

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - 2nd SPECIAL SESSION**

**SUBCOMMITTEE ON INSTITUTIONS & CULTURAL EDUCATION**

**Call to Order:** By Chairman Wm. "Red" Menahan, on July 8, 1992,  
at 9 a.m.

**ROLL CALL**

**Members Present:**

Rep. Wm. "Red" Menahan, Chairman (D)  
Sen. Eleanor Vaughn, Vice Chairman (D)  
Sen. Gary Akléstad (R)  
Sen. Tom Beck (R)  
Rep. Dorothy Cody (D)  
Sen. Eve Franklin (D)  
Rep. Chuck Swysgood (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Roger Lloyd, Associate Fiscal Analyst (LFA)  
Mary LaFond, Budget Analyst (OBPP)  
Pat Bennett, Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Announcements/Discussion:** None.

**EXECUTIVE ACTION ON DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES**

Tape No. 2

**Motion/Vote:** Rep. Swysgood moved to reconsider vacancy saving  
Motion of July 7, 1992. **Motion passed unanimously.**

**Discussion:** Rep. Swysgood, referring to his motion made on July  
7, 1992, which eliminated all vacancy positions within the  
Department of Corrections and Human Services, Rep. Swysgood  
stated that it would be necessary to call for reconsideration of  
that motion based on the elimination of certain positions which  
would not be in compliance with the Ihler Law Suit and the  
certifications for the Boulder Hospital.

**EXECUTIVE ACTION ON VACANCY SAVINGS**

**Motion/Vote:** Rep. Swysgood moved to eliminate all positions that  
are vacant as of July 8, 1992 with the exception of those  
positions necessary to comply with court decisions or

certification and also any positions that are open at this time that directly relate to correctional officer positions. **Motion passed 6-1 with Senator Franklin opposing.**

**Discussion:** Rep. Swysgood explained that he did not want to eliminate the positions for correctional officers. He referred to a vacancy savings list provided by the Office of Budget and Program Planning. (See Exhibit 1, 7-8-92).

Questions from the Committee: Rep. Swysgood asked Curt Chisholm, Director of the Department of Corrections and Human Services whether there were any positions on the list that are necessary for compliance with the Ihler decision and/or certification.

Curt Chisholm said that some of our necessary for compliance including correctional officers.

Rep. Swysgood questioned why they have not been filled if they are in fact necessary.

Curt Chisholm explained that they are sometimes vacant deliberately as a way of managing the already applied vacancy savings. There was a 2% vacancy savings applied during the regular session plus an additional vacancy saving applied during the last special session. The positions are deliberately kept open at times in order to generate the vacancy savings in order for the Department to come in as solvent as they can.

Rep. Swysgood asked Curt if he was saying that these positions were directly necessary for compliance of Ihler and certification or they would be in violation of the law.

Curt Chisholm said not necessarily, that there are times and this is one where he can not identify if the position is vacant due to the inability to recruit someone. In that instance the money may be transferred to contracted services in order to provide services to the residents. That is a compliance issue for certification purposes. Mr. Chisholm stated that his preference would be if the Committee would identify a dollar amount and have him manage around it, but that it is difficult for him to relate to each position individually.

Rep. Swysgood stated he would not change his motion. This motion covers the compliance issue. It allows them to put people on necessary for compliance. The figures, which may change somewhat, show 45.48 FTEs that will be eliminated with a total estimated savings of approximately 1.1 million dollars.

Rep. Cody asked Rep. Swysgood how they will know the exact amount of savings if they do not have an exact figure of FTEs.

Rep. Swysgood stated that though it is a ball-park figure, he did not feel that it would vary that much. The estimation is between 35 and 45 FTEs which is between \$800,000 and \$1,100,000 in

savings.

**Sen. Aklestad** asked if this elimination would be agency wide.

**Rep. Swysgood** answered that it would be any vacant positions under the Department of Institution's control including central offices.

