

1 *House* BILL NO. *798*
2 INTRODUCED BY *[Signature]*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DEPARTMENT
5 OF PUBLIC ADVOCACY AND CONSUMER PROTECTION AND SPECIFYING
6 ITS FUNCTIONS; AMENDING SECTIONS 32-2505, 38-1330, 59-904,
7 59-1602, 71-2406, 80-1402, 82-2701, 82A-709, AND 84-702,
8 R.C.M. 1947; RENUMBERING AND AMENDING SECTIONS 82-2702,
9 82A-806, 82A-1014, AND 82A-1015, R.C.M. 1947; AND PROVIDING
10 A DELAYED EFFECTIVE DATE."

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

13 Section 1. There is a new R.C.M. section numbered
14 82A-2201 that reads as follows:

15 82A-2201. Department of public advocacy and consumer
16 protection -- creation -- head. There is created a
17 department of public advocacy and consumer protection. The
18 department head is a director of public advocacy and
19 consumer protection appointed by the governor in accordance
20 with 82A-106.

21 Section 2. There is a new R.C.M. section numbered
22 82A-2202 that reads as follows:

23 82A-2202. Functions of the department. The department
24 and its units are responsible for advising other departments
25 on policy and procedure for protection of human rights in

1 the process of program development and evaluation and for
2 administering laws and functions related to advocacy and
3 protection of human rights and appeals services related
4 thereto, including but not limited to the following:

- 5 (1) employment of women (Title 41, chapter 24);
- 6 (2) unfair trade practices and prevention of monopoly
7 (Title 51, chapters 1 and 4);
- 8 (3) classification and compensation of state employees
9 (Title 59, chapter 9);
- 10 (4) personal rights (Title 64);
- 11 (5) advisory function for developmentally disabled
12 persons (71-2406);
- 13 (6) department of institutions appeals
14 (80-1407.1(1)(b));
- 15 (7) coordination of Indian affairs (Title 82, chapter
16 27);
- 17 (8) tax appeals (84-702 through 84-708);
- 18 (9) consumer protection (Title 75, chapter 92; Title
19 18, chapter 5; and Title 85, chapters 3, 4, and 5);
- 20 (10) citizens' advocacy function;
- 21 (11) advisory function for mental health and
22 disabilities programs (38-1330);
- 23 (12) advocacy function for the aging;
- 24 (13) advocacy function for youth; and
- 25 (14) advocacy function for patients at Warm Springs

INTRODUCED BILL

HB 798

1 state hospital.

2 Section 3. There is a new R.C.M. section numbered
3 82A-2203 that reads as follows:

4 82A-2203. Office of citizens' advocate. (1) There is a
5 citizens' advocate, who shall be appointed by the governor.

6 (2) The citizens' advocate is allocated to the
7 department for administrative purposes only.

8 Section 4. There is a new R.C.M. section numbered
9 82A-2204 that reads as follows:

10 82A-2204. Mental disabilities board of visitors. (1)

11 There is a mental disabilities board of visitors.

12 (2) The board consists of five members appointed by
13 the governor, at least three of whom may not be professional
14 persons and at least one of whom shall be a representative
15 of an organization concerned with the care and welfare of
16 the mentally ill. No one may be a member of the board who is
17 an agent or employee of the department of institutions or of
18 any mental health facility. If a board of similar title and
19 structure is created in any act concerning the treatment of
20 the mentally retarded or developmentally disabled, then one
21 board shall be created to perform the functions set out in
22 both acts and the board so created shall include at least
23 one representative of an organization concerned with the
24 care and welfare of the mentally ill and one representative
25 of an organization concerned with the care and welfare of

1 the mentally retarded or developmentally disabled.

2 (3) The mental disabilities board of visitors shall be
3 attached to the department for administrative purposes. It
4 may employ staff for the purpose of carrying out its duties
5 as set out in this act, and 82A-108(2)(d) does not apply.

