

SENATE BILL NO. 197

Introduced: 01/18/83

Referred to Committee on Labor & Employment Relations:
01/18/83

Hearing: 2/3/83

On Motion, 2/22/83, That the Bill Be Printed and Placed On
2nd Reading. Motion Passed.

On Motion, 2/23/83, That The Rules Be Suspended and That The
Bill Be Considered on 2nd Reading This Date. Motion Passed.

2nd Reading: 02/23/83, Do Pass, As Amended.

On Motion, 2/23/83, That The Rules Be Suspended and That The
Bill Be Considered on 3rd Reading This Date. Motion
Passed.

3rd Reading: 02/23/83

Transmitted to House: 02/23/83

Referred to Committee on Labor & Employment Relations:
02/28/83

Hearing: 3/26/83

Died in House Committee

1 Sen. Smith BILL NO. 197
 2 INTRODUCED BY Sen. Maszuba

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE VETERANS
 5 AND DISABLED PERSONS EMPLOYMENT PREFERENCE LAW TO CLARIFY
 6 THE NATURE OF THE PREFERENCE AND THE PROCEDURES FOR APPLYING
 7 IT; AMENDING SECTIONS 10-2-201 THROUGH 10-2-206, MCA; AND
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 10-2-201, MCA, is amended to read:

12 "10-2-201. Purpose. The purpose of 10-2-201 through
 13 10-2-206 ~~and [section 7]~~ is to provide for preference of
 14 veterans, their ~~certain~~ dependents ~~and~~ ~~unremarried~~ ~~surviving~~
 15 ~~spouses of veterans~~, and certain disabled civilians in
 16 initial appointment and ~~reappointment~~ to employment and
 17 retention in employment in every public department and ~~upon~~
 18 ~~all public works~~ of the state of Montana and of ~~in~~ any
 19 county ~~and city~~ local government ~~entity~~ thereof."

20 Section 2. Section 10-2-202, MCA, is amended to read:

21 "10-2-202. Definitions. For purposes of 10-2-201
 22 through 10-2-206 ~~and [section 7]~~, the following definitions
 23 apply:

24 (1) ~~"Affected class" means a class of people who~~
 25 ~~currently suffer employment discrimination or suffer from~~

1 ~~the continuing effects of past discrimination based on race,~~
 2 ~~sex or physical or mental handicap.~~

3 (2) ~~"Certain dependents of a veteran" means:~~

4 (a) ~~the spouse of a disabled veteran unable to use his~~
 5 ~~preference as a result of a service-connected disability; or~~

6 (b) ~~the unremarried surviving spouse or other~~
 7 ~~dependent of a veteran who died as a result of a~~
 8 ~~service-connected disability or who died while on active~~
 9 ~~duty.~~

10 (3) ~~"Department" means the department of~~
 11 ~~administration provided for in Title 2, chapter 15, part 10.~~

12 (4) ~~"Disability" means a physical or mental condition~~
 13 ~~which limits a major life activity such as walking, seeing,~~
 14 ~~hearing, or speaking and which limits the person's ability~~
 15 ~~to find and hold employment.~~

16 (5) ~~"Disabled person" means:~~

17 (a) ~~a veteran having a service-connected disability as~~
 18 ~~determined by the veterans' administration of the United~~
 19 ~~States; or~~

20 (b) ~~a civilian having a disability as determined by~~
 21 ~~the department of social and rehabilitation services.~~

22 (6) ~~"Initial appointment to employment" is the act of~~
 23 ~~hiring a person not currently employed with that~~
 24 ~~jurisdiction.~~

25 (7) ~~"Public hiring authority" means:~~

1 ~~(a) any department, office, board, bureau, commission,~~
 2 ~~agency, or other instrumentality of the government of the~~
 3 ~~state of Montana; or~~

4 ~~(b) any county, city, town, school district, or other~~
 5 ~~unit of local government or any instrumentality of local~~
 6 ~~government.~~

