

SENATE BILL NO. 82

1/10 Introduced
1/10 Referred to State Administration
1/12 Fiscal Note Requested
1/18 Fiscal Note Received
1/21 Hearing
2/11 Tabled in Committee

1 Senate BILL NO. 82
 2 INTRODUCED BY Denise Campbell, Lynch Street,
 3 Haffay Mencher

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A MONTANA
 5 LAW ENFORCEMENT MUSEUM IN THE OLD STATE PRISON IN DEER
 6 LODGE; PROVIDING FOR FUNDING AND A LAW ENFORCEMENT MUSEUM
 7 ACCOUNT IN THE STATE TREASURY; AMENDING SECTIONS 45-5-101,
 8 45-5-201, 45-5-202, 45-5-302, 45-5-303, 45-18-231,
 9 45-18-235, AND 61-8-715, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

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

12 NEW SECTION. Section 1. Short title. [Sections 1
 13 through 5] may be cited as the "Law Enforcement Museum Act".

14 NEW SECTION. Section 2. Establishment of law
 15 enforcement museum -- purpose. (1) There is a Montana law
 16 enforcement museum in the old state prison in Deer Lodge.

17 (2) The purpose of the law enforcement museum is to
 18 preserve and display artifacts, antiquities, and memorabilia
 19 of law enforcement in Montana; to show the evolution of law
 20 enforcement in Montana and its role in Montana history; and
 21 to educate the public about crime detection, crime
 22 prevention, and safety. A portion of the museum must be
 23 reserved for a memorial to Montana peace officers killed in
 24 line of duty.
 25

1 NEW SECTION. Section 3. Old state prison to be leased
 2 to operator of law enforcement museum. (1) The old state
 3 prison must be leased or subleased to an organization
 4 qualified to accomplish the purposes of the Montana law
 5 enforcement museum described in [section 2].

6 (2) The lessee or sublessee of the old state prison
 7 shall develop, operate, and maintain the law enforcement
 8 museum for the use, education, and enjoyment of the citizens
 9 of Montana. Failure to comply with [sections 2 through 5],
 10 whether on the part of the lessee or on the part of the
 11 sublessee, is cause for termination of the lease by the
 12 state.

13 (3) The lessee or sublessee of the old state prison
 14 shall appoint a director of the law enforcement museum, fix
 15 his salary, and prescribe his duties.

16 NEW SECTION. Section 4. Law enforcement museum
 17 account. (1) There is a law enforcement museum account in
 18 the state special revenue fund. There must be paid into
 19 this account all the mandatory fines collected from persons
 20 convicted of killing, assaulting, or kidnapping a peace
 21 officer while he was performing his duty, as provided in
 22 46-18-235, and from persons convicted of reckless driving
 23 while fleeing or attempting to flee from or elude a peace
 24 officer, as provided in 61-8-715.

25 (2) The director of the law enforcement museum may



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1 draw on this account for purposes of developing, operating,
 2 and maintaining the museum. The director shall keep a
 3 complete record of the financial transactions of the museum.
 4 This record must be audited annually by the legislative
 5 auditor, in accordance with 5-13-304(7).

6 NEW SECTION. Section 5. Partial funding from private
 7 sources. The lessee or sublessee of the old state prison
 8 shall pay at least 25% of the cost of developing, operating,
 9 and maintaining the law enforcement museum from sources
 10 other than the account established in [section 4]. It may
 11 sell books, photographs, and other objects that are
 12 appropriate to the purpose of the law enforcement museum and
 13 may apply for grants, sell memberships, conduct fundraising
 14 drives, and solicit contributions from the public, but it
 15 may not charge a fee for admission to the law enforcement
 16 museum.

17 Section 6. Section 45-5-101, MCA, is amended to read:
 18 "45-5-101. Criminal homicide. (1) A person commits the
 19 offense of criminal homicide if he purposely, knowingly, or
 20 negligently causes the death of another human being.

21 (2) Criminal homicide is deliberate homicide,
 22 mitigated deliberate homicide, or negligent homicide.

23 (3) If the victim was a peace officer killed while
 24 performing his duty, a person convicted of criminal homicide
 25 shall be fined \$1,000 in addition to any punishment imposed

1 for the commission of such an offense, except as provided in
 2 46-18-231."

