

HOUSE BILL NO. 796

Introduced: 02/14/83

Referred to Committee on Judiciary: 02/14/83  
Died in Committee

1 House BILL NO. 796  
2 INTRODUCED BY Kemmis  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A DRUG AND  
5 ALCOHOL ABUSE PREVENTION GRANT PROGRAM WITHIN THE DEPARTMENT  
6 OF INSTITUTIONS TO PROVIDE STATE GRANT FUNDS DERIVED FROM A  
7 SURCHARGE ON FINES IMPOSED FOR DRIVING UNDER THE INFLUENCE  
8 OF ALCOHOL AND DRUGS; PROVIDING FOR THE ADMINISTRATION OF  
9 THE PROGRAM, INCLUDING CRITERIA FOR AND AWARDING OF GRANTS;  
10 AMENDING SECTIONS 46-17-303, 46-17-304, 46-17-402,  
11 46-18-603, 53-24-103, 53-24-108, 53-24-206, AND 61-8-714,  
12 MCA; AND PROVIDING AN EFFECTIVE DATE."

13  
14 WHEREAS, the abuse of alcohol and drugs is a state as  
15 well as a national problem that results in misery, violence,  
16 injury, and even death, for the abusers and innocent persons  
17 alike; and

18 WHEREAS, much legislation has been introduced in  
19 Montana's 48th Legislature to increase the capabilities of  
20 law enforcement agencies to deal with such crimes as driving  
21 under the influence of drugs and alcohol and to increase the  
22 criminal penalties for such crimes; and

23 WHEREAS, the amount of legislation introduced and money  
24 to be spent on penalizing abusers of drugs and alcohol is  
25 disproportionate to the money, time, and energy spent by our

1 society and this state to prevent drug and alcohol abuse;  
2 and

3 WHEREAS, other countries place more emphasis on  
4 prevention of drug and alcohol abuse and are therefore, at  
5 least in part, more successful in preventing crimes,  
6 injuries, and death relating to drug and alcohol abuse.

7 THEREFORE, it is the intent of this bill to place a  
8 surcharge on all fines imposed for driving under the  
9 influence of alcohol or drugs and to dedicate the revenue  
10 collected from that surcharge to a statewide grant program,  
11 to be administered by the Department of Institutions, aimed  
12 at educating the public about the dangers of drug and  
13 alcohol abuse, to the end that the misery, violence, injury,  
14 and death associated with drug and alcohol abuse is reduced  
15 or eliminated.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. Section 1. Alcohol and drug abuse  
19 prevention program created. There is an alcohol and drug  
20 abuse prevention grant program established within the  
21 department of institutions for the allocation of grant money  
22 to those entities listed in [section 3] for the operation of  
23 alcohol and drug abuse prevention programs.

24 NEW SECTION. Section 2. Duties of the department. The  
25 department of institutions:

1 (1) shall adopt rules necessary to carry out the  
2 purposes of [sections 1 through 5];

3 (2) may spend no more than 5% of the appropriated  
4 funds for administrative costs of the program and may not  
5 make grants under [sections 1 through 5] for the support of  
6 any program that it administers;

7 (3) shall accept federal funds that may be available  
8 for use in carrying out the provisions of [sections 1  
9 through 5];

10 (4) may use state funds as a match for federal funds  
11 if required;

12 (5) may conduct research and compile statistics  
13 relating to alcohol and drug abuse and its prevention; and

14 (6) may require that grant money be expended in  
15 accordance with reasonable conditions.

16 NEW\_SECTION. Section 3. Authorized grantees --  
17 criteria for grants. (1) The department of institutions may  
18 award alcohol and drug abuse prevention program grants under  
19 [sections 1 through 5] to:

20 (a) state agencies;

21 (b) cities and counties and any units thereof;

22 (c) school districts; and

23 (d) private individuals, associations, partnerships,  
24 corporations, and other entities, whether for profit or not  
25 for profit.

1 (2) Alcohol and drug abuse prevention program grants  
2 are to be awarded on the following basis:

3 (a) demonstrated need;

4 (b) project merit;

5 (c) the number of people served;

6 (d) feasibility;

7 (e) administrative design; and

8 (f) efficiency of administration.

