HOUSE BILL NO. 333

INTRODUCED BY BROOKE, THOFT, D. BROWN, HARRINGTON, STRIZICH, WANZENRIED, O'KEEFE, HALLIGAN, T. BECK, LEE, G. BECK, LARSON BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

JANUARY 22, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

> COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

SECOND READING, DO PASS.

FIRST READING.

PRINTING REPORT.

- FEBRUARY 4, 1991
- FEBRUARY 5, 1991
- FEBRUARY 6, 1991

FEBRUARY 7, 1991 ENGROSSING REPORT.

FEBRUARY 8, 1991 THIRD READING, PASSED. AYES, 73; NOES, 22.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 9, 1991

FIRST READING.

ON JUDICIARY.

MARCH 12, 1991 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 14, 1991 SECOND READING, CONCURRED IN.

MARCH 15, 1991 THIRD READING, CONCURRED IN. AYES, 45; NOES, 3.

RETURNED TO HOUSE WITH AMENDMENTS.

INTRODUCED AND REFERRED TO COMMITTEE

IN THE HOUSE

MARCH 19, 1991

RECEIVED FROM SENATE.

ON MOTION, CONSIDERATION PASSED.

MARCH 21, 1991

MARCH 23, 1991

SECOND READING, AMENDMENTS CONCURRED IN.

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 1299/01

EUSE BILL NO. 333 1 INTRODUCED BY Buskle That 2 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS 3 Hally T. Buch Lee / Bech and and LIMPENRIED C 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS 6 RELATING TO PAROLE ELIGIBILITY: MAKING ALL INMATES ELIGIBLE 7 FOR PAROLE 120 DAYS PRIOR TO THEIR ELIGIBILITY DATES WHEN 8 THE CORRECTIONAL FACILITY HAS EXCEEDED ITS EMERGENCY 9 CAPACITY FOR 30 CONSECUTIVE DAYS; AND AMENDING SECTION 46-23-201, MCA." 10 11

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

13 Section 1. Section 46-23-201, MCA, is amended to read: 14 "46-23-201. Prisoners eligible for parole. (1) Subject 15 to the restrictions contained in subsections (2) through 16 (4), the board may release on parole by appropriate order 17 any person confined in the Montana state prison or the 18 women's correction center, except persons under sentence of 19 death and persons serving sentences imposed under 20 46-18-202(2), when in its opinion there is reasonable 21 probability that the prisoner can be released without 22 detriment to the prisoner or to the community.

(2) A convict serving a time sentence may not be
paroled until he has served at least one-half of his full
term, less the good time allowance provided for in

53-30-105; except that a convict designated 1 as а nondangerous offender under 46-18-404 may be paroled after 2 3 he has served one-quarter of his full term, less the good time allowance provided for in 53-30-105. Any offender 4 5 serving a time sentence may be paroled after he has served, 6 upon his term of sentence. 17 1/2 years.

7 (3) A convict serving a life sentence may not be
8 paroled until he has served 30 years, less the good time
9 allowance provided for in 53-30-105.

10 (4) A parole may be ordered only for the best interests
11 of society and not as an award of clemency or a reduction of
12 sentence or pardon. A prisoner may be placed on parole only
13 when the board believes that he is able and willing to
14 fulfill the obligations of a law-abiding citizen.

15 (5) If Whenever the department of institutions certifies to the board that the population at either the 16 17 Montana--state--prison--exceeds male or female correctional 18 facility has exceeded its design emergency capacity of--744 19 by--96--inmates--or--that--the--population--at--the--women's 20 correction--center-exceeds-its-design-capacity-of-35-inmates 21 and-that-the-prison-or-the-center-has-exceeded-its--capacity 22 for-a-period-of-more-than for 30 consecutive days, the board 23 shall consider cenvicts--in--the--institution-in-which-the 24 design capacity-has-been-exceeded the respective male or 25 female inmates under the jurisdiction of the department

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1 eligible for parole 120 days prior to the eligibility dates

2 provided for in subsections (2) and (3).

3 (6) Regardless of length of sentence, if the conditions

4 of parole eligibility are met within the initial 12 months

5 of incarceration at Montana state prison, the provisions of

6 subsection (5) do not apply."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for <u>HB0333</u>, <u>as introduced</u>.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act amending the laws relating to parole eligibility; making all inmates eligible for parole 120 days prior to their eligibility dates when the correctional facility has exceeded its emergency capacity for 30 consecutive days; and amending section 46-23-201, MCA."

