HOUSE BILL NO. 638

INTRODUCED BY GRIMES BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE HOUSE

FEBRUARY 17, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

FEBRUARY 20, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 22, 1993 PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 24, 1993 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 95; NOES, 4.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993

FIRST READING.

ON JUDICIARY.

MARCH 19, 1993 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 20, 1993 SECOND READING, CONCURRED IN.

MARCH 22, 1993 THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

INTRODUCED AND REFERRED TO COMMITTEE

IN THE HOUSE

APRIL 1, 1993 SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 2, 1993 THIRD READING, AMENDMENTS CONCURRED IN. SENT TO ENROLLING.

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REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 638 1 INTRODUCED BY 2 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES ŝ. A A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A YOUTH 5 COURT FROM COMMITTING A YOUTH TO A STATE YOUTH CORRECTIONAL 6 FACILITY FOR A DETERMINATE PERIOD; PROHIBITING THE PLACEMENT 7 OF A STATUS OFFENDER IN A STATE YOUTH CORRECTIONAL PACILITY; 8 PROFIBITING THE INITIAL CONNITNENT OF PROLONGED CONFINEMENT 9 OF A MENTALLY ILL YOUTH IN A STATE YOUTH CORRECTIONAL 10 FACILITY; CLARIFYING WHO SUPERVISES & YOUTH FOLLOWING & 11 MENTAL HEALTH COMMITMENT: AMENDING SECTIONS 41-5-523, 12 52-5-126, AND 52-5-127, MCA; AND PROVIDING AN INMEDIATE 13 14 EFFECTIVE DATE." 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 Section 1. Section 41-5-523, NCA, is amended to read: 17 "41-5-523. Disposition -- commitment to department --18 placement and evaluation of youth -- restrictions. (1) If a 19 youth is found to be a delinquent youth or a youth in need 20 of supervision, the youth court may enter its judgment 21 making any of the following dispositions:

(a) place the youth on probation; 23

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(b) commit the youth to the department if the court 24 determines that the youth is in need of placement in other 25

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than the youth's own home, provided that: 3

2 (i) in--the-case-of-a-youth-in-need-of-supervision, the 3 court shall determine whether continuation in the home would 4 be contrary to the welfare of the youth and whether 5 reasonable efforts have been made to prevent or eliminate the need for removal of the youth from his the youth's home. 7 The court shall include a determination in the order 8 committing the youth to the department.

9 (ii) in the case of a delinquent wouth who is determined 10 by the court to be a serious juvenile offender, the judge 11 may specify that the youth be placed in a state youth 12 correctional facility if the judge finds that the placement 13 is necessary for the protection of the public. The court 14 may not commit a youth to a youth correctional facility for a determinate length of time. Once a youth is committed to 15 16 the department for placement in a state youth correctional 17 facility, the department is responsible for determining an 18 appropriate date of release into an appropriate placement. 19 (C) Order restitution by the youth or his the youth's 20 parents; 21 (d) impose a fine as authorized by law if the violation 22 alleged would constitute a criminal offense if committed by 23 an adult;

24 (e) require the performance of community service;

25 (f) require the youth, his the youth's parentsy-his or

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guardians, or the persons having legal custody of the youth
 to receive counseling services;

3 (g) require the medical and psychological evaluation of
4 the youth, his the youth's parents, bis or guardians, or the
5 persons having legal custody of the youth;

6 (h) require the parents, guardians, or other persons
7 having legal custody of the youth to furnish services the
8 court may designate;

9 (i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and 10 11 the community and that does not obligate funding from the department without the department's approval, except that a 12 13 youth may not be placed by a youth court in a residential treatment facility as defined in 50-5-101. Only the 14 department may, pursuant to subsection (1)(b), place a youth 15 16 in a residential treatment facility.

17 (j) commit the youth to a mental health facility if, 18 based upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth is seriously 19 20 mentally ill as defined in 53-21-102. The youth is entitled 21 to all rights provided by 53-21-114 through 53-21-119. Open release--or--discharge--from-the-mental-health-facilityy-the 22 youth-must-be-returned-to-the-court-for-further--disposition 23 24 in-accordance-with-this-section-unless-the-court-order-has 25 expired-or-the-court-no-longer--retains--jurisdiction--under

1 4λ -5-205- A youth adjudicated mentally ill or seriously mentally ill as defined in 53-21-102 may not be committed to 2 a state youth correctional facility. A youth adjudicated to 3 be mentally ill or seriously mentally ill after placement by 4 5 the department in a state youth correctional facility must be moved to a more appropriate placement within a reasonable 6 time. 7 8 (k) place the youth under home arrest as provided in 9 Title 46, chapter 18, part 10. 10 (2) When a youth is committed to the department, the department shall determine the appropriate placement and 11 12 rehabilitation program for the youth after considering the 13 recommendations made under 41-5-527 by the youth placement committee. Placement is subject to the following 14 15 limitations: (a) A youth in need of supervision or adjudicated 16 delinguent for commission of an act that would not be a 17 criminal offense if committed by an adult may not be placed 18 in a state youth correctional facility. 19 20 (b) A youth may not be held in a state youth correctional facility for a period of time in excess of the 21 22

22 maximum period of imprisonment that could be imposed on an 23 adult convicted of the offense or offenses that brought the 24 youth under the jurisdiction of the youth court. Nothing in 25 this section limits the power of the department to enter

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into an aftercare agreement with the youth pursuant to
 52-5-126.

3 (c) A youth may not be placed in or transferred to a
4 penal institution or other facility used for the execution
5 of sentence of adults convicted of crimes.

6 (3) A youth placed by the department in a state youth correctional facility or other facility or program operated 7 by the department or who signs an aftercare agreement under 8 52-5-126 must be supervised by the department. A youth who 9 10 is placed in any other placement by the department, the youth court, or the youth court's juvenile probation officer 11 must be supervised by the youth probation officer of the 12 youth court having jurisdiction over the youth under 13 41-5-205 whether or not the youth is committed to the 14 department. Supervision by the youth probation officer 15 includes but is not limited to: 16

17 (a) submitting information and documentation necessary 18 for the person, committee, or team that is making the 19 placement recommendation to determine an appropriate 20 placement for the youth;

(b) securing approval for payment of special education
costs from the youth's school district of residence or the
office of public instruction, as required in Title 20,
chapter 7, part 4;

25 (c) submitting an application to a facility in which

1 the youth may be placed; and

2 (d) case management of the youth.

(4) The youth court may order a youth to receive a 3 medical or psychological evaluation at any time prior to final disposition if the youth waives his the youth's 5 constitutional rights in the manner provided for in 6 41-5-303. The county determined by the court as the 7 residence of the youth is responsible for the cost of the я evaluation, except as provided in subsection (5). A county a may contract with the department or other public or private 10 agencies to obtain evaluation services ordered by the court. 11 (5) The youth court shall determine the financial 12 ability of the youth's parents to pay the cost of an 13 evaluation ordered by the court under subsection (4). If 14 15 they are financially able, the court shall order the youth's parents to pay all or part of the cost of the evaluation. 16

17 (6)--The--youth--court--may--not--order---placement---or 18 evaluation-of-a-youth-at-a-state-youth-correctional-facility 19 unless--the--youth--is--found-to-be-a-delinquent-youth-or-is 20 alleged-to-have-committed-an-offense-that-is-transferable-to 21 criminal-court-under-41-5-2067

22 (77(6) An evaluation of a youth may not be performed at
23 the Montana state hospital unless the youth is transferred
24 to the district court under 41-5-206.

25 (8)(7) An order of the court may be modified at any

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time. In the case of a youth committed to the department, an
 order pertaining to the youth may be modified only upon
 notice to the department and subsequent hearing.

4 (9)(8) Whenever the court commits a youth to the 5 department, it shall transmit with the dispositional 6 judgment copies of a medical report reports, social history 7 material, education records, and any other clinical, 8 predisposition, or other reports and information pertinent 9 to the care and treatment of the youth.

10 (10)(9) If a youth is committed to the department, the 11 court shall examine the financial ability of the youth's 12 parents or guardians to pay a contribution covering all or 13 part of the costs for the care, commitment, and treatment of 14 the youth, including the costs of necessary medical, dental, 15 and other health care.

16 (137)(10) If the court determines that the youth's 17 parents or guardians are financially able to pay a 18 contribution as provided in subsection (10) (9), the court 19 shall order the youth's parents or guardians to pay an 20 amount based on the uniform child support guidelines adopted 21 by the department of mocial and rehabilitation mervices 22 pursuant to 40-5-209.

23 (12)(11) (a) Except as provided in subsection (12)(b)
 24 (11)(b), contributions ordered under this section and each
 25 modification of an existing order are enforceable by

immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. An order for contribution that is inconsistent with this section is nevertheless subject to withholding for the payment of the contribution without need for an amendment of the support order or for any further action by the court.

7 (b) A court-ordered exception from contributions under 8 this section must be in writing and be included in the 9 order. An exception from the immediate income withholding 10 requirement may be granted if the court finds there is:

11 (i) good cause not to require immediate income 12 withholding; or

13 (ii) an alternative arrangement between the department
14 and the person who is ordered to pay contributions.

15 (c) A finding of good cause not to require immediate
 16 income withholding must, at a minimum, be based upon:

17 (i) a written determination and explanation by the 18 court of the reasons why the implementation of immediate 19 income withholding is not in the best interests of the 20 child; and

(ii) proof of timely payment of previously ordered
 support in cases involving modification of contributions
 ordered under this section.

24 (d) An alternative arrangement must:

25 (i) provide sufficient security to ensure compliance

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1 with the arrangement;

2 (ii) be in writing and be signed by a representative of 3 the department and the person required to make 4 contributions; and

5 (iii) if approved by the court, be entered into the
6 record of the proceeding.

7 $(\frac{12}{12})$ Upon a showing of a change in the financial 8 ability of the youth's parents or guardians to pay, the 9 court may modify its order for the payment of contributions 10 required under subsection $(\frac{12}{12})$ (10).

11 (14)(13) (a) If the court orders the payment of 12 contributions under this section, the department shall apply 13 to the department of social and rehabilitation services for 14 support enforcement services pursuant to Title IV-D of the 15 Social Security Act.

(b) The department of social and rehabilitation
services may collect and enforce a contribution order under
this section by any means available under law, including the
remedies provided for in Title 40, chapter 5, parts 2 and
4."

21 Section 2. Section 52-5-126, MCA, is amended to read: 22 *52-5-126. Youth aftercare agreement. (1) A youth 23 released by the department of family services from one of 24 the state youth correctional facilities to the supervision, 25 custody, and control of the department shall, before his the 1 youth's release, sign an aftercare agreement containing:

2 (a) a statement of the terms and conditions of his <u>the</u> 3 release, including a list of the acts which <u>that</u>, if 4 committed by the youth, may result in his <u>a</u> return to the 5 facility; and

6 (b) a statement that if the department or any person 7 alleges any violation of the terms and conditions of the 8 agreement, the youth is entitled to a hearing as provided 9 for in 52-5-129 before he--may--be being returned to the 10 facility.

(2) A youth who--is released from a state youth 11 correctional facility for commitment to a mental health 12 13 facility pursuant to Title 53, chapter 21, part 1, shall 14 sign an aftercare agreement that will remain in effect until the department no longer has custody of the youth is 15 16 returned-to-the-court-for-further-disposition-as-provided-in 17 41-5-523+11+fjt--If--the--youth--is--not-returned-to-a-state youth--correctional--facility--following--the--hearing---for 18 further--dispositiony--the--eftercare-agreement-becomes-void 19 20 uniess-amended-or-extended-by-the-depertment-or-the-court." 21 Section 3. Section 52-5-127, MCA, is amended to read: 22 "52-5-127. Control over youth released under aftercare agreement. The department of family services has control 23 24 over a youth released under 52-5-126 until he the youth

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attains the age of 19 years unless the youth is discharged

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by the department before age 19. However, the youth is
 subject to the general <u>continuing</u> jurisdiction of the
 various youth courts of Nontana, <u>pursuant to 41-5-205</u>, for
 acts committed by the youth while under the control of the
 department."

