

HOUSE BILL NO. 823

2/14 Introduced
2/14 Referred to State Administration
3/06 Hearing
3/08 Committee Report-Bill Pass As Amended
3/08 Statement of Intent Attached
3/08 Fiscal Note Requested
3/13 Fiscal Note Received
3/19 2nd Reading Do Not Pass
3/19 Bill Killed

1 HOUSE BILL NO. 823
 2 INTRODUCED BY Kadan Lybed Vincent Eak
 3 Ray Coppell Robert Manuel McKee McKee Therick
 4 Blaylock Richard D. Manning "AN ACT CREATING THE MONTANA
 5 CONSERVATION CORPS; ELIMINATING THE YOUTH CONSERVATION
 6 CORPS; PROVIDING FUNDING FOR THE MONTANA CONSERVATION CORPS
 7 THROUGH A LICENSE FEE ON ARCADE AMUSEMENT DEVICES; DEFINING
 8 "ARCADE AMUSEMENT DEVICE"; ESTABLISHING ELIGIBILITY
 9 REQUIREMENTS FOR MONTANA CONSERVATION CORPS WORK PROJECTS
 10 AND CORPS ENROLLEES; AMENDING SECTIONS 76-21-101 THROUGH
 11 76-21-103, 76-21-201, 76-21-205 THROUGH 76-21-207, AND
 12 76-21-301, MCA; REPEALING SECTION 7-21-2203, MCA, AND
 13 SECTIONS 11 THROUGH 13, CHAPTER 652, LAWS OF 1983; AND
 14 PROVIDING AN EFFECTIVE DATE."
 15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 17 Section 1. Section 76-21-101, MCA, is amended to read:
 18 "76-21-101. Definitions. As used in this chapter,
 19 unless the context clearly requires otherwise, the following
 20 definitions apply:
 21 (1) "Commissioner" means the commissioner of labor and
 22 industry as provided in 2-15-1701.
 23 (2) "Conservation activity" means an activity that has
 24 a long-term beneficial impact on the land and waters of this
 25 state and enhances, promotes, or preserves wildlife, forest,

1 agricultural, recreational, historical, cultural, or
 2 commercial resources. The term also includes but is not
 3 limited to energy conservation projects, reclamation of
 4 lands, and disaster assistance.
 5 (3) "Corps enrollee" means any corpsmember or
 6 corpsmember leader.
 7 (4) "Corpsmember" means a person serving as an
 8 entry-level member of the youth Montana conservation corps.
 9 (5) "Corpsmember leader" means a person serving as
 10 a member of the youth Montana conservation corps in a
 11 leadership or training capacity or who provides specialized
 12 services other than or in addition to those types of work
 13 and services generally performed by a corpsmember.
 14 (6) "Council" means the state job training
 15 coordinating council provided for in 29 U.S.C. 1532, P.L.
 16 97-300.
 17 (7) "Department" means the department of labor and
 18 industry as provided for in 2-15-1701.
 19 (8) "In-kind services and materials" includes services
 20 such as training, supervision, administration,
 21 transportation, insurance liability coverage, and similar
 22 services and materials such as supplies, fuel, tools,
 23 equipment, safety equipment and other materials for a
 24 conservation project.
 25 (9) "Local public agency" includes but is not limited

1 to the governing body of any city, town, county, school
2 district, or conservation district.

3 (10) "Nonprofit corporation" means a nonprofit
4 corporation as defined in 35-2-102.

5 (5)(11) "Supervisor" means a person in charge of
6 corpsmembers and corpsmember leaders at residential and
7 nonresidential youth Montana conservation corps centers."

8 Section 2. Section 76-21-102, MCA, is amended to read:

9 "76-21-102. Youth Montana conservation corps -- head.

10 (1) There is a youth Montana conservation corps program
11 within the department. The program is a seasonal public
12 service conservation program to provide participants with a
13 work and educational experience related to the enhancement,
14 protection, and conservation of natural resources in the
15 state.

16 (2) The program head is the executive director
17 appointed by the ~~governor upon the recommendation of the~~
18 ~~commissioner.~~

19 Section 3. Section 76-21-103, MCA, is amended to read:

20 "76-21-103. Powers and duties of executive director.

21 The executive director of the youth Montana conservation
22 corps, in cooperation with the commissioner and the council,
23 shall:

24 (1) adopt rules for the recruitment and employment of
25 corpsmembers, corpsmember leaders, and supervisors for the

1 youth Montana conservation corps program;

2 (2) establish residential and nonresidential centers
3 throughout the state to accomplish the missions and
4 objectives of the program. At least one supervisor shall
5 oversee each residential and nonresidential center.

6 (3) ~~establish~~ develop procedures for the review and
7 approval by the council of work projects providing that
8 provide meaningful work and educational experiences in the
9 enhancement, protection, conservation, and management of
10 natural resources and recreational areas in the state;

11 (4) adopt by rule a corpsmember code of conduct and a
12 corpsmember grievance procedure;

13 (5) establish an application procedure and enter into
14 agreements for furnishing of the corps' services to any
15 federal, regional, state, or local public agency for the
16 performance of public service conservation work, provided
17 the agency reimburses the program for any actual expenses
18 incurred in undertaking a project for the agency;

19 (6) in cooperation with the department, develop
20 procedures for the hiring of corps enrollees. The executive
21 director shall utilize any appropriate local job service
22 office in the area of a conservation project to distribute
23 applications, conduct interviews, and evaluate applicants
24 and make recommendations concerning the hiring of corps
25 enrollees. The executive director may utilize project

1 sponsors who are sponsoring long-term conservation projects
 2 to conduct interviews, evaluate applicants, and make
 3 recommendations concerning the hiring of corps enrollees.

