

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE  
March 24, 1983

CHAIRMAN JOE BRAND called the meeting to order at 8 a.m. in Room 129, Capitol building, Helena, Montana.

Roll call was taken and all members were present except Representatives O'Connell and Bardanouve.

HOUSE BILL 22

SENATOR PAUL BOYLAN introduced House Bill 22 for Representative Ellerd. This bill would take \$7.8 million out of the general fund for renovation of the old prison. It may be a viable project. It is growing relatively fast. We keep getting overloaded at the prison and the old prison could be renovated and put into operation within 24 months. With new construction at the new prison area it will take about 33 months. He mentioned that Mr. Parrish from Minnesota had been hired by the state to come up with a plan on this renovation project. He came up with three options that we could look at. This project was directed by the Task Force on Corrections. Some of the people at the prison would like to get the hard core prisoner away from the other inmates. It is complete with a kitchen, infirmary, etc. Then it would not have to be a maximum security area only. There would not be much mix of the people. It is being shot down by the department because it would take extra help and it would cost more money in the long run. The only mix that you would have in this would be the warden and the upper personnel because the guards would be assigned to this unit not to be working part-time here and part-time at the other site. He then mentioned that the buildings in Deer Lodge that belong to the state which are abandoned should have something done with them soon because they are becoming an eye sore. Mr. Parrish is not an opponent or proponent on this issue but is here to tell you what they have come up with for ideas.

CHAIRMAN JOE BRAND asked if Mr. Parrish would please tell the committee about Plan C and what it entails.

SENATOR BOYLAN explained that Plan "C" is the only one that would meet federal standards. This is explained in the proposal that they put together for the Task Force on Corrections. They could not use the old cells over because of the space that is available in the old prison currently.

PROPOSERS

REPRESENTATIVE JOE BRAND, District 22, Deer Lodge spoke as a proponent to House Bill 22. He mentioned that he has been in Deer Lodge since 1936, and he lived near the prison as a child. He said that it did not seem to effect him. His family has worked at the prison, and he is very knowledgeable about the prison. He said that he ran for reelection on the issue of renovating the old prison. The people that work there are for

it, the people in the city are for it, and the prisoners are even for it. We had a special session of the legislature and the Task Force was named and they said that the old prison should be renovated. The Governor has said from the beginning that he would not support the renovation of the old prison; he wants a new one. The Department of Institutions is in favor of building a new facility. In case of a riot I don't know what they would do at this new prison. At the old prison, they would have what would be needed in a riot situation. It is very secure at the old prison. There is no such thing as a fail safe system at the new prison. The things that are happening now would not happen at the old prison. I am hopeful that these kinds of things are addressed. There are other prisons that are far more effective in other states. There is alot of difference in the other prison facilities outside Montana. We need to stop talking and act. They have not done what they were suppose to do with the new prison. What about the rancher that lives near there. These people are not in a position to have any recourse. We have to have a change in our thinking. Some of the prisoners want the separation of prisoners as well as the people on the outside. All I am asking is that if you are going to have a prison built, build a good one. If the Governor is so intent that he will not renovate the old one, then lets make sure that the prison we get is secure.

#### OPPONENTS

CARROLL SOUTH, Director, Department of Institutions, spoke against this bill. He said that there has been much said about the prison. We have 780 prisoners at the prison, and it was designed to hold 500. They do not want anyone to think that these kind of people that have bad criminal records will change on the inside any more than they will on the outside. There has been alot of criticism about the new prison. It was one of the first things that he took a look at when he became director. He then read an article on the New Mexico riot and gave some of the examples of what happened there. He said at his first visit to the Montana State Prison he saw nothing but glass. He had the warden install steel bars over the glass. They have done a great deal of renovation at the current prison. It is good that they have separate units there. They have 5 housing units with 96 persons to a unit. We built a second guard tower since I took office. During my first three months in office, we had three inmates go over the fence and the razor barb fence doesn't even stop them. In 1977 the guards came before the legislature and said that they needed another guard tower. So we built it, but it is not even adequate. We have had it improved since 1981. Alot has been done to improve the security at the prison. There is more to a prison than walls, gates, guard towers and cells. Mike Risley has gone along way to improve the prison.

