

**Minutes of the Meeting of the
Nevada Legislature's Interim Finance Committee's
Committee on Industrial Programs
(NRS 209.4817)
May 20, 2004**

A meeting of the Interim Finance Committee's Committee on Industrial Programs was called to order by Chairman Marvel at 9:30 a.m., Thursday, May 20, 2004, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was simultaneously broadcast via videoconference to Room 4412 of the Grant Sawyer State Office Building, Las Vegas, Nevada.

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Assemblyman John Marvel
Senator Maurice Washington
Greg Smith, Administrator, Purchasing Division
Howard Skolnik, Deputy Director, Prison Industries (non-voting member)

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Raymond Rawson
Bruce Aguilera, Vice President/General Counsel, Bellagio
Jackie Crawford, Director, Department of Corrections
Michael Mackenzie, Principal, Operations Improvement Company
Mike Magnani, Labor Union Representative

COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry Jr.
Al Puliz, Chairman, Puliz Moving and Storage

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Leslie Johnstone, Program Analyst, Fiscal Analysis Division
Mark Krmpotic, Senior Program Analyst, Fiscal Analysis Division
Yvonne Goodson, Deputy Legislative Counsel, Legal Division
Denise Larsen, Secretary, Fiscal Analysis Division

OTHERS PRESENT:

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Shane Chesney, Deputy Attorney General

Cy Ryan, Las Vegas Sun

EXHIBITS:

- Exhibit A: Meeting Notice and Agenda
- Exhibit B: Attendance Record
- Exhibit C: Copy of the May 20, 2004, meeting packet prepared and distributed by Legislative Counsel Bureau (LCB) staff
- Exhibit D: Copy of the PowerPoint Presentation on the Proposed Industrial Park Land Acquisition at Indian Springs prepared by Prison Industries
- Exhibit E: Copy of a handout provided by Howard Skolnik entitled "State Supreme Court bars prison work plan" from *The Associated Press*.
- Exhibit F: Copy of handout – S 2414, a bill to establish a commission to review Federal inmate work opportunities, provided by Howard Skolnik.
- Exhibit G: Copy of a letter to Chairman Marvel regarding the potential liability of Nevada Prison Industries for products the manufacture provided by Yvonne Goodson, Deputy Legislative Counsel, Legal Division

Because of their size, the exhibits are not attached to these minutes, however, upon request, may be reviewed in the Fiscal Analysis Division of the Legislative Counsel Bureau, Carson City, Nevada. You may contact Denise Larsen at (775) 684-6821.

I. CALL TO ORDER AND OPENING REMARKS BY ASSEMBLYMAN MARVEL.

- Chairman Marvel called the meeting of the Interim Finance Committee's Committee on Industrial Programs to order at 9:30 a.m. He welcomed members and staff, and introduced Committee member, Greg Smith, Administrator, Purchasing Division, who succeeded Bill Moell upon his retirement.

Chairman Marvel instructed the secretary to take roll; it was determined that a quorum of Committee members was present.

II. APPROVAL OF THE MINUTES OF THE FEBRUARY 10, 2004, MEETING.

- Chairman Marvel questioned whether members had any additions or corrections to the minutes of the February 10, 2004, meeting. Being none, he called a motion for approval of the minutes.

SENATOR WASHINGTON MOVED TO APPROVE THE MINUTES OF THE NEVADA LEGISLATURE'S INTERIM FINANCE COMMITTEE'S COMMITTEE ON INDUSTRIAL PROGRAMS MEETING HELD FEBRUARY 10, 2004.

GREG SMITH SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Marvel welcomed and introduced Shane Chesney, Deputy Attorney General, to Committee members.

III. STATUS REPORT FROM PRISON INDUSTRIES AND COMMITTEE RECOMMENDATIONS

REGARDING THE FOLLOWING PROPOSALS AND PRISON INDUSTRY ENCHANCEMENT CERTIFICATON PROGRAM (PIECP).

Chairman Marvel requested that Mr. Skolnik cover the agenda items under agenda item III regarding potential industry programs for Silver State Industries.

