

1 SENATE BILL NO. 13
2 INTRODUCTION BY BLAYLOCK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION AND CLARIFICATION OF LAWS RELATING TO MILITARY
6 AFFAIRS AND CIVIL DEFENSE; AMENDING SECTIONS 53-106.10,
7 71-120, 75-8612, 77-501, 77-604, 77-707, 77-1601, 77-1606,
8 77-1705, 77-2102, 77-2106, 77-2305, 77-2306, AND 77-2404,
9 R.C.M. 1947; AND REPEALING SECTION 77-2308, R.C.M. 1947."

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

12 Section 1. Section 53-106.10, R.C.M. 1947, is amended
13 to read as follows:

14 "53-106.10. ~~Veterans' free plates limited to one~~
15 ~~automobile~~ Disabled veteran — license plates. No disabled
16 veteran ~~shall be~~ is entitled to free license plates for more
17 than one ~~automobile~~ motor vehicle."

18 Section 2. Section 71-120, R.C.M. 1947, is amended to
19 read as follows:

20 "71-120. Burial of ~~deceased~~ allowance for military
21 ~~service-men servicemen~~ and ~~women servicewomen~~. (1) ~~It shall~~
22 ~~be the duty of the~~ The board of commissioners of each county
23 in this state to shall designate ~~some proper~~ a person in the
24 county, ~~who shall be known~~ preferably an honorably
25 discharged serviceman or servicewoman, as veterans' burial

1 supervisor, ~~preferably an honorably discharged service-man~~
2 ~~or woman, whose duty it shall be to~~

3 (2) The veterans' burial supervisor shall cause to be
4 decently interred the body of any honorably discharged
5 service-man serviceman or woman servicewoman, who is a
6 resident of the state of Montana shall have and either:

7 (a) served in any branch of the armed services of the
8 United States, was honorably discharged, and ~~who~~ may
9 hereafter die ~~or any service-man or woman who;~~

10 (b) is now serving and dies while so serving;

11 (c) died while in service during any declared or
12 undeclared war, or

13 (d) is a resident of the Montana veterans' home, ~~who~~
14 ~~may hereafter die at time of death.~~

15 (3) Such burial shall not be made in any burial
16 grounds or cemetery, or in any portion of any burial grounds
17 or cemetery, used exclusively for the burial of pauper dead.

18 ~~(2) (4) The expense of burial shall be two hundred~~
19 ~~fifty dollars (\$250), to be~~ a sum not to exceed \$250 to
20 defer burial expense shall be paid by the county
21 commissioners of the county in which the deceased was an
22 actual bona fide resident at the time of death.

23 ~~(3) (5) The benefits hereof shall not be~~ are not
24 available in the case of any decedent whose executor,
25 administrator, or heirs waive the benefits.

1 ~~(4)(6)~~ That the expense of each ~~Whenever~~ burial is of
 2 a resident of the Montana veterans' home, shall not exceed
 3 the sum of two hundred fifty dollars (\$250), to a sum not to
 4 exceed \$250 to defer burial expenses shall be paid by the
 5 county commissioners of the county in which the deceased
 6 person resided prior to admittance to the Montana veterans'
 7 home.

8 ~~(5)(7)~~ In the event any such honorably discharged
 9 person, male or female, who shall have served in the armed
 10 services of the United States, and who is a resident of the
 11 state of Montana, shall die If a person qualified under
 12 subsection (2)(a) dies while temporarily absent from the
 13 state or county of residence, then the provisions of this
 14 act shall section apply, and the burial expenses not
 15 exceeding the amount herein specified shall be paid in the
 16 same manner as above provided.

17 ~~(6)(8)~~ Whenever any such honorably discharged person,
 18 male or female hereinbefore described shall die a person
 19 qualified under subsection (2)(a) dies at any public
 20 institution of the state of Montana, other than the state
 21 Montana veterans' home, and burial for any cause shall is
 22 not be made in the county of the former residence of the
 23 deceased, the officers of said the state institution, as
 24 afore said, shall provide the proper burial herein prescribed
 25 except that the, The reimbursement for the expense of each

1 burial shall may not exceed \$250 the sum herein allowed,
 2 which. The expense shall be paid by the county in which the
 3 decedent resided at the time of entry into such
 4 institution.

5 ~~(9)~~ but no No such burial shall may be covered by any
 6 special or standing contract whereby the cost of burial is
 7 reduced below the maximum hereinbefore fixed, to the
 8 disparagement of proper interment."

9 Section 3. Section 75-8612, R.C.M. 1947, is amended to
 10 read as follows:

11 *75-8612. ~~War orphans' attendance to be without fees.~~
 12 Fee waiver -- children of prisoners of war and persons
 13 killed in action. (1) The board of regents of higher
 14 education may waive the charges for the matriculation,
 15 tuition, and any educational fees, at any of the units of
 16 the Montana university system for the children ~~of~~ members
 17 of the armed forces of the United States who:

18 (a) served on active duty during World War II or the
 19 Korean or Vietnam conflicts; and who, at the time of entry
 20 into the service,

21 (b) had legal residence in this state at the time of
 22 entry into the service; and

23 (c) ~~and who were heretofore, or shall hereafter be,~~
 24 either are killed in action or ~~shall have died~~ die as a
 25 result of injury, disease, or other disability incurred

1 while in the service of the armed forces of the United
2 States) ~~who attend any of the units of the greater~~
3 ~~university of Montana.~~

4 (2) The educational assistance to which an eligible
5 person is entitled ~~to~~ under this ~~act~~ section may be afforded
6 him during the period beginning on his ~~eighteenth (18)~~ 18th
7 birthday, or on the successful completion of his secondary
8 schooling, whichever first occurs, and ending on his
9 ~~twenty-third (23)~~ 23rd birthday.

10 (3) If he serves on duty with the armed forces as an
11 eligible person after his ~~eighteenth (18)~~ 18th birthday but
12 before his ~~twenty-third (23)~~ 23rd birthday, then the period
13 ~~shall end five (5) ends 5~~ years after his first discharge or
14 release from duty with the armed forces ~~excluding from the~~
15 ~~five (5) years all periods during which the eligible person~~
16 ~~served on active duty before August 1, 1963, pursuant to (a)~~
17 ~~a call or order thereto issued to him as a reserve after~~
18 ~~July 30, 1961, or (b) an extension of an enlistment,~~
19 ~~appointment or period of duty with the armed forces under~~
20 ~~the laws of the United States.~~ This period may not be
21 extended beyond his ~~thirty-first (31)~~ 31st birthday by
22 reason of this ~~paragraph~~ subsection.

23 (4) The board of regents of higher education shall
24 ~~have the authority to~~ may waive the charges for the
25 matriculation, tuition, ~~any~~ and all educational fees for the

1 spouse and children of any person who is a resident of
2 Montana and who, either while serving in the armed forces of
3 the United States, ~~is~~ was declared by the secretary of
4 defense of the United States to be a prisoner of war or
5 missing in action in connection with the conflict in
6 Southeast Asia after January 1, 1961, or while serving the
7 United States in a civilian capacity ~~is~~ was declared by the
8 secretary of state of the United States to be missing or
9 captured in connection with the conflict in Southeast Asia
10 after the same date.

11 (5) Any person who is eligible for the waiver of
12 tuition and fees, upon being accepted for enrollment in any
13 state-supported institution of higher education or
14 state-supported technical or vocational school, shall
15 continue to be eligible for such waiver until the completion
16 of the bachelor of arts or equivalent degree, or
17 certification of completion, as long as he remains enrolled
18 in good standing at the school or institution. Any eligible
19 person shall may not be disqualified by either the return of
20 the prisoner of war or person missing in action, or the
21 reported death of the person."

22 Section 4. Section 77-501, R.C.M. 1947, is amended to
23 read as follows:

24 "77-501. Purpose ~~of act~~ — definitions — preference.
25 [1] The purpose of this ~~act~~ section is to provide for

1 preference of veterans, their unmarried surviving spouses,
2 and dependents, and certain disabled civilians in
3 appointment and employment in every public department and
4 upon all public works of the state of Montana and of any
5 county and city thereof.

6 ~~(4)(2) Definitions. For purposes of this section, the~~
7 following definitions apply:

8 (a) The term "veterans" ~~as herein used, means men and~~
9 ~~women persons~~ who served in the armed forces of the United
10 States, ~~and who have been separated from such service upon~~
11 ~~conditions other than dishonorable, in time of war or~~
12 ~~declared national emergency as follows, and who have been~~
13 ~~separated from service upon conditions other than~~
14 ~~dishonorable the Civil War; the Spanish American War; the~~
15 ~~Philippine Insurrection; World War I, between April 6, 1917,~~
16 ~~and November 11, 1918, both dates inclusive; World War II,~~
17 ~~which term means such service between September 16, 1940,~~
18 ~~and December 31, 1946, both dates inclusive; the Korean War,~~
19 ~~military expedition, or police action, between June 26,~~
20 ~~1950, and January 31, 1955, both dates inclusive; and those~~
21 ~~honorably discharged veterans or~~ who have served on active
22 military duty for more than ~~one hundred eighty (180) days~~
23 after January 31, 1955, or who were discharged or released
24 because of a service-connected disability, including, but
25 not limited to, those veterans serving because of the

1 Vietnam ~~Conflict~~ conflict.

2 (b) The term "war or declared national emergency"
3 includes:

4 (i) the Civil War;
5 (ii) the Spanish American War;
6 (iii) the Philippine insurrection;
7 (iv) World War I, between April 6, 1917, and November
8 11, 1918, both dates inclusive;

9 (v) World War II, between September 16, 1940, and
10 December 31, 1946, both dates inclusive; and

11 (vi) the Korean War, military expedition, or police
12 action, between June 26, 1950, and January 31, 1955, both
13 dates inclusive.

14 (b)(c) The term "surviving spouse" as herein used
15 means an unmarried surviving spouses spouse of veterans a
16 veteran.

17 (c)(d) The word "per centum percent" means per centum
18 percent of the total aggregate points of the examination
19 hereinafter referred to.

20 ~~(2)(3) (a) Preference to appointment and employment.~~
21 In every public department and upon all public works of the
22 state of Montana and of any county or city thereof, the
23 following shall be preferred for appointment and employment:
24 veterans, their spouses and surviving spouses, and the other
25 dependents of disabled veterans, and disabled civilians

1 recommended by the ~~state rehabilitation bureau,~~
2 rehabilitative services division of the department of social
3 and rehabilitation services.

4 ~~(b) Provided that age~~ age, loss of limb, or other
5 physical impairment which does not in fact incapacitate,
6 ~~shall does~~ not be deemed to disqualify any disabled veteran
7 or ~~any such disabled~~ civilian provided he or she possesses
8 the business capacity, competency, and education to
9 discharge the duties of the position involved₁.

10 ~~(c) Provided further that these~~ Those of the above
11 ~~described above-described~~ veterans who have disabilities
12 admitted by the veterans administration of the United States
13 to have been incurred in service in any of ~~said the~~ wars, or
14 military expeditions, or police ~~action~~ actions, ~~where~~
15 whenever such disabilities do not in fact incapacitate,
16 shall be given preference in employment over other veterans.

