

HOUSE BILL NO. 111

1/07 Introduced  
1/07 Referred to Judiciary  
1/22 Hearing  
1/22 Committee Report-Bill Pass As Amended  
1/25 2nd Reading Pass As Amended  
1/28 3rd Reading Pass

Transmitted to Senate

1/29 Referred to Education & Cultural Resources  
2/11 Hearing  
3/06 Adverse Committee Report  
3/06 Bill Killed

1 HOUSE BILL NO. 111  
2 INTRODUCED BY David Beaman

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING UNIVERSITIES,  
5 THE OFFICE OF THE COMMISSIONER OF HIGHER EDUCATION,  
6 COLLEGES, AND POSTSECONDARY VOCATIONAL-TECHNICAL CENTERS OR  
7 PROGRAMS TO GIVE PREFERENCE IN EMPLOYMENT TO CERTAIN  
8 MILITARY VETERANS AND HANDICAPPED PERSONS AND THEIR ELIGIBLE  
9 SPOUSES; AMENDING SECTION 39-30-103, MCA."

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

12 Section 1. Section 39-30-103, MCA, is amended to read:

13 "39-30-103. Definitions. For the purposes of this  
14 chapter, the following definitions apply:

15 (1) "Active duty" means full-time duty other than for  
16 training in the regular components of the United States  
17 army, air force, navy, marine corps, or coast guard with  
18 full pay and allowances. The term does not include monthly  
19 drills, summer encampments, initial training, or other  
20 inactive or active duty for training in the national guard  
21 or reserves.

22 (2) "Disabled veteran" means an individual, whether or  
23 not he is a veteran as defined in this section, who:

- 24 (a) served on active duty;  
25 (b) has been separated from service by honorable

1 discharge; and  
2 (c) suffers a service-connected disability determined  
3 by the United States veterans administration to be 30% or  
4 more disabling.

5 (3) "Eligible spouse" means:  
6 (a) the unremarried surviving spouse of a veteran who  
7 died while on active duty or whose death resulted from a  
8 service-connected disability; or

9 (b) the spouse of:  
10 (i) a disabled veteran determined by the United States  
11 veterans administration to have a 100% service-connected  
12 disability who is unable to use his employment preference  
13 because of his disability;

14 (ii) a person on active duty determined by the United  
15 States government to be missing in action or a prisoner of  
16 war; or

17 (iii) a handicapped person determined by the department  
18 of social and rehabilitation services to have a 100%  
19 disability who is unable to use his employment preference  
20 because of his disability.

21 (4) "Handicapped person" means an individual certified  
22 by the department of social and rehabilitation services to  
23 have a physical or mental impairment that substantially  
24 limits one or more major life activities, such as writing,  
25 seeing, hearing, speaking, or mobility, and which limits the



1 individual's ability to obtain, retain, or advance in  
2 employment.

3 (5) (a) "Initial hiring" means a personnel action for  
4 which applications are solicited from outside the ranks of  
5 the current employees of:

6 (i) a department, as defined in 2-15-102, for a  
7 position within the executive branch;

8 (ii) a legislative agency, such as the consumer  
9 counsel, environmental quality council, office of the  
10 legislative auditor, legislative council, or office of the  
11 legislative fiscal analyst, for a position within the  
12 legislative branch;

13 (iii) a judicial agency, such as the office of supreme  
14 court administrator, office of supreme court clerk, state  
15 law library, or similar office in a state district court for  
16 a position within the judicial branch;

17 (iv) a unit, as defined in 20-25-201, for a position  
18 within the Montana university system;

19 (v) the office of commissioner of higher education for  
20 a position within that office;

21 (vi) a college for a position within that college;

22 (vii) a center or program for a position within the  
23 postsecondary vocational-technical education system;

24 ~~(viii)~~ (viii) a city or town for a municipal position,  
25 including a city or municipal court position; and

1 ~~(v)~~(ix) a county for a county position, including a  
2 justice's court position.

3 (b) A personnel action limited to current employees of  
4 a specific public entity identified in subsections (a)(i)  
5 through (a)~~(v)~~(ix) of this subsection (5), current employees  
6 in a reduction-in-force pool who have been laid off from a  
7 specific public entity identified in subsections (a)(i)  
8 through (a)~~(v)~~(ix) of this subsection (5), or current  
9 participants in a federally authorized employment program is  
10 not an initial hiring.

11 (6) (a) "Mental impairment" means:

12 (i) suffering from a disability attributable to mental  
13 retardation, cerebral palsy, epilepsy, autism, or any other  
14 neurologically handicapping condition closely related to  
15 mental retardation and requiring treatment similar to that  
16 required by mentally retarded individuals; or

17 (ii) an organic or mental impairment that has  
18 substantial adverse effects on an individual's cognitive or  
19 volitional functions.