**Sen. Aklestad** asked if the probation or parole officers would not fall under the judicial mandate.

**Rep. Swysgood** said they would not fall under the judicial mandate and would be eliminated.

**Chairman Menahan** asked Micky Gamble if he wished to comment.

**Micky Gamble** informed the Committee members that to date, all the parole officer positions are filled.

**Sen. Beck** referring to previous mention of problems with the probation and not enough parole officers questioned why then were 3 parole officer positions vacant for 6 months.

**Curt Chisholm** explained that these positions were vacant for 6 months in order to manage the vacancy savings that they were expected to come up with after the 1991 session and they did not have authority to fill those positions until recently and not knowing about this fiscal crisis until August the Department went ahead and filled these positions. Mr. Chisholm further explained that they were attempting to get a pre-release center going due to a population of 1,2048 at the state prison with the space for 1,135 resulting in an over-population figure of 115. The number of those on probation is at 4,300.

**Sen. Beck** asked Curt Chisholm if it is his position to manage the 2% vacancy savings by eliminating certain positions such as what has been done with the 3 parole officers.

**Curt Chisholm** said that was correct.

**Sen. Franklin** explained her position stating that she would have to vote against the motion because it was they who built the budget, right or wrong, on vacancy savings last special session, and now they are being asked to back track and she stated that she felt it was unfair to the Department.

**Sen. Vaughn** asked Curt Chisholm if there has been a backlog on probation and parole hearings that there was during the last session and will this cut add to that problem.

**Curt Chisholm** stated he felt it would. He referred to a previous motion made the day before which eliminated an additional position which was given to the Board of Pardons last session.

**Rep. Swysgood** stated that if the motion on the floor passed it was his intention to make another motion reinstating the position with the Board of Pardons because it was never his intent to take away positions which already had bodies in place.

**EXECUTIVE ACTION ON BOARD OF PARDONS**

**Tape No. 2, Side A**

**Motion:** **Rep. Swysgood** moved to reconsider previous action taken on July 7, 1992, to eliminate the position with the Board of Pardon's staff. **Motion passed unanimously.**

**EXECUTIVE ACTION ON REINSTATING POSITION**

**Tape No.**

**Motion:** **Rep. Swysgood** moved to restore the position at the Board of Pardons. **Motion passed 6-1, with Senator Aklestad opposing.**

**Discussion:** **Sen. Aklestad** asked for a position clarification.

**Jeff Walters**, Board of Pardons, explained that this position, which was granted at the last session, was in the Governor's report from the Corrections and Human Service's Criminal and Justice Advisory Counsel. It was the only one of three granted. It was designated to be a pre-parole programmer, however at the time the position was filled it was actually called a classification and treatment specialist. The person in that position is responsible for sitting in on the initial classification of all prisoners who come into the Montana State prison and provide more input into the treatment needs of those individuals that our new in the system. This position was not filled last July due to vacancy savings, it was filled approximately November 15, 1991. He stated that they felt this persons involvement in the process is allowing those people who are eligible for parole to be more ready for parole when it happens.

**Sen. Beck** stated that the problem he has with the whole scenario is that last session there were 1,140 inmates at the prison and they were told that this position would really help the problem with over crowding, but nothing has happened.

**Jeff Walters** distributed statistics for the state prison to committee members. (See Exhibit 2, 7-8-92) This position has increased the number of paroles and are attempting to provide the services and treatment necessary for those people to be productive members of society. Even though the numbers of paroles has increased the number of parole violators has not increased dramatically.

**Rep. Swysgood** informed the committee members that this position was \$26,970.

**Kathleen Feury**, Board of Pardons, explained to committee members

that this position is extremely important in helping in the process of parole. She stated that they have a staff that is already over burdened, and if the Board was adequately staffed there would probably be more people paroled.

**Curt Chisholm** told the committee that the Board of Pardons staff consists of 5 FTEs.

**Sen. Aklestad** asked how much of the time is this person actually at the prison working with prisoners and prison staff.

