

HB 593 INTRODUCED BY BROWN, J., ET AL.
PRIVATE ENTERPRISE ACT; ESTABLISHING A REVIEW
COMMISSION

2/04	INTRODUCED		
2/04	REFERRED TO BUSINESS & LABOR		
2/05	FISCAL NOTE REQUESTED		
2/09	HEARING		
2/10	FISCAL NOTE RECEIVED		
2/16	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/16	REREFERRED TO APPROPRIATIONS		
3/21	HEARING		
3/26	REVISED FISCAL NOTE REQUESTED		
3/31	COMMITTEE REPORT--BILL PASSED AS AMENDED		
4/01	REVISED FISCAL NOTE RECEIVED		
4/01	2ND READING PASSED	72	22
4/01	3RD READING PASSED	73	22
	TRANSMITTED TO SENATE		
4/03	REFERRED TO FINANCE & CLAIMS		
4/08	HEARING		
4/14	ADVERSE COMMITTEE REPORT ADOPTED	46	0
4/15	RETURNED TO HOUSE NOT CONCURRED		

1 House BILL NO. 593
 2 INTRODUCED BY J. Brown, C. Smith, Rasmussen
 3 Farnell, Quady, Fritz, Boylan, Dave Brown
 4 A BILL FOR AN ACT ENTITLED: "THE PRIVATE ENTERPRISE ACT;
 5 ESTABLISHING A PRIVATE ENTERPRISE REVIEW COMMISSION AND
 6 PROVIDING FOR ITS FUNCTIONS; APPROPRIATING MONEY; AND
 7 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Short title. [Sections 1 through 4] may be
11 cited as the "Private Enterprise Act".

12 Section 2. Purpose. The legislature finds and declares
13 that the growth of private enterprise is essential to the
14 health, welfare, and prosperity of the people of Montana and
15 to the creation of jobs in Montana, and the legislature
16 believes that government competition with business can be
17 decreased by prohibiting state agencies from providing
18 certain goods and services.

19 Section 3. Definitions. As used in [this act], the
20 following definitions apply:

21 (1) "Private enterprise" means any nongovernmental
22 entity engaged in the manufacturing, processing, sale,
23 offering for sale, rental, leasing, delivering, dispensing,
24 distributing, or advertising of goods and services for
25 profit.

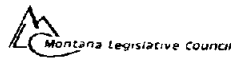
1 (2) "State agency" means a department, office,
2 commission, institution, board, panel, or other creation of
3 state government, regardless of whether money is
4 appropriated to such agency.

5 Section 4. Restriction on government activity. (1) A
6 state agency, unless expressly and specifically authorized
7 by statute, may not engage in the manufacturing, processing,
8 offering for sale, sale, rental, leasing, delivering,
9 dispensing, distributing, or advertising, in whole or in
10 part, of any goods or services to or for other state
11 agencies or the public that are also offered by private
12 enterprise, except as provided in subsection (3).

13 (2) If a state agency is authorized by statute to
14 compete with private enterprise, any bid price submitted by
15 the agency in competition with private enterprise for a
16 contract must include all costs to be incurred in performing
17 the contract by the state agency, including fair market
18 valuation of the costs of rent, labor, land, equipment, and
19 related overhead expenses.

20 (3) The board of regents of higher education may by
21 rule provide for exemption from the application of [this
22 act] for activities conducted by the units of the Montana
23 university system that:

24 (a) are both a required and a reasonably related part
25 of an educational program that leads to a degree;



1 (b) are offered only to students, employees, or guests
2 of the university system and cannot be provided by private
3 enterprise at the same or lower cost; or

4 (c) consist of the following on-campus activities:

5 (i) food service and sales;

6 (ii) sale of authorized course books and authorized
7 course supplies;

8 (iii) sponsoring or providing facilities for cultural,
9 recreational, and athletic events;

10 (iv) sale of tangible personal property bearing the
11 university unit's insignia; or

12 (v) student housing.

