

HOUSE BILL 858

IN THE HOUSE

February 17, 1979

Introduced and referred to
Committee on Taxation.

March 27, 1979

On motion, taken from Committee
on Taxation and referred to
second reading.

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and referred to Committee on
Taxation.

1 House BILL NO. 858
 2 INTRODUCED BY Stephen Meyer Pistoria Jan
 3 FAESE Uerg Broad Manahan Rannuz
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LAWS RELATING TO THE TREATMENT OF ALCOHOLICS AND INTOXICATED
 6 PERSONS; PROVIDING FOR A CHANGE IN THE FUNDING OF TREATMENT
 7 PROGRAMS; AMENDING SECTIONS 16-1-404, 53-24-103, 53-24-108,
 8 53-24-202 THROUGH 53-24-204, 53-24-207, 53-24-208, AND
 9 53-24-301 THROUGH 53-24-304, MCA."

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

12 Section 1. Section 53-24-103, MCA, is amended to read:

13 "53-24-103. Definitions. For purposes of this chapter,
14 the following definitions apply:

15 (1) "Alcoholic" means a person who habitually lacks
16 self-control as to the use of alcoholic beverages or uses
17 alcoholic beverages to the extent that his health is
18 substantially impaired or endangered or his social or
19 economic function is substantially disrupted.

20 (2) ~~"Approved private treatment facility" means a~~
 21 ~~private agency meeting the standards prescribed in~~
 22 ~~53-24-208(1) and approved under 53-24-208 nonprofit~~
 23 ~~organization designed to provide alcohol abuse services to~~
 24 ~~the people in one county, or organized to serve the people~~
 25 ~~of more than one county on a regional basis, and meeting the~~

1 ~~standards prescribed in 53-24-208.~~
 2 ~~(3) "Approved public treatment facility" means a~~
 3 ~~treatment agency operating under the direction and control~~
 4 ~~of the department or providing treatment under this chapter~~
 5 ~~through a contract with the department and approved under~~
 6 ~~53-24-208.~~

7 ~~(4)(3)~~ "Department" means the department of
 8 institutions provided for in 2-15-2301.

9 ~~(5)(4)~~ "Family member" is the spouse, mother, father,
 10 child, or member of the household of an alcoholic whose life
 11 has been affected by the actions of the alcoholic and may
 12 require treatment.

13 ~~(6)(5)~~ "Incapacitated by alcohol" means that a person,
 14 as a result of the use of alcohol, is unconscious or has his
 15 judgment otherwise so impaired that he is incapable of
 16 realizing and making a rational decision with respect to his
 17 need for treatment.

18 ~~(7)(6)~~ "Incompetent person" means a person who has
 19 been adjudged incompetent by the district court.

20 ~~(8)(7)~~ "Intoxicated person" means a person whose
 21 mental or physical functioning is substantially impaired as
 22 a result of the use of alcohol.

23 ~~(9)(8)~~ "Prevention" has meaning on four levels; these
 24 are:

25 (a) education to provide information to the school

1 children and general public relating to alcohol dependence
2 and alcoholism, treatment, and rehabilitative services and
3 to reduce the consequences of life experiences acquired by
4 contact with an alcoholic;

5 (b) early detection and recovery from the illness
6 before lasting emotional or physical damage, or both, have
7 occurred;

8 (c) if lasting emotional or physical damage, or both,
9 have occurred, to arrest the illness before full disability
10 has been reached;

11 (d) the provision of facility requirements to meet
12 division program standards and improve public accessibility
13 for services.

14 ~~{10}~~{9} "Treatment" means the broad range of
15 emergency, outpatient, intermediate, and inpatient services
16 and care, including diagnostic evaluation, medical,
17 psychiatric, psychological, and social service care,
18 vocational rehabilitation, and career counseling, which may
19 be extended to alcoholics, intoxicated persons, and family
20 members."

21 Section 2. Section 53-24-108, MCA, is amended to read:

22 "53-24-108. Utilization of funds generated by taxation
23 on alcoholic beverages. (1) Revenue generated by 16-1-404,
24 16-1-406, and 16-1-408 for the treatment, rehabilitation,
25 and prevention of alcoholism may be distributed in either of

1 the following manners:

2 (a) as payment of fees for alcoholism services
3 provided by state-approved, ~~county-funded~~ alcoholism
4 programs, certified alcoholism counselors, licensed
5 physicians, and licensed hospitals; and

6 (b) as grants to persons operating state-approved,
7 ~~county-funded~~ alcoholism programs.