It is difficult to be against the renovation of the old prison

because of the things that do exist at the old prison but it is obvious that these things are not the same today. We would still have to modernize it. He mentioned the problem that could arise if the old prison were renovated. We would have it the same if the new prison were expanded. We have had inmates go over the stone walls at the old prison, too. We do not believe that the renovation of the old prison is a good idea. We believe that if we want security and separation, we can get it by building upon the new prison rather than the old one. There are too many "whys" with this idea. We are not close minded about what we are going to do. We can achieve the separation of three groups of inmates rather than the two that could be achieved by the old prison renovation.

He mentioned the issue of stealing automobiles. The prisoners sometimes steal automobiles when they escape from the prison. State law does not allow the Department of Institutions to reimburse someone if an escapee should steal his property. They can challenge us in court on the issue though. Under state law we were not the negligent party. I do not like that but we would need to correct this by new legislation.

He said Jack Haffey summed it up pretty well when he said that it is a far better idea to build on what we have at the present prison.

THERE BEING NO FURTHER TESTIMONY FROM OPPONENTS, CHAIRMAN BRAND CLOSED ON HOUSE BILL 22 AND ASK SENATOR BOYLAN IF HE WOULD LIKE TO MAKE A CLOSING STATEMENT.

Senator Boylan closed by saying that the Task Force on Corrections figured that the population at the prison could go up to 1,300 people and about half of them would be maximum security people. The renovation of the old prison would be able to hold about 186 prisoners. We believe the prison construction will provide another 40-50 years of life from the old prison. The interior security would be improved. He mentioned that if we did new construction at the present prison site we would be looking at approximately \$15 million, and he would bet that it would cost more like \$20 million. He said that he felt that in 33 months we would be in pretty bad trouble because of the overcrowding. No matter what they do out there the inmates will still be able to communicate because they will only be one mile apart rather than the five miles to the old prison site.

#### COMMITTEE QUESTIONS

REPRESENTATIVE CHESTER SOLBERG asked Carroll South what side he was on. His testimony sounded like he was a proponent rather than an opponent. Mr. South replied, that it would cost about \$60 million to renovate the old prison. The comparison of what we are proposing at the new prison is not accurate. We are overplaying the separation of the prisoners. It does not seem

to me that anything will be different with the distances.

Representative Solberg said that he went through both prison facilities last summer. He said that he would certainly accept the old prison over the new one because of the construction of it. It seems to be more sound.

REPRESENTATIVE GLENN MUELLER asked Mr. Parrish about the time that he spoke to the Republican caucus. He said that if he understood him correctly, the ideal situation would be to have the maximum security outside of where the minimum security prisoners are kept. Mr. Parrish replied, "Yes, it is reasonable to say that the farther apart the better it would be."

Representative Mueller asked, "for the dollar expenditure, where would you put the maximum security?" Mr. Parrish replied that it is difficult to answer that and he could not give a firm answer. He said that he is not saying that the maximum security unit would not work if it were close to the present prison but he does favor the further distance.

Representative Mueller said, with the old prison, as he understands it, it is very limited as far as facilities are concerned. Mr. Parrish said, that is probably true. It could be expanded, but he thought that it might not be a favorable situation.

REPRESENTATIVE KATHLEEN McBRIDE said she would like some clarification on the numbers of how many persons the prison was built to accomodate and also how many are in there now. Mr. South replied that the existing prison was built in two sections. It was built to hold 545 inmates, but it presently holds 785.

Representative McBride asked, what population are we planning to build for. Mr. South said we should shoot for 900 but that this might vary because of the persons that should be moved to the outside facilities, i.e., half-way houses, etc. The proposed addition would give us 192 beds and more area for expansion later.

