

1 *Senate* BILL NO. *77*  
 2 INTRODUCED BY *Tracy (By request of the Governor)*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
 5 11-3823, 16-3705, 23-4724, 26-109, AND 31-105, R.C.M. 1947,  
 6 TO ALLOW PUBLIC OFFICERS AND EMPLOYEES TO PARTICIPATE IN  
 7 ELECTION CAMPAIGNS, AND TO PROTECT THEM FROM UNDUE EMPLOYER  
 8 INFLUENCE; REPEALING SECTION 23-4739, R.C.M. 1947; AND  
 9 PROVIDING AN EFFECTIVE DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 11-3283, R.C.M. 1947, is amended to  
 13 read as follows:

14 "11-3283. Persons in classified service not affected  
 15 by political or religious opinions or race. ~~political~~  
 16 ~~contributions--and--activity--forbidden~~ No person in the  
 17 classified service or seeking admission thereto shall be  
 18 appointed, reduced or removed, or in any way favored or  
 19 discriminated against because of political opinions or  
 20 affiliations, or because of race, color, or religious  
 21 beliefs." ~~No officer or employee of the municipality shall~~  
 22 ~~directly--or--indirectly--solicit--or--receive, or be in any~~  
 23 ~~manner--concerned--in--soliciting--or--receiving,--any~~  
 24 ~~assessments, subscription, or contribution for any political~~  
 25 ~~party--or--political--purpose--whatever.--No person holding a~~

1 ~~position in the classified service shall take any part in~~  
 2 ~~political management or affairs or in political campaigns,~~  
 3 ~~further than to cast his vote or to express privately his~~  
 4 ~~opinion.~~

5 Section 2. Section 16-3705, R.C.M. 1947, is amended to  
 6 read as follows:

7 "16-3705. Qualifications of deputy sheriffs, marshals  
 8 and policemen. (1) No sheriff of a county, mayor of a city,  
 9 or other persons authorized by law to appoint special  
 10 deputies, marshals, or policemen in this state to preserve  
 11 the public peace and prevent or quell public disturbance,  
 12 shall hereafter appoint as such special deputies, marshals,  
 13 or policemen any person who shall not have resided  
 14 continuously in this state for a period of one year at  
 15 least, and in the county where such appointment is made for  
 16 the period of at least six (6) months prior to the date of  
 17 said appointment, and who does not meet the minimum  
 18 qualifying standards for employment promulgated by the board  
 19 of crime control; provided, that the provisions of this  
 20 section shall not apply in cases of such officers summoning  
 21 a posse forthwith to quell public disturbance or domestic  
 22 violence. And provided further, that the person or body  
 23 authorized by law to appoint special deputies, marshals, or  
 24 policemen may, in its discretion, waive residency  
 25 requirements.

INTRODUCED BILL

1 (2) No sheriff shall employ as a deputy any individual  
2 who does not possess all the following qualifications:

3 (a) graduate of an accredited high school or the  
4 equivalent thereof;

5 (b) good moral character;

6 (c) never been convicted of a felony;

7 (d) has not within five (5) years immediately preceding  
8 his date of employment been affiliated in any manner with a  
9 subversive organization;

10 (e) been examined by a physician licensed to practice  
11 in the state of Montana within thirty (30) days immediately  
12 preceding his date of employment and has been pronounced in  
13 good physical condition.

14 Subsection (2) of this section shall not be applicable  
15 to any deputy sheriff whose term of employment commenced  
16 prior to the effective date of this act.

17 (3) Any person whose term of employment as a deputy  
18 sheriff commences subsequent to the effective date of this  
19 act shall serve a one-year probationary period and that  
20 during this one-year period the employment of any such  
21 deputy may be terminated by the sheriff with or without  
22 cause and without recourse to the sheriff under the terms of  
23 this act.

24 (4) It shall be the duty of the sheriff to cause all  
25 deputies whose term of employment commenced subsequent to

1 the effective date of this act to attend that academy  
2 provided for by chapter 52, Title 75, R.C.M. 1947, except  
3 that the sheriff may accept reasonable delays in attendance  
4 at the academy as shown by the deputy's declared intention  
5 of attending. Failure to satisfactorily complete the course  
6 offered by said academy shall be deemed cause to terminate a  
7 deputy's employment.

8 (5) Any deputy sheriff now employed or that may  
9 hereafter be employed shall continue in service until  
10 relieved of his employment in the manner hereinafter  
11 provided and only for one or more of the following specified  
12 causes:

13 (a) conviction of a felony subsequent to the  
14 commencement of such employment;

15 (b) willful disobedience of an order or orders given by  
16 the sheriff;

17 (c) drinking intoxicating liquor while in uniform or  
18 while on official duty or being intoxicated in a public  
19 place while in uniform or while on official duty;

20 (d) sleeping while on duty;

21 (e) incapacity materially affecting ability to perform  
22 official duties;

23 (f) gross inefficiency in the performance of official  
24 duties;

25 ~~(g) participation in any political campaign as a~~

1 ~~candidate--or--the-solicitation-of-political-support-for-any~~  
2 ~~candidate-for-public-office.~~

3 (6) When a sheriff terminates the employment of a  
4 deputy he shall at the time of termination cause to be  
5 served upon said deputy a statement in writing subscribed  
6 and sworn to by the sheriff setting forth the cause or  
7 causes for the discharge or termination of the deputy's  
8 employment.

9 (7) Any deputy sheriff whose employment is terminated  
10 from and after the effective date of this act, may within  
11 thirty (30) days from the date of the termination of his  
12 employment make application to the district court of the  
13 county wherein the deputy was employed for a hearing before  
14 the court, with or without jury, on the charges resulting in  
15 the deputy's termination of employment or discharge. In the  
16 event that a deputy prevails at the hearing he shall be  
17 entitled to be reinstated as a deputy sheriff at the same  
18 salary he received prior to his discharge or termination of  
19 employment and he shall also be entitled to any rights that  
20 might have accrued to his benefit prior to his discharge or  
21 termination of employment, including that salary which he  
22 would have received but for the termination."

23 Section 3. Section 23-4724, R.C.M. 1947, is amended to  
24 read as follows:

25 "23-4724. Unlawful acts of employers. (1) It shall be

1 unlawful for any employer, in paying his employees the  
2 salary or wages due them, to enclose their pay in "pay  
3 envelopes" upon which there is written or printed the name  
4 of any candidate or political mottoes, devices, or arguments  
5 containing threats or promises, express or implied,  
6 calculated or intended to influence the political opinions  
7 or actions of such employees. Nor shall it be lawful for an  
8 employer, ~~within--ninety--days-of-an-election,~~ to put up or  
9 otherwise exhibit in his factory, workshop, or other  
10 establishment or place where his workmen or employees may be  
11 working, any handbill or placard or make any verbal  
12 statement containing any threat or promise, notice, or  
13 information, that in case any particular ticket or political  
14 party, or organization, or candidate, shall be elected, work  
15 in his place or establishment will cease, in whole or in  
16 part, or shall be continued or increased, or his place or  
17 establishment be closed up, or the salaries or wages of his  
18 workmen or employees be reduced or increased, or other  
19 threats, or promises, express or implied, intended or  
20 calculated to influence the political opinions or actions of  
21 his workmen or employees. This section shall apply to  
22 corporations, ~~as--well--as~~ individuals, and public officers  
23 and employees. ~~any-person-violating-the-provisions--of--this~~  
24 ~~section-is-guilty-of-a-misdemeanor,-and-shall-be-punished-by~~  
25 ~~a--fine--of--not-less-than-twenty-five-dollars-nor-more-than~~

~~five hundred dollars, and imprisonment not exceeding six months in the county jail, and any corporation violating this section shall be punished by fine not to exceed five thousand dollars, or forfeit its charter, or both such fine and forfeiture.~~

(2) No person may attempt to coerce, command, or require a public employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(3) No public employee shall solicit any money, influence, service or other thing of value or otherwise aid or promote any political committee or the nomination or election of any person to public office while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express his personal political views.

(4) Any person who violates the provisions of this section shall be fined not to exceed one thousand dollars (\$1,000) or be imprisoned in the county jail for a term not to exceed six (6) months, or both, for each separate offense."

Section 4. Section 26-109, R.C.M. 1947, is amended to read as follows:

"26-109. Political activity prohibited. While

retaining the right to vote as he may please, and to express his opinions on all political questions, no employee of the fish and game commission shall take any active part in political management or political campaigns, nor shall he may use his official authority or influence for the purpose of interfering with an election, or affecting the results, thereof, or for the purpose of coercing or influencing the political actions of any person or body."