6 Section 5. Section 38-1330, R.C.M. 1947, is amended to
7 read as follows:

8 "38-1330. Mental disabilities board of visitors --
9 ~~creation and responsibilities. (1) The governor shall~~
10 ~~appoint a mental disabilities board of visitors. The board~~
11 ~~shall consist of five (5) persons at least three (3) of whom~~
12 ~~shall not be professional persons and at least one (1) of~~
13 ~~whom shall be a representative of an organization concerned~~
14 ~~with the care and welfare of the mentally ill. No one may~~
15 ~~be a member of the board who is an agent or employee of the~~
16 ~~department of institutions or of any mental health facility~~
17 ~~affected by this act. If a board of similar title and~~
18 ~~structure is created in any act concerning the treatment of~~
19 ~~the mentally retarded or developmentally disabled, then one~~
20 ~~board shall be created to perform the functions set out in~~
21 ~~both acts and the board so created shall include at least~~
22 ~~one (1) representative of an organization concerned with the~~
23 ~~care and welfare of the mentally ill and one (1)~~
24 ~~representative of an organization concerned with the care~~
25 ~~and welfare of the mentally retarded or developmentally~~

1 disabled.

2 ~~(2)(1)~~ The mental disabilities board of visitors,
3 ~~established in 82A-2204,~~ shall be an independent board of
4 inquiry and review to assure that the treatment of all
5 persons either voluntarily or involuntarily admitted to a
6 mental facility is humane and decent and meets the
7 requirements set forth in this act.

8 ~~(3)(2)~~ The board shall review all plans for
9 experimental research involving persons admitted to any
10 mental health facility to assure that the research project
11 is humane and not unduly hazardous and that it complies with
12 the principles of the statement on the use of human subjects
13 for research of the American association on mental
14 deficiency and with the principles for research involving
15 human subjects required by the United States department of
16 health, education, and welfare. No experimental research
17 project involving persons admitted to any mental health
18 facility affected by this act shall be commenced unless it
19 is approved by the mental disabilities board of visitors.

20 ~~(4)(3)~~ The board shall, at least annually, inspect
21 every mental health facility which is providing treatment
22 and evaluation to any person pursuant to this act. The
23 board shall inspect the physical plant, including
24 residential, recreational, dining, and sanitary facilities.
25 It shall visit all wards and treatment areas. The board

1 shall inquire concerning all treatment programs being
2 implemented by the facility.

3 ~~(5)(4)~~ The board shall annually insure that a
4 treatment plan exists and is being implemented for each
5 patient admitted or committed to a mental health facility
6 under this act. The board shall inquire concerning all use
7 of restraints, isolation, or other extraordinary measures.

8 ~~(6)(5)~~ The board may assist any patient at a mental
9 health facility in resolving any grievance he may have
10 concerning his commitment or his course of treatment in the
11 facility.

12 ~~(7)(6)~~ If the board believes that any facility is
13 failing to comply with the provisions of this act in regard
14 to its physical facilities or its treatment of any patient,
15 it shall report its findings at once to the next of kin or
16 guardian of any patient involved, the responsible person
17 appointed by the court for any patient involved, the
18 professional person in charge of the facility, the director
19 of the department of institutions, and the district court
20 which has jurisdiction over the facility.

21 ~~(8)(7)~~ The mental disabilities board of visitors shall
22 report annually to the governor and shall report to each
23 session of the Montana legislature concerning the status of
24 the mental health facilities and treatment programs which it
25 has inspected.

~~{9} The mental disabilities board of visitors shall be attached to the governor for administrative purposes. It may employ staff for the purpose of carrying out its duties as set out in this act."~~

Section 6. There is a new R.C.M. section numbered 82A-2205 that reads as follows:

82A-2205. Mental health advisory council. There is a mental health advisory council. The council shall consist of 15 members appointed by the governor. The members shall represent a balance of regional and professional concerns.

Section 7. Section 82A-1015, R.C.M. 1947, is renumbered 82A-2206 and is amended to read as follows:

~~"82A-1015~~ 82A-2206. Commission for human rights. (1) There is a commission for human rights.

(2) The commission consists of five ~~{5}~~ members appointed by the governor.

(3) The commission is designated as a quasi-judicial board for the purposes of section 82A-112.