Representative McBride asked, if we would be taking some of the 785 that are there now out and moving them elsewhere. Mr. South replied that right now either proposal only deals with the people that we have right now. We presently have 85 maximum security people and the old prison renovation would hold 186. Therefore we would hope to move 100 maximum security persons in there.

Representative McBride asked Senator Boylan if there would be some problems with mixing the maximum security and the minimum security people at the old prison. Senator Boylan replied that we would have that either way. If the old prison were renovated there would be three pods within the old building, and they are

separated.

Representative McBride asked Mr. Parrish if everything that is at the old prison would be removed, not just the inside. Mr. Parrish replied that they concentrated on the two buildings, the cell house and the other building. They would start all over again and start out with 8 separate 24-man units. It is all in one building but there are 8 separate 24-man units. They could be stricter with different kinds of inmates. There is no way that they would all be filled because of the people that would be moving through the system.

Representative McBride mentioned that the old prison was not all that secure either.

REPRESENTATIVE BILL HAND asked about the capacity of the prison. Mr. South replied that they are building only enough bed area for what they have presently and then there will be additional space for expansion later.

REPRESENTATIVE PAUL PISTORIA asked Mr. South what would the approximate cost of renovating the old prison be. Mr. South replied that the old prison would cost \$7.9 million and building the new facility would cost \$11.8 million.

Representative Pistoria asked, if there would be a problem getting the old prison back from the Towe family who have the building leased. Mr. South replied that he did not know but he understood that the lease would have to be broken.

Representative Pistoria asked Mr. South if he would advocate something being put in the law regarding the theft problem when the prisoners escape. Mr. South replied that they did not do this but something should probably be done.

REPRESENTATIVE JERRY DRISCOLL asked Mr. Parrish if he designs prisons all over the country. How long after a prison is built is it, before it is full? When would he estimate that this prison would be full? If you built a prison that would hold 1,000 persons, how long before it would be full? 1990? Mr. Parrish replied that he does design prisons all over the country. Most states have the same problem that we have here. He thought that the prison would be full in about one and a half years.

Representative Driscoll asked what the population at the old prison was before the existing new facility had been built. Mr. South replied that he thought the population was about 200.

REPRESENTATIVE BRENT BLISS asked about the cost analysis and when it was prepared. Mr. South replied that this was prepared last fall. It was on a 1983 basis. The old prison proposal would only have two facilities and with the new one that we are pro-

posing we would have three so the figures would be different.

REPRESENTATIVE FRANCIS KOEHNKE asked why it is that the new prison is not as safe. Will this be the same case at the new facility that is being proposed? Mr. South replied that he thought that you should realize that it was built on a shoe string.

Representative Koehnke asked if all of these things were going to be corrected at the new one. Who will be the architect? Mr. South said that they have not hired anyone to do this yet. We are calling the new proposal high, low, and maximum.

Representative Koehnke asked if the design would be for a single guard dormitory. Mr. South said, "No."

REPRESENTATIVE JOHN RYAN asked Mr. South how many prisoners were within 6 months of being released. Mr. South said that he thought about 130, but the problem is that they do not have the necessary bed area.

REPRESENTATIVE JOE HAMMOND asked Mr. South why would they plan a unit that would be too small before they even began it. Mr. South explained that along with the facility, we would have a support facility. It would be an additional 1,000 square foot area. He said that he is nervous about projecting too much building space.

REPRESENTATIVE JOHN PHILLIPS asked Mr. South what has been the increase in the system. Mr. South replied that they would estimate 90 more prisoners in a 6-month period since the special session. We think that the housing unit would be complete in 33 months.

Representative Phillips said that we are out of space now, what if we are out of space when we get it built? What will we do then? Mr. South said it is hard to project the inmate population. He then explained where the 1,300 figure came from. If you have 200 maximum security inmates they estimate that you would have to have an approximate total population of 1,300 prisoners in the system.