7 ~~(8) "Reemployment preference" means a preference for~~
 8 ~~employment granted under established policies of a~~
 9 ~~jurisdiction, including a collective bargaining agreement,~~
 10 ~~because a person's previous employment in that jurisdiction~~
 11 ~~was terminated as a result of a reduction in force or~~
 12 ~~reorganization.~~

13 ~~(1)(I) The term "veterans" "Veterans" means persons:~~

14 (a) who served in the armed forces of the United
 15 States in time of war or declared national emergency and who
 16 have been separated from service upon ~~under honorable~~
 17 ~~conditions other than dishonorable; or~~

18 (b) who after January 31, 1955:

19 (i) served on active military duty for more than 180
 20 days or were discharged or released because of a
 21 service-connected disability; and

22 (ii) were honorably discharged.

23 ~~(2)(II) The term "war" "War" or declared national~~
 24 ~~emergency" includes:~~

25 ~~(a) The Civil War~~

1 ~~(b) The Spanish-American War~~

2 ~~(c) The Philippine Insurrections~~

3 ~~(d)(i) World War I, between April 6, 1917, and~~
 4 ~~November 11, 1918, both dates inclusive;~~

5 ~~(e)(ii) World War II, between September 16, 1940, and~~
 6 ~~December 31, 1946, both dates inclusive;~~

7 ~~(f)(c) The Korean conflict, military expedition, or~~
 8 ~~police action, between June 26, 1950, and January 31, 1955,~~
 9 ~~both dates inclusive; and~~

10 ~~(g)(d) The Vietnam conflict between August 5, 1964,~~
 11 ~~and May 7, 1975, both dates inclusive.~~

12 ~~(3) The term "surviving spouse" means an unmarried~~
 13 ~~surviving spouse of a veteran.~~

14 ~~(4) The word "percent" means percent of the total~~
 15 ~~aggregate points of the examination referred to.~~

16 Section 3. Section 10-2-203, MCA, is amended to read:

17 "10-2-203. Preference in ~~initial~~ appointment and
 18 ~~reappointment to employment and retention in employment. (1)~~
 19 ~~in every public department and upon all public works of the~~
 20 ~~state of Montana and of any county or city thereof, the~~
 21 ~~following Every public hiring authority shall be preferred~~
 22 ~~for give preference as provided in 10-2-204 to veterans,~~
 23 ~~disabled persons, or certain dependents of veterans in~~
 24 ~~initial appointment and employment, veterans, their spouses~~
 25 ~~and surviving spouses, and the other dependents of disabled~~

~~veterans and disabled civilians recommended by the rehabilitative services division of the department of social and rehabilitation services reappointment to employment and retention in employment.~~

~~(2) Age, loss of limb or other physical impairment which does not in fact incapacitate does not disqualify any disabled veteran or civilian provided he or she possesses the business capacity, competency, and education to discharge the duties of the position involved.~~

~~(3) Those of the above described veterans who have disabilities admitted by the veterans administration of the United States to have been incurred in service in any of the wars, military expeditions, or police actions, whenever such disabilities do not in fact incapacitate, shall be given preference in employment over other veterans."~~

Section 4. Section 10-2-204, MCA, is amended to read:
 "10-2-204. ~~Credit for examination Administration of preference.~~ (1) ~~When written or oral examinations are required for employment, disabled veterans and their spouses, their surviving spouses, and other dependents shall have added to their examination ratings a credit of 10 points. All other veterans, their spouses, surviving spouses, and dependents shall have added to their examination ratings a credit of 5 points. If scored procedures are used to establish an employment list and a~~

~~veteran, a disabled person, or certain dependents of veteran attain a passing score 5 percentage points shall be added to his score, unless he is a disabled person in which case 10 percentage points shall be added to his score.~~

(2) The fact that an applicant has claimed a veterans' credit preference may not be made known to the examiners until ratings of all applicants have been recorded, after which such credits shall be added to the examination rating and the records shall show the examination rating and the veterans' credit preference.

