

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 15, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, February 15, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Representative Bergene.

CONSIDERATION OF HOUSE BILL NO. 481: Hearing commenced on HB 481 with its sponsor, Rep. Ray Brandewie, District #49, testifying on its behalf. He said that this bill is an act which would prohibit an attorney from mentioning before a jury a sentence which may be imposed on a particular defendant. Rep. Brandewie said that this bill was introduced at the request of Judge Michael Keedy from Kalispell.

Judge Michael Keedy, district court judge from the 11th Judicial District, appeared and offered testimony in support of HB 481. He pointed out that it is not the function of the jury to be concerned about a sentence which might properly be imposed at the conclusion of the trial in the event that a defendant is convicted. That is exclusively within the province of the court to sentence according to law. It's perfectly consistent with the administration of our justice system in Montana that the division of responsibilities continue throughout the course of all criminal proceedings. The jury weighs the facts, makes the determination of a defendant's guilt or innocence, and upon the finding of a verdict of guilt, it is then the judge's sole responsibility to make the proper determination as to an appropriate sentence. Judge Keedy pointed out that the new section of the bill clarifies the statute making it improper for any lawyer representing a party in a criminal case to make reference throughout the course of the trial, voir dire examination of perspective jurors, or during the examining and cross-examining of witnesses of the sentence that may be imposed.

There being no further proponents or opponents, Rep. Brandewie closed.

The floor was opened to questions from the committee.

Rep. Krueger asked Judge Keedy if this bill is parallel to the federal rules of criminal procedure. Judge Keedy was not certain that it was.

There being no further questions, hearing closed on HB 481.

CONSIDERATION OF HOUSE BILL NOS. 380 and 577: Rep. Dorothy Bradley, District #79, appeared and offered testimony regarding these two bills. Rep. Bradley said the area of telecommunications is an enormously complicated field. She gave the committee some general history in regards to this subject. She spoke about the problems that are facing us and what the present situation is in Montana. She feels that HB 380 and 577 present several solutions. The purpose of this measure (HB 577) is to try to help Montana move from the regulated monopoly situation that it has had all these years into the competitive market, and allow competition to have its place. At the same time, the purpose of this measure would be to try to maintain universal service and keep it at an affordable rate so that no one will be thrown out of the system who is unable to afford a telephone. This legislation regulates what is referred to as a two-way switched voice grade access. She also submitted copies of Statement of Intent.

CONSIDERATION OF HOUSE BILL NO. 380: Rep. Bradley stated that under the present system, the co-ops were allowed to construct their own facilities as long as they didn't duplicate the other facilities. She said that in the "new world," (after the AT&T breakup) there are many competitors coming in. The effort taken in this measure is to free up the co-ops along with bringing up everybody else, and allow them to duplicate services just like everyone else will be duplicating services. This would allow the co-op customers to get better service at a cheaper rate.

Cal Simshaw, staff attorney for the Public Service Commission, testified in support of the bill. He said the PSC requested that HB 577 be introduced because the commission believes that the point has been reached in the evolution of telecommunications in Montana where a rewrite of the telecommunications statutes is required if the people of Montana are to participate in the benefits of competition in the industry. A copy of his testimony was marked Exhibit A and is attached.

Jack Ramirez, representative from District #87, urged the committee to support both HB 380 and HB 577.

Jim Hughes, representing Mountain Bell Telephone, testified before the committee. Mr. Hughes described to the committee what has happened in the last couple of years that has changed some of the ways in which business has been done in the past in this particular arena and how HB 577 addresses this issue.

John Scully, representing AT&T, pointed out that the efforts as addressed in HB 577 is one that needs the committee's support as a result of the compromises that have been ongoing during the last few months. He asked the committee to pass the bill.

Mary Buckley, representing MCI Telecommunications Corporation, testified as a proponent to the bill. She submitted the MCI statement (Exhibit B) which described some background on MCI. She informed the committee although MCI is not in business in Montana at present, they hope to be in the near future. In reviewing the bill, she sees some concerns that may prohibit MCI from coming into the state. They support the intent of the bill which provides competition. They also support the orderly transition into competition. However, they do not see in the bill a provision for orderly transition. There are no standards or no trigger mechanisms that would define competition. She further stated that Mountain Bell currently has 100% of the market or close thereto. If MCI were to come in and gain 2% of the market, that would not be full competition. Another concern MCI has with the bill is the portion dealing with prohibition of cross-subsidization of predatory prices. She submitted some language for the committee's consideration which she feels would tighten up this intent -- they actually made it stronger to insure that all the minimum costs, in terms of the maximum-minimum rates that are set, that the minimum costs would be cost compensatory. We feel that this is the key to avoiding predatory prices. (A copy of her suggested amendments were marked Exhibit C and attached hereto.)

Dick Thronson, general manager of Valley Real Telephone Cooperative and Valley Electric Cooperative of Glasgow, testified in support of HB 380. He addressed another problem that the cooperatives have because of the law restricting duplication of provision. In many cases because of the duplication law, they are prevented from consolidating through their own network and often prevented from using modern technology. They feel they should be allowed to compete on an equal footing with the rest of the carriers.

Jay T. Donnen, manager of the state Association of Electric and Telephone Cooperatives, testified in support of both HB 380 and HB 577.

There being no further proponents, Chairman Hannah requested the opponents to testify at this time.

OPPONENTS:

Kurt Furst, regional manager of state legislative affairs for GTE SPRINT, stated that HB 577 does contain certain positive features; however, it represents an overly broad, and an unnecessary stab at deregulation which may well harm the development of competition in Montana. A copy of his written testimony was marked Exhibit D and attached hereto. He did state that GTE SPRINT is not opposed to HB 380.

There being no further opponents, Rep. Bradley closed on both HB 380 and HB 577.

The floor was opened to questions from the committee.

In response to a question asked by Rep. Addy, Mr. Furst stated that the intent of these bills has nothing to do whatsoever with local rates. They are still regulated. The local service rates are going to go up whether this bill is passed or not. He doesn't feel that Mountain Bell would say that they don't intend to raise local rates if this bill passes.

Rep. Keyser asked Cal Simshaw if he has a problem with the time frame pointed out on page 7 of the bill. Mr. Simshaw stated that the commission does not.

Jim Paine, Montana Consumer Counsel, addressed one of Rep. Krueger's questions. He said the counsel is statutorily charged with representing the consumers of the state before the PSC and appropriate courts. Mr. Paine further stated that he supports the bill because he feels something must be done. This bill does not address the problems that are going on nationally -- the forces that are going to cause upward pressure on local exchange rates. There is not much that one is going to be able to do about the competition that is coming. He feels that it is important to allow the existing telephone companies to compete. He feels there are safeguards in the bill.

Following a period of general questioning, hearing closed on HB 380 and HB 577.

CONSIDERATION OF HOUSE BILL NO. 541: Rep. Paula Darko, District #2, testified as HB 541's chief sponsor. She informed the committee that Judge Robert M. Holter from the 19th Judicial District, requested the introduction of HB 541 due to some of the problems he was experiencing as a judge. HB 541 is an act providing that a party who unreasonably and vexatiously multiplies legal proceedings is responsible for payment of increased court costs, attorney fees, and other expenses.

Judge Robert M. Holter, 19th Judicial District, testified in support of the bill. He does not view this bill as an anti-lawyer bill; but rather, he views this as a pro-lawyer bill. He has had problems with pro se appearances, and he has had problems with lawyers who just simply conduct their proceedings by fouls.

Judge Michael Keedy, 11th Judicial District, testified in support of this bill. He pointed out that there is a tempting opportunity in nearly every litigation for a lawyer or his client or party appearing on his own behalf to abuse the judicial process to his or her convenience for tactical reasons or for personal gain or the satisfaction of vengeful motives. This bill would remedy that problem somewhat.

There being no further proponents or opponents, Rep. Darko closed. She said the bill is needed, and it is patterned after federal code.

Chairman Hannah opened the floor up for questions and answers.

Rep. Mercer stated that he feels this bill is needed, but he is concerned about the statute. He feels the language in the title of the bill "multiplies the proceedings" is pretty loose language. Judge Holter said he took this particular language from 28 USCS §1927. He said it just simply means to expand it beyond the normal types of thing that would be done in the presentation of a court case.

In response to a question asked by Rep. Mercer, Judge Holter felt that dismissing a case would be a rather harsh remedy.

In response to a question asked by Rep. Krueger, Judge Holter said that this legislation wouldn't act as a deterrent from preventing cases such as the ones described from being filed; it is a protection for those who have to deal with unreasonable parties in the course of litigation.

There being no further questions, hearing closed on HB 541.

CONSIDERATION OF HOUSE BILL NO. 585: Rep. R. Budd Gould, District #61, chief sponsor of HB 585, testified before the committee. This is an act to revise the sentence review procedure; providing that any interested person may participate in review proceedings.

Judge Michael Keedy, 11th Judicial District from Flathead County, testified as a proponent to HB 585. He mentioned that the Sentence Review Board is really an arm or extension of the Montana Supreme Court. It is a three-member panel of district court judges. These members are appointed on a rotating basis from time to time by the chief justice of the Montana Supreme Court. Judge Michael Keedy pointed out that Senator Bob Brown has introduced SB 150 which would have abolished outright the Sentence Review Board. That is apparently too radical an approach for the tastes of the members of Senate Judiciary Committee who have either killed or tabled the bill. He said that Rep. Gould did agree at Judge Keedy's request to sponsor HB 585. HB 585 is a more modest approach to some of the perceived deficiencies or defects in the procedure under which sentence review now functions. Judge Keedy feels this is a good first step to correcting those problems. It is his feeling that a person who has the ability to further enlighten the board as to a hearing on a particular defendant, should be able to participate in that Sentence Review Board hearing. He further stated that the sentencing judge is in the best position to enlighten the board.

There being no further proponents or opponents, Rep. Gould closed.

The floor was opened up for questioning.

Following some general questions, hearing closed on HB 585.

CONSIDERATION OF HOUSE BILL NO. 473: Bob Pavlovich, District #70, chief sponsor of HB 473, appeared and offered his testimony. A copy of his written testimony was marked Exhibit E and attached hereto. Rep. Pavlovich also submitted a written statement of John Mahan's which was marked Exhibit F and attached.

PROPOSERS:

Rich Brown, administrator of the Veteran's Affairs Division, and the senior vice commander for the disabled American Veterans for the state of Montana, testified as a proponent. He believes that HB 473 will do little more than return veterans' preference to its pre-Crabtree status. It will re-establish the point system that was eliminated by the special session. The system does give employers definite guidelines in their hiring practices. Mr. Brown told the committee that the veterans of Montana are asking the committee to return our pre-Crabtree preference and provide the state of Montana with a workable veterans' preference law.

A spokesman for the American Legion, testified in favor of HB 473. He pointed out that HB 473 is pretty much in line with the federal codes with perhaps a few exceptions.

George Poston, deputy vice commander of the Lewis and Clark chapter of the American Disabled Veterans, spoke on behalf of the bill. A copy of his written testimony was marked Exhibit G and attached hereto.

Larry Longfellow, state commander of the Veterans of Foreign Wars, wished to go on record as supporting this legislation.

Bill Wilson, national service officer for the American Ex-prisoners of War, testified in support of the bill.

John Sloan, representing the Military Order of the Purple Heart, stated that the issue today is the impact the state Equal Rights Amendment may have on veterans' preference. This impact is set forth by the testimony of Dean K. Phillips, national judge advocate of the Military Order of the Purple Heart as set forth on February 21, 1984 before the U.S. Senate Committee on Judiciary and the Subcommittee on the Constitution. A copy of that particular document was marked Exhibit H and is attached hereto.

Bob Chilton, member of the American Legion and the DAV, wished to go on record as supporting this bill.

Barbara McDonaugh, state president of the American Legion Auxiliary, wished to go on record as supporting this bill.

Joe Brand from Helena, stated he feels very strongly about the veterans' preference act. He reviewed some of the things that he tried to propose in the special session in HB 9 that was rejected. He feels that in the special session, the veterans were neglected completely, and he feels that something has to be done. He further stated that the veterans are not going to be happy unless they have an act that is fair to all.

Senator Bob Williams, District #15, testified in support of the bill. He pointed out that most veterans know the world doesn't owe them a living; however, Senator Williams feels that society may owe them a few things. He urged the committee to pass HB 473.

Kelly Holms appeared and offered testimony in support of HB 473. She informed the committee that her father, Major David H. Holms died in the Vietnam War.

Dan Antonietti, state director for Veterans Employment and Training, the U.S. Department of Labor, appeared and offered testimony in support of the bill. He submitted testimony and other material dealing with the veteran's preference issue. The packet was marked as one exhibit (Exhibit I) and attached.

OPPONENTS:

Laurie Lamson, president of the Women's Lobbyist Fund, testified before the committee in opposition to HB 473. A copy of her written testimony was marked Exhibit J and attached hereto.

Mary Lou Garrett, representing the Interdepartmental Coordinating Committee for Women (ICCW), testified as an opponent to this bill. A copy of her written testimony was marked Exhibit K and attached hereto.

Vivian Crabtree, representing the Governor's Committee on Employment of the Handicapped, testified against HB 473. A copy of her statement was marked Exhibit L and attached.

Teresa Graham, representing the Department of Labor and Industry Committee for Women, stated her opposition to this bill and submitted a copy of her written testimony which was marked as Exhibit M.

Chip Erdmann, representing the Montana School Board Association, feels that the school boards should be excluded from the bill.

Nancy Harte, representing the Montana Democratic Party, spoke against HB 473. A copy of her written testimony was marked Exhibit N and attached hereto.

Eric Feaver, president of the Montana Education Associa-

tion, stated that although he is sympathetic with the veterans, he feels that in regards to school districts, HB 473 is unwise, unnecessary and premature. He pointed out that currently veterans are teaching now in Montana schools. He said that MEA prefers the 1983 special session's resolution of this issue. He said that if this committee does pass this legislation he urged the committee to amend school districts out. If the committee cannot amend school districts out of the bill, he asked the committee to limit the exercise of the preference to a limited period of time after eligibility, and eliminate the super seniority for veterans teaching in school districts where no collective bargaining reduction in force policy exists. Also, he asked the committee to exempt school districts from the bill's mandate for a scored test to determine who shall teach in that school.

Bob Liston, the handicapped employment coordinator for the state of Montana, wished to go on records as opposing the bill.

Jane Lopp, representing the Montana Federation of Republican Women, stated that the federation feels that the best qualified people are the ones who should be employed by state, local government and schools.

Ellen Feaver, director of the Department of Administration, appeared and offered testimony in opposition to HB 473. A copy of her written testimony was marked Exhibit O and attached.

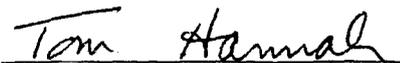
Dave Wilcox, representing the city of Missoula, wished to go on record in opposition of this bill. He feels the current law meets the needs of veterans' preference.

Kathy Karp, representing the Montana League of Women Voters, went on record as opposing the bill. A copy of her written testimony was marked Exhibit P and it is attached.

Bev Gibson, representing the Montana Association of Counties, spoke in opposition to HB 473. A copy of her testimony was marked Exhibit Q and is attached.

There being no further opponents, Rep. Pavlovich closed. Rep. Pavlovich stated that he forgot to submit an amendment. Said amendment was marked as Exhibit R and attached hereto for the committee's future consideration.

ADJOURN: A motion having been made, and that motion having been seconded, the meeting adjourned at 12:00 noon.


TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/15/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene		✓	
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

STANDING COMMITTEE REPORT

.....February 15..... 19 85.....

MR. Speaker.....

We, your committee on Judiciary.....

having had under consideration House..... Bill No. 276.....

First reading copy (White)
color

**TAX INFORMATION ON APPLICANTS FOR PUBLIC ASSISTANCE
AUTHORIZED FOR SRS**

Respectfully report as follows: That House..... Bill No. 276.....

DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 15, 1985 BILL NO. HB 276 TIME 7:50 a.m.

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond		✓
Kerry Keyser		
Kurt Krueger	✓	
John Mercer		✓
Joan Miles		✓
John Montayne		✓
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Krueger moved that HB 276 BE TABLED. The motion
was seconded by Rep. Eudaily and failed 7-10.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 15, 1985 BILL NO. HB 276 TIME 7:55

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond	✓	
Kerry Keyser		
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. O'Hara moved that HB 276 DO PASS. the motion
was seconded by Rep. Miles and passed 9-8.

STANDING COMMITTEE REPORT

.....February 15..... 19 35.....

MR. Speaker.....

We, your committee on Judiciary.....

having had under consideration House..... Bill No. 360.....

First reading copy (White)
color

**INCREASE NOTICE PERIOD FOR EVICTING SPACE RENTER WHO
FAILS TO PAY RENT DUE**

Respectfully report as follows: That House..... Bill No. 360.....

BE AMENDED AS FOLLOWS:

1. Title, line 5
Strike: "30"
Insert: "15"
2. Page 2, line 17
Strike: "30"
Insert: "15"

**AND AS AMENDED,
DO PASS**

STANDING COMMITTEE REPORT

February 15 19 35

MR. Speaker

We, your committee on Judiciary

having had under consideration House Bill No. 594

First reading copy (White)
color

FLOODPLAIN MANAGEMENT - NOTICE OF ENTRY AND RELEASE OF NAMES REQUIRED

Respectfully report as follows: That House Bill No. 594

BE AMENDED AS FOLLOWS:

1. Page 1, line 20.
Following: "department"
Insert: "or the responsible political subdivision"
2. Page 1, line 24.
Following: "department"
Insert: "or the responsible political subdivision"
3. Page 2, line 3.
Following: "department"
Insert: "or the responsible political subdivision"
4. Page 2, line 8.
Following: "department"
Insert: "or the responsible political subdivision"

AND AS AMENDED,
DO PASS.

STANDING COMMITTEE REPORT

February 15 19 85

MR. Speaker

We, your committee on Judiciary

having had under consideration House Bill No. 643

First reading copy (White)
color

**PROHIBIT LOCAL ORDINANCE BANNING OR REGULATING FIREARM
SALE OR POSSESSION**

Respectfully report as follows: That House Bill No. 643

DO PASS

STATEMENT OF INTENT

___ BILL NO. ___

As stated in the purpose section of the act, it is the intent of the legislature to maintain universal availability of basic telecommunications service at affordable rates. At the same time, the legislature desires to make available to the general public the rapid advances in telecommunications technology brought about by competition. It is the intent of this act to provide the regulatory flexibility necessary to allow a transition to a competitive market environment in the telecommunications industry.

