

House Appropriations Committee
Second Special Session of
The 47th Legislature
June 25, 1982

The meeting of the House Appropriations Committee was called to order at 12:10 p.m. on June 25, 1982, with Vice Chariman Jack Moore presiding. The purpose of this meeting was to hold hearings on HB 24 and SB 1.

HOUSE BILL 24:

REPRESENTATIVE HARPER, sponsor of HB 24, introduced this bill to the committee. He said that he was helping Tom Towe with his own solution to the prison problem. If there is anything that came out of this special session it is that we should at least look at some other alternatives before we act in haste. HB 24 is an act to increase the appropriation to the Department of Institutions to double the appropriation for adult probation and parole field personnel and services. At this time they have a case load of 72 people per parole officer. With this amount of case load the parole officer has no time to spend with the parolee on an individual basis. Towe's idea with this bill is to try and keep people from going back to prison. I do not expect that at this late date a bill such as this could hope to get consideration and get all the way through the system. My intent was to have this bill drafted so that it would be ready for the select committee, that I anticipate will be appointed, to study in the interim.

There was no other testimony on HB 24

QUESTIONS BY THE COMMITTEE:

Waldron: What evidence do you have that a lighter case load will cut down on recidivism?

Harper: I don't have any statistical data on me, however, every study that I have read shows that a parole officer is only effective if he has a reasonable case load. I am sure there is a great deal of material that can be looked at and I think the select committee should do that.

Waldron: If I understand you correctly, you are not asking us to pass this bill, you are asking us to table the bill so it will be available to be studied.

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HB 24 Cont.

Harper: That is correct, I realize that we do not have time to consider this bill at this late date.

EXECUTIVE SESSION:

Representative Stobie made a motion to table HB 24. A voice vote was taken and carried unanimously.

SENATE BILL 1

SENATOR TURNAGE, sponsor of SB 1, introduced this bill to the committee. SB 1 is an act to establish a vocational industries program at the prison that provides formal vocational education, on-the-job training, and work experience for prison inmates. A statement of intent is attached and is EXHIBIT 1 of these minutes. Senator Turnage explained that he has just received a copy of the House Business and Industry Committee amendments to SB 1. A copy of this draft is attached and is EXHIBIT 2 of these minutes.

REPRESENTATIVE FABREGA, Chairman of the Business & Industry Committee explained the amendments to SB 1 and the reasoning behind them. Rep. Fabrega said that this is really a training program to get inmates prepared to function in the prison industries. It is very hard for an industries program that is suppose to be self supporting to go to the expense of a training program. He explained that there was some disagreement about using the word "vocational" in the title of the bill so it has been changed to read "industries training program". Representative Fabrega said there were two changes he would like to propose to the committee. The first one is just a clerical amendment in line two of the statement of intent to change "administration" to "institutions" and the other would be to eliminate subsection (2) of the statement of intent.

Representative Moore pointed out that the language on page 5, section 2 reads vocational industries program. This would have to be changed to industries training program

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SB 1 Cont.

Refer to EXHIBIT 2 (reading copy).

SENATOR TURNAGE, said that he does not understand what all of the problems were about the use of the word vocational but he was assured by Greg Petesch that these amendments do not change the intent of the bill.

GREG PETESCH, council staff, said there was confusion as to whether this would conflict with the vocational education program. The reason the word "vocational education program" appears in the appropriation is because it was added by the B & I committee last night.

Senator Turnage said he was satisfied as long as this bill would put people to work. All of the amendments, with the exception of subsection (2) in the statement of intent, are satisfactory. Sub (2) in the statement of intent was an amendment that was offered in the Senate B& I and was turned down and then was offered again in the House and put in the bill. The problem with this section is that I think you would shut down your existing training programs over there because of two words. The word "significant" is defined in the eye of the beholder. Someone is bound to say start a law suit over this. If you can't get rid of that word, I think you should kill the bill. The other word is "displace". I am sure there will be suits filed with people claiming that the activity "displaces" some element of the collective bargaining agreement. They managed to keep this language out of the bill but the ground work is layed for the law suit that will follow by having this in the statement of intent. As far as the appropriation, no one really knows what it will cost but I think there should be an appropriation so this can get started.

Mrs. Rippingale gave a breakdown of the appropriation:
\$15,930 -personal services - one person working six months
and one person working three months.
\$3,400 - in state travel
\$5,000 - out of state travel
\$2,000 - technical assistance and consultant services
\$26,325 - total appropriation

Representative Moore said that he wanted to point out that the legislature will reappropriate about \$103,000 within the prison industries program plus they will

SB 1 Cont.:

their prison industries program including the training program.