6 <u>NEW SECTION.</u> Section 4. Effective date. [This act] is 7 effective on passage and approval.

-End-

53rd Legislature

HB 0638/02

d Legislature

APPROVED BY COMMITTEE ON JUDICIARY

ı	HOUSE BILL NO. 638
2	INTRODUCED BY GRIMES
3	BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES
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5	A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITINGAYOUTH
6	Courtprom-commiffing-a-youth-to-a-state-youth-correctional

PACILITY-POR-A-DETERMINATE-PERIOD; PROHIBITING THE PLACEMENT 7 8 OF A STATUS OFFENDER IN A STATE YOUTH CORRECTIONAL FACILITY: 9 PROHIBITING THE INITIAL COMMITMENT OR PROLONGED CONFINEMENT 10 OF A MENTALLY ILL YOUTH IN A STATE YOUTH CORRECTIONAL FACILITY: CLARIFYING WHO SUPERVISES A YOUTH FOLLOWING A 11 MENTAL HEALTH COMMITMENT; AMENDING SECTIONS 41-5-523. 12 13 52-5-126, AND 52-5-127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 14

15

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. Section 41-5-523, MCA, is amended to read:

18 "41-5-523. Disposition -- commitment to department -19 placement and evaluation of youth -- restrictions. (1) If a
20 youth is found to be a delinquent youth or a youth in need
21 of supervision, the youth court may enter its judgment
22 making any of the following dispositions:

23 (a) place the youth on probation;

(b) commit the youth to the department if the courtdetermines that the youth is in need of placement in other

1 than the youth's own home, provided that:

2 (i) in--the-case-of-a-youth-in-need-of-supervision, the 3 court shall determine whether continuation in the home would 4 be contrary to the welfare of the youth and whether 5 reasonable efforts have been made to prevent or eliminate 6 the need for removal of the youth from his <u>the youth's</u> home. 7 The court shall include a determination in the order 8 committing the youth to the department.

9 (ii) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge 10 11 may specify that the youth be placed in a state youth 12 correctional facility if the judge finds that the placement is necessary for the protection of the public, The-court 13 14 may--not-commit-a-youth-to-a-youth-correctional-facility-for 15 a-determinate--length--of--time THE COURT MAY ORDER THE DEPARTMENT TO NOTIFY THE COURT WITHIN 5 WORKING DAYS BEFORE 16 17 THE PROPOSED RELEASE OF A YOUTH FROM A YOUTH CORRECTIONAL FACILITY. Once a youth is committed to the department for 18 placement in a state youth correctional facility, the 19 department is responsible for determining an appropriate 20 21 date of release into an appropriate placement. 22 (c) order restitution by the youth or his the youth's 23 parents; (d) impose a fine as authorized by law if the violation 24

25 alleged would constitute a criminal offense if committed by

- 2 -

SECOND READING

1	an	adu	lt:	

2 (e) require the performance of community service;

3 (f) require the youth, his the youth's parents, -his or
4 guardians, or the persons having legal custody of the youth
5 to receive counseling services;

6 (g) require the medical and psychological evaluation of
7 the youth, his the youth's parents, or guardians, or the
8 persons having legal custody of the youth;

9 (h) require the parents, guardians, or other persons
10 having legal custody of the youth to furnish services the
11 court may designate;

12 (i) order further care, treatment, evaluation, or 13 relief that the court considers beneficial to the youth and 14 the community and that does not obligate funding from the department without the department's approval, except that a 15 youth may not be placed by a youth court in a residential 16 17 treatment facility as defined in 50-5-101. Only the 18 department may, pursuant to subsection (1)(b), place a youth 19 in a residential treatment facility.

(j) commit the youth to a mental health facility if, based upon the testimony of a professional person as defined in 53-21-102, the court finds that the youth is seriously mentally ill as defined in 53-21-102. The youth is entitled to all rights provided by 53-21-114 through 53-21-119. Upon release--or--discharge--from-the-mental-health-facility, the

1	youth-must-be-returned-to-the-court-for-furtherdisposition
2	inaccordancewith-this-section-unless-the-court-order-has
3	expired-or-the-court-no-longerretainsjurisdictionunder
4	41-5-205- A youth adjudicated mentally ill or seriously
5	mentally ill as defined in 53-21-102 may not be committed to
6	a state youth correctional facility. A youth adjudicated to
7	be mentally ill or seriously mentally ill after placement by
8	the department in a state youth correctional facility must
9	be moved to-a-more-appropriate-placement-within-a-reasonable
10	time, PURSUANT TO 53-21-127, TO AN APPROPRIATE MENTAL HEALTH
11	PLACEMENT IN WHICH THE YOUTH'S MENTAL ILLNESS WILL BE
12	TREATED.
13	(k) place the youth under home arrest as provided in
14	Title 46, chapter 18, part 10.
15	(2) When a youth is committed to the department, the
16	department shall determine the appropriate placement and
17	rehabilitation program for the youth after considering the
18	recommendations made under 41-5-527 by the youth placement
19	committee. Placement is subject to the following
20	limitations:
21	(a) A youth in need of supervision or adjudicated
22	delinguent for commission of an act that would not be a
23	criminal offense if committed by an adult may not be placed
24	in a state youth correctional facility.

25 (b) A youth may not be held in a state youth

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correctional facility for a period of time in excess of the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court. Nothing in this section limits the power of the department to enter into an aftercare agreement with the youth pursuant to 52-5-126.

8 (c) A youth may not be placed in or transferred to a 9 penal institution or other facility used for the execution 10 of sentence of adults convicted of crimes.

(3) A youth placed by the department in a state youth 11 12 correctional facility or other facility or program operated by the department or who signs an aftercare agreement under 13 52-5-126 must be supervised by the department. A youth who 14 is placed in any other placement by the department, the 15 youth court, or the youth court's juvenile probation officer 16 must be supervised by the youth probation officer of the 17 18 youth court having jurisdiction over the youth under 41-5-205 whether or not the youth is committed to the 19 department. Supervision by the youth probation officer 20 includes but is not limited to: 21

(a) submitting information and documentation necessary
for the person, committee, or team that is making the
placement recommendation to determine an appropriate
placement for the youth;

(b) securing approval for payment of special education
 costs from the youth's school district of residence or the
 office of public instruction, as required in Title 20,
 chapter 7, part 4;

5 (c) submitting an application to a facility in which
6 the youth may be placed; and

(d) case management of the youth.

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8 (4) The youth court may order a youth to receive a medical or psychological evaluation at any time prior to 9 final disposition if the youth waives his the youth's 10 constitutional rights in the manner provided for 11 in 12 The county determined by the court as the 41-5-303. residence of the youth is responsible for the cost of the 13 evaluation, except as provided in subsection (5). A county 14 may contract with the department or other public or private 15 16 agencies to obtain evaluation services ordered by the court.

17 (5) The youth court shall determine the financial
18 ability of the youth's parents to pay the cost of an
19 evaluation ordered by the court under subsection (4). If
20 they are financially able, the court shall order the youth's
21 parents to pay all or part of the cost of the evaluation.

22 (6)--The---youth---court--may--not--order--placement--or 23 evaluation-of-a-youth-at-a-state-youth-correctional-facility 24 unless-the-youth-is-found-to-be-a--delinguent--youth--or--is 25 alleged-to-have-committed-an-offense-that-is-transferable-to

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1 criminal-court-under-41-5-206-

2 (7)(6) An evaluation of a youth may not be performed at
3 the Montana state hospital unless the youth is transferred
4 to the district court under 41-5-206.

5 (0)(7) An order of the court may be modified at any 6 time. In the case of a youth committed to the department, an 7 order pertaining to the youth may be modified only upon 8 notice to the department and subsequent hearing.

9 (9)(8) Whenever the court commits a youth to the 10 department, it shall transmit with the dispositional 11 judgment copies of a medical report reports, social history 12 material, education records, and any other clinical, 13 predisposition, or other reports and information pertinent 14 to the care and treatment of the youth.

15 (10)(9) If a youth is committed to the department, the 16 court shall examine the financial ability of the youth's 17 parents or guardians to pay a contribution covering all or 18 part of the costs for the care, commitment, and treatment of 19 the youth, including the costs of necessary medical, dental, 20 and other health care.

21 $(\frac{11}{10})$ If the court determines that the youth's 22 parents or guardians are financially able to pay a 23 contribution as provided in subsection $(\frac{10}{10})$, the court 24 shall order the youth's parents or guardians to pay an 25 amount based on the uniform child support guidelines adopted by the department of social and rehabilitation services
 pursuant to 40-5-209.

(12)(11) (a) Except as provided in subsection (12)(b) 3 (11)(b), contributions ordered under this section and each 4 5 modification of an existing order are enforceable by 6 immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. An order for contribution that 7 8 is inconsistent with this section is nevertheless subject to 9 withholding for the payment of the contribution without need 10 for an amendment of the support order or for any further 11 action by the court.

(b) A court-ordered exception from contributions under
this section must be in writing and be included in the
order. An exception from the immediate income withholding
requirement may be granted if the court finds there is:

16 (i) good cause not to require immediate income 17 withholding; or

18 (ii) an alternative arrangement between the department19 and the person who is ordered to pay contributions.

20 (c) A finding of good cause not to require immediate21 income withholding must, at a minimum, be based upon:

(i) a written determination and explanation by the court of the reasons why the implementation of immediate income withholding is not in the best interests of the child; and

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(ii) proof of timely payment of previously ordered
 support in cases involving modification of contributions
 ordered under this section.

4 (d) An alternative arrangement must:

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5 (i) provide sufficient security to ensure compliance
6 with the arrangement;

7 (ii) be in writing and be signed by a representative of 8 the department and the person required to make 9 contributions; and

10 (iii) if approved by the court, be entered into the 11 record of the proceeding.

12 $(\pm 3)(12)$ Upon a showing of a change in the financial 13 ability of the youth's parents or guardians to pay, the 14 court may modify its order for the payment of contributions 15 required under subsection $(\pm 3)(10)$.

16 (14)(13) (a) If the court orders the payment of 17 contributions under this section, the department shall apply 18 to the department of social and rehabilitation services for 19 support enforcement services pursuant to Title IV-D of the 20 Social Security Act.

(b) The department of social and rehabilitation services may collect and enforce a contribution order under this section by any means available under law, including the remedies provided for in Title 40, chapter 5, parts 2 and 4."

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Section 2. Section 52-5-126, MCA, is amended to read:

2 "52-5-126. Youth aftercare agreement. (1) A youth
3 released by the department of family services from one of
4 the state youth correctional facilities to the supervision,
5 custody, and control of the department shall, before his the
6 youth's release, sign an aftercare agreement containing:

7 (a) a statement of the terms and conditions of his the
8 release, including a list of the acts which that, if
9 committed by the youth, may result in his a return to the
10 facility; and

11 (b) a statement that if the department or any person 12 alleges any violation of the terms and conditions of the 13 agreement, the youth is entitled to a hearing as provided 14 for in 52-5-129 before he--may--be being returned to the 15 facility.

16 (2) A youth who--is released from a state youth 17 correctional facility for commitment to a mental health 18 facility pursuant to Title 53, chapter 21, part 1, shall sign an aftercare agreement that will remain in effect until 19 the department no longer has custody of the youth is 20 returned-to-the-court-for-further-disposition-as-provided-in 21 22 41-5-523(1)(i)--If-the-youth-is--not--returned--to--a--state 23 youth---correctional--facility--following--the--hearing--for further-disposition7-the-aftercare--agreement--becomes--void 24 25 unless-amended-or-extended-by-the-department-or-the-court."

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1 Section 3. Section 52-5-127, MCA, is amended to read: *52-5-127. Control over youth released under aftercare 2 agreement. The department of family services has control 3 4 over a youth released under 52-5-126 until he the youth attains the age of 19 years unless the youth is discharged. 5 6 by the department before age 19. However, the youth is 7 subject to the general continuing jurisdiction of the various youth courts of Montana, pursuant to 41-5-205, for 8 9 acts committed by the youth while under the control of the department." 10

<u>NEW SECTION.</u> Section 4. Effective date. [This act] is
 effective on passage and approval.

