

SENATE BILL NO. 218

INTRODUCED BY S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

January 20, 1981	Introduced and referred to Committee on State Administration.
February 7, 1981	Committee recommend bill do pass as amended. Report adopted.
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading, do pass.
February 11, 1981	Correctly engrossed.
February 12, 1981	Third reading, passed. Ayes, 48; Noes, 1. Transmitted to House.

IN THE HOUSE

February 13, 1981	Introduced and referred to Committee on Business and Industry.
March 6, 1981	Committee recommend bill be concurred in. Report adopted.
March 9, 1981	Second reading, concurred in.
March 11, 1981	Third reading, concurred in. Ayes, 95; Noes, 0.

IN THE SENATE

March 12, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. *218*  
 2 INTRODUCED BY *JEFF BROWN*

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE AUTHORITY  
 6 OVER STAFFING FROM THE BOARDS OF MEDICAL EXAMINERS,  
 7 PHARMACISTS, NURSING, BARBERS, COSMETOLOGISTS, AND WATER  
 8 WELL CONTRACTORS; AMENDING SECTIONS 37-3-203, 37-7-104,  
 9 37-8-204, 37-30-203, 37-31-312, AND 37-43-201, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 37-3-203, MCA, is amended to read:

13 "37-3-203. Powers and duties. ~~(1)~~ The board may:

14 ~~(a)~~(1) adopt rules necessary or proper to carry out  
 15 parts 1 through 3 of this chapter; the rules shall be fair,  
 16 impartial, and nondiscriminatory;

17 ~~(b)~~(2) hold hearings and take evidence in matters  
 18 relating to the exercise and performance of the powers and  
 19 duties vested in the board;

20 ~~(c)~~(3) aid the county attorneys of this state in the  
 21 enforcement of parts 1 through 3 of this chapter and the  
 22 prosecution of persons, firms, associations, or corporations  
 23 charged with violations of parts 1 through 3 of this  
 24 chapter.

25 ~~(2)--A person hired by the department to assist it--end~~

1 ~~the--board-in-investigations; the authorization of temporary~~  
 2 ~~certificates; professional correspondence; and related~~  
 3 ~~matters shall be approved by the board."~~

4 Section 2. Section 37-7-104, MCA, is amended to read:  
 5 "37-7-104. Qualifications of employee hired to assist  
 6 board. A person hired by the department to enter and inspect  
 7 an establishment under this chapter; to examine the books of  
 8 a manufacturer, druggist, storekeeper, wholesaler,  
 9 pharmacist, or intern; to assist in a prosecution under this  
 10 chapter; and to assist the board in supervising internships,  
 11 reciprocity agreements, professional correspondence, and  
 12 examinations shall be:

13 ~~(1)~~ a citizen of the United States and a resident of  
 14 this state; and

15 ~~(2)--a pharmacist registered under this chapter, with~~  
 16 ~~at least 5 years of practical experience."~~

17 Section 3. Section 37-8-204, MCA, is amended to read:

18 "37-8-204. Qualifications of secretary. Any secretary  
 19 hired by the department to provide services to the board in  
 20 connection with the board's duties of prescribing curricula  
 21 and standards for nursing schools, making surveys of and  
 22 approving schools and courses, evaluating and approving  
 23 courses for affiliation of student nurses, and reviewing  
 24 qualifications of applicants for licensure for the board  
 25 ~~shall first be approved by the board and shall be:~~

- 1 (1) a citizen of the United States;  
 2 (2) a graduate of an approved school of nursing;  
 3 (3) a holder of at least a master's degree with  
 4 postgraduate courses in nursing;  
 5 (4) a registered professional nurse with at least 5  
 6 years' experience in teaching or administration in an  
 7 approved school of nursing."

8 Section 4. Section 37-30-203, MCA, is amended to read:  
 9 "37-30-203. Powers and duties of board and department  
 10 -- conducting examinations -- rulemaking -- hiring of  
 11 inspectors -- price agreements. (1) The department shall,  
 12 subject to 37-1-101, conduct practical examinations of  
 13 applicants for apprentice cards and for certificates of  
 14 registration to practice as registered barbers not less than  
 15 four times a year at times and places the board determines.  
 16 The examinations shall cover the fundamentals of barbering,  
 17 dermatology, and sanitation. The department shall issue  
 18 apprentice cards and certificates of registration.