Under prior law there was no mechanism that would allow telecommunications utilities to respond to competitive situations. It is the intent of the legislature that the public service commission now have the authority to permit flexible pricing in those instances where it will promote healthy competition. For example, if two telecommunications utilities are effectively competing to provide long distance service to a market, the commission may allow those companies to change their rates without commission approval in response to competition. Depending upon the circumstances, the commission may detariff rates for the competitive services or allow the

telecommunications utilities to operate within permissible price ranges or implement some other form of regulation that is less restrictive than total rate regulation.

The legislature intends that the commission retain the power to protect ratepayer interests by totally regulating the rates for telecommunications services that are provided on a monopoly basis. It is intended that the commission be authorized to examine each service and market to determine when market conditions rather than total rate regulation can be relied upon to assure that adequate service will be provided at reasonable rates.

It is further intended that the commission have authority to take those actions necessary to assure that revenues from regulated telecommunications services are not used to subsidize nonregulated operations.

It is intended that the commission have authority to adopt rules, if needed, to develop standards for evaluating market conditions and criteria for determining that detariffing or rate flexibility is appropriate. The commission may also implement, by rule if necessary, such reporting requirements as are required to permit a proper allocation of common or joint costs and investments.

HB 577

STATEMENT OF INTENT

___ BILL NO. ___

As stated in the purpose section of the act, it is the intent of the legislature to maintain universal availability of basic telecommunications service at affordable rates. At the same time, the legislature desires to make available to the general public the rapid advances in telecommunications technology brought about by competition. It is the intent of this act to provide the regulatory flexibility necessary to allow a transition to a competitive market environment in the telecommunications industry.

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telecommunications utilities to operate within permissible price ranges or implement some other form of regulation that is less restrictive than total rate regulation.

The legislature intends that the commission retain the power to protect ratepayer interests by totally regulating the rates for telecommunications services that are provided on a monopoly basis. It is intended that the commission be authorized to examine each service and market to determine when market conditions rather than total rate regulation can be relied upon to assure that adequate service will be provided at reasonable rates.

It is further intended that the commission have authority to take those actions necessary to assure that revenues from regulated telecommunications services are not used to subsidize nonregulated operations.

It is intended that the commission have authority to adopt rules, if needed, to develop standards for evaluating market conditions and criteria for determining that detariffing or rate flexibility is appropriate. The commission may also implement, by rule if necessary, such reporting requirements as are required to permit a proper allocation of common or joint costs and investments.

TESTIMONY OF THE MONTANA PUBLIC SERVICE COMMISSION
IN SUPPORT OF H.B. 577

The Montana Public Service Commission requested that H.B. 577 be introduced because the Commission believes that the point has been reached in the evolution of telecommunications in Montana where a rewrite of the telecommunications statutes is required if the people of Montana are to participate in the benefits of competition in the industry. Nonetheless, H.B. 577 should not be perceived as a "competition at any cost" bill. The bill recognizes a continued role to be played by the Commission and regulation as a transition is made toward a fully competitive industry.

As is stated in Section 2, the overriding purpose of the bill is to maintain the universal availability of basic telephone service at affordable rates. Only if it can exist without jeopardizing that purpose will the bill allow untariffed competition in the provision of basic telephone service.

One of the major functions of the bill is to redefine what it is that the Commission is to regulate. The bill provides a much narrower scope of regulation than is present in the current law. The current law regulates many services that would not continue to be regulated under H.B. 577. Examples of these services include: radio common carrier and paging services, cellular mobile services, customer owned coin telephones, hotel and motel services, telephone answering services, WATS resale, and private line services. The Commission believes that these types of services need not continue to be regulated for several reasons.

Many of these services came about long after the current law was originally enacted in 1913. Therefore it is questionable whether the legislature ever intended that they be regulated. These services are for the most part highly competitive. There are sufficient market forces present that regulatory oversight is not necessary to protect consumers. By ceasing to regulate these services the Commission can refocus its regulatory resources on the area of basic telephone service. Regulatory effort can be better spent on basic services because this is the area most vital to the needs of the people and the most likely to be provided on a monopoly basis.

A second function of the bill is to provide needed regulatory flexibility. Competitive situations are arising even in the area of basic telephone service. H.B. 577 would allow the Commission to evaluate whether such competition is at a level sufficient that market forces will protect consumer interests in lieu of total rate regulation. If the Commission determines this to be the case in a particular market, the bill would authorize detariffing or the setting of permissible price ranges.

Under the bill the Commission would continue to exercise total rate regulation where a monopoly still exists in the provision of basic telephone service. The bill further provides that the Commission is responsible for assuring that telephone companies do not subsidize competitive activities with revenues from monopoly services.

In summary the Commission believes that H.B. 577 would allow a focusing of regulation in the area where it is really needed and will facilitate the withdrawal of regulatory oversight in favor of healthy competition where appropriate.

**MCI STATEMENT
MCI WEST**

In the January 14 BUSINESS WEEK, an article stated, "The outlook for the telecommunications industry in 1985 can be summed up in one word: turmoil." That article went on to state that deregulation and the breakup of the Bell System have transformed most parts of the telecommunications industry into a free-for-all. "Companies...will have to spend megabucks in 1985 simply to ensure that they survive, if not prosper, in an inevitable business shakeout. Profits may be thin as a result. Nowhere is the competition likely to be stiffer than in \$40 billion long-distance sector of the business. Moving toward cost-based pricing is creating a lot of problems, often more political than economic. In any case, the AT&T breakup is now a fact, and deregulation must be allowed to proceed."

The industry has been many years getting to this point since Congress passed the Communications Act of 1934. Many legal, regulatory, and competitive amendments have changed this concept during the intervening years. The first anti-trust suit filed by the U.S. Department of Justice occurred in 1949 and was settled in 1956 with a consent decree limiting AT&T to the provision of communications services and the manufacture of equipment to provide those services.

In 1968, the FCC "Carterfone" decision allowed other manufacturers equipment to be connected to the phone network. This was followed in 1969 by permission being granted to MCI to build and operate a microwave link providing telephone service between St. Louis and Chicago in direct competition with AT&T.

In 1974, the now famous anti-trust suit which ultimately resulted in divestiture was filed by the Department of Justice against the Bell system.

By 1977, the courts had allowed MCI and other competitive carriers to connect with the local exchange service to provide regular long distance service in direct competition with AT&T.

In 1980, the FCC decided in the "Computer Inquiry II" case that AT&T and others would be allowed to offer unregulated services and equipment only through fully separated subsidiaries. This meant that regulated portions of the company with guaranteed rates of return would not be allowed to subsidize other activities.

In 1980, the FCC embraced the concept of telecommunications competition by establishing a streamlined approach to regulation, differentiating between dominant and non-dominant carriers with regard to the application of regulations.

In 1982, AT&T entered into a consent decree terminating the anti-trust suit brought by the Department of Justice causing the divestiture of the local operating companies. That decree, known as the Modification of Final Judgment (MFJ), became the road map directing the subsequent breakup of AT&T.

The MFJ established local access transport service areas (LATAS) that apply to the Bell operating companies and not to independent phone companies. The LATAS are artificially derived areas developed within the territories served by the Bell operating companies. The LATA boundaries extend beyond the local exchange areas and within these areas the BOCs are allowed to compete. They are relevant primarily as lines of demarcation for purposes of dividing assets and other interests between AT&T and the seven regional holding companies.

In ordering the divestiture, Judge Green acknowledged that the long distance market lent itself to the development of competition. He also recognized that the previously existing monopoly relegated long distance companies other than AT&T to inferior access to the local exchange system. In order to achieve a more equal footing with AT&T's access, the judge ruled that all long distance companies be offered "equal access" to the central office of local companies. This legal requirement is only directed at the Bell operating companies and to GTE operating companies, after that company acquired Sprint. Independent telephone companies are not required to provide equal access to the other common carriers.

The process of offering equal access began in 1984 and is due to be completed according to a phased schedule in 1987. Not all Bell or GTE central offices will be affected by this conversion. Those offices with less than 10,000 station lines or those offices where such a change is not economically feasible will not offer equal access.

MCI is a relatively new player in the field of telecommunications. It was the first of the so-called "other common carriers", which were AT&T's direct competitors in the provision of long distance, intercity telecommunications service. MCI provides long distance telephone service over a network composed of microwave, fiber optic and satellite facilities, connecting with the local operating companies to originate and complete the calls.

MCI consists of a parent company, MCI Communications Corporation, and four subsidiaries: 1) MCI Telecommunications Corporation, which provides long distance telecommunications services throughout the contiguous United States, Hawaii, Puerto Rico, the Virgin Islands, and parts of Canada; 2) MCI International, which provides international record, voice and data services to over 100 countries; 3) MCI Airsignal, the fourth largest paging and mobile phone service provider in the country; and 4) MCI Digital Information Service Company, which provides specialized high speed data transmission services, including MCI Mail.

MCI was first incorporated in 1968 as Microwave Communications of America. After changing its name in 1971 to MCI Communications Corporation, the company commenced commercial operations with a single microwave route to provide telephone service between Chicago and St. Louis in January, 1972 under authority granted by the FCC.

Since 1972, MCI's steadily growing community of customers has enjoyed the benefits of lower cost telephone service and broader choice. MCI now provides interstate long distance service to almost 2 million residential customers and over 350,000 commercial customers in more than 362 cities. In addition, over 22 states have now permitted MCI to offer low cost, alternative telecommunications services on an intrastate basis.

Generally, MCI provides two main types of services: metered usage and flat rate service. The main types of metered use services are the familiar Execunet Service, which is available for both business and residential users, and MCI's Network Service, which is designed for large volume business customers and generally competes with AT&T's WATS service. In addition, MCI offers its customers alternative dedicated private line services that are offered in a number of configurations depending on the needs of the individual customer.

With its national network, MCI is the second largest interexchange carrier in the market. However, even as the second largest, MCI's business constitutes only approximately 4% of the \$40 billion telecommunications market in the United States.

Despite its infancy, the new competitive environment holds benefits for all consumers. The industry will eventually be genuinely competitive, driven by the marketplace and quick to embrace technological innovations. Competition will provide the necessary incentive to streamline costs, prevent uneconomic bypass, and increase the choices available to the consumer and stimulate further economic development. It is imperative that this budding competitive development is not hampered by redundant regulation or threatened by anti-trust activity.

MCI is committed to the principles of robust competition and universal service. In order to ensure these principles, a positive regulatory environment must be created. An environment that encourages competition and promotes customer choice, while protecting ratepayers from monopoly abuses and preserving universal service.

Such an environment is founded on neither total regulation or total deregulation, but on a balanced approach. MCI believes that statewide competition should be encouraged as a matter of policy and carriers who do not possess market power should be regulated differently from those carriers who dominant the market. Ultimately, there should exist a transition towards less regulation for all carriers.

The regulatory body with jurisdiction of this issue should have the flexibility to deal individually with each carrier and have the authority to waive those restrictions that are inappropriate given the carrier's relative strength in the market place.

The FCC has adopted a streamlined regulatory approach, recognizing the relative differences in market power between the various carriers and understanding how such differences can threaten the development of true competition in the telecommunications field. Such an approach on the state level would establish consistency and create a stable environment for the non-dominant carriers. Regulatory restrictions should be limited only to those necessary to prevent abuse of market power. Adopting standards that make the distinction between a dominant and non-dominant carrier would encourage the transition to a fully competitive market.

One way to create this distinction is to base the deregulation of a telecommunications company on the existence of effective competition as to that company. This determination may be based upon a variety of factors such as the availability of equal access, the number and size of competitors, the market growth and share of competitors, and the existenc of other carriers who provide functionally equivalent service to the public at competitive rates terms and conditions.

It is undisputed that the telecommunications industry is highly capital intensive. Removal of regulatory obstacles creates an opportunity for competition to flourish, but years of planning, capital formation, construction and marketing will be required to make competition an established fact. Until competition is more than nominal, the traditional premise for regulation of a dominant carrier, the protection of the public and other providers from abuses of monopoly power, remains.

PUBLIC SERVICE COMMISSION

2701 Prospect Avenue • Helena, Montana 59620
Telephone: (406) 444-6166
Home Address: 1711 Flowerree
Helena, Montana 59601
(406) 449-6191

Danny Oberg, Commissioner
District 1

February 15, 1985

TO: Representative Dorothy Bradley
Members of House Judiciary Committee

FROM: Danny Oberg
Commissioner *Danny Oberg*

RE: HB 577
Amendments

The Commission would like to clarify the intent and effect of HB 577 - the telecommunication bill now before your Committee.

I think it is regrettable that the testimony before the Committee may have given the impression that the bill was designed to protect Mountain Bell and AT&T revenues and discourage the introduction of competition from companies like MCI and GTE-Sprint. The intent is just the opposite - encourage competitive telephone services wherever it makes economic sense. As written, the bill doesn't protect Mountain Bell from competition, rather it only allows the Bell companies to compete on a comparable basis with new competitors on the market.

It may protect Mountain Bell from losing all of its major customers. If a competitor can beat the Bell price because of lower costs, bypass of the Bell system should occur. Currently, Mtn Bell and the rate-payer are not protected from losing major revenues because current communication law prevents the Bell companies from competing on an equal basis with other suppliers of service like GTE-Sprint. The bill remedies this.

The Commission finds merit in two of the MCI amendments. MCI amendment #3 is designed to clarify that if detariffing occurs, the price range must indeed be cost compensatory to avoid predatory pricing. The Commission would recommend acceptance of Amendment #3 in this language:

Page 5, line 16-17

change to read: (d) establish only minimum rates, only maximum rates, or permissible price ranges so long as the minimum rates are cost compensatory.

MCI Amendment #8 is also acceptable as it serves to recognize that applicable antitrust laws will also impact the transition.

February 15, 1985 - Representative Dorothy Bradley and
Members of House Judiciary Committee

The Commission strongly resists the arguments and amendments presented by MCI and Gte-Sprint to alter the forbearance from regulation as designed in Sections 7 and 8 in favor of the MCI-GTE proposal, which would prevent the Bell Company from having price flexibility to try to meet competitive bids. We believe that the regulated utility has more concern for its financial viability than to offer below cost price bids. Finally, predatory pricing on the part of Bell would expose the company shareholders to major vulnerability, as the Commission retains final review of the contract in its general rate reviews. MCI and GTE Sprint are asking the Judiciary Committee to adopt a concept that would give them an unfair bidding advantage. If Mountain Bell loses its major customers, it should be because their costs are excessive and can't compete on the basis of price, not because of regulatory restrictions.

The Commission also believes the passage of Rep. Dorothy Bradley's other bill, HB 380, is an appropriate legislative response to divestiture and supports its enactment into law. We believe both bills are important and can stand on their own merits.

In summary, we believe HB 577 is in the public interest and creates the groundwork the Commission needs to deliver the benefits of the new competitive telecommunication era to the ratepayer. If this bill fails, the ratepayer will see few benefits and only major costs from divestiture.

Suggested amendments for HB 577:

1) Page 2, line 19

change to: "communications which originate and terminate"

2) Page 2, line 23

change to: provision of customer premise terminal equipment used to originate or terminate such service

3) Page 5, line 16-17

change to read: (d) establish only minimum rates, or permissible price ranges so long as the minimum rate is fully compensatory.

4) Page 6, line 6

change "shall" to "may"

5) Page 7, line 5

delete: "The commission shall deny the application only upon a finding that"

insert: "In considering the application, the commission shall review all relevant factors including, but not to limited to, the effect of forbearance on the regulated revenue requirements of the company making the application, whether the application is incomplete, or whether the subject or similiar service is not being offered to the customer by parties other than the applicant."

6) Page 7, line 17

insert: ...negotiations, and prior to the execution of any contract, the provider of regulated telecommunications service shall file with the commission the proposed final contract...

7) Page 8, line 1

insert (after the sentence): "Revenues and expenses incurred in the providing of services under this section shall not be attributed to or be subsidized by services that are not regulated."

8) Page 11, add New Section:

Nothing in this chapter shall in anyway preempta, abrogate or effect any right, liability, or obligation arising from any federal or state law regarding unfair business practices or anti-competitive activity.

TESTIMONY OF KURT FURST
GTE SPRINT
BEFORE THE MONTANA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE
FEBRUARY 15, 1985

Hello Mr. Chairman and members of the Committee. My name is Kurt Furst and I am Regional Manager of State Legislative Affairs for GTE SPRINT. I appreciate this opportunity to appear before the Committee to highlight for you some of SPRINT's views on the proper approach towards achieving an orderly transition to full and fair competition.

By way of background, SPRINT is a long distance telephone company which serves more than a million customers in homes and businesses nationwide. Our services are available in over 360 metropolitan areas in the United States and SPRINT interstate calls may be made to any telephone in the country. For the record, SPRINT has not yet sought authority to offer intra-state service in Montana.

As I will mention, HB 577 does contain certain positive features. Overall, however, it represents an overly broad, and, at the this, unnecessary stab at deregulation which may well

harm the development of competition in Montana. Sprint does agree with the bill goal of introducing competition into Montana by way of "an orderly transition." This approach recognizes the many changes occurring in the industry today.

The bill before you today is premised on the belief that competition in telecommunications markets, to the extent it is consistent with universal service, is to be encouraged. Competition is recognized as the best way to assure consumers access to the rapid advances being made in telecommunications. In the long distance telephone market, this means lower cost and a wider array of services.

The bill correctly recognizes that the movement towards a truly competitive marketplace requires an orderly transition. Until full blown competition exists, SPRINT believes certain regulatory protections, which are absent from the bill, must be maintained.

The bill fails to recognize certain basic facts and thus fails to ensure the orderly development of effective competition in Montana. Some telecommunications providers, due to factors such as a long history, captive customers, and provision of monopoly services are dominant. These companies

are not competitive and have the ability to singlehandedly influence market prices to the detriment of competition. These companies and their services should not be deregulated. To the extent any deregulation is undertaken, the Commission must be provided specific guidelines so it can ensure there is indeed effective competition.

Again, we appreciate this opportunity to highlight some of SPRINT's concerns. We hope to work with the committee and its staff if it chooses to move forward and further develop appropriate legislation. I would be happy to respond to any questions you might have.

OPENING STATEMENT

EXHIBIT E
2/15/85
HB 473

ROBERT J. PAVLOVICH
LEGISLATOR - SILVER BOW COUNTY

MR. CHAIRMAN; DISTINGUISHED MEMBERS OF THE JUDICIARY
COMMITTEE OF THE HOUSE; LADIES AND GENTLEMEN:

I AM BOB J. PAVLOVICH, ONE OF THE TWENTY SPONSORS
OF HB473, WHICH BILL, IF PASSED, WILL IN MY OPINION CORRECT
THE DEFICIENCIES OF THE BILL PASSED DECEMBER OF 1983.