(4) The commission is allocated to the department of ~~labor and industry~~ for administrative purposes only as provided in section 82A-108, except that the commission may hire its own personnel, may seek and receive private and federal funds in its own name, and may determine all matters of policy concerning the use of its budget. Section 82A-108(2)(d) shall not apply for purposes of this section."

Section 8. There is a new R.C.M. section numbered 82A-2207 that reads as follows:

82A-2207. Status of women advisory council. (1) There is a Montana status of women advisory council.

(2) The council consists of 12 members appointed by the governor on a regional basis.

(3) The council is allocated to the department for administrative purposes only as provided in 82A-108.

Section 9. There is a new R.C.M. section numbered 82A-2208 that reads as follows:

82A-2208. Women's bureau. The women's bureau of the labor standards division of the department of labor and industry is transferred to the department.

Section 10. Section 82A-1014, R.C.M. 1947, is renumbered 82A-2209 and is amended to read as follows:

~~"82A-1014~~ 82A-2209. Board of personnel appeals created. (1) There is created a board of personnel appeals.

(2) The board is allocated to the department of ~~labor and industry~~ for administrative purposes only as prescribed in section 82A-108.

(3) The board consists of five ~~{5}~~ members appointed by the governor. Two ~~{2}~~ members shall represent management, two ~~{2}~~ members shall represent employees or employee organizations of the state, and one ~~{1}~~ member shall represent a neutral position.

1 (4) (a) Any employee or his representative affected
2 by the operation of Title 59, chapter 9, ~~R.C.M. 1947~~ is
3 entitled to file a complaint with the board and to be heard
4 under the provisions of a grievance procedure to be
5 prescribed by the board.

6 (b) Direct or indirect interference, restraint,
7 coercion, or retaliation by an employee's supervisor or the
8 agency for which the employee works against an employee
9 because the employee has filed or attempted to file a
10 complaint with the board shall also be basis for a complaint
11 and shall entitle the employee to file a complaint with the
12 board and to be heard, under the provisions of the grievance
13 procedure prescribed by the board.

14 (c) If upon the preponderance of the evidence taken at
15 the hearing the board is of the opinion that the employee is
16 aggrieved, it may issue an order to the department of
17 administration requiring such action of the department as
18 will resolve the employee's grievance. In any hearing the
19 board is not bound by statutory or common law rules of
20 evidence.

21 (d) The board or the employee may petition for the
22 enforcement of the board's order and for appropriate
23 temporary relief, and shall file in the district court the
24 record of the proceedings. Upon the filing of the petition,
25 the district court shall have jurisdiction of the

1 proceeding. Thereafter, the district court shall set the
2 matter for hearing. After the hearing, the district court
3 shall issue its order granting such temporary or permanent
4 relief as it considers just and proper. No objection that
5 has not been raised before the board shall be considered by
6 the court unless the failure or neglect to raise the
7 objection is excused because of extraordinary circumstances.
8 The findings of the board with respect to questions of fact,
9 if supported by substantial evidence on the record
10 considered as a whole, shall be conclusive.

11 (5) The board is designated a quasi-judicial board for
12 purposes of ~~section 82A-112.~~"

13 Section 11. There is a new R.C.M. section numbered
14 82A-2210 that reads as follows:

15 82A-2210. Developmental disabilities advisory council.

16 (1) There is a developmental disabilities advisory council.

17 (2) The council is composed of 21 members appointed or
18 reappointed annually by the governor and consists of the
19 following:

20 (a) the directors of the departments of social and
21 rehabilitation services, health and environmental sciences,
22 and institutions or their designees;

23 (b) the superintendent of public instruction or a
24 designee;

25 (c) one recognized private professional in each

1 discipline of medicine, law, psychology, and social work;

2 (d) two members of the state senate;

3 (e) two members of the state house of representatives;

4 (f) four consumers or representatives of consumers or
5 consumer organizations in the discipline of developmental
6 disabilities; and

7 (g) one member of each of the five regional councils
8 provided for in 71-2407, who shall also be consumers or
9 representatives of consumers or consumer organizations in
10 the discipline of developmental disabilities.

11 (3) The advisory council is allocated to the
12 department for administrative purposes only.