19 (2) The board may adopt rules for the administration  
 20 of this chapter.

21 (3) A person hired by the department to make an  
 22 inspection of a barbershop, school, or college shall be  
 23 ~~recommended by the board. He shall~~ receive \$30 per day plus  
 24 travel expenses as provided for in 2-18-501 through  
 25 2-18-503, as amended.

1 (4) The board may approve price agreements  
 2 establishing minimum prices for barber work which are signed  
 3 and submitted to the board by an organized group or groups  
 4 of at least 75% of the barbers in a city or town if the  
 5 board, after ascertaining by investigations and proofs as  
 6 the situation permits and requires, finds that the price  
 7 agreement is just and will best protect the public health  
 8 and safety by affording a sufficient minimum price for  
 9 barber work to enable the barbers to furnish modern and  
 10 healthful services and appliances to minimize the danger to  
 11 the public health incident to this work. Under this chapter,  
 12 a city or town includes the territory within its legal  
 13 limits and the territory adjacent to it and lying within 3  
 14 miles of its legal limits. In determining whether a price  
 15 agreement is just and will best protect the public health  
 16 and safety, the board shall consider all conditions  
 17 affecting the barber business in its relation to the public  
 18 health and safety.

19 (5) In determining reasonable minimum prices, the  
 20 board shall consider the necessary cost incurred in the city  
 21 or town to maintain a barbershop in a clean, healthful, and  
 22 sanitary condition.

23 (6) After making an investigation, the board shall by  
 24 order fix the minimum price for work usually performed in a  
 25 barbershop in the city or town in which the price agreement

1 has been signed. The board may, on the petition of ~~50%~~ of  
2 the barbers of the city or town, readjust the minimum  
3 prices, and the new prices must be approved by 75% of the  
4 barbers in the city or town.

5 (7) This section does not apply to students who have  
6 been enrolled less than 9 months in a barber college in this  
7 state or who are not apprentice barbers."

8 Section 5. Section 37-31-312, MCA, is amended to read:

9 "37-31-312. Inspection. (1) The department shall  
10 appoint one or more inspectors ~~who are licensed to practice~~  
11 ~~under this chapter~~, each of whom shall devote his time to  
12 inspecting beauty parlors and performing other duties as the  
13 department may direct. The inspectors may enter a beauty  
14 parlor or school of cosmetology during business hours for  
15 the purpose of inspection, and the refusal of a licensee to  
16 permit the inspection during business hours is cause for  
17 revocation of the license.

18 (2) Upon application for a license, any cosmetological  
19 establishment must pay an initial inspection fee of \$25.

20 (3) The board may authorize the department to grant to  
21 a cosmetological establishment, upon payment of the initial  
22 inspection fee, a temporary permit authorizing the  
23 cosmetological establishment to operate for a period of not  
24 to exceed 90 days or until the inspector is able to make the  
25 inspection, whichever event occurs first. This temporary

1 permit is not renewable."

2 Section 6. Section 37-43-201, MCA, is amended to read:

3 "37-43-201. Seal -- employees -- compensation of  
4 members. (1) The board shall have a seal with the words  
5 engraved thereon, "Board of Water Well Contractors", and  
6 such seal shall be affixed to all writs, authentication of  
7 records, and other official proceedings of the board. The  
8 courts of this state shall take judicial notice of such  
9 seal.

10 ~~(2) The board may in its discretion employ a secretary~~  
11 ~~and such other persons as may be necessary to perform the~~  
12 ~~duties of the board, either upon a part-time basis or upon a~~  
13 ~~full-time basis.~~

14 (3)(2) Each appointed member of the board who is not a  
15 government employee shall receive as compensation for his  
16 services the sum of \$20 per day for each day actually  
17 engaged in the performance of the duties of his office,  
18 including time of travel between his home and the places at  
19 which he shall perform such duties, together with mileage  
20 and per diem expenses as provided for in 2-18-501 through  
21 2-18-503. The state engineer, the director of environmental  
22 sanitation of the state board of health, and other employees  
23 of the state of Montana shall receive no extra compensation  
24 for their services as members of the board."