17 ~~(3)(4)~~ (a) ~~Credit for examinations.~~ When written or
18 oral examinations are required for employment ~~as above~~
19 ~~described~~, disabled veterans and their spouses, their
20 unmarried surviving spouses, and other dependents of
21 ~~disabled veterans~~, shall have added to their examination
22 ratings a credit of ~~ten~~ 10 points₁, ~~and all~~ All other
23 veterans, their spouses, unmarried surviving spouses, and
24 dependents shall have added to their examination ratings a
25 credit of five points₁, ~~provided that~~

1 ~~(b) the~~ The fact that an applicant has claimed a
2 veterans' credit ~~shall may~~ not be made known to the
3 examiners until ratings of all applicants have been
4 recorded₁, after which such credits shall be added to the
5 examination rating and the records shall show the
6 examination rating and the veteran's credit₁, ~~provided~~
7 ~~further that~~

8 ~~(c) the~~ The benefits of this subsection are in
9 addition to and not in derogation of the preference in
10 appointment and/or employment or both given by subsection
11 (2) hereof.

12 (4) ~~(a) Eligibility.~~ ~~That none~~ None of the benefits of
13 this ~~act~~ section shall accrue to any person who refused to
14 serve on active duty in the military service to which
15 attached, or to take up arms in the defense of the United
16 States₁, ~~provided, however, that no person, not a citizen of~~
17 ~~the United States, shall be employed by any state, city or~~
18 ~~county officer in any capacity if competent American labor~~
19 ~~is available; and provided, further, that no~~

20 ~~(b) No~~ person who has not been a resident of Montana
21 for at least ~~one~~ (1) year immediately preceding an
22 appointment ~~shall be~~ is entitled to such preference₁,
23 ~~provided, further, that~~

24 ~~(c) for~~ For city or county employment, no preference
25 will be granted unless an applicant under this ~~act~~ section

1 is also a resident of the city or town or county in which
2 employment is sought.

3 (5) ~~Enforcement of preference. That any~~ Any person
4 entitled to preference in this section who has applied for
5 any appointment or employment upon public works of the state
6 of Montana or ~~of~~ any county and city thereof, or in any
7 public department of ~~said the~~ state and who has been denied
8 ~~said~~ employment or appointment and feels that the spirit of
9 this ~~act~~ section has been violated and that such person is
10 in fact qualified physically, and mentally and possesses
11 business capacity, competency, and education to discharge
12 the duties of the position applied for, ~~shall have the right~~
13 ~~to~~ may petition by verified petition the district court of
14 the state of Montana in the county in which the work is to
15 be performed, ~~setting~~ The petition shall set forth the
16 facts of the application, qualifications, competency, and
17 such person's honorable discharge or other qualifications
18 warranting the applicant to preference under this ~~act,~~
19 ~~section,~~ and upon Upon filing of such petition, any judge in
20 ~~said the~~ court shall ~~forthwith~~ issue an order to show cause
21 to the appointing authority directing ~~said the~~ appointing
22 authority to appear in ~~said the~~ court at a specified time
23 and place, not less than ~~five (5) see~~ or more than ~~ten (10)~~
24 days after the filing of ~~said the~~ verified petition, to show
25 cause, if any exists, why ~~said the~~ veteran or person

1 entitled to preference should not be employed by ~~such the~~
2 appointing authority, ~~and that said~~ The district court shall
3 ~~have~~ has jurisdiction upon the proper showings to issue its
4 order directing and ordering ~~said the~~ appointing authority
5 to comply with this law in giving the preference ~~herein~~
6 provided for."

7 Section 5. Section 77-604, R.C.M. 1947, is amended to
8 read as follows:

9 "77-604. ~~Procedure for enforcement of right~~
10 Enforcement procedure. In case any private employer refuses
11 to ~~re-employ~~ reemploy any person entitled to ~~re-employment~~
12 reemployment under the provisions of ~~this act~~ 77-601 through
13 77-604, the district court of the ~~judicial~~ judicial district,
14 in which such private employer maintains his place of
15 business ~~shall have~~ has power, upon the filing of a motion,
16 petition, or other appropriate pleading by the person
17 entitled to such benefits, to specifically require such
18 employer to comply with ~~this act~~ 77-601 through 77-604, and,
19 as an incident thereto, to compensate such person for any
20 loss of wages or benefits suffered by such employer's
21 unlawful action. Upon application to the county attorney of
22 the county in which such private employer maintains a place
23 of business, by any person claiming to be entitled to
24 redress under ~~this act,~~ 77-601 through 77-604, the county
25 attorney shall appear and act as attorney for such person in

1 the amicable settlement of the claim or in the filing of any
2 motion, petition, or other appropriate pleading to
3 specifically require such employer to comply with such
4 provisions. No fees or court costs ~~shall~~ may be taxed
5 against the person applying for such benefits."

6 Section 6. Section 77-707, R.C.M. 1947, is amended to
7 read as follows:

8 "77-707. ~~Appointment of "Acting" officers Acting~~
9 officer — how appointed. The governor, in the case of
10 district judges and officers elected from the state at
11 large, and the board of county commissioners, in the case of
12 members of either house of the ~~legislative assembly~~
13 legislature and county, township, or district officers
14 elected from such county, shall appoint ~~as an~~ "acting"
15 officer to temporarily replace any elected officer,
16 designated in ~~paragraph (b) of section 77-701(b)~~, who shall
17 ~~enter enters~~ military service in the manner set forth in
18 ~~section 77-701.~~ "Acting" officers so appointed shall be
19 appointed for a period not to exceed the unexpired term of
20 the officer whose duties he assumes, and such appointment
21 shall be subject to the right ~~hereinafter set forth~~ of the
22 elected officer to the restoration of his position."

23 Section 7. Section 77-1601, R.C.M. 1947, is amended to
24 read as follows:

25 "77-1601. Definitions. Unless the context requires

1 otherwise, in ~~title 77~~ this title:

2 (1) "Militia" means all the military forces of this
3 state, whether organized or active or inactive.

4 (2) "National guard" means the army national guard and
5 the air national guard.

6 (3) "Officer" means commissioned or warrant officer.

7 ~~(4) "Department" means department of military~~
8 affairs."

9 Section 8. Section 77-1606, R.C.M. 1947, is amended to
10 read as follows:

11 "77-1606. Powers and duties of department of military
12 affairs. Under the direction of the governor, the department
13 ~~of military affairs provided for in Title 831, chapter 14~~
14 shall:

15 (1) ~~Keep keep~~ keep a roster of all officers and enlisted
16 persons of the militia of this state whether active,
17 inactive, or retired officers and enlisted persons of the
18 militia of this state;

19 (2) ~~Supervise~~ supervise, administer, and ~~co-ordinate~~
20 coordinate civil defense and disaster control activities;

21 (3) ~~Recruit~~ recruit, mobilize, administer, train,
22 discipline, equip, and supply the organized militia;

23 (4) ~~Maintain~~ maintain the archives, and keep the
24 records and documents required, by law or regulation, to be
25 filed with the United States department of defense;

1 ~~(5) Supervise, administer, and coordinate the~~
 2 ~~activities of the selective service system for which the~~
 3 ~~governor is responsible;~~

4 ~~(6)~~ (5) Establish establish and maintain the
 5 headquarters required for the militia;

6 ~~(7)~~ (6) Exercise exercise the powers vested in it, and
 7 perform any other duty and function required of it by the
 8 governor, and by federal and state laws and regulations."

9 Section 9. Section 77-1705, R.C.M. 1947, is amended to
 10 read as follows:

11 "77-1705. Vacating commissions or warrants. The
 12 commission or warrant of an officer shall be vacated:

13 (1) Upon upon acceptance by the governor of the
 14 resignation of the officer; or

15 (2) By by an order of the governor discharging the
 16 officer ~~for~~:

17 (a) Failure for failure to maintain his qualifications
 18 for federal recognition;

19 (b) The upon the scheduled or actual termination or
 20 withdrawal of his federal recognition where federal
 21 recognition is a prerequisite for continued service;

22 (c) ~~+~~ upon a change in federal reserve status which
 23 makes him ineligible to continue assigned to a unit of the
 24 organized militia;

25 (d) ~~His~~ for his absence from duty without leave for

1 more than ~~three~~ (3) months; or

2 (e) Under upon the recommendation of a board of
 3 examination or the sentence of a ~~court-martial~~
 4 court-martial."

5 Section 10. Section 77-2102, R.C.M. 1947, is amended
 6 to read as follows:

7 "77-2102. ~~Right-of-way~~ Right-of-way while performing
 8 military duty. (1) The commanding officer of a unit of the
 9 organized militia parading or performing any military duty
 10 in a street or highway may require all persons on the street
 11 or highway to yield the ~~right-of-way~~ right-of-way to troops.
 12 Motor vehicles traveling in military convoy shall be
 13 accorded the ~~right-of-way~~ right-of-way on all streets and
 14 highways.

15 (2) The exercise of the ~~right-of-way~~ right-of-way
 16 provided for in this section may not interfere with the
 17 carriage of the United States mail, or with the progress of
 18 an ambulance, or members of a police or fire department.

19 (3) A person who ~~violates~~ fails to yield the
 20 right-of-way as prescribed by this section is guilty of a
 21 misdemeanor."

22 Section 11. Section 77-2106, R.C.M. 1947, is amended
 23 to read as follows:

24 "77-2106. Trespassers and disturbers may be ~~placed in~~
 25 ~~arrest~~ arrested. (1) The commanding officer may arrest or

1 authorize the arrest of a person who trespasses upon a camp
2 or parade ground, armory, arsenal, rifle range, or any other
3 place devoted to or used for military purposes.

4 (2) The commanding officer may arrest a person who
5 interrupts, molests, or disturbs the orderly discharge of
6 duty by those under arms, disturbs or prevents the passage
7 of troops going to or returning from any duty, or assaults a
8 member of the uniformed militia while that member is
9 performing any military duty.

10 (3) A person who is arrested under this section shall
11 be transferred to the civil authorities in the county where
12 the offense was committed.

13 (4) A person ~~violating this section~~ committing an
14 offense for which an arrest may be made pursuant to this
15 section is guilty of a misdemeanor."

16 Section 12. Section 77-2305, R.C.M. 1947, is amended
17 to read as follows:

18 "77-2305. Duties of department of military affairs.
19 The department shall:

20 (1) ~~prepare~~ prepare a comprehensive plan and program
21 for the civil defense of this state. This plan and program
22 shall be integrated into and coordinated with the civil
23 defense plans of the federal government, other states, and
24 Canada, to the fullest possible extent, ~~and to~~

25 (2) coordinate the preparation of plans and programs

1 for civil defense by the political subdivisions of this
2 state;

3 ~~(2)(3)~~ Sponsor sponsor and develop mutual aid plans
4 and agreements between the political subdivisions of the
5 state, similar to the ~~mutual-aid~~ mutual aid arrangements
6 with other states referred to above;

7 ~~(3)(4)~~ It is in accordance with the plan and program for
8 the civil defense of this state;

9 (a) ascertain the requirements of the state or ~~the its~~
10 political subdivisions ~~thereof~~ for food, ~~or~~ clothing, or
11 other necessities of life in the event of attack and plan
12 for the procurement of supplies, medicine, materials, and
13 equipment that may be necessary;

14 (b) ~~It shall~~ make surveys of the industries,
15 resources, and facilities within the state as are necessary
16 to carry out the purposes of this act;

17 (c) ~~It shall~~ institute training programs and public
18 information programs; and

19 (d) take all other preparatory steps, including the
20 partial or full mobilizations of civil defense organizations
21 in advance of actual disaster, to insure the furnishing of
22 adequately trained and equipped forces of civil defense
23 personnel in time of need."