8 (2) No person operating a state-approved,
9 ~~county-funded~~ alcoholism program may be required to provide
10 matching funds as a condition of receiving a grant under
11 subsection (1) of this section.

12 (3) In addition to funding received under this
13 section, a person operating a state-approved, ~~county-funded~~
14 alcoholism program may accept gifts, bequests, or the
15 donation of services or money for the treatment,
16 rehabilitation, or prevention of alcoholism.

17 (4) No person receiving funding under this section to
18 support operation of a state-approved, ~~county-funded~~
19 alcoholism program may refuse alcoholism treatment,
20 rehabilitation, or prevention services to a person solely
21 because of that person's inability to pay for those
22 services.

23 (5) A grant made under this section is subject to the
24 following conditions:

25 (a) The grant application must contain an estimate of

1 all program income, including income from earned fees,
2 gifts, bequests, donations, and grants from other than state
3 sources during the period for which grant support is sought.

4 (b) Whenever, during the period of grant support,
5 program income exceeds the amount estimated in the grant
6 application, the amount of the excess shall be reported to
7 the grantor.

8 (c) The excess shall be used by the grantee under the
9 terms of the grant in accordance with one or a combination
10 of the following options:

11 (i) use for any purpose that furthers the objectives
12 of the legislation under which the grant was made; or

13 (ii) deduction from total project costs to determine
14 the net costs on which the grantor's share of the costs is
15 based.

16 ~~{6}--Revenue--generated--by--16-1-404,--16-1-406--and
17 16-1-408--for--the--treatment,--rehabilitation--and--prevention
18 of--alcoholism--which--has--not--been--encumbered--for--those
19 purposes--by--the--counties--of--Montana--or--the--department--shall
20 be--returned--to--the--state's--general--fund--within--30--days--after
21 the--close--of--each--fiscal--year--"~~

22 Section 3. Section 53-24-202, MCA, is amended to read:

23 "53-24-202. State and local government to cooperate
24 with department. All agencies of state government, local
25 government, and all state and local government employees

1 shall, upon request, cooperate with the department or county
2 in its activities under this chapter, but nothing in the
3 chapter shall be construed to give the department or county
4 control over any state or local agency or employee unless
5 otherwise provided by law."

6 Section 4. Section 53-24-203, MCA, is amended to read:

7 "53-24-203. Duties of department. The department
8 shall:

9 (1) ~~plan, promote, and assist in the support of~~
10 ~~alcoholism and drug dependence prevention, treatment, and~~
11 ~~control programs~~ prepare and maintain a comprehensive state
12 plan for the development of alcohol and drug abuse services;

13 ~~{2}--conduct,--sponsor,--and--support--research,--~~
14 ~~investigations,--and--studies,--including--evaluation--of--all~~
15 ~~phases--of--alcoholism--and--drug--dependence~~

16 ~~{3}--assist--the--development--of--education--and--training~~
17 ~~programs--relative--to--alcoholism--and--drug--dependence--and~~
18 ~~carry-on--programs--to--assist--the--public--and--technical--and~~
19 ~~professional--groups--in--becoming--fully--informed--about~~
20 ~~alcoholism--and--drug--dependence~~

21 ~~{4}--promote,--develop,--and--assist,--financially--and~~
22 ~~otherwise,--alcoholism--and--drug--dependence--programs~~
23 ~~administered--by--other--state--agencies,--local--government~~
24 ~~agencies,--and--private--nonprofit--organizations--and--agencies~~

25 {5}{2} encourage and promote effective use of

HB 858

1 facilities, resources, and funds in the planning and conduct
2 of programs and activities for prevention, treatment, and
3 control of alcoholism and drug dependence and, in this
4 respect, cooperate with and utilize to the maximum possible
5 extent the resources and services of federal, state, and
6 local agencies;

7 ~~(6)~~(3) develop, encourage, and foster statewide,
8 regional, and local plans ~~and programs~~ for the prevention of
9 alcoholism and treatment of alcoholics and intoxicated
10 persons in cooperation with public and private agencies,
11 organizations, and individuals and provide technical
12 assistance and consultation services for these purposes;

13 ~~(7)~~ coordinate the efforts and enlist the assistance
14 of ~~all~~ public and private agencies, organizations, and
15 individuals interested in prevention of alcoholism and
16 treatment of alcoholics and intoxicated persons;

