

SB 328 INTRODUCED BY MAZUREK  
REQUIRE DEPARTMENT OF ADMINISTRATION TO CONTRACT  
PRINTING THROUGH MONTANA BUSINESSES

2/12	INTRODUCED		
2/12	REFERRED TO STATE ADMINISTRATION		
2/12	FISCAL NOTE REQUESTED		
2/18	HEARING		
2/19	FISCAL NOTE RECEIVED NOT SIGNED BY SPONSOR		
2/21	ADVERSE COMMITTEE REPORT ADOPTED AS AMENDED	28	17
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	TRANSMITTED TO HOUSE		
3/03	REFERRED TO BUSINESS & LABOR		
3/10	HEARING		
	DIED IN COMMITTEE		

1 Senate BILL NO. 328  
2 INTRODUCED BY Mazurek

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE  
5 DEPARTMENT OF ADMINISTRATION TO CONTRACT PRINTING OPERATIONS  
6 THROUGH MONTANA BUSINESSES; CHANGING RESIDENCE REQUIREMENTS;  
7 PROHIBITING THE STATE FROM ENGAGING IN COMMERCIAL PRINTING;  
8 AMENDING SECTIONS 18-1-103, 18-7-101, 18-7-104, 18-7-105,  
9 AND 18-7-302, MCA; REPEALING SECTION 18-7-107, MCA; AND  
10 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

13 NEW SECTION. Section 1. Government printing done by  
14 contract. All government printing on which competitive bids  
15 are requested must be done by contract awarded pursuant to  
16 the provisions of this title. All public documents, as  
17 defined in 18-7-302, must be printed by contract awarded to  
18 a resident business pursuant to the provisions of this  
19 title.

20 NEW SECTION. Section 2. Printing contracts performed  
21 in-state -- exception. (1) Except as provided in subsection  
22 (2), bids for all printing and other operations necessary to  
23 produce printed materials for the state or any county, city,  
24 town, school district, or other political subdivision must  
25 be submitted by a resident business as defined in 18-1-103.

1 (2) An in-state printing contract will not be awarded  
2 if the lowest price submitted by a resident bidder exceeds  
3 the costs customarily charged a private individual or  
4 corporation for work of similar quality or if the resident  
5 bid is excessively noncompetitive.

6 Section 3. Section 18-1-103, MCA, is amended to read:  
7 "18-1-103. Residence defined. (1) For the purpose of  
8 18-1-102, 18-1-103, and 18-1-112, the word "resident" shall  
9 include actual residence of an individual within this state  
10 for a period of more than 1 year immediately prior to  
11 bidding.

12 (2) In a partnership enterprise or an association, the  
13 majority of all partners or association members shall have  
14 been actual residents of the state of Montana for more than  
15 1 year immediately prior to bidding.

16 ~~(3) Domestic corporations organized under the laws of~~  
17 ~~the state of Montana are prima facie eligible to bid as~~  
18 ~~residents, but this qualification may be set aside and a~~  
19 ~~successful bid disallowed where it is shown to the~~  
20 ~~satisfaction of the board, commission, officer, or~~  
21 ~~individual charged with the responsibility for the execution~~  
22 ~~of such contract that said corporation is a wholly owned~~  
23 ~~subsidiary of a foreign corporation or that said corporation~~  
24 ~~was formed for the purpose of circumventing the provisions~~  
25 ~~relating to residence.~~



1       ~~(4)~~(3) ~~Notwithstanding the foregoing, any~~ Any bidder  
 2 on a contract for purchase of products, materials, supplies,  
 3 or equipment, whether an individual, partnership, or  
 4 corporation, foreign or domestic, and regardless of  
 5 ownership thereof, whose offered materials, supplies, or  
 6 equipment are manufactured or produced in this state by  
 7 industry located in Montana and Montana labor shall be  
 8 deemed to be a resident for the purpose of 18-1-102,  
 9 18-1-103, and 18-1-112."

10       Section 4. Section 18-7-101, MCA, is amended to read:

11       "18-7-101. Power to contract for printing. (1) Except  
 12 as provided in 1-11-301, the department has exclusive power,  
 13 subject to the approval of the governor, to contract for all  
 14 printing for any purpose used by the state in any state  
 15 office (elective or appointive), agency, or institution.

16       (2) The department shall supervise and attend to all  
 17 public printing of the state as provided in this chapter and  
 18 shall prevent duplication and unnecessary printing.

19       (3) All forms, blanks, and documents printed for  
 20 distribution to the state agencies and institutions shall be  
 21 serially numbered and indexed by the department and sample  
 22 copies of each permanently retained, and the department  
 23 shall from time to time furnish to the public general  
 24 information as to the nature, description, and official  
 25 numbers of such reports as are available for public

1 distribution.

2       (4) Unless otherwise provided by law, the department,  
 3 in letting contracts as provided in this chapter, for the  
 4 printing, binding, and publishing of all laws, journals, and  
 5 reports of the state agencies and institutions may determine  
 6 the quantity, quality, style, and grade of all such  
 7 printing, binding, and publishing.

8       (5) Neither the state nor any political subdivision of  
 9 the state, including a school district, may engage in any  
 10 commercial printing, binding, typesetting, graphic arts,  
 11 layout, stationery work, or other operations necessary to  
 12 produce printed materials."

