

BUSINESS AND INDUSTRY COMMITTEE
SPECIAL SESSION II OF THE 47th MONTANA LEGISLATURE

EXECUTIVE SESSION was called to order at 5 p.m. on Thursday, June 24, 1982, by REP. JAY FABREGA, CHAIRMAN, in Room 405, Capitol Building, Helena, Montana.

All members were present except for REP. AARON ANDREASON and REP. ROBERT ELLERD who were excused. REP. ELLERD left his vote with the Chairman.

HJR 1 (EXHIBIT A) and HB 17 (EXHIBIT B)

REP. JAY JENSEN moved that HJR 1 be tabled.

REP. LES KITSELMAN SECONDED the motion.

MOTION PASSED with one opposing: REP. DAVID O'HARA.

REP. KITSELMAN made a MOTION that HB 17 DO PASS.

REP. JENSEN SECONDED the motion.

GREG PETESCH handed out suggested amendments for HB 17. (EXHIBIT C)

REP. KITSELMAN made a MOTION to adopt AMENDMENTS 1-5.

MOTION PASSED UNANIMOUSLY.

DISCUSSION was held with regard to Section 2.

REP. NORM WALLIN made a MOTION to adopt the following amendment:
Page 1, line 19. Following: "services" Strike: "; and" Insert
". "

REP. DICK MANNING made a MOTION to amend HB 17 by striking out Sections 3,4, and 5.

REP. BOB PAVLOVICH SECONDED the motion.

ROLL CALL VOTE was taken and the MOTION FAILED 14-4. Those in favor were REP. DICK MANNING, REP. JERRY METCALF, REP. BOB PAVLOVICH, AND REP. JOHN VINCENT.

GREG PETESCH gave out SB 1 with the "Statement of Intent".
(EXHIBIT D)

REP. FABREGA'S suggested amendments were given out. (EXHIBIT E)
He withdrew Amendment #7.

Recommended amendments from CURT CHISHOLM were distributed.
(EXHIBIT F)

REP. DARRYL MEYER moved to adopt CURT CHISHOLM'S amendment.

MOTION PASSED UNANIMOUSLY.

EXECUTIVE SESSION

SENATOR ALLEN KOLSTAD'S suggested amendment was next. (EXHIBIT G)

REP. KITSELMAN made a MOTION to adopt SENATOR KOLSTAD'S amendment.
MOTION PASSED UNANIMOUSLY.

Two more suggested amendments were given out, one from the Department of Institutions (EXHIBIT H) and one from SENATOR JEAN TURNAGE (EXHIBIT I).

REP. ORVAL ELLISON made a MOTION to adopt SENATOR TURNAGE'S amendment. (EXHIBIT I)

DISCUSSION was held.

MOTION PASSED with two opposing: REP. HAL HARPER AND REP. JERRY KESSLER.

GREG PETESCH distributed an amendment (EXHIBIT J) and said the figure to fill in is \$26,325. and that the Department of Institutions had drawn up a proposal as to how it would be spent. (EXHIBIT K)

REP. MEYER made MOTION to adopt the amendment with the figure of \$26,325.

MOTION PASSED UNANIMOUSLY.

REP. JERRY METCALF made a MOTION to adopt the amendment (EXHIBIT L).

MOTION PASSED UNANIMOUSLY.

REP. HARPER made a MOTION to amend SB 1 by adding to the Statement of Intent, line 20 following: line 19 and insert: "(2)The Legislature intends that this program will not compete in any significant way with Montana businesses established and operating prior to the program, and will not displace workers covered by a collective bargaining agreement."

ROLL CALL VOTE was taken and the MOTION PASSED 9-8 with those opposing:

REP. JAY FABREGA
REP. ORVAL ELLISON
REP. LES KITSELMAN
REP. DAVID O'HARA

REP. JAY JENSEN
REP. GLEN JACOBSEN
REP. DARRYL MEYER
REP. JIM SCHULTZ

BUSINESS AND INDUSTRY COMMITTEE
SPECIAL SESSION II OF THE 47th MONTANA LEGISLATURE

Page Three

Meeting adjourned at 6:30 p.m.