-End-

HOUSE BILL NO. 638 1 INTRODUCED BY GRIMES 2 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES ъ A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING--A--YOUTH 5 COURT--PROM-COMMITTING-A-YOUTE-TO-A-STATE-YOUTE-CORRECTIONAL 6 PACILITY-FOR-A-DETERMINATE-PERIOD; PROHIBITING THE PLACEMENT 7 OF A STATUS OFFENDER IN A STATE YOUTH CORRECTIONAL FACILITY; 8 PROHIBITING THE INITIAL COMMITMENT OR PROLONGED CONFINEMENT 9 OF A MENTALLY ILL YOUTH IN A STATE YOUTH CORRECTIONAL 10 FACILITY; CLARIFYING WHO SUPERVISES A YOUTH FOLLOWING A 11 MENTAL HEALTH COMMITMENT; AMENDING SECTIONS 41-5-523, 12 52-5-126, AND 52-5-127, MCA; AND PROVIDING AN IMMEDIATE 13 EFFECTIVE DATE." 14 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 Section 1. Section 41-5-523, MCA, is amended to read: 17 *41-5-523. Disposition -- commitment to department --18

19 placement and evaluation of youth -- restrictions. (1) If a 20 youth is found to be a delinquent youth or a youth in need 21 of supervision, the youth court may enter its judgment 22 making any of the following dispositions:

23 (a) place the youth on probation;

(b) commit the youth to the department if the courtdetermines that the youth is in need of placement in other

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1 than the youth's own home, provided that:

2 (i) in--the-case-of-a-youth-in-need-of-supervision; the 3 court shall determine whether continuation in the home would 4 be contrary to the welfare of the youth and whether 5 reasonable efforts have been made to prevent or eliminate 6 the need for removal of the youth from his <u>the youth's</u> home. 7 The court shall include a determination in the order 8 committing the youth to the department.

9 (ii) in the case of a delinguent youth who is determined 10 by the court to be a serious juvenile offender, the judge 11 may specify that the youth be placed in a state youth 12 correctional facility if the judge finds that the placement 13 is necessary for the protection of the public ... The--court 14 may--not-commit-a-youth-to-a-youth-correctional-facility-for 15 a-determinate--length--of--time THE COURT MAY ORDER THE 16 DEPARTMENT TO NOTIPY THE COURT WITHIN 5 WORKING DAYS BEFORE 17 THE PROPOSED RELEASE OF A YOUTH FROM A YOUTH CORRECTIONAL FACILITY. Once a youth is committed to the department for 18

> THERE ARE NO CHANGES IN THIS BILL AND WILL NOT BE REPRINTED. PLEASE REFER TO YELLOW COPY FOR COMPLETE TEXT.

> > - 2 -

HB 638

HB 0638/02

SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 18, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 638 (first reading copy -- blue), respectfully report that House Bill No. 638 be amended as follows and as so amended be concurred in.

Signed: Wm Ullow Senator William "Bill" Kellowtai

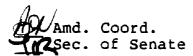
That such amendments read:

1. Page 4, lines 10 through 12. Following: "time" on line 10 Strike: remainder of line 10 through "TREATED" on line 12 Insert: "to a more appropriate placement in response to the youth's mental health needs and consistent with the disposition alternatives available in 53-21-127"

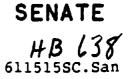
2. Page 7, line 2. Following: line 1 Insert: "(6) The youth court may not order placement or evaluation of a youth at a state youth correctional facility unless the youth is found to be a delinquent youth or is alleged to have committed an offense that is transferable to criminal court under 41-5-206." Renumber: subsequent subsections

3. Page 7, line 23. Strike: "(9)" Insert: "(10)" 4. Page 8, line 4. Strike: "(11)(b)" Insert: "(12)(b)" 5. Page 9, line 15. Strike: "(10)" Insert: "(11)"

-END-



Amd. Coord. Sec. of Senate Senator Carrying Bill



HOUSE BILL NO. 638 1 INTRODUCED BY GRIMES 2 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING--A--YOUTH 5 Court--from-committing-a-youth-to-a-state-youth-correctional 6 PACILITY-POR-A-DETERMINATE-PERIOD; PROHIBITING THE PLACEMENT 7 OF A STATUS OFFENDER IN A STATE YOUTH CORRECTIONAL FACILITY; 8 PROHIBITING THE INITIAL COMMITMENT OR PROLONGED CONFINEMENT 9 OF A MENTALLY ILL YOUTH IN A STATE YOUTH CORRECTIONAL 10 FACILITY; CLARIFYING WHO SUPERVISES A YOUTH FOLLOWING A 11 MENTAL HEALTH COMMITMENT; AMENDING SECTIONS 41-5-523, 12 52-5-126, AND 52-5-127, MCA; AND PROVIDING AN IMMEDIATE 13 EFFECTIVE DATE." 14 15

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 41-5-523, MCA, is amended to read:
*41-5-523. Disposition -- commitment to department -placement and evaluation of youth -- restrictions. (1) If a
youth is found to be a delinquent youth or a youth in need
of supervision, the youth court may enter its judgment
making any of the following dispositions:

23 (a) place the youth on probation;

(b) commit the youth to the department if the courtdetermines that the youth is in need of placement in other



1 than the youth's own home, provided that:

2 (i) in--the-case-of-a-youth-in-need-of-supervision, the 3 court shall determine whether continuation in the home would 4 be contrary to the welfare of the youth and whether 5 reasonable efforts have been made to prevent or eliminate 6 the need for removal of the youth from his the youth's home. 7 The court shall include a determination in the order 8 committing the youth to the department.

9 (ii) in the case of a delinguent youth who is determined 10 by the court to be a serious juvenile offender, the judge 11 may specify that the youth be placed in a state youth correctional facility if the judge finds that the placement 12 13 is necessary for the protection of the public:. The--court 14 may--not-commit-a-youth-to-a-youth-correctional-facility-for a-determinate--length--of--time THE COURT MAY ORDER THE 15 16 DEPARTMENT TO NOTIFY THE COURT WITHIN 5 WORKING DAYS BEFORE 17 THE PROPOSED RELEASE OF A YOUTH FROM A YOUTH CORRECTIONAL 18 FACILITY. Once a youth is committed to the department for 19 placement in a state youth correctional facility, the 20 department is responsible for determining an appropriate 21 date of release into an appropriate placement. 22 (c) order restitution by the youth or his the youth's 23 parents; 24 (d) impose a fine as authorized by law if the violation 25 alleged would constitute a criminal offense if committed by

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HB 638 REFERENCE BILL. AS AMENDED

1	an adult;	1	youth-must-be-returned-to-the-court-for-furtherdisposition
2	(e) require the performance of community service;	2	inaccordancewith-this-section-unless-the-court-order-has
3	(f) require the youth, his the youth's parents, his or	3	expired-or-the-court-no-longerretainsjurisdictionunder
4	guardians, or the persons having legal custody of the youth	4	41-5-205. A youth adjudicated mentally ill or seriously
5	to receive counseling services;	5	mentally ill as defined in 53-21-102 may not be committed to
6	(g) require the medical and psychological evaluation of	6	a state youth correctional facility. A youth adjudicated to
7	the youth, his the youth's parents, his or guardians, or the	7	be mentally ill or seriously mentally ill after placement by
8	persons having legal custody of the youth;	8	the department in a state youth correctional facility must
9	(h) require the parents, guardians, or other persons	9	be moved to-a-more-appropriate-placement-within-a-reasonable
10	having legal custody of the youth to furnish services the	10	time7-PURSUANT-TO-53-21-1277-TO-AN-APPROPRIATE-MENTAL-HEALTH
11	court may designate;	11	<u>PLACEMENT-INWHICHTHEYOUTH'SMENTAL-ILLNESSWILL-BE</u>
12	(i) order further care, treatment, evaluation, or	12	TREATED TO A MORE APPROPRIATE PLACEMENT IN RESPONSE TO THE
13	relief that the court considers beneficial to the youth and	13	YOUTH'S MENTAL HEALTH NEEDS AND CONSISTENT WITH THE
14	the community and that does not obligate funding from the	14	DISPOSITION ALTERNATIVES AVAILABLE IN 53-21-127.
15	department without the department's approval, except that a	15	(k) place the youth under home arrest as provided in
16	youth may not be placed by a youth court in a residential	16	Title 46, chapter 18, part 10.
17	treatment facility as defined in 50-5-101. Only the	17	(2) When a youth is committed to the department, the
18	department may, pursuant to subsection (1)(b), place a youth	18	department shall determine the appropriate placement and
19	in a residential treatment facility.	19	rehabilitation program for the youth after considering the
20	(j) commit the youth to a mental health facility if,	20	recommendations made under 41-5-527 by the youth placement
21	based upon the testimony of a professional person as defined	21	committee. Placement is subject to the following
22	in 53-21-102, the court finds that the youth is seriously	22	limitations:
23	mentally ill as defined in 53-21-102. The youth is entitled	23	(a) A youth in need of supervision or adjudicated
24	to all rights provided by 53-21-114 through 53-21-119. Upon	24	delinguent for commission of an act that would not be a
25	release-ordischargefrom-the-mental-health-facilityy-the	25	criminal offense if committed by an adult may not be placed

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1 in a state youth correctional facility.

2 (b) A youth may not be held in a state youth 3 correctional facility for a period of time in excess of the maximum period of imprisonment that could be imposed on an 4 5 adult convicted of the offense or offenses that brought the 6 youth under the jurisdiction of the youth court. Nothing in 7 this section limits the power of the department to enter 8 into an aftercare agreement with the youth pursuant to 9 52-5-126.

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10 (c) A youth may not be placed in or transferred to a
11 penal institution or other facility used for the execution
12 of sentence of adults convicted of crimes.

13 (3) A youth placed by the department in a state youth 14 correctional facility or other facility or program operated 15 by the department or who signs an aftercare agreement under 16 52-5-126 must be supervised by the department. A youth who 17 is placed in any other placement by the department, the 18 youth court, or the youth court's juvenile probation officer must be supervised by the vouth probation officer of the 19 youth court having jurisdiction over the youth under 20 41-5-205 whether or not the youth is committed to the 21 department. Supervision by the youth probation officer 22 23 includes but is not limited to:

24 (a) submitting information and documentation necessary25 for the person, committee, or team that is making the

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HB 638

1 placement recommendation to determine an appropriate 2 placement for the youth;

3 (b) securing approval for payment of special education
4 costs from the youth's school district of residence or the
5 office of public instruction, as required in Title 20,
6 chapter 7, part 4;

7 (c) submitting an application to a facility in which8 the youth may be placed; and

9 (d) case management of the youth.

10 (4) The youth court may order a youth to receive a medical or psychological evaluation at any time prior to 11 final disposition if the youth waives his the youth's 12 constitutional rights in the manner provided for 13 in 41-5-303. The county determined by the court as the 14 15 residence of the youth is responsible for the cost of the evaluation, except as provided in subsection (5). A county 16 may contract with the department or other public or private 17 agencies to obtain evaluation services ordered by the court. 18 19 (5) The youth court shall determine the financial ability of the youth's parents to pay the cost of an 20 evaluation ordered by the court under subsection (4). If 21 they are financially able, the court shall order the youth's 22 23 parents to pay all or part of the cost of the evaluation.

24 (6)--The---youth--court--may--not--order--placement--or
 25 evaluation-of-a-youth-at-a-state-youth-correctional-facility

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unless-the-youth-is-found-to-be-a--delinquent--youth--or--is
 alleged-to-have-committed-an-offense-that-is-transferable-to
 eriminal-court-under-41-5-206.

4 (6) THE YOUTH COURT MAY NOT ORDER PLACEMENT OR 5 EVALUATION OF A YOUTH AT A STATE YOUTH CORRECTIONAL FACILITY 6 UNLESS THE YOUTH IS FOUND TO BE A DELINQUENT YOUTH OR IS 7 ALLEGED TO HAVE COMMITTED AN OFFENSE THAT IS TRANSFERABLE TO 8 CRIMINAL COURT UNDER 41-5-206.