3 Section 7. Section 45-5-201, MCA, is amended to read:
 4 "45-5-201. Assault. (1) A person commits the offense
 5 of assault if he:

6 (a) purposely or knowingly causes bodily injury to
 7 another;

8 (b) negligently causes bodily injury to another with a
 9 weapon;

10 (c) purposely or knowingly makes physical contact of
 11 an insulting or provoking nature with any individual; or

12 (d) purposely or knowingly causes reasonable
 13 apprehension of bodily injury in another. The purpose to
 14 cause reasonable apprehension or the knowledge that
 15 reasonable apprehension would be caused shall be presumed in
 16 any case in which a person knowingly points a firearm at or
 17 in the direction of another, whether or not the offender
 18 believes the firearm to be loaded.

19 (2) Except as provided in subsection subsections (3)
 20 and (4), a person convicted of assault shall be fined not to
 21 exceed \$500 or be imprisoned in the county jail for any term
 22 not to exceed 6 months, or both.

23 (3) If the victim is less than 14 years old and the
 24 offender is 18 or more years old, the offender, upon
 25 conviction under subsection (1)(a), shall be fined not to

1 exceed \$50,000 or be imprisoned in the state prison for a
2 term not to exceed 5 years, or both.

3 (4) If the victim is a peace officer assaulted while
4 performing his duty, a person convicted of assault shall be
5 fined \$200 in addition to any punishment imposed under
6 subsection (2), except as provided in 46-18-231."

7 Section 8. Section 45-5-202, MCA, is amended to read:

8 "45-5-202. Aggravated assault. (1) A person commits
9 the offense of aggravated assault if he purposely or
10 knowingly causes:

- 11 (a) serious bodily injury to another;
- 12 (b) bodily injury to another with a weapon;
- 13 (c) reasonable apprehension of serious bodily injury
14 in another by use of a weapon; or
- 15 (d) bodily injury to a peace officer or a person who
16 is responsible for the care or custody of a prisoner.

17 (2) A person convicted of aggravated assault shall be
18 imprisoned in the state prison for a term of not less than 2
19 years or more than 20 years and may be fined not more than
20 \$50,000, except as provided in 46-18-222.

21 (3) If the victim is a peace officer assaulted while
22 performing his duty, a person convicted of aggravated
23 assault shall be fined \$500 in addition to any punishment
24 imposed under subsection (2), except as provided in
25 46-18-231."

1 Section 9. Section 45-5-302, MCA, is amended to read:

2 "45-5-302. Kidnapping. (1) A person commits the
3 offense of kidnapping if he knowingly or purposely and
4 without lawful authority restrains another person by either
5 secreting or holding him in a place of isolation or by using
6 or threatening to use physical force.

7 (2) A person convicted of the offense of kidnapping
8 shall be imprisoned in the state prison for a term of not
9 less than 2 years or more than 10 years and may be fined not
10 more than \$50,000, except as provided in 46-18-222.

11 (3) If the victim is a peace officer kidnapped while
12 performing his duty, a person convicted of kidnapping shall
13 be fined \$500 in addition to any punishment imposed under
14 subsection (2), except as provided in 46-18-231."

15 Section 10. Section 45-5-303, MCA, is amended to read:

16 "45-5-303. Aggravated kidnapping. (1) A person commits
17 the offense of aggravated kidnapping if he knowingly or
18 purposely and without lawful authority restrains another
19 person by either secreting or holding him in a place of
20 isolation or by using or threatening to use physical force,
21 with any of the following purposes:

- 22 (a) to hold for ransom or reward or as a shield or
23 hostage;
- 24 (b) to facilitate commission of any felony or flight
25 thereafter;

1 (c) to inflict bodily injury on or to terrorize the
2 victim or another;

3 (d) to interfere with the performance of any
4 governmental or political function; or

5 (e) to hold another in a condition of involuntary
6 servitude.

7 (2) Except as provided in 46-18-222, a person
8 convicted of the offense of aggravated kidnapping shall be
9 punished by death or life imprisonment as provided in
10 46-18-301 through 46-18-310 or be imprisoned in the state
11 prison for a term of not less than 2 years or more than 100
12 years and may be fined not more than \$50,000, unless he has
13 voluntarily released the victim alive, in a safe place, and
14 not suffering from serious bodily injury, in which event he
15 shall be imprisoned in the state prison for a term of not
16 less than 2 years or more than 10 years and may be fined not
17 more than \$50,000.

18 (3) If the victim is a peace officer kidnapped while
19 performing his duty, a person convicted of aggravated
20 kidnapping shall be fined \$500 in addition to any punishment
21 imposed under subsection (2), except as provided in
22 46-18-231."