13       Section 5. Section 18-7-104, MCA, is amended to read:

14       "18-7-104. Union label. All printing for which the  
 15 state of Montana is chargeable shall bear the label of the  
 16 branch of the international typographical union, the allied  
 17 printing trades council, or the amalgamated lithographers of  
 18 America of the locality in which it is printed, except under  
 19 the following conditions. Printing firms not having the use  
 20 of the labels and who are desirous of presenting bids for  
 21 printing as enumerated above shall be required to establish  
 22 consideration as a responsible bidder as follows:

23       (1) As a condition to consideration as a responsible  
 24 bidder, printing concerns must file with the secretary of  
 25 state a sworn statement to the effect that employees in the

1 employ of the concern which is to produce such printing are  
2 receiving the prevailing wage rate and are working under  
3 conditions prevalent in the locality in which the work is  
4 produced.

5 (2) Whenever a collective bargaining agreement is in  
6 effect between an employer and employees who are represented  
7 by a responsible organization which is in no way influenced  
8 or controlled by the management, such agreement and its  
9 provisions shall be construed as conditions prevalent in  
10 said locality and shall be the minimum requirement for being  
11 adjudged a responsible bidder under this section, 18-7-107,  
12 or chapter 4 of this title.

13 (3) Printing firms having the use of the union labels  
14 as set forth above shall be deemed as having complied with  
15 the provisions of this section, 18-7-107, or chapter 4 of  
16 this title, but nothing in these provisions shall be  
17 construed as exempting such bidders from any provisions of  
18 this section, 18-7-107, or chapter 4 of this title, and such  
19 bidders shall also be required to conform to all provisions  
20 thereof."

21 Section 6. Section 18-7-105, MCA, is amended to read:

22 "18-7-105. Penalty. Any officer of the state who shall  
23 accept accepts any printed matter for which the state is  
24 chargeable in whole or in part or who is found to have had  
25 printed matter produced, under conditions other than as set

1 forth in chapter 4 of this title, 18-7-104, or 18-7-107  
2 [section 1] shall be subject to a fine of \$50 for each and  
3 every offense."

4 Section 7. Section 18-7-302, MCA, is amended to read:  
5 "18-7-302. Definitions. As used in this part, the  
6 following definitions apply:

7 (1) The term "public document" includes any  
8 publication of a state agency meant for dissemination to the  
9 public, but does not include ~~educational materials published~~  
10 ~~by a unit of the university system or the superintendent of~~  
11 ~~public instruction, reports of the legislative auditor,~~  
12 ~~travel promotion materials, standard forms, bid~~  
13 ~~specifications, opinions of the attorney general, opinions~~  
14 ~~of the supreme court, session laws, the administrative rules~~  
15 ~~of Montana, Montana code annotated, regular periodical~~  
16 ~~publications sold to the general public solely through~~  
17 ~~subscription and newsstand sale, or a publication~~  
18 ~~specifically exempted by the publishing policy committee~~  
19 ~~when inclusion of that publication under this part is not~~  
20 ~~considered in the best interests of the state printed~~  
21 ~~materials intended for internal government use.~~

22 (2) The term "agency" as used herein includes each  
23 state office, department, board, commission, council,  
24 committee, unit of the university system, or other entity or  
25 instrumentality of the executive branch, office of the

1 legislative branch, or office of the judicial branch of  
2 state government.

3 (3) The term "department" as used herein means the  
4 department of administration provided for in Title 2,  
5 chapter 15, part 10.

6 (4) The term "committee" means the publishing policy  
7 committee created in 2-15-1017."

8 NEW SECTION. Section 8. Repealer. Section 18-7-107,  
9 MCA, is repealed.

10 NEW SECTION. Section 9. Extension of authority. Any  
11 existing authority of the department of administration to  
12 make rules on the subject of the provisions of this act is  
13 extended to the provisions of this act.

14 NEW SECTION. Section 10. Codification instruction.  
15 Sections 1 and 2 are intended to be codified as an integral  
16 part of Title 18, chapter 7, and the provisions of Title 18,  
17 chapter 7, apply to sections 1 and 2.

18 NEW SECTION. Section 11. Applicability. Sections 1  
19 through 7 do not apply to state printing contracts awarded  
20 or for which invitations for bids or requests for proposals  
21 have been issued prior to July 1, 1987.

22 NEW SECTION. Section 12. Effective date. This act is  
23 effective July 1, 1987.

-End-

SB 0328/02  
COMMITTEE  
ON STATE ADMINISTRATION  
RECOMMEND DO NOT PASS  
AS AMENDED  
ON MOTION RECONSIDER  
ADVERSE COMMITTEE REPORT

1 SENATE BILL NO. 328  
2 INTRODUCED BY MAZUREK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING---THE  
5 DEPARTMENT-OF-ADMINISTRATION-TO-CONTRACT-PRINTING-OPERATIONS  
6 THROUGH-MONTANA-BUSINESSES,-CHANGING-RESIDENCE-REQUIREMENTS,  
7 PROHIBITING THE STATE FROM ENGAGING IN COMMERCIAL PRINTING;  
8 AMENDING SECTIONS 18-1-103, 18-4-221, 18-7-101, 18-7-104,  
9 18-7-105, AND 18-7-302, AND 53-1-301, MCA; REPEALING SECTION  
10 18-7-107, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN  
11 APPLICABILITY DATE."

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

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15 contract. All government printing on which competitive bids  
16 are requested must be done by contract awarded pursuant to  
17 the provisions of this title. All public documents, as  
18 defined in 18-7-302, must be printed by contract awarded to  
19 a--resident--business pursuant to the provisions of this  
20 title.