Section 5. Section 31-105, R.C.M. 1947, is amended to read as follows:

"31-105. Appointment and promotion of officers -- replacements and additions -- reserve patrolmen -- salaries -- qualifications -- probationary training -- tenure -- disciplinary action -- hearing -- appeal. (1) Appointments and promotions. (a) The board shall designate captains, lieutenants, sergeants, and patrolmen in such numbers as the board may deem necessary, but within the limits of the legislative appropriation made available for such purposes.

(b) Replacements and additions to the highway patrol force shall be chosen in equal numbers from the twelve (12) highway districts, provided however, that if sufficient qualified applications are not received from any one district that the board may in its discretion substitute other qualified applicants from any other districts.

(c) Patrolmen filling vacancies caused by the

1 incumbents' entrance into the armed forces of the United  
 2 States, shall on the return of the incumbents be placed in  
 3 the patrol reserve, without pay; otherwise they shall hold  
 4 their probationary or permanent appointments while there are  
 5 sufficient operating funds. Reserve patrolmen shall then be  
 6 used for future replacements in the permanent patrol.

7 (d) Captains, lieutenants and sergeants shall be  
 8 selected from the patrolmen by the chief, subject to the  
 9 approval of the highway patrol board. The duties and  
 10 jurisdiction of the captains, lieutenants and sergeants  
 11 shall be outlined, defined and under the control of the  
 12 chief subject to the approval of the Montana highway patrol  
 13 board.

14 (2) Salaries. (a) The Montana highway patrol board  
 15 shall, within the limits of appropriations made available  
 16 for such purpose, prepare a schedule of compensation and  
 17 expenses which shall be uniform within all grades and submit  
 18 it to the state board of examiners for their approval.

19 (b) The base salary of the captains, lieutenants,  
 20 sergeants and patrolmen shall be fixed by the board, with  
 21 the approval of the state board of examiners. In the event  
 22 that a probationary patrolman is appointed permanently, he  
 23 shall, at the time of such appointment, receive the base  
 24 salary of patrolmen. These salaries shall be increased one  
 25 per cent (1%) per year for each additional year of service.

1 (3) Qualifications. (a) Patrolmen shall possess the  
 2 following qualifications:

- 3 (i) Sound and active physical and mental condition.
- 4 (ii) Good moral character.
- 5 (iii) Resident of Montana for at least one (1) year  
 6 immediately prior to appointment.
- 7 (iv) Pass a satisfactory test in the operation of  
 8 automobiles.

9 (v) Citizens of the United States and state of  
 10 Montana.

11 (4) Probationary training. (a) All new patrolmen  
 12 shall be placed under probationary training and service  
 13 for a period of six (6) months to one (1) year, during  
 14 which time the highway patrol chief must recommend to the  
 15 highway patrol board for permanent appointments;  
 16 otherwise the probationary patrolmen will automatically be  
 17 discharged.

18 (b) All newly appointed captains, lieutenants and  
 19 sergeants shall be placed under probationary training and  
 20 service for a period of six (6) months to one (1) year,  
 21 during which time the highway patrol chief must recommend to  
 22 the highway patrol board for permanent appointments;  
 23 otherwise the captains, lieutenants and sergeants will  
 24 automatically revert to their previous ranks without  
 25 prejudice.

1 (5) Tenure of office. Every person employed or  
 2 appointed and designated as a chief, captain, lieutenant,  
 3 sergeant, or patrolman under and pursuant to the provisions  
 4 of this act, except as provided in subsection (4) above,  
 5 shall continue in service and hold his position without  
 6 demotion until suspended, demoted, or discharged in the  
 7 manner hereinafter provided, for one (1) or more of the  
 8 causes specified in the following subsection.

9 (6) Suspension, demotion or discharge. Cause for  
 10 suspension, demotion or discharge will be:

11 (a) Conviction of any crime involving moral turpitude  
 12 in any court of competent jurisdiction subsequent to the  
 13 commencement of such employment.

14 (b) Gross neglect of duty or willful violation or  
 15 disobedience of orders or regulations.

16 (c) Loitering about or entering places of ill fame, ill  
 17 repute, or where gambling is known to be conducted or to be  
 18 in progress, except in the immediate discharge of duty.

19 (d) Conduct unbecoming an officer.

20 (e) Drinking intoxicating liquor while using  
 21 state-owned cars or in uniform, or being intoxicated in a  
 22 public place.

23 (f) Sleeping while on duty.

24 (g) Incapacity, or partial incapacity, materially  
 25 affecting his ability to perform his official duties.

1 (h) Gross inefficiency in performing duties.

2 ~~(i) Active participation in any political campaign by~~  
 3 ~~supporting or opposing, directly or indirectly, any~~  
 4 ~~political candidate, or contributing financially or~~  
 5 ~~otherwise, directly or indirectly, to the success or defeat~~  
 6 ~~of any political party or candidate.~~

7 ~~(j)~~ (i) Willful disobedience of rules and regulations  
 8 adopted by the board, governing the conduct and discipline  
 9 of members of the patrol.

10 (7) Method of preferring charges. (a) The charge or  
 11 charges against any patrolman shall be made in writing and  
 12 shall be signed and sworn to by the person making the charge  
 13 or charges.

14 (b) The written charge or charges shall be filed with  
 15 the chief of the Montana highway patrol.

16 (c) Any charge or charges which could result in the  
 17 suspension or discharge of the chief or a captain shall be  
 18 filed directly with the highway patrol board.

19 (d) When charges are filed and the chief believes that  
 20 such charge or charges constitute grounds for suspension,  
 21 demotion or discharge, he shall order a hearing to be had  
 22 thereon before the highway patrol board and fix a time for  
 23 such hearing.

24 (e) When charges are filed and the chief believes such  
 25 charge or charges do not constitute grounds for suspension,

1 demotion or discharge he shall dismiss such charges.

2 (f) The highway patrol board shall have the authority  
3 to order the chief to file charges with the board when the  
4 chief in his judgment does not believe the charge or charges  
5 warrant a hearing.

6 (8) Authority to suspend, demote or discharge. (a)  
7 When the highway patrol chief has cause to believe that any  
8 member of the highway patrol has violated any of the  
9 hereinabove grounds for suspension, demotion or discharge,  
10 or his conduct has warranted reprimanding, he may, with the  
11 approval of the Montana highway patrol board, suspend,  
12 demote or reprimand the member.

13 (b) If the chief orders a hearing he may suspend such  
14 patrolman pending the rendition of the decision made in such  
15 case.

16 (9) Length of suspension--demotion pay status. (a) Any  
17 member under suspension shall be on leave without pay and  
18 for a period not to exceed thirty (30) days in time.

19 (b) In cases of disciplinary action resulting in  
20 demotion, the member shall receive the pay of the rank to  
21 which he is demoted.

22 (10) Notification of hearing. (a) The chief shall, at  
23 least ten (10) days before the time appointed for a hearing,  
24 serve written notice specifying the charge or charges filed  
25 and stating the name of the person or persons making the

1 charge or charges, on the accused patrolman personally, if  
2 his whereabouts is known, in the state of Montana.

3 (b) If at the time, the whereabouts of the accused  
4 patrolman is unknown, or if he be outside of the state of  
5 Montana, service may be made upon him by mailing the written  
6 notice to him at his last known place of residence in  
7 Montana.

8 (11) Hearing. (a) The highway patrol board shall be  
9 the authority to hear such charge or charges and render a  
10 decision and appropriate order.

11 (b) The highway patrol board shall have the power to  
12 compel the attendance of witnesses at any such hearing and  
13 to examine them under oath and to require the production of  
14 books, papers, and other evidence at such hearing and for  
15 that purpose issue subpoenas and cause the same to be served  
16 and executed in any part of the state.

17 (c) The accused patrolman shall be entitled to be  
18 confronted with the witnesses against him and have an  
19 opportunity to cross-examine the same and to introduce at  
20 such hearing testimony in his own behalf and shall be  
21 entitled to be represented by counsel at such hearing.

22 (d) The highway patrol board shall within fifteen (15)  
23 days after such hearing render its decision in writing and  
24 file same in its office with the chief and with the  
25 patrolman accused also.

1 (12) Disciplinary action. (a) If, after a hearing, the  
 2 highway patrol board finds that any such charge or charges,  
 3 made against the patrolman be true, it may punish the  
 4 offending party by reprimand, suspension without pay,  
 5 demotion, or discharge.

6 (b) If after the hearing, the highway patrol board  
 7 finds that the charge or charges made against the patrolman  
 8 not be true, the board shall reinstate the accused patrolman  
 99 to his position and rank and shall order the payment of any  
 10 salary withheld pending the determination of the charge or  
 11 charges.

12 (13) Right to appeal. (a) Any patrolman who is  
 13 suspended, demoted, or discharged may have a right of appeal  
 14 to the district court of Lewis and Clark county.

15 (b) Such appeal must be made within ten (10) days after  
 16 such decision or determination of the highway patrol board.