17 ~~(8)~~(4) cooperate with the board of pardons in
18 establishing and conducting programs to provide treatment
19 for alcoholics and intoxicated persons in or on parole from
20 penal institutions;

21 ~~(9)~~(5) cooperate with the state board of education,
22 the superintendent of public instruction, schools, police
23 departments, courts, and other public and private agencies,
24 organizations, and individuals in establishing programs for
25 the prevention of alcoholism and treatment of alcoholics and

1 intoxicated persons and preparing curriculum materials
2 thereon for use at all levels of education;

3 ~~(10)~~ prepare, publish, evaluate, and disseminate
4 educational material dealing with the nature and effects of
5 alcohol;

6 ~~(11)~~(6) develop and implement, as an integral part of
7 treatment programs ~~plans~~, an educational program for use in
8 the treatment of alcoholics and intoxicated persons, which
9 program shall include the dissemination of information
10 concerning the nature and effects of alcohol;

11 ~~(12)~~ organize and foster training programs for ~~all~~
12 persons engaged in treatment of alcoholics and intoxicated
13 persons;

14 ~~(13)~~ sponsor and encourage research into the causes and
15 nature of alcoholism and treatment of alcoholics and
16 intoxicated persons and serve as a clearinghouse for
17 information relating to alcoholism;

18 ~~(14)~~(7) specify uniform methods for keeping
19 statistical information by public and private agencies,
20 organizations, and individuals and collect and make
21 available relevant statistical information, including number
22 of persons treated, frequency of admission and readmission,
23 and frequency and duration of treatment;

24 ~~(15)~~(8) advise the governor in the preparation of a
25 comprehensive plan for treatment of alcoholics and

1 intoxicated persons for inclusion in the state's
2 comprehensive health plan;

3 ~~{16}{9}~~ review all state health, welfare, and
4 treatment plans to be submitted for federal funding under
5 federal legislation and advise the governor on provisions to
6 be included relating to alcoholism and intoxicated persons;

7 ~~{17}{10}~~ assist in the development of, and cooperate
8 with alcohol education and treatment programs for employees
9 of ~~state--and--local--governments--businesses--and--industries~~
10 in the state;

11 ~~{18}~~ utilize the support and assistance of interested
12 persons in the community, particularly recovered alcoholics,
13 to encourage alcoholics to voluntarily undergo treatment;

14 ~~{19}{11}~~ cooperate with the department of justice in
15 establishing and conducting programs designed to deal with
16 the problem of persons operating motor vehicles while
17 intoxicated;

18 ~~{20}{12}~~ encourage ~~advise~~ general hospitals and other
19 appropriate health facilities to admit without
20 discrimination alcoholics and intoxicated persons and to
21 provide them with adequate and appropriate treatment;

22 ~~{21}{13}~~ encourage all health and disability insurance
23 programs to include alcoholism as a covered illness; and

24 ~~{22}{14}~~ submit to the governor an annual report
25 covering the activities of the department; and

1 ~~(15) inspect and may approve local and regional~~
2 ~~treatment programs and facilities."~~

3 Section 5. Section 53-24-204, MCA, is amended to read:
4 "53-24-204. Powers of department. To carry out this
5 chapter, the department may:

6 (1) accept gifts, grants, and donations of money and
7 property from public and private sources;

8 (2) enter into contracts;

9 (3) acquire and dispose of property;

10 ~~{4}~~ plan, establish, and maintain treatment programs
11 as necessary or desirable;

12 ~~{5}{4}~~ coordinate its activities and cooperate with
13 alcoholism programs in this and other states and make
14 contracts and other joint or cooperative arrangements with
15 state, local, or private agencies in this and other states
16 for the treatment of alcoholics and intoxicated persons and
17 for the common advancement of alcoholism programs;

18 ~~{6}{5}~~ do other acts and things necessary or
19 convenient to execute the authority expressly granted to it;
20 and

21 ~~{7}{6}~~ provide a treatment facilities for alcoholics,
22 intoxicated persons, and family members program and facility
23 at Galen State hospital."

24 NEW SECTION. Section 6. Powers and duties of the
25 county concerning alcohol programs. A county:

1 (1) may not operate a treatment facility but may
2 contract with an approved treatment facility for the
3 delivery of alcohol services to people residing in the
4 county;

5 (2) may contract with Galen state hospital to provide
6 alcohol treatment to people residing in the county;

7 (3) may acquire office equipment, furniture, and other
8 personal property for alcohol programs;

9 (4) shall encourage and promote effective use of
10 facilities, resources, and funds available in the conduct of
11 programs and activities for prevention, treatment, and
12 habilitation; and

13 (5) shall prevent unnecessary duplication of treatment
14 programs.