21 NEW SECTION. Section 2. Printing contracts performed  
22 in-state ---exception. ~~{1}-Except-as-provided-in-subsection~~  
23 ~~{2},-bids-for-all-printing-and-other-operations-necessary-to~~  
24 ~~produce-printed-materials-for-the-state-or-any-county,-city,~~  
25 ~~town,-school-district,-or-other-political--subdivision--must~~

1 be--submitted-by-a-resident-business-as-defined-in-18-1-103;  
2 ~~{2}-An-in-state-printing-contract-will-not-be-awarded~~  
3 ~~if--the--lowest-price-submitted-by-a-resident-bidder-exceeds~~  
4 ~~the--costs--customarily--charged--a--private--individual--or~~  
5 ~~corporation--for--work-of-similar-quality-or-if-the-resident~~  
6 ~~bid-is--excessively--noncompetitive; UNLESS PROHIBITED BY~~  
7 FEDERAL LAW, AN IN-STATE PRINTING CONTRACT MUST BE AWARDED  
8 TO ANY BIDDER WHO IS A RESIDENT, AS DEFINED IN 18-1-103, AND  
9 WHOSE BID IS NOT MORE THAN 3% HIGHER THAN THAT OF THE LOWEST  
10 NONRESIDENT BIDDER.

11 Section 3. Section 18-1-103, MCA, is amended to read:  
12 "18-1-103. Residence defined. (1) For the purpose of  
13 18-1-102, 18-1-103, and 18-1-112, the word "resident" shall  
14 include actual residence of an individual within this state  
15 for a period of more than 1 year immediately prior to  
16 bidding.

17 (2) In a partnership enterprise or an association, the  
18 majority of all partners or association members shall have  
19 been actual residents of the state of Montana for more than  
20 1 year immediately prior to bidding.

21 ~~{3}-Domestic--corporations-organized-under-the-laws-of~~  
22 ~~the-state-of-Montana-are-prima--facie--eligible--to--bid--as~~  
23 ~~residents,-but--this--qualification--may-be-set-aside-and-a~~  
24 ~~successful--bid--disallowed--where--it--is--shown---to---the~~  
25 ~~satisfaction---of---the---board,-commission,-officer,-or~~



1 ~~individual charged with the responsibility for the execution~~  
 2 ~~of such contract that said corporation is a wholly owned~~  
 3 ~~subsidiary of a foreign corporation or that said corporation~~  
 4 ~~was formed for the purpose of circumventing the provisions~~  
 5 ~~relating to residence.~~

6 (3) DOMESTIC CORPORATIONS ORGANIZED UNDER THE LAWS OF  
 7 THE STATE OF MONTANA ARE PRIMA FACIE ELIGIBLE TO BID AS  
 8 RESIDENTS, BUT THIS QUALIFICATION MAY BE SET ASIDE AND A  
 9 SUCCESSFUL BID DISALLOWED WHERE IT IS SHOWN TO THE  
 10 SATISFACTION OF THE BOARD, COMMISSION, OFFICER, OR  
 11 INDIVIDUAL CHARGED WITH THE RESPONSIBILITY FOR THE EXECUTION  
 12 OF SUCH CONTRACT THAT SAID CORPORATION IS A WHOLLY OWNED  
 13 SUBSIDIARY OF A FOREIGN CORPORATION OR THAT SAID CORPORATION  
 14 WAS FORMED FOR THE PURPOSE OF CIRCUMVENTING THE PROVISIONS  
 15 RELATING TO RESIDENCE.

16 ~~{4}{3}~~(4) ~~Notwithstanding the foregoing, any~~ Any  
 17 NOTWITHSTANDING THE FOREGOING, ANY bidder on a contract for  
 18 purchase of products, materials, supplies, or equipment,  
 19 whether an individual, partnership, or corporation, foreign  
 20 or domestic, and regardless of ownership thereof, whose  
 21 offered materials, supplies, or equipment are manufactured  
 22 or produced in this state by industry located in Montana and  
 23 Montana labor shall be deemed to be a resident for the  
 24 purpose of 18-1-102, 18-1-103, and 18-1-112."

25 Section 4. Section 18-7-101, MCA, is amended to read:

1 "18-7-101. Power to contract for printing. (1) Except  
 2 as provided in 1-11-301, the department has exclusive power,  
 3 subject to the approval of the governor, to contract for all  
 4 printing for any purpose used by the state in any state  
 5 office (elective or appointive), agency, or institution.

6 (2) The department shall supervise and attend to all  
 7 public printing of the state as provided in this chapter and  
 8 shall prevent duplication and unnecessary printing.

9 (3) All forms, blanks, and documents printed for  
 10 distribution to the state agencies and institutions shall be  
 11 serially numbered and indexed by the department and sample  
 12 copies of each permanently retained, and the department  
 13 shall from time to time furnish to the public general  
 14 information as to the nature, description, and official  
 15 numbers of such reports as are available for public  
 16 distribution.

17 (4) Unless otherwise provided by law, the department,  
 18 in letting contracts as provided in this chapter, for the  
 19 printing, binding, and publishing of all laws, journals, and  
 20 reports of the state agencies and institutions may determine  
 21 the quantity, quality, style, and grade of all such  
 22 printing, binding, and publishing.

23 (5) Neither the state nor any political subdivision of  
 24 the state, including a school district, may engage in any  
 25 commercial printing THAT IS PAID FOR ALL OR IN PART BY

1 NONGOVERNMENT FUNDS. SUCH PRINTING INCLUDES BUT IS NOT  
 2 LIMITED TO binding, typesetting, graphic arts, layout,  
 3 stationery work, or other operations necessary to produce  
 4 printed materials."

