

HOUSE BILL 184

Introduced by Whalen, et al.

1/14	Introduced
1/16	Referred to Labor & Employment Relations
1/17	Fiscal Note Requested
1/23	Fiscal Note Received
1/24	Hearing
1/25	Talbed in Committee
1/26	Fiscal Note Printed

1 HOUSE BILL NO. 184  
2 INTRODUCED BY Whalen, Bleyerich, [Signature]  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
5 GOVERNING LABOR PERFORMED BY PATIENTS AT A MENTAL HEALTH  
6 FACILITY; AMENDING SECTIONS 53-1-301 AND 53-21-167, MCA; AND  
7 PROVIDING AN EFFECTIVE DATE."  
8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10 **Section 1.** 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 subsection (3), the department may:  
14 (a) establish industries in institutions which will  
15 result in the production or manufacture of such products and  
16 the rendering of such services as may be needed by any  
17 department or agency of the state, or any political  
18 subdivision thereof of the state, by any agency of the  
19 federal government, by any other states or their political  
20 subdivisions, or by nonprofit organizations and that will  
21 assist in the rehabilitation of residents in institutions;  
22 (b) contract with private industry for the sale of  
23 goods or components manufactured or produced in shops under  
24 its jurisdiction;  
25 (c) print and distribute catalogs describing goods

1 manufactured or produced by institutions and distribute the  
2 catalogs;

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

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

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

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

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

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

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

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

bargaining contract;

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

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

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

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

(c) The minimum rate of pay for patients performing labor at the Montana state hospital must be set in accordance with the requirements of 53-21-167.

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

(4) Any state institution, facility, or program operated by the department may purchase prison-made furniture without complying with the procurement provisions

under Title 18, chapter 4."

**Section 2.** Section 53-21-167, MCA, is amended to read:

"53-21-167. Patient labor. The following rules shall govern patient labor performed at any mental health facility as defined in 53-21-102:

(1) No A patient shall may not be required to perform labor which involves the operation and maintenance of a facility or for which the facility is under contract with an outside organization. Privileges or release from the facility shall may not be conditioned upon the performance of labor covered by this provision. Patients may voluntarily engage in such labor if the labor is compensated in accordance with the minimum wage laws of the Fair Labor Standards Act, 29 U.S.C. ~~7-sec~~ 206, as amended.

(2) (a) Patients may be required to perform therapeutic tasks which do not involve the operation and maintenance of the facility, provided the specific task or any change in assignment is:

(i) an integrated part of the patient's treatment plan and approved as a therapeutic activity by a professional person responsible for supervising the patient's treatment; and

(ii) supervised by a staff member to oversee the therapeutic aspects of the activity; and

(iii) compensated in accordance with the minimum wage

1 laws of the Fair Labor Standards Act, 29 U.S.C. 206, as  
2 amended.

3 (b) Patients may voluntarily engage in therapeutic  
4 labor for which the facility would otherwise have to pay an  
5 employee, provided the specific labor or any change in labor  
6 assignment is:

7 (i) an integrated part of the patient's treatment plan  
8 and approved as a therapeutic activity by a professional  
9 person responsible for supervising the patient's treatment;

10 (ii) supervised by a staff member to oversee the  
11 therapeutic aspects of the activity; and

12 (iii) compensated in accordance with the minimum wage  
13 laws of the Fair Labor Standards Act, 29 U.S.C. 206,  
14 as amended.

15 (3) If any patient performs therapeutic labor which  
16 involves the operation and maintenance of a facility but due  
17 to physical or mental disability is unable to perform the  
18 labor as efficiently as a person not so physically or  
19 mentally disabled, then the patient may be compensated at a  
20 rate which bears the same approximate relation to the  
21 statutory minimum wage as his ability to perform that  
22 particular job bears to the ability of a person not so  
23 afflicted.

24 (4) Patients may be required to perform tasks of a  
25 personal housekeeping nature, such as the making of one's

1 own bed.

2 (5) Deductions or payments for care and other charges  
3 ~~shall~~ may not:

4 (a) deprive a patient of a reasonable amount of the  
5 compensation received pursuant to this section for personal  
6 and incidental purchases and expenses; or

7 (b) be of a punitive or disciplinary nature.

8 (6) Any deductions or payments for care and other  
9 charges under subsection (5) must be:

10 (a) uniformly applied to all patients employed within  
11 the same facility; and

12 (b) supported by a written statement outlining the  
13 nature and amount of all deductions and payments charged to  
14 the patient.

15 (7) A patient who performs labor under the provisions  
16 of this section may not be denied access to any program or  
17 benefit available to a patient who does not perform labor."

18 NEW SECTION. Section 3. Extension of authority. Any  
19 existing authority to make rules on the subject of the  
20 provisions of [this act] is extended to the provisions of  
21 [this act].

22 NEW SECTION. Section 4. Effective date. [This act] is  
23 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

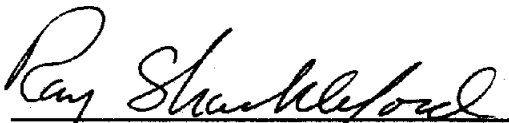
In compliance with a written request, there is hereby submitted a Fiscal Note for HB184, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act to revise the laws governing labor performed by patients at a mental health facility; amending Sections 53-1-301 and 53-21-167, MCA; and providing an effective date."

ASSUMPTIONS:

1. Assume the proposed legislation is intended to get patients of the mental health centers' day treatment programs pay for work performed.
2. Assume HB184 is to correct what are perceived to be problems at Montana State Hospital:
  - a. patients who work aren't allowed to have donated clothing;
  - b. deductions from pay aren't documented for the patient.
3. Assume all work performed by patients which must be compensated is already a part of the patient work program.
4. Assume no fiscal impact at the institutions.
5. Assume institutions are in fiscal compliance with intent of HB184.

 1/21/89  
RAY SHACKLEFORD, BUDGET DIRECTOR      DATE  
OFFICE OF BUDGET AND PROGRAM PLANNING

TIMOTHY J. WHALEN, PRIMARY SPONSOR      DATE

Fiscal Note for HB184, as introduced

**HB 184**