

SENATE BILL NO. 37

INTRODUCED BY HALLIGAN  
BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE  
ON ADULT AND JUVENILE DETENTION

IN THE SENATE

JANUARY 3, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

JANUARY 7, 1991                   FIRST READING.

JANUARY 18, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 19, 1991                  PRINTING REPORT.

                                      SECOND READING, DO PASS.

JANUARY 21, 1991                  ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
AYES, 48; NOES, 0.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 21, 1991                  INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

JANUARY 22, 1991                  FIRST READING.

FEBRUARY 11, 1991                 COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

FEBRUARY 16, 1991                 SECOND READING, CONCURRED IN.

                                      ON MOTION, REREFERRED TO COMMITTEE  
ON APPROPRIATIONS.

APRIL 4, 1991                     COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

APRIL 6, 1991                     SECOND READING, CONCURRED IN.

                                      ON MOTION, RULES SUSPENDED. BILL  
PLACED ON THIRD READING THIS DAY.

THIRD READING, CONCURRED IN.  
AYES, 79; NOES, 18.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 13, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

APRIL 13, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED.

APRIL 16, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 18, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 18, 1991

ON MOTION, CONFERENCE COMMITTEE  
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 19, 1991

ON MOTION, CONFERENCE COMMITTEE  
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 18, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1991

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

APRIL 20, 1991

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1991

FREE CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE SENATE

APRIL 23, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

## 1 SENATE BILL NO. 37

2 INTRODUCED BY HALLIGAN

3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

4 ON ADULT AND JUVENILE DETENTION

5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO  
 7 PROVIDE YOUTH DETENTION SERVICES; AUTHORIZING ESTABLISHMENT  
 8 OF REGIONAL DETENTION FACILITIES; DEFINING COUNTY  
 9 RESPONSIBILITIES FOR THE COST OF PLACING A YOUTH IN A COUNTY  
 10 OR REGIONAL DETENTION FACILITY; PROVIDING STATE GRANTS TO  
 11 FUND COUNTY YOUTH DETENTION SERVICES, INCLUDING YOUTH  
 12 DETENTION FACILITIES, HOLDOVERS, SHORT-TERM DETENTION  
 13 CENTERS, AND PROGRAMS FOR THE TRANSPORTATION OF YOUTH TO  
 14 REGIONAL DETENTION FACILITIES; REQUIRING STATE APPROVAL OF  
 15 COUNTY PLANS FOR PROVIDING YOUTH DETENTION SERVICES AS A  
 16 CONDITION OF PROVIDING STATE GRANTS TO COUNTIES; LIMITING  
 17 STATE GRANTS FOR COUNTY YOUTH DETENTION SERVICES; PROVIDING  
 18 THE BOARD OF CRIME CONTROL AUTHORITY TO ADOPT RULES;  
 19 CLARIFYING USE OF THE TAX ON DANGEROUS DRUGS TO FUND YOUTH  
 20 DETENTION SERVICES; AMENDING SECTIONS 15-25-122, 41-3-1103,  
 21 41-5-103, 41-5-105, 41-5-306, 41-5-308, 41-5-802, AND  
 22 41-5-809, MCA; AMENDING SECTIONS 14 AND 17, CHAPTER 434,  
 23 LAWS OF 1989; REPEALING SECTIONS 41-5-315, 41-5-316, AND  
 24 41-5-808, MCA; AND PROVIDING EFFECTIVE DATES."

25

## 1 STATEMENT OF INTENT

2 A statement of intent is required for this bill because  
 3 [section 14] grants the board of crime control authority to  
 4 adopt rules necessary to implement provisions of this bill.

5 It is the intent of the legislature, in enacting this  
 6 bill, to provide alternatives to the detention of youth in  
 7 adult jails in order to meet the requirements of \_\_\_ Bill  
 8 No. \_\_\_ [LC 68], which prohibits the detention of youth in  
 9 adult jails.

10 In order to ensure that alternatives to jail are  
 11 established, the legislature intends that each county have  
 12 the primary responsibility to provide youth detention  
 13 services, as required by [section 2]. In addition, in order  
 14 to stimulate the development of needed services, the  
 15 legislature intends to provide state grants authorized in  
 16 [section 8], using state and federal funds, to assist  
 17 counties in providing a spectrum of services for the  
 18 detention and care of youth. These services are intended to  
 19 include but are not limited to youth detention facilities,  
 20 short-term detention centers, holdovers, attendant care,  
 21 home detention, and programs for the transportation of youth  
 22 to regional detention facilities.

23 The legislature intends that counties receiving state  
 24 grants should share in the costs of services in order to  
 25 prevent excessive utilization of services and to give

1 counties a financial incentive to hold down program costs.  
 2 For this reason, [section 10] requires that state grants be  
 3 provided on a matching basis or, if in a block grant, based  
 4 on a percentage of the approved cost of services.

5 In order to discourage the use of secure detention and  
 6 to promote the use of less costly, nonsecure community-based  
 7 programs, the legislature intends to provide state grants to  
 8 counties at a higher rate of payment for such services,  
 9 including holdovers, attendant care, and other alternatives  
 10 to secure detention.

11 The legislature further intends that, as a condition of  
 12 receiving state grants under [section 8], each county shall  
 13 develop a written plan for providing youth detention  
 14 services, including alternatives to secure detention. The  
 15 development of county plans is required to ensure that  
 16 formal planning does, in fact, occur and to make certain  
 17 that state grants are not provided for services that are not  
 18 well planned in advance.

19 As a further condition of receiving state grants under  
 20 [section 8], each county shall, within a reasonable period  
 21 of time, demonstrate compliance or substantial compliance  
 22 with state law and policies contained in the Montana Youth  
 23 Court Act relating to the detention and placement of youth.  
 24 The legislature intends that the board of crime control  
 25 review and monitor counties receiving grants under [section

1 8] to assure compliance or substantial compliance with the  
 2 Montana Youth Court Act.

3 Finally, the legislature intends that the board of crime  
 4 control adopt rules as authorized in [section 14]. In  
 5 adopting rules, the board may:

6 (1) establish requirements for approved holdovers  
 7 consistent with the definition of holdovers provided in  
 8 41-5-103(13);

9 (2) designate geographical areas of the state that are  
 10 eligible for creation of a youth detention region under  
 11 [section 4]. In designating these areas, the board shall use  
 12 available state data showing the number of youth held in  
 13 detention in each county of the state.

14 (3) adopt procedures governing the distribution and  
 15 allocation of funds in accordance with [sections 10 and 11];

16 (4) provide a system to review and monitor counties  
 17 under [section 9] to assure that counties receiving grants  
 18 are in compliance or substantial compliance with the Montana  
 19 Youth Court Act;

20 (5) provide standards for determining compliance or  
 21 substantial compliance with the Montana Youth Court Act  
 22 pursuant to [section 9]. These standards should be based  
 23 upon comparable standards for compliance with sections  
 24 223(a)(12) and 223(a)(14) of the federal Juvenile Justice  
 25 and Delinquency Prevention Act of 1974.

1 (6) establish a process for providing notice and fair  
2 hearings required under [section 9] in order to terminate  
3 state grants to counties that fail to attain compliance or  
4 substantial compliance with the Montana Youth Court Act.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 **Section 1.** Section 41-5-103, MCA, is amended to read:

8 **"41-5-103. Definitions.** ~~For the purposes of~~ As used in  
9 the Montana Youth Court Act, unless the context requires  
10 otherwise stated, the following definitions apply:

11 (1) "Adult" means an individual who is 18 years of age  
12 or older.

13 (2) "Agency" means any entity of state or local  
14 government authorized by law to be responsible for the care  
15 or rehabilitation of youth.

16 (3) "Commit" means to transfer to legal custody.

17 (4) "Court", when used without further qualification,  
18 means the youth court of the district court.

19 (5) "Custodian" means a person other than a parent or  
20 guardian to whom legal custody of the youth has been given  
21 but does not include a person who has only physical custody.

22 (6) "Delinquent youth" means a youth:

23 (a) who has committed an offense that if committed by  
24 an adult, would constitute a criminal offense; or

25 (b) who, having been placed on probation as a

1 delinquent youth or a youth in need of supervision, violates  
2 any condition of his probation.

3 (7) "Department" means the department of family  
4 services provided for in 2-15-2401.

5 (8) "Detention" means the holding or temporary  
6 placement of a youth in a facility other than the youth's  
7 own home for the purpose of ensuring the continued custody  
8 of the youth at any time after the youth is taken into  
9 custody and before final disposition of his case.

10 (9) "Detention facility" means a physically restricting  
11 facility designed to prevent a youth from departing at will.  
12 The term includes a youth detention facility, short-term  
13 detention center, and regional detention facility.

14 (10) "Final disposition" means the implementation of a  
15 court order for the disposition or placement of a youth as  
16 provided in 41-5-523.

17 (11) "Foster home" means a private residence licensed  
18 by the department for placement of a youth.

19 (12) "Guardianship" means the status created and  
20 defined by law between a youth and an adult with the  
21 reciprocal rights, duties, and responsibilities.

22 (13) "Holdover" means a room, office, building, or other  
23 place approved by the board of crime control for the  
24 temporary detention and supervision of youth in a physically  
25 unrestricting setting for a period not to exceed 24 hours

1 while the youth is awaiting a probable cause hearing,  
 2 release, or transfer to an appropriate detention or shelter  
 3 care facility. The term does not include a jail.

4 (14) "Jail" means a facility used for the confinement of  
 5 adults accused or convicted of criminal offenses. The term  
 6 includes a lockup or other facility used primarily for the  
 7 temporary confinement of adults after arrest.

8 {8}(15) "Judge", when used without further  
 9 qualification, means the judge of the youth court.

10 {9}(16) (a) "Legal custody" means the legal status  
 11 created by order of a court of competent jurisdiction that  
 12 gives a person the right and duty to:

13 (i) have physical custody of the youth;

14 (ii) determine with whom the youth shall live and for  
 15 what period;

16 (iii) protect, train, and discipline the youth; and

17 (iv) provide the youth with food, shelter, education,  
 18 and ordinary medical care.

19 (b) An individual granted legal custody of a youth  
 20 shall personally exercise his rights and duties as guardian  
 21 unless otherwise authorized by the court entering the order.

22 (17) "Necessary parties" includes the youth, his  
 23 parents, guardian, custodian, or spouse.

24 {10}(18) "Parent" means the natural or adoptive parent  
 25 but does not include a person whose parental rights have

1 been judicially terminated, nor does it include the putative  
 2 father of an illegitimate youth unless his paternity is  
 3 established by an adjudication or by other clear and  
 4 convincing proof.

5 (19) "Probable cause hearing" means the hearing provided  
 6 for in 41-5-303.

7 (20) "Regional detention facility" means a youth  
 8 detention facility established and maintained by two or more  
 9 counties, as authorized in [section 3].

10 (21) "Restitution" means payments in cash to the victim  
 11 or with services to the victim or the general community when  
 12 these payments are made pursuant to an informal adjustment,  
 13 consent decree, or other youth court order.

14 (22) "Serious juvenile offender" means a youth who has  
 15 committed an offense that would be considered a felony  
 16 offense if committed by an adult and that is an offense  
 17 against a person, an offense against property, or an offense  
 18 involving dangerous drugs.

19 (23) "Shelter care" means the temporary substitute care  
 20 of youth in physically unrestricting facilities.

21 (24) "Shelter care facility" means a facility used for  
 22 the shelter care of youth. The term is limited to the  
 23 facilities enumerated in 41-5-306(1).

24 (25) "Short-term detention center" means a detention  
 25 facility licensed by the department for the temporary

1 placement or care of youth, for a period not to exceed 96  
 2 hours, pending a probable cause hearing, release, or  
 3 transfer of the youth to an appropriate detention facility  
 4 or shelter care facility.

5 (26) "State youth correctional facility" means a  
 6 residential facility used for the placement and  
 7 rehabilitation of delinquent youth, such as the Pine Hills  
 8 school in Miles City and the Mountain View school in Helena.

9 (27) "Substitute care" means full-time care of youth in  
 10 a residential setting for the purpose of providing food,  
 11 shelter, security and safety, guidance, direction, and if  
 12 necessary, treatment to youth who are removed from or  
 13 without the care and supervision of their parents or  
 14 guardian.

15 {11}(28) "Youth" means an individual who is less than 18  
 16 years of age without regard to sex or emancipation.

17 {12}(29) "Youth court" means the court established  
 18 pursuant to this chapter to hear all proceedings in which a  
 19 youth is alleged to be a delinquent youth, a youth in need  
 20 of supervision, or a youth in need of care and includes the  
 21 youth court judge and probation officers.

22 (30) "Youth detention facility" means a detention  
 23 facility licensed by the department for the temporary  
 24 substitute care of youth that:

25 (a) is operated, administered, and staffed separately

1 and independently of a jail; and

2 (b) is used exclusively for the lawful detention of  
 3 alleged or adjudicated delinquent youth.

4 {13}-"Delinquent youth"-means-a-youth:

5 {a}--who-has-committed-an-offense-which,-if-committed-by  
 6 an-adult,-would-constitute-a-criminal-offense;

7 {b}--who,----having---been---placed--on--probation--as--a  
 8 delinquent-youth-or-a-youth-in-need-of-supervision,-violates  
 9 any-condition-of-his-probation-

10 {31} "Youth in need of care" has the meaning provided  
 11 for in 41-3-102.

12 {14}{32} "Youth in need of supervision" means a youth  
 13 who commits an offense prohibited by law which that, if  
 14 committed by an adult, would not constitute a criminal  
 15 offense, including but not limited to a youth who:

16 (a) violates any Montana municipal or state law  
 17 regarding use of alcoholic beverages by minors;

18 (b) habitually disobeys the reasonable and lawful  
 19 demands of his parents, foster parents, physical custodian,  
 20 or guardian or is ungovernable and beyond their control;

21 (c) being subject to compulsory school attendance, is  
 22 habitually truant from school; or

23 (d) has committed any of the acts of a delinquent youth  
 24 but whom the youth court in its discretion chooses to regard  
 25 as a youth in need of supervision.



1 {15}-"Youth-in-need-of-care"-means-a-youth-as-defined-in  
2 41-3-102.

3 {16}-"Custodian"-means-a-person-other-than-a-parent-or  
4 guardian-to-whom-legal-custody-of-the-youth-has-been-given  
5 but-does-not-include-a-person-who-has-only-physical-custody.

6 {17}-"Necessary-parties"-include-the-youth,-his-parents,  
7 guardian,-custodian,-or-spouse.

8 {18}-"State-youth-correctional-facility"-means-a  
9 residential-facility-for-the-rehabilitation-of-delinquent  
10 youth-such-as-Pine-Hills-school-in-Miles-City,-and-Mountain  
11 View-school-in-Helena.

12 {19}-"Shelter-care"-means-the-temporary-substitute-care  
13 of-youth-in-physically-unrestricting-facilities.

14 {20}-"Detention"-means-the-temporary-substitute-care-of  
15 youth-in-physically-restricting-facilities.

16 {21}-"Detention-facility"-means-a-physically-restricting  
17 facility-designed-to-prevent-a-youth-from-departing-at-will.

18 {22}-"Restitution"-means-payments-in-cash-to-the-victim  
19 or-with-services-to-the-victim-or-the-general-community-when  
20 these-payments-are-made-pursuant-to-an-informal-adjustment,  
21 consent-decree,-or-other-youth-court-order.

22 {23}-"Substitute-care"-means-full-time-care-of-youth-in  
23 a-residential-setting-for-the-purpose-of-providing-food,  
24 shelter,-security-and-safety,-guidance,-direction,-and-if  
25 necessary,-treatment-to-youth-who-are-removed-from-or

1 without-the-care-and-supervision-of-their-parents-or  
2 guardian.

3 {24}-"Serious-juvenile-offender"-means-a-youth-who-has  
4 committed-an-offense-against-the-person,-an-offense-against  
5 property,-or-an-offense-involving-dangerous-drugs-which  
6 would-be-considered-a-felony-offense-if-committed-by-an  
7 adult."

8 NEW SECTION. Section 2. County responsibility to  
9 provide youth detention services. (1) Each county shall  
10 provide services for the detention of youth in facilities  
11 separate from adult jails.

12 (2) In order to fulfill its responsibility under  
13 subsection (1), a county may:

14 (a) establish, operate, and maintain a holdover, a  
15 short-term detention center, or a youth detention facility  
16 at county expense;

17 (b) provide shelter care facilities as authorized in  
18 41-5-802;

19 (c) contract with another county for the use of an  
20 available shelter care facility, holdover, short-term  
21 detention center, or youth detention facility;

22 (d) establish and operate a network of holdovers in  
23 cooperation with other counties;

24 (e) establish a regional detention facility; or

25 (f) enter into an agreement with a private party under

1 which the private party will own, operate, or lease a  
 2 shelter care facility or youth detention facility for use by  
 3 the county. The agreement may be made in substantially the  
 4 same manner as provided for in 7-32-2232 and 7-32-2233.

5 (3) Each county or regional detention facility must be  
 6 licensed by the department in accordance with rules adopted  
 7 under 41-5-809.

8 **NEW SECTION. Section 3. Regional detention facilities.**

9 (1) Two or more counties may, by contract, establish and  
 10 maintain a regional detention facility.

11 (2) For the purpose of establishing and maintaining a  
 12 regional detention facility, a county may:

13 (a) issue general obligation bonds for the acquisition,  
 14 purchase, construction, renovation, and maintenance of a  
 15 regional detention facility;

16 (b) levy and appropriate taxes, as permitted by law, to  
 17 pay its share of the cost of equipping, operating, and  
 18 maintaining the facility; and

19 (c) exercise all powers, under the limitations  
 20 prescribed by law, necessary and convenient to carry out the  
 21 purposes of [section 2] and this section.

22 (3) Contracts authorized under subsection (1) must be  
 23 made pursuant to the Interlocal Cooperation Act, Title 7,  
 24 chapter 11, part 1.

25 (4) Contracts between counties participating in a

1 regional detention facility must be for a term of not less  
 2 than 10 years. In addition, the contracts must:

3 (a) specify the responsibilities of each county  
 4 participating in the agreement;

5 (b) designate responsibility for operation of the  
 6 regional detention facility;

7 (c) specify the amount of funding to be contributed by  
 8 each county toward payment of the cost of establishing,  
 9 operating, and maintaining the regional detention facility,  
 10 including the necessary expenditures for the transportation  
 11 of youth to and from the facility;

12 (d) include the applicable per diem charge for the  
 13 detention of youths in the facility, as well as the basis  
 14 for any adjustment in the charge; and

15 (e) specify the number of beds to be reserved for the  
 16 use of each county participating in the regional detention  
 17 facility.

18 **NEW SECTION. Section 4. Creation of regions --**

19 requirements -- limitation on number of regions. (1)  
 20 Counties that wish to establish a regional detention  
 21 facility shall form a youth detention region.

22 (2) Each youth detention region must:

23 (a) be composed of contiguous counties participating in  
 24 the regional detention facility; and

25 (b) include geographical areas of the state that

1 contain a substantial percentage of the total youth  
2 population in need of detention services, as determined by  
3 the board of crime control.

4 (3) There may be no more than five youth detention  
5 regions established in the state at any one time.

6 NEW SECTION. Section 5. Contracts with  
7 nonparticipating counties. Counties participating in a  
8 regional detention facility may enter into agreements with  
9 nonparticipating counties to provide services for the  
10 detention of youth. The costs of services must be based upon  
11 a per diem charge for the detention of youth in the  
12 facility.

13 NEW SECTION. Section 6. Responsibility for payment of  
14 detention costs. Absent a contract or agreement between  
15 counties, all costs for the detention of a youth in a county  
16 or regional detention facility, including medical costs  
17 incurred by the youth during detention, must be paid by the  
18 county at whose instance the youth is detained.

19 NEW SECTION. Section 7. Definitions. As used in  
20 [sections 7 through 14], unless the context requires  
21 otherwise, the following definitions apply:

22 (1) "Attendant care" means the direct supervision of  
23 youth by a trained attendant in a physically unrestricting  
24 setting.

25 (2) "Board" means the board of crime control provided

1 for in 2-15-2006.

2 (3) "County" means a county, city-county consolidated  
3 government, or a youth detention region created pursuant to  
4 [section 4].

5 (4) "Home detention" means the use of a youth's home  
6 for the purpose of ensuring the continued custody of the  
7 youth pending adjudication or final disposition of his case.

8 (5) "Plan" means a county plan for providing youth  
9 detention services as required in [section 9].

10 (6) "Secure detention" means the detention of youth in  
11 a physically restricting facility designed to prevent a  
12 youth from departing at will.

13 (7) "Youth detention service" means service for the  
14 detention of youth in facilities separate from adult jails.  
15 The term includes the services described in [section 8].

16 NEW SECTION. Section 8. State grants to counties. (1)  
17 Within the limits of available funds, the board shall  
18 provide grants in accordance with [sections 9 through 11] to  
19 assist counties in establishing and operating youth  
20 detention services, including but not limited to youth  
21 detention facilities, short-term detention centers,  
22 holdovers, attendant care, home detention, and programs for  
23 the transportation of youth to regional detention  
24 facilities.

25 (2) Grants available under subsection (1) consist of

1 state appropriations and federal funds received by the board  
2 for the purpose of administering [sections 7 through 11].

3 NEW SECTION. Section 9. Application for grants --  
4 county plans -- obligation of counties receiving grants --  
5 review and monitoring. (1) In order to receive funds under  
6 [section 8], a county shall submit an application to the  
7 board in a manner and form prescribed by the board.

8 (2) The application must include a written plan for  
9 providing youth detention services in the county. Each plan  
10 must include:

- 11 (a) an assessment of the need for services;
- 12 (b) a description of services to be provided, including
- 13 alternatives to secure detention;
- 14 (c) the estimated number of youth who will receive
- 15 services;
- 16 (d) criteria for the placement of youth in secure
- 17 detention; and
- 18 (e) a budget describing proposed expenditures for youth
- 19 detention services.

20 (3) If the application and plan are approved by the  
21 board, the county may receive a grant in the amount provided  
22 for in [section 10].

23 (4) As a condition of receiving funds under [section  
24 8], each county shall, within a reasonable period of time,  
25 comply or substantially comply with state law and policies

1 contained in the Montana Youth Court Act concerning the  
2 detention and placement of youth.

3 (5) The board shall periodically review and monitor  
4 counties receiving grants under [section 8] to assure  
5 compliance or substantial compliance with the Montana Youth  
6 Court Act, as required under subsection (4). If, after  
7 notice and fair hearing, the board determines that a county  
8 is not in compliance or substantial compliance with the  
9 Montana Youth Court Act, the board shall terminate the grant  
10 to the county.

11 NEW SECTION. Section 10. Distribution of grants --  
12 limitation of funding -- restrictions on use. (1) The board  
13 shall award grants on an equitable basis, giving preference  
14 to services that will be used on a regional basis.

- 15 (2) The board shall award grants to eligible counties:
- 16 (a) in a block grant in an amount not to exceed 50% of
- 17 the approved, estimated cost of secure detention; or
- 18 (b) on a matching basis in an amount not to exceed:
- 19 (i) 75% of the approved cost of providing holdovers,
- 20 attendant care, and other alternatives to secure detention,
- 21 except for shelter care. Shelter care must be paid as
- 22 provided by law.
- 23 (ii) 50% of the approved cost of programs for the
- 24 transportation of youth to appropriate detention or shelter
- 25 care facilities, including regional detention facilities.