5 Section 5. Section 18-7-104, MCA, is amended to read:  
 6 "18-7-104. Union label. All printing for which the  
 7 state of Montana is chargeable shall bear the label of the  
 8 branch of the international typographical union, the allied  
 9 printing trades council, or the amalgamated lithographers of  
 10 America of the locality in which it is printed, except under  
 11 the following conditions. Printing firms not having the use  
 12 of the labels and who are desirous of presenting bids for  
 13 printing as enumerated above shall be required to establish  
 14 consideration as a responsible bidder as follows:

15 (1) As a condition to consideration as a responsible  
 16 bidder, printing concerns must file with the secretary of  
 17 state a sworn statement to the effect that employees in the  
 18 employ of the concern which is to produce such printing are  
 19 receiving the prevailing wage rate and are working under  
 20 conditions prevalent in the locality in which the work is  
 21 produced.

22 (2) Whenever a collective bargaining agreement is in  
 23 effect between an employer and employees who are represented  
 24 by a responsible organization which is in no way influenced  
 25 or controlled by the management, such agreement and its

1 provisions shall be construed as conditions prevalent in  
 2 said locality and shall be the minimum requirement for being  
 3 adjudged a responsible bidder under this section~~7--18-7-107~~  
 4 or chapter 4 of this title.

5 (3) Printing firms having the use of the union labels  
 6 as set forth above shall be deemed as having complied with  
 7 the provisions of this section~~7-18-7-107~~ or chapter 4 of  
 8 this title, but nothing in these provisions shall be  
 9 construed as exempting such bidders from any provisions of  
 10 this section~~7-18-7-107~~ or chapter 4 of this title, and such  
 11 bidders shall also be required to conform to all provisions  
 12 thereof."

13 Section 6. Section 18-7-105, MCA, is amended to read:

14 "18-7-105. Penalty. Any officer of the state who ~~shall~~  
 15 ~~accept~~ accepts any printed matter for which the state is  
 16 chargeable in whole or in part or who is found to have had  
 17 printed matter produced~~7~~ under conditions other than as set  
 18 forth in chapter 4 of this title, 18-7-104, or ~~18-7-107~~  
 19 [section 1] shall be subject to a fine of \$50 for each and  
 20 every offense."

21 Section 7. Section 18-7-302, MCA, is amended to read:

22 "18-7-302. Definitions. As used in this part, the  
 23 following definitions apply:

24 (1) The term "public document" includes any  
 25 publication of a state agency meant for dissemination to the



1 public, but does not include educational materials published  
 2 by a unit of the university system or the superintendent of  
 3 public instruction, reports of the legislative auditor,  
 4 travel promotion materials, standard forms, bid  
 5 specifications, opinions of the attorney general, opinions  
 6 of the supreme court, session laws, the administrative rules  
 7 of Montana, Montana code annotated, regular periodical  
 8 publications sold to the general public solely through  
 9 subscription and newsstand sale, or a publication  
 10 specifically exempted by the publishing policy committee  
 11 when inclusion of that publication under this part is not  
 12 considered in the best interests of the state printed  
 13 materials intended for internal PRIMARYLY DISTRIBUTED TO  
 14 government use AGENCIES OR EMPLOYEES.

15 (2) EDUCATIONAL MATERIALS PUBLISHED BY A UNIT OF THE  
 16 UNIVERSITY SYSTEM OR THE SUPERINTENDENT OF PUBLIC  
 17 INSTRUCTION, REPORTS OF THE LEGISLATIVE AUDITOR, TRAVEL  
 18 PROMOTION MATERIALS, STANDARD FORMS, BID SPECIFICATIONS,  
 19 OPINIONS OF THE ATTORNEY GENERAL, OPINIONS OF THE SUPREME  
 20 COURT, SESSION LAWS, THE ADMINISTRATIVE RULES OF MONTANA,  
 21 MONTANA CODE ANNOTATED, REGULAR PERIODICAL PUBLICATIONS SOLD  
 22 TO THE GENERAL PUBLIC SOLELY THROUGH SUBSCRIPTION AND  
 23 NEWSSTAND SALE, OR A PUBLICATION SPECIFICALLY EXEMPTED BY  
 24 THE PUBLISHING POLICY COMMITTEE WHEN INCLUSION OF THAT  
 25 PUBLICATION UNDER THIS PART IS NOT CONSIDERED IN THE BEST

1 INTERESTS OF THE STATE ARE EXEMPT FROM PUBLIC DISCLOSURE OF  
 2 COSTS ESTABLISHED IN 18-7-306.

3 (3) THE TERM "PRINTING" AS USED HEREIN INCLUDES THOSE  
 4 SERVICES DESCRIBED IN 18-4-123.

5 (4) The term "agency" as used herein includes each  
 6 state office, department, board, commission, council,  
 7 committee, unit of the university system, or other entity or  
 8 instrumentality of the executive branch, office of the  
 9 legislative branch, or office of the judicial branch of  
 10 state government.

11 (5) The term "department" as used herein means the  
 12 department of administration provided for in Title 2,  
 13 chapter 15, part 10.

14 (6) The term "committee" means the publishing  
 15 policy committee created in 2-15-1017."

