

SENATE BILL NO. 2

INTRODUCED BY HOLDEN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING, CLARIFYING, AND CONSOLIDATING THE LAWS GOVERNING WORK PROGRAMS FOR INMATES; AUTHORIZING THE USE OF INMATE LABOR FOR THE REPAIR AND MAINTENANCE OF PROPERTY AND EQUIPMENT OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; PROVIDING FOR SECURING INMATES WHILE PERFORMING WORK; AMENDING SECTIONS 53-1-301, 53-1-304, 53-30-111, 53-30-132, AND 53-30-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

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, ~~the~~ powers of departments, and incentive pay to inmates department. (1) ~~Except as provided in subsection (4), the department of corrections or the~~ The department of public health and human services may:

(a) establish industries in institutions that will result in the production or manufacture of products and the rendering of services as that 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 federally certified prison industries programs;~~

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

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

- 1 ~~(#)(e)~~ require institutions to purchase needed goods from other institutions or from prison industries;
- 2 ~~(g)(f)~~ provide for the repair and maintenance of property and equipment of institutions by residents
- 3 of institutions;
- 4 ~~(h)~~ ~~provide for construction projects, up to the aggregate sum of \$25,000 per project, performed~~
- 5 ~~by residents of institutions, except when the construction work is covered by a collective bargaining~~
- 6 ~~agreement;~~
- 7 ~~(#)(g)~~ provide for the repair and maintenance at an institution of furniture and equipment of any
- 8 state agency;
- 9 ~~(j)~~ ~~provide for the manufacture at an institution of motor vehicle license plates and other related~~
- 10 ~~articles;~~
- 11 ~~(k)(h)~~ sell manufactured ~~or agricultural~~ products ~~and livestock~~ on the open market; and
- 12 ~~(l)~~ ~~provide for the manufacture at an institution of highway, road, and street marking signs for the~~
- 13 ~~use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation~~
- 14 ~~of a collective bargaining contract;~~
- 15 ~~(m)(i)~~ pay an inmate ~~or~~ a resident of an institution from receipts from the sale of products produced
- 16 or manufactured or services rendered in a program in which the inmate ~~or~~ resident is working;
- 17 ~~(n)~~ ~~collect 15% of the net wages paid to an inmate employed in a federally certified prison~~
- 18 ~~industries program for deposit in the Montana crime victims compensation and assistance account~~
- 19 ~~established under 53-9-109; and~~
- 20 ~~(o)~~ ~~collect from an inmate employed in a federally certified prison industries program charges for~~
- 21 ~~room and board consistent with charges established by the director for inmates assigned to prerelease~~
- 22 ~~centers.~~
- 23 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be
- 24 based on the following criteria:
- 25 (i) knowledge and skill;
- 26 (ii) attitude toward authority;
- 27 (iii) physical effort;
- 28 (iv) responsibility for equipment and materials; and
- 29 (v) regard for safety of others.
- 30 (b) The maximum rate of pay must be determined by the appropriation established for each

1 program, except that an inmate employed in a federally certified prison industries program must be paid at
 2 a rate not less than the rate paid for similar work in the locality where the inmate performs the work.

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

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

12 ~~(5) Any state institution, facility, or program operated by the department of corrections may~~
 13 ~~purchase prison made furniture without complying with the procurement provisions under Title 18, chapter~~
 14 ~~4."~~

15
 16 **Section 2.** Section 53-1-304, MCA, is amended to read:

17 **"53-1-304. Supervision of industries program.** The industries program must be supervised by the
 18 director ~~of the department of corrections or of the department of public health and human services or the~~
 19 director's designated representative, provided that the administration of the industries program is separate
 20 from the administration of any institution where the program may be located."

21
 22 **Section 3.** Section 53-30-111, MCA, is amended to read:

23 **"53-30-111. Clothing and money furnished on discharge or parole.** The state prison shall furnish
 24 suitable clothing to a discharged or paroled inmate. An inmate discharged and delivered to the custody of
 25 the federal government or another state ~~shall~~ must receive \$5. All other discharged or paroled inmates may
 26 receive "gate money" in an amount up to \$100. The department of corrections may establish rules that
 27 allow it to deduct up to one-fourth of an inmate's wages earned under ~~53-1-304~~ 53-30-131 and hold that
 28 money in a special account to be disbursed to the inmate when the inmate is discharged or paroled. This
 29 amount is in addition to the "gate money"."

1 **Section 4.** Section 53-30-132, MCA, is amended to read:

2 "**53-30-132. Inmate participation and status in prison work programs -- prison industries training**
3 **program -- wages and benefits.** (1) The department of corrections may:

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

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

10 (c) contract with private industry for the sale of goods or components manufactured or produced
11 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries
12 programs;

13 (d) print catalogs describing goods manufactured or produced by prison industries and distribute
14 the catalogs;

15 (e) fix the sale price for goods produced or manufactured by prison industries. Prices may not
16 exceed prices existing in the open market for goods of comparable quality.

17 (f) provide for the repair and maintenance of property and equipment of institutions, public roads,
18 and public parks by inmates;

19 (g) provide for construction projects, up to the aggregate sum of \$25,000 a project, performed by
20 inmates, except when the construction work is covered by a collective bargaining agreement;

21 (h) provide for the repair and maintenance by prison industries of furniture and equipment of any
22 state agency;

23 (i) provide for the manufacture by prison industries of motor vehicle license plates and other related
24 articles;

25 (j) sell manufactured or agricultural products and livestock on the open market;

26 (k) provide for the manufacture by prison industries of highway, road, and street marking signs for
27 the use of the state or any of its political subdivisions, except when the manufacture of the signs is in
28 violation of a collective bargaining contract;

29 (l) pay an inmate from receipts from the sale of products produced or manufactured or services
30 rendered in a program in which the inmate is working;

1 (m) collect 15% of the net wages paid to an inmate employed in a federally certified prison
2 industries program for deposit in the Montana crime victims compensation and assistance account
3 established under 53-9-109; and

4 (n) collect from an inmate employed in a federally certified prison industries program charges for
5 room and board consistent with charges established by the director for inmates assigned to prerelease
6 centers.

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

11 (3) Any state institution, facility, or program operated by the department of corrections may
12 purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter
13 4.

14 ~~(4)~~(4) While engaged in on-the-job training and production, inmates not employed in a federally
15 certified prison industries program may be paid a wage commensurate with their production function.
16 Wages must be established at a rate that encourages efficient production and effective levels of inmate
17 participation. Inmates employed in a federally certified prison industries program must be paid as provided
18 in ~~53-1-301(2)~~ subsection (5).