(3) ~~The benefits of this section are in addition to and not in derogation of the preference in appointment and employment or both given by 10-2-203. If scored procedures are not used, a veteran, a disabled person, or certain dependents of veterans shall be appointed to the position over others of substantially equal qualifications. Disabled persons shall be appointed to the position over veterans or certain dependents of veterans of substantially equal qualifications.~~

~~(4) During a reduction in force or reorganization, a veteran, a disabled person, or certain dependents of veterans shall be retained for employment over persons without a claim to preference under this part with substantially equal job duties, qualifications, performance records, and length of service, unless the person without a~~

1 ~~claim to preference is a member of an affected class and~~
 2 ~~there is evidence demonstrating past or present~~
 3 ~~underutilization of the affected class by the public hiring~~
 4 ~~authority involved.~~

5 ~~(5) During rehiring following a reduction in forces a~~
 6 ~~veteran, a disabled person, or certain dependents of~~
 7 ~~veterans shall be reappointed to employment over persons~~
 8 ~~without a claim to preference under this part with~~
 9 ~~substantially equal qualifications, past performance and~~
 10 ~~length of service unless the person without a claim to~~
 11 ~~preference is a member of an affected class and there is~~
 12 ~~evidence demonstrating past or present underutilization of~~
 13 ~~the affected class by the public hiring authority involved.~~

14 ~~For a veteran, a disabled person, or certain~~
 15 ~~dependents of veterans need not be appointed or reappointed~~
 16 ~~to a position over a person without a claim to preference~~
 17 ~~who is entitled to claim reemployment preference unless the~~
 18 ~~veteran, disabled person, or certain dependents of veterans~~
 19 ~~are also entitled to claim reemployment preference."~~

20 Section 5. Section 10-2-205, MCA, is amended to read:

21 ~~"10-2-205. Eligibility ~~is~~ ~~of~~ ~~veterans,~~ ~~disabled~~~~
 22 ~~persons, or certain dependents of veterans. (1) None of the~~
 23 ~~benefits of 10-2-201 through 10-2-206 and [section 7] accrue~~
 24 ~~to any person who refused to serve on active duty in the~~
 25 ~~military service to which attached or to take up arms in the~~

1 defense of the United States.

2 ~~(2) No person who has not been a resident of Montana~~
 3 ~~for at least 1 year immediately preceding an appointment is~~
 4 ~~entitled to such preference.~~

5 ~~(3)(2) For city or county employment, no preference~~
 6 ~~will be granted unless an applicant under 10-2-201 through~~
 7 ~~10-2-206 is also a resident of the city or town or county in~~
 8 ~~which employment is sought. It is the duty of a veteran, a~~
 9 ~~disabled person, or certain dependents of a veteran to~~
 10 ~~establish his eligibility for preference and to make his~~
 11 ~~preference known to the public hiring authority."~~

12 Section 6. Section 10-2-206, MCA, is amended to read:

13 ~~"10-2-206. Enforcement of preference. (1) Any person~~
 14 ~~entitled to preference in 10-2-201 through 10-2-206 and~~
 15 ~~[section 7] who has applied for any appointment or~~
 16 ~~employment upon public works of the state of Montana or any~~
 17 ~~county and city thereof or in any public department of the~~
 18 ~~state and who has been denied employment or appointment and~~
 19 ~~facts that the spirit of 10-2-201 through 10-2-206 has been~~
 20 ~~violated and that such person is in fact qualified~~
 21 ~~physically and mentally and possesses business capacity,~~
 22 ~~competency, and education to discharge the duties of the~~
 23 ~~position applied for may petition by not have accorded his~~
 24 ~~rights under 10-2-201 through 10-2-206 and [section 7] may~~
 25 ~~within 15 days of receipt of notice of the adverse decision~~

1 ~~make a written request for appeal to the public hiring~~
 2 ~~authority. The public hiring authority shall provide written~~
 3 ~~explanation and shall deliver this explanation to the~~
 4 ~~veteran, the disabled person, or certain dependents of a~~
 5 ~~veteran within 30 days of the date of his request for~~
 6 ~~appeal.~~