16 SECTION 8. SECTION 18-4-221, MCA, IS AMENDED TO READ:

17 "18-4-221. General procurement authority and duties of  
 18 department -- rules. (1) Except as otherwise provided in  
 19 this chapter, the department shall adopt rules, consistent  
 20 with this chapter, governing the procurement and disposal of  
 21 any and all supplies and services to be procured by the  
 22 state. The department shall consider and decide matters of  
 23 policy within the provisions of this chapter. The department  
 24 may audit and monitor the implementation of its rules and  
 25 the requirements of this chapter.

1 (2) Except as otherwise specifically provided by law,  
2 the department shall, in accordance with its rules:

3 (a) procure or supervise the procurement of all  
4 supplies and services needed by the state; and

5 (b) sell, trade, or otherwise dispose of surplus  
6 supplies belonging to the state.

7 (3) ~~Nothing~~ Except as provided in 18-7-101 and  
8 18-7-302, nothing contained herein shall preclude the state  
9 from doing its own printing on its own printing facilities."

10 SECTION 9. SECTION 53-1-301, MCA, IS AMENDED TO READ:

11 "53-1-301. Permitted institutional industries, powers  
12 of department, and incentive pay to inmates. (1) Except as  
13 provided in 18-1-103 and 18-7-302, or subsection (3), the  
14 department may:

15 (a) establish industries in institutions which will  
16 result in the production or manufacture of such products and  
17 the rendering of such services as may be needed by any  
18 department or agency of the state or any political  
19 subdivision thereof, by any agency of the federal  
20 government, by any other states or their political  
21 subdivisions, or by nonprofit organizations and that will  
22 assist in the rehabilitation of residents in institutions;

23 (b) contract with private industry for the sale of  
24 goods or components manufactured or produced in shops under  
25 its jurisdiction;

1 (c) print catalogs describing goods manufactured or  
2 produced by institutions and distribute the catalogs;

3 (d) fix the sale price for goods produced or  
4 manufactured at institutions. Prices shall not exceed prices  
5 existing in the open market for goods of comparable quality.

6 (e) require institutions to purchase needed goods from  
7 other institutions;

8 (f) provide for the repair and maintenance of property  
9 and equipment of institutions by residents of institutions;

10 (g) provide for construction projects up to the  
11 aggregate sum of \$25,000 per project, by residents of  
12 institutions; provided, however, said construction work is  
13 not covered by a collective bargaining agreement;

14 (h) provide for the repair and maintenance at an  
15 institution of furniture and equipment of any state agency;

16 (i) provide for the manufacture at an institution of  
17 motor vehicle license plates and other related articles;

18 (j) with the approval of the department, sell  
19 manufactured or agricultural products and livestock on the  
20 open market;

21 (k) provide for the manufacture at an institution of  
22 highway, road, and street marking signs for the use of the  
23 state or any of its political subdivisions, except when the  
24 manufacture of the signs is in violation of a collective  
25 bargaining contract;

1 (1) pay an inmate or resident of an institution from  
2 receipts from the sale of products produced or manufactured  
3 or services rendered in a program in which he is working.

4 (2) (a) Payment for the performance of work may be  
5 based on the following criteria:

6 (i) knowledge and skill;

7 (ii) attitude toward authority;

8 (iii) physical effort;

9 (iv) responsibility for equipment and materials;

10 (v) regard for safety of others.

11 (b) The maximum rate of pay shall be determined by the  
12 appropriation established for each program.

13 (3) Except as provided in subsection (4), furniture  
14 made in the prison may be purchased by state agencies in  
15 accordance with the procurement provisions under Title 18,  
16 chapter 4. All other prison-made furniture may be sold only  
17 through licensed wholesale or retail furniture outlets or  
18 through export firms for sale to international markets.

19 (4) Any state institution, facility, or program  
20 operated by the department may purchase prison-made  
21 furniture without complying with the procurement provisions  
22 under Title 18, chapter 4."

23 NEW SECTION. Section 10. Repealer. Section 18-7-107,  
24 MCA, is repealed.

25 NEW SECTION. Section 11. Extension of authority. Any

1 existing authority of the department of administration to  
2 make rules on the subject of the provisions of this act is  
3 extended to the provisions of this act.

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5 Sections 1 and 2 are intended to be codified as an integral  
6 part of Title 18, chapter 7, and the provisions of Title 18,  
7 chapter 7, apply to sections 1 and 2.

8 NEW SECTION. Section 13. Applicability. Sections 1  
9 through 7 9 do not apply to state printing contracts awarded  
10 or for which invitations for bids or requests for proposals  
11 have been issued prior to July 1, 1987.

12 NEW SECTION. Section 14. Effective date. This act is  
13 effective July 1, 1987.

-End-

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4  
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9

STATEMENT OF INTENT  
SENATE BILL 328

A statement of intent is required for this bill because section 7 grants to the department of administration authority to define by rule which public documents are agency documents. It is the intent of the legislature that an agency document not include those publications printed by a state agency primarily for dissemination to the public.

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2 INTRODUCED BY MAZUREK  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING---THE  
5 DEPARTMENT-OF-ADMINISTRATION-TO-CONTRACT-PRINTING-OPERATIONS  
6 THROUGH-MONTANA-BUSINESSES,-CHANGING-RESIDENCE-REQUIREMENTS,  
7 PROHIBITING THE STATE FROM ENGAGING IN COMMERCIAL PRINTING;  
8 AMENDING SECTIONS 18-1-103, 18-4-221, 18-7-101, 18-7-104,  
9 18-7-105, AND AND 18-7-302, AND-53-1-301, MCA; REPEALING  
10 SECTION-18-7-107,-MCA; AND PROVIDING AN EFFECTIVE DATE AND  
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19 a-resident-business pursuant to the provisions of this  
20 title.