13 Section 12. Section 71-2406, R.C.M. 1947, is amended
14 to read as follows:

15 "71-2406. Advisory council. ~~(1) The governor shall~~
16 ~~appoint a developmental disabilities advisory council in~~
17 ~~accordance with section 82A-118.~~

18 ~~(2) The council is composed of twenty one (21) members~~
19 ~~appointed or reappointed annually by the governor and~~
20 ~~consists of the following:~~

21 ~~(a) the directors of the departments of social and~~
22 ~~rehabilitation services, health and environmental sciences,~~
23 ~~and institutions, or their designees;~~

24 ~~(b) the superintendent of public instruction or a~~
25 ~~designee;~~

1 ~~(c) one (1) recognized private professional in each~~
2 ~~discipline of medicine, law, psychology and social work;~~

3 ~~(d) two members of the state senate;~~

4 ~~(e) two members of the state house of representatives;~~

5 ~~(f) four (4) consumers or representatives of consumers~~
6 ~~or consumer organizations in the discipline of developmental~~
7 ~~disabilities; and~~

8 ~~(g) one (1) member of each of the five (5) regional~~
9 ~~councils provided for in 71-2407, who shall also be~~
10 ~~consumers or representatives of consumers or consumer~~
11 ~~organizations in the discipline of developmental~~
12 ~~disabilities.~~

13 ~~(3) The advisory council established in 82A-2210 shall:~~
14 ~~(a)(1) advise the department, other state agencies,~~
15 ~~councils, local governments, and private organizations on~~
16 ~~programs for services to the developmentally disabled;~~

17 ~~(b)(2) develop a plan for a state-wide system of~~
18 ~~community based services for the developmentally disabled;~~
19 ~~and~~

20 ~~(c)(3) serve in any capacity required by federal law~~
21 ~~for the administration of federal programs for services to~~
22 ~~the developmentally disabled.~~

23 ~~(4) The advisory council is allocated to the~~
24 ~~department."~~

25 Section 13. Section 82A-806, R.C.M. 1947, is

1 renumbered 82A-2211 and is amended to read as follows:

2 "82A-2211. Board of institutions --
3 composition -- qualifications -- designation. (1) There is
4 a board of institutions.

5 (2) The board consists of five ~~(5)~~ members. The board
6 members are appointed by the governor and shall be selected
7 so that not more than three ~~(3)~~ are from the same
8 congressional district, and so that not more than three ~~(3)~~
9 are affiliated with the same political party. The members
10 shall be qualified by aptitude, experience, and interest.

11 (3) The board is allocated to the department for
12 administrative purposes only as prescribed in section
13 82A-108.

14 (4) The board is designated as a quasi-judicial board
15 for purposes of section 82A-112."

16 Section 14. Section 82-2702, R.C.M. 1947, is
17 renumbered 82A-2212 and is amended to read as follows:

18 "~~82-2702~~ 82A-2212. Office of state co-ordinator of
19 Indian affairs ~~created~~ -- appointment of co-ordinator --
20 term -- office. (1) There is an the office of the state
21 co-ordinator of Indian affairs ~~is hereby created~~. The
22 co-ordinator shall be appointed by the governor from a list
23 of five ~~(5)~~ qualified Indian applicants agreed upon by the
24 tribal councils of the respective Indian tribes of the state
25 and shall serve at the pleasure of the governor.

1 (2) The state coordinator of Indian affairs is
2 allocated to the department for administrative purposes
3 only."

4 Section 15. Section 82-2701, R.C.M. 1947, is amended
5 to read as follows:

6 "82-2701. Legislative policy. Whereas, a considerable
7 portion of the citizens of the state of Montana are members
8 of the Indian race, and,

9 Whereas, in the course of the past eighty years these
10 Indian citizens of the state of Montana have been driven
11 from their native valleys and plains and are at present
12 living and residing upon reservations set apart for such
13 purposes by the United States of America, and by virtue of
14 that isolation and of supervision by the federal government,
15 great problems of economic and social significance have
16 arisen and presently exist, and that no suitable progress
17 has been made to solve such problems by reason of the fact
18 that the Indians and those who are attempting to aid them in
19 the solution of their problems have never been able to
20 present a co-ordinated and united effort in solving such
21 problems, and

