

HOUSE BILL NO. 4

INTRODUCED BY BENEDICT
BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND
HUMAN SERVICES AND THE OFFICE OF BUDGET AND PROGRAM PLANNING

IN THE HOUSE

NOVEMBER 24, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
NOVEMBER 29, 1993	FIRST READING.
DECEMBER 1, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
DECEMBER 3, 1993	SECOND READING, DO PASS.
	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 58; NOES, 41.
	TRANSMITTED TO SENATE.

IN THE SENATE

DECEMBER 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
DECEMBER 14, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
DECEMBER 15, 1993	SECOND READING, CONCURRED IN.
	THIRD READING, CONCURRED IN. AYES, 42; NOES, 7.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

DECEMBER 17, 1993	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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HUMAN SERVICES AND THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF
INMATE LABOR FOR CONSTRUCTION OF THE DAIRY DORMITORY AT THE
MONTANA STATE PRISON AS AUTHORIZED IN SECTIONS 2 AND 18,
CHAPTER 624, LAWS OF 1993; ALLOWING THE PROJECT TO BE EXEMPT
FROM PUBLIC BIDDING, BONDING, CONTRACTS, WORKERS'
COMPENSATION COVERAGE, OR LABOR AND WAGE REQUIREMENTS;
AMENDING SECTION 53-1-301, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

WHEREAS, the Department of Corrections and Human
Services is trying to expand the number and variety of
productive work experiences for inmates at the Montana State
Prison; and

WHEREAS, the prison ranch is recognized as a productive
work site; and

WHEREAS, the Department wishes to contribute to
statewide efforts to balance the budget but is unable to
absorb further operating budget reductions; and

WHEREAS, construction of the low-security facility using
inmate labor as authorized by the 51st Legislature was both

an effective work experience and cost-reduction measure.

THEREFORE, the Legislature of the State of Montana finds
it is appropriate to amend section 53-1-301, MCA, for the
purpose of using inmate labor to construct the dairy
dormitory at the Montana State Prison.

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

Section 1. Section 53-1-301, MCA, is amended to read:

"53-1-301. Permitted institutional industries, powers
of department, and incentive pay to inmates. (1) Except as
provided in subsection (4), the department may:

(a) establish industries in institutions that will
result in the production or manufacture of products and the
rendering of services as may be needed by any department or
agency of the state or any political subdivision of the
state, by any agency of the federal government, by any other
states or their political subdivisions, or by nonprofit
organizations and that will assist in the rehabilitation of
residents in institutions;

(b) obtain federal certification of specific prison
industries programs in order to gain access to interstate
markets for prison industries products;

(c) contract with private industry for the sale of
goods or components manufactured or produced in shops under
its jurisdiction and for the employment of inmates in

1 federally certified prison industries programs;

2 (d) print catalogs describing goods manufactured or

3 produced by institutions and distribute the catalogs;

4 (e) fix the sale price for goods produced or

5 manufactured at institutions. Prices may not exceed prices

6 existing in the open market for goods of comparable quality.

7 (f) require institutions to purchase needed goods from

8 other institutions;

9 (g) provide for the repair and maintenance of property

10 and equipment of institutions by residents of institutions;

11 (h) provide for construction projects, up to the

12 aggregate sum of \$25,000 per project, performed by residents

13 of institutions, except when the construction work is

14 covered by a collective bargaining agreement;

15 (i) provide for the repair and maintenance at an

16 institution of furniture and equipment of any state agency;

17 (j) provide for the manufacture at an institution of

18 motor vehicle license plates and other related articles;

19 (k) sell manufactured or agricultural products and

20 livestock on the open market;

21 (l) 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 (m) 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 the inmate or

4 resident is working;

5 (n) collect 15% of the net wages paid to an inmate

6 employed in a federally certified prison industries program

7 for deposit in the Montana crime victims compensation and

8 assistance account established under 53-9-109; and

9 (o) collect from an inmate employed in a federally

10 certified prison industries program charges for room and

11 board consistent with charges established by the director

12 for inmates assigned to prerelease centers.

13 (2) (a) Except as provided for in subsection (2)(b),

14 payment for the performance of work may be based on the

15 following criteria:

16 (i) knowledge and skill;

17 (ii) attitude toward authority;

18 (iii) physical effort;

19 (iv) responsibility for equipment and materials; and

20 (v) regard for safety of others.