17 (c) The district court shall review such decision or  
 98 determination in a summary manner and shall render its  
 19 decision upon such appeal within ninety (90) days from the  
 20 filing of such appeal in said court.

21 (d) If the decision or determination of the highway  
 22 patrol board shall be finally reversed or modified by the  
 23 district court, the accused patrolman shall be reinstated in  
 24 his position and the highway patrol board shall pay to the  
 25 said patrolman any salary or wages withheld from him pending

1 the determination of the charge or charges, or as may be  
 2 directed by the court."

3 Section 6. Section 23-4739, R.C.M. 1947, is repealed.

4 Section 7. Effective date. This act is effective upon  
 5 passage and approval.

-End-



Approved by Committee  
on State Administration

1  
2 INTRODUCED BY Senate BILL NO. 27  
Presley (By request of the Governor)

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
5 11-3823, 16-3705, 23-4724, 26-109, AND 31-105, R.C.M. 1947,  
6 TO ALLOW PUBLIC OFFICERS AND EMPLOYEES TO PARTICIPATE IN  
7 ELECTION CAMPAIGNS, AND TO PROTECT THEM FROM UNDUE EMPLOYER  
8 INFLUENCE; REPEALING SECTION 23-4739, R.C.M. 1947; AND  
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13 read as follows:

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17 classified service or seeking admission thereto shall be  
18 appointed, reduced or removed, or in any way favored or  
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9 or other persons authorized by law to appoint special  
10 deputies, marshals, or policemen in this state to preserve  
11 the public peace and prevent or quell public disturbance,  
12 shall hereafter appoint as such special deputies, marshals,  
13 or policemen any person who shall not have resided  
14 continuously in this state for a period of one year at  
15 least, and in the county where such appointment is made for  
16 the period of at least six (6) months prior to the date of  
17 said appointment, and who does not meet the minimum  
18 qualifying standards for employment promulgated by the board  
19 of crime control; provided, that the provisions of this  
20 section shall not apply in cases of such officers summoning  
21 a posse forthwith to quell public disturbance or domestic  
22 violence. And provided further, that the person or body  
23 authorized by law to appoint special deputies, marshals, or  
24 policemen may, in its discretion, waive residency  
25 requirements.

1 (2) No sheriff shall employ as a deputy any individual  
2 who does not possess all the following qualifications:

3 (a) graduate of an accredited high school or the  
4 equivalent thereof;

5 (b) good moral character;

6 (c) never been convicted of a felony;

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8 his date of employment been affiliated in any manner with a  
9 subversive organization;

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11 in the state of Montana within thirty (30) days immediately  
12 preceding his date of employment and has been pronounced in  
13 good physical condition.

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15 to any deputy sheriff whose term of employment commenced  
16 prior to the effective date of this act.

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18 sheriff commences subsequent to the effective date of this  
19 act shall serve a one-year probationary period and that  
20 during this one-year period the employment of any such  
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25 deputies whose term of employment commenced subsequent to

1 the effective date of this act to attend that academy  
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6 offered by said academy shall be deemed cause to terminate a  
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9 hereafter be employed shall continue in service until  
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22 official duties;

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8 employer, ~~within--ninety--days-of-an-election,~~ to put up or  
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10 establishment or place where his workmen or employees may be  
11 working, any handbill or placard or make any verbal  
12 statement containing any threat or promise, notice, or  
13 information, that in case any particular ticket or political  
14 party, or organization, or candidate, shall be elected, work  
15 in his place or establishment will cease, in whole or in  
16 part, or shall be continued or increased, or his place or  
17 establishment be closed up, or the salaries or wages of his  
18 workmen or employees be reduced or increased, or other  
19 threats, or promises, express or implied, intended or  
20 calculated to influence the political opinions or actions of  
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23 and employees. ~~any-person-violating-the-provisions--of--this~~  
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25 ~~a--fine--of--not-less-than-twenty-five-dollars-nor-more-than~~

1 ~~five-hundred-dollars,-and--imprisonment--not--exceeding--six~~  
 2 ~~months--in--the--county--jail,-and-any-corporation-violating~~  
 3 ~~this-section-shall-be-punished-by-fine-not--to--exceed--five~~  
 4 ~~thousand--dollars,-or-forfeit-its-charter,-or-both-such-fine~~  
 5 ~~and-forfeiture.~~

6 (2) No person may attempt to coerce, command, or  
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 8 service or other thing of value to aid or promote any  
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1 retaining the right to vote as he may please, and to express  
 2 his opinions on all political questions, no employee of the  
 3 fish and game commission shall--take--any--active--part--in  
 4 ~~political--management--or--political-campaigns,-nor-shall-he~~  
 5 may use his official authority or influence for the purpose  
 6 of interfering with an election, or affecting the results,  
 7 thereof, or for the purpose of coercing or influencing the  
 8 political actions of any person or body."

9 Section 5. Section 31-105, R.C.M. 1947, is amended to  
 10 read as follows:

11 "31-105. Appointment and promotion of officers --  
 12 replacements and additions -- reserve patrolmen -- salaries  
 13 --qualifications -- probationary training -- tenure --  
 14 disciplinary action -- hearing -- appeal. (1) Appointments  
 15 and promotions. (a) The board shall designate captains,  
 16 lieutenants, sergeants, and patrolmen in such numbers as the  
 17 board may deem necessary, but within the limits of the  
 18 legislative appropriation made available for such purposes.

19 (b) Replacements and additions to the highway patrol  
 20 force shall be chosen in equal numbers from the twelve (12)  
 21 highway districts, provided however, that if sufficient  
 22 qualified applications are not received from any one  
 23 district that the board may in its discretion substitute  
 24 other qualified applicants from any other districts.

25 (c) Patrolmen filling vacancies caused by the

1 incumbents' entrance into the armed forces of the United  
 2 States, shall on the return of the incumbents be placed in  
 3 the patrol reserve, without pay; otherwise they shall hold  
 4 their probationary or permanent appointments while there are  
 5 sufficient operating funds. Reserve patrolmen shall then be  
 6 used for future replacements in the permanent patrol.

7 (d) Captains, lieutenants and sergeants shall be  
 8 selected from the patrolmen by the chief, subject to the  
 9 approval of the highway patrol board. The duties and  
 10 jurisdiction of the captains, lieutenants and sergeants  
 11 shall be outlined, defined and under the control of the  
 12 chief subject to the approval of the Montana highway patrol  
 13 board.

14 (2) Salaries. (a) The Montana highway patrol board  
 15 shall, within the limits of appropriations made available  
 16 for such purpose, prepare a schedule of compensation and  
 17 expenses which shall be uniform within all grades and submit  
 18 it to the state board of examiners for their approval.

19 (b) The base salary of the captains, lieutenants,  
 20 sergeants and patrolmen shall be fixed by the board, with  
 21 the approval of the state board of examiners. In the event  
 22 that a probationary patrolman is appointed permanently, he  
 23 shall, at the time of such appointment, receive the base  
 24 salary of patrolmen. These salaries shall be increased one  
 25 per cent (1%) per year for each additional year of service.

1 (3) Qualifications. (a) Patrolmen shall possess the  
 2 following qualifications:

- 3 (i) Sound and active physical and mental condition.
- 4 (ii) Good moral character.
- 5 (iii) Resident of Montana for at least one (1) year  
 6 immediately prior to appointment.
- 7 (iv) Pass a satisfactory test in the operation of  
 8 automobiles.
- 9 (v) Citizens of the United States and state of  
 10 Montana.

11 (4) Probationary training. (a) All new patrolmen  
 12 shall be placed under probationary training and service  
 13 for a period of six (6) months to one (1) year, during  
 14 which time the highway patrol chief must recommend to the  
 15 highway patrol board for permanent appointments;  
 16 otherwise the probationary patrolmen will automatically be  
 17 discharged.

18 (b) All newly appointed captains, lieutenants and  
 19 sergeants shall be placed under probationary training and  
 20 service for a period of six (6) months to one (1) year,  
 21 during which time the highway patrol chief must recommend to  
 22 the highway patrol board for permanent appointments;  
 23 otherwise the captains, lieutenants and sergeants will  
 24 automatically revert to their previous ranks without  
 25 prejudice.

1 (5) Tenure of office. Every person employed or  
 2 appointed and designated as a chief, captain, lieutenant,  
 3 sergeant, or patrolman under and pursuant to the provisions  
 4 of this act, except as provided in subsection (4) above,  
 5 shall continue in service and hold his position without  
 6 demotion until suspended, demoted, or discharged in the  
 7 manner hereinafter provided, for one (1) or more of the  
 8 causes specified in the following subsection.