**Jeff Walters** said that this person is at the prison every Friday and sits in with prison staff who discuss the treatment plan with that prisoner.

**Rep. Cody** asked if all inmates are required to have a treatment plan and if they don't cooperate what happens?

**Curt Chisholm** explained that the Parole Board by policy will not parole an individual who is eligible unless there is established parole file as a way of protecting society. There is a number of prisoners who have waived their right to appear before the Parole Board, who are trying to sit it out and actually discharge their sentence and the Department is entertaining ways of getting that part of the population out.

**Rep. Cody** asked how many prisoners are willing to sit it out.

**Curt Chisholm** answered that at one time it was as high as 300 individuals.

**Jeff Walters** said they have instituted a mandatory waiver policy, which means that if a person waives his parole or appearance he is automatically scheduled in 4 months to come before the Board and if that prisoner is not a good candidate, he then goes on to an annual review status.

**Chairman Menahan** asked how many parolees there are at the present.

**Curt Chisholm** said there were approximately 4,300 people under the parole and probation supervision.

**Rep. Cody** questioned whether or not they were putting sexual offenders in Boulder. These sexual offenders are those who may be learning disabled.

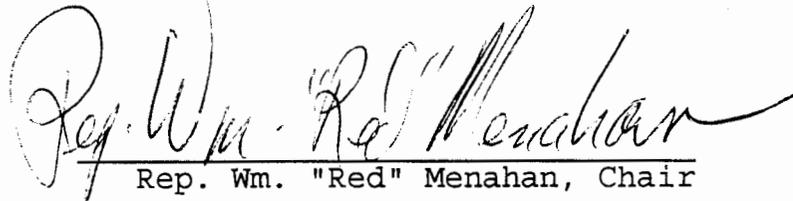
**Curt Chisholm** stated that it was not true. There have been attempts on the part of three county attorneys who have tried to take people arrested of sexual crimes and be placed in Boulder as a way of diverting from the Montana State prison. He stated that his Department resists those attempts. Boulder is to be used to take care of developmentally disabled individuals whose behavior is such that they can not be managed in SSO environments or group

home environments or under supervision provided by SRS. Boulder is never to be used as a place to dump convicted sexual offenders.

**Sen. Aklestad**, speaking against the motion, stated that though he understands that this individual in this position would be more productive for the parole board to have, however in light of the budget situation some things will need to be eliminated even if it means not being as productive in order to trim the budget. He pointed out that the numbers of paroled were higher according to Exhibit 2 than they were after the position was filled.

**ADJOURNMENT**

**Adjournment:** 10:05 a.m. .

  
Rep. Wm. "Red" Menahan, Chair

  
Pat Bennett, Secretary

RM/pb

HOUSE OF REPRESENTATIVES

INSTITUTIONS AND CULTURAL EDUCATION SUBCOMMITTEE

ROLL CALL

DATE

7-8-92

NAME	PRESENT	ABSENT	EXCUSED
REP. WM. "RED" MENAHAN, CHAIRMAN	✓		
SEN. ELEANOR VAUGHN, VICE-CHAIR	✓		
REP. DOROTHY CODY	✓		
REP. CHUCK SWYSGOOD	✓		
SEN. EVE FRANKLIN	✓		
SEN. GARY AKLESTAD	✓		
SEN. TOM BECK	✓		

AGENCY 6401 - CORRECTIONS & HUMAN SERVICES HB \_\_\_\_\_  
 AS OF PAY PERIOD ENDING 06/12/92  
 SALARY IS BASED ON 2080 HOURS AND BENEFITS ARE ESTIMATED

POSITIONS THAT HAVE BEEN VACANT FOR 6 MONTHS OR LONGER  
 WITH NO REQUEST TO REAUTHORIZE

<u>POSITION #</u>	<u>CLASSIFICATION TITLE</u>	<u>FTE</u>	<u>SALARY</u>
22656	Library Tech I	.50	8,032
22930	Teacher Aide III	.50	8,032
24250	Secretary I	.50	6,844
24251	Placement Officer	.50	11,162
26302	Teacher-Institution	.75	16,809
26310	Teacher-Institution	.25	5,603
31006	Planner IV	1.00	24,295
32092	Barber I	.50	8,032
Sub Total		4.50	88,809
Estimated Benefits			30,900