21 (b) The maximum rate of pay must be determined by the

22 appropriation established for each program, except that

23 inmates employed in a federally certified prison industries

24 program must be paid at a rate not less than the rate paid

25 for similar work in the locality where the inmate performs

1 the work.

2 (3) Premiums for workers' compensation and occupational
3 disease coverage must be paid by the prison industries
4 program or by the department of--institutions. If the
5 department pays the premium, reimbursement for premium
6 payments for workers' compensation and occupational disease
7 coverage must be made to the department by the private
8 company contracting with the federally certified prison
9 industries program for services and products.

10 (4) Except as provided in subsection (5), furniture
11 made in the prison may be purchased by state agencies in
12 accordance with the procurement provisions under Title 18,
13 chapter 4. All other prison-made furniture may be sold only
14 through licensed wholesale or retail furniture outlets or
15 through export firms for sale to international markets.

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

20 (6) The department may provide for the construction of
21 the project authorized in [section 2] by inmates at the
22 Montana state prison."

23 **NEW SECTION. Section 2. Authorization of inmate labor**
24 **for designated construction project -- exemptions. (1) The**
25 **department of corrections and human services is authorized**

1 to use inmate labor for the purpose of constructing the
2 dairy dormitory at the Montana state prison authorized in
3 sections 2 and 18, Chapter 624, Laws of 1993.

4 (2) The department of administration may exempt the
5 project authorized in this section from the provisions of
6 any applicable Montana law relating to public bidding,
7 bonding, contracts, workers' compensation coverage, or labor
8 and wage requirements.

9 **NEW SECTION. Section 3. Severability.** If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, and the
13 part remains in effect in all valid applications that are
14 severable from the invalid applications.

15 **NEW SECTION. Section 4. Effective date.** [This act] is
16 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0004, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act allowing the use of inmate labor for construction of the dairy dormitory at the Montana State Prison, the construction of which was authorized in Sections 2 and 18, Chapter 624, Laws of 1993 (HB5).

ASSUMPTIONS:

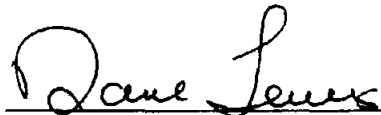
1. Section 2 of HB5 appropriates \$605,212 of proprietary revenue in the prison ranch account towards construction of the dairy dormitory.
2. The balance of the total \$2,222,729 dairy dorm project [\$1,617,517], based on the architect's project budget, was authorized through issuance of long-range building program bonds in Section 18 of HB5.
3. After the Fifty-first Legislature authorized construction of a low-security housing unit at Montana State Prison using inmate labor, the savings were 40% of the project cost.
4. A minimum 40% savings is projected for the dairy dorm, resulting in a reduction of \$889,091 to the bond issue planned for January or February 1994.
5. The FY95 general fund debt service will be reduced by about \$82,981.

FISCAL IMPACT:

No FY94 impact. Assuming interest payments commencing six months after the date of issuance, FY95 general fund savings would be about \$82,981, depending on interest rates and other variables.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Over the life of the bonds, the general fund savings is projected at approximately \$1,249,172.



DAVE LEWIS, BUDGET DIRECTOR
Office of Budget and Program Planning

11-25

DATE

STEVE BENEDICT, PRIMARY SPONSOR
Fiscal Note for HB0004, as introduced

DATE

HB 4

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 4

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statewide efforts to balance the budget but is unable to
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WHEREAS, construction of the low-security facility using
inmate labor as authorized by the 51st Legislature was both

an effective work experience and cost-reduction measure.

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agency of the state or any political subdivision of the
state, by any agency of the federal government, by any other
states or their political subdivisions, or by nonprofit
organizations and that will assist in the rehabilitation of
residents in institutions;

(b) obtain federal certification of specific prison
industries programs in order to gain access to interstate
markets for prison industries products;

(c) contract with private industry for the sale of
goods or components manufactured or produced in shops under
its jurisdiction and for the employment of inmates in

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2 (d) print catalogs describing goods manufactured or

3 produced by institutions and distribute the catalogs;

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5 manufactured at institutions. Prices may not exceed prices

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10 and equipment of institutions by residents of institutions;

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18 motor vehicle license plates and other related articles;

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20 livestock on the open market;

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24 manufacture of the signs is in violation of a collective

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22 appropriation established for each program, except that

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24 program must be paid at a rate not less than the rate paid

25 for similar work in the locality where the inmate performs

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 14, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 4 (third reading copy -- blue), respectfully report that House Bill No. 4 be amended as follows and as so amended be concurred in.

