HOUSE BILL NO. 572

INTRODUCED BY J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA CORRECTIONAL ENTERPRISES PRISON INDUSTRIES TRAINING PROGRAM; REQUIRING THE PRISON INDUSTRIES TRAINING PROGRAM TO INCLUDE EDUCATIONAL PROGRAMMING; INCREASING THE ALLOWABLE MAXIMUM SUM OF CONSTRUCTION PROJECTS PERFORMED BY INMATES; ALLOWING THE MONTANA CORRECTIONAL ENTERPRISES PROGRAM TO PROVIDE VOCATIONAL PROGRAMS THAT SUPPORT PRIVATE MARKET DEMAND; ELIMINATING THE REQUIREMENT FOR PRODUCTS AND SERVICES TO BE PROVIDED THROUGH CONTRACTS AND DEALER NETWORKS; DIRECTING THE DEPARTMENT OF CORRECTIONS TO MEET WITH LABOR UNION AND BUILDING TRADES REPRESENTATIVES TO DEVELOP AN PREAPPRENTICESHIP TRAINING PROGRAM FOR INMATES; ~~AND~~ AMENDING SECTIONS 53-30-131 AND 53-30-132, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **SECTION 1. PREAPPRENTICESHIP TRAINING PROGRAM FOR INMATES.** THE DEPARTMENT OF CORRECTIONS SHALL MEET WITH LABOR UNION AND BUILDING TRADES REPRESENTATIVES FOR THE PURPOSES OF DEVELOPING A PREAPPRENTICESHIP TRAINING PROGRAM FOR INMATES PARTICIPATING IN THE CONSTRUCTION PROGRAM TO HELP ENSURE THE INMATES' SUCCESSFUL TRANSITION INTO THE CONSTRUCTION INDUSTRY UPON RELEASE FROM PRISON.

Section 2. Section 53-30-131, MCA, is amended to read:

"**53-30-131. Montana correctional enterprises prison industries training program -- purpose and scope.** (1) There is a Montana correctional enterprises program within the department of corrections to operate a prison industries training program. The Montana correctional enterprises program shall:

(a) prepare inmates for release by providing vocational education training and work programs at

facilities owned, operated, and contracted with by the department; and

(b) provide inmates the opportunity to earn money to pay restitution, fines, and fees, to pay for hygiene and commissary items, and to save for their eventual release from incarceration.

(2) The prison industries training program consists of educational programming, vocational education, on-the-job training, and production experience. The Montana correctional enterprises program may contract with public and private educational entities to provide this training.

(3) The Montana correctional enterprises program may:

(a) provide training and experience within the prison system in:

(i) cultivation, production, processing, manufacture, repair, construction, refurbishment, service, and related processes involving personal property, including but not limited to such items as crops, milk and milk products, wood products, livestock, furniture, and office and electrical equipment;

(ii) animal training and boarding;

(iii) vehicle and equipment maintenance and repair;

(iv) wildland fire suppression; and

(v) approved community work programs for governmental entities and not-for-profit organizations;

(b) provide for the repair and maintenance of property and equipment of institutions or facilities by inmates;

(c) provide for construction projects, up to the aggregate sum of ~~$200,000~~ ~~$1 million~~ $600,000 for each project, performed by inmates. CONSTRUCTION PROJECTS DESCRIBED IN THIS SUBSECTION (3)(C) MAY ONLY BE CONSTRUCTED ON THE GROUNDS OF THE MONTANA STATE PRISON. The department of administration may:

(i) exempt projects authorized by this subsection (3)(c) from the provisions of Title 18, chapter 2, relating to construction, public bidding, bonding, or contracts; and

(ii) exempt inmates who provide labor for those projects from the labor and wage requirements of Title 18, chapter 2, part 4.

(d) provide for the manufacture by prison industries of highway, road, and general information signs for the use of the state or any of its political subdivisions, except when the manufacture of the signs is in violation of a collective bargaining contract; ~~and~~

(e) provide for the manufacture of motor vehicle license plates and other related articles; and

(f) provide vocational programs that support private market demand.

(4) The Montana correctional enterprises program may provide its products and services to government agencies, school districts, and nonprofit and for-profit organizations ~~through contracts and dealer networks~~. Furniture, print, and sign shop products may be sold to the general public ~~only through dealer networks~~.

(5) Except as provided in subsection (6), furniture made in the prison may be purchased by state agencies in accordance with the procurement provisions under Title 18, chapter 4.

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

(7) The Montana correctional enterprises program may donate surplus food grown or produced at the prison to local food banks, nonprofit organizations, and low-income persons.