23 Section 11. Section 46-18-231, MCA, is amended to
24 read:

25 "46-18-231. Fines in felony and misdemeanor cases. (1)

1 Whenever, upon a verdict or a plea of guilty, a person has
2 been found guilty of an offense for which a felony penalty
3 of imprisonment could be imposed, the court may impose a
4 fine, only in accordance with subsection (3), and in lieu of
5 or in addition to a sentence of imprisonment. For those
6 crimes for which penalties are provided in 45-5-101(3),
7 45-5-103(2), 45-5-201(4), 45-5-202(2) and (3), 45-5-302(2)
8 and (3), 45-5-303(2) and (3), 45-5-401(2), 45-5-502(3),
9 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and
10 45-9-103(2), a fine may be imposed in accordance with
11 subsection (3) in addition to a sentence of imprisonment.

12 (2) Whenever, upon a verdict or plea of guilty, a
13 person has been found guilty of an offense for which a
14 misdemeanor penalty of a fine could be imposed, the court
15 may impose a fine only in accordance with subsection (3).

16 (3) The court may not sentence a defendant to pay a
17 fine unless the defendant is or will be able to pay the
18 fine. In determining the amount and method of payment, the
19 court shall take into account the nature of the crime
20 committed, the financial resources of the defendant, and the
21 nature of the burden that payment of the fine will impose.

22 (4) Any fine levied under this section in a felony
23 case shall be in an amount fixed by the court not to exceed
24 \$50,000."

25 Section 12. Section 46-18-235, MCA, is amended to

1 read:

2 "46-18-235. Disposition of money collected as fines
3 and costs. The money collected by a court as a result of the
4 imposition of fines or assessment of costs under the
5 provisions of 46-18-231 and 46-18-232 shall be paid to the
6 county general fund of the county in which the court is
7 held, except that:

8 (1) if the fine was imposed for a violation of Title
9 45, chapter 9, the court may order the money paid into the
10 drug forfeiture fund maintained under 44-12-206 for the law
11 enforcement agency which made the arrest from which the
12 conviction and fine arose; and

13 (2) if the fine was a mandatory penalty for killing,
14 assaulting, or kidnapping a peace officer while he was
15 performing his duty, as provided in 45-5-101, 45-5-201,
16 45-5-202, 45-5-302, or 45-5-303, the money shall be paid
17 into the law enforcement museum account in the state special
18 revenue fund established in [section 4]."

19 Section 13. Section 61-8-715, MCA, is amended to read:

20 "61-8-715. Reckless driving -- penalty. (1) A person
21 convicted of reckless driving under 61-8-301(1)(a) shall be
22 punished upon a first conviction by imprisonment for a
23 period of not more than 90 days or by fine of not less than
24 \$25 or more than \$300 or by both such fine and imprisonment,
25 and on a second or subsequent conviction shall be punished

1 by imprisonment for not less than 10 days or more than 6
2 months or by a fine of not less than \$50 or more than \$500
3 or by both such fine and imprisonment.

4 (2) A person convicted of reckless driving under
5 61-8-301(1)(b) shall be punished by imprisonment in the
6 county or city jail for not less than 10 days or more than 6
7 months ~~to which may be added at the discretion of the court~~
8 and a fine of not less than \$300 or more than \$500. On a
9 second or subsequent conviction, he shall be punished by
10 imprisonment for a term of not less than 30 days or more
11 than 1 year ~~to which may be added at the discretion of the~~
12 court and a fine of not less than \$500 or more than \$1,000.

13 (3) Fines collected under subsection (2) shall be paid
14 into the law enforcement museum account in the state special
15 revenue fund established in [section 4]."

16 NEW SECTION. Section 14. Effective date. This act is
17 effective July 1, 1985.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 084-85

Form BD-15

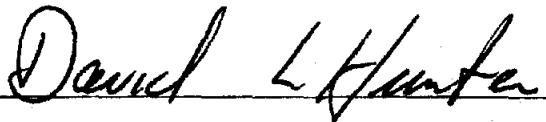
In compliance with a written request received January 15, 19 85, there is hereby submitted a Fiscal Note for S. B. 82 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 82 is an act that would establish a Montana Law Enforcement Museum in the old state prison in Deer Lodge, Montana. This act provides for funding, and establishes a law enforcement museum account in the state treasury.