24 Section 13. Section 77-2306, R.C.M. 1947, is amended
25 to read as follows:

1 "77-2306. ~~Mutual-aid arrangements~~ Arrangements for
 2 mutual aid. (1) The director of each local organization of
 3 civil defense may develop or cause to be developed
 4 ~~mutual-aid mutual aid~~ mutual aid arrangements, with other public and
 5 private agencies within this state for reciprocal civil
 6 defense aid and assistance in case of disaster too great to
 7 be dealt with unassisted. These arrangements shall be
 8 consistent with the state civil defense plan and program,
 9 ~~and in~~ In time of emergency, each local organization for
 10 civil defense shall render assistance in accordance with the
 11 provisions of the ~~mutual-aid mutual aid~~ mutual aid arrangements.

12 (2) The director of each local organization for civil
 13 defense may assist in negotiation of reciprocal ~~mutual-aid~~
 14 mutual aid agreements between the governor and the adjoining
 15 states (including foreign states or provinces) or political
 16 subdivisions thereof, and shall carry out arrangements ~~or of~~
 17 any such agreements ~~or any such agreement~~ relating to the
 18 local and political subdivision."

19 Section 14. Section 77-2404, R.C.M. 1947, is amended
 20 to read as follows:

21 "77-2404. Proclamation of emergency ~~governor's~~
 22 ~~powers during emergency~~. (1) Following an attack, the
 23 governor, if he finds such action necessary to deal with the
 24 danger to the public safety caused thereby or to aid in the
 25 ~~post-attack postattack~~ postattack recovery or rehabilitation of the

1 United States or any part thereof, shall declare by
 2 proclamation the existence of a ~~post-attack~~ postattack
 3 recovery and rehabilitation emergency. Any such proclamation
 4 shall be ineffectual, unless the legislature is then in
 5 session or the governor simultaneously issues an order
 6 convening the legislature in special session within
 7 ~~forty-five (45)~~ days.

8 (2) During the period when the proclamation issued
 9 under subsection (1) of this section is in force, or during
 10 the continuance of any emergency declared by the president
 11 of the United States or the congress calling for ~~post-attack~~
 12 postattack recovery and rehabilitation activities, subject
 13 to the limitations set forth in this chapter, and in a
 14 manner consistent with any rules, ~~regulations~~, or orders and
 15 policy guidance issued by the federal government, the
 16 governor may issue, amend, and enforce rules, ~~regulations~~,
 17 and orders to:

18 (a) ~~Control~~ control, restrict, and regulate by
 19 rationing, freezing, use of quotas, prohibitions on
 20 shipments, price fixing, allocation, or other means, the
 21 use, sale, or distribution of food, feed, fuel, clothing,
 22 and other commodities, materials, goods, or services;

23 (b) ~~Prescribe~~ prescribe and direct activities in
 24 connection with but not limited to use, conservation,
 25 salvage, and prevention of waste of materials, services, and

1 facilities, including production, transportation, power, and
 2 communication facilities, training and supply of labor,
 3 utilization of industrial plants, health and medical care,
 4 nutrition, housing, including the use of existing and
 5 private facilities, rehabilitation, education, welfare,
 6 child care, recreation, consumer protection, and other
 7 essential civil needs; and

8 (c) ~~Take~~ take such other action as may be necessary
 9 for the management of resources following an attack.

10 (3) All rules, ~~regulations~~, and orders issued under
 11 authority conferred by this chapter have the effect of law
 12 during the continuance of a proclamation or declaration of
 13 emergency as contemplated by this section, when a copy of
 14 the rule, ~~regulation~~, or order is filed in the office of the
 15 secretary of state or, if issued by a local or area
 16 official, when filed in the office or offices of the county
 17 clerk and recorder. If, by reason of destruction or
 18 disruption attendant upon or resulting from attack, the
 19 filing requirements of this subsection cannot be met, public
 20 notice by such means as may be available shall be considered
 21 a complete and sufficient substitute. All existing laws,
 22 ordinances, rules, ~~regulations~~, and orders inconsistent with
 23 the provisions of this chapter, or any rule, ~~regulation~~ or
 24 order issued under the authority thereof, shall be
 25 inoperative during the period of time and to the extent such

1 inconsistency exists.

2 (4) Any authority exercised under a proclamation ~~or~~ of
 3 emergency contemplated by this section may be exercised with
 4 respect to the entire territory over which the governor or
 5 other official, as the case may be, has jurisdiction, or ~~as~~
 6 to any specified part thereof.

7 (5) The governor's power and authority to issue a
 8 proclamation following an attack shall be terminated by the
 9 passage of a joint resolution of the legislature or by
 10 declaration of the termination of the emergency by the
 11 president or by the congress, ~~however,~~ the proclamation
 12 shall terminate automatically ~~six~~ (6) months after issuance
 13 and a similar proclamation may not be issued unless
 14 concurrence is given thereto by a joint resolution of the
 15 legislature."

16 Section 15. Repealer. Section 77-2308, R.C.M. 1947, is
 17 repealed.

-End-

HOUSE MEMBERS

ROBERT L. MARKS
CHAIRMAN

FRANCIS BARDANOUVE

JACAR KVAALEN

PAT MC KITTRICK

ROSE WEBER
EXECUTIVE DIRECTOR

PAMELA DUENSING
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
SUPERVISOR, ALTER SYSTEM



Montana Legislative Council

State Capital

Helena, 59601

SENATE MEMBERS

NEIL J. LYNCH
VICE CHAIRMAN

GLEN DRAKE

CARROLL GRAHAM

FRANK HAZELBAKER

DIANA DOWLING
DIRECTOR, LEGAL SERVICES;
CODE COMMISSIONER

ROBERT PERSON
DIRECTOR, RESEARCH

LC0020

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 13

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO
MILITARY AFFAIRS AND CIVIL DEFENSE.

(this summary does not include discussion of routine form
or grammatical changes.)

Section 1. 53-106.10. Changes the word "automobile" to "motor vehicle" to be consistent with related code sections and to clearly indicate that a veteran is entitled to only one set of free plates, not perhaps one for an automobile, one for a truck, etc.

Section 2. 71-120. Where the words "expense of burial" appear, rewritten so as to clarify that the \$250 is maximum amount to be reimbursed for the expense of burial, not the maximum total expense allowed. Rewrote in part to correct grammatical errors and eliminate use of "shall" except where provision is mandatory.

Section 3. 75-8612 inserts word "and" in subsection (1) to correct grammatical error. Changed "greater university of Montana" to "Montana university system". Removed outdated exclusion from subsection (3).

Section 4. Delete preference for citizen over non-citizens for the reason that such provisions are unconstitutional. See Miranda v. Nelson, 413 U. S. 902.

Section 5. 77-604. Inserts the words "the county attorney" to correct grammatical error.

Section 6. 77-707. Substitutes "as" for "an" to correct obvious error.

Section 7. 77-1601. Adds definition of department to eliminate necessity of repeating "department of military affairs".

Section 8. 77-1606. Rearranges subsection (1) and adds word "or" to correct grammatical error, clarify who is covered and delete reference to selective service and duties related to the selective service act. That act has been repealed.

Section 9. 77-1705. Adds "for" to subsection (2)(a), adds "upon" to subsection (2)(b), adds "upon" to subsection (2)(c), adds "for" to subsection (2)(d), and adds "upon" to subsection (2)(e) to correct grammatical errors.

Section 10. 77-2102. In subsection (3) changes "violates" to "fails to yield the right-of-way as prescribed by" to clarify the nature of the violation.

Section 11. 77-2106. In subsection (4) changes "violating this section" to "committing an offense for which an arrest may be made pursuant to this section" since no actions were specifically proscribed by section as it was.

Section 12. In subsection (1) deletes "and to" to clarify that the last phrase refers to a duty of the department and is not a part of the "plan and program".

Section 13. 77-2306. Changes "or" to "of" to correct typographical error.

Section 14. 77-2404. Changes "or" to "of" to correct typographical error.

Section 15. 77-2308. Repeal. Provides the state and its political subdivisions with immunity from liability for damage. Section was passed prior to 1972 Constitution. Immunity provision of Art. II, Sec. 18 renders section unconstitutional.

Approved by Committee
on State Administration

1 SENATE BILL NO. 13

2 INTRODUCED BY BLAYLOCK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION AND CLARIFICATION OF LAWS RELATING TO MILITARY
6 AFFAIRS AND CIVIL DEFENSE; AMENDING SECTIONS 53-106.10,
7 71-120, 75-8612, 77-501, 77-604, 77-707, 77-1601, 77-1606,
8 77-1705, 77-2102, 77-2106, 77-2305, 77-2306, AND 77-2404,
9 R.C.M. 1947; AND REPEALING SECTION 77-2308, R.C.M. 1947."

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

12 Section 1. Section 53-106.10, R.C.M. 1947, is amended
13 to read as follows:

14 "53-106.10. Veterans' ~~free plates limited to one~~
15 automobile Disabled veteran -- license plates. No disabled
16 veteran ~~shall be~~ is entitled to free license plates for more
17 than one ~~automobile~~ motor vehicle."

18 Section 2. Section 71-120, R.C.M. 1947, is amended to
19 read as follows:

20 "71-120. Burial of ~~deceased~~ allowance for military
21 ~~service-men servicemen~~ and ~~women servicewomen~~. (1) It ~~shall~~
22 ~~be the duty of the~~ The board of commissioners of each county
23 in this state to shall designate ~~some proper~~ a person in the
24 county, ~~who shall be known~~ preferably an honorably
25 discharged serviceman or servicewoman, as veterans' burial

1 ~~supervisor, preferably an honorably discharged service man~~
2 ~~or woman whose duty it shall be to~~

3 ~~(2) The veterans' burial supervisor shall~~ cause to be
4 decently interred the body of any ~~honorably discharged~~
5 ~~service-man serviceman~~ or ~~woman servicewoman~~, who is a
6 resident of the state of Montana shall have and either:

7 (a) served in any branch of the armed services of the
8 United States, was honorably discharged, and who may
9 hereafter die or any service man or woman who;

10 (b) is now serving and dies while so serving;

11 (c) died while in service during any declared or
12 undeclared war; or

13 (d) is a resident of the Montana veterans' home; who
14 may hereafter die at time of death.

15 (3) Such burial shall not be made in any burial
16 grounds or cemetery, or in any portion of any burial grounds
17 or cemetery, used exclusively for the burial of pauper dead.

18 ~~(2)(4) The expense of burial shall be two hundred~~
19 ~~fifty dollars (\$250), to be~~ A sum not to exceed \$250 to
20 defer burial expense shall be paid by the county
21 commissioners of the county in which the deceased was an
22 actual bona fide resident at the time of death.

23 ~~(3)(5) The benefits hereof shall not be~~ are not
24 available in the case of any decedent whose executor,
25 administrator, or heirs waive the benefits.

1 ~~{4}{6}~~ That the expense of each ~~Whenever~~ burial is of
 2 a resident of the Montana veterans' home, shall not exceed
 3 ~~the sum of two hundred fifty dollars (\$250) or to a sum not to~~
 4 ~~exceed \$250 to defer burial expenses shall~~ be paid by the
 5 county commissioners of the county in which the deceased
 6 person resided prior to admittance to the Montana veterans'
 7 home.

8 ~~{5}{7}~~ In the event any such honorably discharged
 9 person, male or female who shall have served in the armed
 10 services of the United States and who is a resident of the
 11 state of Montana shall die if a person qualified under
 12 subsection (2)(a) dies while temporarily absent from the
 13 state or county of residence, then the provisions of this
 14 ~~act shall~~ section apply and the burial expenses not
 15 exceeding the amount herein specified shall be paid in the
 16 same manner as above provided.