4 (7) establish standards and procedures to evaluate
 5 performance, determine promotions, for discipline, and for
 6 termination of employment of corps enrollees;

7 (8) facilitate arrangements with local schools and
 8 institutions of higher education for academic study by corps
 9 enrollees during nonworking hours to upgrade literacy
 10 skills, obtain equivalency diplomas or college degrees, or
 11 enhance employable skills. The department shall encourage
 12 the development of training programs for corps enrollees for
 13 use during time periods when circumstances do not permit
 14 work on a conservation project.

15 (6)(9) apply for and accept grants or contributions
 16 from any public or private source for the operation of the
 17 program; and

18 (7)(10) report biennially on December 1 to the governor
 19 and the legislature on the corps' activities, including the
 20 cost-effectiveness cost effectiveness of the projects
 21 completed."

22 Section 4. Section 76-21-201, MCA, is amended to read:

23 "76-21-201. Work projects -- eligibility --
 24 application. (1) The federal government, a state agency,
 25 local public agency, or nonprofit corporation may apply to

1 the council for approval of a conservation project.

2 (2) The council and department shall encourage local
 3 public agencies to apply for the approval of conservation
 4 projects and shall provide assistance and information to
 5 facilitate these applications.

6 (3) To qualify as an eligible conservation project,
 7 the project must:

8 (a) provide employment opportunities;

9 (b) be a conservation activity; and

10 (c) if the sponsor is a nonprofit corporation, serve a
 11 valid public purpose.

12 (1)(4) When establishing reviewing for approval work
 13 projects as provided in 76-21-103 [section 5], the executive
 14 director council shall give preference to those projects
 15 that:

16 (a) provide long-term benefits to the public;

17 (b) provide productive work experience to corpsmembers
 18 and corpsmember leaders;

19 (c) are labor-intensive; and

20 (d) may be completed within a reasonable period of
 21 time.

22 (2)(5) Work projects may include but are not limited
 23 to:

24 (a) forestry and nursery operations;

25 (b) rangeland conservation, rehabilitation, and

1 improvement;

2 (c) endangered species and other wildlife habitat

3 conservation, rehabilitation, and improvement;

4 (d) historical and cultural site preservation and

5 maintenance;

6 (e) recreational area development, maintenance,

7 improvement, and beautification;

8 (f) road and trail maintenance and improvement;

9 (g) soil conservation work, including erosion control;

10 (h) stream and lake improvement and pollution control;

11 (i) fish culture and habitat maintenance and

12 improvement;

13 (j) insect, disease, rodent, and other pestilence

14 control;

15 (k) improvement of abandoned railroad beds and

16 rights-of-way;

17 (l) land reclamation and improvement, including

18 strip-mined lands, public landscape work, and tree planting

19 programs;

20 (m) energy conservation projects, including assistance

21 in the performance of energy efficiency audits and renewable

22 resource enhancement;

23 (n) emergency assistance in times of natural or other

24 disasters; and

25 (o) cleanup of litter and other debris in public

1 recreation areas, fishing access sites, and campsites.

2 ~~{3}--A-work-project-must-begin-no-later--than--June--10~~

3 ~~and-conclude-no-later-than-August-31-of-the-same-year.~~

4 (6) To qualify as an eligible conservation project,

5 the sponsor must submit in the application:

6 (a) a summary of the extent and value of all in-kind

7 services and materials it will provide for the project as

8 well as any other costs associated with the project that it

9 agrees to pay;

10 (b) a preliminary cost estimate, including a summary

11 of all anticipated costs resulting from implementation of

12 the project;

13 (c) a preliminary work plan specifying the nature,

14 scope, and duration of the project;

15 (d) evidence of concurrence of appropriate labor

16 organizations as described in 76-21-301; and

17 (e) such other information as may be requested by the

18 council."

19 NEW SECTION. Section 5. Project approval --

20 specifications. (1) The council shall, in cooperation with

21 the executive director and within funding limitations,

22 approve projects based on criteria that include but are not

23 limited to:

24 (a) the extent to which the project will provide

25 employment in meaningful labor-intensive work activities for

1 corps enrollees;

2 (b) the extent to which the project will promote the
3 long-term beneficial conservation of resources;

4 (c) the degree of difficulty in implementing the
5 project and its compatibility with other projects in the
6 area;

7 (d) the share of the total cost of the project,
8 including the value of in-kind services and materials, to be
9 paid or provided by the sponsor; and

10 (e) the extent to which the project will serve a valid
11 public purpose and benefit a large segment of the public.

12 (2) Prior to approval of a conservation project, the
13 department shall prepare and submit to the council:

14 (a) a complete project cost estimate, which must
15 include a summary of all anticipated costs resulting from
16 the implementation of the project;

17 (b) a detailed work plan specifying the nature, scope,
18 and duration of the project; the number of corps enrollees;
19 training, supervisory, administrative, and other service
20 requirements; supply, fuel, tool, equipment, safety
21 equipment, and other material requirements; time schedules;
22 and other details relating to the implementation of the
23 project;

24 (c) a responsibility agreement that incorporates the
25 complete project cost estimate and detailed work plan and

1 specifies in detail the responsibilities of the sponsor, the
2 department, and the council with respect to the project.

3 (3) A conservation project is not authorized and may
4 not be implemented until the sponsor and the council sign
5 the responsibility agreement. No funding provided to the
6 sponsor by the council for an approved project may be used
7 to pay for any cost incurred by the sponsor prior to the
8 signing of the agreement.

9 (4) The council is responsible for:

10 (a) the implementation of an authorized conservation
11 project. However, in the responsibility agreement, the
12 council may delegate to a sponsor responsibility for
13 implementing various aspects of a conservation project.