13 Section 5. Private enterprise review commission. (1)
14 There is established a private enterprise review commission
15 consisting of:

16 (a) three members appointed by the governor, one of
17 whom is a director or commissioner of a department of state
18 government and two of whom represent private enterprise;

19 (b) two senators and two representatives of private
20 enterprise appointed by the president of the senate;

21 (c) two members of the house of representatives and
22 two representatives of private enterprise appointed by the
23 speaker of the house; and

24 (d) one member of the board of regents of higher
25 education chosen by the board of regents.

1 (2) The members must be appointed on or before July 7,
2 1987.

3 (3) The commission shall:

4 (a) review statutes, rules, and practices for agency
5 activities that may be affected by [this act]; and

6 (b) evaluate whether each activity is authorized by
7 statute or would be prohibited by [this act].

8 (4) For those activities authorized by statute, the
9 commission shall evaluate all costs of such activities and
10 determine if it would be in the public interest for private
11 enterprise to perform the activity.

12 (5) The board of regents of higher education shall
13 provide to the commission not later than October 1, 1987, a
14 comprehensive list of goods, services, and facilities it
15 proposes to exempt from the application of [this act], and
16 the list must be reviewed by the commission to determine
17 whether the proposed exemptions by the board of regents
18 comply with the intent of [this act].

19 (6) The commission shall report its findings and any
20 proposed legislation not later than November 15, 1988, for
21 consideration by the 51st legislature.

22 Section 6. Commission members to receive mileage
23 allowance. Notwithstanding the provisions of 2-18-501,
24 2-18-502, and 5-2-301, each member of the commission is
25 entitled to receive for each meeting of the commission he or

1 she attends a mileage allowance equal to that authorized in
2 2-18-503 and no other compensation.

3 Section 7. Commission organization -- meetings. (1)
4 The commission shall meet on or before July 17, 1987, to
5 elect a chairman and vice-chairman and adopt a plan for its
6 activities.

7 (2) Thereafter, unless the commission adopts a meeting
8 schedule, it will meet subject to the call of the chairman,
9 but the commission must subsequently meet at least four
10 times.

11 Section 8. Legislative council to provide staff. The
12 legislative council shall:

13 (1) designate a member of its staff as the
14 commission's staff director without additional compensation;

15 (2) provide research and secretarial services for the
16 commission; and

17 (3) provide use of its facilities.

18 Section 9. Participation by state agencies. Every
19 agency shall respond promptly and fully to any inquiry from
20 the commission in regard to any of the provisions of
21 [section 5(3)].

22 Section 10. Appropriation. There is appropriated
23 \$5,000 from the general fund to the legislative council for
24 the biennium beginning July 1, 1987, to be used for the
25 purposes of this act.

1 Section 11. Severability. If a part of this act is
2 invalid, all valid parts that are severable from the invalid
3 part remain in effect. If a part of this act is invalid in
4 one or more of its applications, the part remains in effect
5 in all valid applications that are severable from the
6 invalid applications.

7 Section 12. Effective date -- termination. (1) This
8 act is effective July 1, 1987.

9 (2) Sections 5 through 9 terminate June 30, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB593, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "The Private Enterprise Act; establishing a private enterprise review commission and providing for its functions; appropriating money; and providing an effective date and a termination date.

INTENT:

The intent of this bill is to stimulate the growth of private enterprise in the state "by prohibiting state agencies from providing goods and services". The bill would include "manufacturing, processing, offering for sale, rental leasing, delivering, dispensing, distributing, or advertising...any goods or service to or for other state agencies or the public that are also offered by private enterprise..." The bill also would establish a review commission charged with 1) determining whether an activity is authorized or prohibited, and 2) evaluating the costs and feasibility of those activities.

ASSUMPTIONS:

1. The proposed legislation would:
 - a. Close the Prison Ranch.
 - b. Close Prison Industries.
 - c. Discontinue forestry related programs at Swan River.
 - d. Prohibit sales of windbreak and conservation seedlings from state forest tree nursery.
 - e. Close Central Stores.