17 ~~{6}{8}~~ Whenever any such honorably discharged person
 18 ~~male or female hereinbefore described shall die~~ a person
 19 qualified under subsection (2)(a) dies at any public
 20 institution of the state of Montana, other than the state
 21 Montana veterans' home, and burial for any cause shall is
 22 not be made in the county of the former residence of the
 23 deceased, the officers of ~~said the~~ state institution ~~as~~
 24 ~~afore said~~ shall provide the proper burial herein prescribed
 25 ~~except that the~~ The reimbursement for the expense of each

1 burial shall may not exceed \$250 ~~the sum herein allowed~~
 2 ~~which~~ The expense shall be paid by the county in which the
 3 decedent resided at the time of entry into such
 4 institution.

5 ~~{9}~~ ~~but no~~ No such burial shall may be covered by any
 6 special or standing contract whereby the cost of burial is
 7 reduced below the maximum hereinbefore fixed, to the
 8 disparagement of proper interment."

9 Section 3. Section 75-8612, R.C.M. 1947, is amended to
 10 read as follows:

11 ~~"75-8612. War orphans' attendance to be without fees~~
 12 ~~Fee waiver -- children of prisoners of war and persons~~
 13 ~~killed in action.~~ (1) The board of regents of higher
 14 education may waive the charges for the matriculation,
 15 tuition, and any educational fees at any of the units of
 16 the Montana university system for the children ~~of~~ members
 17 of the armed forces of the United States who:

18 (a) served on active duty during World War II or the
 19 Korean or Vietnam conflicts; ~~and who at the time of entry~~
 20 ~~into the service;~~

21 (b) had legal residence in this state at the time of
 22 entry into the service; and

23 (c) ~~and who were heretofore or shall hereafter be~~
 24 either are killed in action or ~~shall have died~~ die as a
 25 result of injury, disease, or other disability incurred

1 while in the service of the armed forces of the United
 2 States) ~~who attend any of the units of the greater~~
 3 ~~university of Montana.~~

4 (2) The educational assistance to which an eligible
 5 person is entitled to under this act section may be afforded
 6 him during the period beginning on his ~~eighteenth (18)~~ 18th
 7 birthday, or on the successful completion of his secondary
 8 schooling, whichever first occurs, and ending on his
 9 ~~twenty-third (23)~~ 23rd birthday.

10 (3) If he serves on duty with the armed forces as an
 11 eligible person after his ~~eighteenth (18)~~ 18th birthday but
 12 before his ~~twenty-third (23)~~ 23rd birthday, then the period
 13 ~~shall end five (5)~~ ends 5 years after his first discharge or
 14 release from duty with the armed forces ~~excluding from the~~
 15 ~~five (5) years at periods during which the eligible person~~
 16 ~~served on active duty before August 14, 1963, pursuant to (a)~~
 17 ~~or call or order thereto issued to him as a reserve after~~
 18 ~~July 30, 1961, or (b) an extension of an enlistment~~
 19 ~~appointment or period of duty with the armed forces under~~
 20 ~~the laws of the United States. This period may not be~~
 21 extended beyond his ~~thirty-first (31)~~ 31st birthday by
 22 reason of this paragraph subsection.

23 (4) The board of regents of higher education ~~shall~~
 24 ~~have the authority to~~ may waive the charges for the
 25 matriculation, tuition, ~~any~~ and all educational fees for the

1 spouse and children of any person who is a resident of
 2 Montana and who, either while serving in the armed forces of
 3 the United States, ~~is~~ was declared by the secretary of
 4 defense of the United States to be a prisoner of war or
 5 missing in action in connection with the conflict in
 6 Southeast Asia after January 1, 1961, or while serving the
 7 United States in a civilian capacity ~~is~~ was declared by the
 8 secretary of state of the United States to be missing or
 9 captured in connection with the conflict in Southeast Asia
 10 after the same date.

11 (5) Any person who is eligible for the waiver of
 12 tuition and fees, upon being accepted for enrollment in any
 13 state-supported institution of higher education or
 14 state-supported technical or vocational school, shall
 15 continue to be eligible for such waiver until the completion
 16 of the bachelor of arts or equivalent degree, or
 17 certification of completion, as long as he remains enrolled
 18 in good standing at the school or institution. Any eligible
 19 person ~~shall~~ may not be disqualified by either the return of
 20 the prisoner of war or person missing in action, or the
 21 reported death of the person."

22 Section 4. Section 77-501, R.C.M. 1947, is amended to
 23 read as follows:

24 "77-501. Purpose of act -- definitions -- preference.
 25 111 The purpose of this act section is to provide for

1 preference of veterans, their unremarried surviving spouses,
2 and dependents, and certain disabled civilians in
3 appointment and employment in every public department and
4 upon all public works of the state of Montana and of any
5 county and city thereof.

6 ~~(1)(2) Definitions. For purposes of this section, the~~
7 ~~following definitions apply:~~

8 ~~(a) The term "veterans" as herein used, means men and~~
9 ~~women persons who served in the armed forces of the United~~
10 ~~States and who have been separated from such service upon~~
11 ~~conditions other than dishonorably in time of war or~~
12 ~~declared national emergency as follows, and who have been~~
13 ~~separated from service upon conditions other than~~
14 ~~dishonorable: the Civil War; the Spanish American War; the~~
15 ~~Philippine Insurrection; World War I, between April 6, 1917,~~
16 ~~and November 11, 1918, both dates inclusive; World War II,~~
17 ~~which term means such service between September 16, 1940,~~
18 ~~and December 31, 1946, both dates inclusive; the Korean War,~~
19 ~~military expedition, or police action, between June 26,~~
20 ~~1950, and January 31, 1955, both dates inclusive; and those~~
21 ~~honorably discharged veterans or who have served on active~~
22 ~~military duty for more than one hundred eighty (180) days~~
23 ~~after January 31, 1955, or who were discharged or released~~
24 ~~because of a service-connected disability, including, but~~
25 ~~not limited to, those veterans serving because of the~~

1 Vietnam Conflict conflict.

2 ~~(b) The term "war or declared national emergency"~~
3 ~~includes:~~

4 ~~(i) the Civil War;~~

5 ~~(ii) the Spanish American War;~~

6 ~~(iii) the Philippine Insurrection;~~

7 ~~(iv) World War I, between April 6, 1917, and November~~
8 ~~11, 1918, both dates inclusive;~~

9 ~~(v) World War II, between September 16, 1940, and~~
10 ~~December 31, 1946, both dates inclusive; and~~

11 ~~(vi) the Korean War, military expedition, or police~~
12 ~~action, between June 26, 1950, and January 31, 1955, both~~
13 ~~dates inclusive.~~

14 ~~(b)(c) The term "surviving spouse" as herein used~~
15 ~~means an unremarried surviving spouses spouse of veterans a~~
16 ~~veteran.~~

17 ~~(c)(d) The word "per centum percent" means per centum~~
18 ~~percent of the total aggregate points of the examination~~
19 ~~hereinafter referred to.~~

20 ~~(2)(3) (a) Preference to appointment and employment.~~
21 ~~In every public department and upon all public works of the~~
22 ~~state of Montana and of any county or city thereof, the~~
23 ~~following shall be preferred for appointment and employment:~~
24 ~~veterans, their spouses and surviving spouses, and the other~~
25 ~~dependents of disabled veterans, and disabled civilians~~

1 recommended by the ~~state---rehabilitation---~~ ~~bureau~~
 2 ~~rehabilitative services division of the department of social~~
 3 ~~and rehabilitation services.~~

4 ~~(b) Provided--that--age~~ Age, loss of limb, or other
 5 physical impairment which does not in fact incapacitate
 6 ~~shall does~~ not be deemed to disqualify any disabled veteran
 7 or ~~any-such-disabled~~ civilian provided he or she possesses
 8 the business capacity, competency, and education to
 9 discharge the duties of the position involved.

10 ~~(c) Provided-further-that-those~~ ~~Those~~ of the above
 11 described ~~above-described~~ veterans who have disabilities
 12 admitted by the veterans administration of the United States
 13 to have been incurred in service in any of ~~said the wars,~~ or
 14 military expeditions, or police ~~action actions,~~ where
 15 ~~whenever~~ such disabilities do not in fact incapacitate,
 16 shall be given preference in employment over other veterans.

17 ~~(3)(4) (a) Credit-for-examinations.~~ When written or
 18 oral examinations are required for employment ~~as-above~~
 19 described, disabled veterans and their spouses, their
 20 unmarried surviving spouses, and other dependents of
 21 ~~disabled-veterans,~~ shall have added to their examination
 22 ratings a credit of ten ~~10~~ points, ~~and-all~~ All other
 23 veterans, their spouses, unmarried surviving spouses, and
 24 dependents shall have added to their examination ratings a
 25 credit of five points, ~~provided-that~~

1 ~~(b) the~~ ~~The~~ fact that an applicant has claimed a
 2 veterans' credit ~~shall may~~ not be made known to the
 3 examiners until ratings of all applicants have been
 4 recorded, ~~after~~ after which such credits shall be added to the
 5 examination rating and the records shall show the
 6 examination rating and the veteran's credit, ~~provided~~
 7 ~~further-that~~

8 ~~(c) the~~ ~~The~~ benefits of this subsection are in
 9 addition to and not in derogation of the preference in
 10 appointment and/or employment ~~or both~~ given by subsection
 11 (2) hereof.

12 ~~(4)(5) (a) Eligibility.~~ ~~That-none None~~ of the benefits
 13 of this ~~act section~~ shall accrue to any person who refused
 14 to serve on active duty in the military service to which
 15 attached, or to take up arms in the defense of the United
 16 States, ~~provided-however-that-no-person-not-a-citizen-of~~
 17 ~~the-United-States-shall-be-employed-by-any-state-city-or~~
 18 ~~county-officer-in-any-capacity-if-competent-American-labor~~
 19 ~~is-available-and-provided-further-that-no~~

20 ~~(b) No~~ No person who has not been a resident of Montana
 21 for at least one ~~(1)~~ year immediately preceding an
 22 appointment ~~shall-be is~~ entitled to such preference,
 23 ~~provided-further-that~~

24 ~~(c) for~~ For city or county employment, no preference
 25 will be granted unless ~~an~~ an applicant under this ~~act section~~

1 is also a resident of the city or town or county in which
2 employment is sought.

3 ~~{5}{6} Enforcement-of-preference~~ That any Any person
4 entitled to preference in this section who has applied for
5 any appointment or employment upon public works of the state
6 of Montana or of any county and city thereof, or in any
7 public department of ~~said the~~ state and who has been denied
8 ~~said~~ employment or appointment and feels that the spirit of
9 this ~~act~~ section has been violated and that such person is
10 in fact qualified physically and mentally and possesses
11 business capacity, competency, and education to discharge
12 the duties of the position applied for ~~shall have the right~~
13 to may petition by verified petition the district court of
14 the state of Montana in the county in which the work is to
15 be performed, setting The petition shall set forth the
16 facts of the application, qualifications, competency, and
17 such person's honorable discharge or other qualifications
18 warranting the applicant to preference under this ~~act~~
19 section, ~~and upon~~ Upon filing of such petition, any judge in
20 ~~said the~~ court shall forthwith issue an order to show cause
21 to the appointing authority directing ~~said the~~ appointing
22 authority to appear in ~~said the~~ court at a specified time
23 and place, not less than ~~five (5) nor or~~ more than ~~ten (10)~~
24 days after the filing of ~~said the~~ verified petition, to show
25 cause, if any exists, why ~~said the~~ veteran or person

1 entitled to preference should not be employed by such ~~the~~
2 appointing authority, ~~and that said the~~ district court shall
3 have has jurisdiction upon the proper showings to issue its
4 order directing and ordering ~~said the~~ appointing authority
5 to comply with this law in giving the preference herein
6 provided for."