7 ~~(2) Within 30 days after the delivery date of the~~
 8 ~~written explanation, the veteran, disabled person, or~~
 9 ~~certain dependents of a veteran may file a verified petition~~
 10 ~~with the district court of the state of Montana in the~~
 11 ~~county in which the work is to be performed application is~~
 12 ~~filed. The petition shall set forth the facts of the~~
 13 ~~application, qualifications, competency, and such person's~~
 14 ~~honorable discharge or other qualifications warranting the~~
 15 ~~applicant to preference under 10-2-201 through 10-2-206 and~~
 16 ~~[section 7].~~

17 (3) Upon filing of such petition, any judge in the
 18 court shall issue an order to show cause to the appointing
 19 public hiring authority directing the appointing public
 20 hiring authority to appear in the court at a specified time
 21 and place, not less than 5 10 or more than 10 20 days after
 22 the filing of the verified petition, to show cause, if any
 23 exists, why the veteran, the disabled person, or the
 24 dependent of a veteran person entitled to preference should
 25 not be employed by the appointing public hiring authority.

1 (4) The district court has jurisdiction upon the
 2 proper showings to issue its order directing and ordering
 3 the appointing public hiring authority to comply with this
 4 law in giving the preference provided for.

5 (5) ~~The Montana Rules of Evidence and Rules of Civil~~
 6 ~~Procedure apply to all court proceedings brought under this~~
 7 ~~section.~~

8 ~~NEW SECTION.~~ Section 7. Rulemaking authority. The
 9 department shall adopt rules to implement this part.

10 ~~NEW SECTION.~~ Section 8. Effective date. This act is
 11 effective on passage and approval.

12 ~~NEW SECTION.~~ Section 9. Codification instruction.
 13 Section 7 is intended to be codified as an integral part of
 14 Title 10, chapter 2, part 2, and the provisions of section 7
 15 apply to Title 10, chapter 2, part 2, and the provisions of
 16 Title 10, chapter 2, part 2, apply to section 7.

-End-

No second reading printing.
On motion rules suspended.
Bill referred to second reading
this day. (2/23/83)

SENATE BILL NO. 197
INTRODUCED BY MAZUREK

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE VETERANS AND DISABLED PERSONS EMPLOYMENT PREFERENCE LAW TO CLARIFY THE NATURE OF THE PREFERENCE AND THE PROCEDURES FOR APPLYING IT; AMENDING SECTIONS 10-2-201 THROUGH 10-2-205 AND 10-2-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 10-2-201, MCA, is amended to read: "10-2-201. Purpose. The purpose of 10-2-201 through 10-2-206 and [section 1] is to provide for preference of veterans, their certain dependents and unmarried surviving spouses of veterans, and certain disabled civilians in initial appointment and reappointment to employment and retention in employment in every public department and upon all public works of the state of Montana and of in any county and city local government entity thereof."

Section 2. Section 10-2-202, MCA, is amended to read: "10-2-202. Definitions. For purposes of 10-2-201 through 10-2-206 and [section 1], the following definitions apply:

(1) "Affected class" means a class of people who currently suffer employment discrimination or suffer from

the continuing effects of post-discrimination based on race, sex or physical or mental handicap

(2) "Certain dependents of a veteran" means

(a) the spouse of a disabled veteran unable to use his preference as a result of a service-connected disability; or

(b) the unmarried surviving spouse or other dependent of a veteran who died as a result of a service-connected disability or who died while on active duty;

(3) "Department" means the department of administration provided for in Title 2, chapter 15, part 18;

(4) "Disability" means a physical or mental condition which limits a major life activity such as walking, seeing, hearing or speaking and which limits the person's ability to find and hold employment;

(5) "Disabled person" means

(a) a veteran having a service-connected disability as determined by the veterans administration of the United States; or

(b) a civilian having a disability as determined by the department of social and rehabilitation services;

(6) "Initial appointment to employment" is the act of hiring a person not currently employed with that jurisdiction;

(7) "Public hiring authority" means

1 (a) ~~any department, officer, board, bureau, commission,~~
2 ~~agency, or other instrumentality of the government of the~~
3 ~~state of Montana or~~