15 **NEW SECTION.** Section 7. County alcohol advisory
16 board. A county may establish an advisory board to recommend
17 funding of state-approved alcohol treatment programs. At
18 least one member must be a member of alcoholics anonymous
19 and at least one member must be a member of the law
20 enforcement profession. No member may be engaged in the
21 professional treatment of alcoholics.

22 Section 8. Section 53-24-207, MCA, is amended to read:

23 "53-24-207. Comprehensive program for treatment. (1)
24 The department shall establish a comprehensive and
25 coordinated program plan for the treatment of alcoholics,

1 intoxicated persons, and family members.

2 (2) The program shall include:

3 (a) emergency treatment provided by a facility
4 affiliated with or part of the medical service of a general
5 hospital;

6 (b) inpatient treatment;

7 (c) intermediate treatment; and

8 (d) outpatient and follow-up treatment.

9 (3) The department plan shall provide for adequate and
10 appropriate treatment for alcoholics and intoxicated persons
11 admitted under 53-24-301 through 53-24-304. Treatment may
12 not be provided at a correctional institution except for
13 inmates.

14 (4) All appropriate public and private resources shall
15 be coordinated with and utilized in the program if possible.

16 (5) The department shall prepare, publish, and
17 distribute annually a list of all approved public--and
18 private treatment facilities."

19 Section 9. Section 53-24-208, MCA, is amended to read:

20 "53-24-208. Facility standards. (1) The department
21 shall establish standards for approved treatment facilities
22 that must be met for a treatment facility to be approved as
23 ~~a public or private treatment facility~~ and fix the fees to
24 be charged for the required inspections. The standards may
25 concern only the health standards to be met and standards of

1 treatment to be afforded patients.

2 (2) The department shall periodically inspect approved
3 ~~public-and-private~~ treatment facilities at reasonable times
4 and in a reasonable manner.

5 (3) The department shall maintain a list of approved
6 ~~public-and-private~~ treatment facilities.

7 (4) Each approved ~~public---and---private~~ treatment
8 facility shall, on request, file with the department data,
9 statistics, schedules, and information the department
10 reasonably requires. An approved ~~public-or-private~~ treatment
11 facility that without good cause fails to furnish any data,
12 statistics, schedules, or information as requested or files
13 fraudulent returns thereof shall be removed from the list of
14 approved treatment facilities.

15 (5) The department, after holding a hearing in
16 accordance with the Montana Administrative Procedure Act,
17 may suspend, revoke, limit, or restrict an approval or
18 refuse to grant an approval for failure to meet its
19 standards.

20 (6) A district court may restrain any violation of
21 this section, review any denial, restriction, or revocation
22 of approval, and grant other relief required to enforce its
23 provisions.

24 (7) Upon petition of the department and after a
25 hearing held upon reasonable notice to the facility, a

1 district court may issue a warrant to the department
2 authorizing it to enter and inspect at reasonable times and
3 examine the books and accounts of any approved ~~public--or~~
4 ~~private~~ treatment facility refusing to consent to inspection
5 or examination by the department or which the department has
6 reasonable cause to believe is operating in violation of
7 this chapter."

8 Section 10. Section 53-24-301, MCA, is amended to
9 read:

10 "53-24-301. Voluntary treatment of alcoholics. (1) An
11 alcoholic may apply directly to an approved ~~public~~ treatment
12 facility for voluntary treatment. If the proposed patient is
13 a minor or an incompetent person, he, a parent, legal
14 guardian, or other legal representative may make the
15 application.

16 (2) Subject to rules adopted by the department, the
17 administrator of an approved ~~public~~ treatment facility may
18 determine who shall be admitted for treatment. If a person
19 is refused admission to an approved ~~public~~ treatment
20 facility, the administrator, subject to departmental rules,
21 shall refer the person to another approved ~~public~~ treatment
22 facility for treatment if possible and appropriate.

23 (3) If a patient receiving inpatient care leaves an
24 approved ~~public~~ treatment facility, he shall be encouraged
25 to consent to appropriate outpatient or intermediate

1 treatment. If it appears to the administrator of the
2 treatment facility that the patient is an alcoholic who
3 requires help, the department county shall arrange for
4 assistance in obtaining supportive services and residential
5 facilities.

