Ms Ekanger state yes.

Senator Blaylock asked what part of state government uses a point system. Ms Ekanger relied the hiring is so decentralized that the department only reviews applicant statistics. Ms Ekanger stated most agencies use a plus and minus system, but some agencies convert the system to points.

Senator Keating asked how many school districts, counties, university system, and other state businesses use the point system. Point system are used in various phases of school related hiring, depending on choice. There is not a uniform system used for all school districts. Many applicants are received, therefore the trustees must devise a point system to assist in sorting applicants. Senator Keating asked if the trustees thought they would deal with tenure teachers, they could opt not to use a point system. Mr. Anderson reiterated the nontenure, military veteran teacher, having eight years teaching experience, would be hired before the tenure teacher. This situation will cause major litigation problems. The Montana School Board Association would try to advise districts to stay away from point systems.

Closing by Sponsor:

Representative Pavlovich stated the information pamphlet, which he handed out, contains other pertinent information. Representative Pavlovich stated HB 700 passed second reading in the House 77 to 22 and third reading 82 to 17. The veterans want the bill to remain unamended. (Exhibit 10)

DISPOSITION OF HOUSE BILL 508

Discussion:

Tom Gomez, Legislative Council Analyst, stated the amendment makes a technical change in the title to reflect a change made in the House in Section 1 to limit the absolute preference over other applicants for positions coming vacant, if the position is consistent to the workers physical condition and vocational abilities. The second amendment clarifies that the absolute preference will be provided to an injured worker only to the extent allowed by law. The employer is released from the provisions of the subsections providing for the preference, and the option to have insurance coverage during the period of injury if the employee is terminated pursuant to other provisions of the law, or two years have elapsed from the date of the injury. The last amendment provides for the preservation of the

rights of those individuals, who rights had matured into the law. It also clarifies the law does not pertain to any procedures begun before effective date of the act. It also provides a severability clause to eliminates possible conflict between this law or other law. (Exhibit 11)

Amendments and Votes:

Senator Blaylock moved the amendment. The motion carried.

Recommendation and Vote:

Senator Blaylock moved HB 508, as amended.

Senator Keating, as a substitute motion, moved AS AMENDED, NOT BE CONCURRED IN. A roll call voted was taken. Senators Keating, Hofman, Devlin, Nathe, and Aklestad voted Yes. Senators Lynch, Pipinich, Manning, and Blaylock voted No.

Senator Blaylock requested a Minority Report.

DISPOSITION OF HOUSE BILL 639

AMENDMENT AND VOTE:

Senator Lynch moved DO PASS recommendation on HB 639

DISCUSSION:

Senator Lynch stated the man who works all the time and always shows up should get something for his efforts. The person who refuses to work Saturday or keeps missing work actually receives the same amount or more than the person who works all the time.

Senator Keating stated the old system of tapping into the unemployment Insurance Fund got the state into trouble. In 1983, the fund was broke, and the state had to make adjustments. The employer's premium was increased so the fund could get out of the red. The employer has not had a break. Now the break can be given. The time is not right for the passage of HB 639. Do not tap the unemployment insurance fund for more benefits. Do not put the state into the same previous situation. Address legislation to take care of people not working overtime or Saturdays. The financial break will be awarded in approximately a month. The break will let people stay in business and employed.

Recommendation and Vote:

SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

March 16, 1989

Page 14 of 14

A roll call vote was taken on Senator Lynch's motion. Senators Lynch, Pipinich, Manning and Blaylock voted YES. Senators Keating, Hofman, Devlin, Nathe, and Aklestad voted NO. The motion failed. Senator Lynch requested a minority report. The committee requested the roll call vote be reversed. Therefore, the vote was: BE NOT CONCURRED IN, with Senators Keating, Hofman, Devlin, Nathe, and Aklestad voted YES. Senators Lynch, Pipinich, Manning and Blaylock voted NO.

DISPOSITION OF HOUSE BILL 677

Recommendation and Vote:

Senator Keating moved HB 677: BE CONCURRED IN

Senator Lynch seconded the motion.

The motion passed unanimously.

ADJOURNMENT

Adjournment At: The meeting was adjourned at 2:52 p.m.



Senator Gary C. Aklestad, Chairman

GCA/mfe

Minutes.316

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: *March 16, 1989*

| | PRESENT | ABSENT | EXCUSED |
|-------------------------|---------|--------|---------|
| SENATOR TOM KEATING | X | | |
| SENATOR SAM HOFMAN | X | | |
| SENATOR J.D. LYNCH | X | | |
| SENATOR GERRY DEVLIN | X | | |
| SENATOR BOB PIPINICH | X | | |
| SENATOR DENNIS NATHE | X | | |
| SENATOR RICHARD MANNING | X | | |
| SENATOR CHET BLAYLOCK | X | | |
| SENATOR GARY AKLESTAD | X | | |

SENATE STANDING COMMITTEE REPORT

March 21, 1989

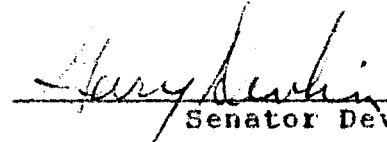
MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 508 (third reading copy -- blue), respectfully report that HB 508 be not concurred in.

Sponsor: Darko (Aklestad)



Senator Aklestad



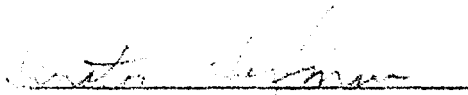
Senator Devlin



Senator Nathe



Senator Keating



Senator Hofman

MAJORITY REPORT
BE NOT CONCURRED IN

Signed: 

Gary C. Aklestad, Chairman

2/21/89
3:21
4:8

SENATE STANDING COMMITTEE REPORT


March 21, 1989

MR. PRESIDENT:

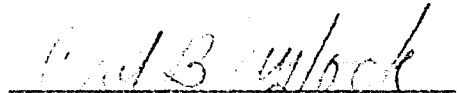
We, your committee on Labor and Employment Relations, having had under consideration HB 508 (third reading copy -- blue), respectfully report that HB 508 be concurred in.

(Lynch)

Sponsor: Darko ~~XXXXXXXXXX~~



Senator Lynch



Senator Blaylock



Senator Manning



Senator Pipinich

MINORITY REPORT
BE CONCURRED IN

SERATE STANDING COMMITTEE REPORT

March 21, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 639 (third reading copy -- blue), respectfully report that HB 639 be not concurred in.

Sponsor: Driscoll (Aklestad)

Gary C. Aklestad
Senator Aklestad

Gary Devlin
Senator Devlin

Senator Nathe
Senator Nathe

Senator Keating
Senator Keating

Senator Hofman
Senator Hofman

MAJORITY REPORT
BE NOT CONCURRED IN

Signed: *Gary C. Aklestad*
Gary C. Aklestad, Chairman

4. C. 1159
7/12/89
4. P.

SENATE STANDING COMMITTEE REPORT

March 21, 1989

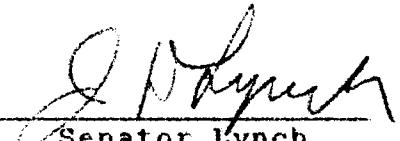
MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 639 (third reading copy -- blue), respectfully report that HB 639 be concurred in.


Sponsor: Driscoll (Blaylock)



Senator Blaylock



Senator Lynch



Senator Manning



Senator Pipinich

MINORITY REPORT
BE CONCURRED IN

C.
3/21/89
4:25 p.m.

SENATE STANDING COMMITTEE REPORT

March 16, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 677 (third reading copy -- blue), respectfully report that HB 677 be concurred in.

Sponsor: Driscoll (Keating)

BE CONCURRED IN

Signed: 
Gary C. Aklestad, Chairman



STAN STEPHENS
GOVERNOR

State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1 page 1 of 19
DATE 3-16-89
BILL NO. HB700

February 21, 1989

Larry H. Longfellow
Quartermaster Adjutant
Veterans of Foreign Wars
P.O. Box 6228
Helena, MT 59604

Dear Larry:

I have your letter of February 15, 1989 and the accompanying Resolution on Veterans' Preference.

Thank you very much for sending this along to me and I will advise my legislative representatives dealing with veterans' affairs to closely monitor this resolution as it makes its way through the legislature.

Sincerely,

A handwritten signature in cursive script that reads "Stan Stephens".

STAN STEPHENS
Governor

1988-1989 PRIORITY GOALS

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1 page 29 Committees met in Kansas City and Washington to establish priorities for the
DATE 3-16-89 1988-89 year, based on the resolutions adopted by the delegates in Chicago.

BILL NO. HR 700

LEGISLATIVE GOALS

Elevate the VA

We fully support elevating the Veterans Administration to an executive department and specifying the Administrator of Veterans Affairs as a member of the President's Cabinet.

[On October 25, President Reagan signed the appropriate legislation elevating the VA to the Department of Veterans Affairs.]

An Adequate VA Budget

We prevail upon the Congress of the United States to completely fund those portions of the Veterans Administration budget as required to maintain the integrity of the entire VA benefit and health-care system and to completely support efforts for future health-care needs.

COLAs

Full cost-of-living adjustments at least equal to the change in the Consumer Price Index (CPI) be provided annually for all recipients of VA compensation and for all military retirees.

Herbicide Exposure

We actively support liberalizing the criteria to establish as service connected any disability associated with herbicide exposure.

VA Construction Budget

We call upon the Congress of the United States to provide an adequate annual funding level to allow the VA to plan now and initiate new construction efforts to meet the immediate future needs of our veterans.

Home Loan Guaranty

We strongly encourage the Congress to maintain the VA Home Loan Guaranty Program as the most viable and desirable means of home financing for veterans.

An Open National Cemetery

Actively support necessary legislation to provide our nation's veterans with an open national cemetery in every state.

Veterans' Education

Revitalize veterans' educational programs to provide assistance on a recurring basis to those veterans who are educationally disadvantaged, in particular, those who are dislocated workers by capitalizing upon cooperative education programs, private learning centers and Title IV of the Higher Education Amendment Act of 1986.

Veterans' Vocational Training and Retraining

Establish a National Veterans Vocational Training and Retraining Program, administered by the Assistant Secretary for Veterans Employment and Training, that will assist veterans to avoid obsolescence in the workplace through recurring vocational skills training, relocation incentives and income support while in training.

Veterans' Federal Employment Opportunities

Implement a Veterans Federal Employment Noncompetitive Appointment Program for which all veterans are eligible regardless of ERA, and that implementing regulations stress the merit of hiring veterans — particular, recently separated and disabled veterans.

Veterans' Preference

Call upon the Congress to repeal Section 702, Public Law 94-502, and to reestablish veterans' preference for veterans separated under honorable conditions from active duty in the Armed Forces after having served more than 180 consecutive days, other than for training. That veterans' preference be assured and applied at each level of the federal selection process and that a distinct veterans program staff element be established in all OPM offices.

SECURITY GOALS

National Defense

Our National Security Program for 1988-1989 reaffirms our firm commitment to a strong national defense. The wide range of threats to our security and that of our allies and the vigorous challenges posed by the Soviet leadership require a national defense fully capable of deterring these threats to peace. A strong na-

tional defense, in common with strong and supportive allies, is the foundation of a foreign policy able to respond successfully to the global challenge of Communism.

Military Strength and Arms Reductions

The VFW supports a national defense that provides fully for our security requirements at home and abroad. We continue to urge a comprehensive

modernization and research program for our conventional and strategic forces. Our conventional forces must be expanded to keep pace with the ever-increasing range of threats.