-End-

STATE OF MONTANA

REQUEST NO. 193-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 23, 19 81, there is hereby submitted a Fiscal Note for SB 219 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

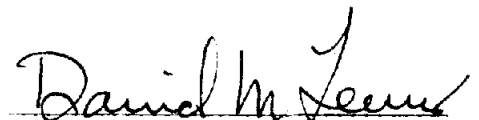
Description of Proposed Legislation: "A bill for an act entitled: An act to generally revise sentencing laws; amending section 46-18-201, MCA."

Assumptions:

- 1) This legislation will require judges to impose "presumptive sentences" for certain offenses, subject only to specific mitigating or aggravating circumstances, as defined in the legislation.
- 2) This legislation does not define the "presumptive sentences" to be applied, but requires that these sentences be developed by the Supreme Court by July, 1982.
- 3) Because the "presumptive sentences" to be implemented by this legislation are not defined, it is impossible to estimate the impact this legislation will have on the prison population.

Fiscal Impact:

It is impossible to determine the fiscal impact of this legislation, since it applies standards which are not yet defined, and since, therefore the effect on the prison population cannot be estimated.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

## STATE OF MONTANA

REQUEST NO. 423-81

## FISCAL NOTE

Form BD-15

In compliance with a written request received March 5, 19 81, there is hereby submitted a Fiscal Note for SENATE BILL 219 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 219 is an act to generally revise sentencing laws.

FISCAL NOTE:

Section 2 of Senate Bill 219 specifies the Montana Supreme Court shall establish a list of presumptive sentences for each felony offense set forth in Title 45. The Montana Supreme Court estimates the fiscal impact as follows:

	<u>FY 82</u>	<u>FY 83</u>
<u>Personnel</u>	\$ -0-	\$ -0-
<u>Operating</u> Contracted (Research Attorney)	\$10,000	\$ -0-
<u>Equipment</u>	\$ -0-	\$ -0-
<u>TOTAL ADDITIONS UNDER PROPOSED LEGISLATION</u>	<u>\$10,000</u>	<u>\$ -0-</u>

*David M Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-6-81

Approved by Committee  
on State Administration

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8 WELL CONTRACTORS; AMENDING SECTIONS 37-3-203, 37-7-104,  
9 37-8-204, 37-30-203, 37-31-312, AND 37-43-201, MCA."  
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15 parts 1 through 3 of this chapter; the rules shall be fair,  
16 impartial, and nondiscriminatory;  
17 (b) (2) hold hearings and take evidence in matters  
18 relating to the exercise and performance of the powers and  
19 duties vested in the board;  
20 (c) (3) aid the county attorneys of this state in the  
21 enforcement of parts 1 through 3 of this chapter and the  
22 prosecution of persons, firms, associations, or corporations  
23 charged with violations of parts 1 through 3 of this  
24 chapter.  
25 (d) --A person hired by the department to assist it--end

1 the--board-in-investigations, the authorization of temporary  
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6 been enrolled less than 9 months in a barber college in this  
7 state or who are not apprentice barbers."

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9 ~~"37-31-312. Inspections. (1) The department shall~~  
10 ~~appoint one or more inspectors who are licensed to practice~~  
11 ~~under this chapter, each of whom shall devote his time to~~  
12 ~~inspecting beauty parlors and performing other duties as the~~  
13 ~~department may direct. The inspectors may enter a beauty~~  
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5 engraved thereon, "Board of Water Well Contractors", and  
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7 records, and other official proceedings of the board. The  
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14 ~~(3) (2) Each appointed member of the board who is not a~~  
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22 ~~sanitation of the state board of health, and other employees~~  
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SENATE BILL NO. 218