Signed: Judy H. Jacobson
Senator Judy H. Jacobson, Chair

That such amendments read:

1. Title, line 9.

Following: "1993;"

Insert: "UNDER CERTAIN CIRCUMSTANCES,"

2. Title, line 12.

Strike: "AMENDING" through "MCA;"

3. Page 2, lines 2 through 5.

Strike: lines 2 through 5 in their entirety

4. Page 2, line 8 through page 5, line 22.

Strike: section 1 in its entirety

Renumber subsequent sections

5. Page 6.

Following: line 8

Insert: "(3) The department of administration is directed to provide for construction of the project authorized in this section, which is to be built by the lowest responsible bidder, with contract specifications to allow the use of inmate labor. The percentage of inmate labor must be determined prior to the advertising for bid of the project through negotiations among the department of corrections and human services, the department of administration, representatives of construction industry employers, and representatives of the building trades. Inmate labor shall work in a training or apprenticeship program. If the department rejects all bids, it is authorized to build the project using inmate labor."

-END-

m- Amd. Coord.
SB Sec. of Senate

Keating
Senator Carrying Bill

HB 4
SENATE

HOUSE BILL NO. 4

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CHAPTER 624, LAWS OF 1993; UNDER CERTAIN CIRCUMSTANCES,
ALLOWING THE PROJECT TO BE EXEMPT FROM PUBLIC BIDDING,
BONDING, CONTRACTS, WORKERS' COMPENSATION COVERAGE, OR LABOR
AND WAGE REQUIREMENTS; ~~AMENDING SECTION 53-1-3017-MCA;~~ AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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productive work experiences for inmates at the Montana State
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WHEREAS, the prison ranch is recognized as a productive
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WHEREAS, the Department wishes to contribute to
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WHEREAS, construction of the low-security facility using
inmate labor as authorized by the 51st Legislature was both

an effective work experience and cost-reduction measure.

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it is appropriate to amend section 53-1-3017-MCA, for the
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result--in the production or manufacture of products and the
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agency--of the state or any political subdivision of the
state, by any agency of the federal government, by any other
states or their political subdivisions, or by nonprofit
organizations--and that will assist in the rehabilitation of
residents in institutions;~~

~~(b)--obtain federal certification of specific prison
industries--programs--in order to gain access to interstate
markets for prison industries products;~~

~~(c)--contract with private industry for the sale of
goods or components manufactured or produced in shops under
its jurisdiction--and for the employment of inmates in~~

1 federally-certified-prison-industries-programs;

2 {d}--print--catalogs--describing--goods--manufactured-or

3 produced-by-institutions-and-distribute-the-catalogs;

4 {e}--fix--the--sale--price---for---goods---produced---or

5 manufactured--at--institutions;-Prices-may-not-exceed-prices

6 existing-in-the-open-market-for-goods-of-comparable-quality;

7 {f}--require-institutions-to-purchase-needed-goods--from

8 other-institutions;

9 {g}--provide--for-the-repair-and-maintenance-of-property

10 and-equipment-of-institutions-by-residents-of-institutions;

11 {h}--provide--for--construction--projects;-up-to---the

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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 {m}--pay-an-inmate-or-resident-of--an--institution--from

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3 or-services-rendered-in-a-program-in--which--the--inmate--or

4 resident-is-working;

5 {n}--collect--15%--of--the--net--wages-paid-to-an-inmate

6 employed-in-a-federally-certified-prison-industries--program

7 for--deposit--in--the-Montana-crime-victims-compensation-and

8 assistance-account-established-under-53-9-109;-and

9 {o}--collect-from-an--inmate--employed--in--a--federally

10 certified--prison--industries--program--charges-for-room-and

11 board-consistent-with-charges-established--by--the--director

12 for-inmates-assigned-to-prerelease-centers;