19 (5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be
20 based on the following criteria:

21 (i) knowledge and skill;

22 (ii) attitude toward authority;

23 (iii) physical effort;

24 (iv) responsibility for equipment and materials; and

25 (v) regard for safety of others.

26 (b) The maximum rate of pay must be determined by the appropriation established for the program,
27 except that an inmate employed in a federally certified prison industries program must be paid at a rate not
28 less than the rate paid for similar work in the locality where the inmate performs the work.

29 (6) Premiums for workers' compensation and occupational disease coverage must be paid by the
30 prison industries program or by the department of corrections. If the department of corrections pays the

1 premium, reimbursement for premium payments for workers' compensation and occupational disease
 2 coverage must be made to the department of corrections by the private company contracting with the
 3 federally certified prison industries program for services and products.

4 ~~(2)~~(7) Inmates not working in a federally certified prison industries training program are not
 5 employees, either public or private, and employment rights accorded other classes of workers do not apply
 6 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and
 7 benefits as provided in 39-71-744.

8 ~~(3)~~(8) Able-bodied persons committed to the Montana state prison as adult offenders must be
 9 required to perform work as provided for by the department of corrections. In order to ensure the public
 10 safety, the department may secure inmates performing work."

11
 12 **Section 5.** Section 53-30-141, MCA, is amended to read:

13 **"53-30-141. Extension of limits of confinement.** (1) The department of corrections may extend
 14 the limits of confinement of the Montana state prison for purposes of housing outside the prison fence
 15 inmates who:

16 (a) are employed in ranch or agricultural industry programs, programs for the repair and
 17 maintenance of public roads, or public park maintenance programs; and

18 (b) have demonstrated sufficient reliability and trustworthiness.

19 (2) Housing units outside the confines of the prison fence may be created by renovation of existing
 20 buildings or by the erection of modular-type units and associated facilities on the prison ranch.

21 (3) For the purpose of expediting the acquisition and construction of housing units authorized in
 22 subsection (2), the department of administration may exempt the project from provisions of Montana law
 23 relating to the employment of architects, advertising, labor, and wages. The department of administration
 24 need not comply with any state bidding requirements that would preclude a sole source purchase."

25
 26 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 1997.

27 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0002, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill generally revising, clarifying and consolidating the laws governing work programs for inmates; authorizing the use of inmate labor for the repair and maintenance of property and equipment of institutions, public roads, and public parks; providing for securing inmates while performing work.

ASSUMPTIONS:

1. This bill has no fiscal impact on Montana Correctional Enterprise (MCE) programs.
2. The forced labor program will be run by the Montana State Prison and will target parole violators, pre-release and boot camp recidivists and escapees.
3. The bill gives the Department of Corrections (DOC) the discretionary authority to use inmate labor for road and park maintenance. The department is not mandated to use inmate labor.
4. The Governor's Executive Budget includes the cost of five, 15-inmate crews as a new proposal which includes 3% vacancy savings and funding effective October 1, 1997. This information is repeated below.
5. On-site crews will require a minimum staffing ratio of one officer for every 15 inmate workers. Off-site crews will require two officers for every 10-15 inmates.
6. To achieve this staffing ratio, 8 Correctional Officers (grade 11) will be required.
7. The program will require a Correctional Supervisor (grade 13) to oversee the crews.
8. Operating expenses include \$8,000 each year to pay for gasoline, I.D. cards for inmates, camera film, etc. Also included is \$400 per FTE for clothing in fiscal year 1998 and \$120 per FTE each year for telephone charges.
9. Equipment costs in the first year of operation include 2 special-equipped vans @ \$27,000 each, \$14,000 for handcuffs, locks, radios, and vests, and 7 computers @ \$3,462 each.
10. There is no fiscal impact to Department of Public Health and Human Services as a result of SB0002.

FISCAL IMPACT:

Expenditures: [As shown in the Executive Budget]

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	6.75	9.00
Personal Services	175,351	234,329
Operating Expenses	12,631	8,840
Equipment	<u>102,620</u>	<u>0</u>
Total	290,602	243,169

Funding:

General Fund (01)	290,602	243,169
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Costs in subsequent years would be consistent with fiscal year 1999 costs to continue the program at the same level of inmate participation.

TECHNICAL NOTES:

1. The first sentence regarding 53-30-132, MCA, as amended, is applicable to all MCE programs (ranch, industries and vocational training/education) not just industries training program as referenced.
2. Section 53-1-304, MCA, as amended is applicable only to DPHHS. A similar section needs to be added for the supervision of DOC industries programs.
3. DOC drafted similar legislation (SB109) for able-bodied inmates to perform work.

Dave Lewis 1-9-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Ric Holden 1-10-97
 RIC HOLDEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0002, as introduced

SBA

APPROVED BY COM
ON JUDICIARY

1 SENATE BILL NO. 2

2 INTRODUCED BY HOLDEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING, CLARIFYING, AND CONSOLIDATING
5 THE LAWS GOVERNING WORK PROGRAMS FOR INMATES; AUTHORIZING THE USE OF INMATE LABOR
6 FOR THE ~~REPAIR AND MAINTENANCE OF~~ REMOVAL OF LITTER AND GRAFFITI FROM PROPERTY AND
7 EQUIPMENT OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; PROVIDING FOR SECURING
8 INMATES WHILE PERFORMING WORK; AMENDING SECTIONS 53-1-301, 53-1-304, 53-30-111,
9 53-30-131, 53-30-132, AND 53-30-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 53-1-301, MCA, is amended to read:

14 **"53-1-301. Permitted institutional industries, -- powers of departments, and incentive pay to**
15 **inmates department.** (1) ~~Except as provided in subsection (4), the department of corrections or the~~ The
16 department of public health and human services may:

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

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

24 ~~(e)~~ contract with private industry for the sale of goods or components manufactured or produced
25 in shops under its jurisdiction ~~and for the employment of inmates in federally certified prison industries~~
26 ~~programs;~~

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

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

1 ~~(f)(e)~~ require institutions to purchase needed goods from other institutions or from prison industries;

2 ~~(g)(f)~~ provide for the repair and maintenance of property and equipment of institutions by residents
3 of institutions;

4 ~~(h)~~ provide for construction projects, up to the aggregate sum of \$25,000 per project, performed
5 by residents of institutions, except when the construction work is covered by a collective bargaining
6 agreement;