A. Alwire Cable – High Desert State Prison

Mr. Skolnik advised the Committee that Alwire Cable was interested in relocating their prison industry from High Desert State Prison (HDSP) to the Southern Nevada Women's Correctional Facility (SNWCF). Alwire Cable had agreed to the construction of a building onsite subsequently to be purchased back from them through an initial payment of \$75,000 and rent deferment by Prison Industries. Mr. Skolnik reported that once operational, the program should employ 30 to 50 female inmates. He explained that Alwire Cable manufactured cable in conduit. In the Las Vegas area, Alwire Cable presently supplies 100 percent of the under-600 volt equipment to Nevada Power for under ground cabling. Mr. Skolnik added that Alwire Cable was hoping to add Cox Cable as a customer. With SNWCF as the new location, shipping costs would be reduced, which would make Alwire Cable more competitive.

Responding to Chairman Marvel's question regarding room at SNWCF for the proposed building, Mr. Skolnik indicated SNWCF did have room for the building. He further explained that Alwire Cable required a 20,000 square-foot building with an extended layout of an 150 foot run, which was not available at HDSP. Mr. Skolnik indicated that Alwire was working with the State Public Works Board to negotiate a contract for the engineering of the building. He added that it was Prison Industries hope to be in production within six to eight months.

Answering Chairman Marvel's question regarding the number of inmates the industrial program for Alwire Cable would employ, Mr. Skolnik replied that it would employ 30 to 50 inmates depending on the number of shifts Alwire Cable would operate.

In response to Chairman Marvel's question regarding review of the contract for Alwire Cable, Mr. Chesney indicated he had reviewed the contract, and it met with his approval.

Chairman Marvel asked whether Committee members had any questions regarding the Alwire Cable Industrial Programs. Hearing none, he asked Mr. Skolnik to continue.

B. Cook/Chill Process – High Desert State Prison

Mr. Skolnik informed the Committee that Prison Industries had submitted a Request for Proposal (RFP) that was being considered by State Purchasing and contract staff in the Department of Corrections for the Cook/Chill Program. He indicated that once reviewed, Prison Industries would send the RFP to two companies that have qualified for the bid through a previous Request for Information (RFI) process.

Mr. Skolnik related that bidders would tour all major facilities with an option to tour the conservation camps prior to submitting proposals. He said that the vendors' responses would be both written and verbal presentations.

Greg Smith reminded Mr. Skolnik and the Committee that there would be a margin for

negotiations after the proposals are submitted.

Jackie Crawford, Director, Department of Corrections (NDOC), related that she was looking forward to the implementation of the Cook/Chill program and that it would be beneficial to the state in saving money.

Mr. Skolnik related that Aramark and Canteen, the companies that had previously qualified for the bid through the RFI process, were both experienced in correctional culinary operations. With regard to Chairman Marvel's question concerning the Cook/Chill Program's ability to provide for all NDOC institutions, Mr. Skolnik advised that a phase-in implementation is anticipated. He affirmed that the private sector could also be recipients of the industrial program's products. Mr. Skolnik apprised the Committee that both companies were instructed to incorporate all capital costs for conversions in their proposals.

Directing his question to Director Crawford, Senator Washington asked how the Cook-Chill Program would change NDOC's procedures for operations at Lovelock Correctional Center (LCC) and throughout the state.

With regard to Senator Washington's question, Director Crawford said that procedures would change some. She explained there would be hubs at LCC and HDSP to prepare food to deliver to conservation camps and rural areas. She indicated that with the Cook/Chill Program, the quality of food would be standardized across the entire state. Director Crawford added that the Cook/Chill Program would employ inmates.

Mr. Skolnik related that the Cook-Chill process had two components: the bulk processing that results in a 45-day food shelf life and the hot plate process that results a 5-day self life. He added that NDOC envisioned the bulk processing operation at HDSP and the "hot plating" process at both HDSP and LCC with distribution to local area institutions.

Responding to Senator Washington's question concerning conservation camps, Mr. Skolnik explained that it was Prison Industries' intent to service every facility within NDOC, including conservation camps, and create the capacity for potential customers such as detention centers. He added that the Cook/Chill Program would provide culinary skills for inmates that would afford inmates jobs upon release.

Bruce Aguilera, Vice President/General Counsel for the Bellagio, asked whether NDOC already had vehicles for transportation of the Cook/Chill process products to the various facilities.

With regard to Mr. Aguilera's question, Mr. Skolnik related that Prison Industries would obtain transportation as part of the state fleet or the private sector partner would obtain vehicles as part of the contract. He said that the total cost estimate for the project was approximately \$25 million. If the program is not going to be beneficial to the state, Prison Industries would not pursue the Cook/Chill process.