(8) The Montana correctional enterprises program is authorized to sell livestock on the open market."

Section 3. Section 53-30-132, MCA, is amended to read:

"**53-30-132. (Temporary) Inmate participation and status in prison work programs -- Montana correctional enterprises prison industries training program -- wages and benefits.** (1) Able-bodied persons committed to a state prison as adult offenders may be required to perform work as provided for by the department of corrections, including work in the Montana correctional enterprises prison industries training program involving the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work.

(2) The Montana correctional enterprises prison industries training program may:

(a) obtain federal certification, as required by federal law, of specific prison industries programs in order to gain access to interstate markets for prison industries products;

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

(c) fix the sale price for goods produced or manufactured by prison industries. Prices may be set

according to market standards and prices for goods or services of comparable quality. The price of products must include the cost of all raw materials and labor used to manufacture or produce the product.

(d) require a correctional facility to purchase needed goods and services from the Montana correctional enterprises program.

(3) The Montana correctional enterprises program may:

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

(b) collect 15% of the gross wages paid to an inmate employed in a federally certified prison industries program to satisfy any unpaid court-ordered obligations, including restitution on previously discharged sentences for which restitution remains owing. If the inmate's court-ordered obligations have been fully paid or no restitution was ordered, the Montana correctional enterprises program shall collect 15% of the gross wages paid to an inmate for transfer quarterly to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113.

(c) collect charges for room and board from an inmate employed in a federally certified prison industries program. The Montana correctional enterprises program shall deposit inmates' room and board charges into its enterprise fund to help defray the cost of prison industries training programs.

(4) While engaged in on-the-job training and production, inmates not ~~employed~~ working in a federally certified prison industries program may be paid a wage in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5)(b).

(5) (a) Except as provided in subsection (5)(b), the maximum rate of pay must be determined by the appropriation established for the program, and payment for the performance of work may be based on the following criteria:

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

(b) Inmates employed in a federally certified prison industries program must be paid the federal

minimum wage or be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work as determined by the federal bureau of justice.

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

(7) Inmates not working in a federally certified prison industries program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industries program are entitled to coverage and benefits as provided in 39-71-744. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.)

53-30-132. (Effective July 1, 2027) Inmate participation and status in prison work programs -- Montana correctional enterprises prison industries training program -- wages and benefits. (1) Able-bodied persons committed to a state prison as adult offenders may be required to perform work as provided for by the department of corrections, including work in the Montana correctional enterprises prison industries training program involving the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work.

(2) The Montana correctional enterprises prison industries training program may:

(a) obtain federal certification, as required by federal law, of specific prison industries programs in order to gain access to interstate markets for prison industries products;

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

(c) fix the sale price for goods produced or manufactured by prison industries. Prices may be set according to market standards and prices for goods or services of comparable quality. The price of products must include the cost of all raw materials and labor used to manufacture or produce the product.

(d) require a correctional facility to purchase needed goods and services from the Montana correctional enterprises program.

(3) The Montana correctional enterprises program may:

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

(b) collect 15% of the gross wages paid to an inmate employed in a federally certified prison industries program to satisfy any unpaid court-ordered obligations, including restitution on previously discharged sentences for which restitution remains owing. If the inmate's court-ordered obligations have been fully paid or no restitution was ordered, the Montana correctional enterprises program shall collect 15% of the gross wages paid to an inmate for transfer quarterly to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund as provided in Title 53, chapter 9, part 1.

(c) collect charges for room and board from an inmate employed in a federally certified prison industries program. The Montana correctional enterprises program shall deposit inmates' room and board charges into its enterprise fund to help defray the cost of prison industries training programs.

(4) While engaged in on-the-job training and production, inmates not ~~employed~~ working in a federally certified prison industries program may be paid a wage in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5)(b).

(5) (a) Except as provided in subsection (5)(b), the maximum rate of pay must be determined by the appropriation established for the program, and payment for the performance of work may be based on the following criteria:

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

(b) Inmates employed in a federally certified prison industries program must be paid the federal minimum wage or be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work as determined by the federal bureau of justice.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the Montana correctional enterprises prison industries training

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

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

NEW SECTION. **SECTION 4. CODIFICATION INSTRUCTION.** [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 53, CHAPTER 30, PART 1, AND THE PROVISIONS OF TITLE 53, CHAPTER 30, PART 1, APPLY TO [SECTION 1].

NEW SECTION. **SECTION 5. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

NEW SECTION. **SECTION 6. TERMINATION.** [SECTION 1] TERMINATES DECEMBER 30, 2026.

- END -