7 ~~(i)(g)~~ provide for the repair and maintenance at an institution of furniture and equipment of any
8 state agency;

9 ~~(j)~~ provide for the manufacture at an institution of motor vehicle license plates and other related
10 articles;

11 ~~(k)(h)~~ sell manufactured ~~or~~ agricultural products and livestock on the open market; and

12 ~~(l)~~ provide for the manufacture at an institution of highway, road, and street marking signs for the
13 use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation
14 of a collective bargaining contract;

15 ~~(m)(i)~~ pay an inmate ~~or~~ a resident of an institution from receipts from the sale of products produced
16 or manufactured or services rendered in a program in which the inmate ~~or~~ resident is working;

17 ~~(n)~~ collect 15% of the net wages paid to an inmate employed in a federally certified prison
18 industries program for deposit in the Montana crime victims compensation and assistance account
19 established under 53-9-109; and

20 ~~(o)~~ collect from an inmate employed in a federally certified prison industries program charges for
21 room and board consistent with charges established by the director for inmates assigned to prerelease
22 centers.

23 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be
24 based on the following criteria:

25 (i) knowledge and skill;

26 (ii) attitude toward authority;

27 (iii) physical effort;

28 (iv) responsibility for equipment and materials; and

29 (v) regard for safety of others.

30 (b) The maximum rate of pay must be determined by the appropriation established for each

1 program, ~~except that an inmate employed in a federally certified prison industries program must be paid at~~
2 ~~a rate not less than the rate paid for similar work in the locality where the inmate performs the work.~~

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

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

12 ~~(5) Any state institution, facility, or program operated by the department of corrections may~~
13 ~~purchase prison made furniture without complying with the procurement provisions under Title 18, chapter~~
14 ~~4."~~

15
16 **Section 2.** Section 53-1-304, MCA, is amended to read:

17 **"53-1-304. Supervision of industries program.** The industries program must be supervised by the
18 director ~~of the department of corrections or~~ of the department of public health and human services or the
19 director's designated representative, provided that the administration of the industries program is separate
20 from the administration of any institution where the program may be located."
21

22 **Section 3.** Section 53-30-111, MCA, is amended to read:

23 **"53-30-111. Clothing and money furnished on discharge or parole.** The state prison shall furnish
24 suitable clothing to a discharged or paroled inmate. An inmate discharged and delivered to the custody of
25 the federal government or another state ~~shall~~ must receive \$5. All other discharged or paroled inmates may
26 receive "gate money" in an amount up to \$100. The department of corrections may establish rules that
27 allow it to deduct up to one-fourth of an inmate's wages earned under ~~53-1-301~~ ~~53-30-131~~ 53-30-132 and
28 hold that money in a special account to be disbursed to the inmate when the inmate is discharged or
29 paroled. This amount is in addition to the "gate money"."
30

1 **SECTION 4. SECTION 53-30-131, MCA, IS AMENDED TO READ:**

2 **"53-30-131. Prison industries training program -- purpose and scope.** (1) In addition to any
3 ~~institutional prison~~ industry operated at the Montana state prison ~~under Title 53, chapter 1, part 3,~~ the
4 department of corrections shall conduct a prison industries training program.

5 (2) The purpose of the prison industries training program is to:

6 (a) provide innovative and progressive inmate reformation and rehabilitation possibilities by
7 exposing inmates to worthwhile training;

8 (b) prepare inmates for release by providing industries at the prison that utilize their skills, thus
9 providing experience beyond mere training, inculcating inmates with good production and work habits, and
10 providing them with a means to earn money that will be available to them upon release.

11 (3) The prison industries training program consists of vocational training, on-the-job training, and
12 production experience. The department may contract with public and private vocational education entities
13 to provide this training.

14 (4) The program may provide training and experience involving cultivation, production, repair,
15 construction, refurbishment, service, and related processes involving personal property, including but not
16 limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The
17 products and services, with the exception of livestock and agricultural products produced from the Montana
18 state prison ranch and products or services of a federally certified prison industries program, may be
19 provided only to state agencies, local government units, school districts, authorities, and other
20 governmental entities."

21

22 **Section 5. Section 53-30-132, MCA, is amended to read:**

23 **"53-30-132. Inmate participation and status in prison work programs -- prison industries training**
24 **program -- wages and benefits. (1) The department of corrections may:**

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

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

1 (c) contract with private industry for the sale of goods or components manufactured or produced
2 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries
3 programs;

4 (d) print catalogs describing goods manufactured or produced by prison industries and distribute
5 the catalogs;

6 (e) fix the sale price for goods produced or manufactured by prison industries. Prices may not
7 exceed prices existing in the open market for goods of comparable quality.

8 (F) REQUIRE A CORRECTIONAL FACILITY TO PURCHASE NEEDED GOODS FROM OTHER
9 CORRECTIONAL FACILITIES;

10 ~~(f)~~(G) provide for the ~~repair and maintenance of~~ REMOVAL OF LITTER AND GRAFFITI FROM
11 property and equipment of institutions, public roads, and public parks by inmates;

12 ~~(g)~~(H) provide for construction projects, up to the aggregate sum of \$25,000 a project, performed
13 by inmates, except when the construction work is covered by a collective bargaining agreement;

14 ~~(h)~~(I) provide for the repair and maintenance by prison industries of furniture and equipment of any
15 state agency;

16 ~~(i)~~(J) provide for the manufacture by prison industries of motor vehicle license plates and other
17 related articles;

18 ~~(j)~~(K) sell manufactured or agricultural products and livestock on the open market;

19 ~~(k)~~(L) provide for the manufacture by prison industries of highway, road, and street marking signs
20 for the use of the state or any of its political subdivisions, except when the manufacture of the signs is in
21 violation of a collective bargaining contract;

22 ~~(l)~~(M) pay an inmate from receipts from the sale of products produced or manufactured or services
23 rendered in a program in which the inmate is working;

24 ~~(m)~~(N) collect 15% of the net wages paid to an inmate employed in a federally certified prison
25 industries program for deposit in the Montana crime victims compensation and assistance account
26 established under 53-9-109; and

27 ~~(n)~~(O) collect from an inmate employed in a federally certified prison industries program charges
28 for room and board consistent with charges established by the director for inmates assigned to prerelease
29 centers.

30 (2) Except as provided in subsection (3), furniture made in the prison may be purchased by state

1 agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made
2 furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for
3 sale to international markets.

4 (3) Any state institution, facility, or program operated by the department of corrections may
5 purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter
6 4.