9 (7)(6)(7) An evaluation of a youth may not be performed
10 at the Montana state hospital unless the youth is
11 transferred to the district court under 41-5-206.

12 (0)(7)(0) An order of the court may be modified at any time. In the case of a youth committed to the department, an order pertaining to the youth may be modified only upon notice to the department and subsequent hearing.

16 (9)(8)(9) Whenever the court commits a youth to the
17 department, it shall transmit with the dispositional
18 judgment copies of a medical report reports, social history
19 material, education records, and any other clinical,
20 predisposition, or other reports and information pertinent
21 to the care and treatment of the youth.

22 (10)(10) If a youth is committed to the department, 23 the court shall examine the financial ability of the youth's 24 parents or guardians to pay a contribution covering all or 25 part of the costs for the care, commitment, and treatment of HB 0638/03

the youth, including the costs of necessary medical, dental,
 and other health care.

3 (+++)(++0)(11) If the court determines that the youth's 4 parents or guardians are financially able to pay a 5 contribution as provided in subsection (+0) (+0) (10), the 6 court shall order the youth's parents or guardians to pay an 7 amount based on the uniform child support guidelines adopted 8 by the department of social and rehabilitation services 9 pursuant to 40-5-209.

10 f12;f11;(12) (a) Except as provided in subsection 11 (12)(B), contributions ordered under this 12 section and each modification of an existing order are 13 enforceable by immediate or delinguency income withholding, 14 or both, under Title 40, chapter 5, part 4. An order for contribution that is inconsistent with this section is 15 nevertheless subject to withholding for the payment of the 16 17 contribution without need for an amendment of the support 18 order or for any further action by the court.

(b) A court-ordered exception from contributions under
this section must be in writing and be included in the
order. An exception from the immediate income withholding
requirement may be granted if the court finds there is:

23 (i) good cause not to require immediate income24 withholding; or

25 (ii) an alternative arrangement between the department

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and the person who is ordered to pay contributions. 1 (c) A finding of good cause not to require immediate 2 income withholding must, at a minimum, be based upon: 3 (i) a written determination and explanation by the 4 court of the reasons why the implementation of immediate 5 income withholding is not in the best interests of the 6 7 child; and (ii) proof of timely payment of previously ordered 8 support in cases involving modification of contributions 9 ordered under this section. 10 (d) An alternative arrangement must: 11 (i) provide sufficient security to ensure compliance 12 with the arrangement; 13 (ii) be in writing and be signed by a representative of 14 the department and the person required to make 15 contributions; and 16 (iii) if approved by the court, be entered into the 17 record of the proceeding. 18 (13)(13) Upon a showing of a change in the financial 19 ability of the youth's parents or guardians to pay, the 20 court may modify its order for the payment of contributions 21 required under subsection (11). 22 (14)(13)(14) (a) If the court orders the payment of 23 contributions under this section, the department shall apply 24 to the department of social and rehabilitation services for 25 HB 638 -9support enforcement services pursuant to Title IV-D of the
 Social Security Act.

3 (b) The department of social and rehabilitation 4 services may collect and enforce a contribution order under 5 this section by any means available under law, including the 6 remedies provided for in Title 40, chapter 5, parts 2 and 7 4."

8 Section 2. Section 52-5-126, MCA, is amended to read:

9 "52-5-126. Youth aftercare agreement. (1) A youth
10 released by the department of family services from one of
11 the state youth correctional facilities to the supervision,
12 custody, and control of the department shall, before his the
13 youth's release, sign an aftercare agreement containing:

(a) a statement of the terms and conditions of his the
release, including a list of the acts which that, if
committed by the youth, may result in his a return to the
facility; and

(b) a statement that if the department or any person
alleges any violation of the terms and conditions of the
agreement, the youth is entitled to a hearing as provided
for in 52-5-129 before he--may--be being returned to the
facility.

(2) A youth who--is released from a state youth
 correctional facility for commitment to a mental health
 facility pursuant to Title 53, chapter 21, part 1, shall

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1 sign an aftercare agreement that will remain in effect until the department no longer has custody of the youth is 2 3 returned-to-the-court-for-further-disposition-as-provided-in 41-5-523(1)(j).-If-the-youth-is--not--returned--to--a--state 4 5 youth---correctional--facility--following--the--hearing--for 6 further-disposition;-the-aftercare--agreement--becomes--void 7 unless-amended-or-extended-by-the-department-or-the-court." 8 Section 3. Section 52-5-127, MCA, is amended to read: *52-5-127. Control over youth released under aftercare 9 10 agreement. The department of family services has control 11 over a youth released under 52-5-126 until he the youth 12 attains the age of 19 years unless the youth is discharged by the department before age 19. However, the youth is 13 14 subject to the general continuing jurisdiction of the various youth courts of Montana, pursuant to 41-5-205, for 15 16 acts committed by the youth while under the control of the 17 department."

18 <u>NEW SECTION.</u> Section 4. Effective date. [This act] is
19 effective on passage and approval.

-End-

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fouse BILL NO. 639 1 INTRODUCED BY 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE 5 LEGISLATURE TO LEVY A STATEWIDE PROPERTY TAX TO PROVIDE 6 STATE FUNDS TO MATCH LOCAL ECONOMIC DEVELOPMENT FUNDS AND TO 7 FUND THE CERTIFIED COMMUNITIES PROGRAM ADMINISTERED BY THE 8 DEPARTMENT OF CONMERCE; AMENDING SECTION 15-10-412, MCA; AND 9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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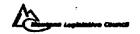
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 <u>NEW SECTION.</u> Section 1. Tax levy for economic 13 development — distribution of proceeds — criteria for 14 grants from levy — local economic development matching 15 funds. (1) As used in this section, the following 16 definitions apply:

17 (a) "Certified community lead organisation" means the
18 entity that has been endorsed by resolution of a local
19 governing body and that meets and maintains requirements for
20 certification established by the department.

21 (b) "Department" means the department of commerce 22 provided for in 2-15-1801.

(2) The legislature shall levy each year a property tax
of 0.65 mill on the 1992 taxable value of all real and
personal property within the state or shall levy each year a



sufficient millage to produce an amount equivalent to 0.65 mill on the 1992 taxable value of all real and personal property within the state. Proceeds from the levy must be deposited in an account in the state special revenue fund and must be disbursed in the following manner:

6 (a) 91% to certified community lead organizations, in
7 the form of assistance grants;

8 (b) 8% to the department for administration of the
9 certified communities program; and

10 (c) 1% to the department for certification assistance 11 for noncertified communities. If there are no requests for 12 certification assistance, the 1% allocation may be used by 13 the department for administration of the certified 14 communities program.

15 (3) An assistance grant to a certified community lead 16 organization is based on an annual \$1.50 per capita payment 17 for the area served by the organization, according to its 18 population in the last completed federal census. The grant 19 may not exceed \$75,000 and may not be less than \$3,000 a 20 year.

21 (4) To be eligible to receive a grant, a certified22 community lead organization:

23 (a) must be designated as the lead organization by the24 local governing body;

25 (b) shall maintain department requirements for

-2- HB 639 INTRODUCED BILL

1	certification;	1	this section, the actual tax liability for an individual
2	(c) shall match each \$1 of the grant with \$1 raised	2	property is capped at the dollar amount due in each taxing
3	from public or private sources; and	3	unit for the 1986 tax year. In tax years thereafter, the
4	(d) shall participate in regional meetings of certified	4	property must be taxed in each taxing unit at the 1986 cap
5	communities.	5	or the product of the taxable value and mills levied,
6	(5) Grants under this section must be used to conduct	6	whichever is less for each taxing unit, except in a taxing
7	economic development programs consistent with strategic	7	unit that levied a tax in tax years 1983 through 1985 but
6	plans that are adopted by the certified communities and that	8	did not levy a tax in 1986, in which case the actual tax
9	are filed with the department.	9	liability for an individual property is capped at the dollar
10	(6) The department shall use its portion of the	10	amount due in that taxing unit for the 1985 tax year.
11	proceeds to:	11	(3) The limitation on the amount of taxes levied does
12	(a) administer the certified communities program;	12	not mean that no further increase may be made in the total
13	(b) assist noncertified communities in seeking	13	taxable valuation of a taxing unit as a result of:
14	certification; and	14	(a) annexation of real property and improvements into a
15	(c) organize and conduct regional meetings of certified	15	taxing unit;
16	communities.	16	(b) construction, expansion, or remodeling of
17	Section 2. Section 15-10-412, MCA, is amended to read:	17	improvements;
18	*15-10-412. Property tax limited to 1986 levels	18	(c) transfer of property into a taxing unit;
19	clarification extension to all property classes. Section	19	(d) subdivision of real property;
20	15-10-402 is interpreted and clarified as follows:	20	(e) reclassification of property;
21	(1) The limitation to 1986 levels is extended to apply	21	(f) increases in the amount of production or the value
22	to all classes of property described in Title 15, chapter 6,	22	of production for property described in 15-6-131 or
23	part 1.	23	15-6-132;
24	(2) The limitation on the amount of taxes levied is	24	(g) transfer of property from tax-exempt to taxable
25	interpreted to mean that, except as otherwise provided in	25	status; or

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1 valuations are placed on the tax rolls and a new base year 1 (h) revaluations caused by: (i) cyclical reappraisal; or 2 designated, if the property is: 2 (ii) expansion, addition, replacement, or remodeling of 3 (a) new construction; 3 4 (b) expanded, deleted, replaced, remodeled 4 improvements. or (4) The limitation on the amount of taxes levied does 5 improvements: 5 not mean that no further increase may be made in the taxable 6 (c) annexed property; or 6 valuation or in the actual tax liability on individual 7 (d) property converted from tax-exempt to taxable 7 property in each class as a result of: 8 status. 8 (a) a revaluation caused by: 9 (6) Property described in subsections (5)(a) through 9 (i) construction, expansion, replacement, or remodeling 10 (5)(d) that is not class four or class eleven property is 10 valued according to the procedures used in 1986 but is also 11 of improvements that adds value to the property; or 11 (ii) cyclical reappraisal: 12 subject to the dollar cap in each taxing unit based on 1986 12 (b) transfer of property into a taxing unit; 13 mills levied. 13 (c) reclassification of property; 14 (7) The limitation on the amount of taxes, as clarified 14 (d) increases in the amount of production or the value 15 in this section, is intended to leave the property appraisal 15 of production for property described in 15-6-131 or 16 and valuation methodology of the department of revenue 16 intact. Determinations of county classifications, salaries 17 15-6-132: 17 (e) annexation of the individual property into a new of local government officers, and all other matters in which 18 18 19 total taxable valuation is an integral component are not taxing unit; or 19 (f) conversion of the individual property from 20 affected by 15-10-401 and 15-10-402 except for the use of 20 tax-exempt to taxable status. 21 taxable valuation in fixing tax levies. In fixing tax 21 (5) Property in classes four and eleven is valued 22 levies, the taxing units of local government may anticipate 22 according to the procedures used in 1986, including the 23 deficiency in revenues resulting from the tax the 23 designation of 1982 as the base year, until the reappraisal 24 limitations in 15-10-401 and 15-10-402, while understanding 24 25 cycle beginning January 1, 1986, is completed and new 25 that regardless of the amount of mills levied, a taxpayer's -6--5liability may not exceed the dollar amount due in each
 taxing unit for the 1986 tax year unless:

3 (a) the taxing unit's taxable valuation decreases by 5% 4 or more from the 1986 tax year. If a taxing unit's taxable 5 valuation decreases by 5% or more from the 1986 tax year, it 6 may levy additional mills to compensate for the decreased 7 taxable valuation, but in no case may the mills levied 8 exceed a number calculated to equal the revenue from 9 property taxes for the 1986 tax year in that taxing unit.

10 (b) a levy authorized under Title 20 raised less 11 revenue in 1986 than was raised in either 1984 or 1985, in 12 which case the taxing unit may, after approval by the voters 13 in the taxing unit, raise each year thereafter an additional 14 number of mills but may not levy more revenue than the 15 3-year average of revenue raised for that purpose during 16 1984, 1985, and 1986;

(c) a levy authorised in 50-2-111 that was made in 1986
was for less than the number of mills levied in either 1984
or 1985, in which case the taxing unit may, after approval
by the voters in the taxing unit, levy each year thereafter
an additional number of mills but may not levy more than the
3-year average number of mills levied for that purpose
during 1984, 1985, and 1986.