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
1. Prison Ranch & Industries						
Proprietary Fund						
Personal Services	\$ 623,133	\$ 0	(\$ 623,133)	\$ 628,672	\$ 0	(\$ 628,672)
Operating	1,050,533	0	(1,050,533)	1,052,737	0	(1,052,737)
Equipment	207,000	0	(\$ 207,000)	271,900	0	(271,900)
TOTAL	<u>\$1,880,666</u>	<u>\$ 0</u>	<u>(\$1,880,666)</u>	<u>\$1,953,309</u>	<u>\$ 0</u>	<u>(\$1,953,309)</u>

The work/training programs are self-supporting. Their elimination will not add significantly to the local economy. The costs of maintaining security of an incarcerated population with fewer productive activities likely would increase. (There are 77-120 inmate employees in these programs.) The costs of feeding the state's institutional population would be increased. The Swan River Forest Camp produces no products, but does provide manpower and maintenance for forestry-related programs of the Department of State Lands. Estimated value of services was \$194,832 for calendar year 1986.

David L. Hunter DATE 2/10/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

J. Brown DATE 2/11/87
 JAN BROWN, PRIMARY SPONSOR

Fiscal Note for HB593, as introduced.

2. State Forest Tree Nursery-Seedlings
 Earmarked Special Revenue

Revenue/Expenditures	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
	\$ 165,950	\$ 0	(\$ 165,950)	\$ 179,290	\$ 0	(\$ 179,290)

Proposed legislation would prohibit sales of windbreak and conservation seedlings from state forest tree nursery to farmers, ranchers, and other state agencies.

3. Central Stores
 Proprietary Fund

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	\$ 365,031	\$ 0	(\$ 365,031)	\$ 364,974	\$ 0	(\$ 364,974)
Operating Expenses	144,823	0	(144,823)	138,549	0	(138,549)
Goods for Resale	2,333,686	0	(2,333,686)	2,572,193	0	(2,572,193)
TOTAL	\$ 2,843,540	\$ 0	(\$ 2,843,540)	\$ 3,075,716	\$ 0	(\$ 3,075,716)

Central Stores bulk-purchases, warehouses, and distributes over 1200 daily use items at an average of 58% less than suggested retail prices. This is an estimated \$3.3 million annual savings.

4. Publication and Graphics
 Proprietary Fund

Publication and Graphics Division in the Department of Administration would still have authority to operate under 2-17-301, MCA. Increased costs for purchasing services would be passed on to agencies under the proposed law.

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	\$ 623,275	\$ 778,673	\$155,398	\$ 702,500	\$ 870,878	\$168,378
Operating Expenses	2,857,667	2,978,246	120,579	3,070,282	3,183,953	113,671
Capital Outlay	405,448	414,289	8,841	376,668	376,668	0
TOTAL	\$3,886,390	\$4,171,208	\$284,818	\$4,149,450	\$4,431,499	\$282,049

5. Costs for Commission
 General Fund - Biennial Approp

FY88
\$5,000

Fiscal Note Request, HB593, as introduced.

Form BD-15

Page 3

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. Seedling costs for state forest plantings would increase due to lower nursery production.
2. State agencies could need as much as an additional \$3.3 million to purchase the same goods currently purchased through Central Stores.

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 593

INTRODUCED BY J. BROWN, C. SMITH, RASMUSSEN,
FARRELL, GRADY, FRITZ, BOYLAN, D. BROWN

A BILL FOR AN ACT ENTITLED: "THE PRIVATE ENTERPRISE ACT;
ESTABLISHING A PRIVATE ENTERPRISE REVIEW COMMISSION AND
PROVIDING FOR ITS FUNCTIONS; APPROPRIATING MONEY; AND
PROVIDING AN EFFECTIVE DATE DATES AND A TERMINATION DATE."

