

SB 137 INTRODUCED BY WEEDING
FEE ADDED TO FINES TO SUPPORT LAW ENFORCEMENT
ACADEMY

| | | |
|------|--|-------|
| 1/19 | INTRODUCED | |
| 1/19 | REFERRED TO JUDICIARY | |
| 1/20 | FISCAL NOTE REQUESTED | |
| 1/23 | FISCAL NOTE RECEIVED | |
| 1/26 | HEARING | |
| 2/20 | COMMITTEE REPORT--BILL PASSED AS AMENDED | |
| 2/23 | 2ND READING PASS MOTION FAILED | 17 32 |
| 2/23 | 2ND READING INDEFINITELY POSTPONED | 32 16 |

1 Senate BILL NO. 137
2 INTRODUCED BY Wheeler
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING AN ADDITIONAL
5 CHARGE TO SUPPORT THE LAW ENFORCEMENT ACADEMY ON EACH PERSON
6 CONVICTED OF A CRIMINAL OFFENSE OR OF VIOLATING THE FUEL
7 CONSERVATION SPEED LIMIT; ALLOWING THE DEPARTMENT OF JUSTICE
8 TO ACQUIRE AND OPERATE LAW ENFORCEMENT ACADEMY BUILDINGS AND
9 PROPERTY; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT AND
10 PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS
11 17-7-502, 44-10-202, 46-18-236, AND 61-8-718, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 46-18-236, MCA, is amended to read:
15 "46-18-236. Imposition of charge charges upon
16 conviction or forfeiture -- administration. (1) Except as
17 provided in subsection (2), there must be imposed by all
18 courts of original jurisdiction on a defendant upon his
19 conviction for any conduct made criminal by state statute or
20 upon forfeiture of bond or bail, ~~a--charge--that--is~~ in
21 addition to other taxable court costs, fees, or fines,
22 charges that are as follows:

- 23 (a) \$10 for each misdemeanor charge; and
- 24 (b) the greater of \$20 or 10% of the fine levied for
- 25 each felony charge; and

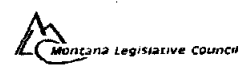
1 (b) \$10 for each misdemeanor or felony charge, except
2 charges under 61-8-354 through 61-8-357, but the judge may
3 consolidate multiple nonmoving violations of the provisions
4 of Title 61, chapter 8, part 3, by one defendant into one
5 offense for the purposes of assessing the charge under this
6 subsection (1)(b).

7 (2) If a convicting court determines under 46-18-231
8 and 46-18-232 that the defendant is not able to pay the fine
9 and costs or that he is unable to pay within a reasonable
10 time, the court must waive payment of the charge charges
11 imposed by this section.

12 (3) The charge charges imposed by this section ~~is~~ are
13 not a fine fines and must be imposed in addition to any fine
14 and may not be used in determining the jurisdiction of any
15 court.

16 (4) When the payment of a fine is to be made in
17 installments over a period of time, the charge charges
18 imposed by this section must be collected from the first
19 payment made and each subsequent payment as necessary if the
20 first payment is not sufficient to cover the charge charges.

21 (5) The charges collected under subsection (1)(a) must
22 be deposited with the appropriate local government finance
23 officer or treasurer. If a city municipal court or city or
24 town court is the court of original jurisdiction, the
25 charges collected under subsection (1)(a) must be deposited



1 with the city or town finance officer or treasurer. If a
 2 justice's court or district court is the court of original
 3 jurisdiction, the charges collected under subsection (1)(a)
 4 must be deposited with the county finance officer or
 5 treasurer. If the court of original jurisdiction is a court
 6 within a consolidated city-county government within the
 7 meaning of Title 7, chapter 3, the charges collected under
 8 subsection (1)(a) must be deposited with the finance officer
 9 or treasurer of the consolidated government.

10 (6) (a) A city or town finance officer or treasurer
 11 may retain the charges collected under subsection (1)(a) by
 12 a city municipal court or a city or town court and may use
 13 that money for the payment of salaries of the city or town
 14 attorney and his deputies.