24 (8) The limitation on the amount of taxes levied does25 not apply to the following levy or special assessment

1	categories, whether or not they are based on commitments
2	made before or after approval of 15-10-401 and 15-10-402:
3	(a) rural improvement districts;
4	(b) special improvement districts;
5	(c) levies pledged for the repayment of bonded
6	indebtedness, including tax increment bonds;
7	(d) city street maintenance districts;
8	(e) tax increment financing districts;
9	(f) satisfaction of judgments against a taxing unit;
10	(g) street lighting assessments;
11	(h) revolving funds to support any categories specified
12	in this subsection (8);
13	(i) levies for economic development authorized pursuant
14	to 90-5-112(4);
15	(j) levies authorised under 7-6-502 for juvenile
16	detention programs; and
17	(k) elementary and high school districts; and
18	(1) the tax levied pursuant to [section 1] for local
19	economic development.
20	(9) The limitation on the amount of taxes levied does
21	not apply in a taxing unit if the voters in the taxing unit
22	approve an increase in tax liability following a resolution
23	of the governing body of the taxing unit containing:
24	(a) a finding that there are insufficient funds to
25	adequately operate the taxing unit as a result of 15-10-401

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and 15-10-402; (b) an explanation of the nature of the financial emergency; (c) an estimate of the amount of funding shortfall expected by the taxing unit; (d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted; (e) a finding that there are no alternative sources of revenue; (f) a summary of the alternatives that the governing body of the taxing unit has considered; and (g) a statement of the need for the increased revenue and how it will be used.

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14 (10) (a) The limitation on the amount of taxes levied
15 does not apply to levies required to address the funding of
16 relief of suffering of inhabitants caused by famine,
17 conflagration, or other public calamity.

18 (b) The limitation set forth in this chapter on the19 amount of taxes levied does not apply to levies to support:

(i) a city-county board of health as provided in Title
50, chapter 2, if the governing bodies of the taxing units
served by the board of health determine, after a public
hearing, that public health programs require funds to ensure
the public health. A levy for the support of a local board
of health may not exceed the 5-mill limit established in

1 50-2-111.

2 (ii) county, city, or town ambulance services authorized
3 by a vote of the electorate under 7-34-102(2).

4 (11) The limitation on the amount of taxes levied by a 5 taxing jurisdiction subject to a statutory maximum mill levy 6 does not prevent a taxing jurisdiction from increasing its 7 number of mills beyond the statutory maximum mill levy to 8 produce revenue equal to its 1986 revenue.

9 (12) The limitation on the amount of taxes levied does
10 not apply to a levy increase to repay taxes paid under
11 protest in accordance with 15-1-402."

12 <u>NEW SECTION.</u> Section 3. Effective date -- distribution
13 of proceeds. (1) [This act] is effective on passage and
14 approval.

15 (2) Distribution of the proceeds from the tax levy must16 begin in December 1993.

-End-

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STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0639, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring the legislature to levy a statewide property tax to provide state funds to match local economic development funds and to fund the certified communities program administered by the department of commerce; and providing an immediate effective date.

ASSUMPTIONS :

- 1. Tax year 1992 taxable value of all real and personal property within the state is \$1,632,622,989. Estimates are \$1,640,208,000 for tax year 1993 and \$1,666,001,000 for tax year 1994 (HJR3).
- 2. This proposal will serve certified community organizations representing 96% of the state population.
- 3. The 0.65 mill statewide levy will yield the necessary level of funding.
- 4. This act takes advantage of a statewide local economic development network that the Department of Commerce has worked to establish since 1985.

FISCAL IMPACT:

		FY '94			<u>FY '95</u>	
	<u>Current Law</u>	Proposed Law	<u>Difference</u>	<u>Current Law</u>	Proposed Law	Difference
Expenditures: (Dept. of Commerce)					
FTE	0	1.00	1.00	0	1.00	1.00
Personal Services	0	34,000	34,000	0	34,000	34,000
Operating Expenses	0	51,000	51,000	0	51,000	51,000
Local Grants & Assistance	0	976,000	<u>976,000</u>	0	976,000	<u>976,000</u>
Totals (02)	0	1,061,000	1,061,000	0	1,061,000	1,061,000
<u>Revenues:</u>						
Statewide 0.65 mill levy (02)	0	1,061,000	1,061,000	0	1,061,000	1,061,000

(To generate the same amount of revenue in FY94 would require a statewide mill levy of 0.647 mills. To generate the same amount of revenue in FY95 would require a statewide mill levy of 0.637 mills).

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Because required matching funds may be derived from any public or private source, local revenue commitments may be minimal or none at all.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed mill levy should enable this effort to be self sustaining without any future increases in subsequent fiscal years.

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DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

JERRY DRISCOLL, PRIMARY SPONSOR

Fiscal Note for HB0639, as introduced

53rd Legislature

HB 0639/02

APPROVED BY COMMITTEE ON TAXATION

1	HOUSE BILL NO. 639
2	INTRODUCED BY DRISCOLL, HALLIGAN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE
5	LEGISLATURBTOLEVY-A-STATEWIDE-PROPERTY-TAX DEPARTMENT OF
6	COMMERCE TO ESTABLISH A PROGRAM TO PROVIDE STATE FUNDS TO
7	MATCH LOCAL ECONOMIC DEVELOPMENT FUNDS CONTINGENT UPON THE
8	AVAILABILITY OF STATE MATCHING MONEY AND TO FUND THE
9	CERTIFIED COMMUNITIES PROGRAM ADMINISTERED BY THE DEPARTMENT
10	OF COMMERCE; AMENDING-SECTION-15-10-4127-MCA; AND PROVIDING
11	AN IMMEDIATE EFFECTIVE DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	NEW SECTION. Section 1. Tax IEVy STATE MATCHING FUNDS
15	PROGRAM for economic development distribution of proceeds
16	criteria for grants fromlevy local economic
17	development matching funds. (1) As used in this section, the
18	following definitions apply:
19	(a) "Certified community lead organization" means the
20	entity that has been endorsed by resolution of a local
21	governing body and that meets and maintains requirements for
22	certification established by the department.
23	(b) "Department" means the department of commerce
24	provided for in 2-15-1801.

(2) The legislature-shall-levy-each-year-a-property-tax 25



of-0-65-mill-on-the-1992--taxable--value--of--all--real--and 1 2 personal-property-within-the-state-or-shall-levy-each-year-a 3 sufficient--millage--to-produce-an-amount-equivalent-to-0.65 4 mill-on-the-1992-taxable-value--of--all--real--and--personal 5 property--within--the--state--Proceeds-from-the-levy-must-be 6 deposited-in-an-account-in-the-state--special--revenue--fund 7 and--must--be-disbursed DEPARTMENT SHALL CREATE A PROGRAM TO 8 PROVIDE STATE FUNDS TO MATCH LOCAL ECONOMIC DEVELOPMENT 9 FUNDS AND TO FUND THE CERTIFIED COMMUNITIES PROGRAM. THE PROVISION OF STATE MATCHING FUNDS IS CONTINGENT 10 UPON 11 SPECIFIC APPROPRIATIONS TO THE DEPARTMENT FOR THAT PURPOSE. 12 THE DEPARTMENT SHALL DISTRIBUTE THE FUNDS in the following 13 manner: 14 (a) 91% to certified community lead organizations, in 15 the form of assistance grants; 16 (b) 8% to the department for administration of the 17 certified communities program; and 18 (c) 1% to the department for certification assistance 19 for noncertified communities. If there are no requests for 20 certification assistance, the 1% allocation may be used by 21 the department for administration of the certified communities program. 22 23 (3) An assistance grant to a certified community lead 24 organization is based on an annual \$1.50 per capita payment for the area served by the organization, according to its 25

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HB 639 SECOND READING

population in the last completed federal census. The grant may not exceed \$75,000 and may not be less than \$3,000 a year. (4) To be eligible to receive a grant, a certified community lead organization: (a) must be designated as the lead organization by the local governing body; (b) shall maintain department requirements for certification: (c) shall match each \$1 of the grant with \$1 raised from public or private sources; and (d) shall participate in regional meetings of certified communities. (5) Grants under this section must be used to conduct economic development programs consistent with strategic plans that are adopted by the certified communities and that are filed with the department. department shall use its portion of the (6) The proceeds to: (a) administer the certified communities program; (b) assist noncertified communities in seeking certification; and (c) organize and conduct regional meetings of certified communities. Section-2 .- Section-15-10-4127-MCA7-is-amended-to-read:--

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1 #15-10-412---Property--tax--limited--to--1986--levels---2 clarification----extension-to-all-property-classes---Section 3 15-10-402-is-interpreted-and-clarified-as-follows: 4 tll--The--limitation-to-1986-levels-is-extended-to-apply 5 to-all-classes-of-property-described-in-Title-157-chapter-67 6 part-1-7 f2t--The-limitation-on-the-amount--of--taxes--levied--is 8 interpreted--to--mean--thaty-except-as-otherwise-provided-in 9 this-section-the-actual-tax--liability--for--an--individual 10 property--is--capped-at-the-dollar-amount-due-in-each-taxing 11 unit-for-the-1986-tax-year--In--tax--years--thereaftery--the 12 property--must--be-taxed-in-each-taxing-unit-at-the-1986-cap 13 or-the-product--of--the--taxable--value--and--mills--leviedy 14 whichever--is--less-for-each-taxing-unity-except-in-a-taxing 15 unit-that-levied-a-tax-in-tax-veara-1983--through--1985--but 16 did--not--levy--a--tax-in-19867-in-which-case-the-actual-tax 17 liability-for-an-individual-property-is-capped-at-the-dollar 18 amount-duc-in-that-taxing-unit-for-the-1985-tax-year-19 (3)--The-limitation-on-the-amount-of-taxes--levied--does 20 not--mean--that-no-further-increase-may-be-made-in-the-total 21 taxable-valuation-of-a-taxing-unit-as-a-result-of-22 (a)--annexation-of-real-property-and-improvements-into-a 23 taxing-unit; 24 (b)--constructiony---expansiony---or---remodeling----of 25 improvements;

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(c)transfer-of-property-into-a-taxing-unit;	1	tepannexationoftheindividual-property-into-a-new
(d)subdivision-of-real-property;	2	taxing-unit;-or
te)reclassification-of-property;	3	(f)conversionoftheindividualpropertyfrom
tf)increasesin-the-amount-of-production-or-the-value	4	tax-exempt-to-taxable-status.
ofproductionforpropertydescribedin15-6-131or	5	<pre>{5}Propertyinclassesfourandelevenis-valued</pre>
15-6-132;	6	according-to-the-proceduresusedin19867includingthe
fg}transferofpropertyfromtax-exempt-to-taxable	7	designationof-1982-as-the-base-year;-until-the-reappraisal
status;-or	8	cycle-beginningJanuary1719867iscompletedandnew
{h}revaluations-caused-by:	. 9	valuationsareplaced-on-the-tax-rolls-and-a-new-base-year
ti)eyelical-reappraisal;-or	10	designated7-if-the-property-is;
tit)-expansion7-addition7-replacement7-or-remodelingof	11	ta)new-construction;
improvements.	12	<pre>{b}expanded;deleted;replaced;orremodeled</pre>
+++Thelimitationon-the-amount-of-taxes-levied-does	13	improvements;
not-mean-that-no-further-increase-may-be-made-in-the-taxable	14	{c}annexed-property;-or
valuation-or-intheactualtaxliabilityonindividual	15	<pre>(d)propertyconvertedfromtax-exempttotaxable</pre>
property-in-each-class-as-a-result-of:	16	status-
ta)a-revaluation-caused-by:	17	<pre>{6}Property-described-insubsections{5}{a}through</pre>
(i)construction,-expansion,-seplacement,-or-remodeling	18	(5)(d)thatisnot-class-four-or-class-eleven-property-is
of-improvements-that-adds-value-to-the-property;-or	19	valued-according-to-the-procedures-used-in-1986-but-isalso
tii)-cyclical-reappraisal;	20	subjectto-the-dollar-cap-in-each-taxing-unit-based-on-1986
(b)transfer-of-property-into-a-taxing-unit;	21	mills-levied;
tcreclassification-of-property;	22	(7)The-limitation-on-the-amount-of-taxes;-as-clarified
(d)increasesin-the-amount-of-production-or-the-value	23	in-this-section;-is-intended-to-leave-the-property-appraisal
ofproductionforpropertydescribedin15-6-131or	24	and-valuationmethodologyofthedepartmentofrevenue
±5-6-1327	25	intactDeterminationsof-county-classifications,-salaries