9 (6) Suspension, demotion or discharge. Cause for  
 10 suspension, demotion or discharge will be:

11 (a) Conviction of any crime involving moral turpitude  
 12 in any court of competent jurisdiction subsequent to the  
 13 commencement of such employment.

14 (b) Gross neglect of duty or willful violation or  
 15 disobedience of orders or regulations.

16 (c) Loitering about or entering places of ill fame, ill  
 17 repute, or where gambling is known to be conducted or to be  
 18 in progress, except in the immediate discharge of duty.

19 (d) Conduct unbecoming an officer.

20 (e) Drinking intoxicating liquor while using  
 21 state-owned cars or in uniform, or being intoxicated in a  
 22 public place.

23 (f) Sleeping while on duty.

24 (g) Incapacity, or partial incapacity, materially  
 25 affecting his ability to perform his official duties.

1 (h) Gross inefficiency in performing duties.

2 ~~(i) Active participation in any political campaign by~~  
 3 ~~supporting or opposing, directly or indirectly, any~~  
 4 ~~political candidate, or contributing financially or~~  
 5 ~~otherwise, directly or indirectly, to the success or defeat~~  
 6 ~~of any political party or candidate.~~

7 ~~(j)~~ (i) Willful disobedience of rules and regulations  
 8 adopted by the board, governing the conduct and discipline  
 9 of members of the patrol.

10 (7) Method of preferring charges. (a) The charge or  
 11 charges against any patrolman shall be made in writing and  
 12 shall be signed and sworn to by the person making the charge  
 13 or charges.

14 (b) The written charge or charges shall be filed with  
 15 the chief of the Montana highway patrol.

16 (c) Any charge or charges which could result in the  
 17 suspension or discharge of the chief or a captain shall be  
 18 filed directly with the highway patrol board.

19 (d) When charges are filed and the chief believes that  
 20 such charge or charges constitute grounds for suspension,  
 21 demotion or discharge, he shall order a hearing to be had  
 22 thereon before the highway patrol board and fix a time for  
 23 such hearing.

24 (e) When charges are filed and the chief believes such  
 25 charge or charges do not constitute grounds for suspension,

1 demotion or discharge he shall dismiss such charges.

2 (f) The highway patrol board shall have the authority  
3 to order the chief to file charges with the board when the  
4 chief in his judgment does not believe the charge or charges  
5 warrant a hearing.

6 (8) Authority to suspend, demote or discharge. (a)  
7 When the highway patrol chief has cause to believe that any  
8 member of the highway patrol has violated any of the  
9 hereinabove grounds for suspension, demotion or discharge,  
10 or his conduct has warranted reprimanding, he may, with the  
11 approval of the Montana highway patrol board, suspend,  
12 demote or reprimand the member.

13 (b) If the chief orders a hearing he may suspend such  
14 patrolman pending the rendition of the decision made in such  
15 case.

16 (9) Length of suspension--demotion pay status. (a) Any  
17 member under suspension shall be on leave without pay and  
18 for a period not to exceed thirty (30) days in time.

19 (b) In cases of disciplinary action resulting in  
20 demotion, the member shall receive the pay of the rank to  
21 which he is demoted.

22 (10) Notification of hearing. (a) The chief shall, at  
23 least ten (10) days before the time appointed for a hearing,  
24 serve written notice specifying the charge or charges filed  
25 and stating the name of the person or persons making the

1 charge or charges, on the accused patrolman personally, if  
2 his whereabouts is known, in the state of Montana.

3 (b) If at the time, the whereabouts of the accused  
4 patrolman is unknown, or if he be outside of the state of  
5 Montana, service may be made upon him by mailing the written  
6 notice to him at his last known place of residence in  
7 Montana.

8 (11) Hearing. (a) The highway patrol board shall be  
9 the authority to hear such charge or charges and render a  
10 decision and appropriate order.

11 (b) The highway patrol board shall have the power to  
12 compel the attendance of witnesses at any such hearing and  
13 to examine them under oath and to require the production of  
14 books, papers, and other evidence at such hearing and for  
15 that purpose issue subpoenas and cause the same to be served  
16 and executed in any part of the state.

17 (c) The accused patrolman shall be entitled to be  
18 confronted with the witnesses against him and have an  
19 opportunity to cross-examine the same and to introduce at  
20 such hearing testimony in his own behalf and shall be  
21 entitled to be represented by counsel at such hearing.

22 (d) The highway patrol board shall within fifteen (15)  
23 days after such hearing render its decision in writing and  
24 file same in its office with the chief and with the  
25 patrolman accused also.

1 (12) Disciplinary action. (a) If, after a hearing, the  
 2 highway patrol board finds that any such charge or charges,  
 3 made against the patrolman be true, it may punish the  
 4 offending party by reprimand, suspension without pay,  
 5 demotion, or discharge.

6 (b) If after the hearing, the highway patrol board  
 7 finds that the charge or charges made against the patrolman  
 8 not be true, the board shall reinstate the accused patrolman  
 99 to his position and rank and shall order the payment of any  
 10 salary withheld pending the determination of the charge or  
 11 charges.

12 (13) Right to appeal. (a) Any patrolman who is  
 13 suspended, demoted, or discharged may have a right of appeal  
 14 to the district court of Lewis and Clark county.

15 (b) Such appeal must be made within ten (10) days after  
 16 such decision or determination of the highway patrol board.

17 (c) The district court shall review such decision or  
 98 determination in a summary manner and shall render its  
 19 decision upon such appeal within ninety (90) days from the  
 20 filing of such appeal in said court.

21 (d) If the decision or determination of the highway  
 22 patrol board shall be finally reversed or modified by the  
 23 district court, the accused patrolman shall be reinstated in  
 24 his position and the highway patrol board shall pay to the  
 25 said patrolman any salary or wages withheld from him pending

1 the determination of the charge or charges, or as may be  
 2 directed by the court."

3 Section 6. Section 23-4739, R.C.M. 1947, is repealed.

4 Section 7. Effective date. This act is effective upon  
 5 passage and approval.

-End-



## SENATE BILL NO. 77

INTRODUCED BY GREELY (BY REQUEST OF THE GOVERNOR)

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS 11-3823, 16-3705, 23-4724, 26-109, AND 31-105, R.C.M. 1947, TO ALLOW PUBLIC OFFICERS AND EMPLOYEES TO PARTICIPATE IN ELECTION CAMPAIGNS, AND TO PROTECT THEM FROM UNDUE EMPLOYER INFLUENCE; REPEALING SECTION 23-4739, R.C.M. 1947, ~~AND PROVIDING AN EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-3283, R.C.M. 1947, is amended to read as follows:

"11-3283. Persons in classified service not affected by political or religious opinions or race. ~~political contributions and activity forbidden~~ No person in the classified service or seeking admission thereto shall be appointed, reduced or removed, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, or religious beliefs." ~~No officer or employee of the municipality shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessments, subscription, or contribution for any political party or political purpose whatever. No person holding a~~

~~position in the classified service shall take any part in political management or affairs or in political campaigns, further than to cast his vote or to express privately his opinion.~~

Section 2. Section 16-3705, R.C.M. 1947, is amended to read as follows:

"16-3705. Qualifications of deputy sheriffs, marshals and policemen. (1) No sheriff of a county, mayor of a city, or other persons authorized by law to appoint special deputies, marshals, or policemen in this state to preserve the public peace and prevent or quell public disturbance, shall hereafter appoint as such special deputies, marshals, or policemen any person who shall not have resided continuously in this state for a period of one year at least, and in the county where such appointment is made for the period of at least six (6) months prior to the date of said appointment, and who does not meet the minimum qualifying standards for employment promulgated by the board of crime control; provided, that the provisions of this section shall not apply in cases of such officers summoning a posse forthwith to quell public disturbance or domestic violence. And provided further, that the person or body authorized by law to appoint special deputies, marshals, or policemen may, in its discretion, waive residency requirements.

1 (2) No sheriff shall employ as a deputy any individual  
2 who does not possess all the following qualifications:

3 (a) graduate of an accredited high school or the  
4 equivalent thereof;

5 (b) good moral character;

6 (c) never been convicted of a felony;

7 (d) has not within five (5) years immediately preceding  
8 his date of employment been affiliated in any manner with a  
9 subversive organization;

10 (e) been examined by a physician licensed to practice  
11 in the state of Montana within thirty (30) days immediately  
12 preceding his date of employment and has been pronounced in  
13 good physical condition.

14 Subsection (2) of this section shall not be applicable  
15 to any deputy sheriff whose term of employment commenced  
16 prior to the effective date of this act.

17 (3) Any person whose term of employment as a deputy  
18 sheriff commences subsequent to the effective date of this  
19 act shall serve a one-year probationary period and that  
20 during this one-year period the employment of any such  
21 deputy may be terminated by the sheriff with or without  
22 cause and without recourse to the sheriff under the terms of  
23 this act.