6 (4) If a patient leaves an approved public treatment
7 facility, with or against the advice of the administrator of
8 the facility, the department county shall make reasonable
9 provisions for his transportation to another facility or to
10 his home. If he has no home, he shall be assisted in
11 obtaining shelter. If he is a minor or an incompetent
12 person, the request for discharge from an inpatient facility
13 shall be made by a parent, legal guardian, or other legal
14 representative or by the minor or incompetent if he was the
15 original applicant."

16 Section 11. Section 53-24-302, MCA, is amended to
17 read:

18 "53-24-302. Involuntary commitment of alcoholics. (1)
19 A person may be committed to the custody of the department
20 or county by the district court upon the petition of his
21 spouse or guardian, a relative, the certifying physician, or
22 the chief of any approved public treatment facility. The
23 petition shall allege that the person is an alcoholic who
24 habitually lacks self-control as to the use of alcoholic
25 beverages and that he has threatened, attempted, or

1 inflicted physical harm on another and that unless committed
2 is likely to inflict physical harm on another or is
3 incapacitated by alcohol. A refusal to undergo treatment
4 does not constitute evidence of lack of judgment as to the
5 need for treatment. The petition shall be accompanied by a
6 certificate of a licensed physician who has examined the
7 person within 2 days before submission of the petition
8 unless the person whose commitment is sought has refused to
9 submit to a medical examination, in which case the fact of
10 refusal shall be alleged in the petition. The certificate
11 shall set forth the physician's findings in support of the
12 allegations of the petition. A physician employed by the
13 admitting facility or the department is not eligible to be
14 the certifying physician.

15 (2) Upon filing the petition, the court shall fix a
16 date for a hearing no later than 10 days after the date the
17 petition was filed. A copy of the petition and of the notice
18 of the hearing, including the date fixed by the court, shall
19 be served on the petitioner, the person whose commitment is
20 sought, his next of kin other than the petitioner, a parent
21 or his legal guardian if he is a minor, the administrator in
22 charge of the approved public treatment facility to which he
23 has been committed for emergency care, and any other person
24 the court believes advisable. A copy of the petition and
25 certificate shall be delivered to each person notified.

1 (3) At the hearing the court shall hear all relevant
 2 testimony, including, if possible, the testimony of at least
 3 one licensed physician who has examined the person whose
 4 commitment is sought. The person shall have a right to have
 5 a licensed physician of his own choosing examine him and
 6 testify on his behalf. If he has no funds with which to pay
 7 such physician, the reasonable costs of one such examination
 8 and testimony shall be paid by the county. The person shall
 9 be present unless the court believes that his presence is
 10 likely to be injurious to him. He shall be advised of his
 11 right to counsel, and if he is unable to hire his own
 12 counsel, the court shall appoint an attorney to represent
 13 him at the expense of the county. The court shall examine
 14 the person in open court or, if advisable, shall examine the
 15 person in chambers. If he refuses an examination by a
 16 licensed physician and there is sufficient evidence to
 17 believe that the allegations of the petition are true or if
 18 the court believes that more medical evidence is necessary,
 19 the court may make a temporary order committing him to the
 20 department or county for a period of not more than 5 days
 21 for purposes of a diagnostic examination.

22 (4) If after hearing all relevant evidence, including
 23 the results of any diagnostic examination by the department
 24 or county, the court finds that grounds for involuntary
 25 commitment have been established by clear and convincing

1 evidence, it shall make an order of commitment to the
 2 department or county. It may not order commitment of a
 3 person unless it determines that the department or county is
 4 able to provide adequate and appropriate treatment for him
 5 and the treatment is likely to be beneficial.

6 (5) A person committed under this section shall remain
 7 in the custody of the department or county for treatment for
 8 a period of 30 days unless sooner discharged. At the end of
 9 the 30-day period, he shall automatically be discharged
 10 unless before expiration of the period the department
 11 obtains a court order from the district court of the
 12 committing district for his recommitment upon the grounds
 13 set forth in subsection (1) for a further period of 90 days
 14 unless sooner discharged. If a person has been committed
 15 because he is an alcoholic likely to inflict physical harm
 16 on another, the department or county shall apply for
 17 recommitment if after examination it is determined that the
 18 likelihood still exists.