POSITIONS THAT HAVE BEEN REAUTHORIZED AFTER BEING DELETED  
 DUE TO BEING VACANT 6 MONTHS

32743	Music Therapist	1.00	24,295
32329	Dietitian I	.25	5,136
22917	Correct'l Treat Spec I	1.00	20,545
51207	Food Serv Dr/Aide I	.29	3,675
24510	Prob & Parole Off	.81	18,083
24260	Prob & Parole Off	1.00	22,325
24261	Prob & Parole Off	1.00	22,325
23309	Correctional Officer	1.00	17,424
24262	Not Yet Classified	.50	7,418
52105	Speech Pathologist I	.70	17,007
52006	Institution Serv Mgr II	.50	15,793
51191	Food Serv Wrkr II	.23	2,915
33051	Not Yet Classified	.60	7,603
Sub Total		8.88	184,544
Estimated Benefits			61,120

POSITIONS VACANT AS OF TODAY (PPE 06/12/92)

22030	Correct'l Fclt/Equip Tech	1.00	20,545
22477	Correct'l Offcr	1.00	17,424
22478	Correct'l Offcr	1.00	17,424
22479	Correct'l Offcr	1.00	17,424
22518	Correct'l Serg	1.00	20,545
22606	Psychology Spec I	.50	13,233
22634	Correct'l Rec Spec I	1.00	20,545
22914	Correct'l Treat Spec I	1.00	20,545
22927	Correct'l Treat Spec III	1.00	24,295
22931	Not Yet Classified	1.00	20,545
23040	Correct'l Rec Asst	.50	8,712

DATE 7-8-76

HB \_\_\_\_\_

24110	Lifeskills Attend I	1.00	16,064
24111	Lifeskills Attend I	1.00	16,064
24415	Prob & Parole Off	1.00	22,325
32131	Maintenance Stat Engnr	1.00	24,719
32215	Occup Therapist	1.00	24,295
32246	Train & Dev Spec III	1.00	24,295
32331	Cosmetologist I	1.00	16,064
32341	Maintenance Stat Engnr	1.00	24,719
32364	Residential Custodian	1.00	13,688
32398	Inhalation Therapist	1.00	22,325
32480	Special Duty Aide I	1.00	16,064
33093	Food Serv Wrkr I	1.00	11,727
33111	Food Serv Wrkr I	1.00	11,727
33140	Soc Service Coord II	1.00	22,325
42192	Residential Custodian	1.00	13,688
51050	Personnel Tech I	.50	8,032
51191	Food Serv Wrkr II	.30	3,802
51193	Food Serv Wrkr I	.30	3,518
51206	Food Serv Drv/Aide I	.38	4,815
51208	Food Serv Drv/Aide I	.30	3,802
51348	Recreation Therapist	1.00	24,295
51412	Rehab Aide I	1.00	14,836
51847	Cottage Supv	.16	3,887
51850	Habilitation Spec	.58	11,916
51851	Habilitation Spec	.58	11,916
52008	Rehab Aide III	1.00	17,424
52091	Habilitation Spec	1.00	20,545
Sub Total		32.10	610,114
Estimated Benefits			207,185
Total		45.48	883,467
Estimated Benefits			<u>299,205</u>
TOTAL			1,182,672