15 (b) Each county finance officer or treasurer may
 16 retain the charges collected under subsection (1)(a) by
 17 district or justices' courts for crimes committed or alleged
 18 to have been committed within that county. The county
 19 finance officer or treasurer shall use the money for the
 20 payment of salaries of its deputy county attorneys and for
 21 the payment of other salaries in the office of the county
 22 attorney, and any funds not needed for such salaries may be
 23 used for the payment of any other county salaries.

24 (7) The charges collected under subsection (1)(b) must
 25 be deposited with the county finance officer or treasurer,

1 and within 5 days after the last day of the month, the
 2 county finance officer or treasurer shall pay the amount
 3 deposited with him under subsection (1)(b) in the previous
 4 month to the state treasurer for deposit in the account
 5 established in [section 5]."

6 Section 2. Section 61-8-718, MCA, is amended to read:

7 "61-8-718. Penalty for violation of fuel conservation
 8 speed limit -- charge to support law enforcement academy.

9 (1) A person violating the speed limit imposed pursuant to
 10 61-8-304 is guilty of the offense of unnecessary waste of a
 11 resource and upon conviction shall be fined \$5, and no jail
 12 sentence may be imposed. Bond for this offense shall be \$5.

13 (2) For the purpose of this section only, the fees of
 14 the justice's court shall be the balance of the fine not
 15 otherwise allocated by law and shall be remitted as set
 16 forth in 3-10-603(3).

17 (3) A violation of 61-8-304 is not a misdemeanor
 18 pursuant to 45-2-101, 61-8-104, or 61-8-711.

19 (4) In addition to the fine imposed in subsection (1),
 20 a person who is guilty of violating 61-8-304 is subject to a
 21 charge of \$10 to support the law enforcement academy, which
 22 must be paid when the fine or the bond imposed in subsection
 23 (1) is paid. Upon collection, the charge of \$10 must be
 24 deposited with the county finance officer or treasurer, and
 25 within 5 days after the last day of the month the county

1 finance officer or treasurer shall pay the amount deposited
 2 with him under this subsection (4) in the previous month to
 3 the state treasurer for deposit in the account established
 4 in [section 5]."

5 Section 3. Section 44-10-202, MCA, is amended to read:

6 "44-10-202. Powers and duties of department. The
 7 department of justice shall have the power and it shall be
 8 its duty to:

9 (1) establish qualifications for admission to the
 10 academy;

11 (2) select from among the qualified applicants those
 12 officers who are to attend the academy each year;

13 (3) determine the curriculum and methods of training
 14 for the officers attending the academy;

15 (4) select and hire such staff as it deems necessary
 16 to implement this chapter;

17 (5) establish rules for the conduct of the officers at
 18 the academy;

19 (6) award appropriate certificates to the officers who
 20 successfully complete their training;

21 (7) provide for the keeping of permanent records of
 22 enrollment, attendance, and graduation and such other
 23 records as the department may deem necessary;

24 (8) acquire and operate buildings and property to
 25 implement this chapter;

1 ~~(8)~~(9) make a yearly report in writing of the
 2 activities of the academy. Copies of this report shall be
 3 sent to the governor, attorney general, and secretary of
 4 state.

5 ~~(9)~~(10) do all other things necessary and desirable for
 6 the establishment and operation of the academy not
 7 inconsistent with this chapter or the constitution and
 8 statutes of the state of Montana;

9 ~~(10)~~(11) accept and expend grants from federal, state,
 10 county, and city governments or private persons,
 11 associations, or corporations."

12 Section 4. Section 17-7-502, MCA, is amended to read:

13 "17-7-502. Statutory appropriations -- definition --
 14 requisites for validity. (1) A statutory appropriation is an
 15 appropriation made by permanent law that authorizes spending
 16 by a state agency without the need for a biennial
 17 legislative appropriation or budget amendment.