Responding to Chairman Marvel's question regarding the Cook/Chill process for the Bellagio, Mr. Aguilera related that the process for the Bellagio was the same as what Prison Industries proposed; however, it was in-house; the Bellagio did not have to ship the product.

Chairman Marvel asked if Committee members had further questions or comments on the Cook/Chill process. Being none, he directed the Committee to agenda item III C.

C. ITSAR Truck Program – Southern Desert Correctional Center

Mr. Skolnik informed the Committee that ITSAR, the industrial program for the renovation of semi-trucks, had been operational and to date, had shipped in excess of 50 trucks. He indicated that the operation had converted the majority of trucks to water trucks and a few trucks were converted to dump trucks.

Mr. Skolnik reported that procedures for final occupancy for the “sprung building” were nearly complete. Responding to Chairman Marvel’s question regarding Fire-Marshall requirements, Mr. Skolnik said that Prison Industries was within 75 percent compliance and final modifications should be completed within two weeks to accommodate H-4 usage in the building. He added that there was room for expansion of the ITSAR program.

- Mr. Skolnik advised the Committee that there was interest from another company for truck renovation which may be interested in the proposed Industrial Park or HDSP for a similar operation.

Chairman Marvel asked if Committee members had further questions of Mr. Skolnik on the ITSAR Industrial Program. Being none, he requested that Mr. Skolnik proceed to agenda item III D.

D. Garment Factory – Lovelock Correctional Center

Mr. Skolnik informed the Committee that the Garment Factory at Lovelock Correctional Center (LCC) was now profitable and had made improvements in efficiency. He advised that Prison Industries had received certification under PIECP for the Garment Factory. Mr. Skolnik added that this certification would allow Prison Industries the ability to manufacture new products and ship the Garment Factory’s products for interstate sales.

- Responding to Chairman Marvel’s question regarding the Garment Factory’s orders for Mr. Boxer, the store located at the airport in Las Vegas, Mr. Skolnik advised that Mr. Boxer was planning expansion. Prison Industries is planning to demonstrate their products for Mr. Boxer at the Chamber of Commerce show scheduled for June in hopes of obtaining other customers from the private sector.

In response to Chairman Marvel’s question whether the Garment Factory was producing uniforms for other institutions, Mr. Skolnik advised that Prison Industries submitted a bid to Clark County Detention facility, however, had lost the bid. He explained that the other vendor’s bid for final product came in at less than Prison Industries’ material cost. He related it was difficult to compete with off-shore operations.

Mr. Smith indicated that the state’s warehouse in Sparks could be utilized to store materials so that Prison Industries could buy in bulk to achieve lower material costs.

Chairman Marvel inquired if there were any questions on the Garment Industry Program; there were none.

E. Industrial Park Land Acquisition – Indian Springs

Mr. Skolnik informed the Committee that Prison Industries had purchased 22.5 acres of land for the proposed Industrial Center, located north of the Southern Desert Correctional Center

(SDCC) across Cold Creek Road, from the Bureau of Land Management (BLM). He presented a rendering of the proposed building via a PowerPoint presentation, Exhibit D., to the Committee. Mr. Skolnik reported that Prison Industries had received zoning approval from Clark County for the park with 75 percent coverage, which would allow Prison Industries to put in 600,000 square feet of space on the 22.5 acres.

Mr. Skolnik advised the Committee that the facility, which would utilize inmates from both SDCC and HDSP, would be developed with a medium-security perimeter and would be considered to be a prison without sleeping or living units. He said that if the Industrial Park proceeds as anticipated, it could generate approximately 1,000 inmate jobs that could result in payments to the Room and Board Fund of over \$2 million per year with \$.5 million to both the Victims' Fund and Expansion Fund.

Mr. Skolnik discussed the security for the travel perimeter from both HDSP and SDCC for the development. He advised that HDSP would have a secure road from the institution directly to the Industrial Park. A secure bridge would be constructed from SDCC over Cold Creek Road to the Industrial Park. Mr. Skolnik noted that technology, such as inmate bracelets, would be used to monitor inmate movement and help reduce staff costs. He added that tenants of the Industrial Park would be required pay the costs of the mandatory security staff.