4 (b) ~~any county, city, town, school, district, or other~~
5 ~~unit of local government or any instrumentality of local~~
6 ~~government.~~

7 (d) ~~"Reemployment preference" means a preference for~~
8 ~~employment granted under established policies of a~~
9 ~~jurisdiction including a collective bargaining agreement~~
10 ~~because a person's previous employment in that jurisdiction~~
11 ~~was terminated as a result of a reduction in force or~~
12 ~~reorganization.~~

13 (i)(2) The term "veterans" "Veterans" means persons:

14 (a) ~~who served in the armed forces of the United~~
15 ~~States in time of war or declared national emergency and who~~
16 ~~have been separated from service upon under honorable~~
17 ~~conditions other than dishonorable or~~

18 (b) ~~who after January 31, 1955,~~

19 (i) ~~served on active military duty for more than 180~~
20 ~~days or were discharged or released because of a~~
21 ~~service-connected disability; and~~

22 (ii) ~~were honorably discharged;~~

23 (2)(10) The term "war" "War" or "declared national

24 emergency" includes:

25 (a) ~~The Civil War;~~

1 (b) ~~The Spanish-American War;~~

2 (c) ~~The Philippine insurrection;~~

3 (d)(i) ~~World War I between April 6, 1917, and~~
4 ~~November 11, 1918, both dates inclusive;~~

5 (f)(ii) ~~World War II between September 16, 1940, and~~
6 ~~December 31, 1946, both dates inclusive;~~

7 (f)(iii) ~~The Korean conflict, military expedition, or~~
8 ~~police action between June 26, 1950, and January 31, 1955,~~
9 ~~both dates inclusive; and~~

10 (g)(d) ~~The Vietnam conflict between August 5, 1964,~~
11 ~~and May 7, 1975, both dates inclusive.~~

12 (3) ~~The term "surviving spouse" means an unmarried~~
13 ~~surviving spouse of a veteran.~~

14 (4) ~~The word "percent" means percent of the total~~
15 ~~aggregate points of the examination referred to.~~

16 Section 3, Section 10-2-203, MCA, is amended to read:

17 "10-2-203. Preference in initial appointment and

18 reappointment to employment and retention in employment. (1)

19 In every public department and upon all public works of the

20 state of Montana and of any county or city thereof, the

21 following ~~Every public hiring authority~~ shall be preferred

22 for ~~give preference as provided in 10-2-203 to veterans~~

23 ~~disabled persons or certain dependents of veterans in~~

24 ~~initial appointment and employment, veterans, their spouses~~

25 ~~and surviving spouses, and the other dependents of disabled~~

1 veterans--and--disabled---civilians---recommended---by---the
2 rehabilitative-services-division-of-the-department-of-social
3 and--rehabilitation-services ~~reappointment-to-employment-and~~
4 ~~retention-in-employment.~~

5 (2)--Age--loss-of-limb--or--other--physical--impairment
6 which--does--not--in--fact--incapacitate--does--not--disqualify--any
7 disabled-veteran--or--civilian--provided--he--or--she--possesses
8 the--business--capacity--competency--and--education--to
9 discharge-the-duties-of-the-position-involved.

10 (3)--Those-of-the--above-described--veterans--who--have
11 disabilities--admitted-by-the-veterans-administration-of-the
12 United-States-to-have-been-incurred-in-service-in-any-of-the
13 wars--military-expeditions--or--police-actions--whenever-such
14 disabilities--do--not--in--fact--incapacitate--shall--be--given
15 preference-in-employment-over-other-veterans."

16 Section 4--Section--10-2-204--MGV--is--amended--to--read:

17 "10-2-204--Credit-for--examination ~~Administration~~--of
18 ~~proficiency~~--(1)--When--written--or--oral--examinations--are
19 required--for--employment--disabled--veterans--and--their
20 spouses--their--surviving--spouses--and--other--dependents--shall
21 have--added--to--their--examination--ratings--a--credit--of--10
22 points--At--other--veterans--their--spouses--surviving
23 spouses--and--dependents--shall--have--added--to--their
24 examination--ratings--a--credit--of--5--points. ~~If--scored~~
25 ~~procedures--are--used--to--establish--an--employment--list--and--a~~

1 veterans--a--disabled--person--or--certain--dependents--of
2 veterans--attain--a--passing--score--5--percentage--points--shall
3 be--added--to--his--score--unless--he--is--a--disabled--person--in
4 which--case--10--percentage--points--shall--be--added--to--his--score.