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

Section 1. Short title. [Sections 1 through 4] may be
cited as the "Private Enterprise Act".

Section 2. Purpose. The legislature finds and declares
that the growth of private enterprise is essential to the
health, welfare, and prosperity of the people of Montana and
to the creation of jobs in Montana, and the legislature
believes that government competition with business can be
decreased by prohibiting state agencies from providing
certain goods and services.

Section 3. Definitions. As used in [this act], the
following definitions apply:

(1) "Private enterprise" means any nongovernmental
entity engaged in the manufacturing, processing, sale,
offering for sale, rental, leasing, delivering, dispensing,
distributing, or advertising of goods and services for

profit.

(2) "State agency" means a department, office,
commission, institution, board, panel, or other creation of
state government, regardless of whether money is
appropriated to such agency.

Section 4. Restriction on government activity. (1) A
state agency, unless expressly and specifically authorized
by statute, may not engage in the manufacturing, processing,
offering for sale, sale, rental, leasing, delivering,
dispensing, distributing, or advertising, in whole or in
part, of any goods or services to or for other state
agencies or the public that are also offered by private
enterprise, except as provided in subsection (3).

(2) If a state agency is authorized by statute to
compete with private enterprise, any bid price submitted by
the agency in competition with private enterprise for a
contract must include all costs to be incurred in performing
the contract by the state agency, including fair market
valuation of the costs of rent, labor, land, equipment,
TAXES FOREGONE, and related overhead expenses.

(3) The board of regents of higher education may by
rule provide for exemption from the application of [this
act] for activities conducted by the units of the Montana
university system that:

(a) are both a required and a reasonably related part

1 of an educational program that leads to a degree;

2 (b) are offered only to students, employees, or guests

3 of the university system and cannot be provided by private

4 enterprise at the same or lower cost; or

5 (c) consist of the following on-campus activities:

6 (i) food service and sales;

7 (ii) sale of authorized course books and authorized

8 course supplies;

9 (iii) sponsoring or providing facilities for cultural,

10 recreational, and athletic events;

11 (iv) sale of tangible personal property bearing the

12 university unit's insignia; or

13 (v) student housing.

14 Section 5. Private enterprise review commission. (1)

15 There is established a private enterprise review commission

16 consisting of:

17 (a) three members appointed by the governor, one of

18 whom is a director or commissioner of a department of state

19 government and two of whom represent private enterprise;

20 (b) two senators and two representatives of private

21 enterprise appointed by the president of the senate;

22 (c) two members of the house of representatives and

23 two representatives of private enterprise appointed by the

24 speaker of the house; and

25 (d) one member of the board of regents of higher

1 education chosen by the board of regents.

2 (2) The members must be appointed on or before July 7,

3 1987.

4 (3) The commission shall:

5 (a) review statutes, rules, and practices for agency

6 activities that may be affected by [this act]; and

7 (b) evaluate whether each activity is authorized by

8 statute or would be prohibited by [this act].

9 (4) For those activities authorized by statute, the

10 commission shall evaluate all costs of such activities and

11 determine if it would be in the public interest for private

12 enterprise to perform the activity.

13 (5) The board of regents of higher education shall

14 provide to the commission not later than October 1, 1987, a

15 comprehensive list of goods, services, and facilities it

16 proposes to exempt from the application of [this act], and

17 the list must be reviewed by the commission to determine

18 whether the proposed exemptions by the board of regents

19 comply with the intent of [this act].

20 (6) The commission shall report its findings and any

21 proposed legislation not later than November 15, 1988, for

22 consideration by the 51st legislature.

23 Section 6. Commission members to receive mileage

24 allowance. Notwithstanding the provisions of 2-18-501,

25 2-18-502, and 5-2-301, each member of the commission is

1 entitled to receive for each meeting of the commission he or
 2 she attends a mileage allowance equal to that authorized in
 3 2-18-503 and no other compensation.