Fabrega by J.B.
REP. JAY FABREGA, CHAIRMAN

Pat Bennett
Pat Bennett, Secretary

1 *House* JOINT RESOLUTION NO. *1*
 2 INTRODUCED BY *Cheryl Shivers-Worley*
 3
 4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
 5 REPRESENTATIVES OF THE STATE OF MONTANA TO PROVIDE A
 6 STATEMENT OF ENCOURAGEMENT AND SUPPORT FOR ADMINISTRATION
 7 EFFORTS TO AGGRESSIVELY PROMOTE INNOVATIVE PRISON
 8 ENTERPRISES ALLOWING PRISONERS TO EARN MONEY FOR RESTITUTION
 9 PURPOSES AS WELL AS GAIN WORK EXPERIENCE AND TO ENCOURAGE
 10 MONTANA JUDGES TO MAKE USE OF RESTITUTION IN SENTENCING.
 11
 12 WHEREAS, the victim of a crime is often left to suffer
 13 the economic consequences of the crime; and
 14 WHEREAS, restitution is a legally available option for
 15 use by a sentencing judge; and
 16 WHEREAS, restitution is rarely practical because few
 17 inmates in the state prison have any means for engaging in
 18 gainful activity; and
 19 WHEREAS, meaningful work at the prison would assist in
 20 the reformative mission of the prison; and
 21 WHEREAS, money earned by prisoners could be available
 22 for restitution; and
 23 WHEREAS, in many prisoners may lie untapped potential
 24 for the conception, development, and management of
 25 productive prison businesses.

1 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
 2 OF REPRESENTATIVES OF THE STATE OF MONTANA:
 3 That the Legislature encourages the administration to
 4 aggressively pursue the creation of innovative prison
 5 enterprises.
 6 BE IT FURTHER RESOLVED, that in pursuing such
 7 enterprises, maximum efforts be made to encourage and
 8 promote the talents and ideas of inmates.
 9 BE IT FURTHER RESOLVED, that profits and wages earned
 10 be made available for restitution to the victims of the
 11 crimes for which the inmates are incarcerated.
 12 BE IT FURTHER RESOLVED, that once such enterprises are
 13 in place, Montana judges are strongly encouraged to make
 14 greater use of restitution in sentencing whether sentencing
 15 is to the prison or to a local jail-based work release
 16 program.
 17 BE IT FURTHER RESOLVED, that the Secretary of State
 18 send copies of this resolution to the Governor, the Director
 19 of the Department of Institutions, the Warden of the Montana
 20 State Prison, and each Montana District Court Judge.

-End-

EXHIBIT A

INTRODUCED BILL

Special Session #2

1 INTRODUCTION BY *HB 1000* *Warrant* *Robert J. Taylor*
 2 *Secretary - Foster Ramsey*
 3 *Convey County Board*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF
 5 OF INMATE LABOR IN THE MAINTENANCE AND REPAIR OF STATE
 6 INSTITUTIONS; PROVIDING THAT SUCH INMATES ARE NOT EMPLOYEES
 7 FOR PURPOSES OF EMPLOYEE RIGHTS; PREVENTING FUTURE PUBLIC
 8 EMPLOYEE COLLECTIVE BARGAINING AGREEMENTS FROM PROHIBITING
 9 SUCH USE OF INMATE LABOR; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE."

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

12 Section 1. Institution maintenance by inmates. An inmate of the Montana state prison may be required to:

- 13 (1) keep his own living quarters clean and orderly;
- 14 (2) perform general maintenance and repair work on prison grounds and facilities and assist in providing services essential to the administration of the prison, including but not limited to food and laundry services; and
- 15 (3) perform general maintenance and repair work on the grounds and facilities at any state institution.