The Army should be filled and maintained at 28 divisions to more adequately accomplish its mission. The Naval forces should be expanded to 15 aircraft carriers, while the Marine Corps should be fully ma-

PERSONNEL SEPARATIONS 635-200
(15 April 1986 Update)

PERSONNEL & EMPLOYMENT
SERIAL NO. 1 page 4 of
DATE 3-16-89
BILL NO. HB 700

- A. HONORABLE: a separation with honor
- B. GENERAL: a separation under honorable conditions
- C. UNDER OTHER THAN HONORABLE CONDITIONS: administrative separation under conditions other than honorable
- D. DISHONORABLE: a discharge pursuant only to an approved sentence of a general court-martial
- E. BAD CONDUCT: a discharge pursuant only to an approved sentence of a general or special court-marshal

1. Separation upon expiration of enlistment or fulfillment of service obligation will be awarded a character of service of HONORABLE, unless an entry level separation is required.
2. Separation for Convenience of the Government will be awarded a character of service of HONORABLE, UNDER HONORABLE CONDITIONS or an entry level separation.
 - a) Exclusion from Applicability
 - b) Secretarial Authority.
 - c) Separation of sole surviving sons or daughters
 - d) Separation of surviving family members
 - e) Inability to perform prescribed duties due to parenthood
 - f) Lack of jurisdiction
 - g) Discharge of aliens not lawfully admitted to the U.S.
 - h) Separation of personnel who did not meet procurement medical fitness standards
 - i) Discharge for failure after enlistment to qualify medically for flight training
 - j) Separation because of personality disorder
 - k) Concealment of arrest record
 - l) Failure to meet weight control standards
3. Separation because of Dependency or Hardship will be awarded a character of service of HONORABLE, UNDER HONORABLE CONDITIONS or an entry level separation.
4. Separation because of Defective Enlistments and Inductions will be awarded a character of service of HONORABLE, GENERAL DISCHARGE, UNDER OTHER THAN HONORABLE CONDITIONS or an entry level separation.
 - a) Minority
 - b) Erroneous enlistments, reenlistments, or extensions
 - c) Defective or unfulfilled enlistment or reenlistment agreements
 - d) Fraudulent entry
5. Separation of Enlisted Women - Pregnancy will be awarded a character of service of HONORABLE, UNDER HONORABLE CONDITIONS or an entry level separation.
6. Separation due to Alcohol or Other Drug Abuse Rehabilitation Failure will be awarded a character of service of HONORABLE, UNDER HONORABLE CONDITIONS.

7. Discharge for the Good of the Service normally an OTHER THAN HONORABLE DISCHARGE certificate is appropriate.
8. Entry level Separation is UNCHARACTERIZED
9. Retirement for Length of Service will be awarded a character of service of HONORABLE
10. Separation for Unsatisfactory Performance will be awarded a character of service of HONORABLE, or UNDER HONORABLE CONDITIONS.
11. Separation for Misconduct normally an OTHER THAN HONORABLE CONDITIONS certificate is appropriate.
12. Separation for Homosexuality the type of discharge will reflect the character of the member's service, normally, OTHER THAN HONORABLE CONDITIONS.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1 page 5 of 19

DATE 3-16-89

BILL NO. HB 700

FEMALE EMPLOYMENT

EXHIBIT NO. 1 page 6 of 19

DATE 3-16-89

BILL NO. HB 700

YEAR

STATE GOVERNMENT

| | |
|------|--------|
| 1974 | 24.6 % |
| 1979 | 38.8 % |
| 1984 | 42.7 % |
| 1989 | 47.1 % |

SOURCE:

RESEARCH AND ANALYSIS BUREAU
 DEPARTMENT OF LABOR AND INDUSTRY
 STATE OF MONTANA PAYROLL /
 PERSONNEL / POSITION
 CONTROL SYSTEM

VETERANS' ADMINISTRATION PROGRAMS IN MONTANA

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1 page 8 of 19

DATE 3-16-89

BILL NO. HB 700

HEARING

BEFORE THE

SUBCOMMITTEE ON

OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON VETERANS' AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

—————
JUNE 19, 1982
—————

Serial No. 97-68



Printed for the use of the Committee on Veterans' Affairs

—————
U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1982

STATEWIDE MONTANA
 VETERANS PERFORMANCE MONTHLY YEAR TO DATE
 FOR THE PERIOD ENDING 02/28/89
 FOR ALL FUND SOURCES

| | --- NUMBER --- | --- STANDARDS PERCENT --- | --- NUMBER --- | --- ACTUAL PERCENT --- | --- MET --- |
|----------------------------|----------------------|------------------------------------|----------------------|---------------------------------|-------------------|
| TOTAL APPLICANTS AVAILABLE | | | | | |
| NON-VETERANS | 93,073 | | 93,073 | 84.3338% | |
| VETERANS AND ELIGIBLES | 78,492 | | 78,492 | 15.6662% | |
| VIETNAM ERA VETS | 14,581 | | 14,581 | 7.5457% | |
| DISABLED VETS | 7,023 | | 7,023 | 0.7338% | |
| SPECIAL DISABLED | 683 | | 683 | 0.2557% | |
| TOTAL PLACEMENTS | | | | | |
| NON-VETERANS | 18,081 | | 18,081 | 19.5944% | |
| VETERANS AND ELIGIBLES | 15,380 | | 15,380 | 18.5241% | NO |
| VIETNAM ERA VETS | 2,701 | | 2,701 | 18.5964% | NO |
| DISABLED VETS | 1,299 | | 1,299 | 21.3763% | NO |
| | 146 | | 146 | | |
| TOTAL FCJL PLACEMENTS | | | | | |
| NON-VETERANS | 1,962 | | 1,962 | 1.8282% | YES |
| VIETNAM ERA VETS | 1,435 | | 1,435 | 4.0581% | YES |
| SPECIAL DISABLED | 6 | | 6 | 6.7227% | YES |
| TOTAL COUNSELING | | | | | |
| NON-VETERANS | 5,068 | | 5,068 | 4.6068% | YES |
| VETERANS AND ELIGIBLES | 3,616 | | 3,616 | 9.9582% | YES |
| VIETNAM ERA VETS | 772 | | 772 | 10.9782% | YES |
| DISABLED VETS | 388 | | 388 | 18.4480% | YES |
| | 39 | | 39 | | |
| TOTAL PLACED IN TRAINING | | | | | |
| NON-VETERANS | 525 | | 525 | 0.4370% | YES |
| VETERANS AND ELIGIBLES | 343 | | 343 | 1.2482% | YES |
| VIETNAM ERA VETS | 182 | | 182 | 1.4239% | YES |
| DISABLED VETS | 100 | | 100 | 1.9034% | YES |
| | 13 | | 13 | | |
| TOTAL SOME REPORTABLE SVC | | | | | |
| NON-VETERANS | 48,835 | | 48,835 | 49.7669% | YES |
| VETERANS AND ELIGIBLES | 39,063 | | 39,063 | 67.0187% | YES |
| VIETNAM ERA VETS | 9,772 | | 9,772 | 67.6919% | YES |
| DISABLED VETS | 4,194 | | 4,194 | 76.1347% | YES |
| | 425 | | 425 | | |
| TOTAL JOB DEVELOP CONTACTS | | | | | |
| NON-VETERANS | 5,407 | | 5,407 | 4.4552% | YES |
| VETERANS AND ELIGIBLES | 3,497 | | 3,497 | 13.0992% | YES |
| VIETNAM ERA VETS | 1,910 | | 1,910 | 13.3704% | YES |
| DISABLED VETS | 939 | | 939 | 19.1801% | YES |
| | 131 | | 131 | | |

NOTE: PLACED IN TRAINING NEGOTIATED TO HAVE ZERO VALUES.

PERFORMANCE STANDARDS FOR THIS REPORT:
 VETERANS & OTHER ELIGIBLE 15 %
 VIETNAM ERA VETERANS 20 %
 SPECIAL DISABLED VETERANS 30 %
 DISABLED VETERANS 25 %

CONTENTS

Veterans' Administration Programs in Montana.....

STATEMENTS BY COMMITTEE MEMBERS

Chairman Montgomery.....

WITNESSES

| | |
|---|-----|
| Mahon, John, former commander, Department of Montana, Veterans of Foreign Wars..... | 3 |
| Caldwell, Frank W., director, Veterans' Administration Center, Fort Harrison, Mont..... | 4 |
| Prepared statement of Mr. Caldwell..... | 81 |
| Bohn, Gordon, director, Veterans' Administration Medical Center, Miles City, Mont..... | 6 |
| Prepared statement of Mr. Bohn..... | 82 |
| Armstrong, David W., Jr., administrator, Veterans Affairs Division, State of Montana..... | 8 |
| MacKintosh, Commander, Department of Montana, Disabled American Veterans..... | 9 |
| Prepared statement of Mr. MacKintosh..... | 86 |
| Rodriguez, Gregory, president, Ex-POW Vision Quest..... | 16 |
| Prepared statement of Mr. Rodriguez..... | 88 |
| Wheichel, W. W. "Pappy", former prisoner of war..... | 19 |
| Prepared statement of Mr. Wheichel..... | 92 |
| Karnes, O. J., former Veterans' Administration benefits counselor..... | 21 |
| Prepared statement of Mr. Karnes..... | 93 |
| Burgess, Philip J., president, Vietnam Veterans of Montana..... | 29 |
| Prepared statement of Mr. Burgess..... | 97 |
| Weiss, Max, member, board of directors, veterans service centers, Missoula, Mont..... | 31 |
| Prepared statement of Mr. Weiss..... | 98 |
| Buckley, John R., president, Vietnam Veterans of Helena, Mont..... | 34 |
| Prepared statement of Mr. Buckley..... | 103 |
| Koneski, Theodore P., Vietnam veteran, Helena, Montana..... | 36 |
| Prepared statement of Mr. Koneski..... | 106 |
| Huddleston, Mrs. Nina, wife of Vietnam veteran, Helena, Mont..... | 41 |
| Prepared statement of Mrs. Huddleston..... | 108 |
| Burk, Robert L. "Stoney", Vietnam veteran, Missoula, Mont..... | 43 |
| Prepared statement of Mr. Burk..... | 109 |
| Nance, Don, Vietnam veteran, Helena, Mont..... | 45 |
| Prepared statement of Mr. Nance..... | 112 |
| McBride, Timothy J., Vietnam veteran, Townsend, Mont..... | 47 |
| Prepared statement of Mr. McBride..... | 114 |
| Laing, Mrs. Mary, wife of Vietnam veteran, Helena, Mont..... | 54 |
| Prepared statement of Mrs. Laing..... | 116 |
| Garay, Maciana, Mrs., wife of Vietnam veteran, Babb, Mont..... | 57 |
| Prepared statement of Mrs. Garay..... | 120 |
| Cole, Karen, Mrs., wife of Vietnam veteran, Bozeman, Mont..... | 58 |
| Prepared statement of Mrs. Cole..... | 121 |
| Pfeiffer, W. W., professor of zoology, University of Montana, Missoula, Mont..... | 63 |
| Prepared statement of Mr. Pfeiffer..... | 122 |

COMMITTEE ON VETERANS' AFFAIRS

- | | |
|--|--|
| <p>G. V. (SONNY) MONTGOMERY, Mississippi, <i>Chairman</i></p> <p>DON EDWARDS, California</p> <p>JACK BRINKLEY, Georgia</p> <p>RONALD M. MOTTIL, Ohio</p> <p>BOB EDGAR, Pennsylvania</p> <p>SAM B. HALL, Jr., Texas</p> <p>DOUGLAS APPLIGATE, Ohio</p> <p>MARVIN LEATH, Texas</p> <p>WILLIAM HILL BONER, Tennessee</p> <p>RICHARD C. SHELBY, Alabama</p> <p>DAN MICA, Florida</p> <p>THOMAS A. DASCHLE, South Dakota</p> <p>BOB STUMP, Arizona</p> <p>WAYNE DOWDY, Mississippi</p> <p>PHIL GRAMM, Texas</p> <p>AUSTIN J. MURPHY, Pennsylvania</p> <p>BYRON L. DORGAN, North Dakota</p> <p>ANTONIO WON PAT, Guam</p> | <p>JOHN PAUL HAMMERSCHMIDT, Arkansas</p> <p>MARGARET M. HECKLER, Massachusetts</p> <p>CHALMERS P. WYLIE, Ohio</p> <p>ELWOOD HILLIS, Indiana</p> <p>HAROLD S. SAWYER, Michigan</p> <p>GERALD B. H. SOLOMON, New York</p> <p>JIM JEFFRIES, Kansas</p> <p>BOB MCEWEN, Ohio</p> <p>JIM DUNN, Michigan</p> <p>CHRISTOPHER SMITH, New Jersey</p> <p>ALBERT LEE SMITH, Jr., Alabama</p> <p>DENNY SMITH, Oregon</p> <p>MARK D. SILJANDER, Michigan</p> <p>JOHN NAPIER, South Carolina</p> <p>JAMES L. NELLIGAN, Pennsylvania</p> |
|--|--|

Mack Fleming, *Chief Counsel and Staff Director*

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

- | | |
|---|--|
| <p>G. V. (SONNY) MONTGOMERY, Mississippi, <i>Chairman</i></p> <p>BOB STUMP, Arizona</p> <p>SAM B. HALL, Jr., Texas</p> <p>DAN MICA, Florida</p> <p>MARVIN LEATH, Texas</p> <p>ANTONIO WON PAT, Guam</p> | <p>ELWOOD HILLIS, Indiana</p> <p>JOHN PAUL HAMMERSCHMIDT, Arkansas</p> <p>HAROLD S. SAWYER, Michigan</p> <p>GERALD B. H. SOLOMON, New York</p> <p>JIM JEFFRIES, Kansas</p> |
|---|--|

(iii)

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1 page 9 of 19

DATE March 16, 1989

BILL NO. HB 700

Burriss, Don, administrative law judge, Social Security Administration, Billings, Mont.

