

Senate BILL NO. 325

1
2 INTRODUCED BY *Wendell Foster Jones* *Wendell HARP* *Wendell Clark*
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE MONTANA DEPARTMENT OF LABOR AND
5 INDUSTRY FROM INSPECTING METALLIC AND NONMETALLIC NONCOAL MINES AS LONG AS THE
6 FEDERAL MINE SAFETY AND HEALTH LAWS ARE IMPLEMENTED AND ENFORCED IN MONTANA BY THE
7 FEDERAL GOVERNMENT; AND AMENDING SECTIONS 50-71-321, 50-72-201, AND 50-72-202, MCA."
8

9 WHEREAS, since 1977, the United States has established a comprehensive program pursuant to
10 the Federal Mine Safety and Health Act of 1977 (MSHA) to ensure the safety of mine workers in every
11 state, including Montana; and

12 WHEREAS, with the maturation and full implementation of MSHA, the State of Montana mine safety
13 program is now substantially duplicated by the federal program, which provides Montana mine workers with
14 protection at least as comprehensive as protection afforded by current provisions of state law; and

15 WHEREAS, the Legislature desires to avoid needless duplication of public effort and the unnecessary
16 expenditure of public funds; and

17 WHEREAS, the Legislature finds it appropriate to bring the state mine inspection program to an
18 honorable conclusion, provided that duplication of effort with the federal mine inspection program continues
19 to exist, recognizing that enforcement of MSHA by federal mine inspectors is comprehensive and sufficient
20 enough to fully protect the health and safety of Montana mine workers; and

21 WHEREAS, recognizing that mine safety training is presently conducted at public expense with state
22 and federal funds, it is the Legislature's desire and intent that mine safety training programs sufficient to
23 meet the requirements of MSHA be made available by privately funded associations, such as the Montana
24 Mining Association's training program.

25
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
27

28 Section 1. Section 50-71-321, MCA, is amended to read:

29 "50-71-321. Periodic inspections. (1) Except as provided in 50-72-201 and 50-72-202, The the
30 department shall inspect from time to time all the places of employment defined in the Montana Workers'

1 Compensation Act as being hazardous and the machinery and appliances ~~therein contained~~ in those places
 2 of employment for the purpose of determining ~~whether they conform to law~~ compliance.

3 (2) A report of ~~such a~~ periodic inspection ~~shall~~ must be filed in the office of the department and
 4 a copy ~~thereof~~ of that report must be given to the employer. ~~Such~~ The report ~~shall~~ may not be open to
 5 public inspection or made public except on order of the department or by the department in the course of
 6 a hearing or proceeding."

7
 8 **Section 2.** Section 50-72-201, MCA, is amended to read:

9 "**50-72-201. Inspectors.** As long as the Federal Mine Safety and Health Act of 1977, 30 U.S.C.
 10 801, et seq., is administered and enforced with respect to metallic and nonmetallic mines in Montana by
 11 means that include regular inspections of mines by federal inspectors, the department is not authorized to
 12 conduct inspections of those mines. If regular inspections of Montana metallic and nonmetallic mines by
 13 federal inspectors in the enforcement of the federal act are discontinued by federal action, The the
 14 department ~~shall~~ is authorized to employ an adequate number of qualified ~~metal~~ metallic and nonmetallic
 15 mine inspectors necessary for the enforcement of this chapter and shall prescribe their powers, duties, and
 16 responsibilities."

17
 18 **Section 3.** Section 50-72-202, MCA, is amended to read:

19 "**50-72-202. Inspections and investigations -- when authorized.** As long as the Federal Mine Safety
 20 and Health Act of 1977 is administered and enforced with respect to metallic and nonmetallic mines in
 21 Montana by means that include regular inspection of mines by federal inspectors, the department is not
 22 authorized to make inspections in those mines. If inspections of Montana metallic and nonmetallic mines
 23 by federal inspectors in the enforcement of the federal act are discontinued by federal action, The the
 24 department is authorized ~~at any time to cause to be made such~~ make inspections and investigations ~~as it~~
 25 ~~shall deem~~ that are necessary in surface and underground mines ~~which~~ that are subject to this chapter:

26 (1) for the purpose of ~~obtaining, utilizing~~ using, and disseminating information relating to health
 27 and safety conditions in ~~such~~ mines, the causes of accidents involving bodily injury or loss of life, or the
 28 causes of occupational diseases originating ~~therein~~ in surface and underground mines; and

29 (2) for the purpose of determining whether or not there is compliance with a health and safety
 30 standard or order issued under this chapter."