18 (2) Except as provided in subsection (4), to be
 19 effective, a statutory appropriation must comply with both
 20 of the following provisions:

21 (a) The law containing the statutory authority must be
 22 listed in subsection (3).

23 (b) The law or portion of the law making a statutory
 24 appropriation must specifically state that a statutory
 25 appropriation is made as provided in this section.

1 (3) The following laws are the only laws containing
 2 statutory appropriations:
 3 (a) 2-9-202;
 4 (b) 2-17-105;
 5 (c) 2-18-812;
 6 (d) 10-3-203;
 7 (e) 10-3-312;
 8 (f) 10-3-314;
 9 (g) 10-4-301;
 10 (h) 13-37-304;
 11 (i) 15-31-702;
 12 (j) 15-36-112;
 13 (k) 15-70-101;
 14 (l) 16-1-404;
 15 (m) 16-1-410;
 16 (n) 16-1-411;
 17 (o) 17-3-212;
 18 (p) 17-5-404;
 19 (q) 17-5-424;
 20 (r) 17-5-804;
 21 (s) 19-8-504;
 22 (t) 19-9-702;
 23 (u) 19-9-1007;
 24 (v) 19-10-205;
 25 (w) 19-10-305;

1 (x) 19-10-506;
 2 (y) 19-11-512;
 3 (z) 19-11-513;
 4 (aa) 19-11-606;
 5 (bb) 19-12-301;
 6 (cc) 19-13-604;
 7 (dd) 20-6-406;
 8 (ee) 20-8-111;
 9 (ff) 23-5-612;
 10 (gg) 37-51-501;
 11 (hh) 53-24-206;
 12 (ii) 75-1-1101;
 13 (jj) 75-7-305;
 14 (kk) 80-2-103;
 15 (ll) 80-2-228;
 16 (mm) 90-3-301;
 17 (nn) 90-3-302;
 18 (oo) 90-15-103; and
 19 (pp) Sec. 13, HB 861, L. 1985; and
 20 (qq) [section 5].

21 (4) There is a statutory appropriation to pay the
 22 principal, interest, premiums, and costs of issuing, paying,
 23 and securing all bonds, notes, or other obligations, as due,
 24 that have been authorized and issued pursuant to the laws of
 25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
2 treasurer, for deposit in accordance with 17-2-101 through
3 17-2-107, as determined by the state treasurer, an amount
4 sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for
6 such payments."

7 NEW SECTION. Section 5. Account established. There is
8 an account in the state special revenue fund. Money from
9 charges imposed under 46-18-236(1)(b) must be deposited in
10 the account. The money in the account is appropriated, as
11 provided in 17-7-502, to the department of justice for the
12 purposes provided in 44-10-102 and to implement the
13 provisions of 44-10-202.

14 NEW SECTION. Section 6. Extension of authority. Any
15 existing authority of the department of justice to make
16 rules on the subject of the provisions of this act is
17 extended to the provisions of this act.

18 NEW SECTION. Section 7. Codification instruction.
19 Section 5 is intended to be codified as an integral part of
20 Title 44, chapter 10, part 1.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB137, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing an additional charge to support the Law Enforcement Academy on each person convicted of a criminal offense; allowing the Department of Justice to acquire and operate Law Enforcement Academy buildings and property; establishing a state special revenue account and providing a statutory appropriation; and amending Sections 17-7-502, 44-10-202, and 46-18-236, MCA.

ASSUMPTIONS:

1. 1981/1982 misdemeanor and felony conviction data is applicable to 1988/1989.