9 NEW\_SECTION. Section 4. Authorized services --  
10 allocation of funds. (1) Alcohol and drug abuse prevention  
11 programs funded under the provisions of [sections 1 through  
12 5] may use funds provided under [sections 1 through 5] only  
13 for the payment of salaries and the purchase of training  
14 aids and other equipment directly related to the prevention  
15 of alcohol and drug abuse.

16 (2) Grants may be made in accordance with [sections 1  
17 through 5] for the purpose of advertising campaigns about  
18 any aspect of alcohol or drug abuse, including state  
19 programs, and penalties for violation of state laws.

20 (3) Programs funded under [sections 1 through 5] may  
21 provide services on a statewide basis or in a limited  
22 geographical area and may serve all persons within the  
23 designated area or, upon proof of particular need and upon  
24 approval by the department of institutions, only specialized  
25 groups within that area.

(4) Grants must be made by the department at least once a year. The department shall make approximately equal amounts of grant funds available to the entities specified in [section 3] during the grant period.

NEW SECTION. Section 5. Source of funding. Revenue from surcharges on fines collected under 61-8-714(6) and deposited in the earmarked revenue fund for purposes of the alcohol and drug abuse prevention grant program and funds designated pursuant to 53-24-108(6) are the source of funding for the grant program.

(2) At least 15% of the operational costs of an alcohol and drug abuse prevention program must be contributed by the grantee. The contribution may include in-kind contributions.

Section 6. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving while intoxicated ==  
SURCHARGE. (1) A person convicted of a violation of 61-8-401 may, in the discretion of the court, be punished by imprisonment in the county jail for up to 24 hours, and shall be punished by a fine of not less than \$100 or more than \$500. The jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being.

(2) On a second conviction, he shall be punished by a

fine of not less than \$300 or more than \$500 and by imprisonment for not less than 7 days or more than 30 days. Three days of the jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being.

(3) On the third or subsequent conviction, he shall be punished by imprisonment for a term of not less than 30 days or more than 1 year, to which may be added, in the discretion of the court, a fine of not less than \$500 or more than \$1,000. Notwithstanding any provision to the contrary providing for suspension of execution of a sentence imposed under this subsection, the imposition or execution of the first 10 days of the jail sentence imposed for a third or subsequent offense that occurred within 5 years of the first offense may not be deferred or suspended.

(4) In addition to the punishment provided in this section, regardless of disposition, the defendant shall complete an alcohol information course at an alcohol treatment program approved by the department of institutions, which may include alcohol or drug treatment, or both, if considered necessary by the counselor conducting the program. Each counselor providing such education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been

1 enrolled in a course or treatment program. If the defendant  
2 fails to attend the course or the treatment program, the  
3 counselor shall notify the court of the failure.

4 (5) For the purpose of determining the number of  
5 convictions under this section, "conviction" means a final  
6 conviction, as defined in 45-2-101, or a forfeiture of bail  
7 or collateral deposited to secure the defendant's appearance  
8 in court, which forfeiture has not been vacated. An  
9 offender is considered to have been previously convicted for  
10 the purposes of this section if less than 5 years have  
11 elapsed between the commission of the present offense and a  
12 previous conviction. If there has been no additional  
13 conviction for an offense under this section for a period of  
14 5 years after a prior conviction hereunder, then such prior  
15 offense shall be expunged from the defendant's record.

16 ~~(6) A 10% surcharge must be collected by every court~~  
17 ~~on all fines imposed under this section and under any~~  
18 ~~municipal ordinance authorized by 61-8-401, and the~~  
19 ~~surcharge must be transmitted to the state treasurer and~~  
20 ~~deposited in the earmarked revenue fund to the credit of the~~  
21 ~~department of institutions for the purposes of the alcohol~~  
22 ~~and drug abuse prevention grant program provided for in~~  
23 ~~[sections 1 through 5]."~~

24 Section 7. Section 46-17-303, MCA, is amended to read:

25 "46-17-303. Deposit of fines. ~~\*\*\* Except as provided~~

1 ~~in 61-8-714(6), all~~ fines imposed and collected by a  
2 justice's or city court must be paid to the treasurer of the  
3 county, city, or town, as the case may be, within 30 days  
4 after the receipt of the same. The justice or city judge  
5 must take duplicate receipts therefor, one of which he must  
6 deposit with the county, city, or town clerk, as the case  
7 may be."