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0325, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting the Montana Department of Labor and Industry from inspecting metallic and nonmetallic noncoal mines as long as the Federal Mine Safety and Health Laws are implemented and enforced in Montana by the federal government.

ASSUMPTIONS

1. The Department of Labor and Industry's metal/nonmetal mine inspector conducts over 200 inspections each year on mining operations, sand and gravel pits, crushing operations, and talc mines. This service would be assumed by federal MSHA inspectors.
2. One mining inspector (grade 14) would be eliminated. Personal service costs for the position are \$37,940 per year. In addition, associated operating expenses amount to approximately \$19,423 each year.
3. Vacation and sick leave payout expenses (\$5,033) and employee protection buy out costs (\$11,379) would occur in fiscal 1998 only. (\$5,033 + \$11,379 = \$16,412).
4. The billing will be reduced to Plans 1, 2 and 3 to the extent expenditures are reduced, shown as decreases to revenues below.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	(1.00)	(1.00)
Personal Services	(37,940)	(37,940)
Payout Costs	16,412	0
Operating Expenses	<u>(19,423)</u>	<u>(19,423)</u>
Total	(40,951)	(57,363)
 <u>Funding:</u>		
SSR (WC Assessment 02455)	(40,951)	(57,363)
 <u>Revenues:</u>		
WC Administration Fund (02455)	(40,951)	(57,363)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

There would be fewer metallic and nonmetallic mine safety inspections in Montana.

Dave Lewis 2-18-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

William Crismore 2/18/97
 WILLIAM CRISMORE, PRIMARY SPONSOR DATE

1 *Senate* BILL NO. *325*
 2 INTRODUCED BY *House* *Mark HART* *Clark*
 3 *Robert Foster*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE MONTANA DEPARTMENT OF LABOR AND
 5 INDUSTRY FROM INSPECTING METALLIC AND NONMETALLIC NONCOAL MINES AS LONG AS THE
 6 FEDERAL MINE SAFETY AND HEALTH LAWS ARE IMPLEMENTED AND ENFORCED IN MONTANA BY THE
 7 FEDERAL GOVERNMENT; AND AMENDING SECTIONS 50-71-321, 50-72-201, AND 50-72-202, MCA."
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9 WHEREAS, since 1977, the United States has established a comprehensive program pursuant to
 10 the Federal Mine Safety and Health Act of 1977 (MSHA) to ensure the safety of mine workers in every
 11 state, including Montana; and

12 WHEREAS, with the maturation and full implementation of MSHA, the State of Montana mine safety
 13 program is now substantially duplicated by the federal program, which provides Montana mine workers with
 14 protection at least as comprehensive as protection afforded by current provisions of state law; and

15 WHEREAS, the Legislature desires to avoid needless duplication of public effort and the unnecessary
 16 expenditure of public funds; and

17 WHEREAS, the Legislature finds it appropriate to bring the state mine inspection program to an
 18 honorable conclusion, provided that duplication of effort with the federal mine inspection program continues
 19 to exist, recognizing that enforcement of MSHA by federal mine inspectors is comprehensive and sufficient
 20 enough to fully protect the health and safety of Montana mine workers; and

21 WHEREAS, recognizing that mine safety training is presently conducted at public expense with state
 22 and federal funds, it is the Legislature's desire and intent that mine safety training programs sufficient to
 23 meet the requirements of MSHA be made available by privately funded associations, such as the Montana
 24 Mining Association's training program.

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

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 28 **Section 1.** Section 50-71-321, MCA, is amended to read:
 29 "50-71-321. **Periodic inspections.** (1) Except as provided in 50-72-201 and 50-72-202, The the
 30 department shall inspect from time to time all the places of employment defined in the Montana Workers'

1 Compensation Act as being hazardous and the machinery and appliances ~~therein contained~~ in those places
 2 of employment for the purpose of determining ~~whether they conform to law~~ compliance.