Marks, Dr. Michael, Western Montana Clinic, Missoula, Mont.

Davis, Ronald, Vietnam veteran.

Davis, Dr. Brian, Helena Comprehensive Guidance Clinic, Helena, Mont.

West, Ronald, Vietnam veteran.

Savage, Larry, Vietnam veteran.

Page

65

67

69

77

78

79

MATERIAL SUBMITTED FOR THE RECORD

Statements:

Baucus, Hon. Max, a U.S. Senator from the State of Montana.

Bickenheuser, Charles, Vietnam veteran, Missoula, Mont.

Carpentier, William, Vietnam veteran.

Clark, Mrs. Douglas, wife of Vietnam veteran.

Corbett, John C., Vietnam veteran, Polson, Mont.

Cunningham, Mr. and Mrs. Dorn E., Jr.

Davis, Mrs. Glen, wife of Vietnam veteran.

Davis, Ms. Yvonne D., office manager, Helena Comprehensive Guidance Clinic, Helena, Mont.

Derrick, William D., Vietnam veteran, Helena, Mont.

Dotson, Terry M., Vietnam veteran, Helena, Mont.

Dratz, William G., Vietnam veteran, Missoula, Mont.

Foote, Rick, reporter, Butte, Mont.

Fryett, George F., Jr., Vietnam veteran, Helena, Mont.

Geis, Don, Korean and Vietnam veteran.

Hartman, Alice, wife of Vietnam veteran, Clyde Park, Mont.

Hauck, Clifford S., Vietnam veteran, Libby, Mont.

Huddleston, Tom, Vietnam veteran, Helena, Mont.

Jones, Emery, Missoula, Mont.

McBride, Donna, Mrs., wife of Vietnam veteran, Missoula, Mont.

McLean, Linda, Mrs., wife of Vietnam veteran, Missoula, Mont.

Orman, Richard E., service officer, Veterans Affairs Division, State of Montana.

Powell, John W., San Francisco, Calif.

Reilly, Ruddy R., service officer, Veterans Affairs Division, State of Montana.

Rodriguez, Gregory Sr., former prisoner of war.

Siewert, Darlene, Mrs., wife of Vietnam veteran, East Helena, Mont.

Siewert, Keith, Vietnam veteran, East Helena, Mont.

Smith, Warren W., former prisoner of war, Helena, Mont.

Woodland, Joyce, Mrs., wife of Vietnam veteran, Townsend, Mont.

Yoshinaga, Haruko, chief director, Tokyo Broadcasting System, Inc.

123

124

125

126

128

129

132

134

138

141

144

146

146

147

149

151

152

155

155

158

159

160

174

174

175

177

178

179

89

VETERANS' ADMINISTRATION PROGRAM IN MONTANA

SATURDAY, JUNE 19, 1982

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON VETERANS' AFFAIRS, Washington, D.C.

The subcommittee met, pursuant to notice at 8:27 a.m., in the auditorium, Social Rehabilitation Services Building, 111 Sanders Street, Helena, Mont., Hon. G. V. "Sonny" Montgomery (chairman of the subcommittee) presiding. Present: Representatives Montgomery, Daschle, and Williams.

OPENING STATEMENT OF CHAIRMAN MONTGOMERY

Mr. MONTGOMERY. Good morning. The Subcommittee on Oversight and Investigations will come to order. This is the first time the subcommittee has been in Montana, and we're delighted to be here. At this point, I'll introduce my colleagues to you. On my left is one of the brightest young members of our committee, Tom Daschle of South Dakota. Tom has been a member of our committee since his election to the 96th Congress. He has a particular interest in the concerns of Vietnam veterans and is the chairman of the Vietnam Veterans in Congress Caucus. Although I know it's not necessary, I'll also introduce Pat Williams of the Big Sky State of Montana. We're holding the hearing this morning at his request, as he is very interested in the veterans of Montana. Senator Max Baucus was unable to join us this morning, and has requested that he be allowed to submit a statement for inclusion in the hearing record. Additionally, several others have requested permission to submit written statements. Without objection, it is so ordered.

We are meeting today to receive testimony on admitting practices and the quality of health care delivered by the Veterans Administration in Montana, as well as the quality of service provided by the regional office at the Fort Harrison Veterans' Administration Center. We will also hear testimony on the concerns of Vietnam veterans, as well as Public Law 97-37, the Former Prisoner of War Benefits Act 1981.

This subcommittee has oversight responsibilities for veterans benefits and services which fall within the jurisdiction of the full Committee on Veterans' Affairs. I understand that certain wit-

SENATE LABOR & EMPLOYMENT EXHIBIT NO. page 10 of 19 DATE 3-16-89 BILL NO. HB 700

1 See p. 123.

"... We have miles to go before we sleep and we have miles to go before we sleep"

STATEMENT OF RICK FOOTE, REPORTER, BUTTE, MONT.

Enclosed is a copy of the series ¹ I have done about the problems associated with delayed stress and Agent Orange contamination affecting Vietnam veterans.

I would appreciate it if you could see to it that it is incorporated in the hearing record from the Helena hearings.

I'm sorry I couldn't attend those hearings, but from the press accounts I've read, the testimony accurately reflected the frustration and sense of hopelessness that Vietnam veterans are experiencing.

Pat, the more I study this problem, particularly with regard to Agent Orange, the more I find that the studies that must be done will be time consuming and expensive.

I might just list a few concerns that were expressed to me when I addressed a group of Vietnam veterans who are members of the American Legion Post here.

(1) The effects of Agent Orange on DNA and whether the number of miscarriages among wives of Vietnam veterans is greater than that in general population.

(2) The fact that the Veterans' Administration puts the burden of proof on the veteran to show where the veteran was in Vietnam.

(3) Other potential medical effects of Agent Orange including:

High blood pressure. (This is a new one to me, but I think it might have more than a little validity).

Tingling in hands and feet.

High incidence of boils, these must be surgically removed.

Slow healing of bone and other parts of the body from accidents not associated with Vietnam duty.

Volatility of personality among veterans.

Furthermore, Pat, my studies have shown that far more Vietnam veterans might be suffering from the effects of delayed stress than previously believed.

Pat, nearly every time I talk to a veteran or a member of a veterans' family, I find that the veteran has found himself demonstrating at least one, and most times, more than one of the symptoms generally associated with delayed stress.

I've also had local counselors come to me to ask for advice about how to treat delayed stress symptoms.

I think that points out that the VA must sponsor extensive clinics for counselors within the general population, not just VA counselors.

As a Vietnam veteran myself, I sincerely hope that you, in consort with Congress, can find some way to compel the VA to listen to what is going on with more than 3 million Vietnam veterans who are potential victims of Delayed Stress and Agent Orange.

Without some fast, effective action, Pat, there might be as many as three generations suffering from the ill effects.

If there is any other information I might provide, don't hesitate to call on me. Thank you for the hearing, at least you've shown some interest.

STATEMENT OF GEORGE F. FRYETT, JR., VIETNAM VETERAN COORDINATOR, HELENA, MONT.

This document has been prepared for the Hearing before the Subcommittee on Veterans Affairs, U.S. Senate. Being held in Helena, Montana, June 19, 1982.

Much effort has been put into preparing this due to the various extremes of difficulty in many cases. A lot of which has come from the inattention to detail and subsequently the blatant neglect to follow the laws as they have been written.

These veterans and their families have massed together to try in some way or another to recall the perpetuated inequities that have been perpetrated upon them.

It is sometimes very strange to understand the very foreign attitude of social change and economic strife that is being felt by everyone of us in our own great country.

Though, however hard it may be to realize that this is an everyday occurrence shared by all, we were able to send out some thirty-three (33) copies of a rather, as much as possible simplified questionnaire.² We have received a number of these back and have put them together for your viewing.

¹ Retained in committee files.

² Retained in committee files.

If you should consider some of the information incomplete or too sketchy, I am more than sure that some of us would be more than happy to supply you with copies of the detailed situations that here to fore have been always considered unimportant.

I personally thank you for your coming to Helena at this time.

We too want a balanced budget, but no longer at the expense of forgotten veterans, due to cuts being made from the already earmarked moneys for programs and training that someone who has never been there or can begin to fathom their importance continues to push for.

STATEMENT OF DON GIES, VIETNAM VETERAN, HELENA, MONT.

I would like to take this opportunity to thank you for taking the time to come to Montana to hear us, and for taking an interest in the plight of veterans here in Montana, and around our Nation.

My name is Don Gies, I am 48 years old, and my time in the U.S. Navy qualifies me for status as both a Korean and Vietnam veteran. I am employed, at least until the end of this month, as a Management Analyst with the Employment or Job Service of the State of Montana. I have over 16 years service with this Agency, and a number of my friends, as well as myself, are being terminated in a "Reduction in Force," ostensibly the result of "budget cuts" brought about by the National Administration's policies. My friends and associates are also veterans, or at least 89 percent of us being terminated are.

I appreciate that there is little you can do for my friends and I, but you can close the door, so to speak, on a loophole that was left when Congress drafted and passed Veteran's Preference legislation. Times were good in those days, and I'm sure nobody gave any thought to the subject of retention of veterans when the bad days come and cuts may or may not be necessary. Because the legislation speaks of "preference in hiring," or merely "preference in employment," certain devious minds have been free to interpret your "intent" as having nothing to do with retention of veterans when times are tough.

I am the junior man in our group in terms of years of service to the State of Montana. Some of my associates have as high as 26 years of service, not counting military time. When we were hired, we were told "not to waste their time unless we were looking for a career, as they couldn't afford to waste time and money training people who did not intend to stay with the Agency." Now as we approach the end of our careers, we find that we are being booted into the street through the loophole in our veteran's preference laws. It is too late for us. By the time all the honorable members of the committee read this testimony, our careers will have ended. But, there is still time for you gentlemen to plug this loophole, before other vets can be pushed through it.

I will not explain at length what Montana's current Administration has seen fit to do to my friends and I. I will not even speculate on why they are doing it. I will not even speculate on the consequences to the Agency for terminating nearly all experienced Management personnel. I am attaching and submitting some exhibits for your consideration in this matter, and I would like to briefly call to your attention as well a few brief facts:

(1) Our top management tells us our jobs were eliminated because of a reorganization necessitated by "Reagan's budget cuts." (See exhibit Termination Letter.)

(2) When U.S.D.O.L. funding was tentatively cut by you gentlemen last October, we in the Agency voted to accept 35-hour weeks, which we all worked from the first of January until the 8th of March (a saving of \$25,000 per week to the Agency), in the hope of avoiding layoffs.

(3) When you gentlemen restored our funding, you did so retroactively, which obviously resulted in what amounts to "extra" funds being available in our Agency. The 1982 funding level for our Job Service is 174.8 positions. Before our lay-off, our board strength was a mere 144 positions. I suggest even more "extra" funds.

(4) In our reorganization, the Job Service is being merged with the Employment and Training Division, an organization which has served as Prime Sponsor for ERFTA programs, and whose funding is ending on June 30th. We were told by our Commissioner and our former Administrator, that when two people were evenly matched in all other categories, "seniority" would prevail. I submit my second exhibit for your consideration as proof that:

(A) Seniority, experience, age, technical knowledge, job skill and ability were not factors in deciding who was to retain employment and who was to go.

EXHIBIT NO. 1 page 11 of 19
DATE 3-16-89
BILL NO. HB 700

(B) Veteran's Preference and Age Discrimination laws of this land are being flaunted in the manner of one who attempts to transfer property out of his possession prior to a bankruptcy proceeding. Such conduct should not and must not be allowed to succeed.

Gentlemen, I thank you for your time, and for coming to Montana to give Montana Veterans a chance to air our problems and grievances. Should you or your staff care to pursue this matter further, I shall be pleased to discuss this matter at length, and provide a number of other documents to substantiate my remarks. I can be reached at 3580 Wylie Drive, Helena, Montana, 59601, or you may call me at (406) 227-5301.

EXHIBIT 1

DEPARTMENT OF LABOR AND INDUSTRY,
COMMISSIONER'S OFFICE,
Helena, Mont., June 9, 1982.