Waldron: But this is a separate program.

Turnage: No, it isn't separate all together, it has separate legislation but I do not want to consider it as being separate. It can be considered separate for accounting purposes.

QUESTIONS BY THE COMMITTEE:

Lory: On page 3 of the "reading copy" where it limits the sale of products to state agencies and other governmental entities, I think we should remove this limitation because they may find some product to produce that is not made in Montana and would not interfere with other Montana businesses.

Turnage: That was the center of a stormy discussion. I suggest that you should not do that at this time.

Lory: On page 4 (reading copy) section (c) it says all able bodied inmates "shall" be required to work. How do you make maximum security inmates work?

Turnage: That is work provided for by the department. A number of years ago all inmates that were sentenced to the prison, had incorporated into the sentence the words "at hard labor". They quit doing that. If we had to have each district judge write in that each able body shall be required to work, it would only create more confusion.

Thoft: It is stated in the analyst's report that the ranch is included in the prison industries. I am concerned that this might restrict the sale of excess milk etc. Another concern is that I think the title of the bill should read to "expand" the program not "establish" a program. This is about the third appropriation we have made in this same area.

Turnage: The ranch activity is exempt from the prohibition. As far as whether or not too much money is being appropriated in this area, that is a judgement you will have to decide for yourself.

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SB 1 Cont.:

Thoft: I am not saying it is too much money but it is confusing when you do it in three different pieces of legislation.

Representative Moore said that Mrs. Rippingale's figures show that the total appropriation for the prison industries program including the \$26,325 in this bill would come to \$206,000 for fiscal '83.

Fabrega: We have a prison industries program that is supposed to be self supporting. There is a need to train these people before putting them into these jobs where they are expected to produce quality products.

Turnage: If you think that you are going to train someone before you can get him to work it is ridiculous. That is not the intent of the bill.

Bengtson: I like the idea of this bill but I am concerned about the reality of a program like this to work and the on going cost of the program.

Turnage: One of the main problems in the prison is that there are hundreds of men that have nothing to do. This bill would provide work for these inmates and allow them to do something productive which could cut down on riots and disturbances.

Bengtson: Can the department force these men to work?

Turnage: You can not whip them but you can sure make them wish they had. You can do this by using good time incentive.

Sales: In the last session we made it possible to sell the manufactured products of the industries program on the open market. This bill is limiting the sale of the products and services. Does this interfere with the industries existing ability to sell on the open market?

Turnage: No, the existing statute effectively prevents them from getting into the open market at this time. The only reason the ranch can sell the products is because no one has been foolish enough to try and stop them.

Sales: You are saying that the bill that we passed in the last session does not function at all?

SB 1 Cont.:

Turnage: No it doesn't function at all as a practical matter.

Winslow: Does this bill lift the restriction that the prison industries program has to be self supporting?

Turnage: Yes.

Quilici: There are three programs at the prison now, agriculture, license plates, and furniture repair, that are working well. Is it your intention that this program is to complement these programs.

Turnage: Yes.

EXECUTIVE SESSION HB 1:

Representative Stobie made a motion that the technical amendments in the statement of intent be approved. (A copy of the amendments is attached to the minutes.)

A vote was taken and carried unanimously.

Representative Sales made a motion to remove subsection (2) in the statement of intent, A roll call vote was taken and carried with 11 members voting yes and 4 voting no.

Representative Thoft made a motion to change the word "establish", in the title of the bill, to "expand". (and change it anywhere else in the bill where it exists)

Waldron: We have a prison industries program that is supposed to be profit making, as a requirement of the legislature, and now we are attaching this program to it which is a subsidized program. I am confused about how this is going to work. Have we done away with the requirement that the present industry program is self supporting?

Turnage: There is no prohibition in this bill or any bill that says these programs can not be self supporting. I intend that it need not be self supporting. The reality is that it's hard to find a government entity that is self supporting.

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SB 1 Cont.:

Petes: In my opinion the first section of this bill provides that this is in addition to the existing industries program. The reason the training provisions were inserted is because there was some confusion over the use of vocational.

Stobie: Isn't that what we really want to do is turn the language around in HB 500 and say the existing program does not have to be self sustained.

Moore: I don't want to turn around the language. I voted to put it in there for a reason. That money was promised to be repaid into the general fund.

Moore: Senator Turnage, would you have any objection to deleting the first sentence in (5) (a)?

Turnage: Then the department would say they can't do anything because the products won't self support the program.