3 (2) A report of ~~such a~~ periodic inspection ~~shall~~ must be filed in the office of the department and
 4 a copy ~~thereof~~ of that report must be given to the employer. ~~Such~~ The report ~~shall~~ may not be open to
 5 public inspection or made public except on order of the department or by the department in the course of
 6 a hearing or proceeding."

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 8 **Section 2.** Section 50-72-201, MCA, is amended to read:

9 "**50-72-201. Inspectors.** As long as the Federal Mine Safety and Health Act of 1977, 30 U.S.C.
 10 801, et seq., is administered and enforced with respect to metallic and nonmetallic mines in Montana by
 11 means that include regular inspections of mines by federal inspectors, the department is not authorized to
 12 conduct inspections of those mines. If regular inspections of Montana metallic and nonmetallic mines by
 13 federal inspectors in the enforcement of the federal act are discontinued by federal action, The the
 14 department ~~shall~~ is authorized to employ an adequate number of qualified ~~metal~~ metallic and nonmetallic
 15 mine inspectors necessary for the enforcement of this chapter and shall prescribe their powers, duties, and
 16 responsibilities."

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 18 **Section 3.** Section 50-72-202, MCA, is amended to read:

19 "**50-72-202. Inspections and investigations -- when authorized.** As long as the Federal Mine Safety
 20 and Health Act of 1977 is administered and enforced with respect to metallic and nonmetallic mines in
 21 Montana by means that include regular inspection of mines by federal inspectors, the department is not
 22 authorized to make inspections in those mines. If inspections of Montana metallic and nonmetallic mines
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 25 ~~shall deem~~ that are necessary in surface and underground mines ~~which that~~ that are subject to this chapter:

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 27 and safety conditions in ~~such~~ mines, the causes of accidents involving bodily injury or loss of life, or the
 28 causes of occupational diseases originating ~~therein~~ in surface and underground mines; and

29 (2) for the purpose of determining whether or not there is compliance with a health and safety
 30 standard or order issued under this chapter."

-END-

Senate BILL NO. 325

INTRODUCED BY *Wendell Foster* *Harold HARP* *Wendell Clark*

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE MONTANA DEPARTMENT OF LABOR AND INDUSTRY FROM INSPECTING METALLIC AND NONMETALLIC NONCOAL MINES AS LONG AS THE FEDERAL MINE SAFETY AND HEALTH LAWS ARE IMPLEMENTED AND ENFORCED IN MONTANA BY THE FEDERAL GOVERNMENT; AND AMENDING SECTIONS 50-71-321, 50-72-201, AND 50-72-202, MCA."

WHEREAS, since 1977, the United States has established a comprehensive program pursuant to the Federal Mine Safety and Health Act of 1977 (MSHA) to ensure the safety of mine workers in every state, including Montana; and

WHEREAS, with the maturation and full implementation of MSHA, the State of Montana mine safety program is now substantially duplicated by the federal program, which provides Montana mine workers with protection at least as comprehensive as protection afforded by current provisions of state law; and

WHEREAS, the Legislature desires to avoid needless duplication of public effort and the unnecessary expenditure of public funds; and

WHEREAS, the Legislature finds it appropriate to bring the state mine inspection program to an honorable conclusion, provided that duplication of effort with the federal mine inspection program continues to exist, recognizing that enforcement of MSHA by federal mine inspectors is comprehensive and sufficient enough to fully protect the health and safety of Montana mine workers; and

WHEREAS, recognizing that mine safety training is presently conducted at public expense with state and federal funds, it is the Legislature's desire and intent that mine safety training programs sufficient to meet the requirements of MSHA be made available by privately funded associations, such as the Montana Mining Association's training program.

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

Section 1. Section 50-71-321, MCA, is amended to read:

"50-71-321. Periodic inspections. (1) Except as provided in 50-72-201 and 50-72-202, The the department shall inspect from time to time all the places of employment defined in the Montana Workers'

1 Compensation Act as being hazardous and the machinery and appliances ~~therein contained~~ in those places
 2 of employment for the purpose of determining ~~whether they conform to law~~ compliance.