22 Whereas, it is hereby declared that it is the
23 legislative policy of this state that the best interests of
24 the Indians will be served by the fostering of a program
25 which is designed to establish and place our Indian citizens

1 in a position to take their rightful place in our society,
 2 and assume the rights, duties and privileges of full
 3 citizenship and as Indians, it is therefore necessary that a
 4 state office of the co-ordinator of Indian affairs be
 5 established so that the problems of the Indians of Montana
 6 can be approached and reconciled from a state level in
 7 co-operation with the United States of America, and

8 Whereas, agencies of the federal government retain
 9 jurisdiction on Indian reservations in the state of Montana
 10 of the administration of economic, social, health, education
 11 and welfare programs for Indians, and

12 Whereas, Indians who reside off reservations generally
 13 qualify for participation in federal programs, but are often
 14 prohibited from voting on tribal affairs and for tribal
 15 officers, and

16 Whereas, there are sizeable numbers of off-reservation
 17 Indians residing in our state of both enrolled and
 18 unofficial tribal descent (landless) whose needs for
 19 environmental assistance are borne by state and local
 20 agencies, and that these needs are derived from problems
 21 shared by all Indians, whether they reside on reservations
 22 or not, and in consideration of their desire for official
 23 voice and representation in seeking solutions to their
 24 problems, and

25 Whereas, programs of the state of Montana should not

1 duplicate those supported by agencies of the federal
 2 government as regards jurisdiction of Indian people, and
 3 since state responsibility is effected with off-reservation
 4 Indians, and since those Indians require assistance to
 5 co-ordinate their affairs with various tribal groups and
 6 federal agencies where they have no official recognition,

7 Then therefore, let it be resolved that the
 8 co-ordinator of Indian affairs, established in 82A-2212
 9 should assess the problems of all Indians to include those
 10 who reside off known reservations, and who seek ways and
 11 means of communicating their opinions and needs to agencies
 12 of responsibility, and that the co-ordinator should actively
 13 assist them in organizing their efforts and that he act as
 14 representative and spokesman for organized bodies of Indian
 15 people whether reservation or off-reservation
 16 classification, whenever his assistance is required."

17 Section 16. There is a new R.C.M. section numbered
 18 82A-2213 that reads as follows:

19 82A-2213. Consumer affairs division. The consumer
 20 affairs division of the department of business regulation is
 21 transferred to the department.

22 Section 17. Section 84-702, R.C.M. 1947, is amended to
 23 read as follows:

24 *84-702. Qualification and compensation. The persons
 25 to be appointed as members of the state tax appeal board

1 shall be such as are known to possess knowledge of the
 2 subject of taxation and skill in matters pertaining thereto.
 3 No person so appointed shall hold any other office under the
 4 laws of this state nor any other state, nor any office under
 5 government of the United States, or of any other state. He
 6 shall devote his entire time to the duties of the office and
 7 shall not hold any position of trust or profit, nor engage
 8 in any occupation or business interfering or inconsistent
 9 with his duties. The state tax appeal board is transferred
 10 to the department of ~~administration public advocacy and~~
 11 ~~consumer protection~~ for administrative purposes only as is
 12 specified in section 82A-108, ~~R.C.M. 1947~~. However, the
 13 board may hire its own personnel, and section 82A-108 (2)(d)
 14 does not apply. The member designated chairman as provided
 15 for in 84-703 shall receive additional compensation of not
 16 more than ~~five hundred dollars (\$500)~~ per annum payable in
 17 the same manner as the salary. The state tax appeal board
 18 shall be paid per diem and travel expenses when away from
 19 the capital on official business."

20 Section 18. There is a new R.C.M. section numbered
 21 82A-2214 that reads as follows:

22 82A-2214. Volunteer bureau. The volunteer bureau of
 23 the human resources division of the department of community
 24 affairs is transferred to the department.