7 Section 5. Section 77-604, R.C.M. 1947, is amended to
8 read as follows:

9 "77-604. ~~Procedure for enforcement of right~~
10 Enforcement procedure. In case any private employer refuses
11 to re-employ reemploy any person entitled to re-employment
12 reemployment under the provisions of ~~this act 77-601 through~~
13 77-604, the district court of the ~~judicial~~ judicial district
14 in which such private employer maintains his place of
15 business ~~shall have~~ has power, upon the filing of a motion,
16 petition, or other appropriate pleading by the person
17 entitled to such benefits, to specifically require such
18 employer to comply with ~~this act 77-601 through 77-604~~, and,
19 as an incident thereto, to compensate such person for any
20 loss of wages or benefits suffered by such employer's
21 unlawful action. Upon application to the county attorney of
22 the county in which such private employer maintains a place
23 of business, by any person claiming to be entitled to
24 redress under ~~this act, 77-601 through 77-604, the county~~
25 attorney shall appear and act as attorney for such person in

1 the amicable settlement of the claim or in the filing of any
2 motion, petition, or other appropriate pleading to
3 specifically require such employer to comply with such
4 provisions. No fees or court costs shall may be taxed
5 against the person applying for such benefits."

6 Section 6. Section 77-707, R.C.M. 1947, is amended to
7 read as follows:

8 "~~77-707. Appointment--of--"acting"--officers:~~ Acting
9 officer -- how appointed. The governor, in the case of
10 district judges and officers elected from the state at
11 large, and the board of county commissioners, in the case of
12 members of either house of the ~~legislative--assembly~~
13 legislature and county, township, or district officers
14 elected from such county, shall appoint ~~as an~~ "acting"
15 officer to temporarily replace any elected officer,
16 designated in ~~paragraph (b) of section 77-701(b),~~ who shall
17 ~~enter~~ enters military service in the manner set forth in
18 ~~section 77-701.~~ "Acting" officers so appointed shall be
19 appointed for a period not to exceed the unexpired term of
20 the officer whose duties he assumes, and such appointment
21 shall be subject to the right ~~hereinbefore-set-forth~~ of the
22 elected officer to the restoration of his position."

23 Section 7. Section 77-1601, R.C.M. 1947, is amended to
24 read as follows:

25 "~~77-1601. Definitions.~~ Unless the context requires

1 otherwise, in ~~title 77~~ this title:

2 (1) "Militia" means all the military forces of this
3 state, whether organized or active or inactive.

4 (2) "National guard" means the army national guard and
5 the air national guard.

6 (3) "Officer" means commissioned or warrant officer.

7 (4) "~~Department~~" means department of military
8 affairs."

9 Section 8. Section 77-1606, R.C.M. 1947, is amended to
10 read as follows:

11 "~~77-1606. Powers and duties of department of military~~
12 affairs. Under the direction of the governor, the department
13 ~~of--military--affairs--provided-for-in-title-82A, chapter-14~~
14 shall:

15 (1) ~~Keep~~ keep a roster of all ~~officers and enlisted~~
16 persons of the militia of this state whether active,
17 inactive, ~~or retired officers and enlisted--persons--of--the~~
18 militia of this state;

19 (2) ~~Supervise~~ supervise, administer, and co-ordinate
20 coordinate civil defense and disaster control activities;

21 (3) Recruit recruit, mobilize, administer, train,
22 discipline, equip, and supply the organized militia;

23 (4) Maintain maintain the archives, and keep the
24 records and documents required, by law or regulation, to be
25 filed with the United States department of defense;

1 ~~{5}--Supervisey---administery---and---coordinate---the~~
2 ~~activities-of-the-selective-service-system--for--which--the~~
3 ~~governor-is-responsible;~~

4 {6}{15} Establish establish and maintain the
5 headquarters required for the militia;

6 {7}{16} Exercise exercise the powers vested in itv and
7 perform any other duty and function required of it by the
8 governory and by federal and state laws and regulations."

9 Section 9. Section 77-1705, R.C.M. 1947, is amended to
10 read as follows:

11 "77-1705. Vacating commissions or warrants. The
12 commission or warrant of an officer shall be vacated:

13 (1) Upon upon acceptance by the governor of the
14 resignation of the officer; or

15 (2) By by an order of the governor discharging the
16 officer for:

17 (a) Failure for failure to maintain his qualifications
18 for federal recognition;

19 (b) The upon the scheduled or actual termination or
20 withdrawal of his federal recognition where federal
21 recognition is a prerequisite for continued service;

22 (c) ★ upon a change in federal reserve status which
23 makes him ineligible to continue assigned to a unit of the
24 organized militia;

25 (d) His for his absence from duty without leave for

1 more than three-~~{3}~~ months; or

2 (e) Under upon the recommendation of a board of
3 examination or the sentence of a ~~court--martial~~
4 court-martial."

5 Section 10. Section 77-2102, R.C.M. 1947, is amended
6 to read as follows:

7 "77-2102. ~~Right--of--way~~ Right-of-way while performing
8 military duty. (1) The commanding officer of a unit of the
9 organized militia parading or performing any military duty
10 in a street or highway may require all persons on the street
11 or highway to yield the ~~right-of-way~~ right-of-way to troops.
12 Motor vehicles traveling in military convoy shall be
13 accorded the ~~right--of--way~~ right-of-way on all streets and
14 highways.

15 (2) The exercise of the ~~right--of--way~~ right-of-way
16 provided for in this section may not interfere with the
17 carriage of the United States mail, or with the progress of
18 an ambulance, or members of a police or fire department.

19 (3) A person who ~~violates~~ fails to yield the
20 right-of-way as prescribed by this section is guilty of a
21 misdemeanor."

22 Section 11. Section 77-2106, R.C.M. 1947, is amended
23 to read as follows:

24 "77-2106. Trespassers and disturbers may be placed--in
25 ~~arrest~~ arrested. (1) The commanding officer may arrest or

1 authorize the arrest of a person who trespasses upon a camp
2 or parade ground, armory, arsenal, rifle range, or any other
3 place devoted to or used for military purposes.

4 (2) The commanding officer may arrest a person who
5 interrupts, molests, or disturbs the orderly discharge of
6 duty by those under arms, disturbs or prevents the passage
7 of troops going to or returning from any duty, or assaults a
8 member of the uniformed militia while that member is
9 performing any military duty.

10 (3) A person who is arrested under this section shall
11 be transferred to the civil authorities in the county where
12 the offense was committed.

13 (4) A person ~~violating this section committing an~~
14 ~~offense for which an arrest may be made pursuant to this~~
15 ~~section~~ is guilty of a misdemeanor."

16 Section 12. Section 77-2305, R.C.M. 1947, is amended
17 to read as follows:

18 "77-2305. Duties of department of military affairs.
19 The department shall:

20 (1) ~~Prepare~~ prepare a comprehensive plan and program
21 for the civil defense of this state. This plan and program
22 shall be integrated into and coordinated with the civil
23 defense plans of the federal government, other states, and
24 Canada, to the fullest possible extent, ~~and to~~

25 (2) coordinate the preparation of plans and programs

1 for civil defense by the political subdivisions of this
2 state;

3 ~~(2)(3)~~ Sponsor sponsor and develop mutual aid plans
4 and agreements between the political subdivisions of the
5 state, similar to the ~~mutual-aid~~ mutual aid arrangements
6 with other states referred to above;

7 ~~(3)(4)~~ in accordance with the plan and program for
8 the civil defense of this state;

9 (a) ascertain the requirements of the state or ~~the its~~
10 political subdivisions thereof for food, or clothing, or
11 other necessities of life in the event of attack and plan
12 for the procurement of supplies, medicine, materials, and
13 equipment that may be necessary;

14 (b) ~~it shall~~ make surveys of the industries,
15 resources, and facilities within the state as are necessary
16 to carry out the purposes of this act;

17 (c) ~~it shall~~ institute training programs and public
18 information programs; and

19 (d) take all other preparatory steps, including the
20 partial or full mobilizations of civil defense organizations
21 in advance of actual disaster, to insure the furnishing of
22 adequately trained and equipped forces of civil defense
23 personnel in time of need."

24 Section 13. Section 77-2306, R.C.M. 1947, is amended
25 to read as follows:

1 "77-2306. ~~Mutual-aid~~---arrangements Arrangements for
2 mutual aid. (1) The director of each local organization of
3 civil defense may develop or cause to be developed
4 ~~mutual-aid mutual aid~~ arrangements, with other public and
5 private agencies within this state for reciprocal civil
6 defense aid and assistance in case of disaster too great to
7 be dealt with unassisted. These arrangements shall be
8 consistent with the state civil defense plan and programs,
9 ~~and--in~~ In time of emergency, each local organization for
10 civil defense shall render assistance in accordance with the
11 provisions of the ~~mutual-aid mutual aid~~ arrangements.

12 (2) The director of each local organization for civil
13 defense may assist in negotiation of reciprocal ~~mutual-aid~~
14 mutual aid agreements between the governor and the adjoining
15 states (including foreign states or provinces) or political
16 subdivisions thereof, and shall carry out arrangements ~~or of~~
17 any such agreements ~~or--any--such--agreement~~ relating to the
18 local and political subdivision."

19 Section 14. Section 77-2404, R.C.M. 1947, is amended
20 to read as follows:

21 "77-2404. Proclamation of emergency---~~governor's~~
22 ~~powers-during--emergency~~. (1) Following an attack, the
23 governor, if he finds such action necessary to deal with the
24 danger to the public safety caused thereby or to aid in the
25 ~~post-attack~~ postattack recovery or rehabilitation of the

1 United States or any part thereof, shall declare by
2 proclamation the existence of a ~~post-attack~~ postattack
3 recovery and rehabilitation emergency. Any such proclamation
4 shall be ineffectual, unless the legislature is then in
5 session or the governor simultaneously issues an order
6 convening the legislature in special session within
7 ~~forty-five-(45)~~ days.

8 (2) During the period when the proclamation issued
9 under subsection (1) of this section is in force, or during
10 the continuance of any emergency declared by the president
11 of the United States or the congress calling for ~~post-attack~~
12 postattack recovery and rehabilitation activities, subject
13 to the limitations set forth in this chapter, and in a
14 manner consistent with any rules, ~~regulations~~, or orders and
15 policy guidance issued by the federal government, the
16 governor may issue, amend, and enforce rules, ~~regulations~~,
17 and orders to:

18 (a) ~~Control~~ control, restrict, and regulate by
19 rationing, freezing, use of quotas, prohibitions on
20 shipments, price fixing, allocation, or other means, the
21 use, sale, or distribution of food, feed, fuel, clothing,
22 and other commodities, materials, goods, or services;

23 (b) Prescribe prescribe and direct activities in
24 connection with but not limited to use, conservation,
25 salvage, and prevention of waste of materials, services, and

1 facilities, including production, transportation, power, and
 2 communication facilities, training and supply of labor,
 3 utilization of industrial plants, health and medical care,
 4 nutrition, housing, including the use of existing and
 5 private facilities, rehabilitation, education, welfare,
 6 child care, recreation, consumer protection, and other
 7 essential civil needs; and

8 (c) ~~Take take~~ such other action as may be necessary
 9 for the management of resources following an attack.