ASSUMPTIONS:

- 1. This bill changes the language in the law to say "Whenever the Department of Institutions certifies to the Board of Pardons that the population at either the male or female correctional facility has exceeded emergency capacity for 30 consecutive days, the board shall consider parole for inmates 120 days prior to eligibility dates".
- 2. The Department of Institutions is currently operating under these parameters; therefore, there is no fiscal impact.

FISCAL IMPACT:

No impact.

ROD SUNDSTED, BUDGET DIRECTOR DATE Office of Budget and Program Planning

VIVIAN M. BROOKE, PRIMARY SPONSOR

Fiscal Note for HB0333, as introduced

HB 333

DATE

52nd Legislature

LC 1299/01

APPROVED BY COMMITTEE

ON JUDICIARY

EUSE BILL NO. 333 1 le Thelt One Brom Harriste 2 INTRODUCED BY BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS, 3 VIK umanner Rufe fally To Buch her A Bech carden A 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS 6 RELATING TO PAROLE ELIGIBILITY: MAKING ALL INMATES ELIGIBLE 7 FOR PAROLE 120 DAYS PRIOR TO THEIR ELIGIBILITY DATES WHEN 8 THE CORRECTIONAL FACILITY HAS EXCEEDED ITS EMERGENCY 9 CAPACITY FOR 30 CONSECUTIVE DAYS: AND AMENDING SECTION 10 46-23-201, MCA."

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23 (2) A convict serving a time sentence may not be
24 paroled until he has served at least one-half of his full
25 term, less the good time allowance provided for in

53-30-105; except that a convict designated as a
 nondangerous offender under 46-18-404 may be paroled after
 he has served one-quarter of his full term, less the good
 time allowance provided for in 53-30-105. Any offender
 serving a time sentence may be paroled after he has served,
 upon his term of sentence, 17 1/2 years.

7 (3) A convict serving a life sentence may not be
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9 allowance provided for in 53-30-105.

10 (4) A parole may be ordered only for the best interests
11 of society and not as an award of clemency or a reduction of
12 sentence or pardon. A prisoner may be placed on parole only
13 when the board believes that he is able and willing to
14 fulfill the obligations of a law-abiding citizen.

15 (5) If Whenever the department of institutions certifies to the board that the population at either the 16 17 Montana--state--prison--exceeds male or female correctional 18 facility has exceeded its design emergency capacity of--744 19 by--96--inmates--or--that--the--population--at--the--women's 20 correction--center-exceeds-its-design-capacity-of-35-inmates 21 and-that-the-prison-or-the-center-has-exceeded-its--capacity 22 for-a-period-of-more-than for 30 consecutive days, the board 23 shall consider convicts--in--the--institution-in-which-the design-capacity-has-been-exceeded the respective male or 24 25 female inmates under the jurisdiction of the department SECOND READING

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HB 333

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2 provided for in subsections (2) and (3).

3 (6) Regardless of length of sentence, if the conditions

4 of parole eligibility are met within the initial 12 months

5 of incarceration at Montana state prison, the provisions of

6 subsection (5) do not apply."

-End-

USE BILL NO. 323 1 INTRODUCED BY Bushe That A 2 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS. 3 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS 6 RELATING TO PAROLE ELIGIBILITY; MAKING ALL INMATES ELIGIBLE 7 FOR PAROLE 120 DAYS PRIOR TO THEIR ELIGIBILITY DATES WHEN 8 THE CORRECTIONAL FACILITY HAS EXCEEDED ITS EMERGENCY 9 CAPACITY FOR 30 CONSECUTIVE DAYS: AND AMENDING SECTION 10 46-23-201, MCA."

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7 (3) A convict serving a life sentence may not be 8 paroled until he has served 30 years, less the good time 9 allowance provided for in 53-30-105.

(4) A parole may be ordered only for the best interests
of society and not as an award of clemency or a reduction of
sentence or pardon. A prisoner may be placed on parole only
when the board believes that he is able and willing to
fulfill the obligations of a law-abiding citizen.

15 Whenever the department of institutions (5) If certifies to the board that the population at either the 16 17 Montana--state--prison--exceeds male or female correctional 18 facility has exceeded its design emergency capacity of--744 by--96--inmates--or--that--the--population--at--the--women's 19 20 correction--center-exceeds-its-design-capacity-of-35-inmates 21 and-that-the-prison-or-the-center-has-exceeded-its--capacity 22 for-a-period-of-more-than for 30 consecutive days, the board 23 shall consider convicts--in--the--institution-in-which-the 24 design-capacity-has-been-exceeded the respective male or female inmates under the jurisdiction of the department 25 THIRD READING -2-

HB 333

LC 1299/01

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2 provided for in subsections (2) and (3).