8 Section 8. Section 46-17-304, MCA, is amended to read:

9 "46-17-304. Disposition of fines for city ordinance  
10 violations when appealed. ~~\*\*\* Except as provided in~~  
11 ~~61-8-714(6), all~~ fines obtained from a judgment in a higher  
12 court on an appeal from a city court for violation of a city  
13 ordinance, tried de novo in the higher court, shall be paid  
14 to the county treasurer, who shall, before 31 days after  
15 receipt of the sum, forward one-half of the amount to the  
16 treasurer of the city in which the action originated."

17 Section 9. Section 46-17-402, MCA, is amended to read:

18 "46-17-402. Fees and fines. The fees and fines in  
19 municipal court shall be the same as the fees and fines  
20 provided by law or ordinance, and ~~except as provided in~~  
21 ~~61-8-714(6), all~~ fees and fines collected by the court shall  
22 be paid into the city treasury."

23 Section 10. Section 46-18-603, MCA, is amended to  
24 read:

25 "46-18-603. Disposition of fines and forfeitures. ~~\*\*\*~~

~~(1) Except as provided in subsection (2), all fines and forfeitures collected in any court except city courts must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred. After such costs are paid, the residue, if not otherwise provided by law, must be paid to the county treasurer of the county in which the court is held and by him credited as provided by law. If the fine or forfeiture is paid to the county treasurer, at the time of such payment there shall be filed with the county treasurer a complete statement showing the total of the fine or forfeiture received or incurred with an itemized statement of the costs incurred by the county in such action. The statement shall give the title of the cause and be subscribed by the person or officer making such payment.~~

~~(2) When a fine is imposed for any violation of 61-8-501 or any municipal ordinance authorized by that section, a 10% surcharge on the fine must be collected and remitted to the state and deposited in accordance with 61-8-714. The remainder must then be applied to the payment of costs and the residue paid in accordance with subsection (1).~~

Section 11. Section 53-24-103, MCA, is amended to read:

"53-24-103. Definitions. For purposes of this chapter,

the following definitions apply:

(1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal relationships, or economic function of the individual or public health, welfare, or safety.

(2) "Approved private treatment facility" means a private nonprofit agency, receiving public funds (whose function is the treatment, rehabilitation, and prevention of alcoholism and drug dependence) meeting the standards prescribed in 53-24-208(1) and approved under 53-24-208.

(3) "Approved public treatment facility" means:

(a) a treatment agency operating under the direction and control of the department as a state agency and approved under 53-24-208; or

(b) a treatment agency operating under the direction and control of a local government and approved under 53-24-208.

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

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

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

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

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

(9) "Prevention" has meaning on four levels; these are means:

(a) education to provide information to the school children and general public relating to alcohol dependence and alcoholism, treatment, and rehabilitative services and to reduce the consequences of life experiences acquired by contact with an alcoholic;

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

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

(d) the provision of facility requirements to meet division program standards and improve public accessibility

for services.

(10) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to alcoholics, intoxicated persons, and family members, the purposes of which are:

(a) early detection and recovery from the illness before lasting emotional or physical damage or both occur;

(b) if lasting emotional or physical damage or both have occurred, to arrest the illness before full disability has been reached; and

(c) the provision of facility requirements to meet division program standards and improve public accessibility to services."

Section 12. Section 53-24-108, MCA, is amended to read:

"53-24-108. Utilization of funds generated by taxation on alcoholic beverages. (1) Revenue generated by 16-1-404, 16-1-406, and 16-1-408 to state-approved programs whose function is the treatment and rehabilitation and prevention of alcoholism may be distributed in either of the following manners:

(a) as payment of fees for alcoholism services

1 provided by state-approved alcoholism programs and licensed  
2 hospitals for detoxification services; or

3 (b) as grants to state-approved alcoholism programs.

4 (2) No person operating a state-approved alcoholism  
5 program may be required to provide matching funds as a  
6 condition of receiving a grant under subsection (1) of this  
7 section.

8 (3) In addition to funding received under this  
9 section, a person operating a state-approved alcoholism  
10 program may accept gifts, bequests, or the donation of  
11 services or money for the treatment or rehabilitation or  
12 prevention of alcoholism.

13 (4) No person receiving funding under this section to  
14 support operation of a state-approved alcoholism program may  
15 refuse alcoholism treatment or rehabilitation--or  
16 prevention services to a person solely because of that  
17 person's inability to pay for those services.