I BELIEVE THAT THE LEGISLATIVE ASSEMBLIES OF THE
PAST HAVE BEEN CORRECT IN GRANTING VETERANS PREFERENCE IN
EMPLOYMENT IN THE STATE OF MONTANA. WHAT WAS DONE IN 1983
WAS TO REJECT IN LARGE PART WHAT ALL OF THE PAST LEGISLATIVE
ASSEMBLIES HAD DONE FOR THE VETERANS OF THIS STATE; NOW I
WISH TO RECTIFY THAT DECISION.

MANY MONTHS AGO I ASKED THE LEGISLATIVE COUNCIL
TO PREPARE A BILL WHICH WOULD FOLLOW THE FEDERAL GUIDELINES
AS TO EMPLOYMENT OF VETERANS. THIS IS WHAT HB473 DOES.

UNDER THIS BILL WE GIVE FIVE POINTS TO VETERANS
IN EMPLOYMENT IN THE STATE OF MONTANA, ALONG WITH HANDICAPPED
PERSONS. THE REASON FOR THE HANDICAPPED PROVISION IS THAT
THEY WERE FIRST PUT IN TO THE VETERANS PREFERENCE ACT IN
1927 AND HAVE BEEN INCLUDED EVER SINCE.

THE BILL GRANTS TEN POINTS TO ALL SERVICE CONNECTED VETERANS IN EMPLOYMENT AND THIS IS ALSO THE POSITION OF THE FEDERAL GOVERNMENT.

WE HAVE PROVIDED IN THIS BILL A WAY THAT NO VETERAN, UNLESS QUALIFIED, CAN RECEIVE AN APPOINTMENT UNDER THIS ACT. THIS IS DONE BY REQUIRING A VETERAN FIRST TO HAVE SCORED AT LEAST 70 POINTS IN A SCORED PROCEDURE BEFORE HIS OR HER VETERAN POINTS CAN BE ADDED TO HIS OR HER SCORE. SO AS YOU CONSIDER THIS BILL, ALWAYS REMEMBER THAT FIRST THE VETERAN MUST HAVE SCORED AT LEAST 70 POINTS TO HAVE HIS PREFERENCE POINTS ADDED.

WE HAVE ALSO PUT IN A SECTION WHICH WOULD CLARIFY THE STATE'S POSITION ON PERSONNEL WHEN REDUCTION IN FORCE IS NECESSARY. THIS WE FEEL IS IMPORTANT BECAUSE RIF'S ARE NOW IN THE AIR BECAUSE OF THE MONEY PROBLEMS FACING THIS LEGISLATURE.

WE HAVE ALSO DONE AWAY WITH THE ARGUMENT OF DOUBLE DIPPING BY NOT ALLOWING THIS PREFERENCE TO BE CLAIMED IF THAT PERSON IS RETIRED.

IN OTHER WORDS, WE HAVE ATTEMPTED TO FOLLOW A LAW THAT HAS BEEN IN EFFECT BY THE UNITED STATES GOVERNMENT FOR MANY, MANY YEARS AND FOUND TO BE WORKABLE AND FAIR, AND WHICH GIVES OUR VETERANS A RIGHT I BELIEVE THAT THEY DESERVE FOR HAVING SERVED THEIR COUNTRY AND STATE IN TIME OF NEED.

I URGE YOUR FAVORABLE VOTE ON HB473.

REMARKS OF JOHN W. MAHAN
BEFORE THE HOUSE JUDICIARY COMMITTEE

MR. CHAIRMAN; DISTINGUISHED MEMBERS OF THE
JUDICIARY COMMITTEE OF THE HOUSE; LADIES AND GENTLEMEN:

I AM JOHN W. MAHAN, REPRESENTING THE V.F.W. IN
SUPPORT OF VETERANS PREFERENCE AND IN PARTICULAR HB473.
THE V.F.W. BELIEVES TODAY, AS THEY HAVE SINCE THEIR EXISTENCE,
THAT MEN AND WOMEN WHO CHOOSE TO DEFEND THEIR COUNTRY AND STATE
IN TIME OF WAR OR NATIONAL EMERGENCY AND ARE CLASSIFIED AS
VETERANS ARE ENTITLED TO PREFERENCE IN EMPLOYMENT.

THIS POSITION WAS ALSO ENDORSED BY PRESIDENT REAGAN
AND THE DEMOCRATIC PARTY THIS PAST ELECTION.

THE BILL THAT IS BEING CONSIDERED TODAY WILL ACCOM-
PLISH THAT OBJECTIVE.

THE BILL BEFORE YOU FOLLOWS WHAT THE UNITED STATES
GOVERNMENT HAS DONE FOR YEARS WITHOUT PROBLEM, AND WITH THE
BLESSING OF THE SUPREME COURT OF THE UNITED STATES.

I URGE YOUR FAVORABLE CONSIDERATION OF HB473.

MR CHAIRMAN, COMMITTEE MEMBERS; I'M GEORGE POSTON, DEPUTY VICE COMMANDER OF THE LEWIS AND CLARK CHAPTER OF THE AMERICAN DISABLED VETERANS. I'M SPEAKING TO YOU TODAY ON BEHALF OF THE MONTANA DEPARTMENT OF DISABLED AMERICAN VETERANS, THE LEWIS AND CLARK CHAPTER OF DISABLED AMERICAN VETERANS AND FOR MYSELF AS A VERY CONCERNED VETERAN.

AS YOU ALL KNOW, WHEN YOU GRANT A PREFERENCE TO ONE YOU ALSO DISCRIMINATE AGAINST ALL OTHERS. THE AFFIRMATIVE ACTION PROGRAM GRANTS A PREFERENCE TO FEMALES AND CERTAIN MINORITIES WHETHER OR NOT THE INDIVIDUAL WHO RECEIVES THE PREFERENCE HAS MADE ANY CONTRIBUTION TO OUR SOCIETY.

IN ALL NATIONAL MILITARY CONFLICTS, BASED ON A PERCENTAGE OF STATE POPULATION, MONTANA HAS PROVIDED A HIGHER PERCENTAGE OF PERSONNEL TO THE MILITARY THAN MOST OTHER STATES. IN ORDER FOR THESE INDIVIDUALS TO RECEIVE AN HONORABLE DISCHARGE, THEY HAD TO GO WHERE THEY WERE SENT AND DO AS THEY WERE ORDERED. EACH OF THESE INDIVIDUALS MADE A CONTRIBUTION TO OUR SOCIETY.

THERE ARE SOME THAT WOULD ARGUE THAT MILITARY SERVICE IS NOT A CONTRIBUTION TO SOCIETY BUT I SAY TO THEM THAT IF IT WERE NOT FOR OUR MILITARY THEY WOULD NOT BE ENJOYING A SOCIETY IN WHICH THEY COULD MAKE SUCH A POOR ARGUMENT.

THERE IS ANOTHER THING WHICH CAN BE SAID ABOUT THE INDIVIDUAL VETERANS THAT SERVED AND THAT IS THEY WERE THERE WHEN NEEDED, THEY OBEYED THE LAW AND DID NOT RUN TO CANADA LIKE SOME OF THOSE WHO WILL ELIGIBLE TO RECEIVE THE PREFERENCE GRANTED BY THE AFFIRMATIVE ACTION PROGRAM.

THE GROUP THAT I'M SPEAKING FOR NOT ONLY SERVED WITH HONOR BUT THEY ALSO HAD THE MISFORTUNE OF BEING INJURED WHILE ON ACTIVE DUTY. WITH THE AFFIRMATIVE ACTION PROGRAM AND WITHOUT A PREFERENCE, THESE PEOPLE WHO SERVED ARE GOING TO BE LEFT OUT OF TODAY'S JOB MARKET.

I WOULD LIKE TO LEAVE YOU WITH A QUESTION; IS IT RIGHT AND JUST FOR THOSE WHO SERVED AND MADE A CONTRIBUTION TO COME BEHIND THOSE WHO MAY HAVE MADE NO CONTRIBUTION AT ALL?

THE DISABLED VETERANS OF MONTANA ASK FOR YOUR SUPPORT IN PASSING HOUSE BILL 473. THANK YOU.

MILITARY ORDER OF THE PURPLE HEART

CHARTERED BY CONGRESS



1782

1932

NATIONAL HEADQUARTERS
5413-B BACKLICK ROAD
SPRINGFIELD, VA. 22151-3960

Testimony of Dean K. Phillips

National Judge Advocate

Military Order of the Purple Heart

21 February, 1984

before

the United States Senate Committee on the Judiciary

Subcommittee on the Constitution

It is an honor to represent the Military Order of the Purple Heart, chartered in 1958 by Congress to represent the interests of those Americans who sustained wounds while engaged in combat against our Nation's enemies.

I was initially elected National Judge Advocate of the Military Order of the Purple Heart at our National Convention in 1982, some 15 years after I was wounded in Southeast Asia while on a long range reconnaissance patrol near what was then known as War Zone "D".

The Issue today is the impact the Equal Rights Amendment may have on veterans' preference. Our organization is aware that last September the President of the League of Women Voters advised Congress that "... the broad Veterans' preference statute [unsuccessfully] challenged [by the National Organization for Women and other feminist organizations] in Massachusetts v Feeney [442 US 256] [1979] which granted an absolute lifetime preference to Veterans seeking Civil Service would fail in a challenge under the ERA."

We are also aware that last September the President of the National Organization for Women [NOW] also advised Congress that it is often impossible to prove the "intent" [required by Washington v Davis 426 US 229 { 1976 }] which is necessary to successful pursuit of sex discrimination cases. She concluded that "only by passage of the ERA will women finally secure full and unequivocal acknowledgement of their entitlement to legal equality."

I am aware that NOW was founded in 1966 and that Article III of their bylaws mandated "direct action to bring women into full participation of society now, exercising all the privileges and responsibilities thereof in truly equal partnership with men."

However, one area which NOW in particular and women's groups in general did not make a sincere effort to exercise "responsibilities in truly equal partnership with men" was service in the military during the Vietnam War. Accordingly, their bemoaning of the privileges earned by men and women who did serve [such as veterans' preference in civil service] has been less sympathetically received in many quarters.

1966 was also the year I gladly gave up my student deferment, which was unfair to those men of my generation who were not inclined to attend college, to enlist in the U.S. Army paratroopers. Base pay for a PFC was less than \$122 monthly. Although it was not an overriding factor in my decision to enlist, I was also aware that earlier that year Congress had enacted G.I. Bill and Veterans' Preference Legislation and that veterans' preference legislation could not be attacked under the Civil Rights Act and would extend to my widow if I were killed or 100% disabled.

As has been the case in most wars, many people were killed and maimed. Every member of my 26 member recon platoon was ultimately wounded at least once and all but five of us were either killed or so badly wounded that medical evacuation to Japan was required.

I am aware that between 1948 and 1967 Congress had limited the percentage of women in the Armed Forces to no more than two percent. However, any inference that women were beating down the doors of recruiting offices and draft boards demanding to exercise all the responsibilities of society in truly equal partnership with men is dispelled by a 1977 Office of the Secretary of Defense "Use of Women in the Military" Report which observed:

With the advent of the Korean war, an unsuccessful effort was made to recruit some 100,000 women to meet the rapidly expanding manpower requirements. Young women just were not interested in serving, perhaps because of the unpopularity of that war at the time. Between 1948 and 1969, even including nurses, the percentage of women in the military never exceeded 1.5% and averaged 1.2 percent of the total active strength.

Congress lifted the 2% limit in 1967 but, in point of fact, females did not reach 2% of the Armed Forces until more than 5 years later in 1973, after U.S. ground troops were pulled out of Vietnam.

During the decade of the Vietnam war, men repeatedly unsuccessfully pleaded that the male-only draft unfairly denied males the equal protection guaranteed under the Fifth Amendment to the Constitution. Women, of course, were content to enjoy the privilege of exemption from the draft and NOW and similar organizations did not join in such suits during the war--once again failing to bemoan exemption from the draft from either an equal employment opportunity or equal responsibility standpoint. Thus, the most blatantly sexist policy in our Nation's history -- the limitation of the drafting of those who would die and be maimed in war remained limited exclusively to the male sex. By 1969-1970 draftees suffered more than 60% of the U.S. Army casualties.

While NOW avoided facing up to the Vietnam War, that organization passed a welcome home resolution in 1971 which stated: "The National Organization for Women oppose(s) any state, federal, county, or municipal employment law or program giving special preference to veterans." NOW later confirmed in a letter to me dated 29 July 1979 that the resolution still represented their policy. This, in effect, opposes preferences or programs for even blind and paraplegic veterans.

In the Feeney case(Personnel Administrator of Massachusetts et al v Feeney, 442 U.S. 256 (1979) referred to before Congress last September by the League of Women Voters and NOW, the U.S. Supreme Court upheld a Massachusetts veterans' preference despite complaints from organizations such as NOW that it benefited male veterans at the expense of female non-veterans. The Court observed that preference statute was neutral on its face, and benefited both male and female veterans, and was not intended to discriminate against women as a class. Accordingly, the Court held that the statute did not deny women equal protection of the law. In reaching its decision, the 7 to 2 majority cited the Washington v Davis standard that in order to prove invidious discrimination under the equal protection argument, a woman non-veteran must prove there was an actual intent on the part of the legislature to discriminate against women when it enacted the preference statute.

In my role as the Special Assistant to the Veterans Administration General Counsel in 1978, I assisted in the preparation of the legal memorandum which persuaded the Solicitor General to file an amicus brief in support of veterans' preference in Feeney. We pointed out that the status of female non-veterans did not call into play the "strict

scrutiny" test and that veterans' preference statutes must only demonstrate a rational basis to survive an equal protection challenge. Our concern in 1979 was that federal veterans' preference statutes had a similar legislative history as the Massachusetts statute in question and that an adverse decision in Feeney could lead to an avalanche of constitutional challenges of even less generous forms of veterans' preference under the guise that legislative bodies intended to discriminate against female non-veterans since it was a known fact that only 2% of veterans were female.

In February 1980, President Carter inadvertently forced NOW's hand on the issue of the draft by announcing that both young men and women should be required to register for the draft. Heretofore, NOW and most other feminist organizations' policy was to take a "low profile" on the issue of the draft. Only after Carter's 1980 announcement did "feminists" in their 30's and 40's who avoided service during Vietnam publically state that it was acceptable to them if younger women of the 1980's faced draft laws and military service. This inconsistency was not well received by the 20 year old women who were so generously, if not abruptly thrust into the role of equality of responsibility by their once-reluctant older sisters.

Subsequent to the 1980 Carter draft registration announcement, a case filed by a male challenging the male-only draft during Vietnam was reborn and found its way to the Supreme Court. NOW finally came out of the closet --15 years late -- and filed an amicus brief in 1981 stating that "the requirement to register...for induction into the Armed Forces...if

imposed at all ... must be imposed equitably on all members of society who are capable of serving, irrespective of gender."

In a press conference announcing their brief (overdue by more than a decade) NOW President Eleanor Smeal incredibly stated that past exclusion from the draft had discriminated against women, rather than in their favor, by robbing women "... of the psychological knowledge that they can defend themselves."

In June 1981 the Supreme Court voted 6 to 3 to uphold the Constitutionality of male only draft registration (Rostker v Goldberg, 453 US 57). This ruling turned on Congress's Constitutional authority under Article I, Section 8 (as did Federal Court decisions in similar cases during Vietnam) to raise and maintain an armed forces.

NOW and its allies shed crocodile tears over the Rostker decision. Two years later, NOW began winning additional enemies for the ERA by announcing that the ERA's enactment is necessary for an attack on veterans' preference previously upheld in Feeney.

While the Military Order of the Purple Heart has previously not taken a position for or against the ERA, we will now be giving serious consideration at our National Convention this August to seeking an amendment to the ERA to protect veterans' preference. Such an amendment would be similar to Title VII of the Civil Rights Act of 1964 which reads in part: "Nothing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial or local law creating special rights or preference for veterans."



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

June 1, 1979
Ref: CORR 79-160

PUBLIC AFFAIRS

Mr. Dean K. Phillips
1700 Sherwood Hall Lane
Alexandria, Virginia 22306

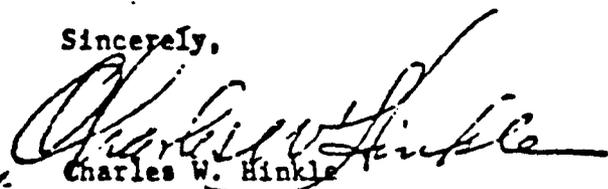
Dear Mr. Phillips:

This is in response to your Freedom of Information Act request dated May 12, 1979, for information on the number of cases "filed between August 4, 1964 and March 28, 1973, against the government by women claiming that more stringent standards existed for women that wanted to enter the military service".

Each Military Department has reviewed its litigation subject files for the period covered by your request. The Army and Navy report that their records do not reflect the filing of any such cases during the period in question. The Air Force reports two cases: Callahan v. Laird, Civ. No. 71-500M (D. Mass., filed 1971), dismissed as moot, (Dec. 1974); Howard v. Nixon, Civ. No. 16834 (N.D. Ga., filed 1972), dismissed voluntarily by plaintiff, (July 1973).

We hope this information will be of assistance to you.

Sincerely,


Charles W. Hinkle
Director, Freedom of Information
and Security Review

* womens groups did not
participate in either of
these cases.



National Organization for Women, Inc.

425 13th Street, N.W. Suite 1048 Washington, D.C. 20004 • (202) 347-2279

July 29, 1979

Dean K. Phillips
1700 Sherwood Hall Lane
Alexandria, Virginia 22306

Dear Mr. Phillips:

I have received your letter asking whether the September, 1971 resolution concerning veteran's preference has been rescinded or modified.

The resolution has not been rescinded or modified and still represent's NOW's official position.

Sincerely,

Phyllis G. West

Phyllis G. West
Legislative Aide

Washington Star 3-3-81

A-8 x

NOW Leader Says Military Draft Causes Brutality Against Women

By a Washington Star Staff Writer

The nation's largest women's rights group yesterday attacked the military draft law as one of the causes of brutality against women in American society.

That is one of the main new arguments the National Organization for Women made in an attempt to get the Supreme Court to go far beyond constitutional issues when it considers the men-only draft.

NOW President Eleanor Smeal, discussing her group's plea to the court, said that the draft law is part of the "myth structure" in America that treats women as inferiors, adding to the risk that they will be "pushed around," even violently.

The feminist leader stressed that her organization sees the case on the draft law's constitutionality as a basic test of the court's attitude on sex discrimination in society as a whole, not just in the military.

NOW is taking part in the case as a "friend of the court." It filed its written views yesterday. The court refused to let NOW's attorney join in the hearing the justices will hold later this month on the case. As is customary, it gave no reason for the refusal.

The court is expected to issue a fi-

nal decision by next summer on the draft law's constitutionality.