24 (4) It shall be the duty of the sheriff to cause all  
25 deputies whose term of employment commenced subsequent to

1 the effective date of this act to attend that academy  
2 provided for by chapter 52, Title 75, R.C.M. 1947, except  
3 that the sheriff may accept reasonable delays in attendance  
4 at the academy as shown by the deputy's declared intention  
5 of attending. Failure to satisfactorily complete the course  
6 offered by said academy shall be deemed cause to terminate a  
7 deputy's employment.

8 (5) Any deputy sheriff now employed or that may  
9 hereafter be employed shall continue in service until  
10 relieved of his employment in the manner hereinafter  
11 provided and only for one or more of the following specified  
12 causes:

13 (a) conviction of a felony subsequent to the  
14 commencement of such employment;

15 (b) willful disobedience of an order or orders given by  
16 the sheriff;

17 (c) drinking intoxicating liquor while in uniform or  
18 while on official duty or being intoxicated in a public  
19 place while in uniform or while on official duty;

20 (d) sleeping while on duty;

21 (e) incapacity materially affecting ability to perform  
22 official duties;

23 (f) gross inefficiency in the performance of official  
24 duties;

25 ~~(g) participation in any political campaign as a~~

1 ~~candidate--or--the-solicitation-of-political-support-for-any~~  
 2 ~~candidate-for-public-officer~~

3 (6) When a sheriff terminates the employment of a  
 4 deputy he shall at the time of termination cause to be  
 5 served upon said deputy a statement in writing subscribed  
 6 and sworn to by the sheriff setting forth the cause or  
 7 causes for the discharge or termination of the deputy's  
 8 employment.

9 (7) Any deputy sheriff whose employment is terminated  
 10 from and after the effective date of this act, may within  
 11 thirty (30) days from the date of the termination of his  
 12 employment make application to the district court of the  
 13 county wherein the deputy was employed for a hearing before  
 14 the court, with or without jury, on the charges resulting in  
 15 the deputy's termination of employment or discharge. In the  
 16 event that a deputy prevails at the hearing he shall be  
 17 entitled to be reinstated as a deputy sheriff at the same  
 18 salary he received prior to his discharge or termination of  
 19 employment and he shall also be entitled to any rights that  
 20 might have accrued to his benefit prior to his discharge or  
 21 termination of employment, including that salary which he  
 22 would have received but for the termination."

23 Section 3. Section 23-4724, R.C.M. 1947, is amended to  
 24 read as follows:

25 "23-4724. Unlawful acts of employers. (1) It shall be

1 unlawful for any employer, in paying his employees the  
 2 salary or wages due them, to enclose their pay in "pay  
 3 envelopes" upon which there is written or printed the name  
 4 of any candidate or political mottoes, devices, or arguments  
 5 containing threats or promises, express or implied,  
 6 calculated or intended to influence the political opinions  
 7 or actions of such employees. Nor shall it be lawful for an  
 8 employer, ~~within--ninety--days-of-an-election,~~ to put up or  
 9 otherwise exhibit in his factory, workshop, or other  
 10 establishment or place where his workmen or employees may be  
 11 working, any handbill or placard ~~or--make--any--verbal~~  
 12 statement containing any threat or promise, notice, or  
 13 information, that in case any particular ticket or political  
 14 party, or organization, or candidate, shall be elected, work  
 15 in his place or establishment will cease, in whole or in  
 16 part, or shall be continued or increased, or his place or  
 17 establishment be closed up, or the salaries or wages of his  
 18 workmen or employees be reduced or increased, or other  
 19 threats, or promises, express or implied, intended or  
 20 calculated to influence the political opinions or actions of  
 21 his workmen or employees. This section shall apply to  
 22 corporations, ~~as--well--as~~ individuals, and public officers  
 23 and employees. ~~any-person-violating-the-provisions--of--this~~  
 24 ~~section-is-guilty-of-a-misdemeanor,-and-shall-be-punished-by~~  
 25 ~~a--fine--of--not-less-than-twenty-five-dollars-nor-more-than~~

1 ~~five-hundred-dollars, and imprisonment not exceeding six~~  
2 ~~months in the county jail, and any corporation violating~~  
3 ~~this section shall be punished by fine not to exceed five~~  
4 ~~thousand dollars, or forfeit its charter, or both such fine~~  
5 ~~and forfeiture.~~

6 (2) No person may attempt to coerce, command, or  
7 require a public employee to influence or give money,  
8 service or other thing of value to aid or promote any  
9 political committee or to aid or promote the nomination or  
10 election of any person to public office.

11 (3) No public employee shall solicit any money,  
12 influence, service or other thing of value or otherwise aid  
13 or promote any political committee or the nomination or  
14 election of any person to public office while on the job  
15 during working hours. However, nothing in this section is  
16 intended to restrict the right of a public employee to  
17 express his personal political views.

18 (4) Any person who violates the provisions of this  
19 section shall be fined not to exceed one thousand dollars  
20 (\$1,000) or be imprisoned in the county jail for a term not  
21 to exceed six (6) months, or both, for each separate  
22 offense."

23 Section 4. Section 26-109, R.C.M. 1947, is amended to  
24 read as follows:

25 "26-109. Political activity prohibited. While

1 retaining the right to vote as he may please, and to express  
2 his opinions on all political questions, no employee of the  
3 fish and game commission ~~shall take any active part in~~  
4 ~~political management or political campaigns, nor shall he~~  
5 may use his official authority or influence for the purpose  
6 of interfering with an election, or affecting the results,  
7 thereof, or for the purpose of coercing or influencing the  
8 political actions of any person or body."

9 Section 5. Section 31-105, R.C.M. 1947, is amended to  
10 read as follows:

11 "31-105. Appointment and promotion of officers --  
12 replacements and additions -- reserve patrolmen -- salaries  
13 --qualifications -- probationary training -- tenure --  
14 disciplinary action -- hearing -- appeal. (1) Appointments  
15 and promotions. (a) The board shall designate captains,  
16 lieutenants, sergeants, and patrolmen in such numbers as the  
17 board may deem necessary, but within the limits of the  
18 legislative appropriation made available for such purposes.

19 (b) Replacements and additions to the highway patrol  
20 force shall be chosen in equal numbers from the twelve (12)  
21 highway districts, provided however, that if sufficient  
22 qualified applications are not received from any one  
23 district that the board may in its discretion substitute  
24 other qualified applicants from any other districts.

25 (c) Patrolmen filling vacancies caused by the

1 incumbents' entrance into the armed forces of the United  
 2 States, shall on the return of the incumbents be placed in  
 3 the patrol reserve, without pay; otherwise they shall hold  
 4 their probationary or permanent appointments while there are  
 5 sufficient operating funds. Reserve patrolmen shall then be  
 6 used for future replacements in the permanent patrol.

7 (d) Captains, lieutenants and sergeants shall be  
 8 selected from the patrolmen by the chief, subject to the  
 9 approval of the highway patrol board. The duties and  
 10 jurisdiction of the captains, lieutenants and sergeants  
 11 shall be outlined, defined and under the control of the  
 12 chief subject to the approval of the Montana highway patrol  
 13 board.

14 (2) Salaries. (a) The Montana highway patrol board  
 15 shall, within the limits of appropriations made available  
 16 for such purpose, prepare a schedule of compensation and  
 17 expenses which shall be uniform within all grades and submit  
 18 it to the state board of examiners for their approval.

19 (b) The base salary of the captains, lieutenants,  
 20 sergeants and patrolmen shall be fixed by the board, with  
 21 the approval of the state board of examiners. In the event  
 22 that a probationary patrolman is appointed permanently, he  
 23 shall, at the time of such appointment, receive the base  
 24 salary of patrolmen. These salaries shall be increased one  
 25 per cent (1%) per year for each additional year of service.

1 (3) Qualifications. (a) Patrolmen shall possess the  
 2 following qualifications:

- 3 (i) Sound and active physical and mental condition.
- 4 (ii) Good moral character.
- 5 (iii) Resident of Montana for at least one (1) year  
 6 immediately prior to appointment.
- 7 (iv) Pass a satisfactory test in the operation of  
 8 automobiles.
- 9 (v) Citizens of the United States and state of  
 10 Montana.

11 (4) Probationary training. (a) All new patrolmen shall  
 12 be placed under probationary training and service for a  
 13 period of six (6) months to one (1) year, during which time  
 14 the highway patrol chief must recommend to the highway  
 15 patrol board for permanent appointments; otherwise the  
 16 probationary patrolmen will automatically be discharged.

17 (b) All newly appointed captains, lieutenants and  
 18 sergeants shall be placed under probationary training and  
 19 service for a period of six (6) months to one (1) year,  
 20 during which time the highway patrol chief must recommend to  
 21 the highway patrol board for permanent appointments;  
 22 otherwise the captains, lieutenants and sergeants will  
 23 automatically revert to their previous ranks without  
 24 prejudice.