Mr. Skolnik reported that the RFP for the site development was being reviewed by the Division of State Purchasing and by the Division of State Lands. Prison Industries was anticipating offering a 50-year lease on the development in order for the private developer to recover their investment. Prison Industries was pursuing a single vendor who would be responsible for design of the site, site management, recruiting and the guarantee of income to the state (through rent or a head tax for inmate labor).

Addressing Chairman Marvel's questions concerning the cost and interest regarding the Industrial Park, Mr. Skolnik related that the project costs that would be privately financed would be approximately \$50-\$60 million. The cost would include the road, bridge, security technology and building construction. He indicated that Prison Industries was pursuing a single vendor with single certification under the Prison Industry Enhancement Certification Program (PIECP), who would subcontract the labor to other tenants. Mr. Skolnik reported that he had received a large number of inquiries regarding Industrial Park.

Indicating that she was proud of the work Mr. Skolnik had completed on the project, Director Crawford said that she felt the Industrial Park would be a model and set a trend for other states. Pointing out that many private companies are not comfortable with an industry located on site, Director Crawford stated that the Industrial Park opened up an opportunity to enjoy prison labor without going into a prison.

Addressing Chairman Marvel's concern that federal legislation could invalidate the project, Mr. Skolnik related that, if necessary, Prison Industries could make the program a work-release program.

Chairman Marvel remarked that the concept for the Industrial Park was an ingenious idea.

Pointing out that the idea for the Industrial Park was Director Crawford's, Mr. Skolnik reported that the Industrial Park would afford inmates the opportunity to learn job skills and save money for their release.

Addressing Senator Washington's question regarding the requirements for inmates to participate in industrial programs at the Industrial Park project, Mr. Skolnik indicated that the qualification to work at the program would be based on behavioral requirements and that inmates must be level-one. He added that since the project would be a medium-security facility, inmates from both SDCC and HDSP would qualify for work.

Mr. Skolnik requested any referrals for potential tenants for the Industrial Park that Committee members may know. With regard to Senator Washington's question on the type of tenants that may be interested in the project since the Indian Springs location was rather remote, Mr. Skolnik said that many industries that have moved offshore to places such as India have demonstrated the fact that companies do not have to be close to anything in order to operate. Prison Industries is looking for any kind of industry except telemarketing, which is against the law in Nevada. Mr. Skolnik added that Prison Industries had both H2 and H4 occupancy in the bid.

In response to Senator Washington's question, whether the U. S. Environmental Protection Agency (EPA) would preclude any type of industry such as heavy manufacturing from the location, Mr. Skolnik replied as long as the requirements for emission were met, he did not feel it would be a problem. He added that Prison Industries would also expect all tenants to meet emission requirements.

Director Crawford requested that Mr. Skolnik keep the Committee members apprised with progress reports as the Industrial Park project moves forward.

In response to Senator Washington's question regarding a completion date for the Industrial Park project, Mr. Skolnik advised that until Prison Industries had a proposal, he did not have a date. Once an award has been given to a private vendor, the site could be developed in approximately 18 months. It was Mr. Skolnik's hope that the Industrial Park project would be complete within 24 months.

Chairman Marvel commended Prison Industries and Pam Wilcox from BLM on the accomplishment of the swift transfer for the acquisition of the land for the Industrial Park.

Chairman Marvel asked if the Committee members had further questions or comments. Hearing none, he requested Mr. Skolnik discuss agenda item III F.

F. BLM Wild Horse Program – Northern Nevada Correctional Center

Mr. Skolnik apprised the Committee that Prison Industries' Wild Horse Program was doing well financially. He related that Prison Industries had held back on the expansion of the program until BLM had received federal funding in the fall. He reported that currently, Prison Industries housed 460 horses and that the current capacity was for over 600. Mr. Skolnik added that Prison Industries was prepared to double the size of the facility once BLM received the necessary federal funding.

Responding to questions from Chairman Marvel concerning a horse auction at Warm Springs Correctional Center (WSCC), Mr. Skolnik affirmed an auction was scheduled for the coming weekend. He added that each time that Prison Industries had held an auction, the prices they received for the horses had increased. He further added that while the return rate for horses straight from BLM was 70 to 80 percent nationally; it was only 5 percent from gentling programs. Mr. Skolnik commended

Hank Curry for his contribution in getting inmates involved in the horse-gentling program.