25 Section 19. Section 32-2505, R.C.M. 1947, is amended

1 to read as follows:

2 "32-2505. Personnel grievances -- hearings. The board
 3 of personnel appeals, provided for in ~~section 82A-1814~~
 4 ~~82A-2209~~, shall hear grievances of personnel of the
 5 department of highways. An employee of the department who
 6 has a grievance and who has exhausted all other
 7 administrative remedies within the department, is entitled
 8 to a hearing before the board of personnel appeals for a
 9 resolution of the grievance. A grievance of an employee
 10 means an employee's dissatisfaction concerning a serious
 11 matter of his employment based upon work conditions,
 12 supervision, or the result of an administrative action."

13 Section 20. Section 59-904, R.C.M. 1947, is amended to
 14 read as follows:

15 "59-904. Officers and employees excepted from
 16 provisions of act. This act does not apply to the following
 17 positions in state government:

- 18 (1) elected officials and their chief deputy and
 19 executive secretary;
 20 (2) officers and employees of the legislative branch;
 21 (3) judges and employees of the judicial branch;
 22 (4) members of boards and commissions appointed by the
 23 governor, appointed by the legislature or appointed by other
 24 elected state officials;
 25 (5) officers or members of the militia;

1 (6) agency heads appointed by the governor;

2 (7) academic and professional administrative personnel
3 with individual contracts under the authority of the board
4 of regents of higher education;

5 (8) academic and professional administrative personnel
6 who have entered into individual contracts with the state
7 school for the deaf and blind under the authority of the
8 state board of public education;

9 (9) personal staff of the elected officials enumerated
10 in Article VI, section 1, of the constitution of Montana are
11 exempt from sections 59-909, 59-910, and 59-911 of this act
12 and section ~~82A-1014~~ 82A-2209."

13 Section 21. Section 59-1602, R.C.M. 1947, is amended
14 to read as follows:

15 "59-1602. Definitions. When used in this act: (1)
16 "public employer" means the state of Montana or any
17 political subdivision thereof, including but not limited to,
18 any town, city, county, district, school board, board of
19 regents, public and quasi-public corporation, housing
20 authority or other authority established by law, and any
21 representative or agent designated by the public employer to
22 act in its interest in dealing with public employees, when
23 the board of regents is the public employer defined in this
24 section, the student government at an institution of higher
25 education may designate an agent or representative to meet

1 and confer with the board of regents and the faculty
2 bargaining agent prior to negotiations with the professional
3 educational employees, to observe those negotiations and
4 participate in caucuses as part of the public employer's
5 bargaining team, and to meet and confer with the board of
6 regents regarding the terms of agreement prior to the
7 execution of a written contract between the regents and the
8 professional educational employees. The student observer is
9 obliged to maintain the confidentiality of these
10 negotiations.

11 (2) "public employee" means a person employed by a
12 public employer in any capacity, except elected officials,
13 persons directly appointed by the governor, supervisory
14 employees and management officials (as defined in subsection
15 (3) and (4) below) or members or any state board or
16 commission who serve the state intermittently, school
17 district clerks and school administrators, registered
18 professional nurses performing service for health care
19 facilities, professional engineers and engineers in
20 training, and includes any individual whose work has ceased
21 as a consequence of, or in connection with, any unfair labor
22 practice or concerted employee action;

23 (3) "supervisory employee" means any individual having
24 authority, in the interest of the employer to hire,
25 transfer, suspend, lay off, recall, promote, discharge,

1 assign, reward, discipline other employees, having
2 responsibility to direct them, to adjust their grievances,
3 or effectively to recommend such action, if in connection
4 with the foregoing the exercise of such authority is not of
5 a merely routine or clerical nature, but requires the use of
6 independent judgment;

7 (4) "management officials" means representatives of
8 management having authority to act for the agency on any
9 matters relating to the implementation of agency policy;

10 (5) "labor organization" means any organization or
11 association of any kind in which employees participate and
12 which exists for the primary purpose of dealing with
13 employers concerning grievances, labor disputes, wages,
14 rates of pay, hours of employment, fringe benefits, or other
15 conditions of employment;

16 (6) "exclusive representative" means the labor
17 organization which has been designated by the board as the
18 exclusive representative of employees in an appropriate unit
19 or has been so recognized by the public employer;