FISCAL IMPACT:

| | FY88 | | | FY89 | | |
|-----------------------|-------------|--------------|--------------|-------------|--------------|--------------|
| | Current Law | Proposed Law | Difference | Current Law | Proposed Law | Difference |
| <u>Revenues:</u> | | | | | | |
| State Special Revenue | \$ 0 | \$ 1,000,000 | \$ 1,000,000 | \$ 0 | \$ 1,000,000 | \$ 1,000,000 |
| <u>Expenditures:</u> | | | | | | |
| Tuition Account | \$ 55,685 | \$ 0 | \$ (55,685) | \$ 55,700 | \$ 0 | \$ (55,700) |
| Motor Vehicle Account | 560,456 | 0 | (560,456) | 567,515 | 0 | (567,515) |
| State Special Revenue | 0 | 616,141 | 616,141 | 0 | 623,215 | 623,215 |
| TOTAL | \$ 616,141 | \$ 616,141 | \$ 0 | \$ 623,215 | \$ 623,215 | \$ 0 |

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Savings in tuition costs to Law Enforcement Academy.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter

DATE

1/20/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Cecil Weeding

DATE

1/21/87

CECIL WEEDING, PRIMARY SPONSOR

Fiscal Note for SB137, as introduced.

SB 137

APPROVED BY COMMITTEE
ON JUDICIARY

1 SENATE BILL NO. 137

2 INTRODUCED BY WEEDING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING AN ADDITIONAL
5 CHARGE TO SUPPORT THE LAW ENFORCEMENT ACADEMY ON EACH PERSON
6 CONVICTED OF A CRIMINAL OFFENSE OR OF VIOLATING THE FUEL
7 CONSERVATION SPEED LIMIT, ALLOWING THE DEPARTMENT OF JUSTICE
8 TO ACQUIRE AND OPERATE LAW ENFORCEMENT ACADEMY BUILDINGS AND
9 PROPERTY, ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT AND
10 PROVIDING A STATUTORY APPROPRIATION CERTAIN OFFENSES; AND
11 AMENDING SECTIONS SECTION 17-7-502, 44-10-202, 46-18-236,
12 AND 61-8-710, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 46-18-236, MCA, is amended to read:

16 "46-18-236. Imposition of charge charges upon
17 conviction or forfeiture -- administration. (1) Except as
18 provided in subsection (2), there must be imposed by all
19 courts of original jurisdiction on a defendant upon his
20 conviction for any conduct made criminal by state statute or
21 upon forfeiture of bond or bail, a charge that is in
22 addition to other taxable court costs, fees, or fines,
23 charges that are as follows:

24 (a) \$10 for each misdemeanor charge; and

25 (b) the greater of \$20 or 10% of the fine levied for

1 each felony charge; and

2 (b) \$10 for each misdemeanor or SET FORTH IN TITLE 45,
3 FOR ANY felony charge, ~~except charges under 61-8-354 through~~
4 ~~61-8-357, but the judge may consolidate multiple nonmoving~~
5 ~~violations of the provisions of Title 61, chapter 8, part 3,~~
6 ~~by one defendant into one offense for the purposes of~~
7 ~~assessing the charge under this subsection (1)(b) AND FOR~~
8 ANY CONVICTION FOR VIOLATION OF 61-7-103, 61-8-301,
9 61-8-302, 61-8-401, 61-8-406, OR 61-11-213.

10 (2) If a convicting court determines under 46-18-231
11 and 46-18-232 that the defendant is not able to pay the fine
12 and costs or that he is unable to pay within a reasonable
13 time, the court must waive payment of the charge charges
14 imposed by this section.

15 (3) The charge charges imposed by this section ~~is~~ are
16 not a fine fines and must be imposed in addition to any fine
17 and may not be used in determining the jurisdiction of any
18 court.

19 (4) When the payment of a fine is to be made in
20 installments over a period of time, the charge charges
21 imposed by this section must be collected from the first
22 payment made and each subsequent payment as necessary if the
23 first payment is not sufficient to cover the charge charges.

24 (5) The charges collected under subsection (1)(a) must
25 be deposited with the appropriate local government finance

1 officer or treasurer. If a city municipal court or city or
 2 town court is the court of original jurisdiction, the
 3 charges collected under subsection (1)(a) must be deposited
 4 with the city or town finance officer or treasurer. If a
 5 justice's court or district court is the court of original
 6 jurisdiction, the charges collected under subsection (1)(a)
 7 must be deposited with the county finance officer or
 8 treasurer. If the court of original jurisdiction is a court
 9 within a consolidated city-county government within the
 10 meaning of Title 7, chapter 3, the charges collected under
 11 subsection (1)(a) must be deposited with the finance officer
 12 or treasurer of the consolidated government.