21 NEW SECTION. Section 2. Printing contracts performed  
22 in-state ---exception. {1}-Except-as-provided-in--subsection  
23 {2},-bids-for-all-printing-and-other-operations-necessary-to  
24 produce-printed-materials-for-the-state-or-any-county,-city,  
25 town,-school-district,-or-other-political-subdivision-must

1 be-submitted-by-a-resident-business-as-defined-in--18-1-103.  
2 {2}-An--in-state-printing-contract-will-not-be-awarded  
3 if-the-lowest-price-submitted-by-a-resident--bidder--exceeds  
4 the--costs--customarily--charged--a--private--individual--or  
5 corporation-for-work-of-similar-quality-or-if--the--resident  
6 bid--is--excessively--noncompetitive; UNLESS PROHIBITED BY  
7 FEDERAL LAW, AN IN-STATE PRINTING CONTRACT MUST BE AWARDED  
8 TO ANY BIDDER WHO IS A RESIDENT, AS DEFINED IN 18-1-103, AND  
9 WHOSE BID IS NOT MORE THAN 3% HIGHER THAN THAT OF THE LOWEST  
10 NONRESIDENT BIDDER.

11 Section 3. Section 18-1-103, MCA, is amended to read:

12 "18-1-103. Residence defined. (1) For the purpose of  
13 18-1-102, 18-1-103, and 18-1-112, the word "resident" shall  
14 include actual residence of an individual within this state  
15 for a period of more than 1 year immediately prior to  
16 bidding.

17 (2) In a partnership enterprise or an association, the  
18 majority of all partners or association members shall have  
19 been actual residents of the state of Montana for more than  
20 1 year immediately prior to bidding.

21 {3}-Domestic-corporations-organized-under-the-laws--of  
22 the--state--of--Montana--are--prima-facie-eligible-to-bid-as  
23 residents,-but-this-qualification-may-be-set-aside--and--a  
24 successful---bid---disallowed--where--it--is--shown--to--the  
25 satisfaction--of--the---board,-commission,-officer,-or

~~individual charged with the responsibility for the execution of such contract that said corporation is a wholly owned subsidiary of a foreign corporation or that said corporation was formed for the purpose of circumventing the provisions relating to residence.~~

(3) DOMESTIC CORPORATIONS ORGANIZED UNDER THE LAWS OF THE STATE OF MONTANA ARE PRIMA FACIE ELIGIBLE TO BID AS RESIDENTS, BUT THIS QUALIFICATION MAY BE SET ASIDE AND A SUCCESSFUL BID DISALLOWED WHERE IT IS SHOWN TO THE SATISFACTION OF THE BOARD, COMMISSION, OFFICER, OR INDIVIDUAL CHARGED WITH THE RESPONSIBILITY FOR THE EXECUTION OF SUCH CONTRACT THAT SAID CORPORATION IS A WHOLLY OWNED SUBSIDIARY OF A FOREIGN CORPORATION OR THAT SAID CORPORATION WAS FORMED FOR THE PURPOSE OF CIRCUMVENTING THE PROVISIONS RELATING TO RESIDENCE.

~~(4)(3)(4)~~ Notwithstanding the foregoing, any Any NOTWITHSTANDING THE FOREGOING, ANY bidder on a contract for purchase of products, materials, supplies, or equipment, whether an individual, partnership, or corporation, foreign or domestic, and regardless of ownership thereof, whose offered materials, supplies, or equipment are manufactured or produced in this state by industry located in Montana and Montana labor shall be deemed to be a resident for the purpose of 18-1-102, 18-1-103, and 18-1-112."

Section 4. Section 18-7-101, MCA, is amended to read:

"18-7-101. Power to contract for printing. (1) Except as provided in 1-11-301, the department has exclusive power, subject to the approval of the governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive), agency, or institution.

(2) The department shall supervise and attend to all public printing of the state as provided in this chapter and shall prevent duplication and unnecessary printing.

(3) All forms, blanks, and documents printed for distribution to the state agencies and institutions shall be serially numbered and indexed by the department and sample copies of each permanently retained, and the department shall from time to time furnish to the public general information as to the nature, description, and official numbers of such reports as are available for public distribution.

(4) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter, for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

(5) Neither the state nor any political subdivision of the state, including a school district, may engage in any commercial printing THAT IS PAID FOR ALL OR IN PART BY

1 NONGOVERNMENT FUNDS. SUCH PRINTING INCLUDES BUT IS NOT  
 2 LIMITED TO binding, typesetting, graphic arts, layout,  
 3 stationery work, or other operations necessary to produce  
 4 printed materials. THE PROHIBITION IN THIS SUBSECTION DOES  
 5 NOT APPLY TO PRINTING CONTRACTS AWARDED PURSUANT TO  
 6 53-1-301."

7 Section 5. Section 18-7-104, MCA, is amended to read:

8 "18-7-104. Union label. All printing for which the  
 9 state of Montana is chargeable shall bear the label of the  
 10 branch of the international typographical union, the allied  
 11 printing trades council, or the amalgamated lithographers of  
 12 America of the locality in which it is printed, except under  
 13 the following conditions. Printing firms not having the use  
 14 of the labels and who are desirous of presenting bids for  
 15 printing as enumerated above shall be required to establish  
 16 consideration as a responsible bidder as follows:

17 (1) As a condition to consideration as a responsible  
 18 bidder, printing concerns must file with the secretary of  
 19 state a sworn statement to the effect that employees in the  
 20 employ of the concern which is to produce such printing are  
 21 receiving the prevailing wage rate and are working under  
 22 conditions prevalent in the locality in which the work is  
 23 produced.

