

HOUSE BILL NO. 546

INTRODUCED BY WALDRON

IN THE HOUSE

January 28, 1983	Introduced and referred to Committee on Judiciary.
February 8, 1983	Committee recommend bill do pass as amended. Report adopted.
February 9, 1983	Bill printed and placed on members' desks.
February 11, 1983	Second reading, do pass as amended.
February 12, 1983	Correctly engrossed.
February 14, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 15, 1983	Introduced and referred to Committee on Judiciary.
March 10, 1983	Committee recommend bill be concurred in. Report adopted.
March 12, 1983	Second reading, concurred in.
March 15, 1983	Third reading, concurred in. Ayes, 46; Noes, 3.

IN THE HOUSE

March 15, 1983	Returned to House.
March 16, 1983	Sent to enrolling. Reported correctly enrolled.

1 House BILL NO. 546  
2 INTRODUCED BY Walton

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
5 GRANTING OF PAROLE BY THE BOARD OF PARDONS IF THE POPULATION  
6 AT THE MONTANA STATE PRISON OR THE WOMEN'S CORRECTION CENTER  
7 EXCEEDS DESIGN CAPACITY FOR MORE THAN 30 DAYS; AMENDING  
8 SECTION 46-23-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
9 DATE."

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

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

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

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

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

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

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

14 (3) If the department of institutions certifies to the  
15 board that the population at the Montana state prison  
16 exceeds its design capacity of 545 inmates or that the  
17 population at the women's correction center exceeds its  
18 design capacity of 35 inmates and that the prison or the  
19 center has exceeded its capacity for a period of more than  
20 30 days, the board shall consider convicts in the  
21 institution in which the design capacity has been exceeded  
22 eligible for parole 180 days prior to the eligibility date  
23 provided for in subsection (1)."

24 NEW SECTION. Section 2. Effective date. This act is  
25 effective on passage and approval.

## STATE OF MONTANA

REQUEST NO. 283-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 546 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. 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:

House Bill 546 provides for granting of parole by the Board of Pardons if the population at the prison or Women's Correctional Center exceeds the design capacity for more than 30 days.

ASSUMPTIONS:

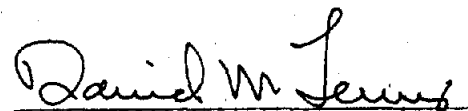
- 1) Assume maximum population at the prison to be 545.
- 2) Use 1982 Board of Pardons statistics as base.
- 3) Women's Correction Center population will not exceed the design capacity of 35 during the 1984-85 Biennium.
- 4) Prison cost per day is \$34.59 in FY 84 and \$35.31 in FY 85.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Reduction to General Fund Expenditures	\$ 1,021,097	\$ 1,042,361

The reduction occurs since it's assumed that 164 inmates will be paroled 180 days earlier under this bill.

FISCAL NOTE 10:Z/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-5-83

STATE OF MONTANA

REQUEST NO. 514-83

FISCAL NOTE

Form BD-15

In compliance with a written request received March 25, 19 83, there is hereby submitted a Fiscal Note for House Bill 546, Amended 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:

House Bill 546, amended, provides for granting of parole by the Board of Pardons if the population at the prison or Women's Correctional Center exceeds the design capacity for more than 30 days.

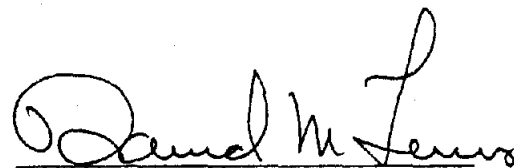
ASSUMPTIONS:

- 1) Assume maximum population at the prison to be 760.
- 2) Use 1982 Board of Pardons statistics as base.
- 3) Women's Correction Center population will not exceed the design capacity of 35 during the 1984-85 Biennium.
- 4) Prison cost per day is \$34.59 in FY 84 and \$35.31 in FY 85.

FISCAL IMPACT:

House Bill 546, amended, would have negligible fiscal impact on the general fund.

FISCAL NOTE 10:Z/2



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-26-83

Approved by Committee  
on Judiciary

HOUSE BILL NO. 546  
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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE GRANTING OF PAROLE BY THE BOARD OF PARDONS IF THE POPULATION AT THE MONTANA STATE PRISON OR THE WOMEN'S CORRECTION CENTER EXCEEDS DESIGN CAPACITY FOR MORE THAN 30 DAYS; AMENDING SECTION 46-23-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

(a) No convict serving a time sentence may 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 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.

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

(2) A parole shall 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 shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen.

~~(3) If the department of institutions certifies to the board that the population at the Montana state prison exceeds its design MAXIMUM capacity of 545 760 inmates or that the population at the women's correction center exceeds its design capacity of 35 inmates and that the prison or the center has exceeded its capacity for a period of more than 30 days, the board shall consider convicts in the institution in which the design capacity has been exceeded eligible for parole 100 120 days prior to the eligibility date provided for in subsection (1).~~

~~(4) REGARDLESS OF LENGTH OF SENTENCE, IF THE CONDITIONS OF PAROLE ELIGIBILITY ARE MET WITHIN THE INITIAL~~

1 12 MONTHS OF INCARCERATION AT MONTANA STATE PRISON. THE  
2 PROVISIONS OF SUBSECTION (3) DO NOT APPLY."

3 SECTION 2. TERMINATION DATE. THE PROVISIONS ENACTED  
4 IN (3) AND (4) OF SECTION 1 OF THIS ACT TERMINATE ON JULY 1,  
5 1985.

6 SECTION 3. SEVERABILITY. IF A PART OF THIS ACT IS  
7 INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID  
8 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN  
9 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT  
10 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE  
11 INVALID APPLICATIONS.

12 NEW SECTION. Section 4. Effective date. This act is  
13 effective on passage and approval.

-End-

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(2) A parole shall 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 shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen.

~~(3) If the department of institutions certifies to the board that the population at the Montana state prison exceeds its design MAXIMUM DESIGN capacity of 545 760 545 BY 215 inmates or that the population at the women's correction center exceeds its design capacity of 35 inmates and that the prison or the center has exceeded its capacity for a period of more than 30 days, the board shall consider convicts in the institution in which the design capacity has been exceeded eligible for parole 180 120 days prior to the eligibility date provided for in subsection (1).~~

~~(4) REGARDLESS OF LENGTH OF SENTENCE, IF THE CONDITIONS OF PAROLE ELIGIBILITY ARE MET WITHIN THE INITIAL~~

1 ~~12 MONTHS OF INCARCERATION AT MONTANA STATE PRISON. THE~~  
2 ~~PROVISIONS OF SUBSECTION (3) DO NOT APPLY."~~

3 ~~SECTION 2. TERMINATION DATE. THE PROVISIONS ENACTED~~  
4 ~~IN (3) AND (4) OF SECTION 1 OF THIS ACT TERMINATE ON JULY 1,~~  
5 ~~1985.~~

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3 ~~SECTION 2. TERMINATION DATE. THE PROVISIONS ENACTED~~  
4 ~~IN (3) AND (4) OF SECTION 1 OF THIS ACT TERMINATE ON JULY 1,~~  
5 ~~1982.~~

6 ~~SECTION 3. SEVERABILITY. IF A PART OF THIS ACT IS~~  
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