14 (b) the overall supervision and control of corps
15 enrollees. However, in the responsibility agreement, the
16 council may delegate to a sponsor or the department
17 responsibility for enrollee recruitment, training, and
18 supervision and for administrative services to be provided
19 for a conservation project.

20 (c) the coordination of work activities related to
21 various conservation projects in the same area.

22 Section 6. Section 76-21-205, MCA, is amended to read:

23 "76-21-205. Eligibility for employment in program. (1)
24 To be eligible for employment as a corpsmember in the youth
25 Montana conservation corps program, a person must be:

- 1 (a) a citizen of the state as defined in 1-1-402;
 2 (b) unemployed; and
 3 (c) not less than ~~15~~ 18 or more than ~~21~~ 26 years of
 4 age.
- 5 (2) To be eligible for employment as a corpsmember
 6 leader, a person must be:
- 7 (a) a citizen of the state as defined in 1-1-402;
 8 (b) unemployed or employed as a corpsmember; and
 9 (c) not less than 18 years of age.
- 10 (3) To the extent practicable, the program shall
 11 consist of equal numbers of male and female corpsmembers.
- 12 (4) The age requirements contained in subsections (1)
 13 and (2) constitute a bona fide occupational qualification
 14 for purposes of Title 49, chapters 2 and 3.
- 15 (5) No training or skills are required in order to
 16 qualify for employment as a corpsmember. The council shall
 17 establish minimum levels of performance, training, and
 18 skills required to qualify for employment as or promotion to
 19 corpsmember leader or supervisor.
- 20 (6) No physical examination is required to apply for
 21 employment as a corps enrollee, but the council shall
 22 require a physical examination prior to employment. The
 23 council may accept evidence of a physical examination
 24 conducted within 1 year prior to employment if the examining
 25 physician signs a form containing the information required

- 1 by the department."
- 2 Section 7. Section 76-21-206, MCA, is amended to read:
- 3 "76-21-206. Term of service enrollment -- wages --
 4 exemption from retirement system. (1) ~~A--corpsmember--or~~
 5 ~~corpsmember--leader--shall-by-written-agreement-serve-in-the~~
 6 ~~program--for--a--period--of--not--less--than--10--weeks:--A~~
 7 ~~corpsmember--or--corpsmember-leader-may-serve-in-the-program~~
 8 ~~for-a-maximum--of--one--season. In order to qualify for~~
 9 ~~employment as a corps enrollee, a person shall sign a~~
 10 ~~statement of intent to serve in the Montana conservation~~
 11 ~~corps program for a 1-year period. This statement does not~~
 12 ~~obligate the council or the department to provide employment~~
 13 ~~for the enrollee for that period.~~
- 14 (2) The normal enrollment period for a corpsmember who
 15 is not promoted to corpsmember leader is 1 year. The normal
 16 enrollment period for a corpsmember who is promoted to
 17 leader or for a person who is hired as a corpsmember leader
 18 is 2 years. The council may authorize the employment of a
 19 corpsmember or corpsmember leader beyond the normal
 20 enrollment period for a limited time under special
 21 circumstances if continued employment is required in order
 22 to complete a conservation project in progress or if the
 23 corpsmember or corpsmember leader possesses special
 24 experience, training, or skills valuable to the program.
- 25 ~~(2)(3)~~ A corpsmember is entitled to receive the

1 federal minimum hourly wage. A corpsmember leader is
2 entitled to receive up to 15% more than the federal minimum
3 hourly wage.

4 ~~(3)~~(4) Corpsmembers and corpsmember leaders are exempt
5 from participation in the public employees' retirement
6 system under Title 19, chapter 3.

7 (5) A corps enrollee is eligible for worker's
8 compensation benefits as provided in Title 39, chapter 71."

9 Section 8. Section 76-21-207, MCA, is amended to read:

10 "76-21-207. Education and training required --
11 incentives. (1) Each corpsmember or corpsmember leader
12 participating in a work project shall devote a minimum of
13 one-fourth not less than 5% or more than 25% of his worktime
14 to education and training. This may include attendance at
15 classes conducted by vocational-technical centers or other
16 educational institutions and must be based upon the needs of
17 each corps enrollee.

18 (2) A person who is employed as a corps enrollee for 1
19 year and who receives a satisfactory employment evaluation
20 upon termination of employment is entitled to an incentive
21 payment of \$500 or an education voucher worth \$1,000. The
22 council may authorize a partial incentive payment or
23 education voucher to a person who is employed as a corps
24 enrollee for less than 1 year and who receives a
25 satisfactory employment evaluation upon termination of

1 employment if the council determines that employment was
2 terminated because of special circumstances beyond the
3 control of the corps enrollee. The education voucher is
4 valid for 3 years after the date of issuance for the payment
5 of tuition at any eligible educational institution as
6 defined in 20-26-1101 that accepts the voucher. The council
7 shall authorize payment to the institution of face value of
8 the voucher upon receipt."

9 Section 9. Section 76-21-301, MCA, is amended to read:

10 "76-21-301. Union concurrence and consultation. (1)
11 Prior to commencement submission to the council of a work
12 project, ~~the employing agency~~ the program sponsor:

13 ~~(1)~~(a) shall consult with appropriate labor
14 organizations representing the same occupation in the
15 geographical area in the planning, design, and content of
16 the training, job, or work project with respect to job
17 descriptions, wage rates, training standards and
18 arrangements, safety requirements, and protection of all
19 current employees in the public and private sector; and

20 ~~(2)~~(b) must, for jobs under the project that are
21 covered by a collective bargaining agreement, receive
22 written concurrence from the appropriate labor organization.
23 Such concurrence applies to all of the elements of the
24 project as described in subsection (1)(a).

25 (2) The project sponsor must maintain records of such

1 consultation and concurrence and submit such records to the
2 council upon request."

