1   HOUSE BILL NO. 23

2   INTRODUCED BY R. LYNCH

3   BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

4

5   A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A NOMINATION PROCESS TO FILL VACANCIES ON

6   THE BOARD OF PARDONS AND PAROLE; AMENDING SECTION 2-15-2305, MCA; AND PROVIDING AN

7   APPLICABILITY DATE."

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

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11   NEW SECTION. **Section 1. Nomination process for board of pardons and parole**. (1) If, for any

12   reason, a vacancy occurs on the board of pardons and parole, including a vacancy caused by a resignation or

13   the expiration of a member's term, a four-member nomination committee composed of the speaker of the house,

14   the president of the senate, and the minority leaders of both houses of the legislature shall submit to the governor

15   a list of not less than two and not more than five names of individuals for each vacant position for the governor's

16   consideration. A majority of the members of the nomination committee shall agree on each nomination.

17   (2) The governor shall appoint a board member from the list of nominees submitted by the nomination

18   committee. However, if the nomination committee fails to submit names agreed to by a majority of the nomination

19   committee members, the governor may appoint anyone who meets the qualifications set forth in 2-15-2305(2)

20   and (3).

21

22   **Section 2.** Section 2-15-2305, MCA, is amended to read:

23   **"2-15-2305. Montana board of pardons and parole -- composition and qualifications -- allocation**

24   **-- quasi-judicial.** (1) There is a board of pardons and parole consisting of five members. The members must be

25   appointed as provided in [section 1].

26   (2) Board members must possess at least one of the following qualifications:

27   (a) a college degree in criminology, corrections, or a related social science;

28   (b) at least 5 years of extensive work experience in corrections, the criminal justice system, or criminal

29   law; or

30   (c) a law degree.

1   (3) Consideration should be given to balancing members' expertise or knowledge of:

2   (a) American Indian culture;

3   (b) serious mental illness and recovery from serious mental illness; and

4   (c) victim awareness.

5   (4) Board members shall serve staggered 6-year terms. The terms of board members run with the

6   position, and if a vacancy occurs, the governor shall appoint a person to fill the unexpired portion of the term

7   using the process provided for in [section 1].

8   (5) The governor shall designate the presiding officer, as provided in 2-15-124. The governor may

9   designate a different presiding officer at any time. If the governor designates a different presiding officer, the

10   former presiding officer still serves as a board member unless removed for cause pursuant to 2-15-124(6).

11   (6) The board is allocated to the department of corrections for administrative purposes only as prescribed

12   in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

13   (7) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that board

14   members must be compensated as provided in 46-23-111, the terms of board members must be staggered as

15   provided in subsection (4), and the provisions of 2-15-124(1) do not apply to the board.

16   (8) A favorable vote of a majority of the members of the board is required to implement a policy,

17   procedure, or administrative rule. A favorable vote of the majority of the members of a hearing panel, as defined

18   in 46-23-103, is required to make decisions regarding parole and executive clemency."

19

20   NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an

21   integral part of Title 46, chapter 23, part 1, and the provisions of Title 46, chapter 23, part 1, apply to [section 1].

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23   NEW SECTION. **Section 4. Applicability.** [This act] applies to a vacancy on the board of pardons and

24   parole that occurs on or after [the effective date of this act].

25   - END -