7 ~~(4)~~(4) While engaged in on-the-job training and production, inmates not employed in a federally
8 certified prison industries program may be paid a wage commensurate with their production function.
9 Wages must be established at a rate that encourages efficient production and effective levels of inmate
10 participation. Inmates employed in a federally certified prison industries program must be paid as provided
11 in ~~53-1-301(2)~~ subsection (5).

12 (5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be
13 based on the following criteria:

14 (i) knowledge and skill;

15 (ii) attitude toward authority;

16 (iii) physical effort;

17 (iv) responsibility for equipment and materials; and

18 (v) regard for safety of others.

19 (b) The maximum rate of pay must be determined by the appropriation established for the program,
20 except that an inmate employed in a federally certified prison industries program must be paid at a rate not
21 less than the rate paid for similar work in the locality where the inmate performs the work.

22 (6) Premiums for workers' compensation and occupational disease coverage must be paid by the
23 prison industries program or by the department of corrections. If the department of corrections pays the
24 premium, reimbursement for premium payments for workers' compensation and occupational disease
25 coverage must be made to the department of corrections by the private company contracting with the
26 federally certified prison industries program for services and products.

27 ~~(2)~~(7) Inmates not working in a federally certified prison industries training program are not
28 employees, either public or private, and employment rights accorded other classes of workers do not apply
29 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and
30 benefits as provided in 39-71-744.

1 SENATE BILL NO. 2

2 INTRODUCED BY HOLDEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING, CLARIFYING, AND CONSOLIDATING
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6 FOR THE ~~REPAIR AND MAINTENANCE OF~~ REMOVAL OF LITTER AND GRAFFITI FROM PROPERTY AND
7 EQUIPMENT OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; PROVIDING FOR SECURING
8 INMATES WHILE PERFORMING WORK; AMENDING SECTIONS 53-1-301, 53-1-304, 53-30-111,
9 53-30-131, 53-30-132, AND 53-30-141, MCA; AND PROVIDING AN EFFECTIVE DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0002, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill generally revising, clarifying and consolidating the laws governing work programs for inmates; authorizing the use of inmate labor for the removal of litter and graffiti from property and equipment of institutions, public roads, and public parks; providing for securing inmates while performing work.

ASSUMPTIONS:

1. This bill gives the Department of Corrections (DOC) the discretionary authority to use inmate labor for the removal of litter and graffiti from property and equipment of institutions, public roads, and public parks. The DOC is not mandated to use inmate labor.
2. The forced labor program will be run by Montana State Prison and will target parole violators, pre-release and boot camp returns. The level of restraint will depend upon security classification.
3. The Governor's Executive Budget requests funding for a forced labor/inmate incentive program, which is broader in scope than the inmate labor proposed in this legislation. Costs for the Executive Budget proposal are 6.75 FTE and \$247,982 general fund in fiscal year 1998 and 9.00 FTE and \$235,169 of general fund in fiscal year 1999.
4. A portion of the Executive Budget from assumption 3 above is included in the fiscal impact of this bill.
5. This bill does not have any fiscal impact on the Montana Correctional Enterprise (MCE) programs.
6. One 15-man off-site crew will be required for implementation of this bill with 3.00 FTE, correctional officers, grade 11, to provide supervision.
7. Operating expenses include \$1,000 each year to pay for cleaning supplies, \$400 per FTE for clothing in fiscal year 1998 and \$120 per FTE each year for telephone charges.
8. Equipment costs in the first year of operation are for one special-equipped van at a cost of \$27,000.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	3.00	3.00
Personal Services	76,110	76,110
Operating Expenses	2,200	1,360
Equipment	<u>27,000</u>	<u>0</u>
Total	105,310	77,470
 General Fund (01)	 105,310	 77,470

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Costs in subsequent years would be consistent with fiscal year 1999 costs.

TECHNICAL NOTES:

1. As amended, 53-30-132, MCA, the first sentence is applicable to all MCE programs (ranch, industries and vocational training/education) not just industries training program as referenced.
2. As amended, 53-1-304, MCA, is applicable only to Department of Health and Human Services. A similar section needs to be added to SB 2 for the supervision of DOC industries programs.

Dave Lewis 1-23-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Ric Holden 1-23-97
 RIC HOLDEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0002, third reading

Am SB2-#2

1 SENATE BILL NO. 2

2 INTRODUCED BY HOLDEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING, CLARIFYING, AND CONSOLIDATING
5 THE LAWS GOVERNING WORK PROGRAMS FOR INMATES; AUTHORIZING THE USE OF INMATE LABOR
6 FOR THE ~~REPAIR AND MAINTENANCE OF~~ REMOVAL OF LITTER AND GRAFFITI FROM PROPERTY AND
7 EQUIPMENT OF INSTITUTIONS; AUTHORIZING THE USE OF INMATE LABOR FOR THE REMOVAL OF
8 LITTER FROM THE PROPERTY OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; PROVIDING FOR
9 SECURING INMATES WHILE PERFORMING WORK; AMENDING SECTIONS 53-1-301, 53-1-304,
10 53-30-111, 53-30-131, AND 53-30-132, AND ~~53-30-141~~, MCA; AND PROVIDING AN EFFECTIVE DATE."

11

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

13

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

15 "53-1-301. Permitted institutional industries, ~~-- powers of departments, and incentive pay to~~
16 ~~inmates~~ department. (1) ~~Except as provided in subsection (4), the department of corrections or the~~ The
17 department of public health and human services may:

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

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

25 (c) contract with private industry for the sale of goods or components manufactured or produced
26 in shops under its jurisdiction ~~and for the employment of inmates in federally certified prison industries~~
27 ~~programs;~~

28 (d)(c) print catalogs describing goods manufactured or produced by institutions and distribute the
29 catalogs;

30 (e)(d) fix the sale price for goods produced ~~or~~ and manufactured at institutions. Prices may not exceed

1 prices existing in the open market for goods of comparable quality.