3 NEW SECTION. Section 10. Arcade amusement device
4 license -- disposition of license revenue. (1) For every
5 arcade amusement device not kept exclusively for family use,
6 the owner must obtain a license for which the county
7 treasurer shall charge a license fee as follows:

8 (a) \$30 per quarter for each device located in a city
9 having a population of 10,000 or more;

10 (b) \$25 per quarter for each device located in a city
11 or town of at least 5,000 but less than 10,000 population;
12 and

13 (c) \$20 per quarter for each device located in a city
14 or town of less than 5,000 population or in an
15 unincorporated area.

16 (2) Upon payment of the applicable license fee, the
17 county treasurer shall issue to the owner of the device a
18 decal upon which is stated that the license fee for the
19 device has been paid. The owner of the device shall affix
20 the decal to a conspicuous place on the device.

21 (3) All revenue collected by the county treasurer from
22 arcade amusement device license fees must be paid into the
23 county treasury. The county treasurer shall retain 25%
24 thereof for the use of the county, pay over 25% thereof to
25 the city in which the device is located, and pay over 50%

1 thereof to the state special revenue fund to the credit of
2 the department of labor and industry to be used for the
3 Montana conservation corps.

4 (4) For the purposes of this section, the term "arcade
5 amusement device" means a mechanical, electromechanical, or
6 electronic contrivance, component, or machine used
7 exclusively for amusement. The term does not include
8 machines used for the vending of cigarettes, candy, soft
9 drinks, or other foodstuff, or any other amusement device
10 for which another license is specifically required.

11 (5) Exemptions provided in 7-21-2207 apply to the
12 provisions of this section.

13 (6) The provisions of 7-21-2103, 7-21-2104, and
14 7-21-2113 through 7-21-2117 apply to this section.

15 (7) Except for general business licenses issued under
16 the provisions of this chapter, no other license fee may be
17 collected by the county treasurer for arcade amusement
18 devices.

19 NEW SECTION. Section 11. Powers and duties of the
20 council -- staffing. (1) The council is the policymaking
21 body responsible for the Montana conservation corps program.

22 (2) The council, in cooperation with the department,
23 may delegate responsibility for administration,
24 implementation of conservation projects, corps enrollee
25 employment and supervision, project coordination, and other

1 details of the program to the executive director or staff
2 provided by the department.

3 (3) The department shall provide staff necessary to
4 administer the Montana conservation corps program, including
5 staff to coordinate, supervise, and implement conservation
6 projects, to recruit and train corpsmembers, and to provide
7 administrative typing and clerical services.

8 (4) The council shall select for approval eligible
9 conservation projects as provided in [section 5].

10 NEW SECTION. Section 12. Rulemaking authority. The
11 commissioner of labor and industry shall adopt rules
12 necessary to implement the provisions of this chapter.

13 NEW SECTION. Section 13. License transition. (1) Any
14 license issued for an arcade amusement device prior to the
15 effective date of this act is valid until it expires or
16 until July 1, 1986, whichever comes first.

17 (2) On and after the effective date of this act, every
18 arcade amusement device must be licensed in accordance with
19 this act.

20 NEW SECTION. Section 14. Appropriation --
21 reimbursement. (1) There is appropriated from the general
22 fund to the Department of Labor and Industry, for the
23 purpose of implementing the Montana Conservation Corps
24 Program, \$50,000 for fiscal year 1986.

25 (2) Before July 1, 1990, the commissioner of the

1 department shall reimburse the general fund \$50,000 from the
2 revenue collected from arcade amusement device license fees
3 credited to the department.

4 NEW SECTION. Section 15. Repealer. (1) Section
5 7-21-2203, MCA, is repealed.

6 (2) Sections 11 through 13, Chapter 652, Laws of 1983,
7 are repealed.

8 NEW SECTION. Section 16. Codification instruction.
9 (1) Sections 5, 11, and 12 are intended to be codified as an
10 integral part of Title 76, chapter 21, and the provisions of
11 Title 76, chapter 21, apply to sections 5, 11, and 12.

12 (2) Section 10 is intended to be codified as an
13 integral part of Title 7, chapter 21, part 22, and the
14 provisions of Title 7, chapter 21, apply to section 10.

15 NEW SECTION. Section 17. Saving clause. This act does
16 not affect rights and duties that matured, penalties that
17 were incurred, or proceedings that were begun before the
18 effective date of this act.

19 NEW SECTION. Section 18. Effective date. This act is
20 effective July 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 513-85Form BD-15

In compliance with a written request received March 8, 19 85, there is hereby submitted a Fiscal Note for House Bill 823 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.

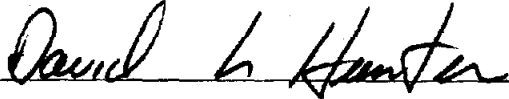
DESCRIPTION OF PROPOSED LEGISLATION:

An act creating the Montana Conservation Corps; eliminating the Youth Conservation Corps; providing funding for the Montana Conservation Corps through a license fee on arcade amusement devices; defining "arcade amusement device"; establishing eligibility requirements for Montana Conservation Corps work projects and corps enrollees; and providing an effective date.

ASSUMPTIONS:

1. It is assumed that "arcade amusement devices" are limited to video game devices and pinball-type machines and do not include pool tables, juke boxes or gambling devices such as video keno machines.
2. The market demand for video games will not increase in the foreseeable future. It has decreased 80% in the last 2 years.
3. By industry estimate, there are now 2,000 video machines and 1,000 pinball-type machines operating in Montana.
4. Two-thirds of the existing machines are only marginally productive and will be taken out of operation if additional license fees are imposed. This will leave 1,000 machines in operation.
5. The distribution of machines is assumed to be equivalent to the distribution of population in Montana's incorporate cities and towns and would be as follows:

Under 5,000	29%
5,000 - 10,000	10%
10,000 +	<u>69%</u>
Total	100%
6. No additional costs will be included at the state level for administration of the receipt of revenue generated by the program.