10 (3) All rules~~---regulations~~ and orders issued under
 11 authority conferred by this chapter have the effect of law
 12 during the continuance of a proclamation or declaration of
 13 emergency as contemplated by this section, when a copy of
 14 the rule~~---regulation~~ or order is filed in the office of the
 15 secretary of state or, if issued by a local or area
 16 official, when filed in the office or offices of the county
 17 clerk and recorder. If, by reason of destruction or
 18 disruption attendant upon or resulting from attack, the
 19 filing requirements of this subsection cannot be met, public
 20 notice by such means as may be available shall be considered
 21 a complete and sufficient substitute. All existing laws,
 22 ordinances, rules~~---regulations~~ and orders inconsistent with
 23 the provisions of this chapter or any rule~~---regulation~~ or
 24 order issued under the authority thereof shall be
 25 inoperative during the period of time and to the extent such

1 inconsistency exists.

2 (4) Any authority exercised under a proclamation ~~or of~~
 3 emergency contemplated by this section may be exercised with
 4 respect to the entire territory over which the governor or
 5 other official, as the case may be, has jurisdiction, or as
 6 to any specified part thereof.

7 (5) The governor's power and authority to issue a
 8 proclamation following an attack shall be terminated by the
 9 passage of a joint resolution of the legislature or by
 10 declaration of the termination of the emergency by the
 11 president or by the congress~~s~~, however, the proclamation
 12 shall terminate automatically ~~six-(6)~~ months after issuance
 13 and a similar proclamation may not be issued unless
 14 concurrence is given thereto by a joint resolution of the
 15 legislature.*

16 Section 15. Repealer. Section 77-2308, R.C.M. 1947, is
 17 repealed.

-End-

1 SENATE BILL NO. 13
2 INTRODUCED BY BLAYLOCK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION AND CLARIFICATION OF LAWS RELATING TO MILITARY
6 AFFAIRS AND CIVIL DEFENSE; AMENDING SECTIONS 53-106.10,
7 71-120, 75-8612, 77-501, 77-604, 77-707, 77-1601, 77-1606,
8 77-1705, 77-2102, 77-2106, 77-2305, 77-2306, AND 77-2404,
9 R.C.M. 1947; AND REPEALING SECTION 77-2308, R.C.M. 1947."

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

12 Section 1. Section 53-106.10, R.C.M. 1947, is amended
13 to read as follows:

14 "53-106.10. ~~Veterans' free plates limited to one~~
15 ~~automobile~~ Disabled veteran — license plates. No disabled
16 veteran shall be is entitled to free license plates for more
17 than one ~~automobile motor vehicle.~~"

18 Section 2. Section 71-120, R.C.M. 1947, is amended to
19 read as follows:

20 "71-120. Burial ~~of deceased~~ allowance for military
21 ~~service men servicemen~~ and ~~women servicewomen~~. (1) ~~It shall~~
22 ~~be the duty of the~~ The board of commissioners of each county
23 ~~in this state to shall~~ designate ~~some proper~~ a person in the
24 county, ~~who shall be known~~ preferably an honorably
25 discharged serviceman or servicewoman, as veterans' burial

1 supervisor, ~~preferably an honorably discharged service man~~
2 ~~or woman, whose duty it shall be to~~

3 (2) The veterans' burial supervisor shall cause to be
4 decently interred the body of any ~~honorably discharged~~
5 ~~service man serviceman~~ or ~~woman servicewoman,~~ who is a
6 resident of the state of Montana shall have and either:

7 (a) served in any branch of the armed services of the
8 United States, was honorably discharged, and who ~~may~~
9 ~~hereafter die or any service man or woman who;~~

10 (b) is now serving and dies while so serving;

11 (c) died while in service during any declared or
12 undeclared war, or

13 (d) is a resident of the Montana veterans' home, who
14 may hereafter die at time of death.

15 (3) Such burial shall not be made in any burial
16 grounds or cemetery, or in any portion of any burial grounds
17 or cemetery, used exclusively for the burial of pauper dead.

18 (4) ~~The expense of burial shall be two hundred~~
19 ~~fifty dollars (\$250), to be~~ a sum not to exceed \$250 to
20 defer burial expense shall be paid by the county
21 commissioners of the county in which the deceased was an
22 actual bona fide resident at the time of death.

23 (5) The benefits hereof ~~shall not be~~ are not
24 available in the case of any decedent whose executor,
25 administrator, or heirs waive the benefits.

There are no changes in SB 13, and due to length will not be rerun. Please refer to yellow copy for complete text.

THIRD READING

1 ~~(4)(6)~~ That the expense of each Whenever burial is of
 2 a resident of the Montana veterans' home, shall not exceed
 3 ~~the sum of two hundred fifty dollars (\$250), to a sum not to~~
 4 exceed \$250 to defer burial expenses shall be paid by the
 5 county commissioners of the county in which the deceased
 6 person resided prior to admittance to the Montana veterans'
 7 home.

8 ~~(5)(7)~~ In the event any such honorably discharged
 9 person, male or female, who shall have served in the armed
 10 services of the United States, and who is a resident of the
 11 state of Montana, shall die If a person qualified under
 12 subsection (2)(a) dies while temporarily absent from the
 13 state or county of residence, then the provisions of this
 14 ~~act shall~~ section apply, and the burial expenses not
 15 exceeding the amount herein specified shall be paid in the
 16 same manner as above provided.

17 ~~(6)(8)~~ Whenever any such honorably discharged person,
 18 male or female heretofore described shall die a person
 19 qualified under subsection (2)(a) dies at any public
 20 institution of the state of Montana, other than the state
 21 Montana veterans' home, and burial for any cause shall is
 22 not be made in the county of the former residence of the
 23 deceased, the officers of said the state institution, as
 24 ~~aforsaid,~~ shall provide the proper burial herein prescribed
 25 ~~except that the,~~ The reimbursement for the expense of each

1 burial shall may not exceed \$250 ~~the sum herein allowed,~~
 2 ~~which,~~ The expense shall be paid by the county in which the
 3 decedent resided at the time of entry into such
 4 institution.

5 ~~(9)~~ ~~but no~~ No such burial shall may be covered by any
 6 special or standing contract whereby the cost of burial is
 7 reduced below the maximum heretofore fixed, to the
 8 disparagement of proper interment."

9 Section 3. Section 75-8612, R.C.M. 1947, is amended to
 10 read as follows:

11 ~~"75-8612. Was orphans' attendance to be without fees.~~
 12 Fee waiver — children of prisoners of war and persons
 13 killed in action. (1) The board of regents of higher
 14 education may waive the charges for the matriculation,
 15 tuition, and any educational fees, at any of the units of
 16 the Montana university system for the children ~~of~~ members
 17 of the armed forces of the United States who:

18 (a) served on active duty during World War II or the
 19 Korean or Vietnam conflicts; ~~and who, at the time of entry~~
 20 ~~into the service,~~

21 (b) had legal residence in this state at the time of
 22 entry into the service; and

23 (c) ~~and who were heretofore, or shall hereafter be,~~
 24 ~~either are~~ killed in action or ~~shall have died die~~ as a
 25 result of injury, disease, or other disability incurred

1 SENATE BILL NO. 13

2 INTRODUCED BY BLAYLOCK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION AND CLARIFICATION OF LAWS RELATING TO MILITARY
6 AFFAIRS AND CIVIL DEFENSE; AMENDING SECTIONS 53-106.10,
7 71-120, 75-8612, 77-501, 77-604, 77-707, 77-1601, 77-1606,
8 77-1705, 77-2102, 77-2106, 77-2305, 77-2306, AND 77-2404,
9 R.C.M. 1947; AND REPEALING SECTION 77-2308, R.C.M. 1947."

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

12 Section 1. Section 53-106.10, R.C.M. 1947, is amended
13 to read as follows:

14 "53-106.10. Veterans' ~~free~~ ~~plates~~ ~~limited~~ ~~to~~ ~~one~~
15 automobile Disabled veteran -- license plates. No disabled
16 veteran ~~shall be~~ is entitled to free license plates for more
17 than one automobile motor vehicle."

18 Section 2. Section 71-120, R.C.M. 1947, is amended to
19 read as follows:

20 "71-120. Burial of ~~deceased~~ allowance for military
21 service-men servicemen and women servicewoman. (1) ~~it shall~~
22 ~~be the duty of the~~ the board of commissioners of each county
23 in this state ~~to shall~~ designate ~~some proper~~ a person in the
24 county, ~~who shall be known~~ preferably an honorably
25 discharged serviceman or servicewoman, as veterans' burial

REFERENCE BILL

1 ~~supervisor,~~ ~~preferably an honorably discharged service man~~
2 ~~or woman whose duty it shall be to~~

3 ~~(2) The veterans' burial supervisor shall~~ cause to be
4 decently interred the body of any ~~honorably discharged~~
5 ~~service man serviceman~~ or ~~woman servicewoman~~, who is a
6 resident of the state of Montana shall have and either:

7 (a) served in any branch of the armed services of the
8 United States, was honorably discharged, and who may
9 hereafter die or any service man or woman who;

10 (b) is now serving and dies while so serving;

11 (c) died while in service during any declared or
12 undeclared war; or

13 (d) is a resident of the Montana veterans' home; who
14 may hereafter die at time of death.

15 (3) Such burial shall not be made in any burial
16 grounds or cemetery, or in any portion of any burial grounds
17 or cemetery used exclusively for the burial of pauper dead.

18 ~~(4) The expense of burial shall be two hundred~~
19 ~~fifty dollars (\$250), to be~~ A sum not to exceed \$250 to
20 defer burial expense shall be paid by the county
21 commissioners of the county in which the deceased was an
22 actual bona fide resident at the time of death.

23 ~~(5) The benefits hereof shall not be~~ are not
24 available in the case of any decedent whose executor,
25 administrator, or heirs waive the benefits.

1 ~~(4)(b)~~ that the expense of each ~~Whenever~~ burial is of
 2 a resident of the Montana veterans' home, shall not exceed
 3 the sum of two hundred fifty dollars (~~\$250~~), to a sum not to
 4 exceed \$250 to defer burial expenses shall be paid by the
 5 county commissioners of the county in which the deceased
 6 person resided prior to admittance to the Montana veterans'
 7 home.

8 ~~(5)(1)~~ in the event any such honorably discharged
 9 person, male or female, who shall have served in the armed
 10 services of the United States and who is a resident of the
 11 state of Montana shall die If a person qualified under
 12 subsection (2)(a) dies while temporarily absent from the
 13 state or county of residence, then the provisions of this
 14 act shall section apply and the burial expenses not
 15 exceeding the amount herein specified shall be paid in the
 16 same manner as above provided.

17 ~~(6)(8)~~ Whenever ~~any such honorably discharged person~~
 18 ~~male or female hereinbefore described shall die~~ a PERSON
 19 qualified under subsection (2)(a) dies at any public
 20 institution of the state of Montana, other than the state
 21 Montana veterans' home, and burial for any cause shall be
 22 not be made in the county of the former residence of the
 23 deceased, the officers of ~~said the~~ state institution ~~as~~
 24 ~~above~~ shall provide the proper burial herein prescribed
 25 ~~except that the~~ the reimbursement for the expense of each

1 burial shall ~~may~~ not exceed ~~\$250~~ the sum herein allowed
 2 which the expense shall be paid by the county in which the
 3 decedent resided at the time of entry into such
 4 institution.

5 ~~(9)~~ but no ~~no~~ such burial shall ~~may~~ be covered by any
 6 special or standing contract whereby the cost of burial is
 7 reduced below the maximum hereinbefore fixed, to the
 8 disparagement of proper interment."