3 (2) A report of ~~such a~~ periodic inspection ~~shall~~ must be filed in the office of the department and
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 12 conduct inspections of those mines. If regular inspections of Montana metallic and nonmetallic mines by
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 14 department shall is authorized to employ an adequate number of qualified ~~metal~~ metallic and nonmetallic
 15 mine inspectors necessary for the enforcement of this chapter and shall prescribe their powers, duties, and
 16 responsibilities."

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 18 **Section 3.** Section 50-72-202, MCA, is amended to read:

19 "**50-72-202. Inspections and investigations -- when authorized.** As long as the Federal Mine Safety
 20 and Health Act of 1977 is administered and enforced with respect to metallic and nonmetallic mines in
 21 Montana by means that include regular inspection of mines by federal inspectors, the department is not
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 27 and safety conditions in ~~such~~ mines, the causes of accidents involving bodily injury or loss of life, or the
 28 causes of occupational diseases originating ~~therein~~ in surface and underground mines; and

29 (2) for the purpose of determining whether or not there is compliance with a health and safety
 30 standard or order issued under this chapter."

-END-

APPROVED BY COM ON
STATE ADMINISTRATION

SENATE BILL NO. 325

INTRODUCED BY CRISMORE, MOOD, HARP, MASOLO, CLARK, COLE, HERTEL, FOSTER, GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE MONTANA DEPARTMENT OF LABOR AND INDUSTRY FROM INSPECTING METALLIC AND NONMETALLIC NONCOAL MINES, OTHER THAN SAND AND GRAVEL OPERATIONS, AS LONG AS THE FEDERAL MINE SAFETY AND HEALTH LAWS ARE IMPLEMENTED AND ENFORCED IN MONTANA BY THE FEDERAL GOVERNMENT; ~~AND~~ AMENDING SECTIONS 50-71-321, 50-72-201, AND 50-72-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

WHEREAS, since 1977, the United States has established a comprehensive program pursuant to the Federal Mine Safety and Health Act of 1977 (MSHA) to ensure the safety of mine workers in every state, including Montana; and

WHEREAS, with the maturation and full implementation of MSHA, the State of Montana mine safety program is now substantially duplicated by the federal program, which provides Montana mine workers with protection at least as comprehensive as protection afforded by current provisions of state law; and

WHEREAS, the Legislature desires to avoid needless duplication of public effort and the unnecessary expenditure of public funds; and

WHEREAS, the Legislature finds it appropriate to bring the state mine inspection program to an honorable conclusion FOR METALLIC AND NONMETALLIC NONCOAL MINES (OTHER THAN SAND AND GRAVEL OPERATIONS), provided that duplication of effort with the federal mine inspection program continues to exist, recognizing that enforcement of MSHA by federal mine inspectors is comprehensive and sufficient enough to fully protect the health and safety of Montana mine workers; and

WHEREAS, recognizing that mine safety training is presently conducted at public expense with state and federal funds, it is the Legislature's desire and intent that mine safety training programs sufficient to meet the requirements of MSHA be made available by privately funded associations, such as the Montana Mining Association's training program.

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1 **Section 1.** Section 50-71-321, MCA, is amended to read:

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 3 department shall inspect from time to time all the places of employment defined in the Montana Workers'
 4 Compensation Act as being hazardous and the machinery and appliances ~~therein contained~~ in those places
 5 of employment for the purpose of determining ~~whether they conform to law~~ compliance.

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 7 a copy ~~thereof~~ of that report must be given to the employer. ~~Such~~ The report ~~shall~~ may not be open to
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 9 a hearing or proceeding."