1 (3) Grants under [section 8] may not be used to pay for  
2 the cost of youth evaluations. The cost of evaluations must  
3 be paid as provided for in 41-5-523.

4 NEW SECTION. **Section 11. Allocation of grants.** (1)

5 Each fiscal year, the board shall allocate grants under  
6 [section 8] for distribution to eligible counties based  
7 upon:

8 (a) the relative population of youth residing in  
9 geographical areas of the state, as determined by the board;  
10 and

11 (b) the estimated cost of youth detention services in  
12 each county eligible for funding under [section 8].

13 (2) A county is not automatically entitled to receive a  
14 grant from funds available under [section 8].

15 NEW SECTION. **Section 12. Amendment of state plan.** The

16 board shall amend the state plan required under section 223  
17 of the federal Juvenile Justice and Delinquency Prevention  
18 Act of 1974, as amended (42 U.S.C. 5633), to reflect the  
19 contents of approved county plans for providing youth  
20 detention services.

21 NEW SECTION. **Section 13. Compliance with federal**

22 requirements. The board shall administer federal funds  
23 available under section 222 of the federal Juvenile Justice  
24 and Delinquency Prevention Act of 1974, as amended (42  
25 U.S.C. 5632), in compliance with the requirements of 42

1 U.S.C. 5633(a)(21) and 42 U.S.C. 5674.

2 NEW SECTION. **Section 14. Rulemaking authority.** The

3 board may adopt rules necessary to implement the provisions  
4 of 41-5-103(13), [section 4], and [sections 7 through 14].

5 **Section 15.** Section 15-25-122, MCA, is amended to read:

6 "15-25-122. **Disposition of proceeds.** (1) The department  
7 shall transfer all taxes collected pursuant to this chapter,  
8 less the administrative fee authorized in 15-25-111(1), to  
9 the state treasurer on a monthly basis.

10 (2) The state treasurer shall deposit one-third of the  
11 tax to the credit of the department of family services to be  
12 used for the youth evaluation program and chemical abuse  
13 aftercare programs.

14 (3) The treasurer shall credit the remaining two-thirds  
15 of the tax proceeds as follows:

16 (a) one-half to the department of justice to be used:

17 (i) for grants to youth courts to fund chemical abuse  
18 assessments; and

19 (ii) for grants to counties to fund services for the  
20 detention of juvenile offenders in facilities separate from  
21 adult jails, as authorized in [section 8]; and

22 (b) one-half to the account created by 44-12-206(3) if  
23 a state government law enforcement agency seized the drugs.  
24 If a local government law enforcement agency seized the  
25 drugs, then that amount must be credited to the treasurer or

1 finance officer of the local government, be deposited in its  
2 general fund, and be used to enforce drug laws."

3 **Section 16.** Section 41-3-1103, MCA, is amended to read:

4 **"41-3-1103. Powers and duties of department.** (1) The  
5 department shall:

6 (a) administer all state and federal funds allocated to  
7 the department for youth foster homes, youth group homes,  
8 and child-care agencies, ~~and detention facilities~~ and  
9 ~~services~~ for youth in need of care, youth in need of  
10 supervision, and delinquent youth, as defined in 41-5-103;

11 (b) exercise licensing authority over all ~~detention~~  
12 ~~facilities as defined in 41-5-103~~, youth foster homes, youth  
13 group homes, and child-care agencies;

14 (c) collect and disseminate information relating to  
15 youth in need of care, youth in need of supervision, and  
16 delinquent youth;

17 (d) provide for training of program personnel  
18 delivering services;

19 (e) in cooperation with youth care facility providers,  
20 develop and implement standards for youth care facilities;

21 (f) maintain adequate data on placements it funds in  
22 order to keep the legislature properly informed of the  
23 following:

24 (i) the breakdown of youth in need of care, youth in  
25 need of supervision, and delinquent youth by category in

1 out-of-home care facilities;

2 (ii) the cost per facility for services rendered;

3 (iii) the type and level of care of services provided by  
4 each facility;

5 (iv) a profile of out-of-home care placements by level  
6 of care; and

7 (v) a profile of public institutional placements; and

8 (g) administer all funds allocated to the department  
9 for residential alcohol and drug abuse treatment for  
10 indigent youths in need of care, indigent youths in need of  
11 supervision, and indigent delinquent youths who require such  
12 treatment.

13 (2) The department may:

14 (a) enter into contracts with nonprofit corporations or  
15 associations or private organizations to provide ~~facilities~~  
16 ~~and services~~ substitute care for youth in need of care,  
17 youth in need of supervision, and delinquent youth in youth  
18 care facilities;

19 (b) accept gifts, grants, and donations of money and  
20 property from public and private sources to initiate and  
21 maintain community-based services to youth;

22 (c) adopt rules to carry out the administration and  
23 purposes of this part.

24 (3) The department shall pay for room, board, clothing,  
25 personal needs, transportation, and treatment in youth

1 foster care homes and youth group homes for youths committed  
 2 to the department who need to be placed in such facilities."

3 **Section 17.** Section 41-5-105, MCA, is amended to read:

4 "41-5-105. Youth court committee. In every county of  
 5 the state the judge having jurisdiction may appoint a  
 6 committee, willing to act without compensation, composed of  
 7 not less than three or more than seven reputable citizens,  
 8 including youth representatives, ~~which committee shall. The~~  
 9 committee must be designated as a youth court committee.  
 10 This committee shall be meet subject to the call of the  
 11 judge ~~to--meet--and to~~ confer with him on all matters  
 12 pertaining to the youth department of the court, including  
 13 the appointment of probation officers, and shall act as a  
 14 supervisory committee of youth detention ~~homes~~ facilities."

15 **Section 18.** Section 41-5-306, MCA, is amended to read:

16 "41-5-306. (Temporary) Place of shelter care or  
 17 detention. (1) After a probable cause hearing provided for  
 18 in 41-5-303, a youth alleged to be a youth in need of  
 19 supervision may be placed only in:

- 20 (a) a licensed youth foster home as defined in
- 21 41-3-1102;
- 22 (b) a facility operated by a licensed child welfare
- 23 agency; or
- 24 (c) a licensed youth group home as defined in
- 25 41-3-1102.

1 (2) A youth alleged to be a youth in need of care ~~shall~~  
 2 may be placed only in the facilities stated in subsection  
 3 (1) ~~of this section~~ and ~~shall~~ may not be placed in a jail or  
 4 other facility intended or used for the ~~detention~~  
 5 confinement of adults ~~charged with accused or convicted of~~  
 6 criminal offenses.

7 (3) After a probable cause hearing provided for in  
 8 41-5-303, a youth alleged to be a delinquent youth may be  
 9 placed only in:

- 10 (a) the facilities described in subsection (1) ~~in~~;
- 11 (b) a short-term detention facility;
- 12 (c) a youth detention facility ~~or in~~; or
- 13 (d) a jail or other facility for the ~~detention~~  
 14 confinement of adults but only if ~~the--facilities--in~~  
 15 ~~subsection (1)~~;
- 16 (i) alternative facilities are not available or  
 17 available facilities do not provide adequate security; and
- 18 (ii) ~~the detention is in an area physically and visually~~  
 19 ~~separate--and--removed from that of adults~~ the youth is kept  
 20 in an area that provides physical, as well as sight and  
 21 sound, separation from adults accused or convicted of  
 22 criminal offenses. (Terminates July 1, ~~1991~~ 1992--sec. 14,  
 23 Ch. 434, L. 1989.)"

24 **Section 19.** Section 41-5-306, MCA, is amended to read:

25 "41-5-306. (Effective July 1, ~~1991~~ 1992) Place of

1 shelter care or detention. (1) After a probable cause  
2 hearing provided for in 41-5-303, a youth alleged to be a  
3 youth in need of supervision may be placed only in:

4 (a) a licensed youth foster home as defined in  
5 41-3-1102;

6 (b) a facility operated by a licensed child welfare  
7 agency; or

8 (c) a licensed youth group home as defined in  
9 41-3-1102.

10 (2) A youth alleged to be a youth in need of care shall  
11 may be placed only in the facilities stated in subsection  
12 (1) ~~of this section~~ and shall may not be placed in a jail or  
13 other facility intended or used for the detention  
14 confinement of adults ~~charged with~~ accused or convicted of  
15 criminal offenses.

16 (3) After a probable cause hearing provided for in  
17 41-5-303, a youth alleged to be a delinquent youth may be  
18 placed only in:

19 (a) the facilities described in subsection (1) ~~or in;~~

20 (b) a short-term detention facility; or

21 (c) a youth detention facility as defined in 41-5-103."

22 **Section 20.** Section 41-5-308, MCA, is amended to read:

23 "41-5-308. Placement of youth before probable cause  
24 hearing. (1) Before the probable cause hearing, a youth  
25 alleged to be a delinquent youth may be held in a jail or

1 other facility for adults only if:

2 (a) the alternative facilities ~~in 41-5-306~~ are not  
3 available or available facilities do not provide adequate  
4 security;

5 (b) ~~the placement is in an area physically, aurally,~~  
6 ~~and visually separate from those of adults~~ the youth is kept  
7 in an area that provides physical, as well as sight and  
8 sound, separation from adults accused or convicted of  
9 criminal offenses; and

10 (c) it appears that public safety and protection  
11 reasonably require the youth to be held.

12 (2) The official in charge of a jail or other facility  
13 for the detention confinement of adult offenders ~~or persons~~  
14 ~~charged with a crime~~ shall inform the court immediately if a  
15 person who is or appears to be under the age of 18 years is  
16 received at the facility."

17 **Section 21.** Section 41-5-802, MCA, is amended to read:

18 "41-5-802. Shelter care and detention facilities. (1)  
19 The county commissioners in each county shall provide for  
20 the availability of detention facilities for youths.

21 (2) ~~(a) The county commissioners may maintain, by~~  
22 ~~purchase, lease, or otherwise, a detention facility, which~~  
23 ~~may not be used for the confinement of adult persons charged~~  
24 ~~with criminal offenses, where delinquent youths may be~~  
25 ~~detained until final disposition.~~



1       ~~{b}--The--county--commissioners--may--appoint--necessary~~  
2 ~~personnel--who--have--charge--of--the--facility--and--of--the--youths~~  
3 ~~detained--therein--~~

4       ~~{c}--The--compensation--of--the--personnel--must--be--fixed--by~~  
5 ~~the--county--commissioners--and--the--compensation--and--the~~  
6 ~~maintenance--of--the--facility--must--be--paid--out--of--the--county~~  
7 ~~treasury--These--funds--may--be--supplemented--by--state~~  
8 ~~appropriation--and--federal--funds--~~

9       ~~{d}--The--county--commissioners--shall--provide--for~~  
10 ~~inspection--of--any--county--detention--facility--every--3--months--~~  
11 ~~Inspection--must--include--but--is--not--limited--to--health--fire~~  
12 ~~safety--security--rehabilitation--programs--recreation--~~  
13 ~~treatment--of--youths--and--personnel--training--~~

14       ~~{e}--The--judge--of--the--youth--court--for--the--county--shall~~  
15 ~~inspect--any--detention--facility--at--least--once--a--year--~~

16       ~~{3}--The--county--commissioners--may--contract--with--the~~  
17 ~~department--or--public--or--private--agencies--to--purchase~~  
18 ~~detention--services--~~

19       ~~{4}--(a)(1)~~ Counties, cities, or nonprofit corporations  
20 may provide by purchase, lease, or otherwise, a shelter care  
21 facility.

22       {b}--The (2) A shelter care facility must be physically  
23 unrestricting and may be used to provide shelter care for  
24 youth alleged or adjudicated delinquent, in need of  
25 supervision, or in need of care.

1       {c}--The (3) A shelter care facility must be separate  
2 and apart from any facility housing adults charged with  
3 accused or convicted of criminal offenses.

4       {d}{4} State appropriations and federal funds may be  
5 received by the counties, cities, or nonprofit corporations  
6 for establishment, maintenance, or operation of the a  
7 shelter care facility.

8       {e}--The (5) A shelter care facility must be furnished  
9 in a comfortable manner and be as nearly as possible like a  
10 family home.

11       {f}--The (6) A shelter care facility may be operated in  
12 conjunction with a youth detention facility."

13       **Section 22.** Section 41-5-809, MCA, is amended to read:

14       "41-5-809. Rules. The department shall adopt rules  
15 governing the:

16       {1} licensing procedures for regional and county  
17 detention facilities; and

18       {2} procedures for distributing funds for detention  
19 facilities and services as provided in 41-5-315 and  
20 41-5-316."

21       **Section 23.** Section 14, Chapter 434, Laws of 1989, is  
22 amended to read:

23       "Section 14. Section 16, Chapter 475, Laws of 1987, is  
24 amended to read:

25       "Section 16. Effective dates -- termination date. (1)

1 Except as provided in subsections (2) and (3), sections 1  
2 through 13 are effective October 1, 1987.

3 (2) The bracketed language in subsection (5) of section  
4 1 is effective July 1, ~~1991~~ 1992.

5 (3) The bracketed language in subsection (3) of section  
6 9 terminates July 1, ~~1991~~ 1992."

7 **Section 24.** Section 17, Chapter 434, Laws of 1989, is  
8 amended to read:

9 "Section 17. **Effective date dates.** ~~{Sections 5 and 7 of~~  
10 ~~this act}~~ are (1) [Section 7] is effective July 1, 1991.

11 (2) [Section 5] is effective July 1, 1992."

12 NEW SECTION. **Section 25.** Repealer. Sections 41-5-315,  
13 41-5-316, and 41-5-808, MCA, are repealed.

14 NEW SECTION. **Section 26.** Codification instruction. (1)  
15 [Sections 2 through 6] are intended to be codified as an  
16 integral part of Title 41, chapter 5, part 8, and the  
17 provisions of Title 41, chapter 5, part 8, apply to  
18 [sections 2 through 6].

19 (2) [Sections 7 through 14] are intended to be codified  
20 as an integral part of Title 41, chapter 5, and the  
21 provisions of Title 41, chapter 5, apply to [sections 7  
22 through 14].

23 NEW SECTION. **Section 27.** Effective dates. (1)  
24 [Sections 1 through 18, 20 through 26, and this section] are  
25 effective July 1, 1991.

1 (2) [Section 19] is effective July 1, 1992.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0037, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act requiring counties to provide youth detention services; authorizing establishment of regional detention facilities; defining county responsibilities for the cost of placing a youth in a county or regional detention facility; providing state grants to fund county youth detention services, including youth detention facilities, holdovers, short-term detention centers, and programs for the transportation of youth to regional detention facilities; requiring state approval of county plans for providing youth detention services as a condition of providing state grants to counties; limiting state grants for county youth detention services; providing the Board of Crime Control authority to adopt rules; clarifying use of the tax on dangerous drugs to fund youth detention services; amending and repealing sections.

ASSUMPTIONS:Board of Crime Control:

1. Secure Detention. There is an Average Daily Population (ADP) of 22.9 youth which requires 28 secure beds. A maximum of five secure facilities are needed. The average annual cost of operating a secure detention site is \$200,000. State share of secure detention would not exceed 50%. County government is responsible for capital costs. Planning activities would occur in FY92 and full program costs would be incurred in FY93.
2. Non-Secure Alternatives. 750 youth per year could be served through non-secure services. Each of the 20 Judicial Districts will operate non-secure programs at a cost of \$15,000 per year. State funds will support 75% of the cost of the non-secure sites. Existing federal funds will be available for non-secure alternatives.
3. Five regional planning grants would be awarded at \$50,000 in FY92 and \$25,000 in FY93.
4. Current law is represented by the executive budget recommendation for the Crime Control Division and the Office of Public Instruction. The \$200,000 of federal juvenile justice planning grant funds included in the executive recommendation are available for juvenile detention programs.
5. The state special revenue is lottery proceeds statutorily appropriated via HB0073. The lottery revenue will be \$928,500 in FY92 and \$1,062,300 in FY93. The excess revenue will accumulate in a Board of Crime control account for future grants.

Department of Family Services (DFS):

6. DFS current responsibility to distribute funds for detention facilities and services is repealed. This was not funded under current law.
7. DFS responsibility for licensing the detention facilities requires operating funds for travel and training of current licensing personnel.

  
ROD SUNDSTED, BUDGET DIRECTOR

1-12-91  
DATE

Office of Budget and Program Planning

  
MIKE HALLIGAN, PRIMARY SPONSOR

1-14-91  
DATE

Fiscal Note for SB0037, as introduced

**SB 37**

8. Youth detention facilities will not be available during FY92. Approximately 160 aftercare clients will have to be detained locally and reimbursed by DFS at an average cost of 5 days at \$55 per day during FY92. In FY93, DFS will be responsible for transport to detention facilities utilizing 2.50 FTE statewide.

FISCAL IMPACT:

Board of Crime Control

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	0.00	1.00	1.00	0.00	1.00	1.00
Personal Services	0	31,444	31,444	0	33,037	33,037
Operating Costs	0	15,260	15,260	0	16,660	16,660
Equipment	0	2,935	2,935	0	0	0
Local Assistance/Grants	<u>200,000</u>	<u>250,000</u>	<u>50,000</u>	<u>200,000</u>	<u>795,000</u>	<u>595,000</u>
Total	200,000	299,639	99,639	200,000	844,697	644,697
<u>Funding:</u>						
State Special (Lottery Proceeds)	0	99,639	99,639	0	644,697	644,697
Federal Special	<u>200,000</u>	<u>200,000</u>	<u>0</u>	<u>200,000</u>	<u>200,000</u>	<u>0</u>
Total	200,000	299,639	99,639	200,000	844,697	644,697

Dept. of Family Services

	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	0.00	0.00	0.00	0.00	2.50	2.50
Personal Services	0	0	0	0	53,776	53,776
Operating Costs	<u>0</u>	<u>49,105</u>	<u>49,105</u>	<u>0</u>	<u>10,345</u>	<u>10,345</u>
Total	0	49,105	49,105	0	64,121	64,121
<u>Funding:</u>						
General Fund	0	49,105	49,105	0	64,121	64,121

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This act requires counties to develop services for holding youth awaiting court action. The annual cost of these services is anticipated to be: \$1,000,000 for secure detention, \$300,000 for non-secure alternatives, \$100,000 for transportation, and \$97,600 for predispositional evaluations resulting in a total liability of \$1,497,600.

State support authorized under this act would fund 50% of the cost of secure and 75% of the cost of non-secure detention leaving an annual liability for counties of \$722,600. Some capital expenditures would be required.

**SB 37**

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0037, reference copy.

DESCRIPTION OF PROPOSED LEGISLATION:


An act requiring counties to provide youth detention services; authorizing establishment of regional detention facilities; defining county responsibilities for the cost of placing a youth in a county or regional detention facility; providing state grants to fund county youth detention services, including youth detention facilities, holdovers, short-term detention centers, and programs for the transportation of youth to regional detention facilities; requiring state approval of county plans for providing youth detention services as a condition of providing state grants to counties; limiting state grants for county youth detention services; providing the board of crime control authority to adopt rules; clarifying use of the tax on dangerous drugs to fund youth detention services; providing for a fee on coin-operated, recreational game machines to fund youth detention services, facilities, and programs; providing a statutory appropriation; and providing effective dates.


ASSUMPTIONS:

1. Under the proposal, there will be a coin-operated game machine permit fee of \$50 per machine.
2. The population of Helena in 1990 was 24,600. (U.S. Bureau of the Census, 1990.)
3. The city of Helena currently licenses 200 game machines. The game machine per capita figure for Helena is 0.008.
4. The population of Montana will be approximately 800,000 in each year of the biennium. (OBPP.)
5. The statewide coin-operated electronic machines per capita is the same as the city of Helena, so the number of machines to be licensed under the proposal is 6,400 for each year of the biennium.
6. The fees collected under the proposal would be \$320,000 for each year of the biennium.
7. The Department of Revenue retains 10% of the collections for administrative costs and the remainder goes to the Board of Crime Control for youth detention services.
8. In order to meet the effective date of July 1, 1991, there would be start-up costs incurred in FY91. These would include 0.10 FTE (grade 16) for systems development and 0.50 FTE (grade 7) to administer the fee for a total personal services cost of \$6,142; \$5,322 in operating costs and \$5,230 in equipment costs. Total costs in FY91 would be \$16,694 and funded from the general fund.
9. To administer the program would require 0.50 FTE (grade 7) at a personal services cost of \$8,567 in each year of the biennium. Operating costs would be \$7,207 for each year of the biennium. Assuming that start-ups would be done in FY91 there would be no equipment costs in FY92.

FISCAL IMPACT:

see next page

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR      4-12-91      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
MIKE HALLIGAN, PRIMARY SPONSOR      4/12/91      DATE  
Fiscal Note for SB0037, reference copy.      SB 37-42

FISCAL IMPACT:

Expenditures:

Department of Revenue:

FY91 Expenditures: \$16,694 (See assumption #8). No funding is provided in the legislation.

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
F.T.E.	0	0.50	0.50	0	0.50	0.50
Personal Services	0	8,567	8,567	0	8,567	8,567
Operating Costs	0	7,207	7,207	0	7,207	7,207
Equipment	0	0	0	0	0	0
Total	0	15,774	15,774	0	15,774	15,774
<u>Funding:</u>						
Machine Fees (02)	0	15,774	15,774	0	15,774	15,774
<u>Revenues:</u>						
Game Machine Fees	0	320,000	320,000	0	320,000	320,000
<u>Revenue Distribution</u>						
Board of Crime Control	0	288,000	288,000	0	288,000	288,000
Department of Revenue	0	32,000	32,000	0	32,000	32,000
Total	0	320,000	320,000	0	320,000	320,000

General Fund Impact (decrease):

(FY91) 16,694

SB 37#2

APPROVED BY COMMITTEE  
ON JUDICIARY

1                   SENATE BILL NO. 37  
2                   INTRODUCED BY HALLIGAN  
3                   BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE  
4                   ON ADULT AND JUVENILE DETENTION  
5  
6                   A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO  
7                   PROVIDE YOUTH DETENTION SERVICES; AUTHORIZING ESTABLISHMENT  
8                   OF REGIONAL DETENTION FACILITIES; DEFINING COUNTY  
9                   RESPONSIBILITIES FOR THE COST OF PLACING A YOUTH IN A COUNTY  
10                  OR REGIONAL DETENTION FACILITY; PROVIDING STATE GRANTS TO  
11                  FUND COUNTY YOUTH DETENTION SERVICES, INCLUDING YOUTH  
12                  DETENTION FACILITIES, HOLDOVERS, SHORT-TERM DETENTION  
13                  CENTERS, AND PROGRAMS FOR THE TRANSPORTATION OF YOUTH TO  
14                  REGIONAL DETENTION FACILITIES; REQUIRING STATE APPROVAL OF  
15                  COUNTY PLANS FOR PROVIDING YOUTH DETENTION SERVICES AS A  
16                  CONDITION OF PROVIDING STATE GRANTS TO COUNTIES; LIMITING  
17                  STATE GRANTS FOR COUNTY YOUTH DETENTION SERVICES; PROVIDING  
18                  THE BOARD OF CRIME CONTROL AUTHORITY TO ADOPT RULES;  
19                  CLARIFYING USE OF THE TAX ON DANGEROUS DRUGS TO FUND YOUTH  
20                  DETENTION SERVICES; AMENDING SECTIONS 15-25-122, 41-3-1103,  
21                  41-5-103, 41-5-105, 41-5-306, 41-5-308, 41-5-802, AND  
22                  41-5-809, MCA; AMENDING SECTIONS 14 AND 17, CHAPTER 434,  
23                  LAWS OF 1989; REPEALING SECTIONS 41-5-315, 41-5-316, AND  
24                  41-5-808, MCA; AND PROVIDING EFFECTIVE DATES."  
25

1                   STATEMENT OF INTENT  
2                   A statement of intent is required for this bill because  
3                   [section 14] grants the board of crime control authority to  
4                   adopt rules necessary to implement provisions of this bill.  
5                   It is the intent of the legislature, in enacting this  
6                   bill, to provide alternatives to the detention of youth in  
7                   adult jails in order to meet the requirements of \_\_\_ Bill  
8                   No. \_\_\_ [LC 68], which prohibits the detention of youth in  
9                   adult jails.  
10                  In order to ensure that alternatives to jail are  
11                  established, the legislature intends that each county have  
12                  the primary responsibility to provide youth detention  
13                  services, as required by [section 2]. In addition, in order  
14                  to stimulate the development of needed services, the  
15                  legislature intends to provide state grants authorized in  
16                  [section 8], using state and federal funds, to assist  
17                  counties in providing a spectrum of services for the  
18                  detention and care of youth. These services are intended to  
19                  include but are not limited to youth detention facilities,  
20                  short-term detention centers, holdovers, attendant care,  
21                  home detention, and programs for the transportation of youth  
22                  to regional detention facilities.  
23                  The legislature intends that counties receiving state  
24                  grants should share in the costs of services in order to  
25                  prevent excessive utilization of services and to give

**SECOND READING**

SB 37



1 counties a financial incentive to hold down program costs.  
 2 For this reason, [section 10] requires that state grants be  
 3 provided on a matching basis or, if in a block grant, based  
 4 on a percentage of the approved cost of services.