In response to Senator Washington's question, whether Prison Industries tracked the placement of horses, Mr. Skolnik explained that Prison Industries only acted in the capacity of a holding facility for the horses. The bulk of the horses would be released back to their originating range by BLM or the Division of Agriculture once the land could provide feed, and the horses that were gentled were auctioned. Mr. Skolnik related that although each horse was not tracked after auction, Prison Industries had been told that that no horses are sold for consumption.

With regard to Chairman Marvel's question on expansion of the Prison Farm's holding corrals, Mr. Skolnik advised that Prison Industries was anticipating doubling the corrals to accommodate 600 to 650 more horses. In response to a question on the funding received for the horses, Mr. Skolnik indicated that BLM paid Prison Industries on a sliding scale for holding the horses, which varied depending on the number of horses held. Presently Prison Industries was receiving \$2.74 per horse per day.

Chairman Marvel asked if the Committee members had any further questions concerning the Wild Horse Program. Hearing none, he directed the Committee to the next agenda item.

IV. REVIEW OF FINANCIAL STATEMENTS FOR QUARTER ENDING DECEMBER 31, 2003.

Mr. Skolnik indicated that financial information for Prison Industries was provided on pages 18 through 39 under tab IV of the meeting packet, Exhibit C. He said that the first six months of the fiscal year had shown a net income for Prison Industries. Mr. Skolnik noted there was a reduction in cash due to the sprung building at SDCC and other capital expenditures. He pointed out that the increase in assets was more than the reduction in cash.

Mr. Skolnik related that Prison Industries was no longer benefiting from the revenue that license-plate fees created by the reissue from the sheep-horn plates to the sunset plates. Responding to Chairman Marvel's question regarding the fees generated by Nevada's increase in population for license-plate fees, Mr. Skolnik agreed that revenue figures were higher now than prior to the two-year statewide reissue.

Mr. Skolnik advised the Board that in spite of lost sales in some operations, almost every Prison Industries operation has been profitable.

Chairman Marvel questioned whether Michael Mackenzie, Principal, Operations Improvement Company, had an opportunity to consult with Mr. Skolnik regarding the review of Prison Industries' Auto and Furniture Shops operations to suggest possible improvements for profitability.

Mr. Skolnik indicated that Prison Industries had provided Mr. Mackenzie with flow charts and financial information regarding the Auto Shop's operations. The next step was to have Mr. Mackenzie observe the Auto Shop's procedures.

Mr. Mackenzie pointed out the improvement depicted in Prison Industries' financial statements. He said that the improvement at the Drapery Shop at Ely State Prison (ESP) and the Garment Factory at LCC was a result of increased sales. Mr. Mackenzie reported that sales for the Detergent and Combined Mattress Shop at Nevada State Prison (NSP) had decreased significantly. He related that the Auto Upholstery and the Metal Furniture Shop continued to be Prison Industries' two marginal

areas. Noting that he had reviewed and prepared analysis of the notes, processes and flow diagrams from the Auto Shop, Mr. Mackenzie indicated that he was now ready for an onsite review of operations for the Las Vegas Auto Shop.

Responding to Chairman Marvel's question regarding Mr. Mackenzie's observation of the Furniture Shop, Mr. Mackenzie indicated that, financially, the operation was marginal. He added that he had not yet had the opportunity to spend time in the Furniture Shop to review the operations.

Chairman Marvel expressed his gratitude to Mr. Mackenzie for the time he spent on reviewing the Prison Industries' operations.

Mr. Skolnik interjected that in spite of the reduction of sales in both the Furniture and Metal Shop operations, the bottom line had improved and Prison Industries was indicating positive figures. He informed the Committee that Prison Industries had begun structural steel work in the Metal Shop at the request of area contractors.

Addressing Mr. Smith, Chairman Marvel questioned whether the State Purchasing Division had received complaints on Prison Industries' products.

With regard to Chairman Marvel's question, Mr. Smith advised that he had received the opposite, compliments on Prison Industries' products. He added that he had toured the Northern Nevada facilities with John Woodburn, Marketing Coordinator for Prison Industries in Carson City. He said that he was impressed with the quality workmanship, cleanliness, organization and professionalism he observed while viewing the operations.