16 Section 2. Inmates not to be employees. An inmate working pursuant to [section 1] is not an employee, either public or private, and employment rights accorded other classes of workers do not apply to such inmates.

1 Section 3. Nonnegotiable items for state institutions.
 2 Collective bargaining agreements entered after [the effective date of this act] may not contain provisions prohibiting or restricting the use of inmate labor as provided for in [section 1].

3 Section 4. Applicability. Section 3 of this act is not intended to impair any existing collective bargaining agreement and is applicable only to those collective bargaining agreements entered after the effective date of this act. Inmate labor restricted by a collective bargaining agreement subject to 53-1-301(7), MCA, shall continue until such agreement expires.

4 Section 5. Codification instruction. Section 3 is intended to be codified as an integral part of Title 39, chapter 31, part 3, and the provisions of Title 39, chapter 31, part 3, apply to section 3.

5 Section 6. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

6 Section 7. Effective date. This act is effective on passage and approval.

--End--

1. Title, line 5
Following: "REPAIR OF"
Insert: "THE"
2. Title, line 6
Following: line 5
Strike: "INSTITUTIONS"
Insert: "PRISON"
3. Page 1, line 13
Following: "section 1."
Strike: "Institution"
Insert: "Prison"
4. Page 1, lines 20 and 21
Following: line 19
Strike: subsection (3) in its entirety
5. Page 2, line 1
Following: "state"
Strike: "institutions"
Insert: "prison"

47th Legislature

SB 1

1 STATEMENT OF INTENT
2 SENATE BILL 1 (2nd SS)
3 Senate Business and Industry Committee
4

5 A statement of intent is required for this bill in that
6 it delegates authority to the department of administration
7 to adopt rules in subsection (7)(a) of section 1. In
8 adopting rules implementing the prison vocational industries
9 program, the department should include:

10 (1) guidelines and procedures for contracting with
11 vocational education entities;

12 (2) rules governing inmate participation;

13 (3) rules governing the calculation and payment of
14 inmate wages, including maintaining savings accounts for
15 inmates to be released to them upon release from the
16 institution;

17 (4) price lists for the cost of products and services;

18 (5) rules outlining criteria for developing a
19 vocational industry program.

ATTACH TO SECOND READING COPY

S.B. 1

Approved by Committee
on Business and Industry

Special Session H-11
Turner & Seniors Kolstad Smith
BILL NO. 1

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A VOCATIONAL INDUSTRIES PROGRAM AT THE MONTANA STATE PRISON THAT PROVIDES FORMAL VOCATIONAL EDUCATION, ON-THE-JOB TRAINING, AND WORK EXPERIENCE FOR PRISON INMATES; LIMITING THE PROGRAM TO PROVIDING SERVICES AND PRODUCING PERSONAL PROPERTY FOR STATE AGENCIES, LOCAL GOVERNMENTS, SCHOOL DISTRICTS, AND OTHER GOVERNMENTAL ENTITIES."

WHEREAS, it is in the best interest of the state and also in the best interest of inmates incarcerated at the Montana state prison to establish a vocational training and work experience program at the prison; and

WHEREAS, such a program benefits the state by providing inmates with viable vocations so that upon release they may become responsible members of society; and

WHEREAS, such a program benefits inmates at the prison by providing an alternative to idle time in prison; the opportunity for training and work experience can provide some measure of meaning and self-worth while incarcerated, while at the same time preparing inmates with vocations with which they can support themselves and their families upon release; and

WHEREAS, there is presently an institutional industry

program in operation at the prison that is a self-supporting program engaged in license plate manufacture and some agricultural production and personal property refurbishment; THEREFORE, the institutional industry's small scope and limited goals should be supplemented with a true vocational industries program capable of inmate reformation that will produce former inmates who upon release are vocationally trained, productive and responsible members of society.