 BUDGET DIRECTOR
 Office of Budget and Program Planning

Date: March 13, 1985

FISCAL IMPACT:

	<u>FY1986</u>		<u>FY1987</u>	
	<u>Under Current Law</u>	<u>Under Proposed Law</u>	<u>Under Current Law</u>	<u>Under Proposed Law</u>
<u>Expenditures:</u>				
Conservation Corp Cost	0	\$53,200	0	\$53,200
<u>Revenue:</u>				
Earmarked Special Rev.Fund	0	\$53,200	0	\$53,200
General Fund Loan	0	\$50,000*	0	0

*This Loan must be repaid to the General Fund prior to July 1, 1990.

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Unable to estimate. Some cities and/or counties are currently licensing machines and would have their fees pre-empted by this proposed legislation. There is no consistent amount or pattern to the current licensing which would make estimation possible.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

"Arcade amusement device" is not a precisely defined term which may be construed to mean any machine (jukebox or pool table). It may be interpreted to be limited to those machines actually in an "arcade" and exclude similar devices in bars or other businesses.

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

STATEMENT OF INTENT

HOUSE BILL 823

House State Administration Committee

This bill requires a statement of intent because section 16 requires the commissioner of labor and industry to adopt administrative rules relating to the youth conservation corps.

The legislature contemplates that the rules should address the following items:

(1) procedures for recruitment and employment of corpsmembers;

(2) the establishment of residential and nonresidential centers throughout the state;

(3) the establishment of procedures for review and approval of projects;

(4) the establishment of a corpsmember code of conduct and grievance procedure;

(5) an application procedure for agencies applying for projects;

(6) standards and procedures to evaluate performance of corpsmembers;

(7) training procedures and programs for corpsmembers;

and

(8) such other rules as necessary to accomplish the

1 purposes of the youth conservation corps program.

SECOND READING
HB 823

1 HOUSE BILL NO. 823
 2 INTRODUCED BY KADAS, LYBECK, VINCENT, ECK,
 3 REAM, CONNELLY, NISBET, MANUEL, REGAN, MOHAR,
 4 HIRSCH, BLAYLOCK, MANNING
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ~~CREATING--THE--MONTANA~~
 7 ~~CONSERVATION-CORPS;--ELIMINATING~~ REVISING LAWS CONCERNING THE
 8 YOUTH CONSERVATION CORPS; PROVIDING FUNDING FOR THE MONTANA
 9 YOUTH CONSERVATION CORPS THROUGH A LICENSE FEE ON ARCADE
 10 AMUSEMENT DEVICES; DEFINING "ARCADE AMUSEMENT DEVICE";
 11 ESTABLISHING ELIGIBILITY REQUIREMENTS FOR MONTANA YOUTH
 12 CONSERVATION CORPS WORK PROJECTS AND CORPS ENROLLEES;
 13 AMENDING SECTIONS 76-21-101 THROUGH 76-21-103, 76-21-201,
 14 76-21-205 THROUGH 76-21-207, AND 76-21-301, MCA; REPEALING
 15 SECTION 7-21-2203, MCA, AND SECTIONS 11 THROUGH 13, CHAPTER
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10 nonresidential youth Montana YOUTH conservation corps
11 centers."

12 Section 2. Section 76-21-102, MCA, is amended to read:

13 "76-21-102. Youth Montana YOUTH conservation corps --
14 head. (1) There is a youth Montana YOUTH conservation corps
15 program within the department. The program is a seasonal
16 public service conservation program to provide participants
17 with a work and educational experience related to the
18 enhancement, protection, and conservation of natural
19 resources in the state.

20 (2) The program head is the executive director
21 appointed by the governor--upon-the-recommendation-of-the
22 commissioner."

23 Section 3. Section 76-21-103, MCA, is amended to read:

24 "76-21-103. Powers and duties of executive director.
25 The executive director of the youth Montana YOUTH

1 conservation corps, in cooperation with the commissioner and
2 the council, shall:

3 (1) adopt rules for the recruitment and employment of
4 corpsmembers, corpsmember leaders, and supervisors for the
5 youth Montana YOUTH conservation corps program;

6 (2) establish residential and nonresidential centers
7 throughout the state to accomplish the missions and
8 objectives of the program. At least one supervisor shall
9 oversee each residential and nonresidential center.

10 (3) ~~establish~~ develop procedures for the review and
11 approval by the council of work projects providing that
12 provide meaningful work and educational experiences in the
13 enhancement, protection, conservation, and management of
14 natural resources and recreational areas in the state;

15 (4) adopt by rule a corpsmember code of conduct and a
16 corpsmember grievance procedure;

17 (5) establish an application procedure and enter into
18 agreements for furnishing of the corps' services to any
19 federal, regional, state, or local public agency for the
20 performance of public service conservation work, provided
21 the agency reimburses the program for any actual expenses
22 incurred in undertaking a project for the agency;

23 (6) in cooperation with the department, develop
24 procedures for the hiring of corps enrollees. The executive
25 director shall utilize any appropriate local job service

1 office in the area of a conservation project to distribute
 2 applications, conduct interviews, and evaluate applicants
 3 and make recommendations concerning the hiring of corps
 4 enrollees. The executive director may utilize project
 5 sponsors who are sponsoring long-term conservation projects
 6 to conduct interviews, evaluate applicants, and make
 7 recommendations concerning the hiring of corps enrollees.