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8 ~~Section 5v--Section 37-31-312v-MCAv-is-amended-to-read~~  
9 ~~"37-31-312v--inspectionv---(1)--the--department--shall~~  
10 ~~appoint-one-or-more-inspectors-who-are-licensed-to--practice~~  
11 ~~under--this--chapterv--each-of-whom-shall-devote-his-time-to~~  
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13 ~~department-may-directv-the-inspectors--may--enter--a--beauty~~  
14 ~~parlor--or--school--of-cosmetology-during-business-hours-for~~  
15 ~~the-purpose-of-inspectionv-and-the-refusal-of-a-licensee--to~~  
16 ~~permit--the--inspection--during--business-hours-is-cause-for~~  
17 ~~revocation-of-the-licensev~~

18 ~~(2)--Upon-application-for-a-licensev-any-cosmetologica~~  
19 ~~establishment-must-pay-an-initial-inspection-fee-of-\$25v~~

20 ~~(3)--The-board-may-authorize-the-department-to-grant-to~~  
21 ~~a-cosmetologica-establishmentv-upon-payment-of-the--initial~~  
22 ~~inspection--feev---a--temporary--permit--authorizing--the~~  
23 ~~cosmetologica-establishment-to-operate-for-a-period-of--not~~  
24 ~~to-exceed-90-days-or-until--the-inspector-is-able-to-make-the~~  
25 ~~inspectionv--whichever--event--occurs--firstv-This-temporary~~

1 ~~permit-is-not-renewablev"~~

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10 ~~(2)--The-board-may-in-its-discretion-employ-a-secretary~~  
11 ~~and-such-other-persons-as-may-be-necessary--to--perform--the~~  
12 ~~duties-of-the-boardv-either-upon-a-part-time-basis-or-upon-a~~  
13 ~~full-time-basisv~~

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SENATE BILL NO. 218  
INTRODUCED BY S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE AUTHORITY OVER STAFFING FROM THE BOARDS OF MEDICAL EXAMINERS, PHARMACISTS, NURSING, BARBERS, COSMETOLOGISTS, AND WATER WELL CONTRACTORS; AMENDING SECTIONS 37-3-203, 37-7-104, 37-8-204, 37-30-203, 37-31-312, AND 37-43-201, MCA."

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

Section 1. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(a) (1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter; the rules shall be fair, impartial, and nondiscriminatory;

(b) (2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) (3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter.

(2) --A person hired by the department to assist it--and

the--board--in--investigations,--the--authorization--of--temporary certificates,--professional--correspondence,--and--related matters--shall--be--approved--by--the--board."

Section 2. Section 37-7-104, MCA, is amended to read:

"37-7-104. Qualifications of employee hired to assist boards. --A person hired by the department to enter and inspect an establishment under this chapter to examine the books of a manufacturer, druggist, storekeeper, wholesaler, pharmacist, or intern to assist in a prosecution under this chapter and to assist the board in supervising internships, reciprocity agreements, professional correspondence, and examinations shall be:

(1) --a citizen of the United States and a resident of this state; and

(2) --a pharmacist registered under this chapter with at least 5 years of practical experience."

Section 2. Section 37-8-204, MCA, is amended to read:

"37-8-204. Qualifications of secretary. Any secretary hired by the department to provide services to the board in connection with the board's duties of prescribing curricula and standards for nursing schools, making surveys of and approving schools and courses, evaluating and approving courses for affiliation of student nurses, and reviewing qualifications of applicants for licensure for the board shall first be approved by the board and shall be:

1 (1) a citizen of the United States;

2 (2) a graduate of an approved school of nursing;

3 (3) a holder of at least a master's degree with  
4 postgraduate courses in nursing;

5 (4) a registered professional nurse with at least 5  
6 years' experience in teaching or administration in an  
7 approved school of nursing."

8 Section 3. Section 37-30-203, MCA, is amended to read:

9 "37-30-203. Powers and duties of board and department  
10 -- conducting examinations -- rulemaking -- hiring of  
11 inspectors -- price agreements. (1) The department shall,  
12 subject to 37-1-101, conduct practical examinations of  
13 applicants for apprentice cards and for certificates of  
14 registration to practice as registered barbers not less than  
15 four times a year at times and places the board determines.  
16 The examinations shall cover the fundamentals of barbering,  
17 dermatology, and sanitation. The department shall issue  
18 apprentice cards and certificates of registration.

19 (2) The board may adopt rules for the administration  
20 of this chapter.