2 ~~(f)(e)~~ require institutions to purchase needed goods from other institutions or from prison industries;

3 ~~(g)(f)~~ provide for the repair and maintenance of property and equipment of institutions by residents
4 of institutions;

5 ~~(h)~~ provide for construction projects, up to the aggregate sum of \$25,000 per project, performed
6 by residents of institutions, except when the construction work is covered by a collective bargaining
7 agreement;

8 ~~(i)(g)~~ provide for the repair and maintenance at an institution of furniture and equipment of any
9 state agency;

10 ~~(j)~~ provide for the manufacture at an institution of motor vehicle license plates and other related
11 articles;

12 ~~(k)(h)~~ sell manufactured ~~or agricultural~~ products and livestock on the open market; and

13 ~~(l)~~ provide for the manufacture at an institution of highway, road, and street marking signs for the
14 use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation
15 of a collective bargaining contract;

16 ~~(m)(i)~~ pay an inmate ~~or a~~ resident of an institution from receipts from the sale of products produced
17 or manufactured or services rendered in a program in which the inmate ~~or~~ resident is working;

18 ~~(n)~~ collect 15% of the net wages paid to an inmate employed in a federally certified prison
19 industries program for deposit in the Montana crime victims compensation and assistance account
20 established under 53-9-109; and

21 ~~(o)~~ collect from an inmate employed in a federally certified prison industries program charges for
22 room and board consistent with charges established by the director for inmates assigned to prerelease
23 centers.

24 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be
25 based on the following criteria:

26 (i) knowledge and skill;

27 (ii) attitude toward authority;

28 (iii) physical effort;

29 (iv) responsibility for equipment and materials; and

30 (v) regard for safety of others.

1 (b) The maximum rate of pay must be determined by the appropriation established for each
 2 program, ~~except that an inmate employed in a federally certified prison industries program must be paid at~~
 3 ~~a rate not less than the rate paid for similar work in the locality where the inmate performs the work.~~

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

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

13 ~~(5) Any state institution, facility, or program operated by the department of corrections may~~
 14 ~~purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter~~
 15 ~~4."~~

16
 17 **Section 2.** Section 53-1-304, MCA, is amended to read:

18 **"53-1-304. Supervision of industries program.** The industries program must be supervised by the
 19 director ~~of the department of corrections or~~ of the department of public health and human services or the
 20 director's designated representative, provided that the administration of the industries program is separate
 21 from the administration of any institution where the program may be located."

22
 23 **Section 3.** Section 53-30-111, MCA, is amended to read:

24 **"53-30-111. Clothing and money furnished on discharge or parole.** The state prison shall furnish
 25 suitable clothing to a discharged or paroled inmate. An inmate discharged and delivered to the custody of
 26 the federal government or another state ~~shall~~ must receive \$5. All other discharged or paroled inmates may
 27 receive "gate money" in an amount up to \$100. The department of corrections may establish rules that
 28 allow it to deduct up to one-fourth of an inmate's wages earned under ~~53-1-301 53-30-131 53-30-132~~ and
 29 hold that money in a special account to be disbursed to the inmate when the inmate is discharged or
 30 paroled. This amount is in addition to the "gate money"."

1 **SECTION 4. SECTION 53-30-131, MCA, IS AMENDED TO READ:**

2 **"53-30-131. Prison industries training program -- purpose and scope.** (1) In addition to any
3 ~~institutional prison~~ **CORRECTIONAL FACILITY** industry operated at the Montana state prison under ~~Title 53,~~
4 ~~chapter 1, part 3,~~ the department of corrections shall conduct a prison industries training program.

5 (2) The purpose of the prison industries training program is to:

6 (a) provide innovative and progressive inmate reformation and rehabilitation possibilities by
7 exposing inmates to worthwhile training;

8 (b) prepare inmates for release by providing industries at the prison that utilize their skills, thus
9 providing experience beyond mere training, inculcating inmates with good production and work habits, and
10 providing them with a means to earn money that will be available to them upon release.

11 (3) The prison industries training program consists of vocational training, on-the-job training, and
12 production experience. The department may contract with public and private vocational education entities
13 to provide this training.

14 (4) The program may provide training and experience involving cultivation, production, repair,
15 construction, refurbishment, service, and related processes involving personal property, including but not
16 limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The
17 products and services, with the exception of livestock and agricultural products produced from the Montana
18 state prison ranch and products or services of a federally certified prison industries program, may be
19 provided only to state agencies, local government units, school districts, authorities, and other
20 governmental entities."

21
22 **Section 5. Section 53-30-132, MCA, is amended to read:**

23 **"53-30-132. Inmate participation and status in prison work programs -- prison industries AND**
24 **VOCATIONAL training program -- wages and benefits. (1) The department of corrections may:**

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

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

1 (c) contract with private industry for the sale of goods or components manufactured or produced
 2 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries
 3 programs;

4 (d) print catalogs describing goods manufactured or produced by prison industries and distribute
 5 the catalogs;

6 (e) fix the sale price for goods produced or manufactured by prison industries. Prices may not
 7 exceed prices existing in the open market for goods of comparable quality.

8 (F) REQUIRE A CORRECTIONAL FACILITY TO PURCHASE NEEDED GOODS FROM OTHER
 9 CORRECTIONAL FACILITIES;

10 (G) PROVIDE FOR THE REPAIR AND MAINTENANCE OF PROPERTY AND EQUIPMENT OF
 11 INSTITUTIONS BY INMATES;

12 ~~(f)(G)(H)~~ provide for the ~~repair and maintenance of~~ REMOVAL OF LITTER AND GRAFFITI FROM
 13 property and equipment of institutions AND THE REMOVAL OF LITTER FROM THE PROPERTY OF
 14 INSTITUTIONS, public roads, and public parks by inmates;

15 ~~(g)(H)(I)~~ provide for construction projects, up to the aggregate sum of \$25,000 a project,
 16 performed by inmates, except when the construction work is covered by a collective bargaining agreement;

17 ~~(h)(J)~~ provide for the repair and maintenance by prison industries of furniture and equipment of
 18 any state agency;

19 ~~(i)(J)(K)~~ provide for the manufacture by prison industries of motor vehicle license plates and other
 20 related articles;

21 ~~(j)(K)(L)~~ sell manufactured or agricultural products and livestock on the open market;

22 ~~(k)(L)(M)~~ provide for the manufacture by prison industries of highway, road, and street marking
 23 signs for the use of the state or any of its political subdivisions, except when the manufacture of the signs
 24 is in violation of a collective bargaining contract;

25 ~~(l)(M)(N)~~ pay an inmate from receipts from the sale of products produced or manufactured or
 26 services rendered in a program in which the inmate is working;

27 ~~(m)(N)(O)~~ collect 15% of the net wages paid to an inmate employed in a federally certified prison
 28 industries program for deposit in the Montana crime victims compensation and assistance account
 29 established under 53-9-109; and

30 ~~(n)(O)(P)~~ collect from an inmate employed in a federally certified prison industries program charges

1 for room and board consistent with charges established by the director for inmates assigned to prerelease
2 centers.