8 (7) establish standards and procedures to evaluate
 9 performance, determine promotions, for discipline, and for
 10 termination of employment of corps enrollees;

11 (8) facilitate arrangements with local schools and
 12 institutions of higher education for academic study by corps
 13 enrollees during nonworking hours to upgrade literacy
 14 skills, obtain equivalency diplomas or college degrees, or
 15 enhance employable skills. The department shall encourage
 16 the development of training programs for corps enrollees for
 17 use during time periods when circumstances do not permit
 18 work on a conservation project.

19 {6}(9) apply for and accept grants or contributions
 20 from any public or private source for the operation of the
 21 program; and

22 {7}(10) report biennially on December 1 to the governor
 23 and the legislature on the corps' activities, including the
 24 cost-effectiveness cost effectiveness of the projects
 25 completed."

1 Section 4. Section 76-21-201, MCA, is amended to read:
 2 "76-21-201. Work projects -- eligibility --
 3 application. (1) The federal government, a state agency,
 4 local public agency, or nonprofit corporation may apply to
 5 the council for approval of a conservation project.

6 (2) The council and department shall encourage local
 7 public agencies to apply for the approval of conservation
 8 projects and shall provide assistance and information to
 9 facilitate these applications.

10 (3) To qualify as an eligible conservation project,
 11 the project must:

12 (a) provide employment opportunities;

13 (b) be a conservation activity; and

14 (c) if the sponsor is a nonprofit corporation, serve a
 15 valid public purpose.

16 {1}(4) When establishing reviewing for approval work
 17 projects as provided in 76-21-103 [section 5], the executive
 18 director council shall give preference to those projects
 19 that:

20 (a) provide long-term benefits to the public;

21 (b) provide productive work experience to corpsmembers
 22 and corpsmember leaders;

23 (c) are labor-intensive; and

24 (d) may be completed within a reasonable period of
 25 time.

1 ~~(2)~~(5) Work projects may include but are not limited
 2 to:
 3 (a) forestry and nursery operations;
 4 (b) rangeland conservation, rehabilitation, and
 5 improvement;
 6 (c) endangered species and other wildlife habitat
 7 conservation, rehabilitation, and improvement;
 8 (d) historical and cultural site preservation and
 9 maintenance;
 10 (e) recreational area development, maintenance,
 11 improvement, and beautification;
 12 (f) road and trail maintenance and improvement;
 13 (g) soil conservation work, including erosion control;
 14 (h) stream and lake improvement and pollution control;
 15 (i) fish culture and habitat maintenance and
 16 improvement;
 17 (j) insect, disease, rodent, and other pestilence
 18 control;
 19 (k) improvement of abandoned railroad beds and
 20 rights-of-way;
 21 (l) land reclamation and improvement, including
 22 strip-mined lands, public landscape work, and tree planting
 23 programs;
 24 (m) energy conservation projects, including assistance
 25 in the performance of energy efficiency audits and renewable

1 resource enhancement;
 2 (n) emergency assistance in times of natural or other
 3 disasters; and
 4 (o) cleanup of litter and other debris in public
 5 recreation areas, fishing access sites, and campsites.
 6 ~~(3) A work project must begin no later than June 10~~
 7 ~~and conclude no later than August 31 of the same year.~~
 8 (6) To qualify as an eligible conservation project,
 9 the sponsor must submit in the application:
 10 (a) a summary of the extent and value of all in-kind
 11 services and materials it will provide for the project as
 12 well as any other costs associated with the project that it
 13 agrees to pay;
 14 (b) a preliminary cost estimate, including a summary
 15 of all anticipated costs resulting from implementation of
 16 the project;
 17 (c) a preliminary work plan specifying the nature,
 18 scope, and duration of the project;
 19 (d) evidence of concurrence of appropriate labor
 20 organizations as described in 76-21-301; and
 21 (e) such other information as may be requested by the
 22 council."
 23 NEW SECTION. Section 5. Project approval --
 24 specifications. (1) The council shall, in cooperation with
 25 the executive director and within funding limitations,

1 approve projects based on criteria that include but are not
2 limited to:

3 (a) the extent to which the project will provide
4 employment in meaningful labor-intensive work activities for
5 corps enrollees;

6 (b) the extent to which the project will promote the
7 long-term beneficial conservation of resources;

8 (c) the degree of difficulty in implementing the
9 project and its compatibility with other projects in the
10 area;

11 (d) the share of the total cost of the project,
12 including the value of in-kind services and materials, to be
13 paid or provided by the sponsor; and

14 (e) the extent to which the project will serve a valid
15 public purpose and benefit a large segment of the public.

16 (2) Prior to approval of a conservation project, the
17 department shall prepare and submit to the council:

18 (a) a complete project cost estimate, which must
19 include a summary of all anticipated costs resulting from
20 the implementation of the project;

21 (b) a detailed work plan specifying the nature, scope,
22 and duration of the project; the number of corps enrollees;
23 training, supervisory, administrative, and other service
24 requirements; supply, fuel, tool, equipment, safety
25 equipment, and other material requirements; time schedules;

1 and other details relating to the implementation of the
2 project;

3 (c) a responsibility agreement that incorporates the
4 complete project cost estimate and detailed work plan and
5 specifies in detail the responsibilities of the sponsor, the
6 department, and the council with respect to the project.

7 (3) A conservation project is not authorized and may
8 not be implemented until the sponsor and the council sign
9 the responsibility agreement. No funding provided to the
10 sponsor by the council for an approved project may be used
11 to pay for any cost incurred by the sponsor prior to the
12 signing of the agreement.

13 (4) The council is responsible for:

14 (a) the implementation of an authorized conservation
15 project. However, in the responsibility agreement, the
16 council may delegate to a sponsor responsibility for
17 implementing various aspects of a conservation project.