9 Section 3. Section 75-8612, R.C.M. 1947, is amended to
 10 read as follows:

11 "75-8612. War orphans' attendance to be without fees
 12 fee waiver -- children of prisoners of war and persons
 13 killed in action. (1) The board of regents of higher
 14 education may waive the charges for the matriculation,
 15 tuition, and any educational fees at any of the units of
 16 the Montana university system for the children ~~of~~ members
 17 of the armed forces of the United States who:

18 (a) served on active duty during World War II or the
 19 Korean or Vietnam conflicts; ~~and who, at the time of entry~~
 20 into the service;

21 (b) had legal residence in this state at the time of
 22 entry into the service; and

23 (c) ~~and who were heretofore or shall hereafter be~~
 24 either ~~are~~ killed in action or ~~shall have died~~ die as a
 25 result of injury, disease, or other disability incurred

1 while in the service of the armed forces of the United
2 States; ~~who attend any of the units of the greater~~
3 ~~university of Montana.~~

4 (2) The educational assistance to which an eligible
5 person is entitled to under this act ~~section~~ may be afforded
6 him during the period beginning on his ~~eighteenth (18)~~ 18th
7 birthday, or on the successful completion of his secondary
8 schooling, whichever first occurs, and ending on his
9 ~~twenty-third (23)~~ 23rd birthday.

10 (3) If he serves on duty with the armed forces as an
11 eligible person after his ~~eighteenth (18)~~ 18th birthday but
12 before his ~~twenty-third (23)~~ 23rd birthday, then the period
13 ~~shall end five (5) ends 5~~ years after his first discharge or
14 release from duty with the armed forces ~~excluding from the~~
15 ~~five (5) years of periods during which the eligible person~~
16 ~~served on active duty before August 1, 1963, pursuant to (a)~~
17 ~~a call or order thereto issued to him as a reserve after~~
18 ~~duty on 1961 or (b) an extension of an enlistment~~
19 ~~appointment or period of duty with the armed forces under~~
20 ~~the laws of the United States.~~ This period may not be
21 extended beyond his ~~thirty-first (31)~~ 31st birthday by
22 reason of this paragraph ~~subsection.~~

23 (4) The board of regents of higher education ~~shall~~
24 ~~have the authority to~~ may waive the charges for the
25 matriculation, tuition, any and all educational fees for the

1 spouse and children of any person who is a resident of
2 Montana and who, either while serving in the armed forces of
3 the United States, ~~is~~ was declared by the secretary of
4 defense of the United States to be a prisoner of war or
5 missing in action in connection with the conflict in
6 Southeast Asia after January 1, 1961, or while serving the
7 United States in a civilian capacity ~~is~~ was declared by the
8 secretary of state of the United States to be missing or
9 captured in connection with the conflict in Southeast Asia
10 after the same date.

11 (5) Any person who is eligible for the waiver of
12 tuition and fees, upon being accepted for enrollment in any
13 state-supported institution of higher education or
14 state-supported technical or vocational school, shall
15 continue to be eligible for such waiver until the completion
16 of the bachelor of arts or equivalent degree, or
17 certification of completion, as long as he remains enrolled
18 in good standing at the school or institution. Any eligible
19 person ~~shall~~ may not be disqualified by either the return of
20 the prisoner of war or person missing in action, or the
21 reported death of the person."

22 Section 4. Section 77-501, R.C.M. 1947, is amended to
23 read as follows:

24 "77-501. Purpose of act -- definitions -- preference.
25 (1) The purpose of this act ~~section~~ is to provide for

1 preference of veterans, their unremarried surviving spouses,
2 and dependents, and certain disabled civilians in
3 appointment and employment in every public department and
4 upon all public works of the state of Montana and of any
5 county and city thereof.

6 ~~(1)(2) Definitions for purposes of this section, the~~
7 ~~following definitions apply:~~

8 (a) The term "veterans" ~~as herein used~~ means ~~men and~~
9 ~~women persons~~ who served in the armed forces of the United
10 States ~~and who have been separated from such service upon~~
11 ~~conditions other than dishonorably~~ in time of war or
12 ~~declared national emergency as follows~~ and ~~who have been~~
13 ~~separated from service upon conditions other than~~
14 ~~dishonorable the Civil War; the Spanish American War; the~~
15 ~~Philippine insurrections; World War I, between April 6, 1917~~
16 ~~and November 11, 1918, both dates inclusive; World War II,~~
17 ~~which term means such service between September 16, 1940,~~
18 ~~and December 31, 1946, both dates inclusive; the Korean War,~~
19 ~~military expedition, or police action, between June 26,~~
20 ~~1950, and January 31, 1955, both dates inclusive; and those~~
21 ~~honorably discharged veterans or~~ who have served on active
22 military duty for more than ~~one hundred eighty (180)~~ days
23 after January 31, 1955, or who were discharged or released
24 because of a service-connected disability, including but
25 not limited to those veterans serving because of the

1 Vietnam ~~Conflict~~ conflict.

2 (b) ~~The term "war or declared national emergency"~~
3 ~~includes:~~

4 (i) ~~the Civil War;~~

5 (ii) ~~the Spanish American War;~~

6 (iii) ~~the Philippine insurrection;~~

7 (iv) ~~World War I, between April 6, 1917, and November~~
8 ~~11, 1918, both dates inclusive;~~

9 (v) ~~World War II, between September 16, 1940, and~~
10 ~~December 31, 1946, both dates inclusive; and~~

11 (vi) ~~the Korean War, military expedition, or police~~
12 ~~action, between June 26, 1950, and January 31, 1955, both~~
13 ~~dates inclusive.~~

14 (b)(c) The term "surviving spouse" ~~as herein used~~
15 means an unremarried surviving spouses ~~spouse~~ of veterans a
16 ~~veteran.~~

17 (c)(d) The word "per-centum percent" means ~~per-centum~~
18 ~~percent~~ of the total aggregate points of the examination
19 hereinafter referred to.

20 (2)(1) ~~(a) Preference to appointment and employment~~
21 ~~in every public department and upon all public works of the~~
22 ~~state of Montana and of any county or city thereof, the~~
23 ~~following shall be preferred for appointment and employment:~~
24 ~~veterans, their spouses and surviving spouses, and the other~~
25 ~~dependents of disabled veterans, and disabled civilians~~

1 recommended by the ~~state---rehabilitation---bureau~~
 2 rehabilitative services division of the department of social
 3 and rehabilitation services.

4 (b) ~~Provided--that--age~~ Age, loss of limb, or other
 5 physical impairment which does not in fact incapacitate
 6 ~~shall does~~ not be deemed to disqualify any disabled veteran
 7 or ~~any-such-disabled~~ civilian provided he or she possesses
 8 the business capacity, competency, and education to
 9 discharge the duties of the position involved.

10 (c) ~~Provided-further-that-those~~ Those of the above
 11 described ~~above-described~~ veterans who have disabilities
 12 admitted by the veterans administration of the United States
 13 to have been incurred in service in any of said ~~the~~ wars, or
 14 military expeditions, or police ~~action~~ actions, where
 15 ~~whenever~~ such disabilities do not in fact incapacitate,
 16 shall be given preference in employment over other veterans.

17 (3)(4) (a) ~~Credit-for-examinations~~ When written or
 18 oral examinations are required for employment ~~as-above~~
 19 described, disabled veterans and their spouses, their
 20 unmarried surviving spouses, and other dependents of
 21 ~~disabled-veterans~~ shall have added to their examination
 22 ratings a credit of ten ~~10~~ points, and ~~all~~ All other
 23 veterans, their spouses, unmarried surviving spouses, and
 24 dependents shall have added to their examination ratings a
 25 credit of five points, ~~provided-that~~

1 (b) ~~the~~ The fact that an applicant has claimed a
 2 veterans' credit ~~shall~~ may not be made known to the
 3 examiners until ratings of all applicants have been
 4 recorded, after which such credits shall be added to the
 5 examination rating and the records shall show the
 6 examination rating and the veteran's credit, ~~provided~~
 7 ~~further-that~~

8 (c) ~~the~~ The benefits of this subsection are in
 9 addition to and not in derogation of the preference in
 10 appointment and/or employment ~~or both~~ given by subsection
 11 (2) hereof.

12 (4)(5) (a) ~~Eligibility~~ ~~That-none~~ None of the benefits
 13 of this act ~~section~~ shall accrue to any person who refused
 14 to serve on active duty in the military service to which
 15 attached, or to take up arms in the defense of the United
 16 States, ~~provided-however-that-no-person-not-a-citizen-of~~
 17 ~~the-United-States-shall-be-employed-by-any-state-city-or~~
 18 ~~county-officer-in-any-capacity-if-competent-American-labor~~
 19 ~~is-available-and-provided-further-that-no~~

20 (b) No person who has not been a resident of Montana
 21 for at least one ~~(1)~~ year immediately preceding an
 22 appointment ~~shall~~ be entitled to such preference,
 23 ~~provided-further-that~~

24 (c) for ~~EQC~~ city or county employment, no preference
 25 will be granted unless an applicant under this act ~~section~~

1 is also a resident of the city or town or county in which
2 employment is sought.

3 ~~(b)~~ ~~(6)~~ ~~Enforcement-of-preference~~ That any ~~any~~ person
4 entitled to preference in this section who has applied for
5 any appointment or employment upon public works of the state
6 of Montana or of any county and city thereof or in any
7 public department of ~~said the~~ state and who has been denied
8 ~~said~~ employment or appointment and feels that the spirit of
9 this ~~act~~ section has been violated and that such person is
10 in fact qualified physically ~~and~~ mentally and possesses
11 business capacity, competency, and education to discharge
12 the duties of the position applied for, ~~shall have the right~~
13 ~~to~~ may petition by verified petition the district court of
14 the state of Montana in the county in which the work is to
15 be performed, ~~setting the petition shall set~~ forth the
16 facts of the application, qualifications, competency, and
17 such person's honorable discharge or other qualifications
18 warranting the applicant to preference under this ~~act~~
19 section, and upon ~~upon~~ filing of such petition, any judge in
20 ~~said the~~ court shall forthwith issue an order to show cause
21 to the appointing authority directing ~~said the~~ appointing
22 authority to appear in ~~said the~~ court at a specified time
23 and place, not less than ~~five~~ ~~(5)~~ ~~nor~~ ~~or~~ more than ~~ten~~ ~~(10)~~
24 days after the filing of ~~said the~~ verified petition, to show
25 cause, if any exists, why ~~said the~~ veteran or person

1 entitled to preference should not be employed by ~~such the~~
2 appointing authority, ~~and that said the~~ district court shall
3 ~~have~~ has jurisdiction upon the proper showings to issue its
4 order directing and ordering ~~said the~~ appointing authority
5 to comply with this law in giving the preference herein
6 provided for."

7 Section 5. Section 77-604, R.C.M. 1947, is amended to
8 read as follows:

9 "77-604. Procedure ~~for enforcement of right~~
10 Enforcement procedure. In case any private employer refuses
11 to ~~re-employ~~ reemploy any person entitled to ~~re-employment~~
12 reemployment under the provisions of ~~this act 77-601 through~~
13 77-604, the district court of the ~~judicial~~ judicial district
14 in which such private employer maintains his place of
15 business ~~shall have~~ has power, upon the filing of a motion,
16 petition, or other appropriate pleading by the person
17 entitled to such benefits, to specifically require such
18 employer to comply with ~~this act 77-601 through 77-604~~, and,
19 as an incident thereto, to compensate such person for any
20 loss of wages or benefits suffered by such employer's
21 unlawful action. Upon application to the county attorney of
22 the county in which such private employer maintains a place
23 of business by any person claiming to be entitled to
24 redress under ~~this act 77-601 through 77-604~~, the county
25 attorney shall appear and act as attorney for such person in

1 the available settlement of the claim or in the filing of any
 2 motion, petition, or other appropriate pleading to
 3 specifically require such employer to comply with such
 4 provisions. No fees or court costs shall may be taxed
 5 against the person applying for such benefits."