REPRESENTATIVE CHESTER SOLBERG asked if it was not true that the prison population rises and falls when the economy changes in the country. Mr. Parrish replied that he would say that it is one of the big reasons but not the only one. Some of it is because of legislative laws.

Representative Solberg mentioned that the Montana prison population has really increased and he wondered if that was true in other states. Mr. Parrish replied that it is true everywhere, and that we might be better off in Montana. All the states are bad, and some have had their prison systems closed by the courts.

Some are operating under court order.

Representative Solberg asked if any of the other states anticipate any reduction in this situation. Mr. Parrish replied they think that it is going to go up. I don't know anyone who is predicting a decline.

CHAIRMAN JOE BRAND asked Mr. Parrish about his talks about the national standards and the rights of the inmates. What about the standards and who said that inmates should have rights? Mr. Parrish said that the two are actually tied together. Standards have been developed over the last 10-12 years by action of the courts. Civil rights issues have created many of these. Inmates do have rights, and it is very important to remember this. There are two more standards, and they define the rights of the prisoners. They also explain how a prison facility must be designed and how this will protect the prisoners rights. Concurrently with the standards, we have found that anyone operating the facility have been exposed to law suits because of the civil rights issue. The main point I have to make is from the states' position as being defended in a civil rights suit. We have been very fortunate so far in Montana. We could have some real problems with the double bunk system at the present prison. Every time a new suit is filed it could have an impact on your system. We need to think ahead on what new happens because of the designs that we prepare. The court makes the decisions on these.

Chairman Brand commented, "We do what they tell us." Mr. Parrish replied that there is always disagreement.

Chairman Brand asked who makes the determination about maximum, high, low, etc. Who classifies them. Mr. Parrish thinks that it is primarily an administrative decision but in many cases it is assisted by the courts. As far as rehabilitation is concerned, we went along with the idea that we could require rehabilitation and it is not the case any more. The court says that an inmate should be offered this opportunity to be rehabilitated, but it is the prisoners choice.

Chairman Brand commented on the 1959 riot and said it was caused because of the lax administration there. It is similar to what we have now. Too much freedom causes riots.

THERE BEING NO FURTHER QUESTION FROM THE COMMITTEE MEMBERS,  
CHAIRMAN BRAND CLOSED ON HOUSE BILL 22.

#### EXECUTIVE SESSION

REPRESENTATIVE CLYDE SMITH MOVED House Bill 22 be TABLED and this was seconded by Representative Joe Hammond. The question being called, the motion carried unanimously.

REPRESENTATIVE CHESTER SOLBERG MOVED for adjournment, and it was seconded by Representative Clyde Smith. Motion carried.

The meeting adjourned at 9:42 a.m.

Respectfully submitted,

  
REPRESENTATIVE JOE BRAND, CHAIRMAN

Cleo Anderson, Secretary to Committee



# STANDING COMMITTEE REPORT

3-24

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**SPEAKER**

MR. ....

**STATE ADMINISTRATION**

We, your committee on .....

**HOUSE**

having had under consideration ..... Bill No. **22**

Resolving copy 1

Refer

"AN ACT TO AUTHORIZE THE USE OF THE OLD MONTANA STATE PRISON;  
REQUIRING THE DEPARTMENT OF STATE LANDS TO NEGOTIATE FOR THE  
TERMINATION OF THE LEASE OF THE OLD PRISON; ALLOWING THE WARDEN  
TO DETERMINE WHICH PRISONERS TO INCARCERATE IN THE OLD PRISON;  
REQUIRING THE OLD MONTANA STATE PRISON TO MEET CERTAIN STANDARDS;  
APPROPRIATING MONEY FOR THE RENOVATION OF THE OLD PRISON;  
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

**HOUSE**

**22**

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

~~DO PASS~~

*Labeled*

## VISITOR'S REGISTER

HOUSE STATE ADMINISTRATION

COMMITTEE

BILL HOUSE BILL 22

DATE March 24, 1983

SPONSOR      Rep. Ellerd

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Testimony by the Department of Institutions  
Before the House State Administration Committee  
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The administration is opposed to the renovation of the territorial prison for the purpose of housing maximum security inmates.