18 (b) the overall supervision and control of corps
19 enrollees. However, in the responsibility agreement, the
20 council may delegate to a sponsor or the department
21 responsibility for enrollee recruitment, training, and
22 supervision and for administrative services to be provided
23 for a conservation project.

24 (c) the coordination of work activities related to
25 various conservation projects in the same area.

1 Section 6. Section 76-21-205, MCA, is amended to read:
 2 "76-21-205. Eligibility for employment in program. (1)
 3 To be eligible for employment as a corpsmember in the youth
 4 Montana YOUTH conservation corps program, a person must be:
 5 (a) a citizen of the state as defined in 1-1-402;
 6 (b) unemployed; and
 7 (c) not less than ~~±5~~ 18 15 or more than ~~±2~~ 26 21 years
 8 of age.
 9 (2) To be eligible for employment as a corpsmember
 10 leader, a person must be:
 11 (a) a citizen of the state as defined in 1-1-402;
 12 (b) unemployed or employed as a corpsmember; and
 13 (c) not less than 18 years of age.
 14 (3) To the extent practicable, the program shall
 15 consist of equal numbers of male and female corpsmembers.
 16 (4) The age requirements contained in subsections (1)
 17 and (2) constitute a bona fide occupational qualification
 18 for purposes of Title 49, chapters 2 and 3.
 19 (5) No training or skills are required in order to
 20 qualify for employment as a corpsmember. The council shall
 21 establish minimum levels of performance, training, and
 22 skills required to qualify for employment as or promotion to
 23 corpsmember leader or supervisor.
 24 (6) No physical examination is required to apply for
 25 employment as a corps enrollee, but the council shall

1 require a physical examination prior to employment. The
 2 council may accept evidence of a physical examination
 3 conducted within 1 year prior to employment if the examining
 4 physician signs a form containing the information required
 5 by the department."
 6 Section 7. Section 76-21-206, MCA, is amended to read:
 7 "76-21-206. Term of service enrollment -- wages --
 8 exemption from retirement system. (1) ~~A corpsmember or~~
 9 ~~corpsmember leader shall by written agreement serve in the~~
 10 ~~program for a period of not less than 10 weeks. A~~
 11 ~~corpsmember or corpsmember leader may serve in the program~~
 12 ~~for a maximum of one season. In order to qualify for~~
 13 ~~employment as a corps enrollee, a person shall sign a~~
 14 ~~statement of intent to serve in the Montana YOUTH~~
 15 ~~conservation corps program for a 1-year period MINIMUM OF 8~~
 16 ~~WEEKS. This statement does not obligate the council or the~~
 17 ~~department to provide employment for the enrollee for that~~
 18 ~~period.~~
 19 (2) The normal enrollment period for a A corpsmember
 20 who is not promoted to corpsmember leader is MAY SERVE IN
 21 THE PROGRAM FOR A MAXIMUM OF 1 year. The normal enrollment
 22 period for a A corpsmember who is promoted to leader or for
 23 a person who is hired as a corpsmember leader is MAY SERVE
 24 FOR A MAXIMUM OF 2 years. The council may authorize the
 25 employment of a corpsmember or corpsmember leader beyond the

1 normal--enrollment--period MAXIMUM SERVICE PERIODS for a
 2 limited time under special circumstances if continued
 3 employment is required in order to complete a conservation
 4 project in progress or if the corpsmember or corpsmember
 5 leader possesses special experience, training, or skills
 6 valuable to the program.

7 ~~(2)~~(3) A corpsmember is entitled to receive the
 8 federal minimum hourly wage. A corpsmember leader is
 9 entitled to receive up to 15% more than the federal minimum
 10 hourly wage.

11 ~~(3)~~(4) Corpsmembers and corpsmember leaders are exempt
 12 from participation in the public employees' retirement
 13 system under Title 19, chapter 3.

14 (5) A corps enrollee is eligible for worker's
 15 compensation benefits as provided in Title 39, chapter 71."

16 Section 8. Section 76-21-207, MCA, is amended to read:

17 "76-21-207. Education and training required --
 18 incentives. (1) Each corpsmember or corpsmember leader
 19 participating in a work project shall devote a--minimum--of
 20 one-fourth not less than 5% or more than 25% of his worktime
 21 to education and training. This may include attendance at
 22 classes conducted by vocational-technical centers or other
 23 educational institutions and must be based upon the needs of
 24 each corps enrollee.

25 (2) A person who is employed as a corps enrollee for 1

1 year and who receives a satisfactory employment evaluation
 2 upon termination of employment is entitled to an incentive
 3 payment of \$500 or an education voucher worth \$1,000. The
 4 council may authorize a partial incentive payment or
 5 education voucher to a person who is employed as a corps
 6 enrollee for less than 1 year and who receives a
 7 satisfactory employment evaluation upon termination of
 8 employment if the council determines that employment was
 9 terminated because of special circumstances beyond the
 10 control of the corps enrollee. The education voucher is
 11 valid for 3 years after the date of issuance for the payment
 12 of tuition at any eligible educational institution as
 13 defined in 20-26-1101 that accepts the voucher. The council
 14 shall authorize payment to the institution of face value of
 15 the voucher upon receipt."

16 Section 9. Section 76-21-301, MCA, is amended to read:

17 "76-21-301. Union concurrence and consultation. (1)
 18 Prior to commencement submission to the council of a work
 19 project, the employing-agency the program sponsor:

20 ~~(1)~~(a) shall consult with appropriate labor
 21 organizations representing the same occupation in the
 22 geographical area in the planning, design, and content of
 23 the training, job, or work project with respect to job
 24 descriptions, wage rates, training standards and
 25 arrangements, safety requirements, and protection of all

1 current employees in the public and private sector; and
 2 ~~(2)(b)~~ must, for jobs under the project that are
 3 covered by a collective bargaining agreement, receive
 4 written concurrence from the appropriate labor organization.
 5 Such concurrence applies to all of the elements of the
 6 project as described in subsection (1)(a).