13 {2}--(a)--Except--as--provided--for-in-subsection-(2)(b);

14 payment-for-the-performance-of-work--may--be--based--on--the

15 following-criteria:

16 {i}--knowledge-and-skill;

17 {ii}--attitude-toward-authority;

18 {iii}--physical-effort;

19 {iv}--responsibility-for-equipment-and-materials;-and

20 {v}--regard-for-safety-of-others;

21 {b}--The--maximum--rate-of-pay-must-be-determined-by-the

22 appropriation-established--for--each--program;-except--that

23 inmates--employed-in-a-federally-certified-prison-industries

24 program-must-be-paid-at-a-rate-not-less-than-the--rate--paid

25 for--similar--work-in-the-locality-where-the-inmate-performs

1 the-work-

2 (3)--Premiums-for-workers'-compensation-and-occupational
3 disease-coverage-must-be-paid-by-the-prison-industries
4 program-or-by-the-department-of-institutions--if-the
5 department-pays-the-premium--reimbursement-for-premium
6 payments-for-workers'-compensation-and-occupational-disease
7 coverage-must-be-made-to-the-department-by-the-private
8 company--contracting-with-the-federally-certified-prison
9 industries-program-for-services-and-products-

10 (4)--Except-as-provided-in-subsection-(5),-furniture
11 made-in-the-prison-may-be-purchased-by-state-agencies-in
12 accordance-with-the-procurement-provisions-under-Title-18,
13 chapter-4.-All-other-prison-made-furniture-may-be-sold-only
14 through-licensed-wholesale-or-retail-furniture-outlets-or
15 through-export-firms-for-sale-to-international-markets-

16 (5)--Any-state-institution,-facility,-or-program
17 operated-by-the-department-may-purchase-prison-made
18 furniture-without-complying-with-the-procurement-provisions
19 under-Title-18,-chapter-4-

20 (6)--The-department-may-provide-for-the-construction-of
21 the-project-authorized-in-(section-2)-by-inmates-at-the
22 Montana-state-prison."

23 NEW SECTION. Section 1. Authorization of inmate labor
24 for designated construction project -- exemptions. (1) The
25 department of corrections and human services is authorized

1 to use inmate labor for the purpose of constructing the
2 dairy dormitory at the Montana state prison authorized in
3 sections 2 and 18, Chapter 624, Laws of 1993.

4 (2) The department of administration may exempt the
5 project authorized in this section from the provisions of
6 any applicable Montana law relating to public bidding,
7 bonding, contracts, workers' compensation coverage, or labor
8 and wage requirements.

9 (3) THE DEPARTMENT OF ADMINISTRATION IS DIRECTED TO
10 PROVIDE FOR CONSTRUCTION OF THE PROJECT AUTHORIZED IN THIS
11 SECTION, WHICH IS TO BE BUILT BY THE LOWEST RESPONSIBLE
12 BIDDER, WITH CONTRACT SPECIFICATIONS TO ALLOW THE USE OF
13 INMATE LABOR. THE PERCENTAGE OF INMATE LABOR MUST BE
14 DETERMINED PRIOR TO THE ADVERTISING FOR BID OF THE PROJECT
15 THROUGH NEGOTIATIONS AMONG THE DEPARTMENT OF CORRECTIONS AND
16 HUMAN SERVICES, THE DEPARTMENT OF ADMINISTRATION,
17 REPRESENTATIVES OF CONSTRUCTION INDUSTRY EMPLOYERS, AND
18 REPRESENTATIVES OF THE BUILDING TRADES. INMATE LABOR SHALL
19 WORK IN A TRAINING OR APPRENTICESHIP PROGRAM. IF THE
20 DEPARTMENT REJECTS ALL BIDS, IT IS AUTHORIZED TO BUILD THE
21 PROJECT USING INMATE LABOR.

22 NEW SECTION. Section 2. Severability. If a part of
23 [this act] is invalid, all valid parts that are severable
24 from the invalid part remain in effect. If a part of [this
25 act] is invalid in one or more of its applications, and the

HB 0004/02

1 part remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. **Section 3.** Effective date. [This act] is
4 effective on passage and approval.

-End-