25 (5) Tenure of office. Every person employed or

1 appointed and designated as a chief, captain, lieutenant,  
 2 sergeant, or patrolman under and pursuant to the provisions  
 3 of this act, except as provided in subsection (4) above,  
 4 shall continue in service and hold his position without  
 5 demotion until suspended, demoted, or discharged in the  
 6 manner hereinafter provided, for one (1) or more of the  
 7 causes specified in the following subsection.

8 (6) Suspension, demotion or discharge. Cause for  
 9 suspension, demotion or discharge will be:

10 (a) Conviction of any crime involving moral turpitude  
 11 in any court of competent jurisdiction subsequent to the  
 12 commencement of such employment.

13 (b) Gross neglect of duty or willful violation or  
 14 disobedience of orders or regulations.

15 (c) Loitering about or entering places of ill fame, ill  
 16 repute, or where gambling is known to be conducted or to be  
 17 in progress, except in the immediate discharge of duty.

18 (d) Conduct unbecoming an officer.

19 (e) Drinking intoxicating liquor while using  
 20 state-owned cars or in uniform, or being intoxicated in a  
 21 public place.

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23 (g) Incapacity, or partial incapacity, materially  
 24 affecting his ability to perform his official duties.

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1 ~~(i) Active participation in any political campaign by~~  
 2 ~~supporting or opposing, directly or indirectly, any~~  
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 4 ~~otherwise, directly or indirectly, to the success or defeat~~  
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6 ~~(j) (i) Willful disobedience of rules and regulations~~  
 7 ~~adopted by the board, governing the conduct and discipline~~  
 8 ~~of members of the patrol.~~

9 (7) Method of preferring charges. (a) The charge or  
 10 charges against any patrolman shall be made in writing and  
 11 shall be signed and sworn to by the person making the charge  
 12 or charges.

13 (b) The written charge or charges shall be filed with  
 14 the chief of the Montana highway patrol.

15 (c) Any charge or charges which could result in the  
 16 suspension or discharge of the chief or a captain shall be  
 17 filed directly with the highway patrol board.

18 (d) When charges are filed and the chief believes that  
 19 such charge or charges constitute grounds for suspension,  
 20 demotion or discharge, he shall order a hearing to be had  
 21 thereon before the highway patrol board and fix a time for  
 22 such hearing.

23 (e) When charges are filed and the chief believes such  
 24 charge or charges do not constitute grounds for suspension,  
 25 demotion or discharge he shall dismiss such charges.

1 (f) The highway patrol board shall have the authority  
2 to order the chief to file charges with the board when the  
3 chief in his judgment does not believe the charge or charges  
4 warrant a hearing.

5 (8) Authority to suspend, demote or discharge. (a)  
6 When the highway patrol chief has cause to believe that any  
7 member of the highway patrol has violated any of the  
8 hereinabove grounds for suspension, demotion or discharge,  
9 or his conduct has warranted reprimanding, he may, with the  
10 approval of the Montana highway patrol board, suspend,  
11 demote or reprimand the member.

12 (b) If the chief orders a hearing he may suspend such  
13 patrolman pending the rendition of the decision made in such  
14 case.

15 (9) Length of suspension--demotion pay status. (a) Any  
16 member under suspension shall be on leave without pay and  
17 for a period not to exceed thirty (30) days in time.

18 (b) In cases of disciplinary action resulting in  
19 demotion, the member shall receive the pay of the rank to  
20 which he is demoted.

21 (10) Notification of hearing. (a) The chief shall, at  
22 least ten (10) days before the time appointed for a hearing,  
23 serve written notice specifying the charge or charges filed  
24 and stating the name of the person or persons making the  
25 charge or charges, on the accused patrolman personally, if

1 his whereabouts is known, in the state of Montana.

2 (b) If at the time, the whereabouts of the accused  
3 patrolman is unknown, or if he be outside of the state of  
4 Montana, service may be made upon him by mailing the written  
5 notice to him at his last known place of residence in  
6 Montana.

7 (11) Hearing. (a) The highway patrol board shall be  
8 the authority to hear such charge or charges and render a  
9 decision and appropriate order.

10 (b) The highway patrol board shall have the power to  
11 compel the attendance of witnesses at any such hearing and  
12 to examine them under oath and to require the production of  
13 books, papers, and other evidence at such hearing and for  
14 that purpose issue subpoenas and cause the same to be served  
15 and executed in any part of the state.

16 (c) The accused patrolman shall be entitled to be  
17 confronted with the witnesses against him and have an  
18 opportunity to cross-examine the same and to introduce at  
19 such hearing testimony in his own behalf and shall be  
20 entitled to be represented by counsel at such hearing.

21 (d) The highway patrol board shall within fifteen (15)  
22 days after such hearing render its decision in writing and  
23 file same in its office with the chief and with the  
24 patrolman accused also.

25 (12) Disciplinary action. (a) If, after a hearing, the

1 highway patrol board finds that any such charge or charges,  
 2 made against the patrolman be true, it may punish the  
 3 offending party by reprimand, suspension without pay,  
 4 demotion, or discharge.

5 (d) If after the hearing, the highway patrol board  
 6 finds that the charge or charges made against the patrolman  
 7 not be true, the board shall reinstate the accused patrolman  
 8 to his position and rank and shall order the payment of any  
 9 salary withheld pending the determination of the charge or  
 10 charges.

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 12 suspended, demoted, or discharged may have a right of appeal  
 13 to the district court of Lewis and Clark county.

14 (b) Such appeal must be made within ten (10) days after  
 15 such decision or determination of the highway patrol board.

16 (c) The district court shall review such decision or  
 17 determination in a summary manner and shall render its  
 18 decision upon such appeal within ninety (90) days from the  
 19 filing of such appeal in said court.

20 (d) If the decision or determination of the highway  
 21 patrol board shall be finally reversed or modified by the  
 22 district court, the accused patrolman shall be reinstated in  
 23 his position and the highway patrol board shall pay to the  
 24 said patrolman any salary or wages withheld from him pending  
 25 the determination of the charge or charges, or as may be

1 directed by the court."

2 Section 6. Section 23-4739, R.C.M. 1947, is repealed.

3 ~~Section 7,--Effective-date,--This-act-is-effective-upon~~  
 4 ~~passage-and-approval~~

-End-



HOUSE OF REPRESENTATIVES

Date: March 10, 1975

HOUSE COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL NO. 77

Be amended in the third reading bill as follows:

1. Amend page 5, section 3, line 25.  
Following: "employers"  
Insert: "and employees"
2. Amend page 7, section 3, subsection (3), line 11.  
Following: "employee"  
Strike: "shall"  
Insert: "may"
3. Amend page 7, section 3, subsection (3), lines 14 and 15.  
Following: "job"  
Strike: "during working hours"  
Insert: "or at his place of employment"

AS SO AMENDED  
BE CONCURRED IN

## 1 SENATE BILL NO. 77

2 INTRODUCED BY GREELY (BY REQUEST OF THE GOVERNOR)

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
5 11-3283, 16-3705, 23-4724, 26-109, AND 31-105, R.C.M. 1947,  
6 TO ALLOW PUBLIC OFFICERS AND EMPLOYEES TO PARTICIPATE IN  
7 ELECTION CAMPAIGNS, AND TO PROTECT THEM FROM UNDUE EMPLOYER  
8 INFLUENCE; REPEALING SECTION 23-4739, R.C.M. 1947, ~~AND~~  
9 ~~PROVIDING AN EFFECTIVE DATE.~~"

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 Section 1. Section 11-3283, R.C.M. 1947, is amended to  
13 read as follows:

14 "11-3283. Persons in classified service not affected  
15 by political or religious opinions or race. ~~political~~  
16 ~~contributions--and--activity--forbidden~~ No person in the  
17 classified service or seeking admission thereto shall be  
18 appointed, reduced or removed, or in any way favored or  
19 discriminated against because of political opinions or  
20 affiliations, or because of race, color, or religious  
21 beliefs." ~~No officer or employee of the municipality shall~~  
22 ~~directly--or--indirectly--solicit--or--receive,--or--be--in--any~~  
23 ~~manner--concerned--in--soliciting--or--receiving,--any~~  
24 ~~assessments,--subscription,--or--contribution--for--any--political~~  
25 ~~party--or--political--purpose--whatever,--No--person--holding--a~~

1 ~~position--in--the--classified--service--shall--take--any--part--in~~  
2 ~~political--management--or--affairs--or--in--political--campaigns,~~  
3 ~~further--than--to--cast--his--vote--or--to--express--privately--his~~  
4 ~~opinion.~~

5 Section 2. Section 16-3705, R.C.M. 1947, is amended to  
6 read as follows:

7 "16-3705. Qualifications of deputy sheriffs, marshals  
8 and policemen. (1) No sheriff of a county, mayor of a city,  
9 or other persons authorized by law to appoint special  
10 deputies, marshals, or policemen in this state to preserve  
11 the public peace and prevent or quell public disturbance,  
12 shall hereafter appoint as such special deputies, marshals,  
13 or policemen any person who shall not have resided  
14 continuously in this state for a period of one year at  
15 least, and in the county where such appointment is made for  
16 the period of at least six (6) months prior to the date of  
17 said appointment, and who does not meet the minimum  
18 qualifying standards for employment promulgated by the board  
19 of crime control; provided, that the provisions of this  
20 section shall not apply in cases of such officers summoning  
21 a posse forthwith to quell public disturbance or domestic  
22 violence. And provided further, that the person or body  
23 authorized by law to appoint special deputies, marshals, or  
24 policemen may, in its discretion, waive residency  
25 requirements.