3 (6) Regardless of length of sentence, if the conditions

4 of parole eligibility are met within the initial 12 months

5 of incarceration at Montana state prison, the provisions of

6 subsection (5) do not apply."

-End-

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 11, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 333 (third reading copy -- blue), respectfully report that House Bill No. 333 be amended and as so amended be concurred in:

1. Title, line 8. Strike: "EMERGENCY" Insert: "DESIGNED"

2. Page 2, line 18. Strike: "<u>emergency</u>" Insert: "designed"

Signed:

Richard Pinsoneault, Chairman

1-91 April. Coord. SB 3-11 3:50 of Senate

SENATE HB 333

HB 0333/02

HB 0333/02

| 1 | HOUSE BILL NO. 333 | 1 | paroled until he has served at least one-half of his full |
|----|--|----|--|
| 2 | INTRODUCED BY BROOKE, THOFT, D. BROWN, HARRINGTON, | 2 | term, less the good time allowance provided for in |
| 3 | STRIZICH, WANZENRIED, O'KEEFE, HALLIGAN, T. BECK, | 3 | 53-30-105; except that a convict designated as a |
| 4 | LEE, G. BECK, LARSON | 4 | nondangerous offender under 46-18-404 may be paroled after |
| 5 | BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS | 5 | he has served one-quarter of his full term, less the good |
| 6 | | 6 | time allowance provided for in 53-30-105. Any offender |
| 7 | A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS | 7 | serving a time sentence may be paroled after he has served, |
| 8 | RELATING TO PAROLE ELIGIBILITY; MAKING ALL INMATES ELIGIBLE | 8 | upon his term of sentence, 17 1/2 years. |
| 9 | FOR PAROLE 120 DAYS PRIOR TO THEIR ELIGIBILITY DATES WHEN | 9 | (3) A convict serving a life sentence may not be |
| 10 | THE CORRECTIONAL FACILITY HAS EXCEEDED ITS EMERGENCY | 10 | paroled until he has served 30 years, less the good time |
| 11 | DESIGNED CAPACITY FOR 30 CONSECUTIVE DAYS; AND AMENDING | 11 | allowance provided for in 53-30-105. |
| 12 | SECTION 46-23-201, MCA." | 12 | (4) A parole may be ordered only for the best interests |
| 13 | | 13 | of society and not as an award of clemency or a reduction of |
| 14 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: | 14 | sentence or pardon. A prisoner may be placed on parole only |
| 15 | Section 1. Section 46-23-201, MCA, is amended to read: | 15 | when the board believes that he is able and willing to |
| 16 | 46-23-201. Prisoners eligible for parole. (1) Subject | 16 | fulfill the obligations of a law-abiding citizen. |
| 17 | to the restrictions contained in subsections (2) through | 17 | (5) If Whenever the department of institutions |
| 18 | (4), the board may release on parole by appropriate order | 18 | certifies to the board that the population at either the |
| 19 | any person confined in the Montana state prison or the | 19 | Montanastateprisonexceeds male or female correctional |
| 20 | women's correction center, except persons under sentence of | 20 | facility has exceeded its design emergency DESIGNED capacity |
| 21 | death and persons serving sentences imposed under | 21 | of-744-by-96-inmates-or-that-the-population-atthewomen's |
| 22 | 46-18-202(2), when in its opinion there is reasonable | 22 | correctioncenter-exceeds-its-design-capacity-of-35-inmates |
| 23 | probability that the prisoner can be released without | 23 | and-that-the-prison-or-the-center-has-exceeded-itscapacity |
| 24 | detriment to the prisoner or to the community. | 24 | for-a-period-of-more-than for 30 consecutive days, the board |
| 25 | (2) A convict serving a time sentence may not be | 25 | shall consider convicts-in-the-institution-in-which-the |
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HB 333 REFERENCE BILL AS AMENDED

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HB 0333/02

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design-capacity-has-been-exceeded the respective male or
 female inmates under the jurisdiction of the department
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5 (6) Regardless of length of sentence, if the conditions 6 of parole eligibility are met within the initial 12 months 7 of incarceration at Montana state prison, the provisions of 8 subsection (5) do not apply."

-End-

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