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

7 (3) Any state institution, facility, or program operated by the department of corrections may
8 purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter
9 4.

10 ~~(4)~~ (4) While engaged in on-the-job training and production, inmates not employed in a federally
11 certified prison industries program may be paid a wage commensurate with their production function IN
12 ACCORDANCE WITH SUBSECTION (5). Wages must be established at a rate that encourages efficient
13 production and effective levels of inmate participation. Inmates employed in a federally certified prison
14 industries program must be paid as provided in 53-1-304(2) subsection (5).

15 (5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be
16 based on the following criteria:

- 17 (i) knowledge and skill;
18 (ii) attitude toward authority;
19 (iii) physical effort;
20 (iv) responsibility for equipment and materials; and
21 (v) regard for safety of others.

22 (b) The maximum rate of pay must be determined by the appropriation established for the program,
23 except that an inmate employed in a federally certified prison industries program must be paid at a rate not
24 less than the rate paid for similar work in the locality where the inmate performs the work.

25 (6) Premiums for workers' compensation and occupational disease coverage FOR FEDERALLY
26 CERTIFIED PRISON INDUSTRIES PROGRAMS must be paid by the prison industries program or by the
27 department of corrections. If the department of corrections pays the premium, reimbursement for premium
28 payments for workers' compensation and occupational disease coverage must be made to the department
29 of corrections by the private company contracting with the federally certified prison industries program for
30 services and products.

1 SENATE BILL NO. 2

2 INTRODUCED BY HOLDEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING, CLARIFYING, AND CONSOLIDATING
 5 THE LAWS GOVERNING WORK PROGRAMS FOR INMATES; AUTHORIZING THE USE OF INMATE LABOR
 6 FOR THE ~~REPAIR AND MAINTENANCE OF~~ REMOVAL OF LITTER AND GRAFFITI FROM PROPERTY AND
 7 EQUIPMENT OF INSTITUTIONS; AUTHORIZING THE USE OF INMATE LABOR FOR THE REMOVAL OF
 8 LITTER FROM THE PROPERTY OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; PROVIDING FOR
 9 SECURING INMATES WHILE PERFORMING WORK; ALLOWING THE DEPARTMENT OF CORRECTIONS TO
 10 DONATE SURPLUS FOOD GROWN OR PRODUCED TO CERTAIN ENTITIES; AMENDING SECTIONS
 11 53-1-301, 53-1-304, 53-30-111, 53-30-131, AND 53-30-132, AND ~~53-30-141~~, MCA; AND PROVIDING
 12 AN EFFECTIVE DATE."

13

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

15

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

17 "53-1-301. Permitted institutional industries, ~~the powers of departments, and incentive pay to~~
 18 ~~inmates~~ department. (1) ~~Except as provided in subsection (4), the department of corrections or the~~ The
 19 department of public health and human services may:

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

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

27 (c) contract with private industry for the sale of goods or components manufactured or produced
 28 in shops under its jurisdiction ~~and for the employment of inmates in federally certified prison industries~~
 29 ~~programs;~~

30 (d)(c) print catalogs describing goods manufactured or produced by institutions and distribute the

1 catalogs;

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

4 ~~(e)~~ require institutions to purchase needed goods from other institutions or from prison industries;

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

7 ~~(h)~~ provide for construction projects, up to the aggregate sum of \$25,000 per project, performed
8 by residents of institutions, except when the construction work is covered by a collective bargaining
9 agreement;

10 ~~(g)~~ provide for the repair and maintenance at an institution of furniture and equipment of any
11 state agency;

12 ~~(j)~~ provide for the manufacture at an institution of motor vehicle licence plates and other related
13 articles;

14 ~~(k)~~ (h) sell manufactured or agricultural products and livestock on the open market; and

15 ~~(l)~~ provide for the manufacture at an institution of highway, road, and street marking signs for the
16 use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation
17 of a collective bargaining contract;

18 ~~(m)~~ (i) pay an inmate or a resident of an institution from receipts from the sale of products produced
19 or manufactured or services rendered in a program in which the inmate or resident is working;

20 ~~(n)~~ collect 15% of the net wages paid to an inmate employed in a federally certified prison
21 industries program for deposit in the Montana crime victims compensation and assistance account
22 established under 53-9-109; and

23 ~~(o)~~ collect from an inmate employed in a federally certified prison industries program charges for
24 room and board consistent with charges established by the director for inmates assigned to prerelease
25 centers.

26 (2) (a) Except as provided for in subsection (2)(b), payment for the performance of work may be
27 based on the following criteria:

28 (i) knowledge and skill;

29 (ii) attitude toward authority;

30 (iii) physical effort;

1 (iv) responsibility for equipment and materials; and

2 (v) regard for safety of others.

3 (b) The maximum rate of pay must be determined by the appropriation established for each
4 program, ~~except that an inmate employed in a federally certified prison industries program must be paid at~~
5 ~~a rate not less than the rate paid for similar work in the locality where the inmate performs the work.~~

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

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

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

18

19 **Section 2.** Section 53-1-304, MCA, is amended to read:

20 **"53-1-304. Supervision of industries program.** The industries program must be supervised by the
21 director ~~of the department of corrections or of the department of public health and human services or the~~
22 ~~director's designated representative, provided that the administration of the industries program is separate~~
23 ~~from the administration of any institution where the program may be located."~~

24

25 **Section 3.** Section 53-30-111, MCA, is amended to read:

26 **"53-30-111. Clothing and money furnished on discharge or parole.** The state prison shall furnish
27 suitable clothing to a discharged or paroled inmate. An inmate discharged and delivered to the custody of
28 the federal government or another state ~~shall~~ must receive \$5. All other discharged or paroled inmates may
29 receive "gate money" in an amount up to \$100. The department of corrections may establish rules that
30 allow it to deduct up to one-fourth of an inmate's wages earned under ~~53-1-304~~ ~~53-30-131~~ 53-30-132 and

1 hold that money in a special account to be disbursed to the inmate when the inmate is discharged or
 2 paroled. This amount is in addition to the "gate money"."

3

4 **SECTION 4. SECTION 53-30-131, MCA, IS AMENDED TO READ:**

5 **"53-30-131. Prison industries training program -- purpose and scope.** (1) In addition to any
 6 ~~institutional prison~~ **CORRECTIONAL FACILITY** industry operated at the Montana state prison under Title 53,
 7 ~~chapter 1, part 3,~~ the department of corrections shall conduct a prison industries training program.

