

House Bill 8

In The House

|                  |   |
|------------------|---|
| January 6, 1981  | Introduced and referred to Committee on Judiciary.                    |
| January 7, 1981  | Fiscal note requested.  |
| January 13, 1981 | Fiscal note returned.   |
| January 16, 1981 | Committee recommend bill do pass as amended.                          |
| January 19, 1981 | Bill printed and placed on members' desks.<br>Second reading do pass. |
| January 20, 1981 | Correctly engrossed.<br>Third reading passed.                         |

In The Senate

|                  |  |
|------------------|--|
| January 21, 1981 | Introduced and referred to Committee on Judiciary. |
| March 25, 1981   | Committee recommend bill not concurred.            |

In The House

|                |                                     |
|----------------|-------------------------------------|
| March 26, 1981 | Returned from Senate not concurred. |
|----------------|-------------------------------------|

1 HOUSE BILL NO. 8  
 2 INTRODUCED BY YARDLEY  
 3 BY REQUEST OF THE STUDY COMMITTEE ON CORRECTIONS POLICY  
 4 AND FACILITY NEEDS  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS  
 7 RELATING TO PAROLE ELIGIBILITY; AMENDING SECTIONS 46-23-201  
 8 AND 46-23-216, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 46-23-201, MCA, is amended to read:

12 "46-23-201. Prisoners eligible for parole. (1) Subject  
 13 to the following restrictions, the board shall release on  
 14 parole by appropriate order any person confined in the  
 15 Montana state prison, except persons under sentence of death  
 16 and persons serving sentences imposed under 46-18-202(2),  
 17 when in its opinion there is reasonable probability that the  
 18 prisoner can be released without detriment to himself or to  
 19 the community:

20 (a) No convict serving a time sentence may be paroled  
 21 until he has served at least ~~one-half~~ two-thirds of his full  
 22 term, less the good time allowance provided for in  
 23 53-30-105; except that a convict designated as a  
 24 nondangerous offender under 46-18-404 may be paroled after  
 25 he has served ~~one-quarter~~ one-half of his full term, less

1 the good time allowance provided for in 53-30-105. Any  
 2 offender serving a time sentence may be paroled after he has  
 3 served, upon his term of sentence, 17 1/2 years.

4 (b) No convict serving a life sentence may be paroled  
 5 until he has served 30 years, less the good time allowance  
 6 provided for in 53-30-105.

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

13 Section 2. Section 46-23-216, MCA, is amended to read:

14 "46-23-216. Duration of parole. (1) A prisoner on  
 15 parole who has served ~~one-half~~ two-thirds of his term or  
 16 terms, less the good time allowance, or a nondangerous  
 17 offender on parole who has served ~~one-quarter~~ one-half of  
 18 his term or terms, less the good time allowance, is  
 19 considered released on parole until the expiration of the  
 20 maximum term or terms for which he was sentenced, less the  
 21 good time allowance as provided for in 53-30-105.

22 (2) The period served on parole or conditional release  
 23 shall be deemed service of the term of imprisonment, and  
 24 subject to the provisions contained in 46-23-1023 through  
 25 46-23-1026 relating to a prisoner who is a fugitive from or

-2- INTRODUCED BILL  
 H.B. 8

LC 0051/01

1 has fled from justice, the total time served may not exceed  
2 the maximum term or sentence. When a prisoner on parole or  
3 conditional release has performed the obligations of his  
4 release, the board shall make a final order or discharge and  
5 issue a certificate of discharge to the prisoner.\*

6 Section 3. Applicability. This act applies to all  
7 sentences imposed after June 30, 1981.

-End-

## STATE OF MONTANA

REQUEST NO. 24-81

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 7, 1980, there is hereby submitted a Fiscal Note for House Bill #8 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation: "An act to revise the laws relating to parole eligibility; Amending Sections 46-23-201 and 46-23-216, MCA."

## Assumptions:

1. Assume base populations are 636 in FY82 and 639 in FY83.
2. Under current law inmates serve 25% of their sentence less good time which equals 20% of their sentence.
3. Assume average length of stay is 18 months.
4. Under proposed law the inmates would serve 50% of their sentence less good time which equals 40% of their sentence.
5. Assume FY80 admissions of 41 inmates per month is average.
6. Assume new law is effective 7-1-81.
7. Maximum capacity of Prison is 672.

## Fiscal Impact:

|                    | <u>FY82</u> | <u>FY83</u> |
|--------------------|-------------|-------------|
| Operating Expenses | -0-         | \$2,181,623 |
| General Fund       |             |             |

## Comments:

The proposed legislation will increase the population resulting in expenditures to the state in the above amount.

*David M. Lewis*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: \_\_\_\_\_

Approved by Committee  
on Judiciary

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22 (2) The period served on parole or conditional release  
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24 subject to the provisions contained in 46-23-1023 through  
25 46-23-1026 relating to a prisoner who is a fugitive from or

1 has fled from justice, the total time served may not exceed  
2 the maximum term or sentence. When a prisoner on parole or  
3 conditional release has performed the obligations of his  
4 release, the board shall make a final order or discharge and  
5 issue a certificate of discharge to the prisoner."

6 Section 3. Applicability. This act applies to all  
7 sentences imposed after June 30, 1981.

-End-

1                   STATEMENT OF INTENT

2                   HOUSE BILL 8

3                   House Judiciary Committee

4

5           It is the intent of the Legislature in enacting this  
6 legislation that the time actually served in prison by an  
7 individual not be increased as a result of this change in  
8 parole eligibility but that the sentence that is imposed  
9 coincide more closely with the term of imprisonment. The law  
10 should be construed by the District Courts and the Sentence  
11 Review Board to effectuate having a sentence imposed which  
12 would result in a term of imprisonment comparable to the  
13 median prison term served for the same crime in the  
14 preceding ten years.

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AND FACILITY NEEDS

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