At the request of the administration, a National Institute on Corrections consultant, Don Hutto, reviewed the options available to alleviate the current overcrowding of the prison system and recommended the expansion of the present prison. At the request of the legislature, William Parrish, an architect specializing in prison construction, prepared a cost estimate for the renovation of the territorial prison. Mr. Parrish, during committee testimony, indicated that expanding the existing prison may be preferable to renovating the old territorial prison.

Mr. Parrish states in his report to the Legislative Council that, "we are compelled, in view of the history of recent years and strong prevailing opinion in corrections, to believe that further capacity will be required in addition to the 192 now being considered and that the state's best interest may be served by confining all additions to the New Prison." The potential for future expansion should be considered before any decision is made to spend several million dollars to accommodate 192 additional inmates.

Before a decision is made we also need to look beyond the initial construction costs and consider the long term operational cost to the State general fund. Our analysis shows that over the next 40 years it would cost \$59.6 million more to house 725 inmates in the territorial prison

and the existing prison than it would to house the same number of inmates in the existing prison after expansion.

Programming for two distinct groups of inmates would be enhanced if both groups were housed adjacent to each other where more staff functions could be shared. New construction would allow the designing of buildings to meet security and program needs rather than designing program and security to fit an existing facility. The configuration of a renovated facility is predetermined by the size and shape of the original design. Mr. Parrish states in his report that, "The abundance of space at the New Prison places virtually no restriction on design, enabling more functional solutions to facility planning."

The Parrish design of the upper and lower levels of the administration building would require staff escort of all inmates involved in institutional movement or programming. The proposed expansion at the new prison utilizes the towers to observe movement and communications systems to track inmates moving through an open yard from housing units to program buildings. The Parrish Plan also lacks a gymnasium-- for use during winter months.

Comparisons have been made between the security of the old prison and the security of the new. Comparisons have been made between the number of escapes from the old prison and the new prison. Such comparisons are distorted by the fact that the old prison was designed originally as a highly secure facility with appropriate guard tower observation. The new prison was not designed as a highly secure facility and guard towers were not a part of the original design.

However, much has been done to enhance security at the

existing prison and it is our belief that these improvements provide the basis upon which a secure prison can be built. Construction as per our recommendation at the existing prison will not only provide a secure environment for the 192 inmates housed in the addition but will increase security levels for the entire prison. Expansion at the existing prison will provide the most economical way to accomplish additional security improvements throughout the entire prison compound.

We believe the Legislature made the right choice when they decided to vacate the antiquated territorial prison and construct a new one. They undoubtedly believed then, as we believe now, that any improvements made to that facility will not change the fact that the basic structure was built in the early 1900's and that the expenditure of several million dollars will not alter the size or the shape of the facility to meet present needs.

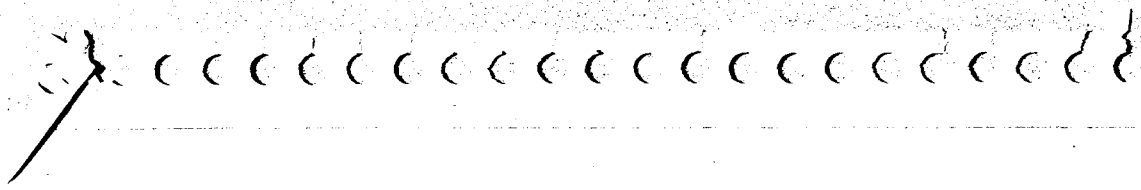
The appearance of the old prison and the words used to describe it by its proponents have resulted in unrealistic expectations for its use as a prison in the 1980's, a time when prisons must, by law, operate differently than they did when the facility was designed.

Reserves:

Not HB 22 or

yes to table

McBride



H.B. 22

note no

on H.B. 22.

Francis Bantano