Leaving most of the legal argument to others involved in the case, NOW decided, Smeal said, to try instead to convince the court to analyze broader social problems that result from sex "stereotypes" in the nation.

"We want the court to know that, if there is going to be a draft, this is how it impacts on society," she said.

Confining the draft to men "contributes dramatically to the stereotype" that for generations has led to the "victimization of females," NOW's leader contended. "Women are being robbed of the psychological knowledge that they can defend themselves."

Since the draft law has to do with the way a nation defends itself, she said, the test case means the court will have to face "the whole right of self-defense for women."

Citing studies which she said show that women are more likely to be hurt or killed in sexual attacks when they are "passive" than when they resist, Smeal said that a male-only draft "reinforces passivity" and "it's passivity that leads to brutality."

— Lyle Denniston

U.S. Department of Labor

(406) 444-2062
444-4500
(FTS) 585-5431

Office of the Assistant Secretary for
Veterans' Employment and Training

State Director - Montana
Employment Security Building
Room 210 P.O. Box 1728
Helena, Montana 59624

EXHIBIT I
2/15/85
HB 473



TESTIMONY OF
DANIEL P. ANTONIETTI
STATE DIRECTOR FOR VETERANS
EMPLOYMENT AND TRAINING
U.S. DEPARTMENT OF LABOR
BEFORE THE
HOUSE JUDICIARY COMMITTEE

February 15, 1985

Mr. Chairman and Members of the Judiciary Committee:

Thank you for the opportunity to appear before you today to testify on H.B. 473, a bill intended to give Veterans special consideration in the Government's hiring process.

Since the time of the Civil War, veterans of the armed forces traditionally have been given some degree of preference in initial appointments to government jobs. Recognizing that an economic loss is suffered by those who serve their country in the armed forces, Congress enacted laws to prevent veterans seeking Public employment from being penalized because of the time they spent in service.

Preference does not have as its goal the placement of a veteran in every Public job in which a vacancy occurs; this would be incompatible with the merit principle of public employment. It does provide however, a uniform method by which special consideration is given to qualified veterans seeking Public employment.

In 1883 Congress created Civil Service and preference became a reality in Federal employment. Presently the United States Civil Service Code gives veterans preference to all veterans who defended their country in time of need, disabled veterans, and surviving spouses of deceased

veterans in hiring and in determining retention credits in a Reduction -
In - Force.

In June 1944, the month allied forces made the Normandy landings at tremendous human cost, the 78th Congress passed PL 359: The Veterans' Preference Act of 1944. This law codified the various statutory, regulatory, and executive-order provisions that had already been in existence.

Among its several sections, the act provided for an addition of five points to the civil service test scores of nondisabled veterans. Ten points were added to the passing test scores of disabled veterans and to the widows and wives of severely disabled veterans.

Congress also responded by enacting Section 712 of the Civil Rights Act of 1964 (42 U.S.C., Section 2000(e), exempting veterans' preference from attack under the act; "Nothing contained in this subchapter shall be construed to repeal or modify any federal, state, territorial, or local law creating special rights or preferences for veterans."

The following portion of my statement, Mr. Chairman, will cover performance of veteran services provided by the State Employment Security Agency as well as other statistical data.

Let me start by stating that Services for Veterans 20 CFR Part 652.120 clearly spells out "To the extent required by 38 U.S.C. 2002 and other applicable law, each State agency shall assure that all of its Service Delivery Points (SDP) using Local Veterans' Employment Representatives and other staff, shall provide maximum employment and training opportunities to eligible veterans and eligible persons with priority given to disabled veterans and veterans of the Vietnam-era, by giving them preference over non-veterans in the provision of employment and training services available at the SDP involved.

The Department of Labor and Industry, Job Service and Training Division currently is in receipt of Federal funds amounting to \$601,546 which ensures agency compliance with Federal regulations, standards of performance, and grant agreement provisions for special services and priorities for veterans. The grant provides for 10.5 Local Veterans' Employment Representatives and 8 Disabled Veteran Outreach Specialists or a total of 18.5 FTEs.

An analysis of veterans performance standards for the period July 1, 1984 through January 31, 1985 discloses performance by the State Agency to be in non-compliance of five of the five placement standards. Overall the agency has only met seven of the fourteen required standards. (See Exhibits 1 and 2)

Exhibit 3 and Exhibit 4 points out the following:

<u>Individuals Placed - 7/1/84 through 1/31/85</u>		<u>Civilian Labor Force</u>
Female	- 42.89%	40.4%
Veteran	- 14.29%	24.3%
Minority	- 7.6 %	5.0%
Handicapped	- 4.29%	11.3%

Government Employment - 1980 Census

	Federal Government		State Government		Local Government	
	Persons	%	Persons	%	Persons	%
Total	18,390	100%	21,451	100%	31,826	100%
Male	10,719	58.3%	10,654	49.7%	13,403	42.1%
Female	7,671	41.7%	10,797	50.3%	18,423	57.9%
Veterans	5,846	31.8%	4,336	20.2%	6,276	19.7%

The other Exhibits indicate that the employment situation of veterans has deteriorated in past years. The data also show that for the most part veterans are not faring as well as their non-veteran contemporaries.

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Mr. Chairman, again, I thank you for the opportunity to appear before this committee and I will be happy to answer any questions you may have.

JULY 84 THROUGH JANUARY 85

ACTUAL ACCOMP	PERFORMANCE STANDARDS REQUIRED		PERFORMANCE STANDARDS ACTUAL		MET STD
	NO.	PCT.	PCT.		
PLACEMENT					
TOTAL PEOPLE 22 OR OVER	10764				
VETERAN & OTHER ELIGIBLES	2248	23.0	20.8		NO
VIETNAM VETERANS	1063	10.0	9.8		NO
DISABLED VETERANS	113	1.1	1.0		NO
COUNSELING					
TOTAL PEOPLE 22 OR OVER	4262				
VETERANS & OTHER ELIGIBLES	1244	30.0	29.1		NO
VIETNAM VETERANS	648	14.0	15.2		YES
DISABLED VETERANS	144	4.3	3.3		YES
ENROLLMENT IN TRAINING					
TOTAL PEOPLE 22 OR OVER	553				
VETERANS & OTHER ELIGIBLES	123	18.0	22.2		YES
VIETNAM VETERANS	63	4.5	11.3		YES
DISABLED VETERANS	11	6	1.9		YES
RECEIVED SOME REPORTABLE SRVC					
TOTAL PEOPLE 22 OR OVER	31402				
VETERANS & OTHER ELIGIBLES	7179	26.0	22.8		NO
VIETNAM VETERANS	3587	11.0	11.4		YES
DISABLED VETERANS	441	3.15	1.4		YES
FEDERAL CONTRACTOR JOB LISTING					
TOTAL INDIVIDUALS PLACED	2165				
VIETNAM VETERANS	151	174	8.0	6.9	NO
SPECIAL DISABLED VETERANS	8	9	0.4	0.3	NO

2



U.S. Department of Labor

Office of the Assistant Secretary for
Veterans' Employment and Training
1961 Stout Street
Denver, Colorado 80294

September 11, 1984

MEMORANDUM FOR: Donald E. Shasteen, Acting Assistant Secretary
for Veterans Employment and Training

David E. Wanzenried, Commissioner of Labor
and Industry

Daniel P. Antonietti, State Director
for Veterans Employment and Training for Montana

FROM:

John M. Jackson
John M. Jackson, Regional Director
for Veterans Employment and Training

SUBJECT: Montana Veterans Performance Standards for
Report Period July 1, 1984 - June 30, 1985

Please be advised that I have reviewed and analyzed the numerical value for each veterans performance standard negotiated by the State Director for Veterans Employment and Training for Montana and the Montana Job Service as required by Veterans Program Letter No. 12-84.

I found that the parties to the negotiation were in agreement and the numerical values arrived at were reasonable and consistent with past performance. Therefore the approved specific numerical value for each performance standard for the report period July 1, 1984 - June 30, 1985, is decided as shown on the attachment.

Attachment

MONTANA VETERANS PERFORMANCE STANDARDS

FOR REPORT PERIOD JULY 1, 1984 - JUNE 30, 1985

A. Placement (jobs over 3 days duration)

1. Veterans and Eligible Persons

Veterans and eligible persons placed in jobs should comprise at least 23.0 % of total applicants (22 and over) placed in jobs.

2. Vietnam-Era Veterans

Vietnam-era veterans placed in jobs should comprise at least 10.0 % of total applicants (22 and over) placed in jobs.

3. Disabled Veterans

Disabled veterans placed in jobs should comprise at least 1.1 % of total applicants (22 and over) placed in jobs.

4. Placement in Jobs Listed by Federal Contractors

a. Vietnam-Era Veterans

Vietnam-era veterans placed in all jobs listed by Federal contractors should comprise at least 8.0 % of total applicants (including youth 21 and under) placed in all jobs listed by Federal contractors.

b. Special Disabled Veterans

Special disabled veterans placed in all jobs listed by Federal contractors should comprise at least .4 % of total applicants (including youth 21 and under) placed in all jobs listed by Federal contractors.

B. Counseling

1. Veterans and Eligible Persons

Veterans and eligible persons counseled should comprise at least 30.0 % of total applicants (22 and over) counseled.

2. Vietnam-Era Veterans

Vietnam-era veterans counseled should comprise at least 14.0 % of total applicants (22 and over) counseled.

3. Disabled Veterans

Disabled veterans counseled should comprise at least 1.0 % of total applicants (22 and over) counseled.

MONTANA VETERANS PERFORMANCE STANDARDS

FOR REPORT PERIOD JULY 1, 1984 - JUNE 30, 1985

C. Enrollment in Training

1. Veterans and Eligible Persons

Veterans and eligible persons enrolled in training should comprise at least 18.0 % of total applicants (22 and over) enrolled in training.

2. Vietnam-Era Veterans

Vietnam-era veterans enrolled in training should comprise at least 8.0 % of total applicants (22 and over) enrolled in training.

3. Disabled Veterans

Disabled veterans enrolled in training should comprise at least 1.0 % of total applicants (22 and over) enrolled in training.

D. Received Some Reportable Service

1. Veterans and Eligible Persons

Veterans and eligible persons who received some reportable service should comprise at least 26.0 % of total applicants (22 and over) who received some reportable service.

2. Vietnam-Era Veterans

Vietnam-era veterans who received some reportable service should comprise at least 11.0 % of total applicants (22 and over) who received some reportable service.

3. Disabled Veterans

Disabled veterans who received some reportable service should comprise at least 1.0 % of total applicants (22 and over) who received some reportable service.

TABLE A22

MONTANA

STATE

MONTANA

01/31/85

TABLE A22 ALL FUND ACTIVITY

ITEM NO. A	ACTIVITY B	TOTAL C	FEMALE D	TOTAL		MINORITY L	HANDICAPPED N
				VETERAN G			
A22108	INDIVIDUALS PLACED	18861	8090	2697	1435	810	
	Percent		42.89%	14.29%	7.6%	4.29%	

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TABLE A22

01/31/85

MONTANA

STATE

MONTANA

01/31/85

TABLE A22 ALL FUND ACTIVITY

ITEM NO	ACTIVITY	TOTAL		YOUTH (UNDER 22)		MALE OVER 21		TOTAL VET.		VIET-NAM		DIS-ABLED		VETERAN		SPECIAL DIS-ABLED		OTHER ELIG.		MINORITY		HANDICAPPED		ELIGIBLE		
		F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
A22010	INDIVIDUALS																									
A22010	APPLICANTS ACTIVE AT ANY TIME THIS PY	90544	39195	19970	14304	40497	7057	14304	7057	7057	708	231	419	6932	455	3960	30989									
A22012	FULLY REGISTERED	60808	37594	18373	12860	39234	6810	12860	6810	6810	689	220	218	6750	203	30659	30659									
A22015	OTHER WELFARE	100	107	51	50	17	17	1	1	1	1	1	1	48	1	27	21									
A22040	CARRY-IN	29417	11775	5914	6360	14416	3113	6360	3113	357	357	109	159	2358	42	1062	12020									
A22045	INDIVIDUALS NEG. THIS PY	67950	29680	15547	9338	29787	4043	9338	4043	453	453	141	80	5074	409	2780	17608									
A22050	PARTIAL REGS	2623	1196	1042	239	920	6	239	6	6	6	2	0	147	191	43	132									
A22055	OTHER WELFARE	144	86	25	19	51	12	19	12	0	0	0	0	26	0	21	11									
A22077	PROVIDED SOME REPORT-ABLE SERV THIS PY	42191	19934	10789	7077	10632	3587	7077	3587	441	441	140	102	3205	399	2296	7520									
A22060	COUNSELING PROVIDED APITUDE TESTS	5342	2768	1080	1233	2051	648	1233	648	144	144	55	11	610	16	788	947									
A22065	TESTING	630	318	127	132	256	57	132	57	11	11	4	2	58	1	96	134									
A22068	APITUDE TESTING	6470	3108	1104	551	1003	40	551	40	40	40	10	25	448	5	300	1109									
A22088	PERFORMANCE & SELECTION TESTING	1250	535	287	237	555	113	237	113	15	15	4	2	156	1	132	283									
A22090	REFERRED TO SUPPORTIVE SERVICE	4979	4508	820	263	369	125	263	125	23	23	0	21	271	3	148	802									
A22092	REFERRED TO TRAINING	4258	1296	931	1827	2430	1010	1827	1010	151	151	46	8	377	54	530	919									
A22097	ENROLLMENT IN TRAINING	1007	430	336	206	372	105	206	105	23	23	9	3	115	2	110	162									
A22098	JOB DEVELOPMENT	984	497	431	122	239	63	122	63	11	11	2	1	161	0	125	115									
A22098	REFERRAL	283	120	137	36	85	14	36	14	3	3	1	0	22	17	21	19									
A22099	JOB DEVELOPMENT CONTACT	4822	1674	708	1751	2772	493	1751	493	118	118	32	14	307	54	380	1003									
A22100	REFERRED TO JOB	32462	1353	8812	4980	12633	2511	4980	2511	290	290	88	60	2155	381	1480	5470									
A22101	INACTIVATED	63302	29091	16427	7757	25914	3760	7757	3760	506	506	133	169	4892	414	2692	12451									
A22102	WITH SOME SERVICE OBTAINED EMPLOYMENT	35903	16867	10189	5449	13735	2718	5449	2718	324	324	110	125	2677	338	1855	4717									
A22103	TOTAL	526	226	179	97	219	50	97	50	9	9	4	2	35	1	70	103									
A22104	FROM JOB FINDING CLUBS AND JOB SEARCH WORKSHOPS	134	66	45	19	48	12	19	12	2	2	1	1	10	1	14	20									
A22105	TAX CREDIT ELIG. DETER.	1063	582	416	156	301	90	156	90	12	12	2	3	118	1	108	154									
A22106	PLACED AFTER TAX CREDIT ELIG. DETER.	429	209	194	73	128	37	73	37	3	3	1	1	51	0	39	69									
A22107	OBTAINED EMPLOYMENT AFTER TAX CREDIT	18601	8090	6299	2697	7205	1325	2697	1325	0	0	0	0	1435	0	810	2547									
A22108	INDIVIDUALS PLACED ELIG. DETER.	72	42	32	6	19	3	6	3	0	0	0	0	5	0	8	8									

TABLE A22

TABLE A22 ALL FUND ACTIVITY 01/31/85 MONTANA STATE MONTANA

ITEM NO	ACTIVITY	TOTAL		FEMALE		MALE		YOUTH		OVER		VETERAN		DIS-		SPECIAL		OTHER		MIN-		MIGRANT		HANDI-		ELIG					
		U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V	U	V		
A22110	4 DAYS OR LESS	4550	900	1670	2289	843	910	38	4	10	4	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	
A22115	4-150 DAYS	7112	2057	2050	2971	1114	520	31	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	16	
A22120	OVER 150 DAYS	15927	7418	5183	5247	2005	1063	113	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	22	
A22125	NONAGRICULTURAL	19678	5093	2806	3292	1232	621	170	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	43	
A22130	OVER 3 DAYS	14517	7582	4636	6943	2487	1235	105	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	
A22134	OVER 150 DAYS	9468	5078	2771	3307	1183	595	66	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	17	
A22135	AGRICULTURAL	2032	560	801	951	334	159	11	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	
A22136	UNSUBSIDIZED JOBS	18059	7053	5967	6984	2601	1274	126	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	
A22137	SUBSIDIZED JOBS	586	522	413	278	126	64	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
A22138	RESULT OF JOB DEV.	1360	571	453	540	234	121	22	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	
A22139	THROUGH JOB FINDING CLUBS AND JOB SEARCH WORKSHOPS	1129	460	280	492	220	105	14	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	
A22140	AFTER COUNSELING	1293	576	276	570	382	192	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
A22145	AFTER ATTITUDE TEST	341	152	104	130	71	25	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
A22150	AFTER PERFORMANCE & SELEC TESTS	1246	1145	246	87	69	35	7	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
A22170	OTHER WELFARE	52	30	10	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A22175	CWEP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A22177	PART TIME	8141	3586	3379	2675	901	460	40	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
A22178	4-150 DAYS OR LESS	2843	448	1123	1506	573	293	21	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
A22179	OVER 150 DAYS	1735	896	1814	934	102	144	14	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
A22180	UNSUBSIDIZED	4136	2409	1711	939	405	144	14	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
A22181	SUBSIDIZED	8043	3531	3305	2667	957	458	40	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
A22182	WAGES (TOTAL)	106	60	80	6	5	3	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A22182	UNDER \$3.35	1230	711	649	262	110	39	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
A22183	\$3.35 - \$3.84	6630	4094	3899	2515	919	408	34	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
A22184	\$3.85 - \$3.99	221	93	73	65	34	20	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
A22187	\$3.85 AND OVER	10011	3435	2246	4932	1939	994	97	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29
A22188	\$4.00 AND OVER	19835	3351	2186	4873	1518	981	96	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29
A22189	\$5.00 AND OVER	5694	1680	1024	3179	1302	665	66	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20
A22190	WAGES (PART TIME)	497	313	341	47	19	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A22191	UNDER \$3.35	4285	2081	2158	1079	393	172	13	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6
A22192	\$3.35 - \$3.84	275	41	30	19	6	5	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
A22195	\$3.85 AND OVER	3744	1158	1087	1756	642	322	25	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
A22196	\$4.00 AND OVER	3679	1158	1059	1742	642	320	24	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
A22197	\$5.00 AND OVER	2072	510	529	1127	430	214	17	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
A22200	INTERSTATE CLEARANCE REFERRED TO JOB	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A22202	INDIVIDUALS PLACED	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