24 (2) Whenever a collective bargaining agreement is in  
 25 effect between an employer and employees who are represented

1 by a responsible organization which is in no way influenced  
 2 or controlled by the management, such agreement and its  
 3 provisions shall be construed as conditions prevalent in  
 4 said locality and shall be the minimum requirement for being  
 5 adjudged a responsible bidder under this section~~7-18-7-107~~  
 6 or chapter 4 of this title.

7 (3) Printing firms having the use of the union labels  
 8 as set forth above shall be deemed as having complied with  
 9 the provisions of this section~~7-18-7-107~~ or chapter 4 of  
 10 this title, but nothing in these provisions shall be  
 11 construed as exempting such bidders from any provisions of  
 12 this section~~7-18-7-107~~ or chapter 4 of this title, and such  
 13 bidders shall also be required to conform to all provisions  
 14 thereof."

15 Section 6. Section 18-7-105, MCA, is amended to read:

16 "18-7-105. Penalty. Any officer of the state who shall  
 17 ~~accept~~ accepts any printed matter for which the state is  
 18 chargeable in whole or in part or who is found to have had  
 19 printed matter produced~~7~~ under conditions other than as set  
 20 forth in chapter 4 of this title, 18-7-104, or ~~18-7-107~~  
 21 [section 1] shall be subject to a fine of \$50 for each and  
 22 every offense."

23 Section 7. Section 18-7-302, MCA, is amended to read:

24 "18-7-302. Definitions. As used in this part, the  
 25 following definitions apply:

1 (1) The term "public document" includes any  
 2 publication of a state agency meant for dissemination to the  
 3 public, but does not include ~~educational materials published~~  
 4 ~~by a unit of the university system or the superintendent of~~  
 5 ~~public instruction, reports of the legislative auditor,~~  
 6 ~~travel promotion materials, standard forms, bid~~  
 7 ~~specifications, opinions of the attorney general, opinions~~  
 8 ~~of the supreme court, session laws, the administrative rules~~  
 9 ~~of Montana, Montana code annotated, regular periodical~~  
 10 ~~publications sold to the general public solely through~~  
 11 ~~subscription and newsstand sale, or a publication~~  
 12 ~~specifically exempted by the publishing policy committee~~  
 13 ~~when inclusion of that publication under this part is not~~  
 14 ~~considered in the best interests of the state printed~~  
 15 ~~materials intended for internal~~ PRIMARYLY DISTRIBUTED TO  
 16 government use AGENCIES OR EMPLOYEES, OR DOCUMENTS PREPARED  
 17 FOR AND USED IN THE COMPETITIVE BIDDING PROCESS. THE  
 18 DEPARTMENT MAY DEFINE BY RULE WHICH DOCUMENTS ARE AGENCY  
 19 DOCUMENTS.

20 (2) EDUCATIONAL MATERIALS PUBLISHED BY A UNIT OF THE  
 21 UNIVERSITY SYSTEM OR THE SUPERINTENDENT OF PUBLIC  
 22 INSTRUCTION, REPORTS OF THE LEGISLATIVE AUDITOR, TRAVEL  
 23 PROMOTION MATERIALS, STANDARD FORMS, BID SPECIFICATIONS,  
 24 OPINIONS OF THE ATTORNEY GENERAL, OPINIONS OF THE SUPREME  
 25 COURT, SESSION LAWS, THE ADMINISTRATIVE RULES OF MONTANA,

1 MONTANA CODE ANNOTATED, REGULAR PERIODICAL PUBLICATIONS SOLD  
 2 TO THE GENERAL PUBLIC SOLELY THROUGH SUBSCRIPTION AND  
 3 NEWSSTAND SALE, OR A PUBLICATION SPECIFICALLY EXEMPTED BY  
 4 THE PUBLISHING POLICY COMMITTEE WHEN INCLUSION OF THAT  
 5 PUBLICATION UNDER THIS PART IS NOT CONSIDERED IN THE BEST  
 6 INTERESTS OF THE STATE ARE EXEMPT FROM PUBLIC DISCLOSURE OF  
 7 COSTS ESTABLISHED IN 18-7-306.

8 (3) THE TERM "PRINTING" AS USED HEREIN INCLUDES THOSE  
 9 SERVICES DESCRIBED IN 18-4-123.

10 (2)(4) The term "agency" as used herein includes each  
 11 state office, department, board, commission, council,  
 12 committee, unit of the university system, or other entity or  
 13 instrumentality of the executive branch, office of the  
 14 legislative branch, or office of the judicial branch of  
 15 state government.

16 (3)(5) The term "department" as used herein means the  
 17 department of administration provided for in Title 2,  
 18 chapter 15, part 10.

19 (4)(6) The term "committee" means the publishing  
 20 policy committee created in 2-15-1017."

21 SECTION 8. SECTION 18-4-221, MCA, IS AMENDED TO READ:

22 "18-4-221. General procurement authority and duties of  
 23 department -- rules. (1) Except as otherwise provided in  
 24 this chapter, the department shall adopt rules, consistent  
 25 with this chapter, governing the procurement and disposal of



1 any and all supplies and services to be procured by the  
 2 state. The department shall consider and decide matters of  
 3 policy within the provisions of this chapter. The department  
 4 may audit and monitor the implementation of its rules and  
 5 the requirements of this chapter.