7 (2) The project sponsor must maintain records of such
 8 consultation and concurrence and submit such records to the
 9 council upon request."

10 NEW SECTION. Section 10. Arcade amusement device
 11 license -- disposition of license revenue. (1) For every
 12 arcade amusement device not kept exclusively for family use,
 13 the owner must obtain a license for which the county
 14 treasurer shall charge a license fee as follows:

15 (a) \$30 per quarter for each device located in a AN
 16 INCORPORATED city having a population of 10,000 or more;

17 (b) \$25 per quarter for each device located in a AN
 18 INCORPORATED city or town of at least 5,000 but less than
 19 10,000 population; and

20 (c) \$20 per quarter for each device located in a AN
 21 INCORPORATED city or town of less than 5,000 population or
 22 in an unincorporated area.

23 (2) Upon payment of the applicable license fee, the
 24 county treasurer shall issue to the owner of the device a
 25 decal upon which is stated that the license fee for the

1 device has been paid. The owner of the device shall affix
 2 the decal to a conspicuous place on the device.

3 (3) All revenue collected by the county treasurer from
 4 arcade amusement device license fees must be paid into the
 5 county treasury. The IF AN ARCADE AMUSEMENT DEVICE IS
 6 LOCATED IN AN INCORPORATED CITY OR TOWN, THE county
 7 treasurer shall retain 25% thereof OF THE LICENSE FEE for
 8 the use of the county, pay over 25% thereof to the city OR
 9 TOWN in which the device is located, and pay over 50%
 10 thereof to the state special revenue fund to the credit of
 11 the department of labor and industry to be used for the
 12 Montana YOUTH conservation corps. IF THE DEVICE IS LOCATED
 13 IN AN UNINCORPORATED AREA, THE COUNTY TREASURER SHALL RETAIN
 14 50% OF THE LICENSE FEE FOR THE USE OF THE COUNTY AND PAY
 15 OVER THE REMAINDER THEREOF TO THE STATE SPECIAL REVENUE FUND
 16 TO THE CREDIT OF THE DEPARTMENT OF LABOR AND INDUSTRY TO BE
 17 USED FOR THE YOUTH CONSERVATION CORPS.

18 (4) For the purposes of this section, the term "arcade
 19 amusement device" means a mechanical, electromechanical, or
 20 electronic contrivance, component, or machine used
 21 exclusively for amusement. The term does not include
 22 machines used for the vending of cigarettes, candy, soft
 23 drinks, or other foodstuff, or any other amusement device
 24 for which another license is specifically required.

25 (5) Exemptions provided in 7-21-2207 apply to the

1 provisions of this section.

2 (6) The provisions of 7-21-2103, 7-21-2104, and
3 7-21-2113 through 7-21-2117 apply to this section.

4 (7) Except for general business licenses issued under
5 the provisions of this chapter, no other license fee may be
6 collected by the county treasurer for arcade amusement
7 devices.

8 NEW SECTION. Section 11. Powers and duties of the
9 council -- staffing. (1) The council is the policymaking
10 body responsible for the Montana YOUTH conservation corps
11 program.

12 (2) The council, in cooperation with the department,
13 may delegate responsibility for administration,
14 implementation of conservation projects, corps enrollee
15 employment and supervision, project coordination, and other
16 details of the program to the executive director or staff
17 provided by the department.

18 (3) The department shall provide staff necessary to
19 administer the Montana conservation corps program, including
20 staff to coordinate, supervise, and implement conservation
21 projects, to recruit and train corpsmembers, and to provide
22 administrative typing and clerical services.

23 (4) The council shall select for approval eligible
24 conservation projects as provided in [section 5].

25 NEW SECTION. Section 12. Rulemaking authority. The

1 commissioner of labor and industry shall adopt rules
2 necessary to implement the provisions of this chapter.

3 NEW SECTION. Section 13. License transition. (1) Any
4 license issued for an arcade amusement device prior to the
5 effective date of this act is valid until it expires or
6 until July 1, 1986, whichever comes first.

7 (2) On and after the effective date of this act, every
8 arcade amusement device must be licensed in accordance with
9 this act.

10 NEW SECTION. Section 14. Appropriation --
11 reimbursement. (1) There is appropriated from the general
12 fund to the Department of Labor and Industry, for the
13 purpose of implementing the Montana YOUTH Conservation Corps
14 Program, \$50,000 for fiscal year 1986.

15 (2) Before July 1, 1990, the commissioner of the
16 department shall reimburse the general fund \$50,000 from the
17 revenue collected from arcade amusement device license fees
18 credited to the department.

19 NEW SECTION. Section 15. Repealer. (1) Section
20 7-21-2203, MCA, is repealed.

21 (2) Sections 11 through 13, Chapter 652, Laws of 1983,
22 are repealed.

23 NEW SECTION. Section 16. Codification instruction.
24 (1) Sections 5, 11, and 12 are intended to be codified as an
25 integral part of Title 76, chapter 21, and the provisions of

1 Title 76, chapter 21, apply to sections 5, 11, and 12.

2 (2) Section 10 is intended to be codified as an
3 integral part of Title 7, chapter 21, part 22, and the
4 provisions of Title 7, chapter 21, apply to section 10.

5 NEW SECTION. Section 17. Saving clause. This act does
6 not affect rights and duties that matured, penalties that
7 were incurred, or proceedings that were begun before the
8 effective date of this act.

9 NEW SECTION. Section 18. Effective date. This act is
10 effective July 1, 1985.

-End-