DON GIBS,
Job Service, Lockey & Roberts, Helena, Mont.

DEAR DON: Please accept this letter as official notification of the termination of your employment with the Job Service Division of the Department of Labor and Industry, effective on Wednesday, June 30, 1982. As you know, President Reagan's budget cuts have forced us to reorganize the Job Service and Employment and Training Divisions. This reduction in force is the result of that reorganization.

I will be happy to inform any prospective employer that this layoff does not reflect upon the quality of your work. I assure you that those who are laid off will be given the opportunity to return to this Department should our work load return to its former level or if openings should occur for any reason.

I, of course, regret the need to take this action and will be happy to do anything I can to help mitigate its effects.

Sincerely,

DAVE HUNTER, Commissioner.

EXHIBIT 2

The following individuals of the Montana Job Service Central Office Staff were advised verbally on April 23, 1982 that their jobs have been abolished and their services will not be required as of June 30, 1982.

| Name | Unit | Years of service | Age (years) | Veteran status |
|---------------|-------------|------------------|-------------|-----------------|
| Fred Frisch | Job Service | 30 | 59 | U.S. Army. |
| Bob Miller | Do. | 21 | 51 | U.S. Air Force. |
| Jack Egge | Do. | 28 | 55 | U.S. Army. |
| Hal Burt | Do. | 20 | 55 | U.S. Navy. |
| Larry Roberts | Do. | 19 | 45 | U.S. Army. |
| Don Gies | Do. | 16 | 48 | U.S. Navy. |
| George Skagen | CETA | 10 | 39 | Do. |
| George Henkle | Do. | 2 | 63 | Do. |
| Rev. Beylau | Do. | 6 | 29 | Nonveteran. |
| Total | | 152 | 444 | 8 veterans. |
| Average | | 16.89 | 49.3 | 1.89 veterans. |

1 Percent.

Under the proposed reorganization/consolidation, the following Employment and Training Division Staff are transferring onto the Montana Job Service Central Office Staff as of July 1, 1982.

| Name | Unit | Years of Service | Age (years) | Veteran status |
|----------------|---------------|------------------|-------------|----------------|
| Laurie Elenger | E.I. Division | 7 | 33 | Nonveteran. |
| Mark Bowlds | Do. | 8 | 31 | Do. |
| Peggy Hartman | Do. | 5 | 35 | Do. |

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. *page 12 of 1*
DATE *16 Aug 82*
BILL NO. *HB 700*

| Name | Unit | Years of service | Age (years) | Veteran status |
|-----------------|------|------------------|-------------|----------------|
| Flo Smith | Do. | 9 | 40 | Do. |
| Barbara Bonifaz | Do. | 4 | 35 | Do. |
| Jim Foley | Do. | 6 | 29 | Do. |
| Laurie Lamson | Do. | 5 | 31 | Do. |
| Janel McWhine | Do. | 3 | 25 | Do. |
| Margie Puera | Do. | 26 | 43 | Do. |
| Jeanne Sullivan | Do. | 10 | 33 | Do. |
| Total | | 83 | 335 | 0 veterans. |
| Average | | 8.3 | 33.5 | 1.0 veterans. |

1 Percent.

STATEMENT OF ALICE HARTMAN, WIFE OF VIETNAM VETERAN, CLYDE PARK, MONT.

I am Alice Hartman, of Clyde Park, Montana and I am very appreciative that you have taken the time to come to Montana to listen to the problems of the Viet Nam Veterans. My hope is that after you hear us you all can feel and know a part of the great seriousness of "Post Traumatic Stress." It is very important that you understand our problems because on June 19, 1982, a great many futures and lives may depend on whether or not you can really feel the depth this impact has had on our lives.

Just a year ago, my husband John, was diagnosed as being a victim of Chronic Post Traumatic Stress. Unless any of you have had to deal or known a Veteran with this problem I know it will be hard for you to know what it is all about, so please hear me as I tell you a bit of what it has been in our lives.

On May 4th, 1981, I walked into the front room and found my husband in the rocking chair, rocking and staring. I asked him, "Honey are you all right", he looks up at me with tears in his eyes, then he started to tremble and burst into a sob. His reply was, "Babe I can't do it, I can't go on, I just don't have the strength." He was to go to work that afternoon and I said, "do you mean to go to work?", he said "no, I mean with life, I just can't handle it any more, if I end my life now you and the boys would be so much better off. Damn I work when I feel bad, I miss more work than I work; you and the boys deserve so much more than robbing Peter to pay Paul and not being able to live from pay day to pay day, and always worrying about bills. I have been to Doctors for years now and none of them have made me better and I don't understand this, why didn't that bastard tell me, (speaking) (of a Doctor in 1977) "he didn't know what was wrong instead of saying it was all in my head."

You see since 1970, we have been doctoring and as each year passed John's health continuously worsened. It started out with chloracne, nausea, aching, swelling, then kidney and bladder infections, then high blood pressure, chronic prostatitis, surgery to remove the left testicle, a type of blood disorder, and weak and faint occurrences. Due to his medical problems he missed a large amount of work and this caused financial difficulties and we lost our 20 acre parcel. For all these years we have doctor and are doing so for the above to this day.

After we talked for a time, I made an appointment with our family Doctor and he wrote for a 30 day leave of absence from Johns employer, my husband has been unable to work since. He went to the VA hospital at Fort Harrison on May 26, 1981, he was treated for medical problems then he was sent to see Dr. Brian Davis, this is when we had to face the reality of Post Traumatic Stress, how can this be on top of everything else. I'll never forget the first reactions, my husband thought he must be crazy and this sent us both into a whirl with bad feelings, mistrust and what will you do next? We both wondered where we would go from here or what will the outcome be for us.

When I chose to attend group therapy for Post Traumatic Stress of Viet Nam Veterans wives at the Helen Comprehensive Guidance Clinic, the mixed emotions were terrible. I just knew there was no way I could share or talk about my personal life with anyone, then I thought Ignorance is Bliss but I knew that wouldn't do. I found I wasn't alone and there was an answer to the hell we had been living the past eleven years. The outburst of uncontrollable anger, this is when the verbal abuse became sickening with horrible name calling and how no good I was and if it weren't for me there would be no problems or how he wished the marriage never took place in the first place. Each time it became worse and verbal abuse turned into physical abuse, I finally go the state of what a terrible person I must be to be

said.

Employees challenge lay-off

HELENA (AP) — Several senior employees are challenging their recent lay-offs from the state Job Service in Helena, contending they were unfairly replaced by younger, less-experienced workers from the agency's Employment and Training Division.

Some of those laid off have filed grievances, and two are charging discrimination on the basis of age, sex or the fact that they are military veterans.

One of those who lost a job has calculated that the nine administrators have an average age of 49 and average 17 years with the agency. He says the replacements have an average age of 34 and average only eight years of experience.

Eight of the nine laid off were male and veterans, while seven

women and only one veteran are among the 10 retrained Training Division people.

Sixteen positions were eliminated in the Helena central office as of June 30 when the two divisions were merged.

Labor Department Administrator Dave Hunter says the lay-offs, which were triggered by reductions in federal funds under the Comprehensive Employment and Training Act, were made on the basis of qualifications and experience for the assignments.

Jess Fletcher, who headed the Job Service for 26 years until he retired in 1978, charged that "the CETA people were appointed on the basis of who they know, not what they know."

Hunter said he was aware of the

political connections of some of the CETA people, and that made him look even harder to be sure the appointments were justified. Those include Laurie Lamson, wife of state Democratic Party Executive Director Joe Lamson, and Jim Foley, chairman of the Lewis and Clark County Democratic Party.

Hunter was manager of Gov. Ted Schwinden's campaign in 1980.

In May the new regional administrator of the U.S. Labor Department's Employment and Training Administration in Denver, Luis Sepulveda, objected to the layoffs as unnecessary. Last week, however, he said in an interview that he has visited the Helena headquarters and has decided the layoffs "appear to have been necessary."

3-7. VETERAN PREFERENCE SUBGROUPS

a. Subgroups. Within each of the three tenure groups on a retention register, employees are listed by veteran preference subgroup. These subgroups are the same for both the competitive and excepted services. The subgroups are as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not in subgroup AD. *(Veterans & Disabled Veterans under 30%)*

(3) Subgroup B includes each employee not eligible for veteran preference.

Within each group, all employees in subgroup B are released before any employee in subgroup A is released; and all employees in subgroup A are released before any in subgroup AD. Within each subgroup, employees are released in the order of their service dates beginning with the most recent service date. When employees in the same retention subgroup have identical service dates and are tied for release, the agency determines the order in which the tied employees are released. See section 4-4 for exceptions permitted to this regular order of release.

IT WAS A HANDICAPPED INDIVIDUAL THAT LED TO AN ABSOLUTE HIRING PREFERENCE FOR VETERANS AND HANDICAPPED PEOPLE - NOT A VETERAN. FEDERAL TAX DOLLARS HELPED PAY FOR PART OF THE COST OF VIVIAN CABTREE'S LAWSUIT AGAINST THE MONTANA STATE LIBRARY.

I WAS A MEMBER OF THE INTERIM LEGISLATIVE COMMITTEE TO STUDY AND RECOMMEND CHANGES IN THE LAW TO A POSSIBLE SPECIAL LEGISLATIVE SESSION.

THIS SPECIAL SESSION WAS CALLED BY GOVERNOR SCHWINDEN FOR DECEMBER 12, 1983. DURING THE DELIBERATIONS IN DISCUSSING THE ISSUES THERE WERE 22 AMENDMENTS ACTED ON BY THIS CHAMBER BEFORE GOING TO A NEW FREE CONFERENCE COMMITTEE. THERE WAS NEVER A COMPROMISE BETWEEN VETERANS AND WOMEN ON THE ISSUES OF THE PRESENT LAW. THE TRUE COMPROMISE WAS IN HB 9 INTRODUCED BY JOE BRAND WHICH WAS TABLED IN COMMITTEE. CONSEQUENTLY, I ALONG WITH THIRTY TWO OTHER MEMBERS OF THIS ASSEMBLY VOTED AGAINST THE PRESENT LAW. THIS VOTE TOOK PLACE ON DECEMBER 17, 1983

THE PRESENT LAW IS UNCONSTITUTIONAL. A RECENT SUPREME COURT DECISION RULED THAT RESIDENTIAL REQUIREMENTS FOR VETERANS IS NOT IN ACCORDANCE WITH THEIR CONSTITUTIONAL RIGHTS.

IN THE ATTORNEY GENERAL OF N.Y. v SOTO-LOPEZ DECISION, THE UNITED STATES SUPREME COURT RECENTLY RULED THAT STATES MAY NO LONGER EXCLUDE VETERANS FROM THEIR PREFERENCE SYSTEM BASED ON A RESIDENCY REQUIREMENT. IN RELEASING THE DECISION, JUSTICE WILLIAM J. BRENNAN STATED IN THE MAIN OPINION THAT " MEMBERS OF THE ARMED FORCES SERVE THE NATION AS A WHOLE " AND FURTHER NOTED THE NATION'S LONG-STANDING POLICY FOR " COMPENSATING VETERANS FOR THEIR SACRIFICES ". JUSTICE BRENNAN STATED THAT RESIDENCY REQUIREMENTS VIOLATES THE EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT AND IS A RESTRICTION ON THE CONSTITUTIONAL RIGHTS TO TRAVEL.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1 page 15 of 19

DATE 3-16-89

BILL NO. HR 700

It might appear that the 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-particularly in those jurisdictions where such preference is absolute. However, in enacting Section 712 of the Civil Rights Act of 1964 [42 U.S.C., Section 2000(e), et seq.], 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.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. / page 16 of 19
DATE 3/16/89
BILL NO. HR 700

Veterans within the State of Montana
 with
 SERVICE CONNECTED DISABILITIES

| | | | |
|-----------|-----------|-----------|------------|
| 0% | 75 | | |
| 10% | 3,293 | | |
| 20% | 1,441 | | |
| 30% | 1,135 | 1,135 | |
| 40% | 775 | 775 | |
| 50% | 404 | 404 | |
| 60% | 442 | 442 | |
| 70% | 247 | 247 | |
| 80% | 143 | 143 | |
| 90% | 61 | 61 | |
| 100% | 502 | 502 | |
| TOTAL | 8,518 | 3,709 | 43.54% |

SOURCE:
 VA Statistical Center, Washington D.C.
 FTS 373-3930

Mr. Justice John C. Sheehy, dissenting:

The majority has given the statehouse gangs a blueprint on how to avoid the veterans' preference in job hiring. Simply parse the experience of the favored non-veteran into as many segments as needed, and award each segment the maximum points. "

The successful applicant here was employed for ten years as an "operations assistant" at the local office of the Federal Land Bank. She did clerical and stenographic work. For that experience her job was segmented as follows:

| | |
|---------------------------------|-----------------|
| Clerical office experience | 6 points |
| Deeds and property descriptions | 12 points |
| Mapping | 12 points |
| Typing | 8 points |
| Calculators | 8 points |
| Other machines | <u>6 points</u> |
| Total | 52 points |

Olson had done work as a surveyor, had successfully completed a real estate training course, held a current real estate license for the state of Idaho, and had computer experience. Witness his comparable scoring:

| | |
|---------------------------------|----------|
| Deeds and property descriptions | 4 points |
| Calculators | 4 points |
| Other machines | 0 points |

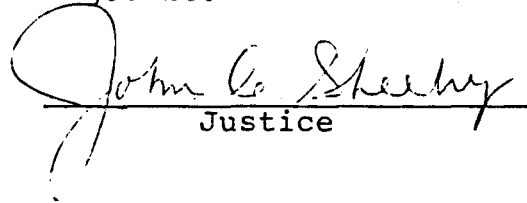
The "other machines" for which the successful applicant got maximum points were a bank proof machine, a bank posting machine, and a copy machine. The scorers did not include the water cooler, but probably would have if needed. None of these machines is used by an appraisal clerk except the copy machine, the technical difficulty of which can be mastered by a first-grader. The scorers ignored Olson's computer experience.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1 page 19 of 19DATE 3/16/89BILL NO. HB 700

Having rigged the scores for the successful applicant, the scorers then ignored the law, which declares that if the applicants are substantially equally qualified, the veterans' preference is decisive. Olson could not be hired under the scorers' view unless he had the highest score, but then he would not have to call on his preference rights. Thus is the veterans' preference emasculated.