6 (2) Except as otherwise specifically provided by law,  
 7 the department shall, in accordance with its rules:

8 (a) procure or supervise the procurement of all  
 9 supplies and services needed by the state; and

10 (b) sell, trade, or otherwise dispose of surplus  
 11 supplies belonging to the state.

12 (3) Nothing Except as provided in 18-7-101 and  
 13 18-7-302, nothing contained herein shall preclude the state  
 14 from doing its own printing on its own printing facilities."

15 ~~SECTION 9. SECTION 53-1-301, MCA, IS AMENDED TO READ:~~

16 ~~"53-1-301. Permitted institutional industries; powers~~  
 17 ~~of department; and incentive pay to inmates. (1) Except as~~  
 18 ~~provided in 18-1-103 and 18-7-302, or subsection (3), the~~  
 19 ~~department may:~~

20 ~~(a) establish industries in institutions which will~~  
 21 ~~result in the production or manufacture of such products and~~  
 22 ~~the rendering of such services as may be needed by any~~  
 23 ~~department or agency of the state or any political~~  
 24 ~~subdivision thereof; by any agency of the federal~~  
 25 ~~government; by any other states or their political~~

1 ~~subdivisions, or by nonprofit organizations and that will~~  
 2 ~~assist in the rehabilitation of residents in institutions;~~

3 ~~(b) contract with private industry for the sale of~~  
 4 ~~goods or components manufactured or produced in shops under~~  
 5 ~~its jurisdiction;~~

6 ~~(c) print catalogs describing goods manufactured or~~  
 7 ~~produced by institutions and distribute the catalogs;~~

8 ~~(d) fix the sale price for goods produced or~~  
 9 ~~manufactured at institutions. Prices shall not exceed prices~~  
 10 ~~existing in the open market for goods of comparable quality;~~

11 ~~(e) require institutions to purchase needed goods from~~  
 12 ~~other institutions;~~

13 ~~(f) provide for the repair and maintenance of property~~  
 14 ~~and equipment of institutions by residents of institutions;~~

15 ~~(g) provide for construction projects up to the~~  
 16 ~~aggregate sum of \$25,000 per project, by residents of~~  
 17 ~~institutions; provided, however, said construction work is~~  
 18 ~~not covered by a collective bargaining agreement;~~

19 ~~(h) provide for the repair and maintenance at an~~  
 20 ~~institution of furniture and equipment of any state agency;~~

21 ~~(i) provide for the manufacture at an institution of~~  
 22 ~~motor vehicle license plates and other related articles;~~

23 ~~(j) with the approval of the department, sell~~  
 24 ~~manufactured or agricultural products and livestock on the~~  
 25 ~~open market;~~

1       {k)--provide--for--the-manufacture-at-an-institution-of  
2 highway, road, and street marking signs for the use--of--the  
3 state--or-any-of-its-political-subdivisions, except when the  
4 manufacture-of-the-signs-is-in--violation--of--a--collective  
5 bargaining contract;

6       {i)--pay--an--inmate-or-resident-of-an-institution-from  
7 receipts-from-the-sale-of-products-produced-or--manufactured  
8 or-services-rendered-in-a-program-in-which-he-is-working;

9       {2)--(a)-Payment--for--the--performance--of-work-may-be  
10 based-on-the-following-criteria:

11       {i)--knowledge-and-skill;

12       {ii)-attitude-toward-authority;

13       {iii)-physical-effort;

14       {iv)-responsibility-for-equipment-and-materials;

15       {v)--regard-for-safety-of-others;

16       {b)--The-maximum-rate-of-pay-shall-be-determined-by-the  
17 appropriation-established-for-each-program;

18       {3)--Except-as-provided-in--subsection--{4},--furniture  
19 made--in--the--prison--may-be-purchased-by-state-agencies-in  
20 accordance-with-the-procurement-provisions-under--Title--18,  
21 chapter--4. All other prison-made furniture may be sold only  
22 through-licensed-wholesale-or-retail--furniture--outlets--or  
23 through-export-firms-for-sale-to-international-markets;

24       {4)--Any--state--institution,--facility,--or--program  
25 operated--by--the--department--may--purchase--prison-made

1       furniture--without-complying-with-the-procurement-provisions  
2 under-Title-18, chapter-4."

3       ~~NEW SECTION. Section 10. Repealer. Section 18-7-187,~~  
4 ~~MCA, is repealed.~~

5       ~~NEW SECTION. Section 9. Extension of authority. Any~~  
6 ~~existing authority of the department of administration to~~  
7 ~~make rules on the subject of the provisions of this act is~~  
8 ~~extended to the provisions of this act.~~

9       ~~NEW SECTION. Section 10. Codification instruction.~~  
10 ~~Sections 1 and 2 are intended to be codified as an integral~~  
11 ~~part of Title 18, chapter 7, and the provisions of Title 18,~~  
12 ~~chapter 7, apply to sections 1 and 2.~~

13       ~~NEW SECTION. Section 11. Applicability. Sections 1~~  
14 ~~through 7 9 8 do not apply to state printing contracts~~  
15 ~~awarded or for which invitations for bids or requests for~~  
16 ~~proposals have been issued prior to July 1, 1987.~~

17       ~~NEW SECTION. Section 12. Effective date. This act is~~  
18 ~~effective July 1, 1987.~~

-End-