20 (7) "board" means the board of personnel appeals
21 provided for in ~~section 82A-1014~~ 82A-2209;

22 (8) "person" includes one or more individuals, labor
23 organizations, public employees, associations, corporations,
24 legal representatives, trustees, trustees in bankruptcy, or
25 receivers;

1 (9) "unfair labor practice" means any unfair labor
2 practice listed in section 59-1605;

3 (10) "labor dispute" includes any controversy
4 concerning terms, tenure or conditions of employment, or
5 concerning the association or representation of persons in
6 negotiating, fixing, maintaining, changing, or seeking to
7 arrange terms or conditions of employment, regardless of
8 whether the disputants stand the proximate relation of
9 employer and employee;

10 (11) "appropriate unit" means a group of public
11 employees banded together for collective bargaining purposes
12 as designated by the board."

13 Section 22. Section 80-1402, R.C.M. 1947, is amended
14 to read as follows:

15 "80-1402. Definition of terms. Unless the context
16 requires otherwise, in Title 80, the following definitions
17 apply:

18 (1) "Department" means the department of institutions
19 provided for in Title 82A, chapter 8.

20 (2) "Director" means the director of institutions
21 provided for in section 82A-801.

22 (3) "Board" means the board of institutions provided
23 for in ~~section 82A-606~~ 82A-2211.

24 (4) "Institution" means any of the institutions listed
25 in section 80-1403."

1 Section 23. Section 82A-709, R.C.M. 1947, is amended
2 to read as follows:

3 "82A-709. Board of highway appeals abolished --
4 functions transferred. The board of highway appeals, created
5 in section 82A-704, is abolished and its functions are
6 transferred as follows:

7 (1) Its functions relating to the quasi-judicial
8 capacity of hearing grievances of personnel of the
9 department are transferred to the board of personnel appeals
10 provided for in ~~section 82A-1014~~ 82A-2209. Unless
11 inconsistent with this Title, any reference in the Revised
12 Codes of Montana, 1947, to the board of highway appeals
13 (pertaining to its functions of hearing grievances of
14 personnel of the department) means the board of personnel
15 appeals;

16 (2) Its functions relating to the hearing of disputes
17 resulting from the administration and enforcement of
18 proportional registration agreements under Title 53, chapter
19 7, are transferred to the highway commission. Unless
20 inconsistent with this Title, any reference in the Revised
21 Codes of Montana, 1947, to the board of highway appeals
22 (pertaining to its functions contained in Title 53, chapter
23 7) means the highway commission."

24 Section 24. Effective date. This act is effective
25 January 1, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 580-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, 19 77, there is hereby submitted a Fiscal Note for House Bill 798 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 798 is an act to create a Department of Public Advocacy and Consumer Protection.

ASSUMPTIONS:

1. The following existing functions of state government will be transferred into the new department: Citizens' Advocate, Mental Disabilities Board of Visitors, Mental Health Advisory Council, Human Rights Commission, Womens Bureau, Status of Women Advisory Council, Developmental Disabilities Advisory Council, Board of Institutions, State Coordinator of Indian Affairs, Consumer Affairs Division from Department of Business Regulation, State Tax Appeals Board, and the Volunteer Bureau of Department of Community Affairs. The Board of Highway Appeals will be abolished.
2. The combined budgets of the above listed functions are \$1,305,654 in FY 78 and \$1,340,891 in FY 79. The total FTE employees is 51.66.
3. These functions are presently existing and budgeted in other Departments; therefore, the only additional cost would be for administrative staff for the new Department.
4. Three (3) existing Departments in state government have similar sized budgets and about the same number of employees as the new Department. The administrative staffs of these Departments average seven (7) employees, including the Director.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Cost to provide an administrative staff for the new department		
Personal services	\$110,000	\$111,000
Operating expenses	20,000	21,000
Equipment	<u>2,000</u>	<u>0</u>
Total additional cost of proposed legislation	<u>\$132,000</u>	<u>\$132,000</u>

Richard L. Z...
BUDGET DIRECTOR

Office of Budget and Program Planning

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