19 (6) A person recommitment under subsection (5) who has
 20 not been discharged by the department or county before the
 21 end of the 90-day period shall be discharged at the
 22 expiration of that period unless before expiration of the
 23 period the department or county obtains a court order from
 24 the district court of the committing district on the grounds
 25 set forth in subsection (1) for recommitment for a further

HB 858

1 period not to exceed 90 days. If a person has been committed
 2 because he is an alcoholic likely to inflict physical harm
 3 on another, the department or county shall apply for
 4 recommitment if after examination it is determined that the
 5 likelihood still exists. Only two recommitment orders under
 6 subsections (5) and (6) are permitted.

7 (7) Upon the filing of a petition for recommitment
 8 under subsection (5) or (6), the court shall fix a date for
 9 hearing no later than 10 days after the date the petition
 10 was filed. A copy of the petition and of the notice of
 11 hearing, including the date fixed by the court, shall be
 12 served on the petitioner, the person whose commitment is
 13 sought, his next of kin other than the petitioner, the
 14 original petitioner under subsection (1) if different from
 15 the petitioner for recommitment, one of his parents or his
 16 legal guardian if he is a minor, and any other person the
 17 court believes advisable. At the hearing the court shall
 18 proceed as provided in subsection (3).

19 (8) A person committed to the custody of the
 20 department or county for treatment shall be discharged at
 21 any time before the end of the period for which he has been
 22 committed if either of the following conditions is met:

23 (a) in case of an alcoholic committed on the grounds
 24 of likelihood of infliction of physical harm upon another,
 25 that he is no longer in need of treatment or the likelihood

1 no longer exists; or

2 (b) in case of an alcoholic committed on the grounds
 3 of incapacity and the need of treatment, that the incapacity
 4 no longer exists, further treatment will not be likely to
 5 bring about significant improvement in the person's
 6 condition, or treatment is no longer adequate or
 7 appropriate.

8 (9) The court shall inform the person whose commitment
 9 or recommitment is sought of his right to contest the
 10 application, be represented by counsel at every stage of any
 11 proceedings relating to his commitment and recommitment, and
 12 have counsel appointed by the court or provided by the court
 13 if he wants the assistance of counsel and is unable to
 14 obtain counsel. If the court believes that the person needs
 15 the assistance of counsel, the court shall require, by
 16 appointment if necessary, counsel for him regardless of his
 17 wishes. The person whose commitment or recommitment is
 18 sought shall be informed of his right to be examined by
 19 licensed physician of his choice. If the person is unable to
 20 obtain a licensed physician and requests examination by a
 21 physician, the court shall employ a licensed physician.

22 ~~(10) if a private treatment facility agrees with the~~
 23 ~~request of a competent patient or his parent, sibling, adult~~
 24 ~~child, or guardian to accept the patient for treatment, the~~
 25 ~~department may transfer him to the private treatment~~

1 facility

2 ~~(1)~~(10) A person committed under this section may at
3 any time seek to be discharged from commitment by writ of
4 habeas corpus or other appropriate means.

5 ~~(2)~~(11) The venue for proceedings under this section
6 is the place in which person to be committed resides or is
7 present."

8 Section 12. Section 53-24-303, MCA, is amended to
9 read:

10 "53-24-303. Treatment and services for intoxicated
11 persons and persons incapacitated by alcohol. (1) An
12 intoxicated person may come voluntarily to an approved
13 public treatment facility for emergency treatment. A person
14 who appears to be intoxicated in a public place and to be in
15 need of help, if he consents to the proffered help, may be
16 assisted to his home, an approved public treatment facility,
17 ~~an approved private treatment facility,~~ or other health
18 facility by the police.

19 (2) A person who appears to be incapacitated by
20 alcohol shall be taken into protective custody by the police
21 and forthwith brought to an approved public treatment
22 facility for emergency treatment. If no approved public
23 treatment facility is readily available, he shall be taken
24 to an emergency medical service customarily used for
25 incapacitated persons. The police, in detaining the person

1 and in taking him to an approved public treatment facility,
2 are taking him into protective custody and shall make every
3 reasonable effort to protect his health and safety. In
4 taking the person into protective custody, the detaining
5 officer may take reasonable steps to protect himself. No
6 entry or other record may be made to indicate that the
7 person taken into custody under this section has been
8 arrested or charged with a crime.

9 (3) A person who comes voluntarily or is brought to an
10 approved public treatment facility shall be examined by a
11 licensed physician as soon as possible. He may then be
12 admitted as a patient or referred to another health
13 facility. The referring approved public treatment facility
14 shall arrange for his transportation.