5 (2)--The--fact--that--an--applicant--has--claimed--a--veterans'
6 credit preference may--not--be--made--known--to--the--examiners
7 until--ratings--of--all--applicants--have--been--recorded--after
8 which--such--credits--shall--be--added--to--the--examination--rating
9 and--the--records--shall--show--the--examination--rating--and--the
10 veteran's--credit preference.

11 (3)--The--benefits--of--this--section--are--in--addition--to
12 and--not--in--derogation--of--the--preference--in--appointment--and
13 employment--or--both--given--by--10-2-203. ~~If--scored--procedures~~
14 ~~are--not--used--a--veterans--a--disabled--person--or--certain~~
15 ~~dependents--of--veterans--shall--be--appointed--to--the--position~~
16 ~~over--others--of--substantially--equal--qualifications--Disabled~~
17 ~~persons--shall--be--appointed--to--the--position--over--veterans--or~~
18 ~~certain--dependents--of--veterans--of--substantially--equal~~
19 ~~qualifications.~~

20 (4)--During--a--reduction--in--force--or--reorganizations--a
21 veterans--a--disabled--person--or--certain--dependents--of
22 veterans--shall--be--retained--for--employment--over--persons
23 without--a--claim--to--preference--under--this--part--with
24 substantially--equal--job--duties--qualifications--performance
25 records--and--length--of--service--unless--the--person--without--a

1 ~~claim to preference is a member of an affected class and~~
 2 ~~there is evidence demonstrating past or present~~
 3 ~~underutilization of the affected class by the public hiring~~
 4 ~~authority involved.~~

5 ~~(2) During rehiring following a reduction in force, a~~
 6 ~~veteran, a disabled person, or certain dependents of~~
 7 ~~veterans shall be reappointed to employment over persons~~
 8 ~~without a claim to preference under this part with~~
 9 ~~substantially equal qualifications, past performance, and~~
 10 ~~length of service, unless the person without a claim to~~
 11 ~~preference is a member of an affected class and there is~~
 12 ~~evidence demonstrating past or present underutilization of~~
 13 ~~the affected class by the public hiring authority involved.~~

14 ~~(3) A veteran, a disabled person, or certain~~
 15 ~~dependents of veterans need not be appointed or reappointed~~
 16 ~~to a position over a person without a claim to preference~~
 17 ~~who is entitled to claim reemployment preference unless the~~
 18 ~~veteran, disabled person, or certain dependents of veterans~~
 19 ~~are also entitled to claim reemployment preference."~~

20 Section 1. Section 10-2-205, MCA, is amended to read:

21 "10-2-205. Eligibility ~~is~~ duty of veterans, disabled
 22 persons, or certain AND dependents of veterans. (1) None of
 23 the benefits of 10-2-201 through 10-2-206 and [section 3] ~~shall~~
 24 accrue to any person who refused to serve on active duty in
 25 the military service to which attached or to take up arms in

1 the defense of the United States.

2 (2) ~~No person who has not been a resident of Montana~~
 3 ~~for at least 1 year immediately preceding an appointment is~~
 4 ~~entitled to such preferences.~~

5 (3)(2) ~~For city or county employment, no preference~~
 6 ~~will be granted unless an applicant under 10-2-201 through~~
 7 ~~10-2-206 is also a resident of the city or town or county in~~
 8 ~~which employment is sought. It is the duty of a veteran, a~~
 9 ~~disabled person, or certain dependents A DEPENDENT of a~~
 10 ~~veteran to establish his eligibility for preference and to~~
 11 ~~make his preference known to the public hiring authority."~~