21 (3) A person hired by the department to make an  
22 inspection of a barbershop, school, or college shall be  
23 ~~recommended--by-the-board. He shall~~ receive \$30 per day plus  
24 travel expenses as provided for in 2-18-501 through  
25 2-18-503, as amended.

1 (4) The board may approve price agreements  
2 establishing minimum prices for barber work which are signed  
3 and submitted to the board by an organized group or groups  
4 of at least 75% of the barbers in a city or town if the  
5 board, after ascertaining by investigations and proofs as  
6 the situation permits and requires, finds that the price  
7 agreement is just and will best protect the public health  
8 and safety by affording a sufficient minimum price for  
9 barber work to enable the barbers to furnish modern and  
10 healthful services and appliances to minimize the danger to  
11 the public health incident to this work. Under this chapter,  
12 a city or town includes the territory within its legal  
13 limits and the territory adjacent to it and lying within 3  
14 miles of its legal limits. In determining whether a price  
15 agreement is just and will best protect the public health  
16 and safety, the board shall consider all conditions  
17 affecting the barber business in its relation to the public  
18 health and safety.

19 (5) In determining reasonable minimum prices, the  
20 board shall consider the necessary cost incurred in the city  
21 or town to maintain a barbershop in a clean, healthful, and  
22 sanitary condition.

23 (6) After making an investigation, the board shall by  
24 order fix the minimum price for work usually performed in a  
25 barbershop in the city or town in which the price agreement

1 has been signed. The board may, on the petition of 50% of  
2 the barbers of the city or town, readjust the minimum  
3 prices, and the new prices must be approved by 75% of the  
4 barbers in the city or town.

5 (7) This section does not apply to students who have  
6 been enrolled less than 9 months in a barber college in this  
7 state or who are not apprentice barbers."

8 ~~Section 5. Section 37-31-312, MCA, is amended to read:~~

9 ~~"37-31-312. Inspections. (1) The department shall~~  
10 ~~appoint one or more inspectors who are licensed to practice~~  
11 ~~under this chapter, each of whom shall devote his time to~~  
12 ~~inspecting beauty parlors and performing other duties as the~~  
13 ~~department may direct. The inspectors may enter a beauty~~  
14 ~~parlor or school of cosmetology during business hours for~~  
15 ~~the purpose of inspection, and the refusal of a licensee to~~  
16 ~~permit the inspection during business hours is cause for~~  
17 ~~revocation of the license.~~

18 ~~(2) Upon application for a license, any cosmetologist~~  
19 ~~establishment must pay an initial inspection fee of \$25.~~

20 ~~(3) The board may authorize the department to grant to~~  
21 ~~a cosmetologist establishment upon payment of the initial~~  
22 ~~inspection fee a temporary permit authorizing the~~  
23 ~~cosmetologist establishment to operate for a period of not~~  
24 ~~to exceed 90 days or until the inspector is able to make the~~  
25 ~~inspection, whichever event occurs first. This temporary~~

1 ~~permit is not renewable."~~

2 Section 4. Section 37-43-201, MCA, is amended to read:

3 "37-43-201. Seal -- employees -- compensation of  
4 members. (1) The board shall have a seal with the words  
5 engraved thereon, "Board of Water Well Contractors", and  
6 such seal shall be affixed to all writs, authentication of  
7 records, and other official proceedings of the board. The  
8 courts of this state shall take judicial notice of such  
9 seal.

10 ~~(2) The board may in its discretion employ a secretary~~  
11 ~~and such other persons as may be necessary to perform the~~  
12 ~~duties of the board, either upon a part-time basis or upon a~~  
13 ~~full-time basis.~~

14 ~~(3) (2)~~ Each appointed member of the board who is not a  
15 government employee shall receive as compensation for his  
16 services the sum of \$20 per day for each day actually  
17 engaged in the performance of the duties of his office,  
18 including time of travel between his home and the places at  
19 which he shall perform such duties, together with mileage  
20 and per diem expenses as provided for in 2-18-501 through  
21 2-18-503. The state engineer, the director of environmental  
22 sanitation of the state board of health, and other employees  
23 of the state of Montana shall receive no extra compensation  
24 for their services as members of the board."

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