TABLE A22 ALL FUND ACTIVITY 01/31/65 MONTANA STATE MONTANA TABLE A22
 ALL FUND SOURCES ACTIVITY

ITEM NO	ACTIVITY	TOTAL		FEMALE		YOUTH (UNDEK. 22)		MONTANA		STATE		MONTANA		OTHER		MIN-URITY		MIGRANT		HANDI-CLAI-		
		C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
A22205	PLACEMENTS	32065	11835	9218	14420	6153	2930	239	56	75	494	1328	2533	86	1328	4227						
A22206	PART TIME INTERSTATE CLEARANC	12222	4126	4802	5032	2134	995	78	20	27	86	450	1002	0	450	1172						
A22211	PART TIME NONAGRICULTURAL	29689	11211	8271	13272	5722	2744	225	56	72	103	1240	2112	0	1240	4045						
A22215	OVER 3 DAYS PART TIME	19368	9185	5479	4844	2066	1965	176	20	27	62	430	979	0	430	1133						
A22216	OVER 3 DAYS PART TIME	5969	3291	2512	1317	2842	1366	126	50	40	15	185	338	0	185	593						
A22220	AGRICULTURAL OVER 3 DAYS	2394	624	947	1148	495	186	14	12	0	391	68	421	0	68	182						
A22225	OVER 3 DAYS	1776	554	634	855	314	126	12	2	3	385	68	375	0	68	132						
JOB OPENINGS		TOTAL	TIME																			
A22245	JOB OPENINGS REC'D	37794	14143																			
A22250	NONAGRICULTURAL	35246	13532																			
A22255	3 DAYS OR LESS	10634	5651																			
A22260	4-150 DAYS	10051	1805																			
A22265	OVER 150 DAYS	14561	5876																			
A22292	WAGES UNDER \$3.35	1316	612																			
A22297	\$3.35 - \$3.84	12596	6223																			
A22302	\$3.85 - \$3.99	263	106																			
A22309	\$4.00 AND OVER	19450	5984																			
A22307	\$5.00 AND OVER	11768	3070																			
A22310	AGRICULTURAL	2546	611																			
A22311	SUBSIDIZED	1093	122																			
A22312	UNSUBSIDIZED	36699	14021																			
A22315	JOB OPENINGS FILLED	32059	12216																			
A22320	NONAGRICULTURAL	29669	11618																			
A22325	3 DAYS OR LESS	10343	5700																			
A22330	4-150 DAYS	19117	1558																			
A22335	OVER 150 DAYS	10209	4360																			
A22362	WAGES UNDER \$3.35	972	462																			
A22367	\$3.35 - \$3.84	10644	5184																			
A22372	\$3.85 - \$3.99	200	75																			
A22376	\$4.00 AND OVER	16701	5371																			
A22377	\$5.00 AND OVER	10100	2814																			
A22380	AGRICULTURAL	2400	598																			
A22381	SUBSIDIZED	1043	120																			
A22382	UNSUBSIDIZED	31020	12096																			
A22383	OTHER STATE	1	0																			
A22385	COUNSELING INTERVIEWS	10363	5350	2102	3999	2176	1085	242	16	99	44	1703	1191	0	1703	1673						
A22390	TESTS GIVEN	10427	8500	1699	1600	857	403	62	43	16	6	540	689	0	540	1759						
A22400	CLAIMANT WORK TEST REC'D POSSIBLE DISQUAL INCIDENTS-INDIVIDUALS	10	7	0	0	0	0	0	0	0	0	0	2	0	0	7						

1980 POPULATION CENSUS

Chapter C - Table - 67
Chapter D - Table - 204

Persons 16 Yrs & Over	Civilian Non Institution- alized Population		Civilian Labor Force		Participation Rate	Civilian Veteran Population	%
	%	Population	%	Force			
TOTAL	100%	572,358	100%	357,846	62.5%	108,590	100%
MALE	49.4%	281,092	49.1%	213,143	75.8%	104,524	96.3%
FEMALE	50.6%	291,266	50.9%	144,703	49.7%	4,066	3.7%
VETERANS	18.6%			87,085	24.3%		

Civilian Labor Force	Employed		Unemployed		Unemployment Rate
	%	Employed	%	Unemployed	
TOTAL	100%	328,316	100%	29,530	8.3%
MALE	59.6%	193,532	58.9%	19,611	9.2%
FEMALE	40.4%	134,784	41.1%	9,919	6.9%
VETERANS	24.3%	80,295	24.5%	6,790	7.8%
NonVETERANS	75.7%				

MINORITY	17,933	5.0%
HANDICAPPED	40,515	11.3%

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GOVERNMENT EMPLOYMENT - 1980 CENSUS

Chapter C - Table 67
Chapter D - Table 204

GOVERNMENT EMPLOYMENT
Compared to
Civilian Labor Force

	Persons	%	Persons	%
TOTAL	71,667	100%	20.0%	
MALE	34,776	48.5%	16.3%	
FEMALE	36,891	51.5%	25.5%	
VETERANS	16,458	23.0%	18.9%	

	FEDERAL GOVERNMENT Persons	%	STATE GOVERNMENT Persons	%	LOCAL GOVERNMENT Persons	%
TOTAL	18,390	100%	21,451	100%	31,826	100%
MALE	10,719	58.3%	10,654	49.7%	13,403	42.1%
FEMALE	7,671	41.7%	10,797	50.3%	18,423	57.9%
VETERANS	5,846	31.8%	4,336	20.2%	6,276	19.7%

TOTAL POPULATION		MALE & FEMALE		1980 Census	
Population	740901	100%	48.3%	36.5%	14.7%
CLF	357846	48.3%	100%	75.7%	30.3%
CLF Non-Veteran	270761	36.5%	75.7%	100%	40.1%
Veteran Population	108590	14.7%	30.3%	40.1%	100%
VietNam Era Vet Pop	31446	4.2%	8.8%	7.0%	29.0%
CLF Veterans	87085	11.8%	24.3%	32.2%	80.2%
CLF VietNam Era	25219	3.4%	7.0%	9.3%	23.2%
Population, Male	370038	50.0%	57.6%	59.5%	60.0%
CLF	213143	57.6%	59.5%	60.0%	60.0%
CLF Non-Veteran	128026	34.6%	57.6%	59.5%	60.0%
Veteran Population	104524	28.2%	49.0%	39.9%	81.6%
VietNam Era Vet Pop	30340	8.2%	14.2%	14.2%	29.0%
CLF Veterans	85117	23.0%	39.9%	39.9%	66.5%
CLF VietNam Era	24336	6.6%	11.4%	11.4%	23.3%
Population, Female	370863	50.0%	42.4%	40.5%	39.8%
CLF	144703	39.0%	40.5%	40.5%	39.8%
CLF Non-Veteran	142735	38.5%	40.5%	40.5%	39.8%
Veteran Population	4066	1.1%	2.8%	2.8%	3.7%
VietNam Era Vet Pop	1106	0.3%	0.8%	0.8%	2.3%
CLF Veterans	1908	0.5%	1.4%	1.4%	2.3%
CLF VietNam Era	882	0.2%	0.6%	0.6%	1.7%

CLF = Civilian Labor Force (16 Yrs +)

* = % of Total Population Chart

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VETERANS SEPERATED FROM MILITARY SERVICE

1981	154
1982	1,108
1983	682
1984	552

Information compiled from VES-1 Data
(Notice of Recently Discharged Veteran)

Employment Data

U.S. Department of Labor

Veterans Employment and Training Service

(Office of Veterans' Reemployment Rights)

Compliance Level of Service to Veterans

COMPLIANCE STATUS

STANDARD

6/30/84

FY '83
10/01/82
9/30/83

6/30/83

PLACEMENT

Veterans and other Eligibles	20.83%	21.81%	22.47%	23 %	NO
Vietnam-era	9.38%	10.03%	10.63%	10 %	YES
Disabled	0.81%	1.07%	1.18%	1.1%	YES

COUNSELING

Veterans and other Eligibles	31.67%	31.46%	31.19%	30 %	YES
Vietnam-era	14.05%	14.24%	15.07%	8 %	YES
Disabled	2.62%	2.59%	2.62%	1 %	YES

ENROLLED in TRAINING

Veterans and other Eligibles	18.75%	18.17%	28.43%	18 %	YES
Vietnam-era	8.28%	7.87%	12.71%	8 %	YES
Disabled	0.78%	0.81%	2.11%	1 %	YES

RECEIVED REPORTABLE SERVICE

Veterans and other Eligibles	25.37%	25.49%	26.18%	26 %	YES
Vietnam-era	11.49%	11.64%	12.88%	11 %	YES
Disabled	1.25%	1.31%	1.54%	1 %	YES

FEDERAL CONTRACTOR

Vietnam-era	5.96%	7.38%	7.29%	10 %	NO
Special Disabled	0.26%	0.51%	0.42%	1.1%	NO

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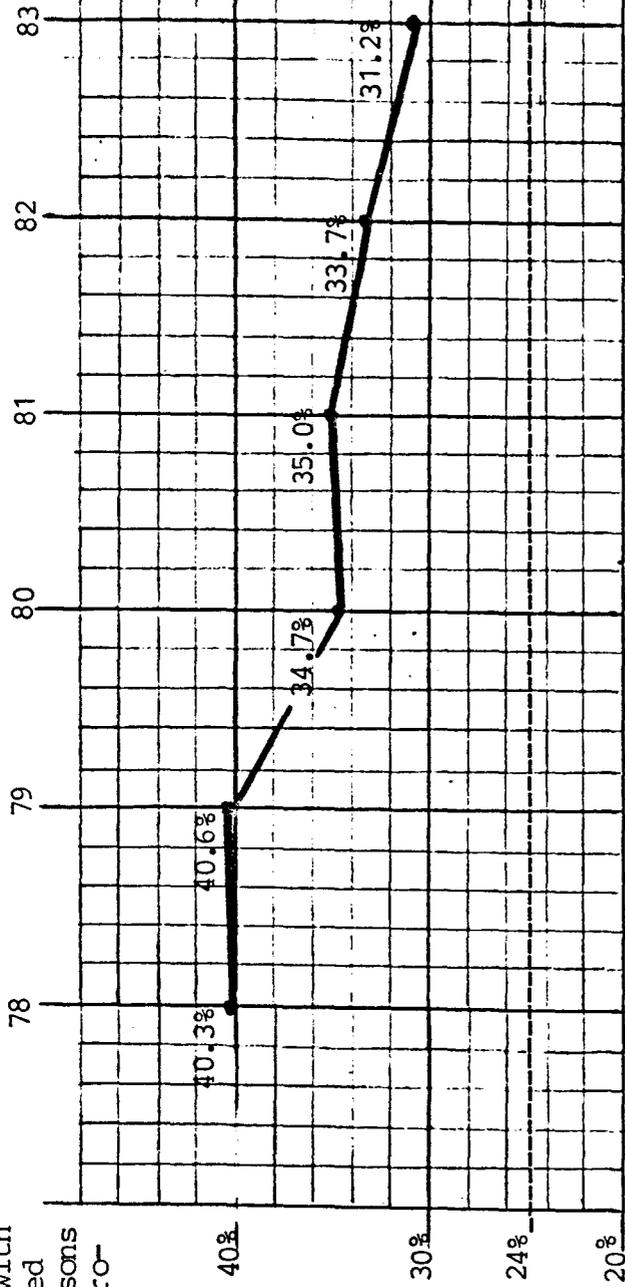
VETERANS PREFERENCE INDICATORS OF COMPLIANCE - MONTANA FISCAL YEAR 1978 - 1983

Veterans preference indicators of compliance are compared with the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

The term "nonveteran" shall not include women and persons 19 years of age or younger.

The term "Veteran" shall include eligible persons.

Required Floor Level (24%)



205(c)(5) of the Comprehensive Employment and Training Act, sponsors of public service employment programs under Title II of that Act are required to make special efforts to acquaint veterans with the public service jobs available under Title II of CETA and to coordinate their efforts on behalf of veterans with ES activities under this subpart.

§ 653.226 Standards of performance governing complaints of veterans and eligible persons.

(a) Any veteran or eligible person may file a complaint with the LVER. The LVER shall handle the complaint in accordance with the provisions of Subpart E of Part 658 of this chapter except that, if the complaint relates to the responsibilities of an employer under 38 U.S.C. 2012, the LVER shall follow the Department's complaint procedures set forth at 41 CFR Parts 60-250.

(b) Each local office shall have information on the complaint system available to veterans and eligible persons at all times, and shall display a poster which advises applicants about the system.

FEDERAL MONITORING OF STATE AGENCY COMPLIANCE

§ 653.230 Veterans preference indicators of compliance for fiscal year 1981.

(a) To help in determining whether the standards of performance set forth in §§ 653.221 through 653.226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "non-veteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this sec-

tion, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels (except as provided in paragraph (c)(1)(iv) of this section) shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods, and locations. The floor level for veterans inactivated with some reportable service shall be stated as the ratio of veteran individuals inactivated with some reportable service to the number of veterans inactivated. The floor levels of accomplishment for FY 1980 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

Veterans Counseled/Veteran Applicants—6 percent.

(ii) A minimum of 7.5 percent of all veteran applicants shall be provided job development.

Veteran Job Development Contracts/Veteran Applicants—7.5 percent.

(iii) A minimum of (individual State values listed below) percent of all veteran applicants shall be placed in jobs.

Veterans Applicants Placed/Veteran Applicants—(see list below for State values).

MONTANA FEMALE EMPLOYMENT

Montana Employment and Labor Force
Research and Analysis Bureau
Department of Labor and Industry

(In Thousands)

INDUSTRY	YEAR	ANNUAL AVERAGE
Government	1974	24.6
"	1975	28.3
"	1976	30.4
"	1977	32.7
"	1978	35.4
"	1979	38.8
"	1980	44.6
"	1981	41.8
"	1982	41.9
"	1983	42.7

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VARIOUS APPLICANT GROUPS RECEIVING SPECIFIC SERVICES
AS A PERCENT OF INDIVIDUALS REGISTERED

FISCAL YEAR'S 1980 - 1981 - 1982 - 1983 - (COMBINED)

M O N T A N A - S T A T E W I D E

4 Year Totals	Total Individuals Referred to Jobs	Total Individuals Placed in Non- Agricultural Jobs
Total All Applicants	45.6	30.3
Female	48.0	31.3
Minority	39.7	25.9
Handicapped	44.0	28.4
Veterans	48.5	30.6

SOURCE: Employment Service Automated Reporting System (ESARS) Table 22A

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

EXHIBIT J
2/15/85
HB 473



TESTIMONY OF LAURIE LAMSON, PRESIDENT OF THE WOMEN'S LOBBYIST FUND, BEFORE THE HOUSE JUDICIARY COMMITTEE, FEBRUARY 15, 1985

The many groups and individuals across the state that comprise the Women's Lobbyist Fund represent a broad spectrum of interests. However, we share a common goal that shapes our position on the issue of veteran's preference. We all want Montana to be a better state for women and their families to live and work in.

The process by which we have developed our position on the issue of veteran's preference has been long and involved. We began holding public meetings, polling our membership, and talking with representatives of veterans and the disabled during mid-1983. The legislature also took a similar approach through an interim committee formed during the 1983 legislative session, as you attempted to find an equitable solution to the dilemma of preference. The legislature spent an entire week in special session in December 1983, at considerable expense to the taxpayers, to reach a compromise on the issue.

The compromise reached during the special session of the legislature was not an easy one. All possible angles of the preference question were discussed, researched and debated. The result was a bill that appears to be a fair and reasonable approach to the difficult question of employment preference. The Women's Lobbyist Fund supports the existing law, without amendment.

The existing law is not the law the Women's Lobbyist Fund originally supported. Nor is it the law originally supported by groups representing the disabled or veterans. However, the law was arrived at carefully through weighing the effect of a definition, or the impact of a mechanism to apply preference. The law that currently exists was developed through careful balancing of the rights and interests of all parties involved.

House Bill 473, before you today, would throw out the work of the past two years. The bill separates the interests of veterans from those of handicapped civilians in employment preference, and creates a separate-but-not-equal system of applying preference. Because of the separation of handicapped preference from veteran's preference, the bill would be an administrative nightmare. But worse, the bill

would disrupt the delicate balance of rights achieved by the special legislative session for disabled persons.

House Bill 473 would insert a costly system of points in determining who should get a job. All open jobs in state government would need to be filled based on testing or interview procedures that could be scored. Development of testing and scored interview procedures with statistical reliability for predicting the most qualified candidate is extremely expensive. In order to insure the scored procedures do not contain bias that lead to discrimination in the hiring process, test development experts need to review each test and determine it is non-biased. Such a review may take months for a single test or scored procedure.

Because numbers are used in this bill, it seems it is a fair approach to the question of hiring preference. But our experience does not bear this theory out. Consider these numbers:

- disabled veterans receive 10 points of hiring preference, while disabled civilians receive only five points. Yet disabled veterans need not be disabled during battle. A new recruit who has an automobile accident on the way into the base is considered a disabled veteran, even though he may never have seen a day of battle.
- disabled civilians receive only 5 points of hiring preference.
- women or other groups, including males not physically qualified for military service, receive no points of hiring preference.
- this bill lowers the qualification for disabled veterans from 30 percent disability to only 10 percent disability. Qualifying 10% disabilities include slight hearing defects and slight injuries to hands or feet. By contrast, disabled civilians must be certified as having a physical or mental impairment that substantially limits major life activities.
- a veteran not hired under this bill may sue, and if successful, be awarded 150% of back wages as well as attorney fees and court costs. A disabled civilian is not allowed back wages.
- Preference for veterans is given for life under HB 473, regardless of employment history. This preference extends to Reductions in Force (RIF) situations which were specifically eliminated by the special legislative session.

House Bill 473 disregards efforts of the special session to develop an equitable balance of rights and interests of all individuals seeking employment. Definitions included in the current law were developed through a great deal of effort, weighing each word for its meaning and its ultimate impact upon men and women seeking public employment. HB 473 throws out definitions willy-nilly and instead imposes definitions just a little different, with untested meaning. For example, the definition of "active duty" in the current law excludes monthly drills and summer camps; HB 473 includes these periods of service in active duty. Each of the definitions in HB 473 regarding veterans are unexplainably different from current law, and would alter existing law in unconsidered ways if enacted.

HB 473 extends preference in hiring veterans (not handicapped civilians) to temporary public positions. Current law includes only permanent and seasonal positions. Temporary positions are usually filled only for short-term needs, and are not intended (or allowed) to become permanent without reconsideration of all applicants.

Finally, HB 473 extends veteran's preference in hiring to public school districts, community colleges, vocational-technical centers, and universities. Preference for disabled civilians, though, is not extended to these public employers. This issue was thoroughly debated during the special session.