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

Section 1. Prison vocational industries program. (1) In addition to any institutional industry operated at the Montana state prison under Title 53, chapter 1, part 3, the department of institutions shall conduct a prison vocational industries program.

(2) The purpose of the prison vocational industries program is to:

(a) provide innovative and progressive inmate reformation and rehabilitation possibilities by exposing inmates to worthwhile vocational training;

(b) prepare inmates for release by providing industries at the prison that utilize their vocational training, thus providing experience beyond mere training, inculcating inmates with good production and work habits, and providing them with a means to earn money that will be

1 available to them upon release.

2 (3) The prison vocational industries program consists
3 of structured vocational training, on-the-job training, and
4 production experience. The department may contract with
5 public and private vocational education entities to provide
6 vocational training.

7 (4) The program may provide training and experience
8 involving cultivation, production, repair, construction,
9 refurbishment, service, and related processes involving
10 personal property, including but not limited to such items
11 as crops, livestock, furniture, office and electrical
12 equipment, and motor vehicles. Such products and services
13 may be provided only to state agencies, local government
14 units, school districts, authorities, and other governmental
15 entities.

16 (5) (a) The prison vocational industries program is
17 not a self-supporting program. The department of
18 institutions may enter into contracts and establish prices
19 for prison vocational industries. Within budgetary
20 restrictions, the department shall establish prices that
21 tend to maximize the amount of work available for inmates.
22 All revenue raised through the program may be used only for
23 the program.

24 (b) State agencies, local governments, school
25 districts, authorities, and other local government entities

1 are encouraged to explore the possibilities of using the
2 prison vocational industries program. State agencies shall
3 cooperate with the department of institutions in notifying
4 governmental entities within the state of the program and of
5 the services and products that are available.

6 (6) (a) An inmate participating in the prison
7 vocational industries program may be granted a good time
8 allowance, not to exceed 15 days per month, for outstanding
9 participation in the program as defined by rules adopted by
10 the department of institutions. Such good time allowance has
11 the same effect as a good time allowance granted under
12 53-30-105, and the provisions of subsections (2) and (3) of
13 53-30-105 apply to such good time allowance.

14 (b) While engaged in on-the-job training and
15 production, inmates shall be paid a wage commensurate with
16 their production function. Such wages shall be established
17 at a rate that encourages efficient production and effective
18 levels of inmate participation.

19 (c) Inmates working in the prison vocational
20 industries program are not employees, either public or
21 private, and employment rights accorded other classes of
22 workers do not apply to such inmates.

23 (7) (a) The department of institutions shall adopt
24 rules implementing this program. Any price lists established
25 by the department are exempt from the provisions of Title 2,

LC 0002/01

1 chapter 4 (the Montana Administrative Procedure Act), but
2 the department may, if it considers it an effective method
3 of dissemination, publish such price lists in the Montana
4 Administrative Register or the Administrative Rules of
5 Montana, or both.

6 (b) The department of institutions is subject to
7 program audits of the prison vocational industries program
8 by the legislative auditor.

-End-

Amend SB 1 as follows:

1. Statement of intent, line 7.

Following: "Section 1."

Insert: "(1)"

2. Statement of intent, line 10.

Following: line 9

Strike: "(1)"

Insert: "(a)"

3. Statement of intent, line 12.

Following: line 11

Strike: "(2)"

Insert: "(b)"

4. Statement of intent, line 13.

Following: line 12

Strike: "(3)"

Insert: "(c)"

5. Statement of intent, line 17.

Following: line 16

Strike: "(4)"

Insert: "(d)"

6. Statement of intent, line 18.

Following: line 17

Insert: "(e)"

7. Statement of intent, line 20.

Following: line 19

Insert: "(2) Due to the fact that inmates are encouraged to participate in self-help programs it is impossible to schedule an 8-hour-a-day, 5-day-a-week work schedule. The department is urged to operate the vocational industries program 6 days a week and to arrange for shifts and scheduling in order to maximize the number of inmates who may participate in the program and to better utilize the facilities in the existing industries program."