Chairman Marvel indicated he appreciated Mr. Smith's compliments on Prison Industries' operations as the State Purchasing Division would be vital in promoting Prison Industries' products to state agencies.

Addressing Chairman Marvel's questions regarding the Prison Dairy, Mr. Skolnik advised that the profits for the Prison Dairy were down due to the increase in the cost of feed. He related that presently, Prison Industries supplied dairy products to northern institutions as far as Lovelock. Mr. Skolnik added that once the Cook/Chill program was operational, transportation for that program could also distribute dairy products statewide. He pointed out that the capacity of the Prison Dairy was already in place to accommodate an increase to statewide production; Prison Industries would simply have to increase the herd.

Chairman Marvel inquired if Committee members had further questions on the financial statements. Hearing none, he directed the Committee to the next item.

V. REVIEW OF NUMBER OF INMATES EMPLOYED JULY 2002 THROUGH MARCH 2004.

Mr. Skolnik pointed out that there had been a reduction in the number of inmates employed. With respect to the decrease, Mr. Skolnik explained that part of the reduction was due to layoffs imposed by Prison Industries until profitability improved. He added that with the American Correctional Association (ACA) accreditation policies now in place for more Prison Industries' operations, it was no longer necessary to have a separate inmate to oversee ACA accreditation at each location, resulting in further reduction in inmate labor and overhead.

Chairman Marvel recalled it was Director Crawford's goal to employ approximately 20 percent of the inmate population.

Confirming that the goal for inmate employment was 20 percent, Mr. Skolnik indicated the current rate of prisoners employed was 8 percent.

Director Crawford announced that inmate employment would increase with the completion of the new industrial building at HDSP.

Mr. Skolnik interjected that once the HDSP building was completed and fully occupied, and the program was operational, 150 to 200 additional inmates would be employed. He anticipated that once the Industrial Park was completed and operational, another 1,000 inmates would be employed, which would accomplish Director Crawford's 20 percent goal.

Responding to Chairman Marvel's question regarding the highest rate in the United States for employment for inmates in prison industrial programs, Mr. Skolnik advised that federal prisons obtained 35 percent employment. He expounded that this percentage included jobs that paid wages of only 10 cents an hour with the Department of Defense as their customer base.

VI. STATUS REPORT AND PUBLISHED ARTICLES CONCERNING PROPOSED FEDERAL PRISON INDUSTRY LEGISLATION H.R. 1829 (HOEKSTRA) AND S. 346 (LEVIN).

Ascertaining that Committee members received the handouts entitled "State Supreme Court bars prison work plan" from The Associated Press and S. 2414, a bill to establish a commission to review Federal inmate work opportunities, Exhibits E and F, Mr. Skolnik indicated he would combine major issues regarding the proposed federal legislation concerning prison industries under agenda items VI and IX. He reported that in the state of Washington, the Washington Supreme Court reversed an earlier opinion and ruled that private-sector prison industries programs are now unconstitutional, giving the Washington prisons a limited time period to shut down their industrial programs. Mr. Skolnik added that a preliminary review by Legislative Counsel and the Attorney General's Office indicated that Nevada does not have similar constitutional language that would affect Nevada's Prison Industries. He further added that Nevada's Prison Industries had worked closely with the private sector in order not to negatively influence their businesses; therefore, Prison Industries had a positive relationship with Nevada businesses.

Mr. Skolnik provided information on federal legislation being considered in Washington, D.C., regarding federal prison industry programs that could have a negative impact on states' prison industry programs. He advised that Michigan's Congressman Hoekstra, a former vice-president of a contract furniture manufacturer, Herman Miller, had introduced H.R. 1829 that had passed in the House of Representatives; however, the bill was still in the Senate. He explained that the bill would have a negative impact on Nevada's Prison Industries service-oriented industrial programs. If passed, the bill would require prevailing inmates' wages to be raised to minimum wages. If this modification of wages occurs, Prison Industries would be forced to eliminate the service-oriented industrial programs in order to be profitable. Mr. Skolnik reported that the card-sorting industrial program would either have to go back to a "cottage industry" operation preformed in an individual's home, or the program would be sent offshore in order to meet cost restrictions. Mr. Skolnik added that a bill similar to H.R. 1829, S. 346, which was presented to the Senate by Senator Levin, was still in Committee.

Mr. Skolnik informed the Committee that another bill introduced, S. 2414, Exhibits E, required the development of a bi-partisan review commission to review the impact of all of the bills concerning inmate employment.