5 In order to discourage the use of secure detention and  
 6 to promote the use of less costly, nonsecure community-based  
 7 programs, the legislature intends to provide state grants to  
 8 counties at a higher rate of payment for such services,  
 9 including holdovers, attendant care, and other alternatives  
 10 to secure detention.

11 The legislature further intends that, as a condition of  
 12 receiving state grants under [section 8], each county shall  
 13 develop a written plan for providing youth detention  
 14 services, including alternatives to secure detention. The  
 15 development of county plans is required to ensure that  
 16 formal planning does, in fact, occur and to make certain  
 17 that state grants are not provided for services that are not  
 18 well planned in advance.

19 As a further condition of receiving state grants under  
 20 [section 8], each county shall, within a reasonable period  
 21 of time, demonstrate compliance or substantial compliance  
 22 with state law and policies contained in the Montana Youth  
 23 Court Act relating to the detention and placement of youth.  
 24 The legislature intends that the board of crime control  
 25 review and monitor counties receiving grants under [section

1 8] to assure compliance or substantial compliance with the  
 2 Montana Youth Court Act.

3 Finally, the legislature intends that the board of crime  
 4 control adopt rules as authorized in [section 14]. In  
 5 adopting rules, the board may:

6 (1) establish requirements for approved holdovers  
 7 consistent with the definition of holdovers provided in  
 8 41-5-103(13);

9 (2) designate geographical areas of the state that are  
 10 eligible for creation of a youth detention region under  
 11 [section 4]. In designating these areas, the board shall use  
 12 available state data showing the number of youth held in  
 13 detention in each county of the state.

14 (3) adopt procedures governing the distribution and  
 15 allocation of funds in accordance with [sections 10 and 11];

16 (4) provide a system to review and monitor counties  
 17 under [section 9] to assure that counties receiving grants  
 18 are in compliance or substantial compliance with the Montana  
 19 Youth Court Act;

20 (5) provide standards for determining compliance or  
 21 substantial compliance with the Montana Youth Court Act  
 22 pursuant to [section 9]. These standards should be based  
 23 upon comparable standards for compliance with sections  
 24 223(a)(12) and 223(a)(14) of the federal Juvenile Justice  
 25 and Delinquency Prevention Act of 1974.



1 (6) establish a process for providing notice and fair  
2 hearings required under [section 9] in order to terminate  
3 state grants to counties that fail to attain compliance or  
4 substantial compliance with the Montana Youth Court Act.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 **Section 1.** Section 41-5-103, MCA, is amended to read:

8 "41-5-103. Definitions. ~~For-the-purposes-of~~ As used in  
9 the Montana Youth Court Act, unless the context requires  
10 otherwise ~~stated~~, the following definitions apply:

11 (1) "Adult" means an individual who is 18 years of age  
12 or older.

13 (2) "Agency" means any entity of state or local  
14 government authorized by law to be responsible for the care  
15 or rehabilitation of youth.

16 (3) "Commit" means to transfer to legal custody.

17 (4) "Court", when used without further qualification,  
18 means the youth court of the district court.

19 (5) "Custodian" means a person other than a parent or  
20 guardian to whom legal custody of the youth has been given  
21 but does not include a person who has only physical custody.

22 (6) "Delinquent youth" means a youth:

23 (a) who has committed an offense that if committed by  
24 an adult, would constitute a criminal offense; or

25 (b) who, having been placed on probation as a

1 delinquent youth or a youth in need of supervision, violates  
2 any condition of his probation.

3 (5)(7) "Department" means the department of family  
4 services provided for in 2-15-2401.

5 (8) "Detention" means the holding or temporary  
6 placement of a youth IN THE YOUTH'S HOME UNDER HOME ARREST  
7 OR in a facility other than the youth's own home for the  
8 purpose of ensuring the continued custody of the youth at  
9 any time after the youth is taken into custody and before  
10 final disposition of his case.

11 (9) "Detention facility" means a physically restricting  
12 facility designed to prevent a youth from departing at will.  
13 The term includes a youth detention facility, short-term  
14 detention center, and regional detention facility.

15 (10) "Final disposition" means the implementation of a  
16 court order for the disposition or placement of a youth as  
17 provided in 41-5-523.

18 (6)(11) "Foster home" means a private residence licensed  
19 by the department for placement of a youth.

20 (7)(12) "Guardianship" means the status created and  
21 defined by law between a youth and an adult with the  
22 reciprocal rights, duties, and responsibilities.

23 (13) "Holdover" means a room, office, building, or other  
24 place approved by the board of crime control for the  
25 temporary detention and supervision of youth in a physically

1 unrestricting setting for a period not to exceed 24 hours  
 2 while the youth is awaiting a probable cause hearing,  
 3 release, or transfer to an appropriate detention or shelter  
 4 care facility. The term does not include a jail.

5 (14) "Jail" means a facility used for the confinement of  
 6 adults accused or convicted of criminal offenses. The term  
 7 includes a lockup or other facility used primarily for the  
 8 temporary confinement of adults after arrest.

9 ~~(8)~~(15) "Judge", when used without further  
 10 qualification, means the judge of the youth court.

11 ~~(9)~~(16) (a) "Legal custody" means the legal status  
 12 created by order of a court of competent jurisdiction that  
 13 gives a person the right and duty to:

- 14 (i) have physical custody of the youth;
- 15 (ii) determine with whom the youth shall live and for  
 16 what period;
- 17 (iii) protect, train, and discipline the youth; and
- 18 (iv) provide the youth with food, shelter, education,  
 19 and ordinary medical care.

20 (b) An individual granted legal custody of a youth  
 21 shall personally exercise his rights and duties as guardian  
 22 unless otherwise authorized by the court entering the order.

23 (17) "Necessary parties" includes the youth, his  
 24 parents, guardian, custodian, or spouse.

25 ~~(10)~~(18) "Parent" means the natural or adoptive parent

1 but does not include a person whose parental rights have  
 2 been judicially terminated, nor does it include the putative  
 3 father of an illegitimate youth unless his paternity is  
 4 established by an adjudication or by other clear and  
 5 convincing proof.

6 (19) "Probable cause hearing" means the hearing provided  
 7 for in 41-5-303.

8 (20) "Regional detention facility" means a youth  
 9 detention facility established and maintained by two or more  
 10 counties, as authorized in [section 3].

11 (21) "Restitution" means payments in cash to the victim  
 12 or with services to the victim or the general community when  
 13 these payments are made pursuant to an informal adjustment,  
 14 consent decree, or other youth court order.

15 (22) "Serious juvenile offender" means a youth who has  
 16 committed an offense that would be considered a felony  
 17 offense if committed by an adult and that is an offense  
 18 against a person, an offense against property, or an offense  
 19 involving dangerous drugs.

20 (23) "Shelter care" means the temporary substitute care  
 21 of youth in physically unrestricting facilities.

22 (24) "Shelter care facility" means a facility used for  
 23 the shelter care of youth. The term is limited to the  
 24 facilities enumerated in 41-5-306(1).

25 (25) "Short-term detention center" means a detention

1 facility licensed by the department for the temporary  
2 placement or care of youth, for a period not to exceed 96  
3 hours, pending a probable cause hearing, release, or  
4 transfer of the youth to an appropriate detention facility  
5 or shelter care facility.

6 (26) "State youth correctional facility" means a  
7 residential facility used for the placement and  
8 rehabilitation of delinquent youth, such as the Pine Hills  
9 school in Miles City and the Mountain View school in Helena.

10 (27) "Substitute care" means full-time care of youth in  
11 a residential setting for the purpose of providing food,  
12 shelter, security and safety, guidance, direction, and if  
13 necessary, treatment to youth who are removed from or  
14 without the care and supervision of their parents or  
15 guardian.

16 {11}(28) "Youth" means an individual who is less than 18  
17 years of age without regard to sex or emancipation.

18 {12}(29) "Youth court" means the court established  
19 pursuant to this chapter to hear all proceedings in which a  
20 youth is alleged to be a delinquent youth, a youth in need  
21 of supervision, or a youth in need of care and includes the  
22 youth court judge and probation officers.

23 (30) "Youth detention facility" means a detention  
24 facility licensed by the department for the temporary  
25 substitute care of youth that:

1 (a) is operated, administered, and staffed separately  
2 and independently of a jail; and

3 (b) is used exclusively for the lawful detention of  
4 alleged or adjudicated delinquent youth.

5 ~~{13} "Delinquent youth" means a youth:~~  
6 ~~{a} -- who has committed an offense which, if committed by~~  
7 ~~an adult, would constitute a criminal offense;~~

8 ~~{b} -- who, having been placed on probation as a~~  
9 ~~delinquent youth or a youth in need of supervision, violates~~  
10 ~~any condition of his probation;~~

11 (31) "Youth in need of care" has the meaning provided  
12 for in 41-3-102.

13 ~~{14}(32) "Youth in need of supervision" means a youth~~  
14 ~~who commits an offense prohibited by law which that, if~~  
15 ~~committed by an adult, would not constitute a criminal~~  
16 ~~offense, including but not limited to a youth who:~~

17 ~~(a) violates any Montana municipal or state law~~  
18 ~~regarding use of alcoholic beverages by minors;~~

19 ~~(b) habitually disobeys the reasonable and lawful~~  
20 ~~demands of his parents, foster parents, physical custodian,~~  
21 ~~or guardian or is ungovernable and beyond their control;~~

22 ~~(c) being subject to compulsory school attendance, is~~  
23 ~~habitually truant from school; or~~

24 ~~(d) has committed any of the acts of a delinquent youth~~  
25 ~~but whom the youth court in its discretion chooses to regard~~

1 as a youth in need of supervision.  
 2 {15}-"Youth-in-need-of-care"-means-a-youth-as-defined-in  
 3 41-3-102.  
 4 {16}-"Custodian"--means--a-person-other-than-a-parent-or  
 5 guardian-to-whom-legal-custody-of-the-youth-has--been--given  
 6 but-does-not-include-a-person-who-has-only-physical-custody.  
 7 {17}-"Necessary-parties"-include-the-youth, his-parents,  
 8 guardian, custodian, or-spouse.  
 9 {18}-"State---youth---correctional---facility"--means--a  
 10 residential-facility-for-the--rehabilitation--of--delinquent  
 11 youth--such-as-Pine-Hills-school-in-Miles-City, and-Mountain  
 12 View-school-in-Heleena.  
 13 {19}-"Shelter-care"-means-the-temporary-substitute--care  
 14 of-youth-in-physically-unrestricting-facilities.  
 15 {20}-"Detention"--means-the-temporary-substitute-care-of  
 16 youth-in-physically-restricting-facilities.  
 17 {21}-"Detention-facility"-means-a-physically-restricting  
 18 facility-designed-to-prevent-a-youth-from-departing-at-will.  
 19 {22}-"Restitution"-means-payments-in-cash-to-the--victim  
 20 or-with-services-to-the-victim-or-the-general-community-when  
 21 these--payments-are-made-pursuant-to-an-informal-adjustment,  
 22 consent-decree, or-other-youth-court-order.  
 23 {23}-"Substitute-care"-means-full-time-care-of-youth--in  
 24 a--residential--setting--for--the-purpose-of-providing-food,  
 25 shelter, security-and-safety, guidance,--direction,--and--if

1 necessary,--treatment--to--youth--who--are--removed--from-or  
 2 without--the--care--and--supervision--of--their--parents--or  
 3 guardian.  
 4 {24}-"Serious-juvenile-offender"-means-a-youth--who--has  
 5 committed--an-offense-against-the-person, an-offense-against  
 6 property, or-an--offense--involving--dangerous--drugs--which  
 7 would--be--considered--a--felony--offense-if-committed-by-an  
 8 adult."

9 NEW SECTION. Section 2. County responsibility to  
 10 provide youth detention services. (1) Each county shall  
 11 provide services for the detention of youth in facilities  
 12 separate from adult jails.

13 (2) In order to fulfill its responsibility under  
 14 subsection (1), a county may:

15 (a) establish, operate, and maintain a holdover, a  
 16 short-term detention center, or a youth detention facility  
 17 at county expense;

18 (b) provide shelter care facilities as authorized in  
 19 41-5-802;

20 (c) contract with another county for the use of an  
 21 available shelter care facility, holdover, short-term  
 22 detention center, or youth detention facility;

23 (d) establish and operate a network of holdovers in  
 24 cooperation with other counties;

25 (e) establish a regional detention facility; or

1 (f) enter into an agreement with a private party under  
2 which the private party will own, operate, or lease a  
3 shelter care facility or youth detention facility for use by  
4 the county. The agreement may be made in substantially the  
5 same manner as provided for in 7-32-2232 and 7-32-2233.

6 (3) Each county or regional detention facility must be  
7 licensed by the department in accordance with rules adopted  
8 under 41-5-809.

9 NEW SECTION. **Section 3. Regional detention facilities.**

10 (1) Two or more counties may, by contract, establish and  
11 maintain a regional detention facility.

12 (2) For the purpose of establishing and maintaining a  
13 regional detention facility, a county may:

14 (a) issue general obligation bonds for the acquisition,  
15 purchase, construction, renovation, and maintenance of a  
16 regional detention facility;

17 (b) levy and appropriate taxes, as permitted by law, to  
18 pay its share of the cost of equipping, operating, and  
19 maintaining the facility; and

20 (c) exercise all powers, under the limitations  
21 prescribed by law, necessary and convenient to carry out the  
22 purposes of [section 2] and this section.

23 (3) Contracts authorized under subsection (1) must be  
24 made pursuant to the Interlocal Cooperation Act, Title 7,  
25 chapter 11, part 1.

1 (4) Contracts between counties participating in a  
2 regional detention facility must be for a term of not less  
3 than 10 years. In addition, the contracts must:

4 (a) specify the responsibilities of each county  
5 participating in the agreement;

6 (b) designate responsibility for operation of the  
7 regional detention facility;

8 (c) specify the amount of funding to be contributed by  
9 each county toward payment of the cost of establishing,  
10 operating, and maintaining the regional detention facility,  
11 including the necessary expenditures for the transportation  
12 of youth to and from the facility;

13 (d) include the applicable per diem charge for the  
14 detention of youths in the facility, as well as the basis  
15 for any adjustment in the charge; and

16 (e) specify the number of beds to be reserved for the  
17 use of each county participating in the regional detention  
18 facility.

19 NEW SECTION. **Section 4. Creation of regions --**  
20 **requirements -- limitation on number of regions.** (1)  
21 Counties that wish to establish a regional detention  
22 facility shall form a youth detention region.

23 (2) Each youth detention region must:

24 (a) be composed of contiguous counties participating in  
25 the regional detention facility; and

1 (b) include geographical areas of the state that  
2 contain a substantial percentage of the total youth  
3 population in need of detention services, as determined by  
4 the board of crime control.

5 (3) There may be no more than five youth detention  
6 regions established in the state at any one time.

7 NEW SECTION. Section 5. Contracts with  
8 nonparticipating counties. Counties participating in a  
9 regional detention facility may enter into agreements with  
10 nonparticipating counties to provide services for the  
11 detention of youth. The costs of services must be based upon  
12 a per diem charge for the detention of youth in the  
13 facility.

14 NEW SECTION. Section 6. Responsibility for payment of  
15 detention costs. Absent a contract or agreement between  
16 counties, all costs for the detention of a youth in a county  
17 or regional detention facility, including medical costs  
18 incurred by the youth during detention, must be paid by the  
19 county at whose instance the youth is detained.

20 NEW SECTION. Section 7. Definitions. As used in  
21 [sections 7 through 14], unless the context requires  
22 otherwise, the following definitions apply:

23 (1) "Attendant care" means the direct supervision of  
24 youth by a trained attendant in a physically unrestricting  
25 setting.

1 (2) "Board" means the board of crime control provided  
2 for in 2-15-2006.

3 (3) "County" means a county, city-county consolidated  
4 government, or a youth detention region created pursuant to  
5 [section 4].

6 (4) "Home detention" means the use of a youth's home  
7 for the purpose of ensuring the continued custody of the  
8 youth pending adjudication or final disposition of his case.

9 (5) "Plan" means a county plan for providing youth  
10 detention services as required in [section 9].

11 (6) "Secure detention" means the detention of youth in  
12 a physically restricting facility designed to prevent a  
13 youth from departing at will.

14 (7) "Youth detention service" means service for the  
15 detention of youth in facilities separate from adult jails.  
16 The term includes the services described in [section 8].

17 NEW SECTION. Section 8. State grants to counties. (1)  
18 Within the limits of available funds, the board shall  
19 provide grants in accordance with [sections 9 through 11] to  
20 assist counties in establishing and operating youth  
21 detention services, including but not limited to youth  
22 detention facilities, short-term detention centers,  
23 holdovers, attendant care, home detention, and programs for  
24 the transportation of youth to regional detention  
25 facilities.

1 (2) Grants available under subsection (1) consist of  
2 state appropriations and federal funds received by the board  
3 for the purpose of administering [sections 7 through 11].

4 NEW SECTION. Section 9. Application for grants --  
5 county plans -- obligation of counties receiving grants --  
6 review and monitoring. (1) In order to receive funds under  
7 [section 8], a county shall submit an application to the  
8 board in a manner and form prescribed by the board.

9 (2) The application must include a written plan for  
10 providing youth detention services in the county. Each plan  
11 must include:

12 (a) an assessment of the need for services;

13 (b) a description of services to be provided, including  
14 alternatives to secure detention;

15 (c) the estimated number of youth who will receive  
16 services;

17 (d) criteria for the placement of youth in secure  
18 detention; and

19 (e) a budget describing proposed expenditures for youth  
20 detention services.

21 (3) If the application and plan are approved by the  
22 board, the county may receive a grant in the amount provided  
23 for in [section 10].

24 (4) As a condition of receiving funds under [section  
25 8], each county shall, within a reasonable period of time,

1 comply or substantially comply with state law and policies  
2 contained in the Montana Youth Court Act concerning the  
3 detention and placement of youth.

4 (5) The board shall periodically review and monitor  
5 counties receiving grants under [section 8] to assure  
6 compliance or substantial compliance with the Montana Youth  
7 Court Act, as required under subsection (4). If, after  
8 notice and fair hearing, the board determines that a county  
9 is not in compliance or substantial compliance with the  
10 Montana Youth Court Act, the board shall terminate the grant  
11 to the county.

12 NEW SECTION. Section 10. Distribution of grants --  
13 limitation of funding -- restrictions on use. (1) The board  
14 shall award grants on an equitable basis, giving preference  
15 to services that will be used on a regional basis.

16 (2) The board shall award grants to eligible counties:

17 (a) in a block grant in an amount not to exceed 50% of  
18 the approved, estimated cost of secure detention; or

19 (b) on a matching basis in an amount not to exceed:

20 (i) 75% of the approved cost of providing holdovers,  
21 attendant care, and other alternatives to secure detention,  
22 except for shelter care. Shelter care must be paid as  
23 provided by law.

24 (ii) 50% of the approved cost of programs for the  
25 transportation of youth to appropriate detention or shelter

1 care facilities, including regional detention facilities.

2 (3) Grants under [section 8] may not be used to pay for  
3 the cost of youth evaluations. The cost of evaluations must  
4 be paid as provided for in 41-5-523.

5 NEW SECTION. **Section 11.** Allocation of grants. (1)

6 Each fiscal year, the board shall allocate grants under  
7 [section 8] for distribution to eligible counties based  
8 upon:

9 (a) the relative population of youth residing in  
10 geographical areas of the state, as determined by the board;  
11 and

12 (b) the estimated cost of youth detention services in  
13 each county eligible for funding under [section 8].

14 (2) A county is not automatically entitled to receive a  
15 grant from funds available under [section 8].

16 NEW SECTION. **Section 12.** Amendment of state plan. The

17 board shall amend the state plan required under section 223  
18 of the federal Juvenile Justice and Delinquency Prevention  
19 Act of 1974, as amended (42 U.S.C. 5633), to reflect the  
20 contents of approved county plans for providing youth  
21 detention services.

22 NEW SECTION. **Section 13.** Compliance with federal  
23 requirements. The board shall administer federal funds  
24 available under section 222 of the federal Juvenile Justice  
25 and Delinquency Prevention Act of 1974, as amended (42

1 U.S.C. 5632), in compliance with the requirements of 42  
2 U.S.C. 5633(a)(21) and 42 U.S.C. 5674.

3 NEW SECTION. **Section 14.** Rulemaking authority. The  
4 board may adopt rules necessary to implement the provisions  
5 of 41-5-103(13), [section 4], and [sections 7 through 14].

6 **Section 15.** Section 15-25-122, MCA, is amended to read:

7 \*15-25-122. Disposition of proceeds. (1) The department  
8 shall transfer all taxes collected pursuant to this chapter,  
9 less the administrative fee authorized in 15-25-111(1), to  
10 the state treasurer on a monthly basis.

11 (2) The state treasurer shall deposit one-third of the  
12 tax to the credit of the department of family services to be  
13 used for the youth evaluation program and chemical abuse  
14 aftercare programs.

15 (3) The treasurer shall credit the remaining two-thirds  
16 of the tax proceeds as follows:

17 (a) one-half to the department of justice to be used;

18 (i) for grants to youth courts to fund chemical abuse  
19 assessments; and

20 (ii) for grants to counties to fund services for the  
21 detention of juvenile offenders in facilities separate from  
22 adult jails, as authorized in [section 8]; and

23 (b) one-half to the account created by 44-12-206(3) if  
24 a state government law enforcement agency seized the drugs.  
25 If a local government law enforcement agency seized the



1 drugs, then that amount must be credited to the treasurer or  
2 finance officer of the local government, be deposited in its  
3 general fund, and be used to enforce drug laws."