6 Section 6. Section 77-707, R.C.M. 1947, is amended to
 7 read as follows:

8 "~~77-707. Appointment of "acting" officers Acting~~
 9 ~~officer -- how appointed.~~ The governor, in the case of
 10 district judges and officers elected from the state at
 11 large, and the board of county commissioners, in the case of
 12 members of either house of the ~~legislative assembly~~
 13 legislature and county, township, or district officers
 14 elected from such county, shall appoint as an "acting"
 15 officer to temporarily replace any elected officer,
 16 designated in ~~paragraph (b) of section 77-701(b)~~, who shall
 17 ~~enter~~ enters military service in the manner set forth in
 18 ~~section 77-701.~~ "Acting" officers so appointed shall be
 19 appointed for a period not to exceed the unexpired term of
 20 the officer whose duties he assumes, and such appointment
 21 shall be subject to the right ~~hereinbefore set forth~~ of the
 22 elected officer to the restoration of his position."

23 Section 7. Section 77-1601, R.C.M. 1947, is amended to
 24 read as follows:

25 "77-1601. Definitions. Unless the context requires

1 otherwise, in ~~title 77~~ this title:

2 (1) "Militia" means all the military forces of this
 3 state, whether organized or active or inactive.

4 (2) "National guard" means the army national guard and
 5 the air national guard.

6 (3) "Officer" means commissioned or warrant officer.

7 (4) "~~Department~~" means department of military
 8 affairs."

9 Section 8. Section 77-1606, R.C.M. 1947, is amended to
 10 read as follows:

11 "77-1606. Powers and duties of department of military
 12 affairs. Under the direction of the governor, the department
 13 ~~of military affairs provided for in title 02A, chapter 14~~
 14 shall:

15 (1) ~~Keep~~ keep a roster of all officers and enlisted
 16 persons of the militia of this state whether active,
 17 inactive, or retired ~~officers and enlisted persons of the~~
 18 ~~militia of this state;~~

19 (2) ~~Supervise~~ supervise, administer, and co-ordinate
 20 coordinate civil defense and disaster control activities;

21 (3) Recruit ~~recruit~~, mobilize, administer, train,
 22 discipline, equip, and supply the organized militia;

23 (4) ~~Maintain~~ maintain the archives, and keep the
 24 records and documents required by law or regulation to be
 25 filed with the United States department of defense;

~~(5) Supervise, administer and coordinate the activities of the selective service system for which the governor is responsible~~

~~(6)(5) Establish~~ establish and maintain the headquarters required for the militia;

~~(7)(6) Exercise~~ exercise the powers vested in it and perform any other duty and function required of it by the governor and by federal and state laws and regulations."

Section 9. Section 77-1705, R.C.M. 1947, is amended to read as follows:

"77-1705. Vacating commissions or warrants. The commission or warrant of an officer shall be vacated:

(1) Upon upon acceptance by the governor of the resignation of the officer; or

(2) By ~~by~~ an order of the governor discharging the officer for:

(a) ~~Failure for~~ failure to maintain his qualifications for federal recognition;

(b) ~~The~~ upon the scheduled or actual termination or withdrawal of his federal recognition where federal recognition is a prerequisite for continued service;

(c) ~~A~~ upon a change in federal reserve status which makes him ineligible to continue assigned to a unit of the organized militia;

(d) ~~His~~ for his absence from duty without leave for

more than ~~three~~(3) months; or

(e) Under upon the recommendation of a board of examination or the sentence of a ~~court~~ martial court-martial."

Section 10. Section 77-2102, R.C.M. 1947, is amended to read as follows:

"77-2102. ~~Right-of-way~~ Right-of-way while performing military duty. (1) The commanding officer of a unit of the organized militia parading or performing any military duty in a street or highway may require all persons on the street or highway to yield the ~~right-of-way~~ right-of-way to troops. Motor vehicles traveling in military convoy shall be accorded the ~~right-of-way~~ right-of-way on all streets and highways.

(2) The exercise of the ~~right-of-way~~ right-of-way provided for in this section may not interfere with the carriage of the United States mail or with the progress of an ambulance or members of a police or fire department.

(3) A person who ~~violates~~ fails to yield the ~~right-of-way as prescribed by~~ this section is guilty of a misdemeanor."

Section 11. Section 77-2106, R.C.M. 1947, is amended to read as follows:

"77-2106. Trespassers and disturbers may be ~~placed in~~ arrest ~~arrested~~. (1) The commanding officer may arrest or

1 authorize the arrest of a person who trespasses upon a camp
2 or parade ground, armory, arsenal, rifle range, or any other
3 place devoted to or used for military purposes.

4 (2) The commanding officer may arrest a person who
5 interrupts, molests, or disturbs the orderly discharge of
6 duty by those under arms, disturbs or prevents the passage
7 of troops going to or returning from any duty, or assaults a
8 member of the uniformed militia while that member is
9 performing any military duty.

10 (3) A person who is arrested under this section shall
11 be transferred to the civil authorities in the county where
12 the offense was committed.

13 (4) A person ~~violating this section~~ committing an
14 offense for which an arrest may be made pursuant to this
15 section is guilty of a misdemeanor."

16 Section 12. Section 77-2305, R.C.M. 1947, is amended
17 to read as follows:

18 "77-2305. Duties of department of military affairs.
19 The department shall:

20 (1) ~~Prepare~~ prepare a comprehensive plan and program
21 for the civil defense of this state. This plan and program
22 shall be integrated into and coordinated with the civil
23 defense plans of the federal government, other states, and
24 Canada to the fullest possible extent, ~~and to~~

25 (2) coordinate the preparation of plans and programs

1 for civil defense by the political subdivisions of this
2 state;

3 (2)(3) Sponsor ~~sponsor~~ and develop mutual aid plans
4 and agreements between the political subdivisions of the
5 state, similar to the ~~mutual-aid~~ mutual aid arrangements
6 with other states referred to above;

7 (3)(4) In accordance with the plan and program for
8 the civil defense of this state;

9 (a) ascertain the requirements of the state or the ~~its~~
10 political subdivisions ~~thereof~~ for food, or clothing, or
11 other necessities of life in the event of attack and plan
12 for the procurement of supplies, medicine, materials, and
13 equipment that may be necessary;

14 (b) ~~it shall~~ make surveys of the industries,
15 resources, and facilities within the state as are necessary
16 to carry out the purposes of this act;

17 (c) ~~it shall~~ institute training programs and public
18 information programs; and

19 (d) take all other preparatory steps, including the
20 partial or full mobilizations of civil defense organizations
21 in advance of actual disaster, to insure the furnishing of
22 adequately trained and equipped forces of civil defense
23 personnel in time of need."

24 Section 13. Section 77-2306, R.C.M. 1947, is amended
25 to read as follows:

1 ~~"77-2306. Mutual-aid---arrangements~~ Arrangements for
 2 mutual aid. (1) The director of each local organization of
 3 civil defense may develop or cause to be developed
 4 ~~mutual-aid mutual aid~~ arrangements, with other public and
 5 private agencies within this state for reciprocal civil
 6 defense aid and assistance in case of disaster too great to
 7 be dealt with unassisted. These arrangements shall be
 8 consistent with the state civil defense plan and programs,
 9 ~~and--in in~~ in time of emergency, each local organization for
 10 civil defense shall render assistance in accordance with the
 11 provisions of the ~~mutual-aid mutual aid~~ arrangements.

12 (2) The director of each local organization for civil
 13 defense may assist in negotiation of reciprocal ~~mutual-aid~~
 14 mutual aid agreements between the governor and the adjoining
 15 states (including foreign states or provinces) or political
 16 subdivisions thereof, and shall carry out arrangements ~~or of~~
 17 any such agreements ~~or-any-such-agreement~~ relating to the
 18 local and political subdivision."

19 Section 14. Section 77-2404, R.C.M. 1947, is amended
 20 to read as follows:

21 ~~"77-2404. Proclamation of emergency----governor's~~
 22 powers-during--emergency. (1) Following an attack, the
 23 governor, if he finds such action necessary to deal with the
 24 danger to the public safety caused thereby or to aid in the
 25 ~~post-attack postattack~~ recovery or rehabilitation of the

1 United States or any part thereof, shall declare by
 2 proclamation the existence of a ~~post-attack postattack~~
 3 recovery and rehabilitation emergency. Any such proclamation
 4 shall be ineffectual, unless the legislature is then in
 5 session or the governor simultaneously issues an order
 6 convening the legislature in special session within
 7 ~~forty-five-(45)~~ days.

8 (2) During the period when the proclamation issued
 9 under subsection (1) of this section is in force, or during
 10 the continuance of any emergency declared by the president
 11 of the United States or the congress calling for ~~post-attack~~
 12 postattack recovery and rehabilitation activities, subject
 13 to the limitations set forth in this chapter, and in a
 14 manner consistent with any ~~rules--regulations,~~ rules or orders and
 15 policy guidance issued by the federal government, the
 16 governor may issue, amend, and enforce ~~rules--regulations,~~
 17 rules and orders to:

18 (a) ~~Control~~ control, restrict, and regulate by
 19 rationing, freezing, use of quotas, prohibitions on
 20 shipments, price fixing, allocation, or other means, the
 21 use, sale, or distribution of food, feed, fuel, clothing,
 22 and other commodities, materials, goods, or services;

23 (b) Prescribe ~~prescribe~~ and direct activities in
 24 connection with but not limited to use, conservation,
 25 salvage, and prevention of waste of materials, services, and

1 facilities, including production, transportation, power, and
 2 communication facilities, training and supply of labor,
 3 utilization of industrial plants, health and medical care,
 4 nutrition, housing, including the use of existing and
 5 private facilities, rehabilitation, education, welfare,
 6 child care, recreation, consumer protection, and other
 7 essential civil needs; and

8 (c) ~~Take take~~ such other action as may be necessary
 9 for the management of resources following an attack.

10 (3) All ~~rules--regulations~~ and orders issued under
 11 authority conferred by this chapter have the effect of law
 12 during the continuance of a proclamation or declaration of
 13 emergency as contemplated by this section. When a copy of
 14 the ~~rule--regulation~~ or order is filed in the office of the
 15 secretary of state or, if issued by a local or area
 16 official, when filed in the office or offices of the county
 17 clerk and recorder. If, by reason of destruction or
 18 disruction attendant upon or resulting from attack, the
 19 filing requirements of this subsection cannot be met, public
 20 notice by such means as may be available shall be considered
 21 a complete and sufficient substitute. All existing laws,
 22 ordinances, ~~rules--regulations~~ and orders inconsistent with
 23 the provisions of this chapter, or any ~~rule--regulation~~ or
 24 order issued under the authority thereof, shall be
 25 inoperative during the period of time and to the extent such

1 inconsistency exists.

2 (4) Any authority exercised under a proclamation ~~or of~~
 3 emergency contemplated by this section may be exercised with
 4 respect to the entire territory over which the governor or
 5 other official, as the case may be, has jurisdiction, or ~~as~~
 6 to any specified part thereof.

7 (5) The governor's power and authority to issue a
 8 proclamation following an attack shall be terminated by the
 9 passage of a joint resolution of the legislature or by
 10 declaration of the termination of the emergency by the
 11 president or by the congress~~t~~, however, the proclamation
 12 shall terminate automatically ~~six--(6)~~ months after issuance
 13 and a similar proclamation may not be issued unless
 14 concurrence is given thereto by a joint resolution of the
 15 legislature."

16 Section 15. Repealer. Section 77-2308, R.C.M. 1947, is
 17 repealed.

-End-