Amend SB 1 as follows:

Page 3, line 22.

Following: "for"

Insert: "products or services produced by"

Amend SB 1 as follows:

Page 5, line 5.

Following: line 4

Insert: "(d) Able-bodied persons committed to the Montana state prison as adult offenders shall be required to perform work as provided for by the department of institutions."

EXHIBIT A

Amend SB 1 as follows:

Page 5, line 5.

Following: "shall"

Delete: remainder of line 5 through "implementing" on line 6.

Insert: "present to the 1983 legislature a plan to implement"

EXHIBIT I
SENATOR TURNAGE'S
PASSED

Amend SB 1 as follows:

Page 5, line 6.

Following: "program"

Insert: "and shall report to the legislature its continuing
plans and recommendations in implementing this program"

Amend SB 1 as follows:

1. Page 5, line 16.

Following: line 15

Insert: "Section 2. Appropriation. There is appropriated from the general fund to the department of institutions \$~~26,325.~~ to establish the prison vocational industries program."

Renumber: subsequent section.

PROPOSAL TO FUND
INDUSTRIES/VOCATIONAL TRAINING RESEARCH

Contracted Services for Market and other research

1 - 6 month employee	\$ 9,000
1 - 3 month employee	4,500
	13,500
Benefits	2,430
TOTAL	\$ 15,930

Travel

In-State (for market research)

Mileage	\$ 1,595
Per Diem	1,800

Out-of-State

(To visit Vocational Training/Industry
Operations in other states) 5,000

Technical Assistance

Consulting services	2,000
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TOTAL	\$ 26,325
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Amend SB 1 as follows:

1. Title, line 10.

Following: "ENTITIES"

Insert: "APPROPRIATING FUNDING FOR THE ESTABLISHMENT OF THE
PROGRAM;"

STANDING COMMITTEE REPORT

June 24

19 82

MR. SPEAKER:

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 17

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE USE OF
INMATE LABOR IN THE MAINTENANCE AND REPAIR OF STATE INSTITUTIONS;
PROVIDING THAT SUCH INMATES ARE NOT EMPLOYEES FOR PURPOSES OF
EMPLOYEE RIGHTS; PREVENTING FUTURE PUBLIC EMPLOYEE COLLECTIVE
BARGAINING AGREEMENTS FROM PROHIBITING SUCH USE OF INMATE LABOR;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 17

be amended as follows:

1. Title, line 5.
Following: "REPAIR OF"
Insert: "THE"
2. Title, line 6.
Following: line 5
Strike: "INSTITUTIONS"
Insert: "PRISON"
3. Page 1, line 13.
Following: "section 1."
Strike: "Institution"
Insert: "Prison"
4. Page 1, line 19.
Following: "services"
Strike: "; and"
Insert: "."

~~DO PASS~~

DO PASS AS AMENDED

June 24,

19⁸²

Business and Industry Committee

Amendments to House Bill 17 continued:

5. Page 1, lines 20 and 21.
Following: line 19
Strike: subsection (3) in its entirety
5. Page 2, line 1.
Following: "state"
Strike: "institutions"
Insert: "prison"

DO PASS AS AMENDED

STANDING COMMITTEE REPORT

June 24 1982
Bill Clerk

MR.SPEAKER.....

We, your committee onBUSINESS AND INDUSTRY.....

having had under considerationSENATE..... Bill No.1.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A VOCATIONAL INDUSTRIES PROGRAM AT THE MONTANA STATE PRISON THAT PROVIDES FORMAL VOCATIONAL EDUCATION, ON-THE-JOB TRAINING, AND WORK EXPERIENCE FOR PRISON INMATES; LIMITING THE PROGRAM TO PROVIDING SERVICES AND PRODUCING PERSONAL PROPERTY FOR STATE AGENCIES, LOCAL GOVERNMENTS, SCHOOL DISTRICTS, AND OTHER GOVERNMENT ENTITIES."