8 (2) The purpose of the prison industries training program is to:

9 (a) provide innovative and progressive inmate reformation and rehabilitation possibilities by
 10 exposing inmates to worthwhile training;

11 (b) prepare inmates for release by providing industries at the prison that utilize their skills, thus
 12 providing experience beyond mere training, inculcating inmates with good production and work habits, and
 13 providing them with a means to earn money that will be available to them upon release.

14 (3) The prison industries training program consists of vocational training, on-the-job training, and
 15 production experience. The department may contract with public and private vocational education entities
 16 to provide this training.

17 (4) The program may provide training and experience involving cultivation, production, repair,
 18 construction, refurbishment, service, and related processes involving personal property, including but not
 19 limited to such items as crops, livestock, furniture, office and electrical equipment, and motor vehicles. The
 20 products and services, with the exception of livestock and agricultural products produced from the Montana
 21 state prison ranch and products or services of a federally certified prison industries program, may be
 22 provided only to state agencies, local government units, school districts, authorities, and other
 23 governmental entities.

24 **(5) THE DEPARTMENT MAY DONATE SURPLUS FOOD GROWN OR PRODUCED AT THE PRISON**
 25 **TO LOCAL FOOD BANKS, NONPROFIT ORGANIZATIONS, AND LOW-INCOME PERSONS."**

26

27 **Section 5.** Section 53-30-132, MCA, is amended to read:

28 **"53-30-132. Inmate participation and status in prison work programs -- prison industries AND**
 29 **VOCATIONAL training program -- wages and benefits. (1) The department of corrections may:**

30 (a) **establish prison industries that will result in the production or manufacture of products and the**

1 rendering of services that may be needed by any department or agency of the state or any political
 2 subdivision of the state, by any agency of the federal government, by any other states or their political
 3 subdivisions, or by nonprofit organizations and that will assist in the rehabilitation of inmates in institutions;

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

6 (c) contract with private industry for the sale of goods or components manufactured or produced
 7 in shops under its jurisdiction and for the employment of inmates in federally certified prison industries
 8 programs;

9 (d) print catalogs describing goods manufactured or produced by prison industries and distribute
 10 the catalogs;

11 (e) fix the sale price for goods produced or manufactured by prison industries. Prices may not
 12 exceed prices existing in the open market for goods of comparable quality.

13 (F) REQUIRE A CORRECTIONAL FACILITY TO PURCHASE NEEDED GOODS FROM OTHER
 14 CORRECTIONAL FACILITIES;

15 (G) PROVIDE FOR THE REPAIR AND MAINTENANCE OF PROPERTY AND EQUIPMENT OF
 16 INSTITUTIONS BY INMATES;

17 ~~(f)(G)(H)~~ provide for the ~~repair and maintenance of~~ REMOVAL OF LITTER AND GRAFFITI FROM
 18 property and equipment of institutions AND THE REMOVAL OF LITTER FROM THE PROPERTY OF
 19 INSTITUTIONS, public roads, and public parks by inmates;

20 ~~(g)(H)(I)~~ provide for construction projects, up to the aggregate sum of \$25,000 a project,
 21 performed by inmates, except when the construction work is covered by a collective bargaining agreement;

22 ~~(h)(I)(J)~~ provide for the repair and maintenance by prison industries of furniture and equipment of
 23 any state agency;

24 ~~(i)(J)(K)~~ provide for the manufacture by prison industries of motor vehicle license plates and other
 25 related articles;

26 ~~(j)(K)(L)~~ sell manufactured or agricultural products and livestock on the open market;

27 ~~(k)(L)(M)~~ provide for the manufacture by prison industries of highway, road, and street marking
 28 signs for the use of the state or any of its political subdivisions, except when the manufacture of the signs
 29 is in violation of a collective bargaining contract;

30 ~~(l)(M)(N)~~ pay an inmate from receipts from the sale of products produced or manufactured or

1 services rendered in a program in which the inmate is working;

2 ~~(m)(N)(O)~~ collect 15% of the net wages paid to an inmate employed in a federally certified prison
 3 industries program for deposit in the Montana crime victims compensation and assistance account
 4 established under 53-9-109; and

5 ~~(n)(O)(P)~~ collect from an inmate employed in a federally certified prison industries program charges
 6 for room and board consistent with charges established by the director for inmates assigned to prerelease
 7 centers.

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

12 (3) Any state institution, facility, or program operated by the department of corrections may
 13 purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter
 14 4.

15 ~~(4)~~(4) While engaged in on-the-job training and production, inmates not employed in a federally
 16 certified prison industries program may be paid a wage commensurate with their production function IN
 17 ACCORDANCE WITH SUBSECTION (5). Wages must be established at a rate that encourages efficient
 18 production and effective levels of inmate participation. Inmates employed in a federally certified prison
 19 industries program must be paid as provided in ~~53-1-301(2)~~ subsection (5).

20 (5) (a) Except as provided for in subsection (5)(b), payment for the performance of work may be
 21 based on the following criteria:

22 (i) knowledge and skill;

23 (ii) attitude toward authority;

24 (iii) physical effort;

25 (iv) responsibility for equipment and materials; and

26 (v) regard for safety of others.

27 (b) The maximum rate of pay must be determined by the appropriation established for the program,
 28 except that an inmate employed in a federally certified prison industries program must be paid at a rate not
 29 less than the rate paid for similar work in the locality where the inmate performs the work.

30 (6) Premiums for workers' compensation and occupational disease coverage FOR FEDERALLY

1 CERTIFIED PRISON INDUSTRIES PROGRAMS must be paid by the prison industries program or by the
 2 department of corrections. If the department of corrections pays the premium, reimbursement for premium
 3 payments for workers' compensation and occupational disease coverage must be made to the department
 4 of corrections by the private company contracting with the federally certified prison industries program for
 5 services and products.

6 ~~(2)(7)~~ Inmates not working in a federally certified prison industries training program are not
 7 employees, either public or private, and employment rights accorded other classes of workers do not apply
 8 to the inmates. Inmates working in a federally certified prison industry program are entitled to coverage and
 9 benefits as provided in 39-71-744.

10 ~~(3)(8)~~ Able-bodied persons committed to the A Montana state prison as adult offenders must be
 11 required to perform work as provided for by the department of corrections, INCLUDING THE
 12 MANUFACTURE OF PRODUCTS OR THE RENDERING OF SERVICES. In order to ensure the public safety,
 13 the department may secure inmates performing work."