4 **Section 16.** Section 41-3-1103, MCA, is amended to read:

5 "41-3-1103. Powers and duties of department. (1) The  
6 department shall:

7 (a) administer all state and federal funds allocated to  
8 the department for youth foster homes, youth group homes,  
9 and child-care agencies, ~~and detention facilities~~ and  
10 services for youth in need of care, youth in need of  
11 supervision, and delinquent youth, as defined in 41-5-103;

12 (b) exercise licensing authority over all detention  
13 facilities as defined in 41-5-103, youth foster homes, youth  
14 group homes, and child-care agencies;

15 (c) collect and disseminate information relating to  
16 youth in need of care, youth in need of supervision, and  
17 delinquent youth;

18 (d) provide for training of program personnel  
19 delivering services;

20 (e) in cooperation with youth care facility providers,  
21 develop and implement standards for youth care facilities;

22 (f) maintain adequate data on placements it funds in  
23 order to keep the legislature properly informed of the  
24 following:

25 (i) the breakdown of youth in need of care, youth in

1 need of supervision, and delinquent youth by category in  
2 out-of-home care facilities;

3 (ii) the cost per facility for services rendered;

4 (iii) the type and level of care of services provided by  
5 each facility;

6 (iv) a profile of out-of-home care placements by level  
7 of care; and

8 (v) a profile of public institutional placements; and

9 (g) administer all funds allocated to the department  
10 for residential alcohol and drug abuse treatment for  
11 indigent youths in need of care, indigent youths in need of  
12 supervision, and indigent delinquent youths who require such  
13 treatment.

14 (2) The department may:

15 (a) enter into contracts with nonprofit corporations or  
16 associations or private organizations to provide facilities  
17 and services substitute care for youth in need of care,  
18 youth in need of supervision, and delinquent youth in youth  
19 care facilities;

20 (b) accept gifts, grants, and donations of money and  
21 property from public and private sources to initiate and  
22 maintain community-based services to youth;

23 (c) adopt rules to carry out the administration and  
24 purposes of this part.

25 (3) The department shall pay for room, board, clothing,

1 personal needs, transportation, and treatment in youth  
2 foster care homes and youth group homes for youths committed  
3 to the department who need to be placed in such facilities."

4 **Section 17.** Section 41-5-105, MCA, is amended to read:

5 "41-5-105. Youth court committee. In every county of  
6 the state the judge having jurisdiction may appoint a  
7 committee, willing to act without compensation, composed of  
8 not less than three or more than seven reputable citizens,  
9 including youth representatives, ~~which committee shall.~~ The  
10 committee must be designated as a youth court committee.  
11 This committee shall be meet subject to the call of the  
12 judge ~~to meet and to~~ confer with him on all matters  
13 pertaining to the youth department of the court, including  
14 the appointment of probation officers, and shall act as a  
15 supervisory committee of youth detention ~~homes~~ facilities."

16 **Section 18.** Section 41-5-306, MCA, is amended to read:

17 "41-5-306. (Temporary) Place of shelter care or  
18 detention. (1) After a probable cause hearing provided for  
19 in 41-5-303, a youth alleged to be a youth in need of  
20 supervision may be placed only in:

- 21 (a) a licensed youth foster home as defined in
- 22 41-3-1102;
- 23 (b) a facility operated by a licensed child welfare
- 24 agency; or
- 25 (c) a licensed youth group home as defined in

1 41-3-1102.

2 (2) A youth alleged to be a youth in need of care ~~shall~~  
3 may be placed only in the facilities stated in subsection  
4 (1) ~~of this section~~ and ~~shall~~ may not be placed in a jail or  
5 other facility intended or used for the ~~detention~~  
6 confinement of adults charged with accused or convicted of  
7 criminal offenses.

8 (3) After a probable cause hearing provided for in  
9 41-5-303, a youth alleged to be a delinquent youth may be  
10 placed only in:

- 11 (a) the facilities described in subsection (1) ~~in~~;
- 12 (b) a short-term detention facility;
- 13 (c) a youth detention facility ~~or in~~; or
- 14 (d) a jail or other facility for the ~~detention~~  
15 confinement of adults but only if the facilities in  
16 subsection (1);
- 17 (i) alternative facilities are not available or  
18 available facilities do not provide adequate security; and
- 19 (ii) ~~the detention is in an area physically and visually~~  
20 separate and removed from that of adults the youth is kept  
21 in an area that provides physical, as well as sight and  
22 sound, separation from adults accused or convicted of  
23 criminal offenses. (Terminates July 1, ~~1991~~ 1992--sec. 14,  
24 Ch. 434, L. 1989.)"

25 **Section 19.** Section 41-5-306, MCA, is amended to read:

1 \*41-5-306. (Effective July 1, ~~1991~~ 1992) Place of  
2 shelter care or detention. (1) After a probable cause  
3 hearing provided for in 41-5-303, a youth alleged to be a  
4 youth in need of supervision may be placed only in:

5 (a) a licensed youth foster home as defined in  
6 41-3-1102;

7 (b) a facility operated by a licensed child welfare  
8 agency; or

9 (c) a licensed youth group home as defined in  
10 41-3-1102.

11 (2) A youth alleged to be a youth in need of care ~~shall~~  
12 may be placed only in the facilities stated in subsection  
13 ~~(1) of this section~~ and ~~shall may~~ not be placed in a jail or  
14 other facility intended or used for the ~~detention~~  
15 confinement of adults ~~charged with~~ accused or convicted of  
16 criminal offenses.

17 (3) After a probable cause hearing provided for in  
18 41-5-303, a youth alleged to be a delinquent youth may be  
19 placed only in:

20 (a) the facilities described in subsection (1) or in;

21 (b) a short-term detention facility; or

22 (c) a youth detention facility as defined in 41-5-103."

23 **Section 20.** Section 41-5-308, MCA, is amended to read:

24 "41-5-308. Placement of youth before probable cause  
25 hearing. (1) Before the probable cause hearing, a youth

1 alleged to be a delinquent youth may be held in a jail or  
2 other facility for adults only if:

3 (a) ~~the alternative~~ facilities ~~in 41-5-306~~ are not  
4 available or available facilities do not provide adequate  
5 security;

6 ~~(b) the placement is in an area physically, aurally,~~  
7 ~~and visually separate from those of adults~~ the youth is kept  
8 in an area that provides physical, as well as sight and  
9 sound, separation from adults accused or convicted of  
10 criminal offenses; and

11 (c) it appears that public safety and protection  
12 reasonably require the youth to be held.

13 (2) The official in charge of a jail or other facility  
14 for the ~~detention~~ confinement of adult offenders ~~or persons~~  
15 ~~charged with a crime~~ shall inform the court immediately if a  
16 person who is or appears to be under the age of 18 years is  
17 received at the facility."

18 **Section 21.** Section 41-5-802, MCA, is amended to read:

19 "41-5-802. Shelter care and detention facilities. ~~(1)~~  
20 ~~The county commissioners in each county shall provide for~~  
21 ~~the availability of detention facilities for youths.~~

22 ~~(2) (a) The county commissioners may maintain, by~~  
23 ~~purchase, lease, or otherwise, a detention facility, which~~  
24 ~~may not be used for the confinement of adult persons charged~~  
25 ~~with criminal offenses, where delinquent youths may be~~

1 ~~detained until final disposition.~~

2 ~~(b) The county commissioners may appoint necessary~~  
3 ~~personnel who have charge of the facility and of the youths~~  
4 ~~detained therein.~~

5 ~~(c) The compensation of the personnel must be fixed by~~  
6 ~~the county commissioners, and the compensation and the~~  
7 ~~maintenance of the facility must be paid out of the county~~  
8 ~~treasury. These funds may be supplemented by state~~  
9 ~~appropriation and federal funds.~~

10 ~~(d) The county commissioners shall provide for~~  
11 ~~inspection of any county detention facility every 3 months.~~  
12 ~~Inspection must include but is not limited to health, fire~~  
13 ~~safety, security, rehabilitation programs, recreation,~~  
14 ~~treatment of youths, and personnel training.~~

15 ~~(e) The judge of the youth court for the county shall~~  
16 ~~inspect any detention facility at least once a year.~~

17 ~~(3) The county commissioners may contract with the~~  
18 ~~department or public or private agencies to purchase~~  
19 ~~detention services.~~

20 ~~(4) (a) (1) Counties, cities, or nonprofit corporations~~  
21 ~~may provide by purchase, lease, or otherwise, a shelter care~~  
22 ~~facility.~~

23 ~~(b) The (2) A shelter care facility must be physically~~  
24 ~~unrestricting and may be used to provide shelter care for~~  
25 ~~youth alleged or adjudicated delinquent, in need of~~

1 supervision, or in need of care.

2 ~~(c) The (3) A shelter care facility must be separate~~  
3 ~~and apart from any facility housing adults charged with~~  
4 ~~accused or convicted of criminal offenses.~~

5 ~~(d) (4) State appropriations and federal funds may be~~  
6 ~~received by the counties, cities, or nonprofit corporations~~  
7 ~~for establishment, maintenance, or operation of the a~~  
8 ~~shelter care facility.~~

9 ~~(e) The (5) A shelter care facility must be furnished~~  
10 ~~in a comfortable manner and be as nearly as possible like a~~  
11 ~~family home.~~

12 ~~(f) The (6) A shelter care facility may be operated in~~  
13 ~~conjunction with a youth detention facility."~~

14 **Section 22.** Section 41-5-809, MCA, is amended to read:  
15 "41-5-809. Rules. The department shall adopt rules  
16 governing the:

17 ~~(1) licensing procedures for regional and county~~  
18 ~~detention facilities; and~~

19 ~~(2) procedures for distributing funds for detention~~  
20 ~~facilities and services as provided in 41-5-315 and~~  
21 ~~41-5-316."~~

22 **Section 23.** Section 14, Chapter 434, Laws of 1989, is  
23 amended to read:

24 "Section 14. Section 16, Chapter 475, Laws of 1987, is  
25 amended to read:

1 "Section 16. **Effective dates -- termination date.** (1)  
 2 Except as provided in subsections (2) and (3), sections 1  
 3 through 13 are effective October 1, 1987.

4 (2) The bracketed language in subsection (5) of section  
 5 1 is effective July 1, ~~1991~~ 1992.

6 (3) The bracketed language in subsection (3) of section  
 7 9 terminates July 1, ~~1991~~ 1992."

8 **Section 24.** Section 17, Chapter 434, Laws of 1989, is  
 9 amended to read:

10 "Section 17. **Effective date dates.** ~~{Sections 5 and 7 of~~  
 11 ~~this act} are (1) [Section 7] is effective July 1, 1991.~~

12 ~~(2) [Section 5] is effective July 1, 1992."~~

13 NEW SECTION. **Section 25. Repealer.** Sections 41-5-315,  
 14 41-5-316, and 41-5-808, MCA, are repealed.

15 NEW SECTION. **Section 26. Codification instruction.** (1)  
 16 [Sections 2 through 6] are intended to be codified as an  
 17 integral part of Title 41, chapter 5, part 8, and the  
 18 provisions of Title 41, chapter 5, part 8, apply to  
 19 [sections 2 through 6].

20 (2) [Sections 7 through 14] are intended to be codified  
 21 as an integral part of Title 41, chapter 5, and the  
 22 provisions of Title 41, chapter 5, apply to [sections 7  
 23 through 14].

24 NEW SECTION. **Section 27. Effective dates.** (1)  
 25 [Sections 1 through 18, 20 through 26, and this section] are

1 effective July 1, 1991.

2 (2) [Section 19] is effective July 1, 1992.

-End-

1                   SENATE BILL NO. 37  
2                   INTRODUCED BY HALLIGAN  
3                   BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE  
4                   ON ADULT AND JUVENILE DETENTION  
5  
6   A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO  
7   PROVIDE YOUTH DETENTION SERVICES; AUTHORIZING ESTABLISHMENT  
8   OF REGIONAL DETENTION FACILITIES; DEFINING COUNTY  
9   RESPONSIBILITIES FOR THE COST OF PLACING A YOUTH IN A COUNTY  
10   OR REGIONAL DETENTION FACILITY; PROVIDING STATE GRANTS TO  
11   FUND COUNTY YOUTH DETENTION SERVICES, INCLUDING YOUTH  
12   DETENTION FACILITIES, HOLDOVERS, SHORT-TERM DETENTION  
13   CENTERS, AND PROGRAMS FOR THE TRANSPORTATION OF YOUTH TO  
14   REGIONAL DETENTION FACILITIES; REQUIRING STATE APPROVAL OF  
15   COUNTY PLANS FOR PROVIDING YOUTH DETENTION SERVICES AS A  
16   CONDITION OF PROVIDING STATE GRANTS TO COUNTIES; LIMITING  
17   STATE GRANTS FOR COUNTY YOUTH DETENTION SERVICES; PROVIDING  
18   THE BOARD OF CRIME CONTROL AUTHORITY TO ADOPT RULES;  
19   CLARIFYING USE OF THE TAX ON DANGEROUS DRUGS TO FUND YOUTH  
20   DETENTION SERVICES; AMENDING SECTIONS 15-25-122, 41-3-1103,  
21   41-5-103, 41-5-105, 41-5-306, 41-5-308, 41-5-802, AND  
22   41-5-809, MCA; AMENDING SECTIONS 14 AND 17, CHAPTER 434,  
23   LAWS OF 1989; REPEALING SECTIONS 41-5-315, 41-5-316, AND  
24   41-5-808, MCA; AND PROVIDING EFFECTIVE DATES."  
25

There are no changes in this bill,  
and will not be reprinted. Please  
refer to yellow copy for complete  
text.

HOUSE STANDING COMMITTEE REPORT

February 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 37 (third reading copy -- blue) be concurred in as amended .

Signed: \_\_\_\_\_

  
Bill Strivich, Chairman

CARRIED BY: REP. J. RICE

And, that such amendments read:

1. Title, line 20.

Following: "SERVICES;"

Insert: "PROVIDING AN APPROPRIATION;"

2. Page 29, line 15.

Following: line 14

Insert: "NEW SECTION. Section 26. Appropriation. The following money is appropriated from the general fund to the board of crime control to fund state grants to counties for youth detention programs as authorized in [section 8 of Senate Bill No. 37]:

Fiscal year beginning July 1, 1991	\$99,639
Fiscal year beginning July 1, 1992	644,697"

Renumber: subsequent sections

3. Page 29, line 25.

Strike: "26"

Insert: "27"

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HOUSE

HOUSE STANDING COMMITTEE REPORT

*Corrected copy*

April 4, 1991

Page 1 of 4

April 4, 1991  
Page 2 of 4

Mr. Speaker: We, the committee on Appropriations report that Senate Bill 37 (third reading copy -- blue) be concurred in as amended.

Signed: *Bardanoue*  
Francis Bardanoue, Chairman

Carried by: Rep. Jim Rice

And, that such amendments read:

Amend House Judiciary Committee report dated February 11, 1991, as follows:

Amendment No. 1 through 3  
Strike: Amendment No. 1 through 3

Amend the third reading copy of the bill as follows:

1. Title, line 20.

Following: "SERVICES;"

Insert: "PROVIDING FOR A FEE ON COIN-OPERATED, RECREATIONAL GAME MACHINES TO FUND YOUTH DETENTION SERVICES, FACILITIES, AND PROGRAMS; PROVIDING A STATUTORY APPROPRIATION;

Following: "15-25-122,"

Insert: "17-7-502,"

2. Page 29.

Following: line 12

Insert: "NEW SECTION. Section 25. Coin-operated, recreational, electronic and electromechanical game machine permit -- permit fee -- collection and disposition of fee -- penalty.

(1) For purposes of this section, "game machine" means a coin-operated, recreational, electronic or electromechanical device into which a player inserts a coin or coins to play a video or other game and receives either no prize or only one or more free games as a prize. The term includes but is not limited to games commonly known as video games and pinball machines. It does not include a machine or other device regulated under Title 23, chapter 5.

(2) A game machine may not be made available for public play unless the person upon whose premises it is made

available for public play has obtained a permit from the department of revenue. The permit fee is \$50 a year, renewable annually on July 1. The fee for a game machine made available for public play for only part of a year must be prorated. The department shall develop a sticker to be placed on each game machine, in a location chosen by the department. The sticker is evidence of payment of the fee.

(3) The department may adopt rules to implement this section

(4) There is an account in the state special revenue fund. Money collected under subsection (2) must be deposited by the department in the account. One-tenth of the money in the account is statutorily appropriated, as provided in 17-7-502, to the department to be used to administer this section, and the remainder is statutorily appropriated to the board of crime control to be used by the board to fund state grants to counties for youth detention services, facilities, centers, holdovers, and programs, as provided in [section 8].

(5) A person who purposefully or knowingly makes a game machine available for public play without payment of the fee is punishable upon conviction by not more than 30 days in jail, a fine of not more than \$500, or both.

Section 26. Section 17-7-502, MCA, is amended to read:  
"17-7-502. Statutory appropriations -- definition -- prerequisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313;

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76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215;  
90-4-613; 90-6-331; 90-9-306; [section 25]; and section 13, House  
Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Renumber: subsequent sections

3. Page 29, line 24.

Following: line 23

Insert: "NEW SECTION. Section 29. Coordination instruction. If this bill and either Senate Bill No. 38 or Senate Bill No. 59 are passed and approved, then the definition of "youth in need of supervision" contained in the amendment to 41-5-103 in Senate Bill No. 38 and Senate Bill No. 59 is amended to read:

"Youth in need of supervision" means a youth who commits an offense prohibited by law that, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

- (a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;
- (b) habitually disobeys the reasonable and lawful demands of his parents, foster parents, physical custodian, or guardian or is ungovernable and beyond control;
- (c) being subject to compulsory school attendance, is habitually truant from school; or
- (d) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of supervision."

Renumber: subsequent sections

4. Page 29, line 25.

Following: "18"

Strike: ", "

Insert: "and"  
Strike: "26"  
Insert: "28"  
Strike: ", and this section"

5. Page 30, line 3.

Following: line 2

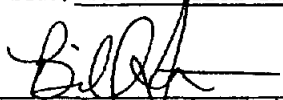
Insert: "(3) [Section 29 and this section] are effective on passage and approval."

HOUSE STANDING COMMITTEE REPORT

February 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 37 (third reading copy -- blue) be concurred in as amended .

Signed:   
Bill Strivich, Chairman

COMPILED BY: RGP, J. R. C.

And, that such amendments read:

1. Title, line 20.

Following: "SERVICES;"

Insert: "PROVIDING AN APPROPRIATION;"

2. Page 29, line 15.

Following: line 14

Insert: "NEW SECTION. Section 26. Appropriation. The following money is appropriated from the general fund to the board of crime control to fund state grants to counties for youth detention programs as authorized in [section 8 of Senate Bill No. 37]:

Fiscal year beginning July 1, 1991	\$99,639
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Insert: "27"

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HOUSE STANDING COMMITTEE REPORT

April 4, 1991  
Page 2 of 4

*Correcting copy*  
April 4, 1991  
Page 1 of 4

Mr. Speaker: We, the committee on Appropriations report that Senate Bill 37 (third reading copy -- blue) be concurred in as amended.

Signed:   
Francis Bardanouve, Chairman

Carried by: Rep. Jim Rice

And, that such amendments read:

Amend House Judiciary Committee report dated February 11, 1991, as follows:

Amendment No. 1 through 3  
Strike: Amendment No. 1 through 3

Amend the third reading copy of the bill as follows:

1. Title, line 20.  
Following: "SERVICES;"  
Insert: "PROVIDING FOR A FEE ON COIN-OPERATED, RECREATIONAL GAME MACHINES TO FUND YOUTH DETENTION SERVICES, FACILITIES, AND PROGRAMS; PROVIDING A STATUTORY APPROPRIATION;  
Following: "15-25-122,"  
Insert: "17-7-502,"

2. Page 29.  
Following: line 12  
Insert: "NEW SECTION. Section 25. Coin-operated, recreational, electronic and electromechanical game machine permit -- permit fee -- collection and disposition of fee -- penalty.  
(1) For purposes of this section, "game machine" means a coin-operated, recreational, electronic or electromechanical device into which a player inserts a coin or coins to play a video or other game and receives either no prize or only one or more free games as a prize. The term includes but is not limited to games commonly known as video games and pinball machines. It does not include a machine or other device regulated under Title 23, chapter 5.  
(2) A game machine may not be made available for public play unless the person upon whose premises it is made

available for public play has obtained a permit from the department of revenue. The permit fee is \$50 a year, renewable annually on July 1. The fee for a game machine made available for public play for only part of a year must be prorated. The department shall develop a sticker to be placed on each game machine, in a location chosen by the department. The sticker is evidence of payment of the fee.

(3) The department may adopt rules to implement this section

(4) There is an account in the state special revenue fund. Money collected under subsection (2) must be deposited by the department in the account. One-tenth of the money in the account is statutorily appropriated, as provided in 17-7-502, to the department to be used to administer this section, and the remainder is statutorily appropriated to the board of crime control to be used by the board to fund state grants to counties for youth detention services, facilities, centers, holdovers, and programs, as provided in [section 8].

(5) A person who purposefully or knowingly makes a game machine available for public play without payment of the fee is punishable upon conviction by not more than 30 days in jail, a fine of not more than \$500, or both.

Section 26. Section 17-7-502, MCA, is amended to read:  
"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313;

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76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215;  
90-4-613; 90-6-331; 90-9-306; [section 25]; and section 13, House  
Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Renumber: subsequent sections

3. Page 29, line 24.

Following: line 23

Insert: "NEW SECTION. Section 29. Coordination instruction. If this Bill and either Senate Bill No. 38 or Senate Bill No. 59 are passed and approved, then the definition of "youth in need of supervision" contained in the amendment to 41-5-103 in Senate Bill No. 38 and Senate Bill No. 59 is amended to read:

"Youth in need of supervision" means a youth who commits an offense prohibited by law that, if committed by an adult, would not constitute a criminal offense, including but not limited to a youth who:

- (a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;
- (b) habitually disobeys the reasonable and lawful demands of his parents, foster parents, physical custodian, or guardian or is ungovernable and beyond control;
- (c) being subject to compulsory school attendance, is habitually truant from school; or
- (d) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of supervision."

Renumber: subsequent sections

4. Page 29, line 25.

Following: "18"

Strike: ", "

Insert: "and"  
Strike: "26"  
Insert: "28"  
Strike: ", and this section"

5. Page 30, line 3.

Following: line 2

Insert: "(3) [Section 29 and this section] are effective on passage and approval."