20 (b) The term mental impairment does not include  
21 alcoholism or drug addiction and does not include any mental  
22 impairment, disease, or defect that has been asserted by the  
23 individual claiming the preference as a defense to any  
24 criminal charge.

25 (7) "Position" means a permanent or seasonal position

1 as defined in 2-18-101 for a state position or a similar  
2 permanent or seasonal position with a public employer other  
3 than the state. However, the term does not include:

4 (a) a temporary position as defined in 2-18-101 for a  
5 state position or similar temporary position with a public  
6 employer other than the state;

7 (b) a state or local elected official;

8 (c) employment as an elected official's immediate  
9 secretary, legal advisor, court reporter, or administrative,  
10 legislative, or other immediate or first-line aide;

11 (d) appointment by an elected official to a body such  
12 as a board, commission, committee, or council;

13 (e) appointment by an elected official to a public  
14 office if the appointment is provided for by law;

15 (f) a department head appointment by the governor or  
16 an executive department head appointment by a mayor, city  
17 manager, county commissioner, or other chief administrative  
18 or executive officer of a local government; or

19 (g) engagement as an independent contractor or  
20 employment by an independent contractor.

21 (8) (a) "Public employer" means:

22 (i) any department, office, board, bureau, commission,  
23 agency, college, including a community college,  
24 postsecondary vocational-technical center or program,  
25 university, or other instrumentality of the executive,

1 judicial, or legislative branch of the government of the  
2 state of Montana; and

3 (ii) any county, city, or town.

4 (b) The term does not include a school district, a  
5 ~~postsecondary-vocational-technical-center-or-program,~~ a  
6 ~~community-college,~~ ~~the-board-of-regents-of-higher-education,~~  
7 ~~the-Montana-university-system,~~ a special purpose district,  
8 an authority, or any political subdivision of the state  
9 other than a county, city, or town.

10 (9) "Substantially equal qualifications" means the  
11 qualifications of two or more persons among whom the public  
12 employer cannot make a reasonable determination that the  
13 qualifications held by one person are significantly better  
14 suited for the position than the qualifications held by the  
15 other persons.

16 (10) (a) "Veteran" means a person who:

17 (i) served on active duty during time of war or  
18 declared national emergency or in a campaign or expedition  
19 for which a campaign badge was authorized by the United  
20 States congress or the United States department of defense;  
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22 (ii) has been separated from service by honorable  
23 discharge.

24 (b) The term does not include a retired member of the  
25 United States armed forces who is eligible for or receiving

1 a military retirement allowance based on length of service  
2 and does not include any other retired member of a public  
3 retirement system, except social security, that is supported  
4 in whole or in part by tax revenues.

5 (11) "War or declared national emergency" means:

6 (a) World War I, beginning on April 6, 1917, and  
7 ending on November 11, 1918, both dates inclusive;

8 (b) World War II, beginning on December 7, 1941, and  
9 ending on December 31, 1946, both dates inclusive;

10 (c) the Korean conflict, military expedition, or  
11 police action, beginning on June 27, 1950, and ending on  
12 January 31, 1955, both dates inclusive; and

13 (d) the Vietnam conflict, beginning on August 5, 1964,  
14 and ending on May 7, 1975, both dates inclusive."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 HOUSE BILL NO. 111  
 2 INTRODUCED BY D. BROWN, PAVLOVICH, PISTORIA,  
 3 MONTAYNE, HANNAH, KEYSER, J. K. MOORE,  
 4 QUILICI, SCHULTZ, MARKS  
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21 drills, summer encampments, initial training, or other  
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23 or reserves.

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25 not he is a veteran as defined in this section, who:

- 1 (a) served on active duty;
- 2 (b) has been separated from service by honorable
- 3 discharge; and
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- 17 States government to be missing in action or a prisoner of
- 18 war; or
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2 position, including a city or municipal court position; and  
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4 a justice's court position.

5 (b) A personnel action limited to current employees of  
6 a specific public entity identified in subsections (a)(i)  
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8 employees in a reduction-in-force pool who have been laid  
9 off from a specific public entity identified in subsections  
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10 EMPLOYMENT IN WORK-STUDY AND STUDENT EMPLOYMENT PROGRAMS, TO  
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 17 court administrator, office of supreme court clerk, state  
 18 law library, or similar office in a state district court for  
 19 a position within the judicial branch;

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 9 employees in a reduction-in-force pool who have been laid  
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24 (H) A POSITION HELD BY A STUDENT UNDER THE MONTANA  
25 WORK-STUDY PROGRAM PROVIDED FOR IN TITLE 20, CHAPTER 25,

1 PART 7, OR UNDER A STUDENT EMPLOYMENT PROGRAM ADMINISTERED  
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