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HB 639

HB 0639/02

1	of-local-government-officers7-and-all-other-matters-in-which
2	total-taxable-valuation-is-anintegralcomponentarenot
3	affectedby15-10-401and-15-10-402-except-for-the-use-of
4	taxable-valuationinfixingtaxleviesInfixingtax
5	levies7the-taxing-units-of-local-government-may-anticipate
6	thedeficiencyinrevenuesresultingfromthetax
7	limitationsin-15-10-401-and-15-10-402;-while-understanding
8	that-regardless-of-the-amount-of-mills-leviedataxpayer's
9	liabilitymaynotexceedthedollaramount-due-in-each
10	taxing-unit-for-the-1986-tax-year-unless;
11	tajthe-taxing-unit's-taxable-valuation-decreases-by-5%
12	or-more-from-the-1986-tax-yearIf-a-taxingunit-staxable
13	valuation-decreases-by-5%-or-more-from-the-1986-tax-year7-it
14	maylevyadditionalmills-to-compensate-for-the-decreased
15	taxable-valuation;-but-innocasemaythemillslevied
16	exceedanumbercalculatedtoegualtherevenuefrom
17	property-taxes-for-the-1986-tax-year-in-that-taxing-unit-
18	<pre>tb;atevyauthorizedunderTitte20raisedtess</pre>
19	revenuein1986-than-was-raised-in-either-1984-or-19857-in
20	which-case-the-taxing-unit-may;-after-approval-by-the-voters
21	in-the-taxing-unitraise-each-year-thereafter-an-additional
22	number-of-mills-but-maynotlevymorerevenuethanthe
23	3-yearaverageofrevenueraised-for-that-purpose-during
24	19847-19857-and-19867
25	(c)a-levy-authorized-in-50-2-lll-that-was-made-in-1906

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1	was-for-less-than-the-number-of-mills-levied-in-either1984
2	or19857in-which-case-the-taxing-unit-may7-after-approval
3	by-the-voters-in-the-taxing-unity-levy-each-yearthereafter
4	an-additional-number-of-mills-but-may-not-levy-more-than-the
5	3-yearaveragenumberofmillsleviedfor-that-purpose
6	during-19847-19857-and-1986-
7	<pre>t8;The-limitation-on-the-amount-of-taxeslevieddoes</pre>
8	notapplytothefollowinglevyorspecial-assessment
9	categories7-whether-or-not-theyarebasedoncommitments
10	made-before-or-after-approval-of-15-10-401-and-15-10-402;
11	(a)rural-improvement-districts;
12	(b)special-improvement-districts;
13	<pre>(c)leviespledgedfortherepaymentofbonded</pre>
14	indebtedness;-including-tax-increment-bonds;
15	<pre>fd)city-street-maintenance-districts;</pre>
16	(e)tax-increment-financing-districts;
17	(f)satisfaction-of-judgments-against-a-taxing-unit;
18	{g}street-lighting-assessments;
19	<pre>th revolving - funds - to - support - any - categories - specified</pre>
20	in-this-subsection-(8);
21	<pre>fitlevies-for-economic-development-authorized-pursuant</pre>
22	to-90-5-112(4);
23	tj)leviesauthorizedunder7-6-502forjuvenile
24	detention-programs7-and
0.5	

25 (k)--elementary-and-high-school-districts;-and

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1	(1)thetaxleviedpursuant-to-{section-1}-for-local
2	economic-development.
3	t9;The-limitation-on-the-amount-of-taxeslevieddoes
4	notapply-in-a-taxing-unit-if-the-voters-in-the-taxing-unit
5	approve-an-increase-in-tax-liability-following-aresolution
6	of-the-governing-body-of-the-taxing-unit-containing;
7	(a)afindingthatthereareinsufficient-funds-to
8	adequately-operate-the-taxing-unit-as-a-result-of15-10-401
9	and-15-10-402;
10	{b}anexplanationofthenatureofthe-financial
11	emergency;
12	<pre>tc)an-estimate-oftheamountoffundingshortfall</pre>
13	expected-by-the-taxing-unit;
14	(d)a-statement-that-applicable-fund-balances-are-or-by
15	the-end-of-the-fiscal-year-will-be-depleted;
16	(e)afinding-that-there-are-no-alternative-sources-of
17	revenue;
18	(f)a-summary-of-the-alternativesthatthegoverning
19	body-of-the-taxing-unit-has-considered;-and
20	tg;astatementof-the-need-for-the-increased-revenue
21	and-how-it-will-be-used-
22	<pre>tl0;-(a)-The-limitation-on-the-amountoftaxeslevied</pre>
23	doesnot-apply-to-levies-required-to-address-the-funding-of
24	reliefofsufferingofinhabitantscausedbyfamine;
25	conflagration7-or-other-public-calamity-
	-9- НВ 639

(b)Thelimitationsetforthin-this-chapter-on-the
amount-of-taxes-levied-does-not-apply-to-levies-to-support:
ti)a-city-county-board-of-health-as-provided-inTitle
507chapter27-if-the-governing-bodies-of-the-taxing-units
served-by-the-board-ofhealthdetermineafterapublic
hearing,-that-public-health-programs-require-funds-to-ensure
thepublichealthA-levy-for-the-support-of-a-local-board
of-health-may-not-exceed-the5-milllimitestablishedin
50-2-111-
<pre>tit+-county-city-or-town-ambulance-services-authorized</pre>
by-a-vote-of-the-electorate-under-7-34-102(2).
(11)-Thelimitationon-the-amount-of-taxes-lewied-by-a
taxing-jurisdiction-subject-to-a-statutory-maximum-mill-levy
does-not-prevent-a-taxing-jurisdiction-fromincreasingits
numberofmillsbeyond-the-statutory-maximum-mill-levy-to
produce-revenue-equal-to-its-1986-revenue-
(12)-The-limitation-on-the-amount-of-taxeslevieddoes
notapplytoalevyincreaseto-repay-taxes-paid-under
protest-in-accordance-with-15-1-402-*
NEW SECTION. Section 2. Effective date distribution
of-proceeds:-(1). [This act] is effective on passage and
approval.
<pre>f2jBistribution-of-the-proceeds-from-the-tax-levy-must</pre>

- 24 begin-in-Becember-1993+
- -End-

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53rd Legislature

BB 0639/02

tana Legislative Council

HB 0639/02

	1	HOUSE BILL NO. 639
	2	INTRODUCED BY DRISCOLL, HALLIGAN
	3	
	4	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE
	5	bbgisbayuretobevy-a-statewide-property-tak department of
	6	COMMERCE TO ESTABLISH A PROGRAM TO PROVIDE STATE FUNDS TO
	7	NATCH LOCAL BCONONIC DEVELOPMENT FUNDS CONTINGENT UPON THE
	8	AVAILABILITY OF STATE MATCHING MONEY AND TO FUND THE
	9	CERTIFIED COMMUNITIES PROGRAM ADMINISTERED BY THE DEPARTMENT
	10	OF COMMERCE; AMENDING-GECTION-15-10-4127-MCA7 AND PROVIDING
:	11	AN INMEDIATE EFFECTIVE DATE."
	12	· ·
	13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
	14	NEW SECTION. Section 1. Tax levy STATE MATCHING PUNDS
	15	PROGRAM for economic development distribution of proceeds
	16	criteria for grants fromlevy local economic
	17	development matching funds. (1) As used in this section, the
	18	following definitions apply:
	19	(a) "Certified community lead organization" means the
	20	entity that has been endorsed by resolution of a local
	21	governing body and that meets and maintains requirements for
	22	certification established by the department.
	23	(b) "Department" means the department of commerce
	24	provided for in 2-15-1801.
	25	(2) The legislature-shall-levy-each-year-a-property-tax

1	of-0.65-mill-on-the-1992taxablevalueofallrealand
2	personal-property-within-the-state-or-shall-levy-each-year-a
3	sufficientmillageto-produce-an-amount-equivalent-to-0.65
4	mill-on-the-1992-taxable-valueofallrealandpersonal
5	propertywithinthestateProceeds-from-the-levy-must-be
6	deposited-in-an-account-in-the-statespecialrevenuefund
7	andmustbe-disbursed DEPARTMENT SHALL CREATE A PROGRAM TO
8	PROVIDE STATE FUNDS TO MATCH LOCAL ECONOMIC DEVELOPMENT
9	FUNDS AND TO FUND THE CERTIFIED COMMUNITIES PROGRAM. THE
10	PROVISION OF STATE MATCHING FUNDS IS CONTINGENT UPON
11	SPECIFIC APPROPRIATIONS TO THE DEPARTMENT FOR THAT PURPOSE.
12	THE DEPARTMENT SHALL DISTRIBUTE THE FUNDS in the following
13	manner:
14	(a) 91% to certified community lead organizations, in
15	the form of assistance grants;
16	(b) 8% to the department for administration of the
17	certified communities program; and
18	(c) 1% to the department for certification assistance
19	for noncertified communities. If there are no requests for
20	certification assistance, the 1% allocation may be used by
21	the department for administration of the certified
22	communities program.
	•

23 (3) An assistance grant to a certified community lead 24 organization is based on an annual \$1.50 per capita payment 25 for the area served by the organization, according to its

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THIRD READING

1	population in the last completed federal census. The grant
2	may not exceed \$75,000 and may not be less than \$3,000 a
3	year.
4	(4) To be eligible to receive a grant, a certified
5	community lead organization:
6	(a) must be designated as the lead organization by the
7	local governing body;
8	(b) shall maintain department requirements for
9	certification;
10	(C) shall match each \$1 of the grant with \$1 raised
11	from public or private sources; and
12	(d) shall participate in regional meetings of certified
13	communities.
14	(5) Grants under this section must be used to conduct
15	economic development programs consistent with strategic
16	plans that are adopted by the certified communities and that
17	are filed with the department.
18	(6) The department shall use its portion of the
19	proceeds to:
20	(a) administer the certified communities program;
21	(b) assist noncertified communities in seeking
22	certification; and
23	(c) organize and conduct regional meetings of certified
24	communities.
25	Section 2 Section 15-19-4127-MCA7-is-amended-to-read:

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HB	06	39	/02
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1	#15-10-4127Propertytaxlimitedto1986levels
2	clarificationextension-to-all-property-classesSection
3	15-10-402-is-interpreted-and-clarified-as-follows:
4	(1)Thelimitation-to-1986-levels-is-extended-to-apply
5	to-all-classes-of-property-described-in-Title-157-chapter-67
6	pert-l.
7	(2)The-limitation-on-the-amountoftaxesleviedis
8	interpretedtomeanthaty-except-as-otherwise-provided-in
9	this-sectiony-the-actual-taxliabilityforanindividual
10	propertyiscapped-at-the-dollar-amount-due-in-each-taxing
11	unit-for-the-1986-tax-yearintaxyearsthereafterythe
12	propertymustbe-taxed-in-each-taxing-unit-at-the-1986-cap
13	or-the-productofthetaxablevalueandmillsleviedy
14	whicheverisless-for-each-taxing-unity-except-in-a-taxing
15	unit-that-levied-e-tex-in-tex-years-1983through1985but
16	didnotlevyatax-in-1986y-in-which-case-the-actual-tax
17	liability-for-an-individual-property-is-capped-at-the-dollar
18	emount-due-in-thet-taxing-unit-for-the-1985-tax-year .
19	(3)The-limitation-on-the-amount-of-taxeslevieddoes
20	notmeanthat-no-further-increase-may-be-made-in-the-total
21	taxable-valuation-of-a-taxing-unit-as-a-result-of:
22	<pre>ta)annexation-of-real-property-and-improvements-into-a</pre>
23	taring-unit;
24 -	<pre>tb)constructionyexpansionyorremodelingof</pre>
25	improvements;