## 1 SENATE BILL NO. 37

2 INTRODUCED BY HALLIGAN

3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE

4 ON ADULT AND JUVENILE DETENTION

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO  
7 PROVIDE YOUTH DETENTION SERVICES; AUTHORIZING ESTABLISHMENT  
8 OF REGIONAL DETENTION FACILITIES; DEFINING COUNTY  
9 RESPONSIBILITIES FOR THE COST OF PLACING A YOUTH IN A COUNTY  
10 OR REGIONAL DETENTION FACILITY; PROVIDING STATE GRANTS TO  
11 FUND COUNTY YOUTH DETENTION SERVICES, INCLUDING YOUTH  
12 DETENTION FACILITIES, HOLDOVERS, SHORT-TERM DETENTION  
13 CENTERS, AND PROGRAMS FOR THE TRANSPORTATION OF YOUTH TO  
14 REGIONAL DETENTION FACILITIES; REQUIRING STATE APPROVAL OF  
15 COUNTY PLANS FOR PROVIDING YOUTH DETENTION SERVICES AS A  
16 CONDITION OF PROVIDING STATE GRANTS TO COUNTIES; LIMITING  
17 STATE GRANTS FOR COUNTY YOUTH DETENTION SERVICES; PROVIDING  
18 THE BOARD OF CRIME CONTROL AUTHORITY TO ADOPT RULES;  
19 CLARIFYING USE OF THE TAX ON DANGEROUS DRUGS TO FUND YOUTH  
20 DETENTION SERVICES; PROVIDING--AN--APPROPRIATION; PROVIDING  
21 FOR A FEE ON COIN-OPERATED, RECREATIONAL GAME MACHINES TO  
22 FUND YOUTH DETENTION SERVICES, FACILITIES, AND PROGRAMS;  
23 PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS  
24 15-25-122, 17-7-502, 41-3-1103, 41-5-103, 41-5-105,  
25 41-5-306, 41-5-308, 41-5-802, AND 41-5-809, MCA; AMENDING

1 SECTIONS 14 AND 17, CHAPTER 434, LAWS OF 1989; REPEALING  
2 SECTIONS 41-5-315, 41-5-316, AND 41-5-808, MCA; AND  
3 PROVIDING EFFECTIVE DATES."  
4

## 5 STATEMENT OF INTENT

6 A statement of intent is required for this bill because  
7 [section 14] grants the board of crime control authority to  
8 adopt rules necessary to implement provisions of this bill.

9 It is the intent of the legislature, in enacting this  
10 bill, to provide alternatives to the detention of youth in  
11 adult jails in order to meet the requirements of \_\_\_ Bill  
12 No. \_\_\_ [LC 68], which prohibits the detention of youth in  
13 adult jails.

14 In order to ensure that alternatives to jail are  
15 established, the legislature intends that each county have  
16 the primary responsibility to provide youth detention  
17 services, as required by [section 2]. In addition, in order  
18 to stimulate the development of needed services, the  
19 legislature intends to provide state grants authorized in  
20 [section 8], using state and federal funds, to assist  
21 counties in providing a spectrum of services for the  
22 detention and care of youth. These services are intended to  
23 include but are not limited to youth detention facilities,  
24 short-term detention centers, holdovers, attendant care,  
25 home detention, and programs for the transportation of youth

1 to regional detention facilities.

2 The legislature intends that counties receiving state  
3 grants should share in the costs of services in order to  
4 prevent excessive utilization of services and to give  
5 counties a financial incentive to hold down program costs.  
6 For this reason, [section 10] requires that state grants be  
7 provided on a matching basis or, if in a block grant, based  
8 on a percentage of the approved cost of services.

9 In order to discourage the use of secure detention and  
10 to promote the use of less costly, nonsecure community-based  
11 programs, the legislature intends to provide state grants to  
12 counties at a higher rate of payment for such services,  
13 including holdovers, attendant care, and other alternatives  
14 to secure detention.

15 The legislature further intends that, as a condition of  
16 receiving state grants under [section 8], each county shall  
17 develop a written plan for providing youth detention  
18 services, including alternatives to secure detention. The  
19 development of county plans is required to ensure that  
20 formal planning does, in fact, occur and to make certain  
21 that state grants are not provided for services that are not  
22 well planned in advance.

23 As a further condition of receiving state grants under  
24 [section 8], each county shall, within a reasonable period  
25 of time, demonstrate compliance or substantial compliance

1 with state law and policies contained in the Montana Youth  
2 Court Act relating to the detention and placement of youth.  
3 The legislature intends that the board of crime control  
4 review and monitor counties receiving grants under [section  
5 8] to assure compliance or substantial compliance with the  
6 Montana Youth Court Act.

7 Finally, the legislature intends that the board of crime  
8 control adopt rules as authorized in [section 14]. In  
9 adopting rules, the board may:

10 (1) establish requirements for approved holdovers  
11 consistent with the definition of holdovers provided in  
12 41-5-103(13);

13 (2) designate geographical areas of the state that are  
14 eligible for creation of a youth detention region under  
15 [section 4]. In designating these areas, the board shall use  
16 available state data showing the number of youth held in  
17 detention in each county of the state.

18 (3) adopt procedures governing the distribution and  
19 allocation of funds in accordance with [sections 10 and 11];

20 (4) provide a system to review and monitor counties  
21 under [section 9] to assure that counties receiving grants  
22 are in compliance or substantial compliance with the Montana  
23 Youth Court Act;

24 (5) provide standards for determining compliance or  
25 substantial compliance with the Montana Youth Court Act

1 pursuant to [section 9]. These standards should be based  
 2 upon comparable standards for compliance with sections  
 3 223(a)(12) and 223(a)(14) of the federal Juvenile Justice  
 4 and Delinquency Prevention Act of 1974.

5 (6) establish a process for providing notice and fair  
 6 hearings required under [section 9] in order to terminate  
 7 state grants to counties that fail to attain compliance or  
 8 substantial compliance with the Montana Youth Court Act.

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

11 **Section 1.** Section 41-5-103, MCA, is amended to read:

12 **"41-5-103. Definitions.** Per-the-purposes-of As used in  
 13 the Montana Youth Court Act, unless the context requires  
 14 otherwise stated, the following definitions apply:

15 (1) "Adult" means an individual who is 18 years of age  
 16 or older.

17 (2) "Agency" means any entity of state or local  
 18 government authorized by law to be responsible for the care  
 19 or rehabilitation of youth.

20 (3) "Commit" means to transfer to legal custody.

21 (4) "Court", when used without further qualification,  
 22 means the youth court of the district court.

23 (5) "Custodian" means a person other than a parent or  
 24 guardian to whom legal custody of the youth has been given  
 25 but does not include a person who has only physical custody.

1 (6) "Delinquent youth" means a youth:  
 2 (a) who has committed an offense that if committed by  
 3 an adult, would constitute a criminal offense; or  
 4 (b) who, having been placed on probation as a  
 5 delinquent youth or a youth in need of supervision, violates  
 6 any condition of his probation.

7 (5)(7) "Department" means the department of family  
 8 services provided for in 2-15-2401.

9 (8) "Detention" means the holding or temporary  
 10 placement of a youth IN THE YOUTH'S HOME UNDER HOME ARREST  
 11 OR in a facility other than the youth's own home for the  
 12 purpose of ensuring the continued custody of the youth at  
 13 any time after the youth is taken into custody and before  
 14 final disposition of his case.

15 (9) "Detention facility" means a physically restricting  
 16 facility designed to prevent a youth from departing at will.  
 17 The term includes a youth detention facility, short-term  
 18 detention center, and regional detention facility.

19 (10) "Final disposition" means the implementation of a  
 20 court order for the disposition or placement of a youth as  
 21 provided in 41-5-523.

22 (6)(11) "Foster home" means a private residence licensed  
 23 by the department for placement of a youth.

24 (7)(12) "Guardianship" means the status created and  
 25 defined by law between a youth and an adult with the

1 reciprocal rights, duties, and responsibilities.

2 (13) "Holdover" means a room, office, building, or other  
 3 place approved by the board of crime control for the  
 4 temporary detention and supervision of youth in a physically  
 5 unrestricting setting for a period not to exceed 24 hours  
 6 while the youth is awaiting a probable cause hearing,  
 7 release, or transfer to an appropriate detention or shelter  
 8 care facility. The term does not include a jail.

9 (14) "Jail" means a facility used for the confinement of  
 10 adults accused or convicted of criminal offenses. The term  
 11 includes a lockup or other facility used primarily for the  
 12 temporary confinement of adults after arrest.

13 ~~{8}~~(15) "Judge", when used without further  
 14 qualification, means the judge of the youth court.

15 ~~{9}~~(16) (a) "Legal custody" means the legal status  
 16 created by order of a court of competent jurisdiction that  
 17 gives a person the right and duty to:

- 18 (i) have physical custody of the youth;  
 19 (ii) determine with whom the youth shall live and for  
 20 what period;  
 21 (iii) protect, train, and discipline the youth; and  
 22 (iv) provide the youth with food, shelter, education,  
 23 and ordinary medical care.

24 (b) An individual granted legal custody of a youth  
 25 shall personally exercise his rights and duties as guardian

1 unless otherwise authorized by the court entering the order.

2 (17) "Necessary parties" includes the youth, his  
 3 parents, guardian, custodian, or spouse.

4 ~~{10}~~(18) "Parent" means the natural or adoptive parent  
 5 but does not include a person whose parental rights have  
 6 been judicially terminated, nor does it include the putative  
 7 father of an illegitimate youth unless his paternity is  
 8 established by an adjudication or by other clear and  
 9 convincing proof.

10 (19) "Probable cause hearing" means the hearing provided  
 11 for in 41-5-303.

12 (20) "Regional detention facility" means a youth  
 13 detention facility established and maintained by two or more  
 14 counties, as authorized in [section 3].

15 (21) "Restitution" means payments in cash to the victim  
 16 or with services to the victim or the general community when  
 17 these payments are made pursuant to an informal adjustment,  
 18 consent decree, or other youth court order.

19 (22) "Serious juvenile offender" means a youth who has  
 20 committed an offense that would be considered a felony  
 21 offense if committed by an adult and that is an offense  
 22 against a person, an offense against property, or an offense  
 23 involving dangerous drugs.

24 (23) "Shelter care" means the temporary substitute care  
 25 of youth in physically unrestricting facilities.



1 (24) "Shelter care facility" means a facility used for  
2 the shelter care of youth. The term is limited to the  
3 facilities enumerated in 41-5-306(1).

4 (25) "Short-term detention center" means a detention  
5 facility licensed by the department for the temporary  
6 placement or care of youth, for a period not to exceed 96  
7 hours, pending a probable cause hearing, release, or  
8 transfer of the youth to an appropriate detention facility  
9 or shelter care facility.

10 (26) "State youth correctional facility" means a  
11 residential facility used for the placement and  
12 rehabilitation of delinquent youth, such as the Pine Hills  
13 school in Miles City and the Mountain View school in Helena.

14 (27) "Substitute care" means full-time care of youth in  
15 a residential setting for the purpose of providing food,  
16 shelter, security and safety, guidance, direction, and if  
17 necessary, treatment to youth who are removed from or  
18 without the care and supervision of their parents or  
19 guardian.

20 ~~{11}~~(28) "Youth" means an individual who is less than 18  
21 years of age without regard to sex or emancipation.

22 ~~{12}~~(29) "Youth court" means the court established  
23 pursuant to this chapter to hear all proceedings in which a  
24 youth is alleged to be a delinquent youth, a youth in need  
25 of supervision, or a youth in need of care and includes the

1 youth court judge and probation officers.

2 (30) "Youth detention facility" means a detention  
3 facility licensed by the department for the temporary  
4 substitute care of youth that:

5 (a) is operated, administered, and staffed separately  
6 and independently of a jail; and

7 (b) is used exclusively for the lawful detention of  
8 alleged or adjudicated delinquent youth.

9 ~~{13}~~"Delinquent youth" means a youth:

10 ~~{a}~~ who has committed an offense which, if committed by  
11 an adult, would constitute a criminal offense;

12 ~~{b}~~ who, having been placed on probation as a  
13 delinquent youth or a youth in need of supervision, violates  
14 any condition of his probation.

15 (31) "Youth in need of care" has the meaning provided  
16 for in 41-3-102.

17 ~~{14}~~(32) "Youth in need of supervision" means a youth  
18 who commits an offense prohibited by law which that, if  
19 committed by an adult, would not constitute a criminal  
20 offense, including but not limited to a youth who:

21 (a) violates any Montana municipal or state law  
22 regarding use of alcoholic beverages by minors;

23 (b) habitually disobeys the reasonable and lawful  
24 demands of his parents, foster parents, physical custodian,  
25 or guardian or is ungovernable and beyond their control;

1 (c) being subject to compulsory school attendance, is  
2 habitually truant from school; or

3 (d) has committed any of the acts of a delinquent youth  
4 but whom the youth court in its discretion chooses to regard  
5 as a youth in need of supervision.

6 {15}-"Youth-in-need-of-care"-means-a-youth-as-defined-in  
7 41-3-102.

8 {16}-"Custodian"--means--a-person-other-than-a-parent-or  
9 guardian-to-whom-legal-custody-of-the-youth-has--been--given  
10 but-does-not-include-a-person-who-has-only-physical-custody.

11 {17}-"Necessary-parties"-include-the-youth,-his-parents,  
12 guardian,-custodian,-or-spouse.

13 {18}-"State---youth---correctional---facility"--means--a  
14 residential-facility-for-the--rehabilitation--of--delinquent  
15 youth--such-as-Pine-Hills-school-in-Miles-City,-and-Mountain  
16 View-school-in-Helena.

17 {19}-"Shelter-care"-means-the-temporary-substitute--care  
18 of-youth-in-physically-unrestricting-facilities.

19 {20}-"Detention"--means-the-temporary-substitute-care-of  
20 youth-in-physically-restricting-facilities.

21 {21}-"Detention-facility"-means-a-physically-restricting  
22 facility-designed-to-prevent-a-youth-from-departing-at-will.

23 {22}-"Restitution"-means-payments-in-cash-to-the--victim  
24 or-with-services-to-the-victim-or-the-general-community-when  
25 these--payments-are-made-pursuant-to-an-informal-adjustment,

1 consent-decree,-or-other-youth-court-order.

2 {23}-"Substitute-care"-means-full-time-care-of-youth--in  
3 a--residential--setting--for--the-purpose-of-providing-food,  
4 shelter,-security-and-safety,-guidance,-direction,-and--if  
5 necessary,-treatment--to--youth--who--are--removed--from-or  
6 without--the--care--and--supervision--of--their--parents--or  
7 guardian.

8 {24}-"Serious-juvenile-offender"-means-a-youth--who--has  
9 committed--an-offense-against-the-person,-an-offense-against  
10 property,-or-an--offense--involving--dangerous--drugs--which  
11 would--be--considered--a--felony--offense-if-committed-by-an  
12 adult."

13 NEW SECTION. Section 2. County responsibility to  
14 provide youth detention services. (1) Each county shall  
15 provide services for the detention of youth in facilities  
16 separate from adult jails.

17 (2) In order to fulfill its responsibility under  
18 subsection (1), a county may:

19 (a) establish, operate, and maintain a holdover, a  
20 short-term detention center, or a youth detention facility  
21 at county expense;

22 (b) provide shelter care facilities as authorized in  
23 41-5-802;

24 (c) contract with another county for the use of an  
25 available shelter care facility, holdover, short-term

1 detention center, or youth detention facility;

2 (d) establish and operate a network of holdovers in  
3 cooperation with other counties;

4 (e) establish a regional detention facility; or

5 (f) enter into an agreement with a private party under  
6 which the private party will own, operate, or lease a  
7 shelter care facility or youth detention facility for use by  
8 the county. The agreement may be made in substantially the  
9 same manner as provided for in 7-32-2232 and 7-32-2233.

10 (3) Each county or regional detention facility must be  
11 licensed by the department in accordance with rules adopted  
12 under 41-5-809.

13 **NEW SECTION. Section 3. Regional detention facilities.**

14 (1) Two or more counties may, by contract, establish and  
15 maintain a regional detention facility.

16 (2) For the purpose of establishing and maintaining a  
17 regional detention facility, a county may:

18 (a) issue general obligation bonds for the acquisition,  
19 purchase, construction, renovation, and maintenance of a  
20 regional detention facility;

21 (b) levy and appropriate taxes, as permitted by law, to  
22 pay its share of the cost of equipping, operating, and  
23 maintaining the facility; and

24 (c) exercise all powers, under the limitations  
25 prescribed by law, necessary and convenient to carry out the

1 purposes of [section 2] and this section.

2 (3) Contracts authorized under subsection (1) must be  
3 made pursuant to the Interlocal Cooperation Act, Title 7,  
4 chapter 11, part 1.

5 (4) Contracts between counties participating in a  
6 regional detention facility must be for a term of not less  
7 than 10 years. In addition, the contracts must:

8 (a) specify the responsibilities of each county  
9 participating in the agreement;

10 (b) designate responsibility for operation of the  
11 regional detention facility;

12 (c) specify the amount of funding to be contributed by  
13 each county toward payment of the cost of establishing,  
14 operating, and maintaining the regional detention facility,  
15 including the necessary expenditures for the transportation  
16 of youth to and from the facility;

17 (d) include the applicable per diem charge for the  
18 detention of youths in the facility, as well as the basis  
19 for any adjustment in the charge; and

20 (e) specify the number of beds to be reserved for the  
21 use of each county participating in the regional detention  
22 facility.

23 **NEW SECTION. Section 4. Creation of regions --**  
24 **requirements -- limitation on number of regions. (1)**  
25 **Counties that wish to establish a regional detention**

1 facility shall form a youth detention region.

2 (2) Each youth detention region must:

3 (a) be composed of contiguous counties participating in  
4 the regional detention facility; and

5 (b) include geographical areas of the state that  
6 contain a substantial percentage of the total youth  
7 population in need of detention services, as determined by  
8 the board of crime control.

9 (3) There may be no more than five youth detention  
10 regions established in the state at any one time.

11 NEW SECTION. Section 5. Contracts with  
12 nonparticipating counties. Counties participating in a  
13 regional detention facility may enter into agreements with  
14 nonparticipating counties to provide services for the  
15 detention of youth. The costs of services must be based upon  
16 a per diem charge for the detention of youth in the  
17 facility.

18 NEW SECTION. Section 6. Responsibility for payment of  
19 detention costs. Absent a contract or agreement between  
20 counties, all costs for the detention of a youth in a county  
21 or regional detention facility, including medical costs  
22 incurred by the youth during detention, must be paid by the  
23 county at whose instance the youth is detained.

24 NEW SECTION. Section 7. Definitions. As used in  
25 [sections 7 through 14], unless the context requires

1 otherwise, the following definitions apply:

2 (1) "Attendant care" means the direct supervision of  
3 youth by a trained attendant in a physically unrestricting  
4 setting.

5 (2) "Board" means the board of crime control provided  
6 for in 2-15-2006.

7 (3) "County" means a county, city-county consolidated  
8 government, or a youth detention region created pursuant to  
9 [section 4].

10 (4) "Home detention" means the use of a youth's home  
11 for the purpose of ensuring the continued custody of the  
12 youth pending adjudication or final disposition of his case.

13 (5) "Plan" means a county plan for providing youth  
14 detention services as required in [section 9].

15 (6) "Secure detention" means the detention of youth in  
16 a physically restricting facility designed to prevent a  
17 youth from departing at will.

18 (7) "Youth detention service" means service for the  
19 detention of youth in facilities separate from adult jails.  
20 The term includes the services described in [section 8].

21 NEW SECTION. Section 8. State grants to counties. (1)  
22 Within the limits of available funds, the board shall  
23 provide grants in accordance with [sections 9 through 11] to  
24 assist counties in establishing and operating youth  
25 detention services, including but not limited to youth

1 detention facilities, short-term detention centers,  
2 holdovers, attendant care, home detention, and programs for  
3 the transportation of youth to regional detention  
4 facilities.

5 (2) Grants available under subsection (1) consist of  
6 state appropriations and federal funds received by the board  
7 for the purpose of administering [sections 7 through 11].

8 **NEW SECTION. Section 9. Application for grants --**  
9 **county plans -- obligation of counties receiving grants --**  
10 **review and monitoring.** (1) In order to receive funds under  
11 [section 8], a county shall submit an application to the  
12 board in a manner and form prescribed by the board.

13 (2) The application must include a written plan for  
14 providing youth detention services in the county. Each plan  
15 must include:

16 (a) an assessment of the need for services;

17 (b) a description of services to be provided, including  
18 alternatives to secure detention;

19 (c) the estimated number of youth who will receive  
20 services;

21 (d) criteria for the placement of youth in secure  
22 detention; and

23 (e) a budget describing proposed expenditures for youth  
24 detention services.

25 (3) If the application and plan are approved by the

1 board, the county may receive a grant in the amount provided  
2 for in [section 10].

3 (4) As a condition of receiving funds under [section  
4 8], each county shall, within a reasonable period of time,  
5 comply or substantially comply with state law and policies  
6 contained in the Montana Youth Court Act concerning the  
7 detention and placement of youth.

8 (5) The board shall periodically review and monitor  
9 counties receiving grants under [section 8] to assure  
10 compliance or substantial compliance with the Montana Youth  
11 Court Act, as required under subsection (4). If, after  
12 notice and fair hearing, the board determines that a county  
13 is not in compliance or substantial compliance with the  
14 Montana Youth Court Act, the board shall terminate the grant  
15 to the county.

16 **NEW SECTION. Section 10. Distribution of grants --**  
17 **limitation of funding -- restrictions on use.** (1) The board  
18 shall award grants on an equitable basis, giving preference  
19 to services that will be used on a regional basis.

20 (2) The board shall award grants to eligible counties:

21 (a) in a block grant in an amount not to exceed 50% of  
22 the approved, estimated cost of secure detention; or

23 (b) on a matching basis in an amount not to exceed:

24 (i) 75% of the approved cost of providing holdovers,  
25 attendant care, and other alternatives to secure detention,

1 except for shelter care. Shelter care must be paid as  
2 provided by law.

3 (ii) 50% of the approved cost of programs for the  
4 transportation of youth to appropriate detention or shelter  
5 care facilities, including regional detention facilities.

6 (3) Grants under [section 8] may not be used to pay for  
7 the cost of youth evaluations. The cost of evaluations must  
8 be paid as provided for in 41-5-523.

9 **NEW SECTION. Section 11. Allocation of grants.** (1)  
10 Each fiscal year, the board shall allocate grants under  
11 [section 8] for distribution to eligible counties based  
12 upon:

13 (a) the relative population of youth residing in  
14 geographical areas of the state, as determined by the board;  
15 and

16 (b) the estimated cost of youth detention services in  
17 each county eligible for funding under [section 8].

18 (2) A county is not automatically entitled to receive a  
19 grant from funds available under [section 8].

20 **NEW SECTION. Section 12. Amendment of state plan.** The  
21 board shall amend the state plan required under section 223  
22 of the federal Juvenile Justice and Delinquency Prevention  
23 Act of 1974, as amended (42 U.S.C. 5633), to reflect the  
24 contents of approved county plans for providing youth  
25 detention services.

1 **NEW SECTION. Section 13. Compliance with federal**  
2 **requirements.** The board shall administer federal funds  
3 available under section 222 of the federal Juvenile Justice  
4 and Delinquency Prevention Act of 1974, as amended (42  
5 U.S.C. 5632), in compliance with the requirements of 42  
6 U.S.C. 5633(a)(21) and 42 U.S.C. 5674.

7 **NEW SECTION. Section 14. Rulemaking authority.** The  
8 board may adopt rules necessary to implement the provisions  
9 of 41-5-103(13), [section 4], and [sections 7 through 14].

10 **Section 15.** Section 15-25-122, MCA, is amended to read:  
11 **"15-25-122. Disposition of proceeds.** (1) The department  
12 shall transfer all taxes collected pursuant to this chapter,  
13 less the administrative fee authorized in 15-25-111(1), to  
14 the state treasurer on a monthly basis.

15 (2) The state treasurer shall deposit one-third of the  
16 tax to the credit of the department of family services to be  
17 used for the youth evaluation program and chemical abuse  
18 aftercare programs.