1 (2) No sheriff shall employ as a deputy any individual  
2 who does not possess all the following qualifications:

3 (a) graduate of an accredited high school or the  
4 equivalent thereof;

5 (b) good moral character;

6 (c) never been convicted of a felony;

7 (d) has not within five (5) years immediately preceding  
8 his date of employment been affiliated in any manner with a  
9 subversive organization;

10 (e) been examined by a physician licensed to practice  
11 in the state of Montana within thirty (30) days immediately  
12 preceding his date of employment and has been pronounced in  
13 good physical condition.

14 Subsection (2) of this section shall not be applicable  
15 to any deputy sheriff whose term of employment commenced  
16 prior to the effective date of this act.

17 (3) Any person whose term of employment as a deputy  
18 sheriff commences subsequent to the effective date of this  
19 act shall serve a one-year probationary period and that  
20 during this one-year period the employment of any such  
21 deputy may be terminated by the sheriff with or without  
22 cause and without recourse to the sheriff under the terms of  
23 this act.

24 (4) It shall be the duty of the sheriff to cause all  
25 deputies whose term of employment commenced subsequent to

1 the effective date of this act to attend that academy  
2 provided for by chapter 52, Title 75, R.C.M. 1947, except  
3 that the sheriff may accept reasonable delays in attendance  
4 at the academy as shown by the deputy's declared intention  
5 of attending. Failure to satisfactorily complete the course  
6 offered by said academy shall be deemed cause to terminate a  
7 deputy's employment.

8 (5) Any deputy sheriff now employed or that may  
9 hereafter be employed shall continue in service until  
10 relieved of his employment in the manner hereinafter  
11 provided and only for one or more of the following specified  
12 causes:

13 (a) conviction of a felony subsequent to the  
14 commencement of such employment;

15 (b) willful disobedience of an order or orders given by  
16 the sheriff;

17 (c) drinking intoxicating liquor while in uniform or  
18 while on official duty or being intoxicated in a public  
19 place while in uniform or while on official duty;

20 (d) sleeping while on duty;

21 (e) incapacity materially affecting ability to perform  
22 official duties;

23 (f) gross inefficiency in the performance of official  
24 duties;

25 ~~(g) participation in any political campaign as a~~

1 ~~candidate-or-the-solicitation-of-political-support--for--any~~  
2 ~~candidate-for-public-office.~~

3 (6) When a sheriff terminates the employment of a  
4 deputy he shall at the time of termination cause to be  
5 served upon said deputy a statement in writing subscribed  
6 and sworn to by the sheriff setting forth the cause or  
7 causes for the discharge or termination of the deputy's  
8 employment.

9 (7) Any deputy sheriff whose employment is terminated  
10 from and after the effective date of this act, may within  
11 thirty (30) days from the date of the termination of his  
12 employment make application to the district court of the  
13 county wherein the deputy was employed for a hearing before  
14 the court, with or without jury, on the charges resulting in  
15 the deputy's termination of employment or discharge. In the  
16 event that a deputy prevails at the hearing he shall be  
17 entitled to be reinstated as a deputy sheriff at the same  
18 salary he received prior to his discharge or termination of  
19 employment and he shall also be entitled to any rights that  
20 might have accrued to his benefit prior to his discharge or  
21 termination of employment, including that salary which he  
22 would have received but for the termination."

23 Section 3. Section 23-4724, R.C.M. 1947, is amended to  
24 read as follows:

25 "23-4724. Unlawful acts of employers AND EMPLOYEES.

1 (1) It shall be unlawful for any employer, in paying his  
2 employees the salary or wages due them, to enclose their pay  
3 in "pay envelopes" upon which there is written or printed  
4 the name of any candidate or political mottoes, devices, or  
5 arguments containing threats or promises, express or  
6 implied, calculated or intended to influence the political  
7 opinions or actions of such employees. Nor shall it be  
8 lawful for an employer, ~~within-ninety-days-of-an-election,~~  
9 to put up or otherwise exhibit in his factory, workshop, or  
10 other establishment or place where his workmen or employees  
11 may be working, any handbill or placard ~~or-make--any--verbal~~  
12 statement containing any threat or promise, notice, or  
13 information, that in case any particular ticket or political  
14 party, or organization, or candidate, shall be elected, work  
15 in his place or establishment will cease, in whole or in  
16 part, or shall be continued or increased, or his place or  
17 establishment be closed up, or the salaries or wages of his  
18 workmen or employees be reduced or increased, or other  
19 threats, or promises, express or implied, intended or  
20 calculated to influence the political opinions or actions of  
21 his workmen or employees. This section shall apply to  
22 corporations, ~~as-well-as~~ individuals, and public officers  
23 and employees. ~~any-person-violating-the-provisions-of-this~~  
24 section-is-guilty-of-a-misdemeanor,-and-shall-be-punished-by  
25 a-fine-of-not-less-than-twenty-five-dollars--nor--more--than

1 ~~five-hundred-dollars,-and--imprisonment--not--exceeding--six~~  
 2 ~~months--in--the--county--jail,-and-any-corporation-violating~~  
 3 ~~this-section-shall-be-punished-by-fine-not--to--exceed--five~~  
 4 ~~thousand--dollars,-or-forfeit-its-charter,-or-both-such-fine~~  
 5 ~~and-forfeiture.~~

6 (2) No person may attempt to coerce, command, or  
 7 require a public employee to influence or give money,  
 8 service or other thing of value to aid or promote any  
 9 political committee or to aid or promote the nomination or  
 10 election of any person to public office.

11 (3) No public employee shall MAY solicit any money,  
 12 influence, service or other thing of value or otherwise aid  
 13 or promote any political committee or the nomination or  
 14 election of any person to public office while on the job  
 15 during-working---hours OR AT HIS PLACE OF EMPLOYMENT.  
 16 However, nothing in this section is intended to restrict the  
 17 right of a public employee to express his personal political  
 18 views.

19 (4) Any person who violates the provisions of this  
 20 section shall be fined not to exceed one thousand dollars  
 21 (\$1,000) or be imprisoned in the county jail for a term not  
 22 to exceed six (6) months, or both, for each separate  
 23 offense."

24 Section 4. Section 26-109, R.C.M. 1947, is amended to  
 25 read as follows:

1 "26-109. Political activity prohibited. While  
 2 retaining the right to vote as he may please, and to express  
 3 his opinions on all political questions, no employee of the  
 4 fish and game commission shall--take--any--active--part--in  
 5 political--management--or--political-campaigns,-nor-shall-he  
 6 may use his official authority or influence for the purpose  
 7 of interfering with an election, or affecting the results,  
 8 thereof, or for the purpose of coercing or influencing the  
 9 political actions of any person or body."

10 Section 5. Section 31-105, R.C.M. 1947, is amended to  
 11 read as follows:

12 "31-105. Appointment and promotion of officers --  
 13 replacements and additions -- reserve patrolmen -- salaries  
 14 --qualifications -- probationary training -- tenure --  
 15 disciplinary action -- hearing -- appeal. (1) Appointments  
 16 and promotions. (a) The board shall designate captains,  
 17 lieutenants, sergeants, and patrolmen in such numbers as the  
 18 board may deem necessary, but within the limits of the  
 19 legislative appropriation made available for such purposes.

20 (b) Replacements and additions to the highway patrol  
 21 force shall be chosen in equal numbers from the twelve (12)  
 22 highway districts, provided however, that if sufficient  
 23 qualified applications are not received from any one  
 24 district that the board may in its discretion substitute  
 25 other qualified applicants from any other districts.

1 (c) Patrolmen filling vacancies caused by the  
 2 incumbents' entrance into the armed forces of the United  
 3 States, shall on the return of the incumbents be placed in  
 4 the patrol reserve, without pay; otherwise they shall hold  
 5 their probationary or permanent appointments while there are  
 6 sufficient operating funds. Reserve patrolmen shall then be  
 7 used for future replacements in the permanent patrol.