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1	<pre>tc}transfer-of-property-into-a-taxing-unit;</pre>	1	(e)annexationoftheindividual-property-into-a-new
2	{d}subdivision-of-real-property;	2	taxing-unit;-or
3	te)reclassification-of-property;	3	{f}conversionoftheindividualpropertyfrom
4	tfjincreasesin-the-amount-of-production-or-the-value	4	tax-exempt-to-taxabic-status.
5	ofproductionforpropertydescribedin15-6-131or	5	<pre>{5}Propertyinclassesfourandelevenis-valued</pre>
6	15-6-132:	6	according-to-the-proceduresusedin1986yincludingthe
7	tg)transferofpropertyfromtax-exempt-to-taxable	7	designationof-1982-as-the-base-yeary-until-the-reappraisal
8	status;-or	8	cycle-beginningdanuarylyl986yiscompletedandnew
9	th)revaluations-caused-by:	9	valuationsareplaced-on-the-tax-rolls-and-a-new-base-year
10	ti)cyclical-reappraisal;-or	10	designatedy-if-the-property-is:
11	(ii)-expansiony-additiony-replacementy-or-remodelingof	11	ta)new-construction;
12	improvements.	12	<pre>{b}expanded;deleted;replaced;orremodeled</pre>
13	t4)Thelimitationon-the-amount-of-taxes-levied-does	13	improvements;
14	not-mean-that-no-further-increase-may-be-made-in-the-taxable	14	{c}annexed-property;-or
15	valuation-or-intheactualtaxlimbilityonindividual	15	{d}propertyconvertedfromtax-exempttotaxable
16	property-in-each-class-as-a-result-of:	16	statusr
17	taya-reveluation-caused-by:	17	{6}Property-described-insubsections{5}{a}through
18	(1)constructiony-expansiony-replacementy-or-remodeling	18	(5){d}thatisnot-class-four-or-class-eleven-property-is
19	of-improvements-that-adds-value-to-the-property;-or	19	valued-according-to-the-procedures-used-in-1986-but-isalso
20	(ii)-cyclical-reappraisal;	20	subjectto-the-dollar-cap-in-each-taxing-unit-based-on-1986
21	{b}transfer-of-property-into-a-taxing-unit;	21	mills-levied.
22	te;reclassification-of-property;	22	(7)The-limitation-on-the-amount-of-taxesy-as-clarified
23	(d)increasesin-the-amount-of-production-or-the-value	23	in-this-section7-is-intended-to-leave-the-property-appraisal
24	ofproductionforpropertydescribedin15-6-131or	24	and-valuationmethodologyofthedepartmentofrevenue
25	15~6-132 ,	25	intactyDeterminationsof-county-classifications7-salaries

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HB 639

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1	of-local-government-officersy-and-all-other-matters-in-which
2	total-taxable-valuation-is-enintegralcomponentarenot
3	affectedby15-10-401and-15-10-402-except-for-the-use-of
4	taxable-valuationinfixingtaxleviesInfixingtax
5	levies7the-taxing-units-of-local-government-may-anticipate
6	thedeficiencyinrevenuesresultingfromthetax
7	limitationsin-15-10-401-and-15-10-4027-while-understanding
8	that-regardless-of-the-amount-of-mills-leviedy-ataxpayer's
9	liebilitymaynotexceedthedollaramount-due-in-each
10	taxing-unit-for-the-1986-tax-year-unless:
11	(a)the-taxing-unit's-taxable-valuation-decreases-by-5%
12	or-more-from-the-1986-tax-yearIf-a-taxingunit'ataxable
13	valuation-decreases-by-5%-or-more-from-the-1986-tax-yeary-it
14	maylevyadditionalmills-to-compensate-for-the-decreased
15	taxable-valuationy-but-innocasemaythemillslevied
16	exceedanumbercalculatedtoequaltherevenuefrom
17	property-taxes-for-the-1986-tax-year-in-that-taxing-unit-
18	<pre>{b}alevyauthorizedunderTitle20raisedless</pre>
19	revenuein1986-than-was-raised-in-either-1984-or-19857-in
20	which-case-the-taxing-unit-mayy-after-approval-by-the-voters
21	in-the-taxing-unity-raise-each-year-thereafter-an-additional
22	number-of-mills-but-maynotlevymorerevenuethanthe
23	3-yearaverageofrevenueraised-for-that-purpose-during
24	19847-198 57-and-19867
25	te)a-levy-authorized-in-50-2-lll-that-was-made-in-1986

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1	was-for-less-than-the-number-of-mills-levied-in-sither1984
2	or19857in-which-case-the-taxing-unit-May7-after-approval
3	by-the-voters-in-the-taxing-unity-levy-each-yearthereafter
4	an-additional-number-of-mills-but-may-not-levy-more-than-the
5	3-yearaveragemumberofmillsleviedfor-that-purpose
6	during-19847-19857-and-1986-
7	(0)The-limitation-on-the-amount-of-taxeslevieddoes
8	notapplytothefollowinglevyorspecial-assessment
9	categories7-whether-or-not-theyarebasedoncommitments
10	made-before-or-after-approval-of-15-10-401-and-15-10-402;
11	{a}rural-improvement-districts;
12	{b}special-improvement-districts;
13	<pre>tc)leviespledgedfortherepaymentofbonded</pre>
14	indebtednessy-including-tax-increment-bonds;
15	{d}city-street-maintenance-districts;
16	te;tax-increment-financing-districts;
17	{f}satisfaction-of-judgments-against-a-taxing-unit;
18	(g)street-lighting-assesaments;
19	thtrevolving-funds-to-support-any-categories-specified
20	in-this-subsection-(8);
21	{i}levies-for-economic-development-authorised-pursuant
22	to-98-5-112(4)7
23	(j)leviesauthorisedunder7-6-502forjuvenile
24	detention-programs; - and
25	(k)elementary-and-high-school-districtsand

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1	<u>(1)thetaxleviedpursuant-to-{section-1}-for-iccai</u>
2	economic-development.
3	t9)The-limitation-on-the-amount-of-taxeslevieddoes
4	notapply-in-a-taxing-unit-if-the-voters-in-the-taxing-unit
5	approve-an-increase-in-tax-liability-following-aresolution
6	of-the-governing-body-of-the-taxing-unit-containing:
7	ta;afindingthatthereareinsufficient-funds-to
8	adequately-operate-the-taxing-unit-as-a-result-of15-10-401
9	and-15-20-4027
10	<pre>tb;anexplanationofthenatureofthe-financial</pre>
11	energency;
12	<pre>{c}an-estimate-oftheamountoffundingshortfall</pre>
13	expected-by-the-taxing-unit;
14	(d)a-statement-that-applicable-fund-balances-are-or-by
15	the-end-of-the-fiscal-year-will-be-depleted;
16	(e) afinding-that-there-are-no-alternative-sources-of
17	tevenue;
18	(f)a-summaty-of-the-alternativesthatthegoverning
19	body-of-the-taxing-unit-has-considered;-and
20	(g)a statementof-the-need-for-the-increased-revenue
21	and-how-it-will-be-used-
22	<pre>tele=-tele=tele=tele=tele=tele=tele=tele</pre>
23	doesnot-apply-to-levies-required-to-address-the-funding-of
24	reliefofaufferingofinhabitantscausedbyfaminey
25	conflagrationy-or-other-public-calamity;

1	{b}Thelimitationsetforthin-this-chapter-on-the
2	amount-of-taxes-levied-does-not-apply-to-levies-to-support;
3	tipa-city-county-board-of-health-as-provided-inTitle
4	50ychapter2y-if-the-governing-bodies-of-the-taxing-units
5	served-by-the-board-ofhealthdetermineyafterapublic
6	hearingy-that-public-health-programs-require-funds-to-ensure
7	thepublichealthy-A-levy-for-the-support-of-a-local-board
8	of-health-may-not-exceed-the5-milllimitestablishedin
9	50- 2-111
10	tii)-county-city-or-town-ambulance-services-authorized
11	by-a-vote-of-the-electorate-under-7-34-102(2);
12	(11)-Thelimitationon-the-amount-of-taxes-levied-by-a
13	taxing-jurisdiction-subject-to-a-statutory-maximum-mill-levy
14	does-not-prevent-a-taxing-jurisdiction-fromincreasingits
15	numberofmillsbeyond-the-statutory-maximum-mill-levy-to
16	produce-revenue-equal-to-its-1986-revenue.
17	(12)-The-limitation-on-the-amount-of-taxeslevieddoes
18	notapplytoalevyincreaseto-repay-taxes-paid-under
19	protest-in-accordance-with-15-1-402+*
20	NEW SECTION. Section 2. Effective date distribution
21	of-proceedstt; [This act] is effective on passage and
22	approval.
23	f2;Distribution-of-the-proceeds-from-the-tax-levy-must
24	begin-in-Becember-1993.
	-End-

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HOUSE BILL NO. 639	1	of-8+65-mill-or
INTRODUCED BY DRISCOLL, HALLIGAN	2	personal-proper
,	3	sufficientmi
FOR AN ACT ENTITLED: "AN ACT REQUIRING THE	4	mill-on-the-19
TURETOLEAY-A-STATEWIDE-PROPERTY-TAX DEPARTMENT OF	5	propertywith
E TO ESTABLISH A PROGRAM TO PROVIDE STATE FUNDS TO	6	deposited-in-as
	7	andmustbe-d
ILITY OF STATE MATCHING MONEY AND TO FUND THE	8	PROVIDE STATE
ED COMMUNITIES PROGRAM ADMINISTERED BY THE DEPARTMENT	9	PUNDS AND TO
HERCE; AMENDING-SECTION-15-10-4127-MCA; AND PROVIDING	10	PROVISION OF
DIATE EFFECTIVE DATE."	11	SPECIFIC APPRO
	12	THE DEPARTMENT
ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	13	manner:
A SECTION Section 1. TAX TEVY STATE MATCHING PUNDS	14	(a) 91%
	15	the form of as
" iteria for grants fromlevy local economic	16	(b) 8% to
pment matching funds. (1) As used in this section, the	17	certified comm
ing definitions apply:	18	(c) 1% to
) "Certified community lead organization" means the	19	for noncertific
that has been endorsed by resolution of a local	20	certification
ing body and that meets and maintains requirements for	21	the department
	22	communities pro
	23	(3) An a
led for in 2-15-1801.	24	organization is
	25	for the area
· A		
	INTRODUCED BY DRISCOLL, HALLIGAN FOR AN ACT ENTITLED: "AN ACT REQUIRING THE NUMBETOBEVY-A-STATENIBE-PROPERTY-TAN <u>DEPARTMENT OP</u> CE TO ESTABLISH A PROGRAM TO PROVIDE STATE PUNDS TO LOCAL ECONOMIC DEVELOPMENT FUNDS <u>CONTINGENT UPON THE</u> BILITY OF STATE MATCHING MONEY AND TO PUND THE IED COMMUNITIES PROGRAM ADMINISTERED BY THE DEPARTMENT MERCE; AMENDING-GBETION-15-10-4127-MEA; AND PROVIDING EDIATE EFFECTIVE DATE." ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: M SECTION. Section 1. TAX-TREVY STATE MATCHING FUNDS M for economic development distribution of proceeds filteria for grants fromlevy local economic opment matching funds. (1) As used in this section, the sing definitions apply: a) "Certified community lead organization" means the y that has been endorsed by resolution of a local hing body and that meets and maintains requirements for fication established by the department. b) "Department" means the department of commerce ded for in 2-15-1801. 2) The legislature-shall-levy-each-year-a-property-tax	INTRODUCED BY DRISCOLL, HALLIGAN

Langana Leansistive Council

n-the-1992--taxable--value--of--all--real--and rty-within-the-state-or-shail-levy-each-year-a llage--to-produce-an-amount-equivalent-to-8+65 92-taxable-value--of--all--real--and--personal in--the--state:-Proceeds-from-the-levy-must-be n-account-in-the-state--special--revenue--fund disbursed DEPARTMENT SHALL CREATE A PROGRAM TO FUNDS TO MATCH LOCAL ECONOMIC DEVELOPMENT PUND THE CERTIFIED COMMUNITIES PROGRAM. THE STATE MATCHING FUNDS IS CONTINGENT UPON OPRIATIONS TO THE DEPARTMENT FOR THAT PURPOSE. SHALL DISTRIBUTE THE FUNDS in the following to certified community lead organizations, in sistance grants; the department for administration of the unities program; and o the department for certification assistance ed communities. If there are no requests for assistance, the 1% allocation may be used by t for administration of the certified ogram. ssistance grant to a certified community lead s based on an annual \$1750 per capita payment

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served by the organization, according to its

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population in the last completed federal census. The grant
 may not exceed \$75,000 and may not be less than \$3,000 a
 year.