19 (3) The treasurer shall credit the remaining two-thirds  
20 of the tax proceeds as follows:

21 (a) one-half to the department of justice to be used;  
22 (i) for grants to youth courts to fund chemical abuse  
23 assessments; and  
24 (ii) for grants to counties to fund services for the  
25 detention of juvenile offenders in facilities separate from

1 adult jails, as authorized in [section 8]; and

2 (b) one-half to the account created by 44-12-206(3) if  
3 a state government law enforcement agency seized the drugs.  
4 If a local government law enforcement agency seized the  
5 drugs, then that amount must be credited to the treasurer or  
6 finance officer of the local government, be deposited in its  
7 general fund, and be used to enforce drug laws."

8 **Section 16.** Section 41-3-1103, MCA, is amended to read:

9 **"41-3-1103. Powers and duties of department.** (1) The  
10 department shall:

11 (a) administer all state and federal funds allocated to  
12 the department for youth foster homes, youth group homes,  
13 and child-care agencies,--and--detention--facilities---and  
14 services for youth in need of care, youth in need of  
15 supervision, and delinquent youth, as defined in 41-5-103;

16 (b) exercise licensing authority over all ~~detention~~  
17 ~~facilities-as-defined-in-41-5-103,~~ youth foster homes, youth  
18 group homes, and child-care agencies;

19 (c) collect and disseminate information relating to  
20 youth in need of care, youth in need of supervision, and  
21 delinquent youth;

22 (d) provide for training of program personnel  
23 delivering services;

24 (e) in cooperation with youth care facility providers,  
25 develop and implement standards for youth care facilities;

1 (f) maintain adequate data on placements it funds in  
2 order to keep the legislature properly informed of the  
3 following:

4 (i) the breakdown of youth in need of care, youth in  
5 need of supervision, and delinquent youth by category in  
6 out-of-home care facilities;

7 (ii) the cost per facility for services rendered;

8 (iii) the type and level of care of services provided by  
9 each facility;

10 (iv) a profile of out-of-home care placements by level  
11 of care; and

12 (v) a profile of public institutional placements; and

13 (g) administer all funds allocated to the department  
14 for residential alcohol and drug abuse treatment for  
15 indigent youths in need of care, indigent youths in need of  
16 supervision, and indigent delinquent youths who require such  
17 treatment.

18 (2) The department may:

19 (a) enter into contracts with nonprofit corporations or  
20 associations or private organizations to provide ~~facilities~~  
21 ~~and--services~~ substitute care for youth in need of care,  
22 youth in need of supervision, and delinquent youth in youth  
23 care facilities;

24 (b) accept gifts, grants, and donations of money and  
25 property from public and private sources to initiate and

1 maintain community-based services to youth;

2 (c) adopt rules to carry out the administration and  
3 purposes of this part.

4 (3) The department shall pay for room, board, clothing,  
5 personal needs, transportation, and treatment in youth  
6 foster care homes and youth group homes for youths committed  
7 to the department who need to be placed in such facilities."

8 **Section 17.** Section 41-5-105, MCA, is amended to read:

9 "41-5-105. Youth court committee. In every county of  
10 the state the judge having jurisdiction may appoint a  
11 committee, willing to act without compensation, composed of  
12 not less than three or more than seven reputable citizens,  
13 including youth representatives, ~~which committee shall.~~ The  
14 committee must be designated as a youth court committee.  
15 This committee shall be meet subject to the call of the  
16 judge ~~to meet and to~~ to confer with him on all matters  
17 pertaining to the youth department of the court, including  
18 the appointment of probation officers, and shall act as a  
19 supervisory committee of youth detention homes facilities."

20 **Section 18.** Section 41-5-306, MCA, is amended to read:

21 "41-5-306. (Temporary) Place of shelter care or  
22 detention. (1) After a probable cause hearing provided for  
23 in 41-5-303, a youth alleged to be a youth in need of  
24 supervision may be placed only in:

25 (a) a licensed youth foster home as defined in

1 41-3-1102;

2 (b) a facility operated by a licensed child welfare  
3 agency; or

4 (c) a licensed youth group home as defined in  
5 41-3-1102.

6 (2) A youth alleged to be a youth in need of care ~~shall~~  
7 may be placed only in the facilities stated in subsection  
8 (1) ~~of this section~~ and ~~shall~~ may not be placed in a jail or  
9 other facility intended or used for the detention  
10 confinement of adults charged with accused or convicted of  
11 criminal offenses.

12 (3) After a probable cause hearing provided for in  
13 41-5-303, a youth alleged to be a delinquent youth may be  
14 placed only in:

15 (a) the facilities described in subsection (1) ~~and~~;

16 (b) a short-term detention facility;

17 (c) a youth detention facility, or in; or

18 (d) a jail or other facility for the detention  
19 confinement of adults but only if the facilities in  
20 subsection (1);

21 (i) alternative facilities are not available or  
22 available facilities do not provide adequate security; and

23 (ii) ~~the detention is in an area physically and visually~~  
24 separate and removed from that of adults the youth is kept  
25 in an area that provides physical, as well as sight and



1 sound, separation from adults accused or convicted of  
 2 criminal offenses. (Terminates July 1, 1991 1992--sec. 14,  
 3 Ch. 434, L. 1989.)"

4 **Section 19.** Section 41-5-306, MCA, is amended to read:

5 "41-5-306. (Effective July 1, 1991 1992) Place of  
 6 shelter care or detention. (1) After a probable cause  
 7 hearing provided for in 41-5-303, a youth alleged to be a  
 8 youth in need of supervision may be placed only in:

9 (a) a licensed youth foster home as defined in  
 10 41-3-1102;

11 (b) a facility operated by a licensed child welfare  
 12 agency; or

13 (c) a licensed youth group home as defined in  
 14 41-3-1102.

15 (2) A youth alleged to be a youth in need of care shall  
 16 may be placed only in the facilities stated in subsection  
 17 (1) ~~of this section~~ and shall may not be placed in a jail or  
 18 other facility intended or used for the detention  
 19 confinement of adults ~~charged with~~ accused or convicted of  
 20 criminal offenses.

21 (3) After a probable cause hearing provided for in  
 22 41-5-303, a youth alleged to be a delinquent youth may be  
 23 placed only in:

24 (a) the facilities described in subsection (1) or in;

25 (b) a short-term detention facility; or

1 (c) a youth detention facility as defined in 41-5-103."

2 **Section 20.** Section 41-5-308, MCA, is amended to read:

3 "41-5-308. Placement of youth before probable cause  
 4 hearing. (1) Before the probable cause hearing, a youth  
 5 alleged to be a delinquent youth may be held in a jail or  
 6 other facility for adults only if:

7 (a) the alternative facilities in--41-5-306 are not  
 8 available or available facilities do not provide adequate  
 9 security;

10 (b) ~~the placement is in an area physically, aurally,~~  
 11 ~~and visually separate from those of adults~~ the youth is kept  
 12 in an area that provides physical, as well as sight and  
 13 sound, separation from adults accused or convicted of  
 14 criminal offenses; and

15 (c) it appears that public safety and protection  
 16 reasonably require the youth to be held.

17 (2) The official in charge of a jail or other facility  
 18 for the detention confinement of adult offenders ~~or--persons~~  
 19 ~~charged with a crime~~ shall inform the court immediately if a  
 20 person who is or appears to be under the age of 18 years is  
 21 received at the facility."

22 **Section 21.** Section 41-5-802, MCA, is amended to read:

23 "41-5-802. Shelter care and detention facilities. ~~(1)~~  
 24 ~~The--county--commissioners--in each county shall provide for~~  
 25 ~~the availability of detention facilities for youths;~~

1        ~~{2}--(a)The county commissioners may maintain, by~~  
2 ~~purchase, lease, or otherwise, a detention facility, which~~  
3 ~~may not be used for the confinement of adult persons charged~~  
4 ~~with criminal offenses, where delinquent youths may be~~  
5 ~~detained until final disposition.~~

6        ~~{b}The county commissioners may appoint necessary~~  
7 ~~personnel who have charge of the facility and of the youths~~  
8 ~~detained therein.~~

9        ~~{c}The compensation of the personnel must be fixed by~~  
10 ~~the county commissioners, and the compensation and the~~  
11 ~~maintenance of the facility must be paid out of the county~~  
12 ~~treasury. These funds may be supplemented by state~~  
13 ~~appropriation and federal funds.~~

14        ~~{d}The county commissioners shall provide for~~  
15 ~~inspection of any county detention facility every 3 months.~~  
16 ~~Inspection must include but is not limited to health, fire~~  
17 ~~safety, security, rehabilitation programs, recreation,~~  
18 ~~treatment of youths, and personnel training.~~

19        ~~{e}The judge of the youth court for the county shall~~  
20 ~~inspect any detention facility at least once a year.~~

21        ~~{3}The county commissioners may contract with the~~  
22 ~~department or public or private agencies to purchase~~  
23 ~~detention services.~~

24        ~~{4}--(a)(1) Counties, cities, or nonprofit corporations~~  
25 ~~may provide by purchase, lease, or otherwise, a shelter care~~

1 facility.

2        ~~{b}The (2) A shelter care facility must be physically~~  
3 ~~unrestricting and may be used to provide shelter care for~~  
4 ~~youth alleged or adjudicated delinquent, in need of~~  
5 ~~supervision, or in need of care.~~

6        ~~{c}The (3) A shelter care facility must be separate~~  
7 ~~and apart from any facility housing adults charged with~~  
8 ~~accused or convicted of criminal offenses.~~

9        ~~{d}(4) State appropriations and federal funds may be~~  
10 ~~received by the counties, cities, or nonprofit corporations~~  
11 ~~for establishment, maintenance, or operation of the a~~  
12 ~~shelter care facility.~~

13        ~~{e}The (5) A shelter care facility must be furnished~~  
14 ~~in a comfortable manner and be as nearly as possible like a~~  
15 ~~family home.~~

16        ~~{f}The (6) A shelter care facility may be operated in~~  
17 ~~conjunction with a youth detention facility."~~

18        **Section 22.** Section 41-5-809, MCA, is amended to read:  
19        ~~"41-5-809. Rules. The department shall adopt rules~~  
20 ~~governing the:~~

21        ~~{1} licensing procedures for regional and county~~  
22 ~~detention facilities, and~~

23        ~~{2} procedures for distributing funds for detention~~  
24 ~~facilities and services as provided in 41-5-315 and~~  
25 ~~41-5-316."~~

1       **Section 23.** Section 14, Chapter 434, Laws of 1989, is  
2 amended to read:

3       "Section 14. Section 16, Chapter 475, Laws of 1987, is  
4 amended to read:

5       "Section 16. **Effective dates -- termination date.** (1)  
6 Except as provided in subsections (2) and (3), sections 1  
7 through 13 are effective October 1, 1987.

8       (2) The bracketed language in subsection (5) of section  
9 1 is effective July 1, 1991 1992.

10       (3) The bracketed language in subsection (3) of section  
11 9 terminates July 1, 1991 1992."

12       **Section 24.** Section 17, Chapter 434, Laws of 1989, is  
13 amended to read:

14       "Section 17. **Effective date dates.** ~~{Sections-5-and-7-of~~  
15 ~~this-act}~~-are (1) [Section 7] is effective July 1, 1991.

16       (2) [Section 5] is effective July 1, 1992."

17       **NEW SECTION. SECTION 25. COIN-OPERATED, RECREATIONAL,**  
18 **ELECTRONIC AND ELECTROMECHANICAL GAME MACHINE PERMIT --**  
19 **PERMIT FEE -- COLLECTION AND DISPOSITION OF FEE -- PENALTY.**  
20 **(1) FOR PURPOSES OF THIS SECTION, "GAME MACHINE" MEANS A**  
21 **COIN-OPERATED, RECREATIONAL, ELECTRONIC OR ELECTROMECHANICAL**  
22 **DEVICE INTO WHICH A PLAYER INSERTS A COIN OR COINS TO PLAY A**  
23 **VIDEO OR OTHER GAME AND RECEIVES EITHER NO PRIZE OR ONLY ONE**  
24 **OR MORE FREE GAMES AS A PRIZE. THE TERM INCLUDES BUT IS NOT**  
25 **LIMITED TO GAMES COMMONLY KNOWN AS VIDEO GAMES AND PINBALL**

1 **MACHINES. IT DOES NOT INCLUDE A MACHINE OR OTHER DEVICE**  
2 **REGULATED UNDER TITLE 23, CHAPTER 5.**

3       **(2) A GAME MACHINE MAY NOT BE MADE AVAILABLE FOR PUBLIC**  
4 **PLAY UNLESS THE PERSON UPON WHOSE PREMISES IT IS MADE**  
5 **AVAILABLE FOR PUBLIC PLAY HAS OBTAINED A PERMIT FROM THE**  
6 **DEPARTMENT OF REVENUE. THE PERMIT FEE IS \$50 A YEAR,**  
7 **RENEWABLE ANNUALLY ON JULY 1. THE FEE FOR A GAME MACHINE**  
8 **MADE AVAILABLE FOR PUBLIC PLAY FOR ONLY PART OF A YEAR MUST**  
9 **BE PRORATED. THE DEPARTMENT SHALL DEVELOP A STICKER TO BE**  
10 **PLACED ON EACH GAME MACHINE, IN A LOCATION CHOSEN BY THE**  
11 **DEPARTMENT. THE STICKER IS EVIDENCE OF PAYMENT OF THE FEE.**

12       **(3) THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT THIS**  
13 **SECTION.**

14       **(4) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE**  
15 **FUND. MONEY COLLECTED UNDER SUBSECTION (2) MUST BE DEPOSITED**  
16 **BY THE DEPARTMENT IN THE ACCOUNT. ONE-TENTH OF THE MONEY IN**  
17 **THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN**  
18 **17-7-502, TO THE DEPARTMENT TO BE USED TO ADMINISTER THIS**  
19 **SECTION, AND THE REMAINDER IS STATUTORILY APPROPRIATED TO**  
20 **THE BOARD OF CRIME CONTROL TO BE USED BY THE BOARD TO FUND**  
21 **STATE GRANTS TO COUNTIES FOR YOUTH DETENTION SERVICES,**  
22 **FACILITIES, CENTERS, HOLDOVERS, AND PROGRAMS, AS PROVIDED IN**  
23 **[SECTION 8].**

24       **(5) A PERSON WHO PURPOSEFULLY OR KNOWINGLY MAKES A GAME**  
25 **MACHINE AVAILABLE FOR PUBLIC PLAY WITHOUT PAYMENT OF THE FEE**

1 IS PUNISHABLE UPON CONVICTION BY NOT MORE THAN 30 DAYS IN  
 2 JAIL, A FINE OF NOT MORE THAN \$500, OR BOTH.

3 **SECTION 26. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

4 "17-7-502. Statutory appropriations -- definition --  
 5 requisites for validity. (1) A statutory appropriation is an  
 6 appropriation made by permanent law that authorizes spending  
 7 by a state agency without the need for a biennial  
 8 legislative appropriation or budget amendment.

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

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

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

17 (3) The following laws are the only laws containing  
 18 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 19 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
 20 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
 21 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
 22 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
 23 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
 24 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
 25 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;

1 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
 2 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;  
 3 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;  
 4 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;  
 5 [section 25]; and section 13, House Bill No. 861, Laws of  
 6 1985.

7 (4) There is a statutory appropriation to pay the  
 8 principal, interest, premiums, and costs of issuing, paying,  
 9 and securing all bonds, notes, or other obligations, as due,  
 10 that have been authorized and issued pursuant to the laws of  
 11 Montana. Agencies that have entered into agreements  
 12 authorized by the laws of Montana to pay the state  
 13 treasurer, for deposit in accordance with 17-2-101 through  
 14 17-2-107, as determined by the state treasurer, an amount  
 15 sufficient to pay the principal and interest as due on the  
 16 bonds or notes have statutory appropriation authority for  
 17 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 18 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 19 30, 1991.)"

20 **NEW SECTION. Section 27. Repealer.** Sections 41-5-315,  
 21 41-5-316, and 41-5-808, MCA, are repealed.

22 ~~**NEW SECTION. SECTION 26. APPROPRIATION. THE FOLLOWING**~~  
 23 ~~**MONEY IS APPROPRIATED FROM THE GENERAL FUND TO THE BOARD OF**~~  
 24 ~~**CRIME CONTROL TO FUND STATE GRANTS TO COUNTIES FOR YOUTH**~~  
 25 ~~**DETENTION PROGRAMS AS AUTHORIZED IN SECTION 8 OF SENATE**~~

1 ~~Bill No. 37:~~  
 2 ~~FISCAL YEAR BEGINNING JULY 1, 1991-----S--997699~~  
 3 ~~FISCAL YEAR BEGINNING JULY 1, 1992-----6447697~~  
 4 NEW SECTION. Section 28. Codification instruction. (1)  
 5 [Sections 2 through 6] are intended to be codified as an  
 6 integral part of Title 41, chapter 5, part 8, and the  
 7 provisions of Title 41, chapter 5, part 8, apply to  
 8 [sections 2 through 6].  
 9 (2) [Sections 7 through 14] are intended to be codified  
 10 as an integral part of Title 41, chapter 5, and the  
 11 provisions of Title 41, chapter 5, apply to [sections 7  
 12 through 14].  
 13 NEW SECTION. SECTION 29. COORDINATION INSTRUCTION. IF  
 14 THIS BILL AND EITHER SENATE BILL NO. 38 OR SENATE BILL NO.  
 15 59 ARE PASSED AND APPROVED, THEN THE DEFINITION OF "YOUTH IN  
 16 NEED OF SUPERVISION" CONTAINED IN THE AMENDMENT TO 41-5-103  
 17 IN SENATE BILL NO. 38 AND SENATE BILL NO. 59 IS AMENDED TO  
 18 READ:  
 19 "YOUTH IN NEED OF SUPERVISION" MEANS A YOUTH WHO  
 20 COMMITTS AN OFFENSE PROHIBITED BY LAW THAT, IF COMMITTED BY  
 21 AN ADULT, WOULD NOT CONSTITUTE A CRIMINAL OFFENSE, INCLUDING  
 22 BUT NOT LIMITED TO A YOUTH WHO:  
 23 (A) VIOLATES ANY MONTANA MUNICIPAL OR STATE LAW  
 24 REGARDING USE OF ALCOHOLIC BEVERAGES BY MINORS;  
 25 (B) HABITUALLY DISOBEYS THE REASONABLE AND LAWFUL

1 DEMANDS OF HIS PARENTS, FOSTER PARENTS, PHYSICAL CUSTODIAN,  
 2 OR GUARDIAN OR IS UNGOVERNABLE AND BEYOND CONTROL;  
 3 (C) BEING SUBJECT TO COMPULSORY SCHOOL ATTENDANCE, IS  
 4 HABITUALLY TRUANT FROM SCHOOL; OR  
 5 (D) HAS COMMITTED ANY OF THE ACTS OF A DELINQUENT YOUTH  
 6 BUT WHOM THE YOUTH COURT, IN ITS DISCRETION, CHOOSES TO  
 7 REGARD AS A YOUTH IN NEED OF SUPERVISION."  
 8 NEW SECTION. Section 30. Effective dates. (1)  
 9 [Sections 1 through 18, AND 20 through 26 27 26 28, and this  
 10 section] are effective July 1, 1991.  
 11 (2) [Section 19] is effective July 1, 1992.  
 12 (3) [SECTION 29 AND THIS SECTION] ARE EFFECTIVE ON  
 13 PASSAGE AND APPROVAL.

-End-

Free Conference Committee  
on Senate Bill No. 37  
Report No. 1

Page 1 of 3

Page 2 of 3

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 37 (reference copy - salmon), met, considered and recommend that Senate Bill No. 37 (reference copy - salmon) be amended as follows:

1. Title, lines 20 through 23.

Following: "~~APPROPRIATION~~," on line 20

Strike: remainder of line 20 through "~~APPROPRIATION~~," on line 23

Insert: "STATUTORILY APPROPRIATING A PORTION OF LOTTERY PROCEEDS TO FUND STATE GRANTS TO COUNTIES FOR YOUTH DETENTION SERVICES;"

2. Title, line 24.

Following: "15-25-122,"

Strike: "17-7-502,"

Insert: "23-5-1007, 23-5-1027,"

3. Page 21, line 8.

Following: line 7

Insert: "Section 16. Section 23-5-1027, MCA, is amended to read: "23-5-1027. Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue and, Except for the amount required to be paid under subsection (5), net revenue must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as state equalization aid to the public schools of Montana as provided in 20-9-343. The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the budget office.

(5)(a) For the fiscal year beginning July 1, 1991, 1.6% of the net revenue derived under subsection (3) must be paid quarterly to the board of crime control.

(b) For the fiscal year beginning July 1, 1992, and thereafter, 9.1% of the net revenue derived under subsection (3), but not to exceed \$1 million in any fiscal year, must be paid to the board of crime control.

ADOPT

REJECT

821057CC.Sj1

(c) All money paid to the board of crime control under this subsection (5) must be used to fund state grants to counties for youth detention services as authorized in [section 8]. The revenue is statutorily appropriated, as provided in 17-7-502, to the board of crime control."

Section 17. Section 23-5-1007, MCA, is amended to read: "23-5-1007. Powers and duties of commission. The commission shall:

(1) establish and operate a state lottery and may not become involved in any other gambling or gaming;

(2) determine policies for the operation of the state lottery, supervise the director and his staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the superintendent of public instruction and to the board of crime control under 23-5-1027 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-5-1027(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

(5) determine the price of each ticket or chance and the number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games;

(7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with other lottery states to offer lottery games;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part."

Renumber: subsequent sections

FCC #1  
SB 37

821057CC.Sj1



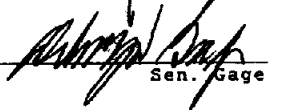
4. Page 29, line 17 through page 32, line 19.  
Strike: sections 25 and 26 in their entirety  
Re-number: subsequent sections

5. Page 34, line 9.  
Following: "1 through"  
Strike: "18"  
Insert: "20"  
Following: "AND"  
Strike: "20"  
Insert: "22"

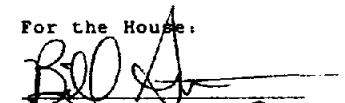
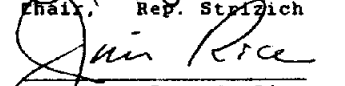
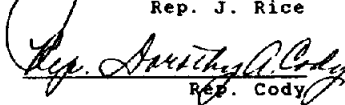
6. Page 34, line 11.  
Following: "Section"  
Strike: "19"  
Insert: "21"

And that this Conference Committee report be adopted.

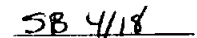
For the Senate:

  
Chair, Sen. Halligan  
  
Sen. Yellowtail  
  
Sen. Gage

For the House:

  
Chair, Rep. Strizich  
  
Rep. J. Rice  
  
Rep. Cody

  
Amd. Coord.