14
 15 ~~Section 6. Section 53-30-141, MCA, is amended to read:~~

16 ~~"53-30-141. Extension of limits of confinement. (1) The department of corrections may extend~~
 17 ~~the limits of confinement of the Montana state prison for purposes of housing outside the prison fence~~
 18 ~~inmates who:~~

19 ~~(a) are employed in ranch or agricultural industry programs, OR programs for the repair and~~
 20 ~~maintenance of public roads, or public park maintenance programs REMOVAL OF LITTER AND GRAFFITI~~
 21 ~~FROM PROPERTY AND EQUIPMENT OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; and~~

22 ~~(b) have demonstrated sufficient reliability and trustworthiness.~~

23 ~~(2) Housing units outside the confines of the prison fence may be created by renovation of existing~~
 24 ~~buildings or by the erection of modular-type units and associated facilities on the prison ranch.~~

25 ~~(3) For the purpose of expediting the acquisition and construction of housing units authorized in~~
 26 ~~subsection (2), the department of administration may exempt the project from provisions of Montana law~~
 27 ~~relating to the employment of architects, advertising, labor, and wages. The department of administration~~
 28 ~~need not comply with any state bidding requirements that would preclude a sole source purchase."~~

29
 30 NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0002, reference bill

DESCRIPTION OF PROPOSED LEGISLATION:

A bill generally revising, clarifying and consolidating the laws governing work programs for inmates; authorizing the use of inmate labor for the removal of graffiti from property and equipment of institutions; authorizing the use of inmate labor for the removal of litter from the property of institutions, public roads, and public parks; providing for securing inmates while performing work; allowing the Department of Corrections to donate surplus food grown or produced to certain entities and providing an effective date.

ASSUMPTIONS:

1. This bill gives the Department of Corrections (DOC) the discretionary authority to use inmate labor for the repair and maintenance of property and equipment of institutions; the removal of graffiti from property and equipment of institutions; and the removal of litter from the property of institutions, public roads, and public parks. The DOC is not mandated to use inmate labor.
2. The forced labor program will be run by Montana State Prison (MSP) and will target parole violators, pre-release and boot camp returns. The level of restraint will depend upon security classification.
3. The Executive Budget requested funding for a forced labor/inmate incentive program, which is broader in scope than the inmate labor proposed in this legislation. Costs for the Executive Budget proposal are 6.75 FTE and \$247,982 general fund in fiscal year 1998 and 9.00 FTE and \$235,169 of general fund in fiscal year 1999. To date, this proposal is not currently funded in HB 2.
4. There is no fiscal impact to the Montana Correctional Enterprise programs.
5. If the use of inmate labor authorized by this bill were to be implemented, one 15-man off-site crew would be required and 3.00 FTE correctional officers, grade 11, would provide supervision. Operating expenses would include \$1,000 each year for cleaning supplies, \$400 per FTE for clothing in fiscal year 1998, and \$120 per FTE each year for telephone charges. Equipment cost in fiscal year 1998 would be for one special-equipped van @ \$27,000.
6. If the inmate labor provisions are not implemented, then the fiscal impact shown below is negated.
7. There is no fiscal impact to Department of Public Health and Human Services.

FISCAL IMPACT:


	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	3.00	3.00
Personal Services	76,110	76,110
Operating Expenses	2,560	1,360
Equipment	<u>27,000</u>	<u>0</u>
Total	105,670	77,470
<u>Funding:</u>		
General Fund (01)	105,670	77,470

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Costs in subsequent years would be consistent with fiscal year 1999 costs.

TECHNICAL NOTES:

As amended, 53-1-304, MCA, is applicable only to DPHHS. A similar section needs to be added for the supervision of DOC industries programs.



 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 3/20/97

 RIC HOLDEN, PRIMARY SPONSOR DATE

Fiscal Note for SB0002, reference bill

SB 2 #3

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 4, 1997

The Honorable Gary Aklestad
President of the Senate
State Capitol
Helena MT 59620

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

Dear President Aklestad and Speaker Mercer:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return Senate Bill 2, **"AN ACT GENERALLY REVISING, CLARIFYING, AND CONSOLIDATING THE LAWS GOVERNING WORK PROGRAMS FOR INMATES; AUTHORIZING THE USE OF INMATE LABOR FOR THE REMOVAL OF GRAFFITI FROM PROPERTY AND EQUIPMENT OF INSTITUTIONS; AUTHORIZING THE USE OF INMATE LABOR FOR THE REMOVAL OF LITTER FROM THE PROPERTY OF INSTITUTIONS, PUBLIC ROADS, AND PUBLIC PARKS; PROVIDING FOR SECURING INMATES WHILE PERFORMING WORK; ALLOWING THE DEPARTMENT OF CORRECTIONS TO DONATE SURPLUS FOOD GROWN OR PRODUCED TO CERTAIN ENTITIES; AMENDING SECTIONS 53-1-301, 53-1-304, 53-30-111, 53-30-131, AND 53-30-132, MCA; AND PROVIDING AN EFFECTIVE DATE."**

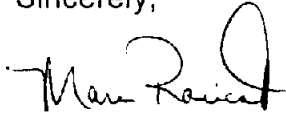
Senate Bill 2, in part, permits the Department of Corrections to use inmate labor for the removal of litter and graffiti from property and equipment of institutions, public roads, and public parks. While the Department is not mandated to use inmate labor for such purposes, there would be no reason for passage of the bill if the Legislature did not intend that the Department be able to exercise its discretion and establish inmate labor programs.

The fiscal note for Senate Bill 2 states that the implementation of inmate work programs will cost the general fund \$105,670 in fiscal year 1998 and \$77,470 in fiscal year 1999. These are sums that the Department cannot absorb, and since there is no funding

provided in the bill, I am offering an amendment to prevent the law from becoming effective unless there is an appropriation for adequate funding.

It is my understanding that Senator Holden, the bill's sponsor, is aware of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Racicot". The signature is written in a cursive style with a large, looped initial "M".

MARC RACICOT
Governor

GOVERNOR'S AMENDMENTS TO
Senate Bill No. 2
(Reference Copy)
April 2, 1997

1. Title, line 11.
Following: "MCA;"
Strike: "AND"

2. Title, line 12.
Following: "DATE"
Insert: "; AND PROVIDING A CONTINGENT VOIDNESS PROVISION"

3. Page 8, line 1.
Following: page 7
Insert: "NEW SECTION. Section 7. Contingent voidness. [This act] increases spending without providing corresponding funding. If a corresponding increase in funding for [this act] is not contained in House Bill No. 2, then [this act] is void."