The Women's Lobbyist Fund urges you to give HB 473 a "do not pass" recommendation. It is clearly not a well-thought-out bill. It would change, for no good reason, compromises reached painstakingly during the special legislative session in December, 1983. HB 473 destroys the balance of rights and interests achieved for disabled civilians as well as non-veteran men and women seeking public employment. There is no evidence that veterans are not being preferred under existing law -- in fact, the evidence shows that veterans are being preferred to over non-veterans in all covered public employment.

The 1980 Montana Census data showed that the average household income for a family with a veteran was \$21,000. The average income for a family with a woman as head of household was \$9,000. In light of such information, it is difficult to deny that veterans already enjoy preference in employment.

It has never been the intention of the Women's Lobbyist Fund to pit one disadvantaged group against another. All we ask is that you consider what is truly fair to everyone -- all Montanans, whether they be male or female, veteran or non-veteran, disabled or not, minority or majority, employed or unemployed, as well as their children. Current law has been

pieced together to take into consideration all these needs and interests.

The Women's Lobbyist Fund urges you to support existing preference law, and give a "do not pass" recommendation to HB 473.

H.B. 473

February 15, 1985

My name is Mary Lou Garrett. I represent the Interdepartmental Coordinating Committee for Women, known as the ICCW.

The ICCW does not support H.B. 473. H.B. 473 imposes hidden costs on state and local governments and discriminates against women and minorities.

The Montana Veterans' and Handicapped Persons' Employment Preference Act was passed during the 1983 special legislative session. ICCW testified in support of several of the provisions of the act and urges this committee to allow the current law to stand without amendment.

A fair and equitable veterans' and handicapped persons' employment preference is comprised of several criteria and applications:

- o Preference should be given only in tie breaker situations between two equally qualified candidates. Public employers should not be forced to hire the second, third or fourth best qualified applicants for a job.
- o Preference should be given for initial hire only. If a veteran or handicapped person is the best applicant for a job promotion, he or she will not need a preference in order to be selected for that job.

H.B. 473 discards these criteria and would promote veteran's preference in employment above employment of handicapped persons and women.

The exclusion of the legislative and judicial branches of state government is unwarranted. If granting veterans an employment preference is workable and beneficial to state agencies, then such employment preferences should be mandated for hiring in all branches of state government.

Sections 2 and 3 of H.B. 473 establish a scored point hiring system to implement the veteran's employment preference. According to the Personnel Division of the Department of Administration, state agencies do not have the technical staff to

reate and implement such a system. (Designing an interview and/or written test to implement a scored preference system would take time and expertise and would impose additional costs on state agencies and local governments. The minimum cost to state government would be \$311,600 over the next biennium, and it will take another biennium before the scoring procedures can be fully implements according to H.B. 473 fiscal not, January 26, 1985).

Section 3 of this bill requires employers to add 5 points to the score of an eligible veteran and 10 points to the score of a disabled veteran if the eligible applicant scored more than 70 points in a scored written or oral interview or other quantifiable procedure. Agencies and local governments may be forced to interview all preference-eligible veterans in order to determine which candidates score more than 70 points and are therefore eligible for the additional preference points, if suitable scored prescreening measure is not developed.

The effect of Sections 3 and 5 of this bill could cause public employers to interview all veteran applicants eligible for a veteran's preference even if such candidates are not the best qualified resulting in additional delays and hiring.

Section 2 of the bill does not limit the number of times a veteran can receive point-scored preferences in hiring decisions. If a veteran is the best candidate for a promotion he will not need a preference. Preference for veterans ought to be limited to initial hire only.

H.B. 473 also amends the statutes establishing a preference for handicapped persons. Section 12 provides that a disabled veteran receives twice as many points (10 Points). The point preference that a handicapped person receives is for initial hire only, while veterans receive a point preference each time they apply for a job, which is discriminatory.

Section 15 amends the statues whereby a handicapped person may bring suit if he or she believes that a preference was not given to them. Because the preference points must be added to scores above 70 points, local governments and state agencies may have to interview each preference-eligible applicant if suitable scored

prescreening procedures are not developed. Handicapped persons who prevail in a preference lawsuit are entitled to reasonable attorney fees and court costs, but may not be awarded a monetary settlement as may be awarded to a veteran who prevails in a similar suit.

ICCW also opposes Section 6 concerning retention during reduction in force as it is discriminatory.

We urge the legislature to allow the Montana Veterans' and Handicapped Persons' Employment Act which it wisely adopted in 1983, to stand as it is presently. Please do not resurrect the already heavily debated issues of discrimination, but instead give the present Act time to become fully implemented and accomplish its mission.

Thank you.

The Governor's Committee on Employment of the Handicapped would like to take this opportunity to go on record in opposition of HB 473.

The GCEH is in support of an employment preference - one employment preference. The legislature worked long and hard to come up with a workable solution to the absolute preference which the Supreme Court interpreted the previous preference to be in 1983. The GCEH feels the current preference is working fine at this time and before the legislature tries to re-do the preference, the current law should be given ample time to show results. At this time there is nothing to indicate it isn't working.

Because the legislature has decided that there is a need for a preference for some groups of people, these groups should be included in the same law. It makes for easier administration and less headaches for hiring authorities. The scored procedures HB473 is seeking will result in arbitrary and subjective point valuations until a valid testing procedure could be implemented. The GCEH feels the "substantially equally qualified" language in the current law is appropriate. There are cases where 10 points would put a person over someone who is much more qualified - almost absolute preference - or cases where "substantially equal" could be 20-25 points and 10 points would do no good - no preference.

We assume you know this bill would put eligible spouses and mothers of veterans above handicapped civilians. Disabled people - whether veteran or civilian - are the people who have the hardest time finding employment. Therefore, the GCEH contends that this group should continue to have the preference over other eligible persons. It is not spouses and mothers who need the highest preference. During the 1983 Special Session, the legislature decided to grant disabled veterans and civilians equivalently the highest preference. This brought the disabled civilian from the bottom to the top. HB473 would drop them right back down to the bottom again.

For almost sixty years, veterans and civilians have been administered through one law and now we are trying to separate the two, which raises several inequities. Under HB473, a veteran need not be a Montana resident while a civilian must be to receive preference. The veteran is entitled to preference throughout public employment - including school districts under HB473, but not the disabled civilian. Reduction in force and remedy for non-compliance of preference are also addressed for veterans but not handicapped persons.

The GCEH is not anti-veteran. We recognize their service to country and the hazards that go with it. The Committee would like to know how the authors of this bill decided handicapped persons wanted a point preference but none of the other benefits which were included for veterans.

Aside from these many inequities, the GCEH considers the year since the special session insufficient time to draw any conclusions as to whether or not the employment preference is working in its present form. We would urge you not to change the format of the present law until statistics show there is a need.

Again, the Governor's Committee on Employment of the Handicapped is in opposition to HB 473. Thank you for this opportunity to testify.

TESTIMONY ON HB 473

TERESA GRAHAM - DEPARTMENT OF LABOR AND INDUSTRY COMMITTEE FOR WOMEN

My name is Teresa Graham and I have taken vacation time from my job with the Human Rights Commission to present the views of the Department of Labor and Industry Committee for Women. Reading over HB 473 gave us a feeling of déjà vu-- we have been here before. HB 473 nullifies the work of the recent special session on veteran's preference. As you remember, veterans preference was causing extreme problems in hiring public employees. We submit that while there are differences, this bill would return many of those problems. It would also create some extreme inequities. Widows and widowers of veterans would receive more points on examinations than would veterans. Is this fair or reasonable? While many veterans would receive preference in situations of reduction in force those who are in positions covered by collective bargaining agreements would not receive preference because of their status as veterans. This makes no sense at all. If public policy dictates that veterans have preference in lay-off situations, all veterans should have that preference. Veterans who exercise their collective bargaining rights should not be penalized by losing their veterans preference. We favor a very limited veterans preference but we believe that whatever form the preference takes, it should be reasonable and equitable and applied to all veterans indiscriminately.

The second point we would like to make is the one of cost. While there is a great deal of merit in using scored procedures in the hiring process we believe that the cost of implementing such a system would be high. It would be more than the state can afford in 1985. The cost of training those who do the hiring in state government, in the cities, counties and the university system would, by itself, be more than we can afford during the current budget crunch. We urge you to vote "do not pass" on HB 473.

February 15, 1985



**MONTANA
DEMOCRATIC
PARTY**

TESTIMONY OF NANCY HARTE FOR THE MONTANA DEMOCRATIC PARTY IN
OPPOSITION TO HOUSE BILL 473 REGARDING VETERANS PREFERENCE

House Bill 473 is a classic case of "locking the barn door after the horse is gone." In this case, the horse is veterans preference, and it has been running since the Special Session of 1983.

This bill attempts to change, once again, the law governing hiring preference for veterans and handicapped persons. Review of our laws is part of the legislative process, but too often we've seen that review attempted much too soon. Changing the veterans preference law just two years after the Special Session looked at, and decided, the issue is too soon.

It is poor judgment to throw aside the long, and expensive, deliberation that led ultimately to our current law. A legislative interim committee met in the months following the 1983 session, reviewing laws and hiring practices that were challenged after the Crabtree decision. The Special Session then convened for a week, at a cost of \$295,000.

House Bill 473 would mean that that long, involved process -- a process that brought together people with every viewpoint on the issue into a compromise -- meant nothing.

Montana Democratic Central Committee • Steamboat Block, Room 306 • P.O. Box 802 • Helena, MT 59624 • (406) 442-9520

Executive Board

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Phil Campbell	Helen Christensen	Virginia Egli	Wendy Fitzgerald	Chas Jeniker	Les Morse	Les Pallett
Sharon Peterson	Gracia Schall	Barb Skelton	Clara Spotted Elk	Chuck Tooley	Mike Ward	Blake Wordal
Sen. Chet Blaylock	Rep. Dan Kemmis	Jim Foley	Rep. John Vincent	Phillis Moore		

Montana Veteran's and Handicapped Person's Preference Act



State Personnel Division • Department of Administration
Mitchell Building, Room 130 • Helena, Montana 59620

HB 473 -- page two

Montanans have become increasingly suspicious, and resentful, of our law-making system when it at last comes to a decision -- and then fails to stick to it.

When you consider House Bill 473, we know you will consider the impact of the bill on our citizens. We also hope that you consider that re-examining the veterans preference law at this point is premature and a waste of the time, money and thoughtful discussion of the legislators and citizens who participated in drafting the veterans preference compromise law now on the books.

We urge you to vote against House Bill 473.

2/15/85

DEPARTMENT OF ADMINISTRATION HB 473

DIRECTOR'S OFFICE



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

(406) 444-2032

HELENA, MONTANA 59620

TESTIMONY ON HOUSE BILL 473
ELLEN FEAVER, DIRECTOR
DEPARTMENT OF ADMINISTRATION

I would like to begin by summarizing briefly what this bill does to the existing veterans and handicapped civilians employment preference.

1. It separates veterans and disabled civilians into two separate acts. Two separate acts with different provisions.
2. It requires the use of scored selection procedures in nearly all public sector jobs. The scored procedures must total 100 points with a pass point of 70 points.
3. The act provides for 5 additional points for veterans, 10 points for disabled veterans and 5 points for disabled civilians. It does not say whether one must hire the applicant with the most points.
4. It states the employer has the burden of proving that the points were applied and that a reasonable hiring decision was made.
5. If this burden is not carried, the remedy for veterans includes reopening the selection procedure, paying 150% of back wages, and paying legal fees and court costs.
6. The act provides no back pay for disabled civilians who file an action under the act.
7. The bill includes a preference for the retention of veterans in reduction-in-force. This reduction-in-force preference does not extend to disabled civilians.
8. Preference to veterans is not restricted to "initial hires" although this restriction continues for disabled civilians.
9. The time restrictions on the use of the preference (15 years and 5 years) have been removed.
10. The residency requirements continue for the disabled civilian and have been removed for the veteran.
11. Temporary positions are now included for veterans preference but not for disabled civilians employment preference.

just not that simple. Just the problem of trying to insure that 70 points represents a realistic passing point for all selection procedures on all public jobs in Montana is a significant project. But more importantly is the impact this can have on the legal defensibility of selection procedures.

If numbers are attached to a selection device it implies a higher level of precision than if no numbers are attached. The assumption is made that you can distinguish between the suitability of an applicant who scores an 81 and the suitability of an applicant who scores a 76 or perhaps a 78. The federal government and the courts have clearly required that if you use a procedure to do this kind of ranking, you have to be prepared to defend that the procedure can make those kinds of fine distinctions.

In other words, attaching numbers makes a selection procedure significantly more difficult to defend and makes it significantly more likely that it could be successfully challenged in a court of law. In order to develop scored procedures which are defensible would require expert staff and considerable expense. In a report to the Congress the GAO recommended Civil Service agencies abandon total reliance on scored tests. Instead they recommended ranking by groups - outstanding, well qualified, qualified, not qualified. Veterans would be considered at the first of each category. This is essentially the substantially equal test we now use. The GAO stated tests are just not that precise. Tests ordinarily measure knowledge where other attributes may be very important to predicting success on a job.

I believe the state, as an employer, would have difficulty in complying with this bill. I'm quite confident that small cities, counties, and school districts would face considerable difficulty.

One other thing I'd like to comment on is the administrative problems that would be caused were this act to pass. The existing law passed in the special session is itself quite complex. However, I think public agencies are doing a good job of implementing the law. The Department of Administration has adopted rules on employment preference and rules on recruitment and selection. We have developed and implemented a new state application form. We are modifying our automated record keeping systems to keep track of preferred applicants. We prepared informational brochures and posters for local governments and the job service offices. We provided training for state agencies, job service offices, and local governments, and we've provided hundreds of hours of assistance to public hiring authorities. If this bill were to pass, all of these efforts would have to be redone. Where we currently have one law to administer, we'd have two. Two laws with different provisions, different eligibility requirements, and different remedies. I respectfully request of you, don't do that to public employees in Montana. Don't do that to the cities, counties, and the school districts and the applicants. Please vote "Do Not Pass" on House Bill 473.

THANK YOU.

During the special session this legislature worked very hard to achieve a balance between all of the parties impacted by employment preference: women, minorities, veterans, and the disabled. I believe there was a sincere attempt at an equitable solution. The solution didn't give anybody everything they wanted, but it gave everybody something. The resulting veterans and handicapped civilians employment preference act has been in effect less than a year.

House Bill 473, sets the veterans above the disabled civilian, providing a separate act, a separate preference, and a separate remedy. For example, disabled veterans under this bill get 10 points while disabled civilians get only 5. The current law treats them equally. Veterans get back pay at time and a half if they file a successful claim, the disabled civilian does not. Veterans are protected from reductions-in-force while the disabled civilian is not. Veterans preference applies to all hiring positions, including apparently promotion, while preference for the disabled civilian is restricted to initial hire. There are residency requirements for the disabled civilian but none for the veteran.

House Bill 473 attempts to resurrect most of the major features not included in the law during the special session:

1. It removes the time limits on the use of preference.
2. It removes the requirement of a minimum 30% disability determined by the veterans administration.
3. It gives disabled veterans greater preference than disabled civilians.
4. It applies the preference to reductions-in-force and to promotions.
5. It includes temporary positions.
6. It assigns points and requires scored procedures.

The legislature worked diligently in the special session called specifically to address these decisions. You heard hundreds of hours of testimony and deliberations. You made decisions on all these issues a little over one year ago. The sponsors of House Bill 473 are asking you to go through that entire process again. They haven't identified any major problems with the administration of the existing act; it's too early for that. They're not addressing problems, they're just asking you to do the work of the special session over again.

The Department of Administration testified at length on all of these issues during the special session. We are prepared to give you our views on all these issues again, if necessary. I would urge you that repeating that entire debate is not necessary.

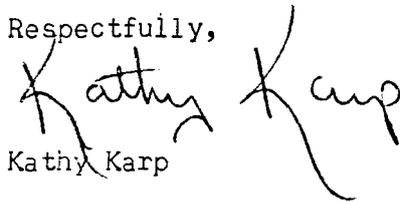
I would, however, like to take this opportunity to speak briefly on a couple of issues of concern to us.

The first, is the use of scored procedures. The sponsors of this bill envision merely adding points to existing selection procedures, but it's

THE LEAGUE OF WOMEN VOTERS OF MONTANA

The League of Women Voters supports the position of equal employment opportunities for all people. Any preference law is discriminatory. For this reason the League of Women Voters of Montana opposes House Bill 473.

Respectfully,


Kathy Karp

WITNESS STATEMENT

Name Beverly Gibson Committee On Judiciary
Address 1802 11th Av. Helena 59601 Date 2-15-85
Representing Mt. Assoc. of Counties Support _____
Bill No. HTB 473 Oppose
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. MACO supports current language of Veterans' ^{and Handicapped} Preference Empl. Act as enacted in 1983 - preference is used as a tie-breaker for equally-qualified applicants
2. MACO does not support invasion of scored testing procedures - too costly and unworkable
3. MACO believes preference should be used for initial hiring only, not for promotions or reductions in force.
4. Local governments use EEO and affirmative action Plans to avoid discrimination - and the 1983 law to give preference in tie-breaking situations

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Amendment to House Bill 473, Introduced Bill

1) Page 3, line 7

Following: line 6

Strike: Subsection (5) in its entirety

Insert: "(5) "Initial hiring position" referred throughout the bill as "position" shall mean a personnel action for which applications are solicited from outside the ranks of the current employees that are permanent, temporary or seasonal positions as defined in 2-18-101 for a state position or a similar permanent, temporary, or seasonal position with a public employer other than the state."

PD-25
(Rev. 10/84)



STATE OF MONTANA APPLICATION FOR EMPLOYMENT

AN EQUAL OPPORTUNITY EMPLOYER

The information contained on this form is sought in good faith. It will not be used in any way to discriminate against any applicant for employment in violation of state or federal law.

FOR STATE USE ONLY

Name:

INSTRUCTIONS:

PLEASE PREPARE A SEPARATE APPLICATION FORM FOR EACH RECRUITMENT ANNOUNCEMENT YOU RESPOND TO. IF YOU BELIEVE YOU QUALIFY, COMPLETE THIS APPLICATION BY TYPING OR PRINTING IN INK. PAGES 1, 4 AND 5 MUST BE AN ORIGINAL WITH AN ORIGINAL SIGNATURE. YOU MAY SUBMIT A PHOTO COPY OF PAGES 2 AND 3 OF A PREVIOUSLY COMPLETED APPLICATION ALTHOUGH AN ORIGINAL IS PREFERRED.