  
SB 4/18  
Sec. of Senate

1 SENATE BILL NO. 37  
 2 INTRODUCED BY HALLIGAN  
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE  
 4 ON ADULT AND JUVENILE DETENTION  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING COUNTIES TO  
 7 PROVIDE YOUTH DETENTION SERVICES; AUTHORIZING ESTABLISHMENT  
 8 OF REGIONAL DETENTION FACILITIES; DEFINING COUNTY  
 9 RESPONSIBILITIES FOR THE COST OF PLACING A YOUTH IN A COUNTY  
 10 OR REGIONAL DETENTION FACILITY; PROVIDING STATE GRANTS TO  
 11 FUND COUNTY YOUTH DETENTION SERVICES, INCLUDING YOUTH  
 12 DETENTION FACILITIES, HOLDOVERS, SHORT-TERM DETENTION  
 13 CENTERS, AND PROGRAMS FOR THE TRANSPORTATION OF YOUTH TO  
 14 REGIONAL DETENTION FACILITIES; REQUIRING STATE APPROVAL OF  
 15 COUNTY PLANS FOR PROVIDING YOUTH DETENTION SERVICES AS A  
 16 CONDITION OF PROVIDING STATE GRANTS TO COUNTIES; LIMITING  
 17 STATE GRANTS FOR COUNTY YOUTH DETENTION SERVICES; PROVIDING  
 18 THE BOARD OF CRIME CONTROL AUTHORITY TO ADOPT RULES;  
 19 CLARIFYING USE OF THE TAX ON DANGEROUS DRUGS TO FUND YOUTH  
 20 DETENTION SERVICES; PROVIDING--AN--APPROPRIATION; PROVIDING  
 21 FOR--A--FEE--ON--COIN--OPERATED--RECREATIONAL--GAME--MACHINES--TO  
 22 FUND--YOUTH--DETENTION--SERVICES;--FACILITIES;--AND--PROGRAMS;  
 23 PROVIDING----A----STATUTORY----APPROPRIATION; STATUTORILY  
 24 APPROPRIATING A PORTION OF LOTTERY PROCEEDS TO FUND STATE  
 25 GRANTS TO COUNTIES FOR YOUTH DETENTION SERVICES; AMENDING

1 SECTIONS 15-25-122, ~~17-7-502~~, 23-5-1007, 23-5-1027,  
 2 41-3-1103, 41-5-103, 41-5-105, 41-5-306, 41-5-308, 41-5-802,  
 3 AND 41-5-809, MCA; AMENDING SECTIONS 14 AND 17, CHAPTER 434,  
 4 LAWS OF 1989; REPEALING SECTIONS 41-5-315, 41-5-316, AND  
 5 41-5-808, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

6 A statement of intent is required for this bill because  
 7 [section 14] grants the board of crime control authority to  
 8 adopt rules necessary to implement provisions of this bill.

9 It is the intent of the legislature, in enacting this  
 10 bill, to provide alternatives to the detention of youth in  
 11 adult jails in order to meet the requirements of Senate Bill  
 12 No. 38, which prohibits the detention of youth in adult  
 13 jails.

14 In order to ensure that alternatives to jail are  
 15 established, the legislature intends that each county have  
 16 the primary responsibility to provide youth detention  
 17 services, as required by [section 2]. In addition, in order  
 18 to stimulate the development of needed services, the  
 19 legislature intends to provide state grants authorized in  
 20 [section 8], using state and federal funds, to assist  
 21 counties in providing a spectrum of services for the  
 22 detention and care of youth. These services are intended to  
 23 include but are not limited to youth detention facilities,





1 short-term detention centers, holdovers, attendant care,  
2 home detention, and programs for the transportation of youth  
3 to regional detention facilities.

4 The legislature intends that counties receiving state  
5 grants should share in the costs of services in order to  
6 prevent excessive utilization of services and to give  
7 counties a financial incentive to hold down program costs.  
8 For this reason, [section 10] requires that state grants be  
9 provided on a matching basis or, if in a block grant, based  
10 on a percentage of the approved cost of services.

11 In order to discourage the use of secure detention and  
12 to promote the use of less costly, nonsecure community-based  
13 programs, the legislature intends to provide state grants to  
14 counties at a higher rate of payment for such services,  
15 including holdovers, attendant care, and other alternatives  
16 to secure detention.

17 The legislature further intends that, as a condition of  
18 receiving state grants under [section 8], each county shall  
19 develop a written plan for providing youth detention  
20 services, including alternatives to secure detention. The  
21 development of county plans is required to ensure that  
22 formal planning does, in fact, occur and to make certain  
23 that state grants are not provided for services that are not  
24 well planned in advance.

25 As a further condition of receiving state grants under

1 [section 8], each county shall, within a reasonable period  
2 of time, demonstrate compliance or substantial compliance  
3 with state law and policies contained in the Montana Youth  
4 Court Act relating to the detention and placement of youth.  
5 The legislature intends that the board of crime control  
6 review and monitor counties receiving grants under [section  
7 8] to assure compliance or substantial compliance with the  
8 Montana Youth Court Act.

9 Finally, the legislature intends that the board of crime  
10 control adopt rules as authorized in [section 14]. In  
11 adopting rules, the board may:

12 (1) establish requirements for approved holdovers  
13 consistent with the definition of holdovers provided in  
14 41-5-103(13);

15 (2) designate geographical areas of the state that are  
16 eligible for creation of a youth detention region under  
17 [section 4]. In designating these areas, the board shall use  
18 available state data showing the number of youth held in  
19 detention in each county of the state.

20 (3) adopt procedures governing the distribution and  
21 allocation of funds in accordance with [sections 10 and 11];

22 (4) provide a system to review and monitor counties  
23 under [section 9] to assure that counties receiving grants  
24 are in compliance or substantial compliance with the Montana  
25 Youth Court Act;

(5) provide standards for determining compliance or substantial compliance with the Montana Youth Court Act pursuant to [section 9]. These standards should be based upon comparable standards for compliance with sections 223(a)(12) and 223(a)(14) of the federal Juvenile Justice and Delinquency Prevention Act of 1974.

(6) establish a process for providing notice and fair hearings required under [section 9] in order to terminate state grants to counties that fail to attain compliance or substantial compliance with the Montana Youth Court Act.

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

**Section 1.** Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. Per-the-purposes-of As used in the Montana Youth Court Act, unless the context requires otherwise stated, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Commit" means to transfer to legal custody.

(4) "Court", when used without further qualification, means the youth court of the district court.

(5) "Custodian" means a person other than a parent or

guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.

(5) "Delinquent youth" means a youth:

(a) who has committed an offense that if committed by an adult, would constitute a criminal offense; or

(b) who, having been placed on probation as a delinquent youth or a youth in need of supervision, violates any condition of his probation.

(7) "Department" means the department of family services provided for in 2-15-2401.

(8) "Detention" means the holding or temporary placement of a youth IN THE YOUTH'S HOME UNDER HOME ARREST OR in a facility other than the youth's own home for the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of his case.

(9) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(10) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-523.

(11) "Foster home" means a private residence licensed by the department for placement of a youth.

1       †7†(12) "Guardianship" means the status created and  
2 defined by law between a youth and an adult with the  
3 reciprocal rights, duties, and responsibilities.

4       (13) "Holdover" means a room, office, building, or other  
5 place approved by the board of crime control for the  
6 temporary detention and supervision of youth in a physically  
7 unrestricting setting for a period not to exceed 24 hours  
8 while the youth is awaiting a probable cause hearing,  
9 release, or transfer to an appropriate detention or shelter  
10 care facility. The term does not include a jail.

11       (14) "Jail" means a facility used for the confinement of  
12 adults accused or convicted of criminal offenses. The term  
13 includes a lockup or other facility used primarily for the  
14 temporary confinement of adults after arrest.

15       †8†(15) "Judge", when used without further  
16 qualification, means the judge of the youth court.

17       †9†(16) (a) "Legal custody" means the legal status  
18 created by order of a court of competent jurisdiction that  
19 gives a person the right and duty to:

- 20       (i) have physical custody of the youth;
- 21       (ii) determine with whom the youth shall live and for  
22 what period;
- 23       (iii) protect, train, and discipline the youth; and
- 24       (iv) provide the youth with food, shelter, education,  
25 and ordinary medical care.

1       (b) An individual granted legal custody of a youth  
2 shall personally exercise his rights and duties as guardian  
3 unless otherwise authorized by the court entering the order.

4       (17) "Necessary parties" includes the youth, his  
5 parents, guardian, custodian, or spouse.

6       †10†(18) "Parent" means the natural or adoptive parent  
7 but does not include a person whose parental rights have  
8 been judicially terminated, nor does it include the putative  
9 father of an illegitimate youth unless his paternity is  
10 established by an adjudication or by other clear and  
11 convincing proof.

12       (19) "Probable cause hearing" means the hearing provided  
13 for in 41-5-303.

14       (20) "Regional detention facility" means a youth  
15 detention facility established and maintained by two or more  
16 counties, as authorized in [section 3].

17       (21) "Restitution" means payments in cash to the victim  
18 or with services to the victim or the general community when  
19 these payments are made pursuant to an informal adjustment,  
20 consent decree, or other youth court order.

21       (22) "Serious juvenile offender" means a youth who has  
22 committed an offense that would be considered a felony  
23 offense if committed by an adult and that is an offense  
24 against a person, an offense against property, or an offense  
25 involving dangerous drugs.

1 (23) "Shelter care" means the temporary substitute care  
2 of youth in physically unrestricting facilities.

3 (24) "Shelter care facility" means a facility used for  
4 the shelter care of youth. The term is limited to the  
5 facilities enumerated in 41-5-306(1).

6 (25) "Short-term detention center" means a detention  
7 facility licensed by the department for the temporary  
8 placement or care of youth, for a period not to exceed 96  
9 hours, pending a probable cause hearing, release, or  
10 transfer of the youth to an appropriate detention facility  
11 or shelter care facility.

12 (26) "State youth correctional facility" means a  
13 residential facility used for the placement and  
14 rehabilitation of delinquent youth, such as the Pine Hills  
15 school in Miles City and the Mountain View school in Helena.

16 (27) "Substitute care" means full-time care of youth in  
17 a residential setting for the purpose of providing food,  
18 shelter, security and safety, guidance, direction, and if  
19 necessary, treatment to youth who are removed from or  
20 without the care and supervision of their parents or  
21 guardian.

22 ~~(28)~~ (28) "Youth" means an individual who is less than 18  
23 years of age without regard to sex or emancipation.

24 ~~(29)~~ (29) "Youth court" means the court established  
25 pursuant to this chapter to hear all proceedings in which a

1 youth is alleged to be a delinquent youth, a youth in need  
2 of supervision, or a youth in need of care and includes the  
3 youth court judge and probation officers.

4 (30) "Youth detention facility" means a detention  
5 facility licensed by the department for the temporary  
6 substitute care of youth that:

7 (a) is operated, administered, and staffed separately  
8 and independently of a jail; and

9 (b) is used exclusively for the lawful detention of  
10 alleged or adjudicated delinquent youth.

11 ~~(11)~~ "Delinquent youth" means a youth:

12 ~~(a)~~ who has committed an offense which, if committed by  
13 an adult, would constitute a criminal offense;

14 ~~(b)~~ who, having been placed on probation as a  
15 delinquent youth or a youth in need of supervision, violates  
16 any condition of his probation.

17 (31) "Youth in need of care" has the meaning provided  
18 for in 41-3-102.

19 ~~(14)~~ (32) "Youth in need of supervision" means a youth  
20 who commits an offense prohibited by law which that, if  
21 committed by an adult, would not constitute a criminal  
22 offense, including but not limited to a youth who:

23 (a) violates any Montana municipal or state law  
24 regarding use of alcoholic beverages by minors;

25 (b) habitually disobeys the reasonable and lawful

1 demands of his parents, foster parents, physical custodian,  
2 or guardian or is ungovernable and beyond their control;

3 (c) being subject to compulsory school attendance, is  
4 habitually truant from school; or

5 (d) has committed any of the acts of a delinquent youth  
6 but whom the youth court in its discretion chooses to regard  
7 as a youth in need of supervision.

8 {15}-"Youth-in-need-of-care"-means-a-youth-as-defined-in  
9 41-3-102.

10 {16}-"Custodian"-means-a-person-other-than-a-parent-or  
11 guardian-to-whom-legal-custody-of-the-youth-has-been-given  
12 but-does-not-include-a-person-who-has-only-physical-custody.

13 {17}-"Necessary-parties"-include-the-youth,-his-parents,  
14 guardian,-custodian,-or-spouse.

15 {18}-"State-youth-correctional-facility"-means-a  
16 residential-facility-for-the-rehabilitation-of-delinquent  
17 youth-such-as-Pine-Hills-school-in-Miles-City,-and-Mountain  
18 View-school-in-Heiener.

19 {19}-"Shelter-care"-means-the-temporary-substitute-care  
20 of-youth-in-physically-unrestricting-facilities.

21 {20}-"Detention"-means-the-temporary-substitute-care-of  
22 youth-in-physically-restricting-facilities.

23 {21}-"Detention-facility"-means-a-physically-restricting  
24 facility-designed-to-prevent-a-youth-from-departing-at-will.

25 {22}-"Restitution"-means-payments-in-cash-to-the-victim

1 or-with-services-to-the-victim-or-the-general-community-when  
2 these-payments-are-made-pursuant-to-an-informal-adjustment,  
3 consent-decree,-or-other-youth-court-order.

4 {23}-"Substitute-care"-means-full-time-care-of-youth-in  
5 a-residential-setting-for-the-purpose-of-providing-food,  
6 shelter,-security-and-safety,-guidance,-direction,-and-if  
7 necessary,-treatment-to-youth-who-are-removed-from-or  
8 without-the-care-and-supervision-of-their-parents-or  
9 guardian.

10 {24}-"Serious-juvenile-offender"-means-a-youth-who-has  
11 committed-an-offense-against-the-person,-an-offense-against  
12 property,-or-an-offense-involving-dangerous-drugs-which  
13 would-be-considered-a-felony-offense-if-committed-by-an  
14 adult."

15 NEW SECTION. Section 2. County responsibility to  
16 provide youth detention services. (1) Each county shall  
17 provide services for the detention of youth in facilities  
18 separate from adult jails.

19 (2) In order to fulfill its responsibility under  
20 subsection (1), a county may:

21 (a) establish, operate, and maintain a holdover, a  
22 short-term detention center, or a youth detention facility  
23 at county expense;

24 (b) provide shelter care facilities as authorized in  
25 41-5-802;

1 (c) contract with another county for the use of an  
2 available shelter care facility, holdover, short-term  
3 detention center, or youth detention facility;

4 (d) establish and operate a network of holdovers in  
5 cooperation with other counties;

6 (e) establish a regional detention facility; or

7 (f) enter into an agreement with a private party under  
8 which the private party will own, operate, or lease a  
9 shelter care facility or youth detention facility for use by  
10 the county. The agreement may be made in substantially the  
11 same manner as provided for in 7-32-2232 and 7-32-2233.

12 (3) Each county or regional detention facility must be  
13 licensed by the department in accordance with rules adopted  
14 under 41-5-809.

15 **NEW SECTION. Section 3. Regional detention facilities.**

16 (1) Two or more counties may, by contract, establish and  
17 maintain a regional detention facility.

18 (2) For the purpose of establishing and maintaining a  
19 regional detention facility, a county may:

20 (a) issue general obligation bonds for the acquisition,  
21 purchase, construction, renovation, and maintenance of a  
22 regional detention facility;

23 (b) levy and appropriate taxes, as permitted by law, to  
24 pay its share of the cost of equipping, operating, and  
25 maintaining the facility; and

1 (c) exercise all powers, under the limitations  
2 prescribed by law, necessary and convenient to carry out the  
3 purposes of [section 2] and this section.

4 (3) Contracts authorized under subsection (1) must be  
5 made pursuant to the Interlocal Cooperation Act, Title 7,  
6 chapter 11, part 1.

7 (4) Contracts between counties participating in a  
8 regional detention facility must be for a term of not less  
9 than 10 years. In addition, the contracts must:

10 (a) specify the responsibilities of each county  
11 participating in the agreement;

12 (b) designate responsibility for operation of the  
13 regional detention facility;

14 (c) specify the amount of funding to be contributed by  
15 each county toward payment of the cost of establishing,  
16 operating, and maintaining the regional detention facility,  
17 including the necessary expenditures for the transportation  
18 of youth to and from the facility;

19 (d) include the applicable per diem charge for the  
20 detention of youths in the facility, as well as the basis  
21 for any adjustment in the charge; and

22 (e) specify the number of beds to be reserved for the  
23 use of each county participating in the regional detention  
24 facility.

25 **NEW SECTION. Section 4. Creation of regions --**

1 requirements -- limitation on number of regions. (1)  
 2 Counties that wish to establish a regional detention  
 3 facility shall form a youth detention region.

4 (2) Each youth detention region must:

5 (a) be composed of contiguous counties participating in  
 6 the regional detention facility; and

7 (b) include geographical areas of the state that  
 8 contain a substantial percentage of the total youth  
 9 population in need of detention services, as determined by  
 10 the board of crime control.

11 (3) There may be no more than five youth detention  
 12 regions established in the state at any one time.

13 **NEW SECTION. Section 5. Contracts** with  
 14 nonparticipating counties. Counties participating in a  
 15 regional detention facility may enter into agreements with  
 16 nonparticipating counties to provide services for the  
 17 detention of youth. The costs of services must be based upon  
 18 a per diem charge for the detention of youth in the  
 19 facility.

20 **NEW SECTION. Section 6. Responsibility for payment of**  
 21 detention costs. Absent a contract or agreement between  
 22 counties, all costs for the detention of a youth in a county  
 23 or regional detention facility, including medical costs  
 24 incurred by the youth during detention, must be paid by the  
 25 county at whose instance the youth is detained.

1 **NEW SECTION. Section 7. Definitions.** As used in  
 2 [sections 7 through 14], unless the context requires  
 3 otherwise, the following definitions apply:

4 (1) "Attendant care" means the direct supervision of  
 5 youth by a trained attendant in a physically unrestricting  
 6 setting.

7 (2) "Board" means the board of crime control provided  
 8 for in 2-15-2006.

9 (3) "County" means a county, city-county consolidated  
 10 government, or a youth detention region created pursuant to  
 11 [section 4].

12 (4) "Home detention" means the use of a youth's home  
 13 for the purpose of ensuring the continued custody of the  
 14 youth pending adjudication or final disposition of his case.

15 (5) "Plan" means a county plan for providing youth  
 16 detention services as required in [section 9].

17 (6) "Secure detention" means the detention of youth in  
 18 a physically restricting facility designed to prevent a  
 19 youth from departing at will.

20 (7) "Youth detention service" means service for the  
 21 detention of youth in facilities separate from adult jails.  
 22 The term includes the services described in [section 8].

23 **NEW SECTION. Section 8. State grants to counties.** (1)  
 24 Within the limits of available funds, the board shall  
 25 provide grants in accordance with [sections 9 through 11] to

1 assist counties in establishing and operating youth  
 2 detention services, including but not limited to youth  
 3 detention facilities, short-term detention centers,  
 4 holdovers, attendant care, home detention, and programs for  
 5 the transportation of youth to regional detention  
 6 facilities.

7 (2) Grants available under subsection (1) consist of  
 8 state appropriations and federal funds received by the board  
 9 for the purpose of administering [sections 7 through 11].

10 NEW SECTION. Section 9. Application for grants --  
 11 county plans -- obligation of counties receiving grants --  
 12 review and monitoring. (1) In order to receive funds under  
 13 [section 8], a county shall submit an application to the  
 14 board in a manner and form prescribed by the board.

15 (2) The application must include a written plan for  
 16 providing youth detention services in the county. Each plan  
 17 must include:

- 18 (a) an assessment of the need for services;
- 19 (b) a description of services to be provided, including  
 20 alternatives to secure detention;
- 21 (c) the estimated number of youth who will receive  
 22 services;
- 23 (d) criteria for the placement of youth in secure  
 24 detention; and
- 25 (e) a budget describing proposed expenditures for youth

1 detention services.

2 (3) If the application and plan are approved by the  
 3 board, the county may receive a grant in the amount provided  
 4 for in [section 10].

5 (4) As a condition of receiving funds under [section  
 6 8], each county shall, within a reasonable period of time,  
 7 comply or substantially comply with state law and policies  
 8 contained in the Montana Youth Court Act concerning the  
 9 detention and placement of youth.

10 (5) The board shall periodically review and monitor  
 11 counties receiving grants under [section 8] to assure  
 12 compliance or substantial compliance with the Montana Youth  
 13 Court Act, as required under subsection (4). If, after  
 14 notice and fair hearing, the board determines that a county  
 15 is not in compliance or substantial compliance with the  
 16 Montana Youth Court Act, the board shall terminate the grant  
 17 to the county.

18 NEW SECTION. Section 10. Distribution of grants --  
 19 limitation of funding -- restrictions on use. (1) The board  
 20 shall award grants on an equitable basis, giving preference  
 21 to services that will be used on a regional basis.

22 (2) The board shall award grants to eligible counties:

- 23 (a) in a block grant in an amount not to exceed 50% of  
 24 the approved, estimated cost of secure detention; or
- 25 (b) on a matching basis in an amount not to exceed:



1 (i) 75% of the approved cost of providing holdovers,  
2 attendant care, and other alternatives to secure detention,  
3 except for shelter care. Shelter care must be paid as  
4 provided by law.

5 (ii) 50% of the approved cost of programs for the  
6 transportation of youth to appropriate detention or shelter  
7 care facilities, including regional detention facilities.

8 (3) Grants under [section 8] may not be used to pay for  
9 the cost of youth evaluations. The cost of evaluations must  
10 be paid as provided for in 41-5-523.

11 NEW SECTION. Section 11. Allocation of grants. (1)  
12 Each fiscal year, the board shall allocate grants under  
13 [section 8] for distribution to eligible counties based  
14 upon:

15 (a) the relative population of youth residing in  
16 geographical areas of the state, as determined by the board;  
17 and

18 (b) the estimated cost of youth detention services in  
19 each county eligible for funding under [section 8].

20 (2) A county is not automatically entitled to receive a  
21 grant from funds available under [section 8].

22 NEW SECTION. Section 12. Amendment of state plan. The  
23 board shall amend the state plan required under section 223  
24 of the federal Juvenile Justice and Delinquency Prevention  
25 Act of 1974, as amended (42 U.S.C. 5633), to reflect the

1 contents of approved county plans for providing youth  
2 detention services.

3 NEW SECTION. Section 13. Compliance with federal  
4 requirements. The board shall administer federal funds  
5 available under section 222 of the federal Juvenile Justice  
6 and Delinquency Prevention Act of 1974, as amended (42  
7 U.S.C. 5632), in compliance with the requirements of 42  
8 U.S.C. 5633(a)(21) and 42 U.S.C. 5674.

9 NEW SECTION. Section 14. Rulemaking authority. The  
10 board may adopt rules necessary to implement the provisions  
11 of 41-5-103(13), [section 4], and [sections 7 through 14].

12 Section 15. Section 15-25-122, MCA, is amended to read:  
13 "15-25-122. Disposition of proceeds. (1) The department  
14 shall transfer all taxes collected pursuant to this chapter,  
15 less the administrative fee authorized in 15-25-111(1), to  
16 the state treasurer on a monthly basis.

17 (2) The state treasurer shall deposit one-third of the  
18 tax to the credit of the department of family services to be  
19 used for the youth evaluation program and chemical abuse  
20 aftercare programs.

21 (3) The treasurer shall credit the remaining two-thirds  
22 of the tax proceeds as follows:

23 (a) one-half to the department of justice to be used;  
24 (i) for grants to youth courts to fund chemical abuse  
25 assessments; and

1 (ii) for grants to counties to fund services for the  
 2 detention of juvenile offenders in facilities separate from  
 3 adult jails, as authorized in [section 8]; and

4 (b) one-half to the account created by 44-12-206(3) if  
 5 a state government law enforcement agency seized the drugs.  
 6 If a local government law enforcement agency seized the  
 7 drugs, then that amount must be credited to the treasurer or  
 8 finance officer of the local government, be deposited in its  
 9 general fund, and be used to enforce drug laws."