12 Section 2. Section 10-2-206, MCA, is amended to read:

13 "10-2-206. Enforcement of preference. (1) Any person
 14 entitled to preference in 10-2-201 through 10-2-206 and
 15 [section 3] who has applied for any appointment or
 16 employment upon public works of the state of Montana or any
 17 county and city thereof or in any public department of the
 18 state and who has been denied employment or appointment and
 19 feels that the spirit of 10-2-201 through 10-2-206 has been
 20 violated and that such person is in fact qualified
 21 physically and mentally and possesses business capacity,
 22 competency and education to discharge the duties of the
 23 position applied for may petition by not been accorded his
 24 rights under 10-2-201 through 10-2-206 and [section 3]
 25 may within 15 days of receipt of notice of the adverse

1 ~~decision make a written request for appeal to the public~~
 2 ~~hiring authority. The public hiring authority shall provide~~
 3 ~~written explanation and shall deliver this explanation to~~
 4 ~~the veteran, the disabled person, or certain dependents~~ IHE
 5 ~~DEPENDENT of a veteran within 30 days of the date of his~~
 6 ~~request for appeal.~~

7 ~~(2) Within 30 60 days after the delivery date of the~~
 8 ~~written explanation, the veteran, disabled person, or~~
 9 ~~certain dependents DEPENDENT of a veteran may file a~~
 10 ~~verified petition with the district court of the state of~~
 11 ~~Montana in the county in which the work is to be performed~~
 12 ~~application is filed. The petition shall set forth the facts~~
 13 ~~of the applicant's qualifications, competency and such~~
 14 ~~person's honorable discharge or other qualifications~~
 15 ~~warranting the applicant to preference under 10-2-201~~
 16 ~~through 10-2-206 and [section 7 3].~~

17 ~~(3) Upon filing of such petition, any judge in the~~
 18 ~~court shall issue an order to show cause to the appointing~~
 19 ~~public hiring authority directing the appointing public~~
 20 ~~hiring authority to appear in the court at a specified time~~
 21 ~~and place, not less than 5 10 or more than 10 20 days after~~
 22 ~~the filing of the verified petition, to show cause, if any~~
 23 ~~exists, why the veteran, the disabled person, or the~~
 24 ~~dependent of a veteran person entitled to preference should~~
 25 ~~not be employed by the appointing public hiring authority.~~

1 (4) The district court has jurisdiction upon the
 2 proper showings to issue its order directing and ordering
 3 the appointing public hiring authority to comply with this
 4 law in giving the preference provided for.

5 (5) ~~The Montana Rules of Evidence and Rules of Civil~~
 6 ~~Procedure apply to all court proceedings brought under this~~
 7 ~~section.~~"

8 ~~NEW SECTION.~~ Section 3. Rulemaking authority. The
 9 department shall adopt rules to implement ~~10-2-201 THROUGH~~
 10 ~~10-2-206~~ DE this part.

11 ~~NEW SECTION.~~ Section 4. Effective date. This act is
 12 effective on passage and approval.

13 ~~NEW SECTION.~~ Section 5. Codification instruction.
 14 Section 7 3 is intended to be codified as an integral part
 15 of Title 10, chapter 2, part 2, and the provisions of
 16 section 7 3 apply to Title 10, chapter 2, part 2, and the
 17 provisions of Title 10, chapter 2, part 2, apply to section
 18 7 3.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 197

3

4 It is the intent of the Legislature to assist those
5 individuals who because of their disability or their
6 military service to this country have been disadvantaged in
7 obtaining (and retaining) employment. This bill gives the
8 Department of Administration authority to adopt rules for
9 the effective and equitable administration of this act. It
10 is contemplated that rules should address the following:

11 (1) procedures for consistent and affirmative
12 implementation of the veterans and disabled civilians
13 preference by public employers.

14 (2) clarification of the terms used in 10-2-201
15 through 10-2-206, as amended.

16 (3) standards and criteria to be applied by Department
17 of Social and Rehabilitation Services in determining if
18 specific conditions are disabilities under this act.

19 (4) criteria for determining whether a person is a
20 dependent of a veteran.

THIRD READING

PLEASE ATTACH TO SB 197