15 (4) A person who by medical examination is found to be
16 incapacitated by alcohol at the time of his admission or to
17 have become incapacitated at any time after his admission
18 may not be detained at the facility once he is no longer
19 incapacitated by alcohol or, if he remains incapacitated by
20 alcohol, for more than 48 hours after admission as a patient
21 unless he is committed under 53-24-304. A person may consent
22 to remain in the facility as long as the physician in charge
23 believes appropriate.

24 (5) A person who is not admitted to an approved public
25 treatment facility and is not referred to another health

1 facility may be taken to his home. If he has no home, the
2 approved public treatment facility shall assist him in
3 obtaining shelter.

4 (6) If a patient is admitted to an approved public
5 treatment facility, his family or next of kin shall be
6 notified as promptly as possible. If an adult patient who is
7 not incapacitated requests that there be no notification,
8 his request shall be respected."

9 Section 13. Section 53-24-304, MCA, is amended to
10 read:

11 "53-24-304. Emergency commitment of intoxicated
12 persons and persons incapacitated by alcohol. (1) An
13 intoxicated person who has threatened, attempted, or
14 inflicted physical harm on another and is likely to inflict
15 physical harm on another unless committed or who is
16 incapacitated by alcohol may be committed to an approved
17 public treatment facility for emergency treatment. A refusal
18 to undergo treatment does not constitute evidence of lack of
19 judgment as to the need for treatment.

20 (2) The certifying physician, spouse, guardian, or
21 relative of the person to be committed or any other
22 responsible person may make a written application for
23 commitment under this section directed to the administrator
24 of the approved public treatment facility. The application
25 shall state facts to support the need for emergency

1 treatment and be accompanied by a physician's certificate
2 stating that he has examined the person sought to be
3 committed within 2 days before the certificate's date and
4 facts supporting the need for emergency treatment. A
5 physician employed by the admitting facility or the
6 department is not eligible to be the certifying physician.

7 (3) Upon approval of the application by the
8 administrator of the approved public treatment facility, the
9 person shall be brought to the facility by a peace officer,
10 health officer, the applicant for commitment, the patient's
11 spouse, the patient's guardian, or any other interested
12 person. The person shall be detained at the facility to
13 which he was admitted or transferred to another appropriate
14 public-or-private treatment facility until discharged under
15 subsection (5).

16 (4) The administrator of an approved public treatment
17 facility shall refuse an application if in his opinion the
18 application and certificate fail to sustain the grounds for
19 commitment.

20 (5) When on the advice of the medical staff the
21 administrator determines that the grounds for commitment no
22 longer exist, he shall discharge a person committed under
23 this section. No person committed under this section may be
24 detained in any treatment facility for more than 5 days. If
25 a petition for involuntary commitment under 53-24-302 has

1 been filed within the 5 days and the administrator in charge
2 of an approved public treatment facility finds that grounds
3 for emergency commitment still exist, he may detain the
4 person until the petition has been heard and determined, but
5 no longer than 10 days after filing the petition.

6 (6) A copy of the written application for commitment
7 and of the physician's certificate and a written explanation
8 of the person's right to counsel shall be given to the
9 person by the department or county within 24 hours after
10 commitment. The department or county shall provide a
11 reasonable opportunity for the person to consult counsel."

12 Section 14. Section 16-1-404, MCA, is amended to read:

13 "16-1-404. License tax on liquor -- amount --
14 distribution of proceeds. (1) The department is hereby
15 authorized and directed to charge, receive, and collect at
16 the time of sale and delivery of any liquor under any
17 provisions of the laws of the state of Montana a license tax
18 of 10% of the retail selling price on all liquor sold and
19 delivered. Said tax shall be charged and collected on all
20 liquor brought into the state and taxed by the department.
21 The retail selling price shall be computed by adding to the
22 cost of said liquor the state markup as designated by the
23 department. Said 10% license tax shall be figured in the
24 same manner as the state excise tax and shall be in addition
25 to said state excise tax. The department shall retain in a

1 separate account the amount of such 10% license tax so
2 received. ~~Two-thirds~~ 92% of these revenues shall be
3 distributed to the counties according to the amount of
4 liquor purchased in each county. ~~One-third and 5%~~
5 revenues shall be retained by the state. Provided, however,
6 in the case of purchases of liquor by a retail liquor
7 licensee for use in his business, the department shall make
8 such regulations as are necessary to apportion that
9 proportion of license tax so generated to the county where
10 the licensed establishment is located, for use as provided
11 in 16-1-405. The department shall pay quarterly to each
12 county treasurer the proportion of the license tax due each
13 county.