10 **SECTION 16. SECTION 23-5-1027, MCA, IS AMENDED TO READ:**

11 "23-5-1027. Disposition of revenue. (1) A minimum of  
 12 45% of the money paid for tickets or chances must be paid  
 13 out as prize money. The prize money is statutorily  
 14 appropriated, as provided in 17-7-502, to the lottery.

15 (2) Commissions paid to lottery ticket or chance sales  
 16 agents are not a state lottery operating expense.

17 (3) That part of all gross revenue not used for the  
 18 payment of prizes, commissions, and operating expenses,  
 19 together with the interest earned on the gross revenue while  
 20 the gross revenue is in the enterprise fund, is net revenue  
 21 and. Except for the amount required to be paid under  
 22 subsection (5), net revenue must be paid quarterly from the  
 23 enterprise fund established by 23-5-1026 to the  
 24 superintendent of public instruction for distribution as  
 25 state equalization aid to the public schools of Montana as

1 provided in 20-9-343. The net revenue is statutorily  
 2 appropriated, as provided in 17-7-502, to the superintendent  
 3 of public instruction.

4 (4) The spending authority of the lottery may be  
 5 increased in accordance with this section upon review and  
 6 approval of a revised operation plan by the budget office.

7 (5) (a) For the fiscal year beginning July 1, 1991,  
 8 1.6% of the net revenue derived under subsection (3) must be  
 9 paid quarterly to the board of crime control.

10 (b) For the fiscal year beginning July 1, 1992, and  
 11 thereafter, 9.1% of the net revenue derived under subsection  
 12 (3), but not to exceed \$1 million in any fiscal year, must  
 13 be paid to the board of crime control.

14 (c) All money paid to the board of crime control under  
 15 this subsection (5) must be used to fund state grants to  
 16 counties for youth detention services as authorized in  
 17 [section 8]. The revenue is statutorily appropriated, as  
 18 provided in 17-7-502, to the board of crime control."

19 **SECTION 17. SECTION 23-5-1007, MCA, IS AMENDED TO READ:**

20 "23-5-1007. Powers and duties of commission. The  
 21 commission shall:

22 (1) establish and operate a state lottery and may not  
 23 become involved in any other gambling or gaming;

24 (2) determine policies for the operation of the state  
 25 lottery, supervise the director and his staff, and meet with

1 the director at least once every 3 months to make and  
2 consider recommendations, set policies, determine types and  
3 forms of lottery games to be operated by the state lottery,  
4 and transact other necessary business;

5 (3) maximize the net revenue paid to the superintendent  
6 of public instruction and to the board of crime control  
7 under 23-5-1027 and ensure that all policies and rules  
8 adopted further revenue maximization;

9 (4) subject to 23-5-1027(1), determine the percentage  
10 of the money paid for tickets or chances to be paid out as  
11 prizes;

12 (5) determine the price of each ticket or chance and  
13 the number and size of prizes;

14 (6) provide for the conduct of drawings of winners of  
15 lottery games;

16 (7) carry out, with the director, a continuing study of  
17 the state lotteries of Montana and other states to make the  
18 state lottery more efficient, profitable, and secure from  
19 violations of the law;

20 (8) study and may enter into agreements with other  
21 lottery states to offer lottery games;

22 (9) prepare quarterly and annual reports on all aspects  
23 of the operation of the state lottery, including but not  
24 limited to types of games, gross revenue, prize money paid,  
25 operating expenses, net revenue to the state, contracts with

1 gaming suppliers, and recommendations for changes to this  
2 part, and deliver a copy of each report to the governor, the  
3 department of administration, the legislative auditor, the  
4 president of the senate, the speaker of the house of  
5 representatives, and each member of the appropriate  
6 committee of each house of the legislature as determined by  
7 the president of the senate and the speaker of the house;  
8 and

9 (10) adopt rules relating to lottery staff sales  
10 incentives or bonuses and sales agents' commissions and any  
11 other rules necessary to carry out this part."

12 **Section 18.** Section 41-3-1103, MCA, is amended to read:

13 "41-3-1103. Powers and duties of department. (1) The  
14 department shall:

15 (a) administer all state and federal funds allocated to  
16 the department for youth foster homes, youth group homes,  
17 and child-care agencies, ~~and detention facilities and~~  
18 services for youth in need of care, youth in need of  
19 supervision, and delinquent youth, as defined in 41-5-103;

20 (b) exercise licensing authority over all ~~detention~~  
21 ~~facilities as defined in 41-5-103,~~ youth foster homes, youth  
22 group homes, and child-care agencies;

23 (c) collect and disseminate information relating to  
24 youth in need of care, youth in need of supervision, and  
25 delinquent youth;

1 (d) provide for training of program personnel  
2 delivering services;

3 (e) in cooperation with youth care facility providers,  
4 develop and implement standards for youth care facilities;

5 (f) maintain adequate data on placements it funds in  
6 order to keep the legislature properly informed of the  
7 following:

8 (i) the breakdown of youth in need of care, youth in  
9 need of supervision, and delinquent youth by category in  
10 out-of-home care facilities;

11 (ii) the cost per facility for services rendered;

12 (iii) the type and level of care of services provided by  
13 each facility;

14 (iv) a profile of out-of-home care placements by level  
15 of care; and

16 (v) a profile of public institutional placements; and

17 (g) administer all funds allocated to the department  
18 for residential alcohol and drug abuse treatment for  
19 indigent youths in need of care, indigent youths in need of  
20 supervision, and indigent delinquent youths who require such  
21 treatment.

22 (2) The department may:

23 (a) enter into contracts with nonprofit corporations or  
24 associations or private organizations to provide ~~facilities~~  
25 ~~and-services~~ substitute care for youth in need of care,

1 youth in need of supervision, and delinquent youth in youth  
2 care facilities;

3 (b) accept gifts, grants, and donations of money and  
4 property from public and private sources to initiate and  
5 maintain community-based services to youth;

6 (c) adopt rules to carry out the administration and  
7 purposes of this part.

8 (3) The department shall pay for room, board, clothing,  
9 personal needs, transportation, and treatment in youth  
10 foster care homes and youth group homes for youths committed  
11 to the department who need to be placed in such facilities."

12 **Section 19.** Section 41-5-105, MCA, is amended to read:

13 "41-5-105. Youth court committee. In every county of  
14 the state the judge having jurisdiction may appoint a  
15 committee, willing to act without compensation, composed of  
16 not less than three or more than seven reputable citizens,  
17 including youth representatives, ~~which committee shall. The~~  
18 committee must be designated as a youth court committee.  
19 This committee shall be meet subject to the call of the  
20 judge ~~to--meet--and~~ to confer with him on all matters  
21 pertaining to the youth department of the court, including  
22 the appointment of probation officers, and shall act as a  
23 supervisory committee of youth detention homes facilities."

24 **Section 20.** Section 41-5-306, MCA, is amended to read:

25 "41-5-306. (Temporary) Place of shelter care or

1 detention. (1) After a probable cause hearing provided for  
2 in 41-5-303, a youth alleged to be a youth in need of  
3 supervision may be placed only in:

4 (a) a licensed youth foster home as defined in  
5 41-3-1102;

6 (b) a facility operated by a licensed child welfare  
7 agency; or

8 (c) a licensed youth group home as defined in  
9 41-3-1102.

10 (2) A youth alleged to be a youth in need of care shall  
11 may be placed only in the facilities stated in subsection  
12 (1) ~~of this section~~ and shall may not be placed in a jail or  
13 other facility intended or used for the detention  
14 confinement of adults ~~charged with~~ accused or convicted of  
15 criminal offenses.

16 (3) After a probable cause hearing provided for in  
17 41-5-303, a youth alleged to be a delinquent youth may be  
18 placed only in:

19 (a) ~~the facilities described in subsection (1), or in;~~

20 (b) a short-term detention facility;

21 (c) a youth detention facility, or in; or

22 (d) a jail or other facility for the detention  
23 confinement of adults but only if ~~the facilities in~~  
24 ~~subsection (1);~~

25 (i) alternative facilities are not available or

1 available facilities do not provide adequate security; and  
2 ~~(ii) the detention is in an area physically and visually~~  
3 ~~separate and removed from that of adults~~ the youth is kept  
4 in an area that provides physical, as well as sight and  
5 sound, separation from adults accused or convicted of  
6 criminal offenses. (Terminates July 1, ~~1991~~ 1992--sec. 14,  
7 Ch. 434, L. 1989.)"

8 **Section 21.** Section 41-5-306, MCA, is amended to read:

9 **"41-5-306.** (Effective July 1, ~~1991~~ 1992) Place of  
10 shelter care or detention. (1) After a probable cause  
11 hearing provided for in 41-5-303, a youth alleged to be a  
12 youth in need of supervision may be placed only in:

13 (a) a licensed youth foster home as defined in  
14 41-3-1102;

15 (b) a facility operated by a licensed child welfare  
16 agency; or

17 (c) a licensed youth group home as defined in  
18 41-3-1102.

19 (2) A youth alleged to be a youth in need of care shall  
20 may be placed only in the facilities stated in subsection  
21 (1) ~~of this section~~ and shall may not be placed in a jail or  
22 other facility intended or used for the detention  
23 confinement of adults ~~charged with~~ accused or convicted of  
24 criminal offenses.

25 (3) After a probable cause hearing provided for in

1 41-5-303, a youth alleged to be a delinquent youth may be  
2 placed only in:

- 3 (a) the facilities described in subsection (1) or in;  
4 (b) a short-term detention facility; or  
5 (c) a youth detention facility as defined in 41-5-103."

6 **Section 22.** Section 41-5-308, MCA, is amended to read:

7 "41-5-308. Placement of youth before probable cause  
8 hearing. (1) Before the probable cause hearing, a youth  
9 alleged to be a delinquent youth may be held in a jail or  
10 other facility for adults only if:

11 (a) the alternative facilities in 41-5-306 are not  
12 available or available facilities do not provide adequate  
13 security;

14 (b) the placement is in an area physically, aurally,  
15 and visually separate from those of adults the youth is kept  
16 in an area that provides physical, as well as sight and  
17 sound, separation from adults accused or convicted of  
18 criminal offenses; and

19 (c) it appears that public safety and protection  
20 reasonably require the youth to be held.

21 (2) The official in charge of a jail or other facility  
22 for the detention confinement of adult offenders or persons  
23 charged with a crime shall inform the court immediately if a  
24 person who is or appears to be under the age of 18 years is  
25 received at the facility."

1 **Section 23.** Section 41-5-802, MCA, is amended to read:

2 "41-5-802. Shelter care and detention facilities. ~~(1)~~  
3 ~~The county commissioners in each county shall provide for~~  
4 ~~the availability of detention facilities for youths.~~

5 ~~(2) (a) The county commissioners may maintain, by~~  
6 ~~purchase, lease, or otherwise, a detention facility, which~~  
7 ~~may not be used for the confinement of adult persons charged~~  
8 ~~with criminal offenses, where delinquent youths may be~~  
9 ~~detained until final disposition.~~

10 ~~(b) The county commissioners may appoint necessary~~  
11 ~~personnel who have charge of the facility and of the youths~~  
12 ~~detained therein.~~

13 ~~(c) The compensation of the personnel must be fixed by~~  
14 ~~the county commissioners, and the compensation and the~~  
15 ~~maintenance of the facility must be paid out of the county~~  
16 ~~treasury. These funds may be supplemented by state~~  
17 ~~appropriation and federal funds.~~

18 ~~(d) The county commissioners shall provide for~~  
19 ~~inspection of any county detention facility every 3 months.~~  
20 ~~Inspection must include but is not limited to health, fire~~  
21 ~~safety, security, rehabilitation programs, recreation,~~  
22 ~~treatment of youths, and personnel training.~~

23 ~~(e) The judge of the youth court for the county shall~~  
24 ~~inspect any detention facility at least once a year.~~

25 ~~(3) The county commissioners may contract with the~~

1 department---or---public---or---private---agencies---to---purchase  
2 detention-services:

3 (f)---(a)(1) Counties, cities, or nonprofit corporations  
4 may provide by purchase, lease, or otherwise, a shelter care  
5 facility.

6 (b)---The (2) A shelter care facility must be physically  
7 unrestricting and may be used to provide shelter care for  
8 youth alleged or adjudicated delinquent, in need of  
9 supervision, or in need of care.

10 (c)---The (3) A shelter care facility must be separate  
11 and apart from any facility housing adults charged-with  
12 accused or convicted of criminal offenses.

13 (d)(4) State appropriations and federal funds may be  
14 received by the counties, cities, or nonprofit corporations  
15 for establishment, maintenance, or operation of the a  
16 shelter care facility.

17 (e)---The (5) A shelter care facility must be furnished  
18 in a comfortable manner and be as nearly as possible like a  
19 family home.

20 (f)---The (6) A shelter care facility may be operated in  
21 conjunction with a youth detention facility."

22 **Section 24.** Section 41-5-809, MCA, is amended to read:

23 "41-5-809. Rules. The department shall adopt rules  
24 governing ther

25 (i) licensing procedures for regional and county

1 detention facilities, and

2 (j)---procedures---for---distributing---funds---for---detention  
3 facilities---and---services---as---provided---in---41-5-315---and  
4 41-5-316."

5 **Section 25.** Section 14, Chapter 434, Laws of 1989, is  
6 amended to read:

7 "Section 14. Section 16, Chapter 475, Laws of 1987, is  
8 amended to read:

9 "Section 16. Effective dates -- termination date. (1)  
10 Except as provided in subsections (2) and (3), sections 1  
11 through 13 are effective October 1, 1987.

12 (2) The bracketed language in subsection (5) of section  
13 1 is effective July 1, 1991 1992.

14 (3) The bracketed language in subsection (3) of section  
15 9 terminates July 1, 1991 1992."

16 **Section 26.** Section 17, Chapter 434, Laws of 1989, is  
17 amended to read:

18 "Section 17. Effective date dates. (Sections-5-and-7-of  
19 this-act) are (1) [Section 7] is effective July 1, 1991.

20 (2) [Section 5] is effective July 1, 1992."

21 ~~NEW-SECTION--SECTION 25--COIN-OPERATED,--RECREATIONAL,~~

22 ~~ELECTRONIC-AND--ELECTROMECHANICAL--GAME--MACHINE--PERMIT----~~

23 ~~PERMIT--FEE----COLLECTION-AND-DISPOSITION-OF-FEE----PENALTY,~~

24 ~~(i)---FOR-PURPOSES-OF-THIS-SECTION,--"GAME--MACHINE"--MEANS--A~~

25 ~~COIN-OPERATED,--RECREATIONAL,--ELECTRONIC-OR-ELECTROMECHANICAL~~

1 DEVICE INTO WHICH A PLAYER INSERTS A COIN OR COINS TO PLAY A  
 2 VIDEO OR OTHER GAME AND RECEIVES EITHER NO PRIZE OR ONLY ONE  
 3 OR MORE FREE GAMES AS A PRIZE, THE TERM INCLUDES BUT IS NOT  
 4 LIMITED TO GAMES COMMONLY KNOWN AS VIDEO GAMES AND PINBALL  
 5 MACHINES, IT DOES NOT INCLUDE A MACHINE OR OTHER DEVICE  
 6 REGULATED UNDER TITLE 23, CHAPTER 5.

7 (2) A GAME MACHINE MAY NOT BE MADE AVAILABLE FOR PUBLIC  
 8 PLAY UNLESS THE PERSON UPON WHOSE PREMISES IT IS MADE  
 9 AVAILABLE FOR PUBLIC PLAY HAS OBTAINED A PERMIT FROM THE  
 10 DEPARTMENT OF REVENUE, THE PERMIT FEE IS \$50 A YEAR,  
 11 RENEWABLE ANNUALLY ON JULY 1, THE FEE FOR A GAME MACHINE  
 12 MADE AVAILABLE FOR PUBLIC PLAY FOR ONLY PART OF A YEAR MUST  
 13 BE PRORATED, THE DEPARTMENT SHALL DEVELOP A STICKER TO BE  
 14 PLACED ON EACH GAME MACHINE IN A LOCATION CHOSEN BY THE  
 15 DEPARTMENT, THE STICKER IS EVIDENCE OF PAYMENT OF THE FEE.

16 (3) THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT THIS  
 17 SECTION.

18 (4) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE  
 19 FUND, MONEY COLLECTED UNDER SUBSECTION (2) MUST BE DEPOSITED  
 20 BY THE DEPARTMENT IN THE ACCOUNT, ONE TENTH OF THE MONEY IN  
 21 THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN  
 22 17-7-502, TO THE DEPARTMENT TO BE USED TO ADMINISTER THIS  
 23 SECTION, AND THE REMAINDER IS STATUTORILY APPROPRIATED TO  
 24 THE BOARD OF CRIME CONTROL TO BE USED BY THE BOARD TO FUND  
 25 STATE GRANTS TO COUNTIES FOR YOUTH DETENTION SERVICES,

1 FACILITIES, CENTERS, HOLDOVERS, AND PROGRAMS, AS PROVIDED IN  
 2 (SECTION 8):

3 (5) A PERSON WHO PURPOSEFULLY OR KNOWINGLY MAKES A GAME  
 4 MACHINE AVAILABLE FOR PUBLIC PLAY WITHOUT PAYMENT OF THE FEE  
 5 IS PUNISHABLE UPON CONVICTION BY NOT MORE THAN 30 DAYS IN  
 6 JAIL, A FINE OF NOT MORE THAN \$500, OR BOTH.

7 SECTION 26. SECTION 17-7-502, MCA, IS AMENDED TO READ:

8 17-7-502. Statutory appropriations-----definition-----  
 9 requisites for validity. (1) A statutory appropriation is an  
 10 appropriation made by permanent law that authorizes spending  
 11 by a state agency without the need for a biennial  
 12 legislative appropriation or budget amendment.

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

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

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

21 (3) The following laws are the only laws containing  
 22 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 23 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
 24 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
 25 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404.



1 17-5-424,---17-5-804,---19-0-504,---19-9-702,---19-9-1007,  
 2 19-10-205,---19-10-305,---19-10-506,---19-11-512,---19-11-513,  
 3 19-11-606,---19-12-301,---19-13-604,---20-6-406,---20-8-111,  
 4 20-9-361,---23-5-306,---23-5-409,---23-5-610,---23-5-612,---23-5-1016,  
 5 23-5-1027,---27-12-206,---37-51-501,---39-71-2504,---53-6-150,  
 6 53-24-206,---61-2-406,---61-5-121,---67-3-205,---75-1-1101,  
 7 75-5-1108,---75-11-313,---76-12-123,---80-2-103,---82-11-136,  
 8 82-11-161,---90-3-301,---90-4-215,---90-4-613,---90-6-331,---90-9-306,  
 9 [section-25], and section-13, House Bill No. 061, Laws of  
 10 1985.

11 (4) ~~There is a statutory appropriation to pay the~~  
 12 ~~principal, interest, premiums, and costs of issuing, paying,~~  
 13 ~~and securing all bonds, notes, or other obligations, as due~~  
 14 ~~that have been authorized and issued pursuant to the laws of~~  
 15 ~~Montana. Agencies that have entered into agreements~~  
 16 ~~authorized by the laws of Montana to pay the state~~  
 17 ~~treasurer, for deposit in accordance with 17-2-101 through~~  
 18 ~~17-2-107, as determined by the state treasurer, an amount~~  
 19 ~~sufficient to pay the principal and interest as due on the~~  
 20 ~~bonds or notes have statutory appropriation authority for~~  
 21 ~~such payments. (in subsection (3), pursuant to sec. 10, Ch.~~  
 22 ~~664, by 1987, the inclusion of 39-71-2504 terminates June~~  
 23 ~~30, 1991.)"~~

24 NEW SECTION. Section 27. Repealer. Sections 41-5-315,  
 25 41-5-316, and 41-5-808, MCA, are repealed.

1 NEW SECTION. SECTION 26. APPROPRIATION. THE FOLLOWING  
 2 MONY IS APPROPRIATED FROM THE GENERAL FUND TO THE BOARD OF  
 3 CRIME CONTROL TO FUND STATE GRANTS TO COUNTIES FOR YOUTH  
 4 DETENTION PROGRAMS AS AUTHORIZED IN (SECTION 8 OF SENATE  
 5 BILL NO. 37):

6 FISCAL YEAR BEGINNING JULY 17, 1991-----\$--99,639  
 7 FISCAL YEAR BEGINNING JULY 17, 1992-----644,697

8 NEW SECTION. Section 28. Codification instruction. (1)  
 9 [Sections 2 through 6] are intended to be codified as an  
 10 integral part of Title 41, chapter 5, part 8, and the  
 11 provisions of Title 41, chapter 5, part 8, apply to  
 12 [sections 2 through 6].

13 (2) [Sections 7 through 14] are intended to be codified  
 14 as an integral part of Title 41, chapter 5, and the  
 15 provisions of Title 41, chapter 5, apply to [sections 7  
 16 through 14].

17 NEW SECTION. SECTION 29. COORDINATION INSTRUCTION. IF  
 18 THIS BILL AND EITHER SENATE BILL NO. 38 OR SENATE BILL NO.  
 19 59 ARE PASSED AND APPROVED, THEN THE DEFINITION OF "YOUTH IN  
 20 NEED OF SUPERVISION" CONTAINED IN THE AMENDMENT TO 41-5-103  
 21 IN SENATE BILL NO. 38 AND SENATE BILL NO. 59 IS AMENDED TO  
 22 READ:

23 "YOUTH IN NEED OF SUPERVISION" MEANS A YOUTH WHO  
 24 COMMITTS AN OFFENSE PROHIBITED BY LAW THAT, IF COMMITTED BY  
 25 AN ADULT, WOULD NOT CONSTITUTE A CRIMINAL OFFENSE, INCLUDING

1 BUT NOT LIMITED TO A YOUTH WHO:

2 (A) VIOLATES ANY MONTANA MUNICIPAL OR STATE LAW  
3 REGARDING USE OF ALCOHOLIC BEVERAGES BY MINORS;

4 (B) HABITUALLY DISOBEYS THE REASONABLE AND LAWFUL  
5 DEMANDS OF HIS PARENTS, POSTER PARENTS, PHYSICAL CUSTODIAN,  
6 OR GUARDIAN OR IS UNGOVERNABLE AND BEYOND CONTROL;

7 (C) BEING SUBJECT TO COMPULSORY SCHOOL ATTENDANCE, IS  
8 HABITUALLY TRUANT FROM SCHOOL; OR

9 (D) HAS COMMITTED ANY OF THE ACTS OF A DELINQUENT YOUTH  
10 BUT WHOM THE YOUTH COURT, IN ITS DISCRETION, CHOOSES TO  
11 REGARD AS A YOUTH IN NEED OF SUPERVISION."

12 NEW SECTION. Section 30. Effective dates. (1)

13 [Sections 1 through 18 20, AND 20 22 through 26 27 26 28,  
14 and this section] are effective July 1, 1991.

15 (2) [Section 19 21] is effective July 1, 1992.

16 (3) [SECTION 29 AND THIS SECTION] ARE EFFECTIVE ON  
17 PASSAGE AND APPROVAL.

-End-