Olson is not only a Viet Nam veteran, but is also a certified handicapped person. He was entitled to the job on both counts. We should make sure he got it.


Justice

I concur in the foregoing dissent of Justice Sheehy.


Justice

Department of Administration
Testimony OPPOSING House Bill 700
Veteran's Employment Preference

1. Montana's Veteran's and Handicapped Civilian's Preference Act works fine.
 - a. It is still in effect and grants a meaningful preference to war and campaign veterans for 15 years following discharge.
 - b. Disabled veterans receive a preference for as long as they remain disabled.
 - c. The proponent's claim that Montana no longer has a veteran's employment preference is UNTRUE.
2. A major effect of HB 700 is to extend the preference to PEACE-TIME veterans and many of their relatives.
 - a. Veterans who enlisted and served 180 days in the U.S. in peace-time would have equal preference to returning combat veterans under HB 700.
 - b. When the peace-time veteran dies, their surviving spouse would have a greater preference than the returning combat veteran.
3. HB 700 extends a preference to veterans in promotions and reductions in force.
 - a. Merit could no longer be a primary factor in retention of public employees.
 - b. Unless a peace-time veteran had "unacceptable" performance, they have a life-time preference against a lay off.
 - c. This bill could significantly complicate the process required to lay off public workers and increase the risk of wrongful discharge law suits.
4. Under current law, veteran's hold a significant number of state government jobs.
 - a. 36% of management jobs, 40.7% of law enforcement jobs, and 52.2% of skilled craft jobs.
5. HB 700 provides a point preference where numerically scored selection procedures are used.
 - a. Many public agencies do not use scored procedures and no preference would be available.
6. HB 700 sets up two entirely separate preference laws.
 - a. One for the handicapped and a different law for the veterans.
7. Please vote AGAINST House Bill 700

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

VETERANS IN STATE GOVERNMENT BILL NO. HB 700
 * Veterans Report 3-88 - Workforce 6-88

| EEO-4 CATEGORY | Total Workforce | Vets Total | Vets % |
|--------------------|-----------------|------------|--------|
| A - Off. & Admin. | 688 | 247 | 36.0 |
| B - Professionals | 2946 | 650 | 22.1 |
| C - Technicians | 1879 | 392 | 20.7 |
| D - Pro. Ser. Wrks | 614 | 250 | 40.7 |
| E - Paraprofess. | 744 | 128 | 17.2 |
| F - Office/Cler. | 1393 | 110 | 7.9 |
| G - Skill. Craft | 718 | 375 | 52.2 |
| H - Ser/Maint. | 445 | 163 | 36.6 |
| TOTALS: | 9,377 | 2315 | 24.7** |

*Data was collected in a survey of state government employees conducted in August of 1987.

**Veterans are 24.3% of the Civilian Labor Force in Montana (1980 census) and are 27.6% of the non-clerical jobs in state government.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. page 3 of 11

DATE 3-16-89

BILL NO. HB 700

VIETNAM VETERANS IN STATE GOVERNMENT
 * Veterans Report 3-88 - Workforce 6-88

| EEO-4 CATEGORY | Total Workforce | Vets Total | Vets % |
|--------------------|-----------------|------------|--------|
| A - Off. & Admin. | 688 | 86 | 12.5 |
| B - Professionals | 2946 | 315 | 10.7 |
| C - Technicians | 1879 | 165 | 8.8 |
| D - Pro. Ser. Wrks | 614 | 105 | 17.1 |
| E - Paraprofess. | 744 | 50 | 6.7 |
| F - Office/Cler. | 1393 | 45 | 3.2 |
| G - Skill. Craft | 718 | 130 | 18.1 |
| H - Ser/Maint. | 445 | 56 | 12.6 |
| TOTALS: | 9,377 | 952 | 10.2** |

*Data was collected in a survey of state government employees conducted in August of 1987.

**Vietnam Veterans are 7% of the Civilian Labor Force in Montana (1980 census) and are 11.4% of non-clerical jobs in state government.

Office of Personnel Management

(6) *By trainee status.* Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in § 351.702(e)(1) through (e)(4) of this part.

§ 351.404 Retention register.

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

- (1) In the competitive level;
- (2) Temporarily promoted from the competitive level by temporary or term promotion; or
- (3) Detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph (b)(1) of this section, the name of each employee in the competitive level with a written decision under Part 432 of this chapter to remove him or her because of unacceptable (Level 1) or equivalent performance.

§ 351.405 Employees demoted because of unacceptable performance.

An employee who has received a written decision under Part 432 of this chapter to demote him or her because of unacceptable (Level 1) or equivalent performance competes under this part from the position to which he or she will be or has been demoted.

§ 351.501 Order of retention—competitive service.

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under § 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. (A supervisory or managerial employee serving a probationary period required by Subpart I of Part 315 of this title is in group I if the employee is otherwise eligible to be included in this group.)

(2) Group II includes each career-conditional employee and each employee serving a probationary period under Subpart H of Part 315 of this chapter. (A supervisory or managerial employee serving a probationary period required by Subpart I of Part 315 of this chapter is in group II if that employee has not completed a probationary period under Subpart H of Part 315 of this chapter.)

(3) Group III includes all employees serving under indefinite appointment, temporary appointment pending establishment of register, status quo appointment, and any other nonstatus nontemporary appointment.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more. *

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each non-preference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member *

meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code.

§ 351.502 Order of retention—excepted service.

Competing employees in the excepted service shall be classified on retention registers in a way that corresponds to that under § 351.501 for employees in the competitive service having similar tenure of employment, veteran preference and performance ratings except that an employee who completes 1 year of current continuous excepted service under a temporary appointment is in tenure group III.

§ 351.503 Length of service.

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under § 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war or in a campaign or expedition in which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under § 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§ 351.504 Credit for performance.

(a) Annual performance ratings of record of outstanding (Level 5), exceeds fully successful (Level 4), fully successful (Level 3), minimally successful (Level 2), and unacceptable (Level 1), or equivalent, are those ratings established under Part 430 of this chapter.

(b) An employee's entitlement to additional service credit for performance under this subpart shall be based on the employee's last three annual performance ratings of record received during the 3-year period prior to the date of issuance of specific reduction-in-force notices.

(c) Service credit for employees who do not have three actual annual performance ratings of record during the 3-year period prior to the date of issuance

SENATE LABOR & EMPLOYMENT

(4) he meets those requirements considered necessary by the employer to successfully perform the essential duties of the position for which he is applying.

History: En. Sec. 5, Ch. 1, Sp. L. 1983.

EXHIBIT No. 21 Page 59
DATE 3-16-89
BILL NO. HB 700

Cross-References

Rules for determining residence, 1-1-215.

39-30-203. Duration of preference. Subject to 39-30-202:

(1) a handicapped person, the spouse of a handicapped person as described in subsection (3)(b)(iii) of 39-30-103, a disabled veteran, or the spouse of a disabled veteran as described in subsection (3)(b)(i) of 39-30-103 qualifies for employment preference as long as the disabling condition exists;

(2) a veteran, as defined in 39-30-103, who is not a disabled veteran, as defined in 39-30-103, qualifies for employment preference for no longer than 15 years following separation from service or for no longer than 5 years following December 20, 1983, whichever is later.

(3) the surviving spouse of a veteran as described in subsection (3)(a) of 39-30-103 qualifies for employment preference for as long as the spouse remains unmarried; and

(4) the spouse of a person described in subsection (3)(b)(ii) of 39-30-103 qualifies for employment preference for as long as the person is missing in action or a prisoner of war.

History: En. Sec. 7, Ch. 1, Sp. L. 1983.

39-30-204 and 39-30-205 reserved.

39-30-206. Notice and claim of preference. (1) A public employer shall, by posting or on the application form, give notice of the preferences that this chapter provides in public employment.

(2) A job applicant who believes he has an employment preference shall claim the preference in writing before the time for filing applications for the position involved has passed. Failure to make a timely employment preference claim for a position is a complete defense to an action in regard to that position under 39-30-207.

(3) If an applicant for a position makes a timely written employment preference claim, the public employer shall give written notice of its hiring decision to each applicant claiming preference.

History: En. Sec. 8(1)-(3), Ch. 1, Sp. L. 1983.

39-30-207. Enforcement of preference. (1) An applicant who believes he has not been accorded his rights under this chapter may, within 30 days of receipt of the notice of the hiring decision provided for in 39-30-206, submit to the public employer a written request for an explanation of the public employer's hiring decision. Within 15 days of receipt of the request, the public employer shall give the applicant a written explanation.

(2) The applicant may, within 90 days after receipt of notice of the hiring decision, file a petition in the district court in the county in which his application was received by the public employer. The petition must state facts which on their face entitle the applicant to an employment preference.

STATE LABOR & EMPLOYMENT LIBRARY
Justice Building
215 N. Sanders
Helena, Montana 59602
EXHIBIT NO. 12 page book
DATE 3-16-87
BILL NO. HB 700

MILITARY DISCHARGE UPGRADING

and Introduction to Veterans Administration Law

A Practice Manual

by

David F. Addlestone

John Kosloske

Lewis M. Milford

Keith D. Snyder

Barton F. Stichman

and the

National Veterans Law Center

of the Washington College of Law

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OVERVIEW OF DISCHARGE UPGRADING

takenly believed that such discharges would upgrade automatically within six months — a myth in the barracks and stockades that has survived to this day.

Each service created a Discharge Review Board (DRB)¹⁰ in 1944 and a Board for Correction of Military Records (BCMR)¹¹ in 1946. The DRB has authority to hear an appeal of any adverse discharge, except one issued as a result of a general court-martial, if an application is filed by a veteran or his/her survivor within 15 years of discharge (this was waived until April 1, 1981). The Board must grant a personal appearance hearing and the veteran can challenge the propriety and equity of the character of discharge issued. If the result of the DRB is adverse, the veteran can apply to the BCMR which, like the DRB, has the authority to correct any error or injustice contained in a military record. By 1966, the traditional veterans organizations discontinued their strong opposition to the administrative discharge system, but they continue to provide free counsel to applicants before the Boards in Washington, D.C.¹²

Based on Department of Defense (DoD) estimates and reports, about 300,000 applications for discharge review have been heard since 1944, with about 75,000 discharges upgraded.¹³ This upgrade rate is somewhat misleading because the overall rate remained at around 12% until the mid-1970s. It has since climbed to about 40%,¹⁴ with a significantly higher rate of success for those who make a personal appearance with legally-trained counsel.¹⁵

The belated increase in the upgrade rate reflects the often conflicting powers of a variety of forces: public pressure on the government; the tendency of the military services to cling to any decision they have made no matter how insignificant it was to the maintenance of the military establishment; and the power of the traditional veterans organizations. Meanwhile, the traditional veterans organizations, despite a history of activism on behalf of their constituents,¹⁶ never followed up their verbal attacks on the discharge system beyond providing counsel before the DRBs and BCMRs to all applicants who requested their assistance.