4 Section 7. Commission organization -- meetings. (1)
 5 The commission shall meet on or before July 17, 1987, to
 6 elect a chairman and vice-chairman and adopt a plan for its
 7 activities.

8 (2) Thereafter, unless the commission adopts a meeting
 9 schedule, it will meet subject to the call of the chairman,
 10 but the commission must subsequently meet at least four
 11 times.

12 Section 8. Legislative council to provide staff. The
 13 legislative council shall:

14 (1) designate a member of its staff as the
 15 commission's staff director without additional compensation;

16 (2) provide research and secretarial services for the
 17 commission; and

18 (3) provide use of its facilities.

19 Section 9. Participation by state agencies. Every
 20 agency shall respond promptly and fully to any inquiry from
 21 the commission in regard to any of the provisions of
 22 [section 5(3)].

23 Section 10. Appropriation. There is appropriated
 24 \$5,000 from the general fund to the legislative council for
 25 the biennium beginning July 1, 1987, to be used for the

1 purposes of this act.

2 Section 11. Severability. If a part of this act is
 3 invalid, all valid parts that are severable from the invalid
 4 part remain in effect. If a part of this act is invalid in
 5 one or more of its applications, the part remains in effect
 6 in all valid applications that are severable from the
 7 invalid applications.

8 Section 12. Effective date -- termination. (1) ~~This~~
 9 ~~act is~~ SECTIONS 1 THROUGH 4 ARE EFFECTIVE JULY 1, 1989.

10 (2) SECTIONS 5 THROUGH 11 AND THIS SECTION ARE
 11 effective July 1, 1987.

12 ~~(2)(3)~~ Sections 5 through 9 terminate June 30, 1989.

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS
AS AMENDED

1 HOUSE BILL NO. 593
2 INTRODUCED BY J. BROWN, C. SMITH, RASMUSSEN,
3 FARRELL, GRADY, FRITZ, BOYLAN, D. BROWN
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5 A BILL FOR AN ACT ENTITLED: "THE PRIVATE ENTERPRISE ACT;
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15 that the growth of private enterprise is essential to the
16 health, welfare, and prosperity of the people of Montana and
17 to the creation of jobs in Montana, and the legislature
18 believes that government competition with business can be
19 decreased by prohibiting LIMITING state agencies from
20 providing certain goods and services TO OR FOR OTHER STATE
21 AGENCIES OR THE PUBLIC THAT ARE ALSO OFFERED BY PRIVATE
22 ENTERPRISE.

23 Section 3. Definitions. As used in [this act], the
24 following definitions apply:

25 (1) "Private enterprise" means any nongovernmental

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3 distributing, or advertising of goods and services for
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21 ~~the contract by the state agency, including fair market~~
22 ~~valuation of the costs of rent, labor, land, equipment,~~
23 ~~TAXES FOREGONE, and related overhead expenses.~~

24 ~~(3) The board of regents of higher education may by~~
25 ~~rule provide for exemption from the application of (this~~



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 2 ~~university system that:~~

3 ~~{a} are both a required and a reasonably related part~~
 4 ~~of an educational program that leads to a degree;~~

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 6 ~~of the university system and cannot be provided by private~~
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 18 There is established a private enterprise review commission
 19 consisting of:

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 21 whom is a director or commissioner of a department of state
 22 government and two of whom represent private enterprise;

23 (b) two senators and two representatives of private
 24 enterprise appointed by the president of the senate; AND

25 (c) two members of the house of representatives and

1 two representatives of private enterprise appointed by the
 2 speaker of the house; and

3 ~~{d} one member of the board of regents of higher~~
 4 ~~education chosen by the board of regents.~~

5 (2) The members must be appointed on or before July 7,
 6 1987.