13 (6) (a) A city or town finance officer or treasurer
 14 may retain the charges collected under subsection (1)(a) by
 15 a city municipal court or a city or town court and may use
 16 that money for the payment of salaries of the city or town
 17 attorney and his deputies.

18 (b) Each county finance officer or treasurer may
 19 retain the charges collected under subsection (1)(a) by
 20 district or justices' courts for crimes committed or alleged
 21 to have been committed within that county. The county
 22 finance officer or treasurer shall use the money for the
 23 payment of salaries of its deputy county attorneys and for
 24 the payment of other salaries in the office of the county
 25 attorney, and any funds not needed for such salaries may be

1 used for the payment of any other county salaries.

2 (7) The charges collected under subsection (1)(b) must
 3 be deposited with the county finance officer or treasurer,
 4 and within 5 days after the last day of the month, the
 5 county finance officer or treasurer shall pay the amount
 6 deposited with him under subsection (1)(b) in the previous
 7 month to the state treasurer for deposit in the account
 8 established--in--(section--5) MOTOR VEHICLE ACCOUNT IN THE
 9 STATE SPECIAL REVENUE FUND."

10 ~~Section 2--Section 61-8-718, MCA, is amended to read:~~
 11 ~~461-8-718--Penalty for violation of fuel conservation~~
 12 ~~speed limit---charge to support law enforcement academy:~~
 13 ~~{1}--A person violating the speed limit imposed pursuant to~~
 14 ~~61-8-304 is guilty of the offense of unnecessary waste of a~~
 15 ~~resource--and upon conviction shall be fined \$5, and no jail~~
 16 ~~sentence may be imposed. Bond for this offense shall be \$5.~~
 17 ~~{2}--For the purpose of this section only, the fees of~~
 18 ~~the justice's court shall be the balance of the fine not~~
 19 ~~otherwise allocated by law and shall be remitted as set~~
 20 ~~forth in 3-10-603(3).~~

21 ~~{3}--A violation of 61-8-304 is not a misdemeanor~~
 22 ~~pursuant to 45-2-101, 61-8-104, or 61-8-711.~~

23 ~~{4}--In addition to the fine imposed in subsection {1},~~
 24 ~~a person who is guilty of violating 61-8-304 is subject to a~~
 25 ~~charge of \$10 to support the law enforcement academy, which~~

1 ~~must be paid when the fine or the bond imposed in subsection~~
 2 ~~{1} is paid. Upon collection, the charge of §10 must be~~
 3 ~~deposited with the county finance officer or treasurer, and~~
 4 ~~within 5 days after the last day of the month the county~~
 5 ~~finance officer or treasurer shall pay the amount deposited~~
 6 ~~with him under this subsection (4) in the previous month to~~
 7 ~~the state treasurer for deposit in the account established~~
 8 ~~in {section 5}."~~

9 Section 3. Section 44-10-202, MCA, is amended to read:

10 "44-10-202. Powers and duties of department. The
 11 department of justice shall have the power and it shall be
 12 its duty to:

13 {1} establish qualifications for admission to the
 14 academy;

15 {2} select from among the qualified applicants those
 16 officers who are to attend the academy each year;

17 {3} determine the curriculum and methods of training
 18 for the officers attending the academy;

19 {4} select and hire such staff as it deems necessary
 20 to implement this chapter;

21 {5} establish rules for the conduct of the officers at
 22 the academy;

23 {6} award appropriate certificates to the officers who
 24 successfully complete their training;

25 {7} provide for the keeping of permanent records of

1 enrollment, attendance, and graduation and such other
 2 records as the department may deem necessary;

3 {8} acquire and operate buildings and property to
 4 implement this chapter;

5 {8}{9} make a yearly report in writing of the
 6 activities of the academy. Copies of this report shall be
 7 sent to the governor, attorney general, and secretary of
 8 state;

9 {9}{10} do all other things necessary and desirable for
 10 the establishment and operation of the academy not
 11 inconsistent with this chapter or the constitution and
 12 statutes of the state of Montana;

13 {10}{11} accept and expend grants from federal, state,
 14 county, and city governments or private persons,
 15 associations, or corporations."