READ THE ANNOUNCEMENT CAREFULLY TO FIND:

- (a) WHAT ATTACHMENTS (TRANSCRIPT, RESUME, SUPPLEMENTS, DD-214, ETC.) MUST BE SUBMITTED IN ORDER FOR YOUR APPLICATION TO BE CONSIDERED,
- (b) WHERE TO SUBMIT YOUR APPLICATION,
- (c) THE CLOSING DATE FOR RECEIPT OF APPLICATIONS,
- (d) THE REQUIRED SPECIAL QUALIFICATIONS OR LICENSES.

SECTION 17 OF THE FORM MAY BE USED TO CONTINUE OR EXPLAIN ANSWERS OR TO PROVIDE OTHER INFORMATION RELATIVE TO YOUR QUALIFICATIONS OR AVAILABILITY.

INCOMPLETE OR UNSIGNED APPLICATIONS WILL NOT BE PROCESSED.

DO NOT WRITE IN SHADED AREAS.

1. Name _____
Last First M.I.

2. Social Security No. _____

3. Address _____

4. Phone # _____
Work Home

5. Position Applied for: Agency/Div _____

Job Title _____

Position # _____

Location _____

6. Date Available _____

7. If required for this position: a. Do you have a valid driver's license? Yes No Chauffeur's? Yes No
(see Job Announcement) b. Are you willing to travel over night? Yes No

8. Will you accept: Permanent full-time Part-time (less than 40 hrs/week) Job sharing
 Temporary (up to 9 months) Seasonal On call
 Day shift Other than day shift Rotating shifts

9. The State of Montana is committed to make reasonable accommodation to any known disability that may interfere with an applicant's ability to compete in the selection process or an employee's ability to perform the duties of the job. If you would like us to consider any such accommodation, please attach a description of the desired accommodation.

10. Do you claim employment preference as: 30% or more disabled veteran?
 Campaign or war veteran? Handicapped person certified by SRS?
 Unremarried spouse of MIA, POW or person who died from a service-connected disability or who died while on active duty?
 Spouse of totally or 100% disabled person?

If Yes, are you a U.S. Citizen? Yes No
Are you a Montana Resident? Yes No If yes, date residency established _____
Are you eligible for or receiving a military or publicly supported retirement (other than social security)? If yes, explain _____

11. If claiming preference as a veteran or disabled veteran:
a. Date entered active U.S. Armed Forces _____ Date separated from active service _____
b. Have you served in a peace-time campaign or expedition for which a campaign badge is authorized?
If yes, give name of badge _____
c. Type of separation/discharge: honorable Under honorable conditions or other
d. Do you have a 30% or more disability rating from the Veteran's Administration? Yes No

Position Title:

AGENCY USE ONLY

J.S. M.Q. WrT PERF ORAL PHYS REF OTHER

EVALUATION: _____

ACTION	Effective Date
Hired	
Withdraw	
Other	

These rules supersede the policy on Veteran's and Disabled Civilian's Preference dated 9/30/83. Administrative Rules of Montana 2.21.1401 through 2.21.1408 and 2.21.1411 have been repealed.

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2.21.1412 SHORT TITLE (1) This policy may be cited as the veteran's and handicapped person's employment preference policy. (Eff. 3/16/84).

2.21.1413 POLICY AND OBJECTIVES (1) It is the policy of the State of Montana, executive, legislative and judicial branches, and covered local governments to provide preference in employment to eligible disabled veterans, other veterans, handicapped persons and certain spouses, when they are substantially equal in qualifications to others applying for initial appointments to positions.

(2) It is the objective of this policy to establish uniform practices and procedures for the administration of the preference by all public employers covered by the veteran's and handicapped person's employment preference act, 39-30-101, et. seq, MCA. (Eff. 3/16/84).

2.21.1414 GENERAL ELIGIBILITY (1) As provided in 39-30-202, MCA, "No veteran, disabled veteran, eligible spouse, or handicapped person is entitled to receive employment preference as provided in 39-30-201, MCA, unless:

- (a) he is a United States citizen;
- (b) he has resided continuously in the state for at least 1 year immediately before applying for employment;
- (c) if applying for municipal or county employment, he has resided for at least 30 days immediately before applying for employment in the city, town, or county in which employment is sought, and

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

(2) No veteran, disabled veteran or eligible spouse is eligible to receive employment preference solely because he is entitled to receive benefits from the U. S. veterans administration. (Eff. 3/16/84).

2.21.1415 ELIGIBLE VETERAN (1) A veteran who may be eligible to receive employment preference must meet all requirements of 2.21.1414.

(2) A veteran who is eligible for employment preference must have:

(a) as provided in 39-30-103, MCA, "served on active duty during time of war or declared national emergency or in a campaign or expedition for which a campaign badge was authorized by the United States congress or the United States department of defense", as provided in 2.21.1426; and,

(b) as provided in 39-30-103, MCA, "been separated from service by honorable discharge" or separation. A discharge "under honorable conditions" or any status other than "honorable" is not acceptable to receive employment preference.

(3) To meet the requirement to serve on active duty requires that the applicant has served on, as provided in 39-30-103, MCA, "full-time duty other than for training in the regular components of the United States army, air force, navy, marine corps, or coast guard with full pay and allowances. The term does not include monthly drills, summer encampments, initial training, or other inactive or active duty for training in the national guard and reserve."

(4) Excluded is, as provided in 39-30-103, MCA, "a retired member of the United States armed forces who is eligible for or receiving a military retirement allowance based on length of service and does not include any other retired member of a public retirement system, except social security, that is supported in whole or in part by tax revenues." (Eff. 3/16/84).

2.21.1416 ELIGIBLE DISABLED VETERAN (1) A disabled veteran who may be eligible to receive employment preference must meet all requirements of 2.21.1414.

(2) A disabled veteran who is eligible for employment preference must have, as provided in 39-30-103, MCA:

(a) "served on active duty;

(b) been separated from service by honorable discharge" or separation. A discharge "under honorable conditions" or any status other than "honorable" is not acceptable to receive employment preference; and,

(c) as provided in 39-30-103, MCA, "suffers a service-connected disability determined by the United States veterans administration to be 30% or more disabling." The disability does not have to be incurred during time of war or national emergency or in a campaign or expedition for which a campaign badge was authorized by the U. S. Congress or department of defense.

(3) A disabled veteran is eligible for employment preference regardless of whether he is eligible for or receiving:

(a) a military disability retirement allowance;

(b) a military retirement allowance based on length of service; or

(c) a retirement allowance as a member of a public retirement system supported in whole or in part by tax revenues. (Eff. 3/16/84).

2.21.1417 ELIGIBLE SPOUSE (1) A spouse who may be eligible to receive employment preference must meet all requirements of 2.21.1414.

(2) As provided in 39-30-103, MCA, an eligible spouse is:

(a) "the unremarried surviving spouse of a veteran who died while on active duty or whose death resulted from a service-connected disability; or

(b) the spouse of:

(i) a disabled veteran determined by the United States veterans administration to have a 100% service-connected disability who is unable to use his employment preference because of his disability;

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

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

(3) The spousal relationship will be determined by the United States veterans administration or department of social and rehabilitation services in accordance with Montana law. (Eff. 3/16/84).

2.21.1418 ELIGIBLE HANDICAPPED PERSON (1) Handicapped persons who may be eligible to receive employment preference must meet all requirements of 2.21.1414.

(2) A handicapped person must be an individual whose disability is certified by the department of social and rehabilitation services, as provided in 2.21.1427. (Eff. 3/16/84).

Rules 19 and 20 reserved

2.21.1421 EMPLOYERS COVERED (1) Public employers covered by the veteran's and handicapped person's employment preference act, 39-30-101 et. seq. MCA, are, as provided in 39-30-103, MCA:

(a) "any department, office, board, bureau, commission, agency, or other instrumentality of the executive, judicial, or legislative branch of the government of the state of Montana; and

(b) any county, city, or town.

(2) The term does not include a school district, a post-secondary vocational-technical center or program, a community college, the board of regents of higher education, the Montana university system, a special purpose district, an authority, or any political subdivision of the state other than a county, city, or town." (Eff. 3/16/84).

2.21.1422 POSITIONS COVERED (1) All positions designated as permanent or seasonal are covered by the employment preference. Seasonal positions are those for which there is a permanent need, but which are interrupted by the seasonal nature of the work.

(2) Excluded from employment preference are positions which are designated as temporary. Temporary positions are established for a definite period of time not to exceed 9 months.

(3) As provided in 39-30-103, MCA, position means "a permanent or seasonal position as defined in 2-18-101 for a state position or a similar permanent or seasonal position with a public employer other than the state. However, the term does not include:

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

(b) a state or local elected official;

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

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

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

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

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

(4) Also excluded is appointment by lawful authority to fill an unexpired term in an elected office.

(5) A person hired into a temporary position shall not be considered a current employee for purposes of 2.21.1423.

If a person hired into a temporary position is considered in the applicant pool for a permanent or seasonal position, the selection is considered an initial hire and the employment preference must be applied. (Eff. 3/16/84).

2.21.1423 APPLYING PREFERENCE (1) As provided in 39-30-201, MCA, an applicant who is eligible for preference under these rules shall be hired over any other applicant with substantially equal qualifications who is not a preference eligible applicant, when:

(a) the applicant has claimed a preference as required in 2.21.1414, and

(b) the hiring is an initial hiring to a position covered in 2.21.1422.

(2) A preference-eligible applicant who is a disabled veteran or handicapped person shall be hired over any other preference-eligible applicant with substantially equal qualifications when the applicant also meets the requirements of (1) (a) and (b) of this rule.

(3) As provided in 39-30-103, MCA, an initial hire means "a personnel action for which applications are solicited from outside the ranks of the current employees of:

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

(b) a legislative agency, such as the consumer counsel, environmental quality council, office of the legislative auditor, legislative council, or office of the legislative fiscal analyst, for a position within the legislative branch;

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

(d) a city or town for a municipal position, including a city or municipal court position; and

(e) a county for a county position, including a justice's court position.

(4) A personnel action limited to current employees of a specific public entity identified in subsections (3) (a) through (e) of this rule, current employees in a reduction-in-force pool who have been laid off from a specific public entity identified in subsections (3) (a) through (e) of this rule, or current participants in a federally-authorized employment program is not an initial hiring."

(5) As provided in 39-30-103, MCA, substantially equal qualifications means "the qualifications of two or more persons among whom the public employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons."

(6) Substantially equal qualifications does not mean a situation in which two or more applicants are exactly equally qualified. It means a range within which two

applicants must be considered to be substantially equal in view of the qualifications set for the job. Qualifications shall include job-related knowledge, skill, and abilities.

(7) The public employer, covered by the veteran's and handicapped person's employment preference act (39-30-101 et. seq., MCA), has the burden of proving by a preponderance of the evidence that the employer made a reasonable determination of the applicant's qualifications for the position and that substantially equally qualified applicants were afforded preference.

(8) The public employer shall retain a record of the hiring decision for at least 90 calendar days after the notice of the hiring decision. Depending on the selection procedures used, the record may include, but is not limited to, the following:

(a) a copy of the vacancy announcement or external recruitment announcement;

(b) a record of the selection procedure used to screen job applicants;

(c) a record of written and oral evaluations of applicants;

(d) a copy of applications that were considered for the specific vacancy; and

(e) a record of the notice of the hiring decision, the written request for an employer's explanation of the hiring decision by an applicant, and the employer's written explanation. (Eff. 3/16/84).

2.21.1424 CLAIMING PREFERENCE - DOCUMENTATION AND

VERIFICATION (1) As provided in 39-30-206, MCA, "a public employer shall, by posting or on the application form, give notice of the preferences that 39-30-101, et. seq. MCA, (the veteran's and handicapped person's employment preference act) provides in public employment." The notice shall appear at the place where applications are received.

(2) As provided in 39-30-206, MCA, "a job applicant who believes he has an employment preference shall claim the preference in writing before the time for filing applications for the position involved has passed." An employer may provide a standard form for claiming employment preference. However, failure to complete such a form does not negate an applicant's claim for preference, as long as a reasonable and timely claim is made as required by this rule. As provided in 39-30-206, MCA, "failure to make a timely employment preference claim for a position is a complete defense to an action in regard to that position under 39-30-207, MCA."

(3) At the place where applications are received, the hiring authority or other agency receiving applications shall inform applicants of requirements for documentation of eligibility for preference which the applicant may be required to provide to the hiring authority.

(4) The person claiming eligibility for employment preference is responsible for providing all information necessary to document his claim.

(5) The hiring authority must obtain documentation of eligibility for employment preference at least from the applicant who is selected for the vacancy.

(6) The hiring authority shall determine when in the selection process submission of documentation of eligibility for the preference shall be provided by the applicant. This may be at the time an offer of employment is made or at an earlier time specified by the hiring authority.

(7) Where appropriate, documentation will include the following or an acceptable substitute:

(a) from a veteran, disabled veteran, or eligible spouse of a veteran, a document issued by the department of defense or equivalent certification from the U. S. veterans administration listing military status, dates of service, discharge type, and campaign badges, commonly form DD-214 or military discharge papers;

(b) from a disabled veteran or handicapped person, a document from the U. S. veteran's administration certifying that the applicant has a service-connected disability of 30% or more or a document from the department of social and rehabilitation services certifying that the applicant is eligible for preference as a handicapped person;

(c) from an eligible spouse of a deceased veteran, a document from the department of defense or the U. S. veterans administration certifying the service-connected death of a spouse;

(d) from an eligible spouse of a person on active duty, a document from the department of defense or the U. S. veterans administration certifying the person on active duty is listed as missing in action or a prisoner of war.

(e) from an eligible spouse of a disabled veteran, a document from the U. S. veterans administration certifying the veteran is 100% disabled, is unable to use the preference because of the disability and is married to the disabled veteran in accordance with Montana law. The spousal relationship will be certified for not more than 1 year. Where the veterans administration does not certify that the disabled veteran is unable to use the preference because of the disability, the hiring authority shall obtain a signed statement from the disabled veteran that;

(i) he is incapable of using his employment preference because of the severity of his disability; and

(ii) he will not claim employment preference with any covered employer for 1 year from the date his spouse obtains certification for the preference.

(f) from an eligible spouse of a handicapped person, a document from the department of social and rehabilitation services certifying the handicapped person is totally disabled, is unable to use the preference because of the disability, and is married to the eligible spouse in accord-

ance with Montana law. The spousal relationship will be certified for not more than 1 year.

(g) a statement signed by the applicant attesting to U. S. citizenship, residency, and non-retired status. Where the hiring authority has reason to question the validity of such statements, further evidence may be requested. For U. S. citizenship such evidence may include, but is not limited to, a birth certificate, voter registration card, or naturalization papers. For residency, such evidence may include, but is not limited to, payment of state of Montana income tax, Montana driver's license, vehicle registration, or hunting and fishing license.

(8) All documentation submitted to a public employer, an entity designated to receive applications for a public employer, or to the department of social and rehabilitation services in support of a claim of employment preference shall be considered confidential.

(9) A public employer, an entity designated to receive applications for a public employer, or the department of social and rehabilitation services shall not release personal information relating to an applicant's claim of preference to any person not directly involved in the hiring decision.

(10) A public employer may release general information relating to a successful applicant's eligibility for preference upon request. The information provided should not be specific to the nature of the disability or other personally identifying information. Examples of general information would be "a disabled veteran," "an eligible spouse of a totally disabled person," or "a handicapped person."

(11) Applicants shall be notified that intentional misrepresentation of the claim for preference is cause for immediate discharge. (Eff. 3/16/84).

2.21.1425 DURATION OF PREFERENCE (1) Subject to provisions of 39-30-202, MCA, a handicapped person as described in 2.21.1418, or a disabled veteran as described in 2.21.1416 qualifies for employment preference as long as the disabling condition persists.

(2) The spouse of a 100% handicapped person as described in 2.21.1417, or the spouse of a 100% disabled veteran as described in 2.21.1417, qualifies for employment preference as long as:

(a) the 100% handicapped person or 100% disabled veteran is unable to use the preference due to the severity of the disabling condition; and

(b) the spousal relationship continues. Continuation of the spousal relationship must be recertified annually by the appropriate certifying agency.

(3) A veteran, as described in 2.21.1415, who is not a disabled veteran, as described in 2.21.1416, qualifies for employment preference for no longer than 15 years following separation from service or December 20, 1988, whichever is later.

(4) The surviving spouse of a veteran as described in 2.21.1417, qualifies for employment preference for as long as the spouse remains unremarried.

(5) The spouse of a person as described in 2.21.1417, qualifies for employment preference for as long as the person is missing in action or is a prisoner of war. (Eff. 3/16/84).

2.21.1426 MILITARY CONFLICTS (1) To be eligible for employment preference a veteran must have served:

(a) on active duty during war or national emergency, which are, as provided in 39-30-103, MCA:

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

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

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

(iv) the Vietnam conflict, beginning on August 5, 1964, and ending on May 7, 1975, both dates inclusive"; or

(b) "in a campaign or expedition for which a campaign badge has been authorized by the department of defense."

(2) A roster of those campaigns or expeditions for which a campaign badge has been authorized by the department of defense is maintained by the department of administration, personnel division (copies are available by contacting the division, Mitchell Building, Helena, Montana 59620). (Eff. 3/16/84).

2.21.1427 CERTIFICATION OF HANDICAPPED PERSONS (1) As provided in 39-30-107, MCA, "the department of social and rehabilitation services shall certify persons as handicapped for the purpose of employment preference."

(2) In order to be eligible for employment preference, a handicapped person must be certified by the department of social and rehabilitation services to have, as provided in 39-30-103, MCA, a "physical or mental impairment that substantially limits one or more major life activities, such as writing, seeing, hearing, speaking, or mobility, and which limits the individual's ability to obtain, retain, or advance in employment." The certification process may also consider impairments which limit an individual's ability to know or reason; or an individual's ability to make a choice or decision.

(3) The handicapped person shall have a professional diagnosis establishing the disabling condition. The handicapped person's medical evidence shall be provided by a licensed physician or a licensed practitioner competent to treat and diagnose the particular disabling condition.

(4) Each disabling condition will be individually evaluated on a case-by-case basis to determine eligibility for employment preference with the exception of those persons specifically excluded in Section (6c) of this Rule.

(5) To determine if a physical impairment exists, the department of social and rehabilitation services shall consider at least the following:

(a) For the purpose of determining whether a person will be considered to be a person handicapped by blindness, the department shall consider the definition in 53-7-301, MCA: "'blind individual' means an individual whose central visual activity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees or who has other eye conditions which render vision equally defective or who has an eye condition which will cause blindness."

(b) For the purpose of determining whether a person will be considered to be a person handicapped by deafness; the department shall consider the definition in 49-4-502, MCA: "'deaf person' means a person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding oral communications. The term further includes, but is not limited to, a person who, because of loss of hearing, cannot communicate spoken language."