4 (4) To be eligible to receive a grant, a certified
 5 community lead organization:

6 (a) must be designated as the lead organization by the
 7 local governing body;

g (b) shall maintain department requirements for
 9 certification;

10 (c) shall match each \$1 of the grant with \$1 raised 11 from public or private sources; and

12 (d) shall participate in regional meetings of certified13 communities.

14 (5) Grants under this section must be used to conduct
15 economic development programs consistent with strategic
16 plans that are adopted by the certified communities and that
17 are filed with the department.

18 (6) The department shall use its portion of the 19 proceeds to:

20 (a) administer the certified communities program;

21 (b) assist noncertified communities in seeking 22 certification; and

(c) organize and conduct regional meetings of certified
 communities.

25 Section-2--Bection-15-10-4127-MCA7-is-amended-to-readt--

1	#15-10-412Propertytaxlimitedto1986levels
2	clarificationextension-to-all-property-classesBection
3	15-10-402-is-interpreted-and-clarified-as-follows:
4	<pre>tipThelimitation-to-l986-levels-is-extended-to-apply</pre>
5	to-all-classes-of-property-described-in-Title-157-chapter-67
6	part-1-
7	(2)The-limitation-on-the-amountoftaxesleviedis
8	interpretedtomeanthaty-except-as-otherwise-provided-in
9	this-section7-the-actual-taxliabilityforanindividual
10	propertyiscapped-at-the-dollar-amount-due-in-each-taxing
11	unit-for-the-1986-tax-yearIntaxyearsthereafterythe
12	propertymustbe-taxed-in-each-taxing-unit-at-the-1986-cap
13	or-the-productofthetaxablevalueandmillsleviedy
14	whicheverisless-for-each-taxing-unity-except-in-a-taxing
15	unit-that-levied-a-tax-in-tax-years-1983through1985but
16	didmotlevyatax-in-19867-in-which-case-the-actual-tax
17	liebility-for-an-individual-property-is-capped-at-the-dollar
18	amount-due-in-that-taxing-unit-for-the-1985-tax-year;
19	{3}The-limitation-on-the-amount-of-taxeslevieddoes
20	notmeanthat-no-further-increase-may-be-made-in-the-total
21	taxable-valuation-of-a-taxing-unit-as-a-result-of:
22	<pre>ta)annexation-of-real-property-and-improvements-into-a</pre>
23	taxing-unit;
24	<pre>(b)constructionyexpansionyorremodelingof</pre>
25	improvements;

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tc)transfer-of-property-into-a-taxing-unit;	1	<pre>(c)annexationoftheindividual-property-into-a-new</pre>
{d}subdivision-of-real-property;	2	taxing-unit;-or
tepreclassification-of-property;	3	ff)conversionoftheindividualpropertyfrom
tf;increasesin-the-amount-of-production-or-the-value	4	tax-exempt-to-taxable-status-
ofproductionforpropertydescribedin15-6-131or	5	<pre>{5}Propertyinclassesfourandelevenis-valued</pre>
±5-6-±32;	6	according-to-the-proceduresusedin19867includingthe
tg)transferofpropertyfromtax-exempt-to-taxable	7	designationof-1982-as-the-base-yeary-until-the-reappraisal
status;-or	8	cycle-beginningJanuary1719867iscompletedandnew
th)revaluations-caused-by:	. 9	valuations-areplaced-on-the-tax-rolls-and-a-new-base-year
titcyclical-reappraisal;-or	10	designatedy-if-the-property-is:
tiij-expansiony-additiony-replacementy-or-remodelingof	11	ta;new-construction;
improvements.	12	<pre>tb;expanded;deleted;replaced;orremodeled</pre>
t4)Thelimitationon-the-amount-of-taxes-levied-does	13	isprovements;
not-mean-that-no-further-increase-may-be-made-in-the-taxable	14	te;ennexed-property;-or
valuation-or-intheactualtaxliabilityonindividual	15	{d}propertyconvertedfromtax-exempttotaxable
property-in-each-class-as-a-result-of+	16	status
tata-revaluation-caused-by:	17	f67Property-described-insubsections(5)(a)through
tipconstruction,-expansion,-replacement,-or-remodeling	18	<pre>{5}{d}thatisnot-class-four-or-class-eleven-property-is</pre>
of-improvements-that-adds-value-to-the-property;-or		valued-according-to-the-procedures-used-in-1986-but-isalso
{ii}-cyclical-reappraisal;	20	subjectto-the-dollar-cap-in-each-tazing-unit-based-on-l986
<pre>the transfer of property into a -taxing unit;</pre>	21	mills-levied.
tc)reclassification-of-property;	22	(7)The-limitation-on-the-amount-of-taxes,-as-clarified
{d}increasesin-the-amount-of-production-or-the-value	23	in-this-sectiony-is-intended-to-leave-the-property-appraisel
ofproductionforpropertydescribedin15-6-131or		and-valuationmethodologyofthedepartmentofrevenue
15-6-1327		intactBeterminationsof-county-classificationsy-salaries

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1	of-local-government-officersy-and-all-other-matters-in-which
2	total-taxable-valuation-is-anintegralcomponentarenot
3	affectedby15-10-401and-15-10-402-except-for-the-use-of
4	taxable-valuationinfixingtaxleviesInfixingtax
5	levies,the-taxing-units-of-local-government-may-anticipate
6	thedeficiencyinrevenuesresultingfromthetax
7	limitationsin-15-10-401-and-15-10-4027-while-understanding
8	that-regardless-of-the-amount-of-mills-levied,-ataxpayer's
9	liabilitymaynotexceedthedollaramount-duc-in-each
10	taxing-unit-for-the-1986-tax-year-uniess:
11	ta;the-taxing-unit's-taxable-valuation-decreases-by-5%
12	or-more-from-the-1986-tax-yearif-a-taxingunit'staxable
13	valuation-decreases-by-5%-or-more-from-the-1986-tax-year;-it
14	maylevyadditionalmills-to-compensate-for-the-decreased
15	taxable-valuation;-but-innocasemaythemillslevied
16	exceedanumbercalculatedtoequaltherevenuefrom
17	property-taxes-for-the-1986-tax-year-in-that-taxing-unit-
18	(b)alevyauthorizedunderTitle20raisedless
19	revenuein1986-than-was-raised-in-either-1984-or-19857-in
20	which-case-the-taxing-unit-mayy-after-approval-by-the-voters
21	in-the-taxing-unity-raise-each-year-thereafter-an-additional
22	number-of-mills-but-maynotlevymorerevenuethanthe
23	3-yearaverageofrevenueraised-for-that-purpose-during
24	19847-19857-and-19867
25	<pre>te>a-levy-authorized-in-50-2-lll-that-was-made-in-1986</pre>

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1	was-for-less-than-the-number-of-mills-levied-in-either1984
2	or19857in-which-case-the-taxing-unit-mayy-after-approval
3	by-the-voters-in-the-taxing-unity-levy-each-yearthereafter
4	an-additional-number-of-mills-but-may-not-levy-more-than-the
5	3-yearaveragenumberofmillsleviedfor-that-purpose
6	during-19847-19857-and-1986-
7	<pre>f8)The-limitation-on-the-amount-of-taxeslevieddoes</pre>
8	notapplytothefollowinglevyorspecial-assessment
9	categories7-whether-or-not-theyarebasedoncommitments
10	made-before-or-after-approval-of-15-10-401-and-15-10-402;
11	ta)rural-improvement-districts;
12	<pre>tb)special-improvement-districts;</pre>
13	tc)leviespledgedfortherepaymentofbonded
14	indebtednessy-including-tax-increment-bonds;
15	<pre>td)city-street-maintenance-districts;</pre>
16	<pre>teytax-increment-financing-districts;</pre>
17	{f}satisfaction-of-judgments-against-a-taxing-unit;
18	<pre>{g}street-lighting-assessments;</pre>
19	{h}revolving-funds-to-support-any-categories-specified
20	in-this-subsection-(8);
21	ti)levies-for-economic-development-authorized-pursuant
22	to-98-5-112(4);
23	tj}leviesa uthorizedunder7-6-502forju venile
24	detention-programs;-and
25	<pre>tk)elementary-and-high-school-districts<u>;-and</u></pre>

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1	<u>{1}thetaxleviedpursuant-to-{section-l}-for-local</u>
2	economic-development-
3	t9)The-limitation-on-the-amount-of-taxeslevieddoes
4	notapply-in-a-taxing-unit-if-the-voters-in-the-taxing-unit
5	approve-an-increase-in-tax-liability-following-aresolution
6	of-the-governing-body-of-the-taxing-unit-containing+
7	to)afindingthatthereareinsufficient-funds-to
8	adequately-operate-the-taxing-unit-as-a-result-of15-10-401
9	and-15-10-4027
10	tb;anexplanationofthenatureofthe-financial
11	emergency;
12	<pre>(c)an-estimate-oftheamountoffundingshortfall</pre>
13	expected-by-the-taxing-unit;
14	(d)a-statement-that-applicable-fund-balances-are-or-by
15	the-end-of-the-fiscal-year-will-be-depleted7
16	te;afinding-that-there-are-no-alternative-sources-of
17	revenue;
18	tf)a-summary-of-the-alternativesthatthegoverning
19	body-of-the-taxing-unit-has-considered;-and
20	tg;astatementof-the-need-for-the-increased-revenue
21	and-how-it-will-be-used.
22	ti0;-ta;-The-limitation-on-the-amountoftaxeslevied
23	doesnot-apply-to-levies-required-to-address-the-funding-of
24	reliefofsufferingofinhabitantscausedbyfamine;
25	conflagration7-or-other-public-calamity-

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1	{b}Thelimitationsetforthin-this-chapter-on-the
2	amount-of-taxes-levied-does-not-apply-to-levies-to-support:
3	{i}a-city-county-board-of-health-as-provided-inTitle
4	507chapter27-if-the-governing-bodies-of-the-taxing-units
5	served-by-the-board-ofhealthdetermine,afterapublic
6	hearing;-that-public-health-programs-require-funds-to-ensure
7	thepublichealthA-levy-for-the-support-of-a-local-board
8	of-health-may-not-exceed-the5-milllimitestablishedin
9	50-2-111.
10	fii)-county;-city;-or-town-ambulance-services-authorized
11	by-a-vote-of-the-electorate-under-7-34-102(2):
12	(11)-Thelimitationon-the-amount-of-taxes-levied-by-a
13	taxing-jurisdiction-subject-to-a-statutory-maximum-mill-levy
14	does-not-prevent-a-taxing-jurisdiction-fromincreasingits
15	numberofmillsbeyond-the-statutory-maximum-mill-levy-to
16	produce-revenue-equal-to-its-1986-revenue.
17	(12)-The-limitation-on-the-amount-of-taxeslevieddoes
18	notapplytoalevyincreaseto-repay-taxes-paid-under
19	protest-in-accordance-with-15-1-402-#
20	<u>NEW SECTION.</u> Section 2. Effective date ⁼⁼⁼ distfibütion
21	of-proceeds+++. [This act] is effective on passage and
22	approval.
23	<pre>{2}Bistfibution-of-the-proceeds-from-the-tax-levy-must</pre>
24	begin-in-Becember-1993.

-End-

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