Mr. Skolnik reported that Prison Industries had received a copy of a letter from Las Vegas Chamber of

Commerce indicating their concern about legislation that would negatively impact the state's industrial programs in Nevada.

Referring to Chairman Marvel's correspondence to Nevada's Congressional Delegation, on pages 45 and 46 under tab VI. of the meeting packet, Exhibit C, Mr. Skolnik said it was his understanding that Senator Ensign had been involved in an effort to support Prison Industries programs.

Chairman Marvel expressed concern that legislation, such as H.R. 1829 and S. 346 would force the service-oriented industrial programs to leave the United States and locate overseas. He pointed out that the federal government would have no control over the operations if private firms relocated them in foreign countries.

Agreeing with Chairman Marvel's concern, Mr. Skolnik said that if these jobs are taken out of the prison institutions, they would not be going to the private sector in the United States.

Chairman Marvel stated that one of the main missions of the Committee on Industrial Programs was to ensure that jobs were maintained within the prison system and not leaving the United States.

Mr. Skolnik advised the Committee that the capability of having part of their operations done by Prison Industries afforded many businesses the opportunity to be more competitive and remain in Nevada, versus relocating overseas. He hoped that the Committee on Industrial Programs would assure that Nevada's Congressional Delegation had knowledge that S. 2414 was beneficial to the state of Nevada.

Discussion ensued regarding the endorsement of the Committee to support S. 2414. It was determined that it would be appropriate to send correspondence on behalf of the Committee members to the Nevada's Congressional Delegation reflecting the Committee's support regarding proposed legislation impacting prison industries.

VII. STATUS REPORT REGARDING CONSTRUCTION PROJECT AT HIGH DESERT STATE PRISON FOR PRISON INDUSTRIES BUILDING.

Mr. Skolnik informed the Committee that the outline of the prison industries building was now visible at HDCC. It is anticipated that Prison Industries could take occupancy in the fall of 2004.

In response to Chairman Marvel's question, whether the gym at HDCC was also under construction, Mr. Skolnik affirmed that it was.

VIII. REPORT FROM LEGISLATIVE COUNSEL BUREAU LEGAL DIVISION REGARDING POTENTIAL LIABILITY OF PRODUCTS MANUFACTURED BY PRISON INDUSTRIES AND IMPACT OF LIABILITY INSURANCE IN EXCESS OF THE STATUTORY LIMIT FOR DAMAGES AGAINST PRISON INDUSTRIES AS AN AGENCY OF THE STATE (NRS 41.035).

Chairman Marvel ascertained that all Committee members had received a copy of the letter from Yvonne Goodson, Deputy Legislative Counsel, Legal Division dated May 19, 2004, Exhibit G.

Ms. Goodson, identified above, recalled that at the last meeting of the Committee on Industrial Programs, an issue was raised concerning the Prison Industries' motorcycle trailer operation and the potential liability for Prison Industries in the event of an injury caused by a product manufactured by

Prison Industries.

Presenting some background for the Committee, Ms. Goodson related that Mr. Skolnik had been informed by Risk Management that Prison Industries would be covered under the \$50,000 liability cap for the state of Nevada. She informed the Committee that the state of Nevada had essentially waived its immunity per suit up to the \$50,000. Ms. Goodson indicated that her focus was with respect to how the \$50,000 cap had been interpreted by the courts as it pertained to Prison Industries' products. She noted that the courts had inferred that the liability would be with the negligent construction of a product, not with respect to the design of a product. Ms. Goodson explained that this negligence liability would be limited to the \$50,000 per action. However, each one-person suit may have many actions such as a personal injury claim, a property claim, a wrongful death claim. Prison Industries would be liable for up to \$50,000 for each of those actions. Ms. Goodson further explained there may be more than one person injured by a product manufactured in a single accident; therefore, Prison Industries could be liable for many actions for each person injured.

Continuing, Ms. Goodson apprised the Committee that the U. S. Supreme Court has interpreted that sovereign immunity statutes do not apply to other states. Therefore, if a suit was brought in another state concerning negligent construction of a product, Nevada's sovereign immunity laws would not have to be applied, including the \$50,000 liability cap.