The great strides resulting from the legal activism of the 1960s did not affect discharge review. Consequently, discharge review law remains somewhat undeveloped, with efforts toward reform deferred until the last several years.¹⁷

During the Vietnam War, the problem of the bad paper Vietnam-era veterans was adopted by the amnesty movements as one of their causes. The involvement of anti-establishment forces (as opposed to veterans groups), placed the bad paper issue in an unfortunate political posture, where logic, reason, and fairness were likely not to be dispositive.

1.3 THE ROLE OF THE AMNESTY MOVEMENT

The amnesty movement, by focusing attention on bad discharges, provided the first impetus for internally and externally imposed reform at the DRB. The internal reform was instituted perhaps partly to get off external interference with the system and partly out of a recognition that "the turbulence created by the requirements of RVN [Vietnam], produced a situation in which the administrative discharge system, when at its best, was operating in an almost impersonal manner, and, when at its worse, was operating almost with assembly line procedures."¹⁸ As described later, external and internal reform occurred simultaneously, leading unpredictably to today's discharge review system.

The amnesty movement made two strategic errors, which probably could not have been avoided given the strong moral basis of the movement and the divisions in American society. These were:

- An undue focus on absentees (so-called deserters) instead of on bad paper veterans, many of whom had either served in Southeast Asia or served for lengthy periods prior to discharge;²⁰ and
- Failure to grasp the depth of the opposition to any form of discharge review except on an individual basis.

Moreover, the amnesty movement's adoption of discharge review as a cause completely alienated traditional service organizations from supporting discharge review reform, despite the latter's historical opposition to the administrative discharge system.

Discharge review reform was not to come in the guise of amnesty. Nonetheless, the late adoption of discharge review by the universal and unconditional amnesty movement may not have harmed the cause because it set in motion the unpredictable sequence of events.

¹⁰ 10 U.S.C. § 1553.

¹¹ 10 U.S.C. § 1552.

¹² See note 6 *supra* (particularly Effron). Interestingly, even holders of General Discharges are excluded from membership in congressionally-chartered veterans organizations, even though part of the price the organizations paid for the charter was their agreement to provide free counsel before the Review Boards.

¹³ The estimated total incorporates a rough guess of BCMR upgrades. See App. 1A (more detailed upgrade statistics).

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¹⁵ See note 64, Ch. 9 *infra*.

¹⁶ See Effron, *supra* note 6. The American Legion reportedly played a significant role in the WWI veterans Bonus March on Washington.

¹⁷ In 1958, the federal courts first held that administrative discharges were reviewable by the courts, but even then relatively few successful cases followed. See Ch. 24 *infra*; Bibliography *infra*; note 6 *supra*.

¹⁸ See, e.g., P. Starr, *THE DISCARDED ARMY: VETERANS AFTER VIETNAM* (1973).

¹⁹ ADRB SOP, Annex F-1, para. 1.D., 44 Fed. Reg. 25,068 (1979). It may also be a recognition of what Senator Sam J. Ervin, Jr., served:

Those who defend our rights must not be the only citizens who are denied their protections and, as a consequence, are returned to a civilian world that holds little promise for them. We must not ignore those servicemen who are daily eliminated in administrative settings which accord less than what the due process clause of the Fifth Amendment guarantees, and less than what we owe those who are prepared to give their lives to safeguard our freedoms and our rights.

Ervin, *Military Administrative Discharges: Due Process in the Drums*, 10 SAN DIEGO L. REV. 9, 10 (1972).

²⁰ See Bell, *supra* note 7.

(4) he meets those requirements considered necessary by a public employer to successfully perform the essential duties of the position for which he is applying.

History: En. Sec. 5, Ch. 1, Sp. L. 1983.

Cross-References

Rules for determining residence, 1-1-215.

39-30-203. Duration of preference. Subject to 39-30-202:

(1) a handicapped person, the spouse of a handicapped person as described in subsection (3)(b)(iii) of 39-30-103, a disabled veteran, or the spouse of a disabled veteran as described in subsection (3)(b)(i) of 39-30-103 qualifies for employment preference as long as the disabling condition exists;

(2) a veteran, as defined in 39-30-103, who is not a disabled veteran, as defined in 39-30-103, qualifies for employment preference for no longer than 15 years following separation from service or for no longer than 5 years following December 20, 1983, whichever is later.

(3) the surviving spouse of a veteran as described in subsection (3)(a) of 39-30-103 qualifies for employment preference for as long as the spouse remains unmarried; and

(4) the spouse of a person described in subsection (3)(b)(ii) of 39-30-103 qualifies for employment preference for as long as the person is missing in action or a prisoner of war.

History: En. Sec. 7, Ch. 1, Sp. L. 1983.

39-30-204 and 39-30-205 reserved.

39-30-206. Notice and claim of preference. (1) A public employer shall, by posting or on the application form, give notice of the preferences that this chapter provides in public employment.

(2) A job applicant who believes he has an employment preference shall claim the preference in writing before the time for filing applications for the position involved has passed. Failure to make a timely employment preference claim for a position is a complete defense to an action in regard to that position under 39-30-207.

(3) If an applicant for a position makes a timely written employment preference claim, the public employer shall give written notice of its hiring decision to each applicant claiming preference.

History: En. Sec. 8(1)-(3), Ch. 1, Sp. L. 1983.

39-30-207. Enforcement of preference. (1) An applicant who believes he has not been accorded his rights under this chapter may, within 30 days of receipt of the notice of the hiring decision provided for in 39-30-206, submit to the public employer a written request for an explanation of the public employer's hiring decision. Within 15 days of receipt of the request, the public employer shall give the applicant a written explanation.

(2) The applicant may, within 90 days after receipt of notice of the hiring decision, file a petition in the district court in the county in which his application was received by the public employer. The petition must state facts which on their face entitle the applicant to an employment preference.

Office of Personnel Management

(6) *By trainee status.* Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in § 351.702(e)(1) through (e)(4) of this part.

§ 351.404 Retention register.

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

- (1) In the competitive level;
- (2) Temporarily promoted from the competitive level by temporary or term promotion; or
- (3) Detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph (b)(1) of this section, the name of each employee in the competitive level with a written decision under Part 432 of this chapter to remove him or her because of unacceptable (Level 1) or equivalent performance.

§ 351.405 Employees demoted because of unacceptable performance.

An employee who has received a written decision under Part 432 of this chapter to demote him or her because of unacceptable (Level 1) or equivalent performance competes under this part from the position to which he or she will be or has been demoted.

Subpart ~~B~~ ^{ILL. 118} Retention Standing HB 700

§ 351.501 Order of retention—competitive service.

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

- (1) By tenure group I, group II, group III; and
- (2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and
- (3) Within each subgroup by years of service as augmented by credit for performance under § 351.504, beginning with the earliest service date.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. (A supervisory or managerial employee serving a probationary period required by Subpart I of Part 315 of this title is in group I if the employee is otherwise eligible to be included in this group.)

(2) Group II includes each career-conditional employee and each employee serving a probationary period under Subpart H of Part 315 of this chapter. (A supervisory or managerial employee serving a probationary period required by Subpart I of Part 315 of this chapter is in group II if that employee has not completed a probationary period under Subpart H of Part 315 of this chapter.)

(3) Group III includes all employees serving under indefinite appointment, temporary appointment pending establishment of register, status quo appointment, and any other nonstatus nontemporary appointment.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more. *

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each non-preference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member *

meets at least one of the conditions of the following paragraphs (d)(1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, and meets one of the conditions covered in paragraph (d)(1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code.

§ 351.502 Order of retention—excepted service.

Competing employees in the excepted service shall be classified on retention registers in a way that corresponds to that under § 351.501 for employees in the competitive service having similar tenure of employment, veteran preference and performance ratings except that an employee who completes 1 year of current continuous excepted service under a temporary appointment is in tenure group III.

§ 351.503 Length of service.

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under § 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war or in a campaign or expedition in which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under § 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§ 351.504 Credit for performance.

(a) Annual performance ratings of record of outstanding (Level 5), exceeds fully successful (Level 4), fully successful (Level 3), minimally successful (Level 2), and unacceptable (Level 1), or equivalent, are those ratings established under Part 430 of this chapter.

(b) An employee's entitlement to additional service credit for performance under this subpart shall be based on the employee's last three annual performance ratings of record received during the 3-year period prior to the date of issuance of specific reduction-in-force notices.

(c) Service credit for employees who do not have three actual annual performance ratings of record during the 3-year period prior to the date of issu-

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VETERANS IN STATE GOVERNMENT

* Veterans Report 3-88 - Workforce 6-88

| EEO-4 CATEGORY | Total Workforce | Vets Total | Vets % |
|--------------------|-----------------|------------|--------|
| A - Off. & Admin. | 688 | 247 | 36.0 |
| B - Professionals | 2946 | 650 | 22.1 |
| C - Technicians | 1879 | 392 | 20.7 |
| D - Pro. Ser. Wrks | 614 | 250 | 40.7 |
| E - Paraprofess. | 744 | 128 | 17.2 |
| F - Office/Cler. | 1393 | 110 | 7.9 |
| G - Skill. Craft | 718 | 375 | 52.2 |
| H - Ser/Maint. | 445 | 163 | 36.6 |
| TOTALS: | 9,377 | 2315 | 24.7** |

* Data was collected in a survey of state government employees conducted in August of 1987.

** Veterans are 24.3% of the Civilian Labor Force in Montana (1980 census) and are 27.6% of the non-clerical jobs in state government.

VIETNAM VETERANS IN STATE GOVERNMENT

* Veterans Report 3-88 - Workforce 6-88

| EEO-4 CATEGORY | Total Workforce | Vets Total | Vets % |
|--------------------|-----------------|------------|--------|
| A - Off. & Admin. | 688 | 86 | 12.5 |
| B - Professionals | 2946 | 315 | 10.7 |
| C - Technicians | 1879 | 165 | 8.8 |
| D - Pro. Ser. Wrks | 614 | 105 | 17.1 |
| E - Paraprofess. | 744 | 50 | 6.7 |
| F - Office/Cler. | 1393 | 45 | 3.2 |
| G - Skill. Craft | 718 | 130 | 18.1 |
| H - Ser/Maint. | 445 | 56 | 12.6 |
| TOTALS: | 9,377 | 952 | 10.2** |

* Data was collected in a survey of state government employees conducted in August of 1987.

** Vietnam Veterans are 7% of the Civilian Labor Force in Montana (1980 census) and are 11.4% of non-clerical jobs in state government.

3/16/89

EXHIBIT # 3 IS MISSING FROM THE ORIGINAL MINUTES.

(This sheet to be used by those testifying on a bill.) HB 700

NAME: Jim NYS DATE: 3/16/87

ADDRESS: Box 5 RSH Clancy, MT

PHONE: 933-5617

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 700

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT: see Exhibit 4

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

My name is Jim Nys. I am a Handicapped Vietnam Veteran who served this country for 22 years in the United States Navy. I am also a state agency personnel officer and a personnel consultant to many private businesses. I am here today as a private citizen in opposition to HB700.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4 page 1 of 2

DATE 3-16-89

>B700

Many of you remember the 1983 Crabtree decision ~~that resulted in~~ a special legislative session in December 1983 because of the outrage of the citizens over the then existing veterans preference law. For six long days, the entire attention of the legislature and every citizen was on the issue of preference in public employment and even then the legislature had the benefit of just completed interim study on the issues. I believe the compromise reached in that session represents the interests of all Montanans and is the best public policy for Montana to follow.

The organized veterans groups have each session since 1983 proposed changes to the law to re-establish the pre-eminence of veterans and the relatives of veterans over other citizens of the state for public jobs. Do not assume that these organization reflect the viewpoint of all veterans particularly Vietnam Veterans.

As a veteran and a citizen, I fully support appropriate forms of recognition for the sacrifices made by those who defended our country in times of peril. As a result, I support the concept of veterans preference in employment but believe this bill to be so fatally flawed, replete with unanswered procedural questions such as who gets a job if you have a ten point preferred veteran and disabled civilian entitled to preference under the "old law" person in the same hiring pool. The bill creates conflicts with other federal mandates that must be observed by governmental employers laws and is blantly sexist. Worst of all, the net effect of the legislature passing this law would be to entirely remove veterans preference as an issue in hiring since few state

In the reduction in force provisions the bill for some reason excludes union members (but doesn't in promotions or hiring). This is as if to say the state is less proud of its veteran employees who are union members because it doesn't give the same preference in lay offs. I suspect it will serve to drive another nail in the coffin of non-veteran state employees already worried about job security. I believe that lay offs are a tragedy and I cannot support a bill that distinguishes between employees based on a status denied to most women and those with disabilities in this state.