7 (3) The commission shall:

8 (a) review statutes, rules, and practices for agency
 9 activities ~~that may be affected by {this act}~~ THAT MAY
 10 AFFECT THE PURPOSE OF [THIS ACT] AS DEFINED IN [SECTION 2];
 11 and

12 ~~{b} evaluate whether each activity is authorized by~~
 13 ~~statute or would be prohibited by {this act};~~

14 (B) EVALUATE WHETHER EACH ACTIVITY IS IN ACCORD WITH
 15 THE PURPOSE OF [THIS ACT] AS DEFINED IN [SECTION 2].

16 (4) ~~For those activities authorized by statute, the~~
 17 THE commission shall evaluate all costs of such activities
 18 and determine if it would be in the public interest for
 19 private enterprise to perform the activity.

20 ~~{5} The board of regents of higher education shall~~
 21 ~~provide to the commission not later than October 17, 1987, a~~
 22 ~~comprehensive list of goods, services, and facilities it~~
 23 ~~proposes to exempt from the application of {this act}; and~~
 24 ~~the list must be reviewed by the commission to determine~~
 25 ~~whether the proposed exemptions by the board of regents~~

1 ~~comply with the intent of this act.~~

2 {6}(5) The commission shall report its findings and
3 any proposed legislation not later than November 15, 1988,
4 for consideration by the 51st legislature.

5 ~~Section 6. Commission members to receive mileage~~
6 ~~allowances. Notwithstanding the provisions of 2-18-501,~~
7 ~~2-18-502, and 5-2-381, each member of the commission is~~
8 ~~entitled to receive for each meeting of the commission he or~~
9 ~~she attends a mileage allowance equal to that authorized in~~
10 ~~2-18-503 and no other compensation.~~

11 SECTION 5. COMMISSION MEMBERS ARE TO RECEIVE NO
12 COMPENSATION FOR PER DIEM, TRAVEL, OR MILEAGE.

13 Section 6. Commission organization -- meetings. (1)
14 The commission shall meet on or before July 17, 1987, to
15 elect a chairman and vice-chairman and adopt a plan for its
16 activities.

17 (2) Thereafter, unless the commission adopts a meeting
18 schedule, it will meet subject to the call of the chairman,
19 but the commission must subsequently meet at least four
20 times.

21 Section 7. Legislative council to provide staff. The
22 legislative council shall:

23 (1) designate a member of its staff as the
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1 commission; and

2 (3) provide use of its facilities.

3 Section 8. Participation by state agencies. Every
4 agency shall respond promptly and fully to any inquiry from
5 the commission in regard to any of the provisions of
6 [section 5 4(3)].

7 Section 9. Appropriation. There is appropriated \$5,000
8 \$500 from the general fund to the legislative council for
9 the biennium beginning July 1, 1987, to be used for the
10 purposes of this act. ALL OTHER EXPENSES INCURRED BY THE
11 COMMISSION, EXCEPT THOSE OF THE LEGISLATIVE COUNCIL, WILL BE
12 PAID BY PRIVATE ENTERPRISE CONTRIBUTIONS UNDER THE DIRECTION
13 OF THE COMMISSION.

14 Section 10. Severability. If a part of this act is
15 invalid, all valid parts that are severable from the invalid
16 part remain in effect. If a part of this act is invalid in
17 one or more of its applications, the part remains in effect
18 in all valid applications that are severable from the
19 invalid applications.

20 ~~Section 12. Effective date -- termination. (1) This~~
21 ~~act is SECTIONS 1 THROUGH 4 ARE EFFECTIVE JULY 17 1987.~~

22 ~~{2} SECTIONS 5 THROUGH 11 AND THIS SECTION ARE~~
23 ~~effective July 17 1987.~~

24 ~~{3} Sections 5 through 9 terminate June 30, 1987.~~

25 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY

HB 0593/03

1 1, 1987.

-End-

-7-

HB 593

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB593, second reading copy.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "The Private Enterprise Act; establishing a private enterprise review commission and providing for its functions; appropriating money; and providing an effective date.