Ms. Goodson explained that Prison Industries could purchase extra insurance in excess of the \$50,000 without waiving the state's qualified sovereign immunity or the state's limitation on damages.

Chairman Marvel requested that Mr. Chesney review Ms. Goodson's findings and report his opinion on the matter to the Committee.

Mr. Chesney agreed to review the data presented by Ms. Goodman. He opined that Ms. Goodson's information regarding suits brought against the state of Nevada in other jurisdictions having no obligation to apply Nevada's sovereign immunity laws was very interesting.

Addressing Chairman Marvel's question, whether the motorcycle trailers would be the product that would most expose Prison Industries to liability suits with regard to negligent construction of a product, Mr. Skolnik related that Prison Industries had a number of products that are shipped out of Nevada, such as mattresses or metal bed frames. He informed the Committee that at one time, Prison Industries did carry product liability insurance in excess of the \$50,000 cap as a result of an auto accident involving a state vehicle that occurred in California. The \$50,000 liability cap did not apply in California due to the jurisdiction being outside of Nevada. Mr. Skolnik reported that Prison Industries subsequently had been told that they did not need to carry the excess product liability insurance by Risk Management. He said that if Prison Industries is covered by Risk Management, he concurred with the decision not to purchase additional insurance for Prison Industries. With regard to Chairman Marvel's question on the cost of the insurance, Mr. Skolnik indicated at the time, Prison Industries was much smaller; and the insurance, which was limited to the products sold on the open market to non-governmental agencies, ran approximately \$30,000 per year with a \$50,000 deductible due to the liability cap.

With regard to Senator Washington's suggestion, that Mr. Skolnik verify Prison Industries was covered by Risk Management for their product liability and to ensure it was in writing, Mr. Skolnik agreed to re-examine the issue. He said he would contact Risk Management to verify what coverage they did provide.

In response to Chairman Marvel's question, whether Prison Industries was manufacturing the

motorcycle trailers for Harley Davidson, Mr. Skolnik said that Prison Industries had been making one and two motorcycle-carrier trailers, some of which had been purchased in Las Vegas by Harley Davidson. He added that the motorcycle trailers were also being purchased in and out of state by individuals.

With regard to questions from Senator Washington concerning workers' compensation insurance, Mr. Skolnik reported that all inmates who were working in Prison Industries (state operated industries and private operated industries) were covered by workers' compensation insurance. He explained that Prison Industries carried an umbrella policy through the Division of Industrial Relations after the State Industrial Insurance System (SIIS) dissolved. Inmate workers were covered for four percent of wages. Mr. Skolnik noted that the provision of the workers' compensation insurance coverage served as a recruitment tool in recruiting private companies as Prison Industries' rate was lower than most private companies spend for the same insurance. He advised that Prison Industries was insured through a carrier, paid a policy rate and, in turn, billed the private companies back for the insurance.

While incarcerated, inmates were entitled to medical coverage only and would be re-evaluated for disabilities upon release for financial compensation and/or retraining. Mr. Skolnik advised that Prison Industries had not confronted any fatality claims related to workers compensation.

Mr. Chesney advised the Committee that the workers' compensation statutes set forth the criteria regarding death benefits to family. With regard to the workers compensation for financial benefits for temporary or permanent disabilities upon release, Mr. Chesney pointed out that benefits were calculated on average monthly wages and, in the case of inmate employment, they would be very low.

Mr. Skolnik apprised the Committee that federal unemployment was waived for Prison Industries programs by the Department of Justice and by the federal unemployment program. State unemployment was not waived; however, for an inmate to qualify for unemployment benefits based on his work inside the institution, the inmate must have a minimum of nine consecutive weeks of employment after release prior to drawing unemployment.

Chairman Marvel asked for further questions on liability insurance. There were none.

IX. INFORMATIONAL ITEMS.

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Indicating that information items were combined and discussed previously with agenda item VI., Chairman Marvel questioned if the Committee had any further questions regarding the informational items. There were none.

IX. PUBLIC COMMENT.

Chairman Marvel called for public comment. There was no public comment provided.

X. ADJOURNMENT.

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Chairman Marvel called for any other business to come before the Committee. There being none, Chairman Marvel thanked the Committee members and staff for their attendance and adjourned the meeting at 10:56 a.m.

Respectfully submitted,

Denise Larsen
Secretary

APPROVED:

Assemblyman John Marvel, Chairman

Date