8 (d) Captains, lieutenants and sergeants shall be  
 9 selected from the patrolmen by the chief, subject to the  
 10 approval of the highway patrol board. The duties and  
 11 jurisdiction of the captains, lieutenants and sergeants  
 12 shall be outlined, defined and under the control of the  
 13 chief subject to the approval of the Montana highway patrol  
 14 board.

15 (2) Salaries. (a) The Montana highway patrol board  
 16 shall, within the limits of appropriations made available  
 17 for such purpose, prepare a schedule of compensation and  
 18 expenses which shall be uniform within all grades and submit  
 19 it to the state board of examiners for their approval.

20 (b) The base salary of the captains, lieutenants,  
 21 sergeants and patrolmen shall be fixed by the board, with  
 22 the approval of the state board of examiners. In the event  
 23 that a probationary patrolman is appointed permanently, he  
 24 shall, at the time of such appointment, receive the base  
 25 salary of patrolmen. These salaries shall be increased one

1 per cent (1%) per year for each additional year of service.

2 (3) Qualifications. (a) Patrolmen shall possess the  
 3 following qualifications:

4 (i) Sound and active physical and mental condition.

5 (ii) Good moral character.

6 (iii) Resident of Montana for at least one (1) year  
 7 immediately prior to appointment.

8 (iv) Pass a satisfactory test in the operation of  
 9 automobiles.

10 (v) Citizens of the United States and state of  
 11 Montana.

12 (4) Probationary training. (a) All new patrolmen shall  
 13 be placed under probationary training and service for a  
 14 period of six (6) months to one (1) year, during which time  
 15 the highway patrol chief must recommend to the highway  
 16 patrol board for permanent appointments; otherwise the  
 17 probationary patrolmen will automatically be discharged.

18 (b) All newly appointed captains, lieutenants and  
 19 sergeants shall be placed under probationary training and  
 20 service for a period of six (6) months to one (1) year,  
 21 during which time the highway patrol chief must recommend to  
 22 the highway patrol board for permanent appointments;  
 23 otherwise the captains, lieutenants and sergeants will  
 24 automatically revert to their previous ranks without  
 25 prejudice.

1 (5) Tenure of office. Every person employed or  
 2 appointed and designated as a chief, captain, lieutenant,  
 3 sergeant, or patrolman under and pursuant to the provisions  
 4 of this act, except as provided in subsection (4) above,  
 5 shall continue in service and hold his position without  
 6 demotion until suspended, demoted, or discharged in the  
 7 manner hereinafter provided, for one (1) or more of the  
 8 causes specified in the following subsection.

9 (6) Suspension, demotion or discharge. Cause for  
 10 suspension, demotion or discharge will be:

11 (a) Conviction of any crime involving moral turpitude  
 12 in any court of competent jurisdiction subsequent to the  
 13 commencement of such employment.

14 (b) Gross neglect of duty or willful violation or  
 15 disobedience of orders or regulations.

16 (c) Loitering about or entering places of ill fame,  
 17 ill repute, or where gambling is known to be conducted or to  
 18 be in progress, except in the immediate discharge of duty.

19 (d) Conduct unbecoming an officer.

20 (e) Drinking intoxicating liquor while using  
 21 state-owned cars or in uniform, or being intoxicated in a  
 22 public place.

23 (f) Sleeping while on duty.

24 (g) Incapacity, or partial incapacity, materially  
 25 affecting his ability to perform his official duties.

1 (h) Gross inefficiency in performing duties.

2 ~~(i) Active participation in any political campaign--by~~  
 3 ~~supporting---or---opposing,---directly---or---indirectly,---any~~  
 4 ~~political---candidate,---or---contributing---financially---or~~  
 5 ~~otherwise,---directly---or---indirectly,---to---the---success---or---defeat~~  
 6 ~~of---any---political---party---or---candidate.~~

7 ~~(j)~~-(i) Willful disobedience of rules and regulations  
 8 adopted by the board, governing the conduct and discipline  
 9 of members of the patrol.

10 (7) Method of preferring charges. (a) The charge or  
 11 charges against any patrolman shall be made in writing and  
 12 shall be signed and sworn to by the person making the charge  
 13 or charges.

14 (b) The written charge or charges shall be filed with  
 15 the chief of the Montana highway patrol.

16 (c) Any charge or charges which could result in the  
 17 suspension or discharge of the chief or a captain shall be  
 18 filed directly with the highway patrol board.

19 (d) When charges are filed and the chief believes that  
 20 such charge or charges constitute grounds for suspension,  
 21 demotion or discharge, he shall order a hearing to be had  
 22 thereon before the highway patrol board and fix a time for  
 23 such hearing.

24 (e) When charges are filed and the chief believes such  
 25 charge or charges do not constitute grounds for suspension,

1 demotion or discharge he shall dismiss such charges.

2 (f) The highway patrol board shall have the authority  
3 to order the chief to file charges with the board when the  
4 chief in his judgment does not believe the charge or charges  
5 warrant a hearing.

6 (8) Authority to suspend, demote or discharge. (a)  
7 When the highway patrol chief has cause to believe that any  
8 member of the highway patrol has violated any of the  
9 hereinabove grounds for suspension, demotion or discharge,  
10 or his conduct has warranted reprimanding, he may, with the  
11 approval of the Montana highway patrol board, suspend,  
12 demote or reprimand the member.

13 (b) If the chief orders a hearing he may suspend such  
14 patrolman pending the rendition of the decision made in such  
15 case.

16 (9) Length of suspension--demotion pay status. (a) Any  
17 member under suspension shall be on leave without pay and  
18 for a period not to exceed thirty (30) days in time.

19 (b) In cases of disciplinary action resulting in  
20 demotion, the member shall receive the pay of the rank to  
21 which he is demoted.

22 (10) Notification of hearing. (a) The chief shall, at  
23 least ten (10) days before the time appointed for a hearing,  
24 serve written notice specifying the charge or charges filed  
25 and stating the name of the person or persons making the

1 charge or charges, on the accused patrolman personally, if  
2 his whereabouts is known, in the state of Montana.

3 (b) If at the time, the whereabouts of the accused  
4 patrolman is unknown, or if he be outside of the state of  
5 Montana, service may be made upon him by mailing the written  
6 notice to him at his last known place of residence in  
7 Montana.

8 (11) Hearing. (a) The highway patrol board shall be  
9 the authority to hear such charge or charges and render a  
10 decision and appropriate order.

11 (b) The highway patrol board shall have the power to  
12 compel the attendance of witnesses at any such hearing and  
13 to examine them under oath and to require the production of  
14 books, papers, and other evidence at such hearing and for  
15 that purpose issue subpoenas and cause the same to be served  
16 and executed in any part of the state.

17 (c) The accused patrolman shall be entitled to be  
18 confronted with the witnesses against him and have an  
19 opportunity to cross-examine the same and to introduce at  
20 such hearing testimony in his own behalf and shall be  
21 entitled to be represented by counsel at such hearing.

22 (d) The highway patrol board shall within fifteen (15)  
23 days after such hearing render its decision in writing and  
24 file same in its office with the chief and with the  
25 patrolman accused also.



1 (12) Disciplinary action. (a) If, after a hearing, the  
2 highway patrol board finds that any such charge or charges,  
3 made against the patrolman be true, it may punish the  
4 offending party by reprimand, suspension without pay,  
5 demotion, or discharge.

6 (b) If after the hearing, the highway patrol board  
7 finds that the charge or charges made against the patrolman  
8 not be true, the board shall reinstate the accused patrolman  
9 to his position and rank and shall order the payment of any  
10 salary withheld pending the determination of the charge or  
11 charges.

12 (13) Right to appeal. (a) Any patrolman who is  
13 suspended, demoted, or discharged may have a right of appeal  
14 to the district court of Lewis and Clark county.

15 (b) Such appeal must be made within ten (10) days after  
16 such decision or determination of the highway patrol board.

17 (c) The district court shall review such decision or  
18 determination in a summary manner and shall render its  
19 decision upon such appeal within ninety (90) days from the  
20 filing of such appeal in said court.

21 (d) If the decision or determination of the highway  
22 patrol board shall be finally reversed or modified by the  
23 district court, the accused patrolman shall be reinstated in  
24 his position and the highway patrol board shall pay to the  
25 said patrolman any salary or wages withheld from him pending

1 the determination of the charge or charges, or as may be  
2 directed by the court."

3 Section 6. Section 23-4739, R.C.M. 1947, is repealed.

4 ~~Section 7,--Effective date,--This act is effective upon~~  
5 ~~passage and approval.~~

-End-