18 (5) A grant made under this section subsection (1) is  
19 subject to the following conditions:

20 (a) The grant application must contain an estimate of  
21 all program income, including income from earned fees,  
22 gifts, bequests, donations, and grants from other than state  
23 sources during the period for which grant support is sought.

24 (b) Whenever, during the period of grant support,  
25 program income exceeds the amount estimated in the grant

1 application, the amount of the excess shall be reported to  
2 the grantor.

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

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

8 (ii) to allow program growth through the expansion of  
9 services or for capital expenditures necessary to improve  
10 facilities where services are provided.

11 ~~(6) The department shall designate a portion of the~~  
12 ~~funds generated by 16-1-404, 16-1-406, and 16-1-408 to be~~  
13 ~~used for the prevention of alcoholism and to be distributed~~  
14 ~~through the program established in [sections 1 through 5].~~  
15 ~~The designated portion must be equal to the ratio of funds~~  
16 ~~granted for prevention of alcoholism to total funds~~  
17 ~~generated that existed on July 1, 1983.~~

18 ~~(6)(7)~~ Revenue generated by 16-1-404, 16-1-406, and  
19 16-1-408 for the treatment and rehabilitation--and  
20 prevention of alcoholism which has not been encumbered for  
21 those purposes by the counties of Montana or the department  
22 shall be returned to the state's earmarked revenue fund for  
23 the treatment, rehabilitation, and prevention of alcoholism  
24 within 30 days after the close of each fiscal year and will  
25 be distributed by the department the following year as



provided in 53-24-206(3)(b)."

Section 13. Section 53-24-206, MCA, is amended to read:

"53-24-206. Administration of financial assistance.

(1) The department may apply for and receive grants, allotments, or allocations of funds or other assistance for purposes pertaining to the problems of alcoholism and drug dependence or related social problems under laws and rules of the United States, any other state, or any private organization.

(2) The department may cooperate with any other government agency or private organization in programs on alcoholism and drug dependence or related social problems. In carrying out cooperative programs, the department may make grants of financial assistance to government agencies and private organizations under terms and conditions agreed upon. Grants made for the purpose of the prevention of alcohol and drug abuse must be distributed through the program established in [sections 1 through 5].

(3) (a) In administering proceeds derived from the liquor license tax or the beer license tax, the department shall distribute those funds appropriated by the legislature. Money that is appropriated for distribution to approved programs on a discretionary basis, except those funds distributed pursuant to [sections 1 through 5], shall

be distributed to those programs that can demonstrate that:

(i) the program is achieving the goals and objectives mutually agreed upon by the program and the department; and

(ii) the receipt of additional funds would be justified.

(b) The remainder of the proceeds shall be distributed to the counties for use by approved programs in the following manner:

(i) Eighty-five percent shall be allocated according to the proportion of each county's population to the state's population according to the most recent United States census.

(ii) Fifteen percent shall be allocated according to the proportion of the county's land area to the state's land area.

(c) Money distributed under subsection (3) may only be used for purposes pertaining to the problems of alcoholism or related social problems."

NEW SECTION. Section 14. Codification instruction. Sections 1 through 5 are intended to be codified as an integral part of Title 53, chapter 24, and the provisions of Title 53, chapter 24, apply to sections 1 through 5.

NEW SECTION. Section 15. Effective date. This act is effective July 1, 1983.

-End-

## STATE OF MONTANA

REQUEST NO. 419-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 796 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 796 creates a Drug and Alcohol Abuse Prevention Grant Program within the Department of Institutions; provides state grant funds derived from a surcharge on fines imposed for driving under the influence of alcohol and drugs; provides for the administration of the program; and includes criteria for and awarding of grants.

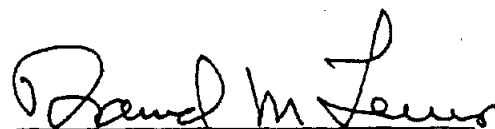
ASSUMPTIONS:

- 1) Estimated to be 3,000 fines imposed throughout the state for driving under the influence.
- 2) Average fine to be \$200.
- 3) The surcharge on the fines is 10% as established in the bill.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Revenue to Earmarked Account	\$ 60,000	\$ 60,000
Expenditures: Administration	3,000	3,000
Grants	57,000	57,000
	<u>\$ 60,000</u>	<u>\$ 60,000</u>

FISCAL NOTE 14:D/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-83