14 (2) The county treasurer of each county shall retain
15 ~~50%~~ 60% of said license tax and shall, within 30 days after
16 receipt thereof, apportion the remaining ~~50%~~ 40% thereof to
17 the treasurers of the incorporated cities and towns within
18 his county, said apportionment to be based in each instance
19 upon the proportion which the gross sale of liquor in such
20 incorporated city or town bears to the gross sale of liquor
21 in all of the incorporated cities and towns in his county.

22 (3) Of the ~~50%~~ 60% of the tax retained by the county,
23 the county treasurer shall deposit ~~six-sevenths~~ nine-tenths
24 of this amount in a fund within the county for the
25 treatment, rehabilitation, and prevention of alcoholism as

1 approved by the state of Montana. The remaining ~~one-seventh~~
2 ~~one-tenth~~ of the funds shall be retained in the county
3 treasury for use by that county.

4 (4) The ~~one-third~~ 51 of the license tax on liquor
5 retained by the state shall be deposited with the state
6 treasurer to the credit of the department of institutions
7 each quarter for the treatment, rehabilitation, and
8 prevention of alcoholism as approved by the state."

-End-

STATE OF MONTANA

REQUEST NO. 419-79

FISCAL NOTE

Form BD-15

In compliance with a written request received March 1, 19 79, there is hereby submitted a Fiscal Note for House Bill 858 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

This proposed bill revises the laws relating to the treatment of alcoholics and intoxicated persons; provides for a change in the funding of treatment programs.

ASSUMPTIONS

1. State Alcohol training will be eliminated and Alcohol Program Personnel will have to go outside of state for training (Salt Lake nearest).
2. Funding to Department of Justice DWI Laboratory is eliminated.
3. Employee Assistance Program is eliminated.
4. Counties will pay for Alcohol Treatment at Galen State Hospital for individuals from their respective counties.
5. Beer tax distribution will not change.
6. The Alcohol & Drug Abuse Division Budget will be reduced by No. 1 and No. 2 Assumptions plus the grants to the local Alcohol Programs from the Earmarked Fund.
7. The General Fund will make up the loss of Alcohol Money to fund Galen's Budget.

REVENUE IMPACT

| | <u>FY 80</u> | <u>FY 81</u> |
|-----------------------|---------------------|---------------------|
| Dept. of Institutions | | |
| Alcohol Treatment | | |
| under current law | \$1,256,333 | \$1,315,333 |
| under proposed law | 188,450 | 197,300 |
| Estimated Decrease | <u>(1,067,883)</u> | <u>(1,118,033)</u> |
| Cities and Towns | | |
| Law Enforcement | | |
| under current law | 1,256,333 | 1,315,333 |
| under proposed law | <u>1,432,220</u> | <u>1,499,480</u> |
| Estimated Increase | <u>175,887</u> | <u>184,147</u> |
| Counties Alcohol | | |
| Treatment | | |
| under current law | 1,076,858 | 1,127,429 |
| under proposed law | <u>1,933,497</u> | <u>2,024,298</u> |
| Estimated Increase | <u>856,639</u> | <u>896,869</u> |
| Counties Law | | |
| Enforcement | | |
| under current law | 179,476 | 187,905 |
| under proposed law | <u>214,833</u> | <u>224,922</u> |
| Estimated Increase | <u>35,357</u> | <u>37,017</u> |
| Total | <u>\$ -0-</u> | <u>\$ -0-</u> |

Richard L. Daugherty
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3/7/79

STATE EXPENDITURE IMPACT

| | <u>FY 80</u> | <u>FY 81</u> |
|---|-------------------|-------------------|
| Anticipated expenditures from Alcohol Earmarked Receipts | | |
| Alcohol and Drug Abuse Division | \$ 190,612 | \$ 189,831 |
| Galen Alcohol Program | <u>1,283,279</u> | <u>1,312,860</u> |
| Total anticipated expenditures | <u>1,473,891</u> | <u>1,502,691</u> |
| Less: Available revenues | | |
| From liquor tax | 188,450 | 197,300 |
| From beer tax | <u>856,000</u> | <u>892,250</u> |
| Total available revenues | <u>1,044,450</u> | <u>1,089,550</u> |
| Anticipated expenditures in excess of available revenues | <u>\$ 429,441</u> | <u>\$ 413,141</u> |

The excess expenditures must be funded from the State General Fund.

LOCAL EXPENDITURE IMPACT

Counties would be required to fund training costs estimated to be \$73,000 per year.