EXHIBIT 2  
 DATE 7-8-92  
 HB \_\_\_\_\_

\*\*\*\*\*  
 MONTANA STATE  
 BOARD OF PARDONS  
 \*\*\*\*\*

STATISTICAL DATA  
FY91/92

M O	NO CASE	WAIVE	INTV FOR PARL	INTV GRANTED PARL	* TOTAL PARLD	1ST OFFNS	** PAROLE VIOLATORS			RESC	ANNUAL REVIEWS		RLSD ON PAROLE
							TV	NC	PR		CNG/NC		
JUL	164	42	58	31	49	21	10	03	05	05	15	39	33
AUG	156	48	93	51	63	44	06	00	02	00	09	25	33
SEP	123	32	61	25	31	23	08	00	05	03	04	29	31
OCT	161	36	81	45	50	34	04	00	02	02	16	29	24
NOV	150	33	53	32	42	25	13	01	06	00	14	28	38
DEC	140	44	65	37	43	30	02	03	02	02	15	19	25
JAN	136	37	65	33	44	17	07	02	03	03	11	22	38
FEB	122	25	51	31	35	20	06	01	05	04	12	21	32
MAR	147	36	67	34	39	25	14	01	07	01	16	15	38
APR	124	52	65	40	47	38	15	02	06	02	11	10	34
MAY	139	40	62	36	52	27	14	03	08	00	18	22	32
JUN	142	54	69	41	60	39	18	01	11	02	19	15	38
91	1704	479	790	436	555	343	117	17	62	24	160	274	396
92													

\* Reflects the total number of inmates granted parole, including annual reviews, revocations, discussion cases and change of disposition.  
 \*\* Does not include parole violators who are reinstated.

INTV=interviewed by the Board NO CASE=total number of cases  
 TV=technical violations NC=new crime PR=completed pre-release  
 CNG=change in annual review status NC=no change annual review status  
 RESC=parole rescinded 1ST OFFNS=first adult felony conviction

M O	INTERVIEWED				PAROLED				TIME	TIME	PARL	DFS	PARD		COMM		SVRL	
	A	D	S	V	A	D	S	V	PARL	INIT	INIT		Y	N	Y	N	Y	N
JUL	51	41	05	16	38	30	02	10	35.6	22.7	22	2	0	0	0	0	0	0
AUG	66	39	16	42	43	31	09	22	31.2	25.8	25	2	0	0	0	1	0	0
SEP	38	24	07	22	22	12	03	13	38.7	17.4	11	1	1	0	0	1	0	0
OCT	64	48	04	22	42	34	00	12	21.4	16.7	33	1	0	1	0	0	0	0
NOV	51	29	05	17	36	23	02	14	39.4	21.7	16	2	0	0	0	1	0	1
DEC	58	39	10	21	40	31	02	14	27.9	16.0	18	1	0	0	0	0	0	0
JAN	44	33	08	15	34	25	00	09	25.5	16.8	23	2	0	0	0	0	0	0
FEB	38	23	04	18	28	18	01	10	32.1	20.1	20	0	1	0	0	0	0	0
MAR	46	35	12	27	31	23	04	11	31.9	17.5	14	2	0	0	0	1	0	0
APR	50	26	12	30	35	20	01	15	28.6	19.3	23	0	0	0	0	2	0	0
MAY	52	29	05	22	43	30	00	15	34.3	24.1	28	0	0	1	0	0	0	0
JUN	57	37	07	21	51	39	03	16	35.3	20.4	25	1	2	0	0	0	0	0
91- 92	615	403	95	273	443	316	27	161	AV. 31.8	AV. 19.8	258	14	4	2	0	6	0	1

A=alcohol problem D=drug problem S=sex offense V=violent offense  
 Y=granted N=denied INIT=first board appearance PARL=paroled  
 DFS=discharge from supervision PARD=pardon COMM=commutation  
 SVRL=supervised release TIME=months served

Submitted;

**BOARD OF PARDONS**

John G. Thomas, Chairman  
 Craig Thomas, Executive Secretary

Jeff A. Walter  
 Administrative Officer

J. Hank Pfeifer  
 C & T Specialist

JAW/wp/statsFY91/92

CC: Board Staff, Board Members, Warden, C&T, Jim Pomroy and Rich Petaja.