ASSUMPTIONS:

1. A private enterprise review commission will undertake a study of state agencies vs. private enterprise to provide goods and services for other state agencies or the public.
2. The commission will report to the 51st Legislature on its findings and may submit recommendations for potential change.
3. Except for \$500 from the general fund to pay for Legislative Council expenses, the private sector will make contributions to pay for all other expenses of the commission.

FISCAL IMPACT:

	<u>FY88</u>
General Fund - Biennial Appropriation	\$ 500

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

If the commission's expenses are to be paid from the state treasury with donations from the private sector, an appropriation is required.

David L. Hunter DATE 4/1/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

J. Brown DATE 4/2/87
JAN BROWN, PRIMARY SPONSOR

Fiscal Note for HB593, second reading copy.

HB 593
42

HOUSE BILL NO. 593

INTRODUCED BY J. BROWN, C. SMITH, RASMUSSEN,
PARRELL, GRADY, FRITZ, BOYLAN, D. BROWN

A BILL FOR AN ACT ENTITLED: "THE PRIVATE ENTERPRISE ACT;
ESTABLISHING A PRIVATE ENTERPRISE REVIEW COMMISSION AND
PROVIDING FOR ITS FUNCTIONS; APPROPRIATING MONEY; AND
PROVIDING AN AN EFFECTIVE DATE DATES DATE AND-A-TERMINATION
DATE."

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

Section 1. Short title. [Sections 1 through 4 B] may be cited as the "Private Enterprise Act".

Section 2. Purpose. The legislature finds and declares that the growth of private enterprise is essential to the health, welfare, and prosperity of the people of Montana and to the creation of jobs in Montana, and the legislature believes that government competition with business can be decreased by prohibiting LIMITING state agencies from providing certain goods and services TO OR FOR OTHER STATE AGENCIES OR THE PUBLIC THAT ARE ALSO OFFERED BY PRIVATE ENTERPRISE.

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "Private enterprise" means any nongovernmental

entity engaged in the manufacturing, processing, sale, offering for sale, rental, leasing, delivering, dispensing, distributing, or advertising of goods and services for profit.

(2) "State agency" means a department, office, commission, institution, board, panel, or other creation of state government, regardless of whether money is appropriated to such agency.

~~Section 4. Restriction on government activity. (1) A state agency, unless expressly and specifically authorized by statute, may not engage in the manufacturing, processing, offering for sale, sale, rental, leasing, delivering, dispensing, distributing, or advertising, in whole or in part, of any goods or services to or for other state agencies or the public that are also offered by private enterprise, except as provided in subsection (3).~~

~~(2) If a state agency is authorized by statute to compete with private enterprise, any bid price submitted by the agency in competition with private enterprise for a contract must include all costs to be incurred in performing the contract by the state agency, including fair market valuation of the costs of rent, labor, land, equipment, TAKES FOREGONE and related overhead expenses.~~

~~(3) The board of regents of higher education may by rule provide for exemption from the application of (this~~



1 act} for activities conducted by the units of the Montana
 2 university system that:

3 (a) are both a required and a reasonably related part
 4 of an educational program that leads to a degree;

5 (b) are offered only to students, employees, or guests
 6 of the university system and cannot be provided by private
 7 enterprise at the same or lower cost; or

8 (c) consist of the following on-campus activities:

9 (i) food service and sales;

10 (ii) sale of authorized course books and authorized
 11 course supplies;

12 (iii) sponsoring or providing facilities for cultural,
 13 recreational, and athletic events;

14 (iv) sale of tangible personal property bearing the
 15 university unit's insignia; or

16 (v) student housing.

17 Section 4. Private enterprise review commission. (1)
 18 There is established a private enterprise review commission
 19 consisting of:

20 (a) three members appointed by the governor, one of
 21 whom is a director or commissioner of a department of state
 22 government and two of whom represent private enterprise;

23 (b) two senators and two representatives of private
 24 enterprise appointed by the president of the senate; AND

25 (c) two members of the house of representatives and

1 two representatives of private enterprise appointed by the
 2 speaker of the house; and

3 (d) one member of the board of regents of higher
 4 education chosen by the board of regents.