(c) For the purpose of determining whether a person will be considered to be a handicapped person, the department shall consider at least the following disorders to constitute neuromuscular disorders:

- (i) cerebral palsy;
- (ii) cystic fibrosis;
- (iii) multiple sclerosis;
- (iv) muscular dystrophy;
- (v) epilepsy;
- (vi) paraplegia;
- (vii) quadriplegia; or
- (viii) other diagnosable diseases or dysfunctions recognized in medical literature as affecting neuromuscular performance.

(d) For the purpose of determining whether a person will be considered to be a handicapped person, the department shall consider at least the following disorders to constitute organic disorders:

- (i) diabetes;
- (ii) heart disease;
- (iii) cardiovascular disease;
- (iv) stroke;
- (v) respiratory/pulmonary dysfunctions;
- (vi) hemic dysfunctions;
- (vii) lymphatic dysfunctions;
- (viii) endocrine dysfunctions; or
- (ix) genito-urinary dysfunctions and other diagnosable diseases or dysfunctions recognized in medical literature as affecting organic performance;

(e) For the purpose of determining whether a person will be considered to be a handicapped person, the department shall consider at least the following disorders to constitute orthopedic disorders:

- (i) disfigurement;
- (ii) anatomical loss;
- (iii) skeletal/muscular dysfunction and impairment;
- (iv) other diagnosable dysfunctions recognized in medical literature, as affecting orthopedic performance.

(6) For the purpose of determining whether a person will be considered to have a mental impairment the department of social and rehabilitation services shall apply the following definition, as provided in 39-30-103, MCA:

(a) mental impairment means "suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or

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

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

(7) Handicapped certification for employment preference shall not be denied merely because of a person's current or former employment.

(8) The department of social and rehabilitation services will establish a process and standards for certifying handicapped persons for employment preference. The process shall include, but is not limited to:

(a) a determination established by a professional medical diagnosis that the person has a physical or mental impairment as defined by these rules; and

(b) a determination that the physical or mental impairment substantially limits one or more major life activity and as a consequence of the handicap the person's employment opportunities have been or may be substantially limited; or

(c) a determination by the counselor and medical consultant designated by the department of social and rehabilitation services that the disability is so severe or apparent that it has lead to or could lead to employment discrimination which would substantially limit the person's ability to obtain, retain, or advance in employment; or

(d) a determination that the disabled person is totally disabled and that he is unable to use his preference because of the disability and therefore his spouse is eligible for preference.

(9) Each determination will rely on the professional judgment of the counselor and medical consultant designated by the department of social and rehabilitation services to make the determination.

(10) Each determination will be provided in writing in a standard form as established by the department of social and rehabilitation services. The written notice shall include a statement regarding the duration of the certification. The written notice shall be provided to the handicapped person within 30 days of the receipt of all information necessary to make the certification decision.

(11) The process shall allow for permanent certification of those impairments (in the judgment of the counselor and medical consultant designated by the department of social and rehabilitation services) considered to be permanent and shall allow for loss of certification for those impairments which may be considered temporary.

(12) The person requesting certification by the department of social and rehabilitation services is responsible for providing all information necessary to document his claim to be certified for employment preference. All costs of obtaining the necessary information, including medical evidence to substantiate his claim, are the responsibility of the person requesting the certification.

(13) Where a handicapped person has been determined to have a disability so severe that he is unable to use his preference and therefore his spouse is eligible to use his preference, the written notice of certification should clearly state the preference-eligible person is an eligible spouse and that the certification is valid for not more than 1 year.

(14) The department of social and rehabilitation services shall insure the confidentiality of information gathered when making employment preference determination in accordance with federal and state law and as provided in 2.21.1424.

(15) Any handicapped person, as provided in 39-30-103, MCA, who is dissatisfied with the department of social and rehabilitation services certification decision regarding eligibility for employment preference, shall be advised of his right to file a request for an administrative review of that action and right to a fair hearing if he is dissatisfied with the outcome of the administrative review. The administrative review shall be conducted by the administrator of vocational rehabilitative services division or designee. The fair hearing shall be conducted in accordance with the fair hearing rules of the department of social and rehabilitation services as provided for in 46.2.201 et. seq., ARM. (Eff. 3/16/84).

2.21.1428 HIRING DECISIONS (1) As provided in 39-30-206, MCA, "if an applicant for a position makes a timely written employment preference claim, the public

employer shall give written notice of its hiring decision to each applicant claiming preference." The notice shall include whether the position was obtained as the result of application of preference by the public employer.

(2) Written notice must be given to each applicant claiming preference who is actually considered by the public employer as an applicant for a specific position vacancy.

(3) Public employers who maintain active application files or conduct continuous recruitment must give written notice to each person claiming preference whose application is active in accordance with the employer's selection procedures and who is actually considered for a specific vacancy. Notice must be given at the time a position vacancy is filled or by the end of each month in which a position vacancy is filled.

(4) The public employer must maintain a record of which applicants were notified and the date the notification was sent for at least 90 days after notification of the hiring decision. (Eff. 3/16/84).

2.21.1429 INTERNAL PROCEDURES - ENFORCEMENT OF PREFERENCE (1) As provided in 39-30-207, MCA, "an applicant who believes he has not been accorded his rights under the veteran's and handicapped person's employment preference act, 39-30-101, et. seq., MCA, may, within 30 days of receipt of the notice of the hiring decision, submit to the public employer a written request for an explanation of the public employer's hiring decision."

(2) The written request for an explanation shall contain, but is not limited to, such information as is necessary to determine:

- (a) the applicant's name and address;
- (b) the applicant is requesting an explanation from the hiring authority regarding the hiring decision; and
- (c) the position for which the person applied.

(3) As provided in 39-30-207, MCA, "Within 15 days of receipt of the request, the public employer shall give the applicant a written explanation." The written explanation shall contain specific job-related reasons why the person claiming preference was not hired. The explanation should be dated and identify the specific position in question. The public employer should send the written explanation by certified mail. Failure to provide written explanation as required may subject the employer to reopening the selection process. The employer should safeguard the confidentiality of information he has considered in accordance with state and federal law and as provided in 2.21.1424.

(4) All days are calendar days. (Eff. 3/16/84).

2.21.1430 EXTERNAL PROCEDURES - ENFORCEMENT OF PREFERENCE (1) "An applicant may, within 90 days after receipt of notice of the hiring decision, file a petition in dis-

strict court, in the county in which his application was received by the public employer", as provided in 39-30-207, MCA.

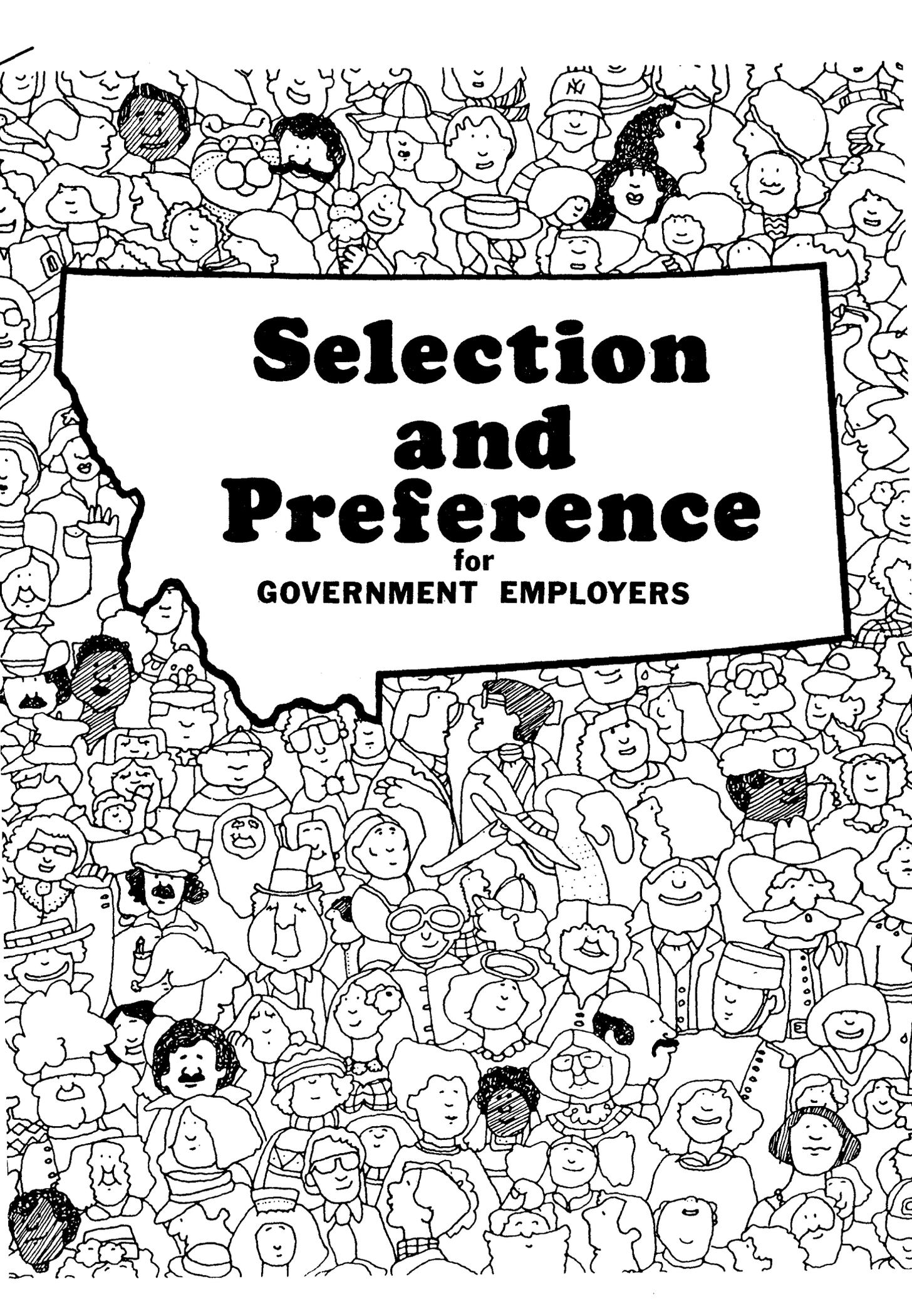
(2) All days are calendar days. (Eff. 3/16/84).

2.21.1431 REOPENING THE SELECTION PROCESS (1) If a court orders a public employer covered by these rules to reopen the selection process for the position involved, the public employer shall repeat the selection process including any job announcement and solicitation of applications. In addition, the public employer shall notify all persons who were previously considered applicants for the position that the position has been reopened. Employment preference shall be applied as specified in these rules. (Eff. 3/16/84).

2.21.1432 CONFLICT WITH FEDERAL LAW (1) As provided in 39-30-108, MCA, employment preference does "not apply to work or positions subject to federal laws or regulations, if application of the employment preference conflicts with those laws or regulations."

(2) An agency which believes such a conflict exists shall submit the position and documentation of the laws or regulations in conflict for review by the Personnel Division, Department of Administration, Mitchell Building, Helena, Montana 59620. The division shall determine if the position is excluded from application of the preference.

Questions regarding implementation of this policy should be referred to your department's personnel officer. Your personnel officer will contact the Personnel Division, Department of Administration, if additional assistance is needed in interpretation of the policy.

The background of the entire page is a dense, intricate crowd of stylized human faces. Each face is drawn with simple black outlines and some shading, representing a wide variety of ages, ethnicities, and professions. The faces are packed closely together, creating a sense of a large, diverse group of people. In the center of this crowd is a large, white rectangular box with a black border. Inside this box, the title is written in bold, black, sans-serif capital letters. The title is arranged in four lines: 'Selection' on the first line, 'and' on the second line, 'Preference' on the third line, and 'for' on the fourth line. Below the word 'for' is the text 'GOVERNMENT EMPLOYERS' in a smaller, bold, black, sans-serif font.

**Selection
and
Preference**
for
GOVERNMENT EMPLOYERS

Montana Veteran's and Handicapped Person's Preference Act

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MONTANA LAW provides for preference in public employment for certain military veterans and handicapped persons and their eligible spouses.

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Veterans, disabled veterans, handicapped persons, and eligible spouses may be eligible for employment preference if they meet the required criteria under the law.

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Public employers in state, county, city, or town government except schools and the university system, are covered under the law.

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Job applicants who believe they are eligible for employment preference must claim the preference in writing before the closing date for the position involved has passed.

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For further information, such as required criteria for the preference, documentation, duration of preference and enforcement procedures, contact any Local Job Service Office, or covered public employer. For information on handicapped certification contact any Social and Rehabilitation Services District Office.

Are You Eligible?

WITNESS STATEMENT

Name Bob Liska Committee On Judiciary
Address 513 1/2 State Helena Date 2-15
Representing ^{MT} Independent Living Project Support _____
Bill No. HB 473 Oppose
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. There has not been sufficient time for current law to show results.
2. HB473 raises too many inequities between disabled civilians and DV. The legislature solved these inequities during special session and this puts disabled civilians on the bottom of the pile.
3. Disabled people - civilian + veteran - need equal and most preference under one law. Too hard to administer 2 preference laws.
4. Scored procedures are not the answer. I don't want 5 or 10 pts. To my knowledge, no veteran organization asked disabled civilian organization if they wanted points. The only reason veterans thought of us was to suit their needs. I would urge you to give the disabled more consideration than the veterans did.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. 577
380 (Rep. Bradley); DATE 2/15/85
481 (Rep. Brandewie);
 SPONSOR 541 (Rep. Darko); 585 (Rep. Gould)

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Jim Douglas</i>	HELENA - MTN. BELL	577 ✓	
Calvin Sims Paw	PSC - Helena	577	
Mary Buckley	Denver - MCI	577 w/amendments	
<i>JOHN FOST</i>	Kansas City GTE Sprint	577	✓
MICHAEL H. KEEDY	KALISPELL	541 481 585	
JAY T. DOWNEN	GT. FALLS	577 380	
Robert M. Holter	Box 974, Libby	541	
Richard J. THORSON	Box 392 GLASGOW	577 380	
R.A. Little	838 6th Helena	577	
Eugene Anderson	Fairfield		
Russ Cravens	Helena		
Jim NYS	Helena		473
Teresa Mahan	Helena		473
Bayo Kapp	Helena		473
Ann R. Lindsay	Helena	473	
<i>Rich Brown</i>	HELENA	473	
Ed Kalcega	Helena	380	
<i>Tom Tachin</i>	Helena	380	
<i>John Amber</i>	Dept. of - Helena		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Karen Sedlock
 John Daulton
 CS-33

Supreme Court
 Brennan AT&T (577)
 H. T. Johnson

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 473 (Rep. Pavlovich) DATE 2/15/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bob Durkee	HELENA UFW	X	
Vivian Curbish	Lawrence committee		X
Jane Lapp	Mt. Fed of Republican Women		X
John R. Morgan	HELENA DAV	X	
Larry H. Losafella	Helena, MT. UFW	X	
Bill Wilson	Helena, MT.	X	
Suzanne H. Gault	HELENA MT		
Vivian Curbish	Helena, MT		X
Janell J. Curbish	Helena, MT		X
George O. Fosson	Helena MT.	X	
Chip E. Roman	MSBA Adorn		X
Beverly Gibson	Helena - MACO		X
Harold L. Smith	Helena	X	
John E. Bryan	MOPH Helena	X	
James O. Shannon	Helena DAV	X	
Marg GREEN	Mont Farm Bureau Helena	X	
Ron Clock	321 N 17th Bzmn	X	
Robert M. Holtz	Bzmn		
Joe Brand	Helena	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 473

DATE 2-15-85

SPONSOR Rep. R. Pavlovich

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
HUGH CUMMING	AMERICAN LEGION 2719 1/2 DODGE HELONA	X	
MIKE W. WOLF	704 SADDLE DR. HELENA	X	
ROY M. BULBER	U.S. SUBMARINE VETS WW2 1903 JEROME HELENA	X	
BOB Ruhl	2290 SOURDOUGH RD. BOZEMAN	X	
David walton	Post # 14 ^{Legion} Bozeman	X	
David Johnson	American Legion 410 N. 9th Bozeman	X	
DENNIS W. PFAFF	Box 753 MANHATTAN, MT.	X	
MICHAEL "TRINI" LOPEZ	Veterans on Campus, MSU 216 Roskie Hall, Bozeman	X	
Mike M. Parsons	American Legion Club Bozeman, MT.	X	
Ray Steffer	Bozeman, MT	X	
DAN ANTONIETTI	USDL - VETS	X	
Ira Wilkie	Bozeman, MT	X	
Shawn Dawdy	144 Arrowhead Dr. Missoula MT	X	
RICHARD D. GAERTNER	Po Box 371 FLORENCE, MT	X	
Robert J. Bolman	Bozeman, MT	X	
GEORGE DANYS George Danys	MC1990 OLA & ARLEE MT.	✓	
Leonard Beverder	Bozeman, MT	X	
FRANK L. Kankelborg	Bozeman, MT	X	
Paul E. Clift	PAY, Chapter 12 Bozeman	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 473

DATE 2-15-85

SPONSOR Rep. R. Pavlovich

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
KATHY KARP	Mont LEAGUE OF WOMEN VOTERS		✓
Laurie Lamson	Women's Lobbyist Fund		✓
Jim Reynolds	HELENA, MT		
RAYMOND G. CALLAHAN	1570 KODIAK RD HELENA	✓	
Richard J. Hanson	Missoula mt.	✓	
Gail Kline (WLF)	Great Falls		473
Baele M. D. ...	W. of ... - Pers. ...	473 ✓	✓
Bette Kelley	Lakeside Mont.	473 ✓	✓
Dore Wilson	Cty. of Missoula		✓
Paul A. ...	1523 Brockway Helena	✓	
John W. Mahan	Helena, Mont	✓	
Bob Liston	513 1/2 State Helena		✓
James W. ...	1720 Poplar Helena	✓	
Sharon Bracken	1612 Chateau Helena	✓	
Gary D. ...	2680 Hansen Blvd. Helena	✓	
Rep. Bob Pavlovich	RI 70	✓	
Wendy McLaughlin	American Assoc. Helena		✓
Richard Wackler	Montana College Coalition		✓
Joe Uppshaw	Helena, MT (Retired 6 military)	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HB 473

DATE 2/15/85

SPONSOR Rep. R. Pavlovich

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
James O. Spinnou	Helena	X	
George O. Porton	Helena DAV	X	
Tom Foulst	Helena UEW	X	
LeRoy L. Wilson	Kola American Legion	X	
Hilary K. Schroeder	Victor Mon ^{VIRT} VET	X	
Larry Richards	Mish, MI-1	X	
Robert L. Hunter	Missoula	X	
Ellen Feaver	Dept of Adm. Helo		X
Mike Cross	Dept. of Adm.		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.