Respectfully report as follows: That.....SENATE..... Bill No.1.....

be amended as follows:

1. Statement of intent, line 7.
Following: "Section 1."
Insert: "(1)"
2. Statement of intent, line 10.
Following: line 9
Strike: "(1)"
Insert: "(a)"
3. Statement of intent, line 12.
Following: line 11
Strike: "(2)"
Insert: "(b)"

DO PASS AS AMENDED

June 24

19 82

AMENDMENTS TO SENATE BILL 1

4. Statement of intent, line 13.
Following: line 12
Strike: "(3)"
Insert: "(c)"
5. Statement of intent, line 17.
Following: line 16
Strike: "(4)"
Insert: "(d)"
6. Statement of intent, line 18.
Following: line 17
Insert: "(e)"
7. Statement of intent, line 20.
Following: line 19
Insert: "(2) The legislature intends that this program will not compete in any significant way with Montana businesses established and operating prior to the program, and will not displace workers covered by a collective bargaining agreement."
8. Title, line 10.
Following: "ENTITIES"
Insert: "APPROPRIATING FUNDING FOR THE ESTABLISHMENT OF THE PROGRAM;"
9. Page 3, line 22.
Following: "for"
Insert: "products or services produced by"
10. Page 5, line 5.
Following: line 4
Insert: "(d)Able-bodied persons committed to the Montana State Prison as adult offenders shall be required to perform work as provided for by the department of institutions."
11. Page 5, line 6.
Following: "program"
Insert: "and shall report to the legislature its continuing plans and recommendations in implementing this program"

DO PASS AS AMENDED

BUSINESS AND INDUSTRY

.....June 24..... 19.....82..

AMENDMENTS TO SENATE BILL 1

12. Page 5, line 16
Following: line 15
Insert: "Section 2. Appropriation. There is appropriated
from the general fund to the department of institutions
\$26,325. to establish the prison vocational industries
program."
Renumber: subsequent section.

SEE ATTACHED "Statement of Intent"

DO PASS AS AMENDED

.....June 24..... 1982.....

STATEMENT OF INTENT

SENATE BILL 1

A statement of intent is required for this bill in that it delegates authority to the department of administration to adopt rules in subsection (7) (a) of section 1. In adopting rules implementing the prison vocational industries program, the department should include:

- (1) guidelines and procedures for contracting with vocational education entities;
- (2) rules governing inmate participation;
- (3) rules governing the calculation and payment of inmate wages, including maintaining savings accounts for inmates to be released to them upon release from the institution;
- (4) price lists for the cost of products and services;
- (5) rules outlining criteria for developing a vocational industry program.

JAY FABREGA

	Date: 6/24 No: HB 17 Amend. to	Date: 6/24 No: HB 17 Amend. 1-5	Date: 6/24 No: SB 1 HARPER AMEND.	Date: No:	Date No:	I M
FABREGA, Jay	N	Y	N			
JENSEN, Ray	N	Y	N			
ANDREASON, Aaron						
BERGENE, Toni	N	Y	Y			
ELLERD, Bob	N	Y	-----			
ELLISON, Orval	N	Y	N			
HARPER, Hal	N	N	Y			
JACOBSEN, Glenn	N	Y	N			
KESSLER, Gerald	N	Y	Y			
KITSELMAN, Les	N	Y	N			
MANNING, Dick	Y	N	Y			
METCALF, Jerry	Y	N	Y			
MEYER, Darryl	N	Y	N			
O'HARA, David	N	Y	N			
PAVLOVICH, Bob	Y	N	Y			
ROBBINS, Ken	N	Y	Y			
SHCULTZ, Jim	N	Y	N			
VINCENT, John	Y	N	Y			
WALLIN, Norm	N	Y	Y			
CS-31	14-4	13-5	9-8			

1-81

19
FAILED

PASSED

PASSED