Representative Thoft moved that the committee take action on the motion on the floor to change the language in the title of the bill. Representative Thoft moved that this amendment also include changing the word "establishment", in the title, to "expansion".

A vote was taken and the motion carried with 10 voting yes and 5 voting no.

Representative Conroy said that by changing the language in the title (establish to expand) we have given the department an "out" as far as showing a profit in the present prison industries program. Discussion followed.

Representative Conroy made a motion to reconsider the previous action of the committee. (amending the title) A vote was taken on the motion to reconsider and carried with 12 voting yes and 3 voting no.

Representative Thoft made a motion that the language be returned to the original form. A vote was taken and the motion carried with 13 voting yes and 2 voting no.

Representative Hemstad made a motion to change the language on page 3, (5) (a) line 1, (refer to reading copy Exhibit 2) to read as follows: "The prison industries training program

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EXECUTIVE SESSION Cont.

A vote was taken on the motion and carried with 14 voting yes and 1 voting no. See roll call vote sheets for vote.

Representative Hemstad made a motion to change the language on page 5 (reading copy) from "vocational industries" to "industries training". A voice vote was taken and carried unanimously.

Representative Shontz made a motion to approve all of the amendments. A voice vote was taken and carried unanimously.

Representative Conroy made a motion that SB1 DO PASS AS AMENDED.


Representative Quilici said that he would like the committee to reconsider the action on the statement of intent and reinsert the language in subsection 2. He stated that his concern is that they not displace workers under the collective bargaining agreement. The only way I could vote for this bill is if we make sure it will not displace workers that are down there now.

Representative Quilici made the motion as stated above. A roll call vote was taken and the motion to reconsider failed with 11 members voting no and 4 voting yes.

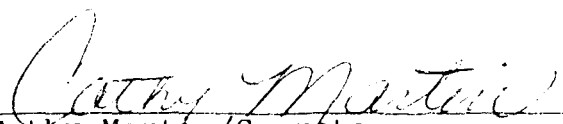
A motion was made to revert to the original motion that SB 1 DO PASS AS AMENDED. A roll call vote was taken and the motion carried with 12 members voting yes, 2 voting no and 1 abstaining.

A motion was made to adjourn at 1:45 p.m.

Respectfully submitted,



REP. JACK MOORE, VICE CHAIRMAN



Cathy Martin/Secretary

EXHIBIT 1

STATEMENT OF INTENT

SENATE BILL 1 (2nd SS)

Senate Business and Industry Committee

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

(a) guidelines and procedures for contracting with vocational education entities;

(b) rules governing inmate participation;

(c) 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;

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

(e) rules outlining criteria for developing a vocational industry program.

is section
ended compete
out (2) The legislature intends that this program will not 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.

A BILL FOR AN ACT ENTITLED: "AN ACT TO ^{to be known as} ESTABLISH AN INDUSTRIES TRAINING PROGRAM AT THE MONTANA STATE PRISON THAT PROVIDES VOCATIONAL 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; APPROPRIATING FUNDING FOR THE ^{to be known as} ESTABLISHMENT OF THE PROGRAM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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 training and work experience program at the prison;

WHEREAS, such a program benefits the state by providing inmates with viable skills 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 skills 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 industries training 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 industries training 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 industries training program.

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

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

(b) prepare inmates for release by providing industries at the prison that utilize their skills, 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 available to them upon release.

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

(4) The program may provide training and experience involving cultivation, production, repair, construction,

refurbishment, service, and related processes involving personal property, including but not limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. Such products and services with the exception of livestock and agricultural products produced from the Montana state prison ranch, may be provided only to state agencies, local government units, school districts, authorities, and other governmental entities.

(5) (a) The prison industries training program ~~is not~~^{is not a} self-supporting program. The department of institutions may enter into contracts and establish prices for products or services produced by this program. Within budgetary restrictions, the department shall establish prices that tend to maximize the amount of work available for inmates. All revenue raised through the program may be used only for the program.

(b) State agencies, local governments, school districts, authorities, and other local government entities are encouraged to explore the possibilities of using the prison industries training program. State agencies shall cooperate with the department of institutions in notifying governmental entities within the state of the program and of the services and products that are available.

(6) (a) An inmate participating in the prison industries training program may be granted a good time allowance, not to exceed 15 days per month, notwithstanding the limits contained in 53-30-105, for outstanding participation in the program as defined by rules adopted by the department of institutions. Such

good time allowance has the same effect as a good time allowance granted under 53-30-105, and the provisions of subsections (2) and (3) of 53-30-105 apply to such good time allowance. Provided, however, no inmate may receive good time for participation in this program under any other section or rule which would duplicate the good time authorized herein.