I am offended by the suggestions made by supporters of this bill that I am unpatriotic if I don't support the bill or that a vote against HB700 is a vote against veterans. In reality, a vote against HB700 is a vote to retain veterans preference in a workable and effective form as it now exists in law and in practice. A vote against HB700 is a vote against an unworkable and poorly conceived vehicle for a worthy and appropriate state purpose.

I could speak at length to the dozens of mechanical flaws and other problems with this bill but will instead offer my assistance to the committee by being available to answer any question you may have.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4 page 2 of 2
DATE 3/14/89
BILL NO. HB 700

ICCW TESTIMONY
HOUSE BILL 700

Mr. Chairman and members of the committee, my name is Connie Cole. I represent the Interdepartmental Coordinating Committee for Women, known as ICCW. ICCW strongly supports the veteran's preference act currently enacted in Montana, the Veterans and Handicapped Person's Preference Act of 1984. This law provides needed services to returning veterans, veterans who have given up employment opportunities in order to serve our country in a time of need. This is the approach of the veterans preference law in effect in Montana today. We support the current veterans preference law and support its continuance.

House Bill 700 would diminish the effectiveness of veterans preference by broadening the definition of those eligible for preference from service during national emergency, campaign or expedition to completion of duties with an honorable or general discharge. This would result in more veterans competing for the same opportunities, reducing the chances of those who have sacrificed the most to serve their country.

The veterans preference should continue to be used for initial hire only; used as a tie breaker between two equally well qualified job candidates. Being retained on the job should depend solely on qualifications and job performance. Especially when we are faced with ever shrinking budgets and expanding responsibilities, it is imperative that the most qualified employees are retained if there is a reduction in force. No one is discriminated against and everyone receives an even chance based on work performance.

ICCW urges the committee to recognize the success of the veterans preference law currently in practice and the fact that changes to the current law in effect would result in discrimination against veterans who served during the national emergencies identified under the present law. We urge you to vote "no" on this unnecessary and inequitable bill.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

TED SCHWINDEN, GOVERNOR

1520 EAST SIXTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-8698

HELENA, MONTANA 59620



SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 5 2014

DATE 3-16-89

BILL NO. HB 700

TELEFAX MESSAGE

FROM TELEFAX # (406) 444-6721

TO: _____

TELEFAX PHONE #: 2903

FROM: Ann Danz
Bobbie Balaz

NUMBER OF PAGES TO FOLLOW: 2

DATE: 3-13-89

SPECIAL INSTRUCTIONS: _____

DRAFT TESTIMONY
HOUSE BILL 700SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5 3 of 4
DATE 3-16-89
BILL NO. HB 700

Montana does have a veteran's preference law on the books. It begins on page 10, line 7 of House Bill 700 which you have in front of you. House Bill 700 would change that law by:

- *Separating Veterans and Handicapped into two laws--two preferences
- *Expanding the definition of a veteran and disabled veteran
- *Providing a preference for veterans in case of a reduction in force (RIF)

We strongly support veteran's preference in hiring when it is used as it was intended--to help the returning veteran get a job since he or she had given up possible employment opportunities in order to serve their country in a time of need. Expanding the definition will diminish the preference for veteran's of wars, campaigns or conflicts. Someone who chose to join the military during peace time for the educational and other benefits will receive the same preference as those who joined or were drafted and served during times of conflict. All of the military advertisements promote the military as a place to get an education, experience and educational benefits. It would seem that during times of peace choosing to go into the military is choosing to take on a specific job. The military even offers new recruits contracts and if the military does not fulfill its end of the contract the recruit can obtain a honorable discharge.

We fail to see a need for the reduction in force clause in a preference bill. A hiring preference should be for initial hire only, being retained on the job should depend solely on qualifications and job performance. Especially now when we are faced with ever shrinking budgets it is imperative that the most qualified employees are retained if there is a reduction in force. Why would anyone see a need to treat reduction in force in any other way? No one is discriminated against and no one receives a preference, but everyone does receive an even chance. This is so straight forward. What are the veteran's concerned about?

We strongly urge a do not pass for House Bill 700. At the very least House Bill 700 must be amended to ~~strike~~ the reduction in force clause, therefore, we would like to propose an amendment to ~~strike~~ section 5, page 8, lines 24 - 25 and page 9 lines 1 through 19.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 5 pg 4 of 4DATE 3-16-89BILL NO. HB 700

DRAFT

ICCW TESTIMONY PRESENTED TO THE SENATE
STATE ADMINISTRATION COMMITTEE
March 16, 1989

HB 700 - EMPLOYMENT PREFERENCE TO
VETERANS AND HANDICAPPED PERSONS

My name is ----- . I represent the Interdepartmental Coordinating Committee for Women, known as ICCW. Our purpose is to identify policies and procedures in state government which directly or indirectly result in discrimination against women.

The ICCW opposes HB 700 because the bottom line of ~~the bill~~ is that it will discriminate against women. We recognize the contributions that veterans have made but this bill goes beyond the point of reasonableness and fairness. The current employment preference extended to veterans and handicapped persons is adequate and fair.

Because so many more men than women have served in the armed forces, women are disadvantaged by the provisions of the bill. It will result in fewer women being hired and promoted. More women will be terminated from employment during reductions-in-force.

We urge you to not pass this bill which would require the state and local governments to discriminate against women.

Thank you.

hb7002

MONTANA INDEPENDENT LIVING PROJECT

38 South Last Chance Gulch
Helena, Montana 59601

(406) 442-5755
Toll Free 1-800-233-0805 (VOICE/TDD)



March 16, 1989

SECRET
5A page 1 of 1
3/16/89
BILL NO. HB 700

Senate Labor Committee hearing on HB 700

I am Tim Harris and I work for the Montana Independent Living Project. I am here today to share some feelings about this bill. Somewhere at sometime this society arrived at the conclusion that we can indeed legislate against attitudes, change the minds and hearts of the people by changing the law. How can one legislate against fear, mistrust, hate, or anger? How can I get you to see me as an individual with abilities first, rather than a person with a disability? By being who I am, I guess. If who I am doesn't do the job I do not believe that any amount of legislation will do the job either. "It's ability, not disability, that counts." How often have you heard that phrase? It's the truth.

The idea of a veterans' preference separate from a disability preference has been through each of the last several sessions. It has been a cause of division between the veterans and the civilian disabled all that time. It has lead to non-productivity in other important areas, name calling, and mistrust on both sides. This is not in the best interests for either side. Why there are "sides" in the first place is a mystery. There is much to be done which requires cooperation on all our parts. Working together brings about much more advancement than working against ourselves.

I, for my part, am not in favor of preference of any kind. Any person hired or retained in any position should be the most qualified. Only when two or more applicants are "substantially equally qualified" should any preference be applied. I would not take a position given to me if I were not the most qualified. Working for someone who was forced to hire me does not make for good working environments. I believe my work record should speak for itself.

Finally, since it appears that there will be a preference, I feel that it should be equal in its treatment of veterans, disabled veterans and civilian disabled. There are some of us who were disabled due to diseases and injuries prior to age 18 and had no opportunity to join the armed services. I am one of those. I would have joined if given the chance.

MONTANA
ASSOCIATION OF
COUNTIES

Exhibit 6
#B 700

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

3-16-89

March 16, 1989

Sen. Gary Aklestad, Chairman
Senate Labor & Employment Committee

House Bill 700 - Establishing Separate Veterans Preference Law

MACo heartily supports the current language in our laws which define hiring preference guidelines for veterans and handicapped persons.

In 1983 we worked together with this legislative body to define a fair, workable veterans and handicapped persons preference law. We see no reason to undo all the hard work that was accomplished at that time.

The current law defines veterans as those persons who served on active duty during time of war or declared national emergency or a recognized campaign...and disabled veterans as those who suffer a 30 percent disability. These are the persons who now may claim initial hiring preference.

The proposed bill greatly broadens the Veterans Preference laws: it includes a broader definition of veterans and disabled veterans, broadens the eligible relatives to be given preference, includes temporary positions in the affected jobs, puts in place scored testing procedures, includes reductions in force in addition to initial hiring, and removes any time restrictions for application of the preference laws for either veterans or their eligible relatives.

This bill unfairly discriminates against persons who have not had the opportunity serve in the armed forces of the United States.

We ask that you retain current language, and not approve House Bill 700.

MACo

Senator Hoffman -

I had hoped to be able to deliver this relatively complicated message to you in person; I am sorry that I missed you but I know how busy you are.

I am concerned that the lay off/reductions in force language of HB 700, which you will be hearing tomorrow, is unconstitutional. As you know, the bill states that in cases of layoff or RIF's, the employer will lay off non-veterans and preserve the jobs of veterans.

I think this is unconstitutional based on the Supreme Court's 1986 decision in Wygant v. Jackson MI School Board. In this decision, the Court ruled that the school district could not lay off white workers to preserve the jobs of black teachers. They said that the burden of overcoming past discrimination fell too heavily on one group (white teachers) in order to benefit another group (black teachers). White teachers were an identifiable group who were directly and immediately harmed by the lay off

a finding of significant past discrimination by the employer would permit the school board or any employer to have such a lay off policy.

The Court found that:

1) Despite significant differences in the employment of black + white teachers, the school district had not proven pervasive past discrimination against blacks.

- public employers in Montana, for various reasons, cannot prove pervasive past discrimination against veterans.

— we cannot do this because we do not know how many veterans have the qualifications to work at different jobs. This has been a long standing problem with the census + the Veteran's Administration

— If we can't prove past discrimination, a differentiated lay off policy will be unconstitutional.

2) Employment policies cannot immediately and directly harm one group of employees in order

DATE 3/16/89
BILL NO. 115706

• As I read this bill, I would
do exactly that: harm non-
veteran employees in order
to benefit veteran employees.

3) Employment policies that
take affirmative action for
one group (blacks or veterans)
must be carefully tailored to
meet but not exceed the
needs in a particular situation.
(In other words, giving preference
to one group must be based on
an analysis of the specific
problems facing that group in
the specific situation. Solutions
to problems of discrimination must
not be blanket or heavy handed.

• This bill seems to be
both blanket — in that it covers
all state employment — and
heavy handed — in that it is not
adapted or enacted lightly to meet
specific problems.

I think that if this same bill were
written to say that blacks will
be retained and whites layed off,
everyone could see that this bill
would be unfair and unconstitutional.

DATE 3/16/89

BILL NO. HB 780

whom we all owe a debt of gratitude, we should not let our judgement be obscured. It is a bad bill; I will put Montana law in conflict with the Supreme Court's decision in a similar case, and it will unfairly harm non-veteran employees.

What is unconstitutional when applied to blacks, will be unconstitutional when applied to veterans.

Thank you for taking the time to read all this. I told you it was complicated.

Sincerely,
Corky Bush

3. This is my personal opinion based on my experience as an Affirmative Action Officer. This is not the official position of MSU on this bill.

"Corky"

Corlann Gee Bush
Director

Montana State University
Human Resources/Affirmative Action
Bozeman, Montana 59717

406 Teton

Campus Phone: 406-994-2042
Home Phone: 406-587-1752

MONTANA WOMEN'S LOBBYIST FUND

P.O. Box 1099
March 16, 1989

Helena, MT 59624

406/449-7917

Testimony in Opposition to HB 700
Senate Labor Committee

SENATE LABOR & EMPLOYMENT

8 page 1 of 1

DATE 1-16-89

BILL NO. HB 700

Mr. Chairman and members of the Committee:

My name is Diane Sands and I am executive director of the Montana Womens Lobby. We represent over 8,000 individuals in Montana and we urge your opposition to HB 700. Opposing this bill is not voting against veterans. It is voting against a bad bill.

The Mt. Women's Lobby continues to support the current Veteran's and Handicapped Persons' Employment Preference Act. As many of you know and well remember, the preference issue was addressed by the 1983 special session. The resulting compromise law of 1983 was carefully engineered to give a FAIR preference while not discriminating against non-veterans.

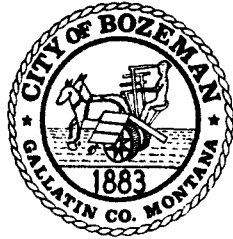
Dept. of Administration has already pointed out the logistical and financial problems that this bill creates, as well as the significant changes of definition as to who is entitled to preference. I would like to point out some other ramifications of the bill that especially concern the Montana Women's Lobby.