16 Section 4. Section 17-7-502, MCA, is amended to read:

17 "17-7-502. Statutory appropriations - definition -
 18 requisites for validity. (1) A statutory appropriation is an
 19 appropriation made by permanent law that authorizes spending
 20 by a state agency without the need for a biennial
 21 legislative appropriation or budget amendment.

22 (2) Except as provided in subsection (4), to be
 23 effective, a statutory appropriation must comply with both
 24 of the following provisions:

25 (a) The law containing the statutory authority must be

1 listed-in-subsection-(3):

2 (b)--The--law--or--portion--of--the--law--making--a--statutory

3 appropriation--must--specifically--state--that--a--statutory

4 appropriation--is--made--as--provided--in--this--section.

5 (3)--The--following--laws--are--the--only--laws--containing

6 statutory--appropriations:

7 (a)--2-9-202;

8 (b)--2-17-105;

9 (c)--2-10-012;

10 (d)--10-3-203;

11 (e)--10-3-312;

12 (f)--10-3-314;

13 (g)--10-4-301;

14 (h)--13-37-304;

15 (i)--15-31-702;

16 (j)--15-36-112;

17 (k)--15-70-101;

18 (l)--16-1-404;

19 (m)--16-1-410;

20 (n)--16-1-411;

21 (o)--17-3-212;

22 (p)--17-5-404;

23 (q)--17-5-424;

24 (r)--17-5-804;

25 (s)--19-8-504;

1 (t)--19-9-702;

2 (u)--19-9-1007;

3 (v)--19-10-205;

4 (w)--19-10-305;

5 (x)--19-10-506;

6 (y)--19-11-512;

7 (z)--19-11-513;

8 (aa)--19-11-606;

9 (bb)--19-12-301;

10 (cc)--19-13-604;

11 (dd)--20-6-406;

12 (ee)--20-8-111;

13 (ff)--23-5-612;

14 (gg)--37-51-501;

15 (hh)--53-24-206;

16 (ii)--75-1-1101;

17 (jj)--75-7-305;

18 (kk)--80-2-103;

19 (ll)--80-2-220;

20 (mm)--90-3-301;

21 (nn)--90-3-302;

22 (oo)--90-15-103; and

23 (pp)--Sec--13--HB-861; B. 1985; and

24 (qq)--section 5;

25 (4)--There-is-a--statutory--appropriation--to--pay--the

1 principal, interest, premiums, and costs of issuing, paying,
2 and securing all bonds, notes, or other obligations, as due,
3 that have been authorized and issued pursuant to the laws of
4 Montana, Agencies that have entered into agreements
5 authorized by the laws of Montana to pay the state
6 treasurer, for deposit in accordance with 17-2-101 through
7 17-2-107, as determined by the state treasurer, an amount
8 sufficient to pay the principal and interest as due on the
9 bonds or notes have statutory appropriation authority for
10 such payments."

11 NEW SECTION. Section 5. Account established. There is
12 an account in the state special revenue fund. Money from
13 charges imposed under 46-10-236(i)(b) must be deposited in
14 the account. The money in the account is appropriated, as
15 provided in 17-7-502, to the department of justice for the
16 purposes provided in 44-10-102 and to implement the
17 provisions of 44-10-202.

18 NEW SECTION. Section 2. Extension of authority. Any
19 existing authority of the department of justice to make
20 rules on the subject of the provisions of this act is
21 extended to the provisions of this act.

22 NEW SECTION. Section 7. Codification instruction.
23 Section 5 is intended to be codified as an integral part of
24 Title 44, chapter 10, part 1.

-End-