5 (2) The members must be appointed on or before July 7,
 6 1987.

7 (3) The commission shall:

8 (a) review statutes, rules, and practices for agency
 9 activities that may be affected by {this act} THAT MAY
 10 AFFECT THE PURPOSE OF [THIS ACT] AS DEFINED IN [SECTION 2];

11 and

12 (b) evaluate whether each activity is authorized by
 13 statute or would be prohibited by {this act};

14 (B) EVALUATE WHETHER EACH ACTIVITY IS IN ACCORD WITH
 15 THE PURPOSE OF [THIS ACT] AS DEFINED IN [SECTION 2].

16 (4) For those activities authorized by statute, the
 17 THE commission shall evaluate all costs of such activities
 18 and determine if it would be in the public interest for
 19 private enterprise to perform the activity.

20 (5) The board of regents of higher education shall
 21 provide to the commission not later than October 1, 1987, a
 22 comprehensive list of goods, services, and facilities it
 23 proposes to exempt from the application of {this act}, and
 24 the list must be reviewed by the commission to determine
 25 whether the proposed exemptions by the board of regents

1 ~~comply with the intent of {this act}.~~

2 {6}{5} The commission shall report its findings and
3 any proposed legislation not later than November 15, 1988,
4 for consideration by the 51st legislature.

5 ~~Section 6. Commission members to receive mileage~~
6 ~~allowance. Notwithstanding the provisions of 2-18-501,~~
7 ~~2-18-502, and 5-2-301, each member of the commission is~~
8 ~~entitled to receive for each meeting of the commission he or~~
9 ~~she attends a mileage allowance equal to that authorized in~~
10 ~~2-18-503 and no other compensation.~~

11 SECTION 5. COMMISSION MEMBERS ARE TO RECEIVE NO
12 COMPENSATION FOR PER DIEM, TRAVEL, OR MILEAGE.

13 Section 6. Commission organization -- meetings. (1)
14 The commission shall meet on or before July 17, 1987, to
15 elect a chairman and vice-chairman and adopt a plan for its
16 activities.

17 (2) Thereafter, unless the commission adopts a meeting
18 schedule, it will meet subject to the call of the chairman,
19 but the commission must subsequently meet at least four
20 times.

21 Section 7. Legislative council to provide staff. The
22 legislative council shall:

23 (1) designate a member of its staff as the
24 commission's staff director without additional compensation;

25 (2) provide research and secretarial services for the

1 commission; and

2 (3) provide use of its facilities.

3 Section 8. Participation by state agencies. Every
4 agency shall respond promptly and fully to any inquiry from
5 the commission in regard to any of the provisions of
6 [section 5 4(3)].

7 Section 9. Appropriation. There is appropriated \$57,000
8 \$500 from the general fund to the legislative council for
9 the biennium beginning July 1, 1987, to be used for the
10 purposes of this act. ALL OTHER EXPENSES INCURRED BY THE
11 COMMISSION, EXCEPT THOSE OF THE LEGISLATIVE COUNCIL, WILL BE
12 PAID BY PRIVATE ENTERPRISE CONTRIBUTIONS UNDER THE DIRECTION
13 OF THE COMMISSION.

14 Section 10. Severability. If a part of this act is
15 invalid, all valid parts that are severable from the invalid
16 part remain in effect. If a part of this act is invalid in
17 one or more of its applications, the part remains in effect
18 in all valid applications that are severable from the
19 invalid applications.

20 ~~Section 12. Effective date and termination. {1} This~~
21 ~~act is SECTIONS 1 THROUGH 4 ARE EFFECTIVE JULY 17, 1987.~~

22 ~~{2} SECTIONS 5 THROUGH 11 AND THIS SECTION ARE~~
23 ~~effective July 17, 1987.~~

24 ~~{3} Sections 5 through 9 terminate June 30, 1989.~~

25 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE JULY

11

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1 1, 1987.

-End-