Since 96% of Montana vets are men, women would clearly be at a disadvantage in seeking employment and maintaining employment in lay-offs. Women in the Montana workforce earn 50.5¢ for every dollar a man earns and in state government women earn 77¢(1986) for every dollar a full-time male employee earns. Clearly women are already at a disadvantage in the state workforce. Additional preference for veterans does not acknowledge the need for the state to use public policy to balance the justifiable needs for employment preference by several disadvantaged populations: women, handicapped, minorities and veterans.

Finally, what is the problem that is being fixed with this bill? The current system works. Vets are being hired at a rate better than their representation in the population. A 1987 survey of veterans in state government showed veterans to be 24.3% of the Civilian Labor Force in Montana (1980 census) and veterans represent 27.6% of the non-clerical jobs in state government. Vietnam Veterans are 7% of the Civilian Labor Force (1980 census) and are 11.4% of the non-clerical jobs in state government. We fail to see what the problem is with the current law--It works!--and why we keep spending so much time and money on this issue.

All we ask is that you consider what is truly fair to all Montanans, whether they be veteran or non-veteran, disabled or able-bodied, minority or majority, male or female. Current law has been put together to acknowledge and balance all of these legitimate needs and interests. We urge you to support the existing preference law and to give HB700 a "do not pass" recommendation.

MEMORANDUM



From the Office of
The City Commission
Bozeman, Montana

Date 3/11/89.....

Dear Members of the Senate Labor Committee,

I ask you to please vote against HB 700; the veterans' preference bill regarding reductions in force.

This is a bad bill: (1) it discriminates against women who are under-represented as veterans; (2) it forces governments and universities to keep on people who may not be the best qualified -- and government -- especially local governments, living under too many budget constraints -- need the best people they can possibly hire and retain; (3) the people who most need jobs, that is single parents, usually women, could be laid off in preference to someone who doesn't need the job nearly as badly; (4) veterans already receive many benefits which other people, including women, do not receive; it's not as though they are benefit-poor now; (5) it's "professional veterans" -- ones who have a vested interest in proving that their organizations are strong in pushing veterans' benefits -- who push this kind of legislation, while the truly deserving veterans, including the many who died, would be the last to push aside those who truly need jobs or are most competent.

Please vote against HB 700. Thank you.

Sincerely,

Mary Vant Hull

Mary Vant Hull
City Commissioner
416 E. Story
Bozeman 59715
587-8569

9 page
3/16/89
BILL NO. HB 700

MISSOULA COUNTY

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 9a page 1 of 1

DATE 3/16/89

BILL NO. HB 700

HB 700 Comments on Proposed Legislation

John Pemberton, Director
Personnel & Labor Relations
Missoula County

We see a number of problems raised by this bill, that impacts public employers at all levels, State, County, City, Schools, Colleges, Universities, & etc.

Areas of concern include:

1. This bill will have a negative impact on public employers efforts through Affirmative Action plans to provide employment opportunities for women and Handicapped persons at all levels of public employment.

This is particularly true in traditionally male dominated occupations such as Sheriffs Deputies, Police, Correctional Officers, Jailers, Firefighters, known as protective services. These positions are typically filled on the basis of scored selection instruments, thus this bill will give the veteran a 5 to 10 % advantage.

Obviously, because the vast majority of Vets are male, the effect of this bill will be to negate a long term commitment to achieve a proportionate balance of men and women in the work force.

2. This bill expands the current Vets preference to include, not only initial appointment, but also promotions, & R.I.F. We do not disagree with a Vets preference to initial hire, as in the current law, however we believe in the area of promotion and R.I.F., that these decisions need to be based upon job performance, merit and the ability to meet business necessity.

3. This bill expands the Vets preference from the current combat & decorated vet to essentially all Vets, those with only 180 days service and less than a full "honorable discharge".

4. This bill expands the vets preference to numerous relatives including mothers, spouses, and widows of fathers of Vets.

5. This bill eliminates the current 30% disability requirement and opens it to any disability, no matter how slight.

6. This bill imposes additional burdens of administration responsibilities on public employers including documentation, notice, written explanation to applicants and exposure to liability of lawsuit.

~~For these reasons I urge you to defeat or amend this bill.~~

HB 700

3-16-89

March 15, 1989

Dear Members of the Senate Labor Committee:

I request that you vote against HB 700, the veterans' preference bill regarding reductions in work force.

This is a bad bill. It is hard to even argue against it on its merits, because of its underlying blatant discrimination against women: 1) it discriminates against women, in that women are under-represented as veterans; 2) it discriminates against women in that they are the largest majority of single parents, who are most in need of jobs, and they could be laid off in preference to someone who doesn't need the job nearly as badly; 3) most working women are already earning less than men, and to give men yet this additional advantage is clearly discriminatory.

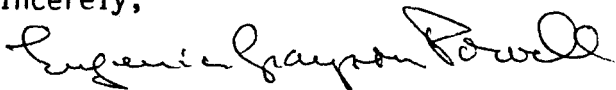
4) The bill would also put the universities in a situation directly opposed to their well-being: it is to their, and to the State of Montana's, well-being to maintain as high a quality of staff as possible; and yet, in the event of reductions in work force, the lesser competent person would be allowed to stay, while the more competent would be laid off.

5) Surely, in the long run, such a situation would not serve to increase the self-esteem of those retained, when they would always have the gnawing doubt that perhaps they were not so highly regarded by their peers because of having retained their jobs due to a technicality of law rather than on their own individual merits.

6) I have some question as to whether this bill is even constitutional, in that the Montana constitution provides for equal dignity, and to retain employment on any other grounds than capability to do the job is an offense to personal dignity.

Please vote against HB 700. Thank you.

Sincerely,



Eugenia Grayson Powell
Real Estate Mgr.
209 S. Bozeman Ave.
Bozeman 59715
587-5510

3-16-89

Amendments to House Bill No. 508
Third Reading Copy

Requested by Representative Paula Darko
For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez, Staff Researcher
March 16, 1989

1. Title, lines 11 and 12.
Following: "PREFERENCE" on line 11
Strike: remainder of line 11 through "POSITION" on line 12
Insert: "OVER OTHER APPLICANTS FOR A POSITION THAT BECOMES VACANT IF THE POSITION IS CONSISTENT WITH THE WORKER'S PHYSICAL CONDITION AND VOCATIONAL ABILITIES"
2. Page 2, line 13.
Following: "given"
Insert: ", to the extent allowed by law,"
3. Page 3, line 13.
Following: "SUBSECTION"
Strike: "IN THE EVENT"
Insert: "if:
(a)"
4. Page 3, line 14.
Following: "(1)(B)"
Insert: "; or"
(b) 2 years have elapsed from the date of injury"
5. Page 3, line 23.
Following: line 22
Insert: "NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].
NEW SECTION. Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."
Renumber: subsequent section

LABOR COMMITTEE

VISITORS' REGISTER

51st LEGISLATIVE SESSION

DATE: March 16, 1989

100

LEAVE PREPARED STATEMENTS WITH SECRETARY! PLEASE!!!

| PRINT: NAME | REPRESENTING | Check One | |
|--------------------|--|-----------|--------|
| | | Support | Oppose |
| Connie Cole | ECCW / Capitol Station ^{Hmn} | | X |
| John ESLORN | MOPH | X | |
| WALT WHEELING | Ex-Pow's + ADBC | X | |
| TIM HARRIS | MONT. INDEPENDENT LIVING PROJECT HELENA | | ? |
| Dick Baumberger | DAV | X | |
| HAL MANSON | AMERICAN LEGION | X | |
| Larry Langfellow | VFW | X | |
| George Poston | United Veterans Com. of MT | X | |
| JOHN R. MORGAN | DAV - HELENA | X | |
| John M. Dee Herder | Dept of MT DAV | X | |
| Naomi Eganer | St. Personnel Div. DOA | | X |
| Les O'Neil | Self | | X |
| Bob Anderson | MSBA | | X |
| Rich Brown | MT Vet Affairs | X | |
| Debra Jards | Wnt - Women Lobby | | X |
| Joe Brand | self | X | |
| Bonnie Gibson | MBCO | | X |
| Donald W Wray | Self | X | |
| Dan Antonette | VETS - USDL | X | |
| Bob Grew | Rep H.O. 9 | X | |
| Paul A. Reed | SELF | X | |

2 of 3

HB # 700 - TESTIFYING WITNESSES
 SENATE LABOR COMMITTEE
 ~ PROPONENTS ~

| | NAME | ADDRESS | POST # |
|----|------------------|---|------------------|
| 1 | Joe Brand | 812 saddle drive Helena, Mont. 59601 | VFW 689 |
| 2 | John E Sloan | 223 So. M ^t Helena | Mont 300 |
| 3 | Pat Genova | ^{BROWN 100} CAPITAL STATION | MT 127 A.D.9 |
| 4 | DAN ANTONIETTI | PO Box 1728 - Helena | USDL-VT |
| 5 | HAL MANSON | 1309 HUMAN RD. HELENA | 2-AMLS |
| 6 | John Mahan | 620 Madison Helena | VFW |
| 7 | George Poston | P.O. Box 4395 Helena | U.V.C. EX-100 |
| 8 | WALT WHEELING | 1120 Billing. Ave, Helena | ADBC DEPT. OF |
| 9 | Larry Longfellow | Box 6228 Helena | MT. VFW |
| 10 | Andy Grull | 1823 BROADWAY HELENA | LTC #3 |
| 11 | John DEINHERDER | 3333 Canyon Ferry Rd Helena | DAY DEPT 1047 |
| 12 | Dick Baumberger | 5495 N. Mont. Ave. | DAV |
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HB 700 - TESTIFYING WITNESSES
 SENATE LABOR COMMITTEE

383

~ OPPONENTS ~

| | NAME | ADDRESS | POST # |
|----|------------------|--|--------|
| 28 | Laurie Ekanger | ^{DOA} 136 Mitchell Bldg | |
| 29 | LeRoy H. Schramm | 33 S. Last Chance | |
| 30 | Jim NYS | Box 5 Clancy | None |
| 31 | Connie Cole | ECCW (part of State Lands) Capitol Station | |
| 32 | Bob ANDERSON | ^{UNSTA} #1 So. Mt. Ave, Helena | |
| 33 | Beverly Wilson | mt. Indep. Living Project | |
| 34 | TIM HARRIS | 38 S. LAST CHANCE, HELENA | |
| 35 | Wendy Sordb | mt. Women's Lobby PO Box 1099 Helena 59624 | |
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ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: March 16, 1989 BILL NO: HB 508 TIME: _____
Do Not Be Concurred In as Amended

| VOTE: | YES | NO |
|-------------------------|-----|----|
| SENATOR TOM KEATING | X | |
| SENATOR SAM HOFMAN | X | |
| SENATOR J.D. LYNCH | | X |
| SENATOR GERRY DEVLIN | X | |
| SENATOR BOB PIPINICH | | X |
| SENATOR DENNIS NATHE | X | |
| SENATOR RICHARD MANNING | | X |
| SENATOR CHET BLAYLOCK | | X |
| SENATOR GARY AKLESTAD | X | |

5 4

passed

ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: March 16, 1989 BILL NO: HB 639 TIME: _____

Be Concurred In (Lynch's motion)

| VOTE: | YES | NO |
|-------------------------|-----|----|
| SENATOR TOM KEATING | | X |
| SENATOR SAM HOFMAN | | X |
| SENATOR J.D. LYNCH | X | |
| SENATOR GERRY DEVLIN | | X |
| SENATOR BOB PIPINICH | X | |
| SENATOR DENNIS NATHE | | X |
| SENATOR RICHARD MANNING | X | |
| SENATOR CHET BLAYLOCK | X | |
| SENATOR GARY AKLESTAD | | X |

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failed

ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: March 16, 1989 BILL NO: HB 639 TIME: _____

Be Not Concerned to

| VOTE: | YES | NO |
|-------------------------|-----|----|
| SENATOR TOM KEATING | X | |
| SENATOR SAM HOFMAN | X | |
| SENATOR J.D. LYNCH | | X |
| SENATOR GERRY DEVLIN | X | |
| SENATOR BOB PIPINICH | | X |
| SENATOR DENNIS NATHE | X | |
| SENATOR RICHARD MANNING | | X |
| SENATOR CHET BLAYLOCK | | X |
| SENATOR GARY AKLESTAD | X | |

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passed