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 11 **Section 2.** Section 50-72-201, MCA, is amended to read:

12 **"50-72-201. Inspectors.** As (1) EXCEPT AS PROVIDED IN SUBSECTION (2), AS long as the
 13 Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801, et seq., is administered and enforced with
 14 respect to metallic and nonmetallic mines in Montana by means that include regular inspections of mines
 15 by federal inspectors, the department is not authorized to conduct inspections of those mines. If regular
 16 inspections of Montana metallic and nonmetallic mines by federal inspectors in the enforcement of the
 17 federal act are discontinued by federal action, The the department shall is authorized to employ an adequate
 18 number of qualified ~~metal~~ metallic and nonmetallic mine inspectors necessary for the enforcement of this
 19 chapter and shall prescribe their powers, duties, and responsibilities.

20 (2) THE DEPARTMENT IS AUTHORIZED TO EMPLOY AN ADEQUATE NUMBER OF QUALIFIED
 21 INSPECTORS FOR SAND AND GRAVEL MINING OPERATIONS AND TO PRESCRIBE THE POWERS, DUTIES,
 22 AND RESPONSIBILITIES OF THOSE INSPECTORS."

23
 24 **Section 3.** Section 50-72-202, MCA, is amended to read:

25 **"50-72-202. Inspections and investigations -- when authorized.** As (1) EXCEPT AS PROVIDED IN
 26 SUBSECTION (2), AS long as the Federal Mine Safety and Health Act of 1977 is administered and enforced
 27 with respect to metallic and nonmetallic mines in Montana by means that include regular inspection of
 28 mines by federal inspectors, the department is not authorized to make inspections in those mines. If
 29 inspections of Montana metallic and nonmetallic mines by federal inspectors in the enforcement of the
 30 federal act are discontinued by federal action, The the department is authorized at any time to cause to be

1 ~~made such~~ make inspections and investigations ~~as it shall deem~~ that are necessary in surface and
2 underground mines ~~which~~ that are subject to this chapter:

3 ~~(1)(A)~~ for the purpose of obtaining, ~~utilizing~~ using, and disseminating information relating to health
4 and safety conditions in ~~such~~ mines, the causes of accidents involving bodily injury or loss of life, or the
5 causes of occupational diseases originating ~~therein~~ in surface and underground mines; and

6 ~~(2)(B)~~ for the purpose of determining whether or not there is compliance with a health and safety
7 standard or order issued under this chapter.

8 (2) THE DEPARTMENT IS AUTHORIZED TO MAKE INSPECTIONS AND INVESTIGATIONS WITH
9 RESPECT TO SAND AND GRAVEL MINING OPERATIONS FOR THE PURPOSES PRESCRIBED UNDER
10 SUBSECTIONS (1)(A) AND (1)(B)."

11

12 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 1998.

13

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0325, second reading - second house

DESCRIPTION OF PROPOSED LEGISLATION:


An act prohibiting the Montana Department of Labor and Industry from inspecting metallic and nonmetallic noncoal mines, other than sand and gravel operations, as long as the federal mine safety and health laws are implemented and enforced in Montana by the federal government.


ASSUMPTIONS:

1. In fiscal 1998 there would be no workload changes for the Department of Labor and Industry.
2. Department of Labor and Industry inspectors would conduct inspections on sand and gravel operations and would be utilized in other department activities during fiscal 1999.

FISCAL IMPACT:

There would be no fiscal impact to the Department of Labor and Industry.

 4-8-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 4/9/97
WILLIAM CRISMORE, PRIMARY SPONSOR DATE

Fiscal Note for SB0325, second reading
- second house

SB 325 #2

SENATE BILL NO. 325

INTRODUCED BY CRISMORE, MOOD, HARP, MASOLO, CLARK, COLE, HERTEL, FOSTER, GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE MONTANA DEPARTMENT OF LABOR AND INDUSTRY FROM INSPECTING METALLIC AND NONMETALLIC NONCOAL MINES, OTHER THAN SAND AND GRAVEL OPERATIONS, AS LONG AS THE FEDERAL MINE SAFETY AND HEALTH LAWS ARE IMPLEMENTED AND ENFORCED IN MONTANA BY THE FEDERAL GOVERNMENT; ~~AND~~ AMENDING SECTIONS 50-71-321, 50-72-201, AND 50-72-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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 22 AND RESPONSIBILITIES OF THOSE INSPECTORS."

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 28 mines by federal inspectors, the department is not authorized to make inspections in those mines. If
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