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

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

(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.

(7)(a) The department of institutions shall adopt rules implementing this program and shall report to the legislature its continuing plans and recommendations in implementing this program. Any price lists established by the department are exempt from the provisions of Title 2, chapter 4 (the Montana Administrative Procedure Act), but the department may, if it considers it an effective method of dissemination, publish such price lists in the Montana Administrative Register or the Administrative Rules of Montana, or both.

(b) The department of institutions is subject to program audits of the prison industries training program by the legislative auditor.

Section 2. Appropriation. There is appropriated from the general fund to the department of institutions \$26,325 to establish the prison ^{training} ~~vocational~~ industries program.

Section 3. Immediate effective date. This act is effective on passage and approval.

-End-

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NOTE: All amendments except numbers 4 and 42 are referenced to
page, 3rd reading copy. 19

1. Statement of intent, line 6.

Following: "department of"

Strike: "administration"

Insert: "institutions"

2. Statement of intent, line 8.

Following: "prison"

Strike: "vocational"

3. Statement of intent, line 9

Following: line 8

Insert: "training"

4. Statement of intent.

Following: line 19

Strike: Subsection (2), relating to competition and collective bargaining, in its entirety.

5. Title, line 4.

Following: "ESTABLISH"

Strike: "A"

Insert: "AN"

6. Title, line 5.

Following: line 4

Strike: "VOCATIONAL"

7. Title, line 5.

Following: "INDUSTRIES"

Insert: "TRAINING"

8. Title, line 6.

Following: "PROVIDES"

Strike: "FORMAL"

9. Title, line 6.

Following: "VOCATIONAL"

Strike: "EDUCATIONAL,"

10. Page 1, line 14.

Following: "establish a"

Strike: "vocational"

11. Page 1, line 17.

Following: "viable"

Strike: "vocations"

Insert: "skills"

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12. Page 1, line 13.
Following: "with"
Strike: "vocational"
Insert: "skills"
13. Page 1, line 6.
Following: "true"
Strike: "vocational"
14. Page 2, line 7.
Following: "industries"
Insert: "training"
15. Page 2, line 8.
Following: "are"
Strike: "vocationally"
16. Page 2, line 12.
Following: "Prison"
Strike: "vocational"
17. Page 2, line 12.
Following: "industries"
Insert: "training"
18. Page 2, line 15.
Following: "prison"
Strike: "vocational"
19. Page 2, line 16.
Following: "industries"
Insert: "training"
20. Page 2, line 17.
Following: "prison"
Strike: "vocational"
21. Page 2, line 17.
Following: "industries"
Insert: "training"
22. Page 2, line 21.
Following: "worthwhile"
Strike: "vocational"
23. Page 2, line 23.
Following: "their"
Strike: "vocational"

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24. Page 2, line 14.
Following: "line 23"
Strike: "training"
Insert: "skills"

25. Page 3, line 3.
Following: "prison"
Strike: "vocational"

26. Page 3, line 3.
Following: "industries"
Insert: "training"

27. Page 3, line 4.
Following: "of"
Strike: "structured"

28. Page 3, line 7.
Following: line 6
Strike: "vocational"
Insert: "this"

29. Page 3, line 19.
Following: "prison"
Strike: "vocational"

30. Page 3, line 19.
Following: "industries"
Insert: "training"

31. Page 3, line 19.
Following: "program"
Strike: "is"
Insert: "need"

32. Page 3, line 20.
Following: "not"
Insert: "be"

33. Page 3, line 22.
Following: "for"
Strike: "prison vocational industries"
Insert: "this program"

34. Page 4, line 5.
Following: "prison"
Strike: "vocational"

35. Page 4, line 5.
Following: "industries"
Insert: "training"

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36. Page 4, line 10.

Following: "line 9"

Strike: "vocational"

37. Page 4, line 10.

Following: "industries"

Insert: "training"

38. Page 5, line 1.

Following: "prison"

Strike: "vocational"

39. Page 5, line 2.

Following: "industries"

Insert: "training"

40. Page 5, line 14.

Following: "prison"

Strike: "vocational"

41. Page 5, line 14.

Following: "industries"

Insert: "training"

42. Page 5, new section 1.

Amend new section 2 to read as follows:

"Section 2. Appropriation. There is appropriated from the general fund to the department of institutions \$26,335 to establish the prison ~~vocational~~ industries training program."

AND AS AMENDED DO PASS