ASSUMPTIONS:

1. The lease with Powell County and the State would remain in force for the current lease payment of \$1 per year.
2. Powell County would sublease the old prison to a non-profit organization who would establish and operate a law enforcement museum.
3. Because precise statistics are not available for the listed crimes against police officers, only a rough estimate of revenue is presented.
4. The type of person committing the listed crimes are generally indigent, which cause collections to be only 5% of the assessments made for homicide, assault, and kidnapping. Collections for reckless driving are about 75% of assessments imposed.
5. The number of convictions for crimes that affect this bill will remain static for the 1987 biennium.
6. An independent, annual entity audit of the Montana Law Enforcement Museum would be performed.
7. A valid estimate of revenues from private sources cannot be expressed at this time.
8. The museum would require a minimum of two FTE. One, the director mentioned in the proposed bill, would be at the level of state classification Curator I, Grade 13, Step 2. The second would be comparable to the state classification of Museum Technician, Grade 9, Step 2. Personnel benefits are figured at 20%.
9. The two described positions are necessary in order to keep the museum open 7 days a week during the summer and five days a week for the remainder of the year.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 18, 1985
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ASSUMPTIONS: (continued)

10. The two staff would do most of the exhibit construction with some work being contracted to other vendors.
11. The director position, in addition to internal work, would be responsible for artifact acquisition, public information, promotion, etc.
12. The facility would have a minimum of 5,000 square feet of exhibit space, 2,000 square feet of work and storage space and 1,000 square feet of administrative space (offices, restrooms, hallways, janitorial closets, lobby, sales shop, etc.)
13. Payment for security, janitorial, and utilities is based on the square footage rates currently proposed by the General Services Division for state buildings for the coming biennium (\$2.97 per sq. ft. in 1986 and \$3.00 per sq. ft. in 1987).
14. Construction of exhibits is based on the minimum cost of \$30.00 per square foot for 5,000 square feet of exhibit space. All exhibits to be completed within the biennium for a total cost of \$150,000 split equally between two fiscal years. This is a minimum base figure. Exhibit construction can reach \$100.00 per sq. ft.
15. An additional \$4,000 per fiscal year will be needed for travel, office supplies, telephone, equipment, and other expenses.
16. The sales shop suggested in the bill would be operated by the leasee personnel (volunteers or members).
17. As stated in the bill, costs are split 75% from a special revenue account financed by fines and 25% provided by the leasee.

Fiscal Impact:

Expenditures:

	<u>FY 1986</u>	<u>FY 1987</u>	<u>Total Biennium</u>
Personal Services	\$ 39,574	\$ 39,574	\$ 79,148
Operations	107,760	106,750	214,510
Total:	<u>\$ 147,334</u>	<u>\$ 146,324</u>	<u>\$ 293,658</u>
 Earmarked Special			
Revenue Fund	\$ 110,501	\$ 109,743	\$ 220,244
Lease Holder Match	36,833	36,581	73,414
Total:	<u>\$ 147,334</u>	<u>\$ 146,324</u>	<u>\$ 293,658</u>

Revenues:

	<u>FY 1986</u>	<u>FY 1987</u>	<u>Total Biennium</u>
Earmarked Special Revenue	\$ 49,675	\$ 49,675	\$ 99,350
Proprietary Fund	60,826	60,068	120,894
Other (Leasee's 25% of operational costs)	<u>36,833</u>	<u>36,581</u>	<u>73,414</u>
Total:	<u>\$147,334</u>	<u>\$146,324</u>	<u>\$293,658</u>

The above revenue estimates include a Proprietary Fund amount which would contain collections from donations, gift store profits, and other sources of revenue. An accurate estimate of available revenue for this fund is unavailable. The amounts shown for the proprietary fund are the funds needed in addition to the earmarked special revenue and the leasee's 25%.

Effect on County or Other Local Revenue or Expenditures:

- 1) This bill would have minor negative impact on local government fine and forfeiture revenue.

Long-Range Effects of Proposed Legislation:

N/A

Technical or Mechanical Defects or Conflicts With Existing Legislation:

- 1) Section 4 (2) Legislative audits provide complete audit coverage generally on a biennial schedule. The word "annually" should be deleted from the last sentence.
- 2) Section 4 (2) In the last sentence following the word "by" insert "or at the direction of". This would permit the Legislative Auditor to contract for the audit work when it is in the best interests of the state.
- 3) The bill does not designate an administering state agency to direct and oversee the program. Such a designation should be made and it should be an agency with knowledge of proprietary or museum operations.