

HOUSE BILL NO. 798

INTRODUCED BY MCBRIDE, REGAN, FARRAGA, CRIPPEN

IN THE HOUSE

February 15, 1983	Introduced and referred to Committee on Local Government.
February 21, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 22, 1983	Bill printed and placed on members' desks.
	Second reading, do pass.
February 23, 1983	Considered correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Local Government.
March 23, 1983	Committee recommend bill be concurred in. Report adopted.
March 25, 1983	Second reading, concurred in as amended.
March 28, 1983	Third reading, concurred in. Ayes, 42; Noes, 5.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
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April 4, 1983

Second reading, pass
consideration.

April 5, 1983

Second reading, amendments
not concurred in.

On motion Free Conference
Committee requested.

Free Conference Committee
appointed.

April 13, 1983

Free Conference Committee
reported.

On motion, Senate amendments
placed on second reading this
day.

Second reading, report
adopted.

April 14, 1983

On motion previous action
reconsidered.

April 15, 1983

Second reading, report
adopted.

Third reading, report adopted.

April 18, 1983

Free Conference Committee
report adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

1 ~~HOUSE~~ BILL NO. 798
 2 INTRODUCED BY McBride, Tom
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 TRANSFER OF AUTHORITY OF THE COUNTY DEPARTMENT OF PUBLIC
 6 WELFARE TO THE DEPARTMENT OF SOCIAL AND REHABILITATION
 7 SERVICES AT THE OPTION OF THE BOARD OF COUNTY COMMISSIONERS;
 8 AMENDING SECTIONS 53-2-301, 53-2-302, 53-2-304, 53-2-306,
 9 53-2-307, 53-2-322, AND 53-2-323, MCA; AND PROVIDING AN
 10 EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 NEW SECTION. Section 1. Purpose. The purpose of
 14 [sections 1 through 7] is to provide for the department of
 15 social and rehabilitation services to assume all
 16 responsibilities for public assistance programs and
 17 protective services for children and adults that, as of July
 18 1, 1983, are provided by the counties pursuant to Titles 41
 19 and 53. The assumption may become effective only at the
 20 option and with the express consent of each individual
 21 county requesting state assumption.

22 NEW SECTION. Section 2. Definitions. Unless the
 23 context requires otherwise, in [sections 1 through 7] the
 24 following definitions apply:

25 (1) "County department" means the county department of

1 public welfare provided for in Title 53, chapter 2, part 3.
 2 (2) "Department" means the department of social and
 3 rehabilitation services provided for in Title 2, chapter 15,
 4 part 22.

5 (3) "Mill levy equivalent" means the prior year's
 6 expenditure divided by the value of 1 mill.

7 (4) "Needy person" is one who is eligible for public
 8 assistance under the laws of this state.

9 (5) "Protective services" means services to children
 10 and adults to be provided by the department as permitted by
 11 Titles 41 and 53.

12 (6) "Public assistance" or "assistance" means any type
 13 of monetary or other assistance furnished under this title
 14 to a person by a state or county department, regardless of
 15 the original source of assistance.

16 (7) "State assumption" means the transfer to the
 17 department for the county by the board of county
 18 commissioners of all powers and duties, including staff
 19 personnel as provided in 53-2-301 through 53-2-307 and
 20 public assistance and protective services provided by the
 21 county department pursuant to Titles 41 and 53, except as
 22 otherwise specifically provided in [sections 1 through 7].

23 NEW SECTION. Section 3. Transfer of county public
 24 assistance and protective services to state department. (1)
 25 All authority granted to the board of county commissioners

1 to establish and operate a public assistance program and
 2 provide protective services for children and adults pursuant
 3 to Titles 41 and 53 may be transferred to the department,
 4 except that the county attorney shall continue to provide
 5 legal assistance and representation for the purposes of
 6 adult and child protective services without charge and all
 7 debts and obligations incurred prior to the effective date
 8 of state assumption continue as the responsibility of the
 9 county.

10 (2) The board of county commissioners, after public
 11 hearing, may by resolution or ordinance transfer to the
 12 department all powers and duties for public assistance and
 13 protective services for children and adults, including the
 14 selection, supervision, and termination of staff personnel
 15 associated with the performance of these activities. Upon
 16 the effective date of such transfer, the department shall
 17 assume all powers and duties related to public assistance
 18 and protective services and accorded by law to the county
 19 welfare department. If the notice required in subsection
 20 (3) is given, the transfer is effective at the start of the
 21 next state fiscal year.

22 (3) Counties opting for state assumption shall notify
 23 the department at least 90 days prior to the start of the
 24 state fiscal year unless the time period is waived in whole
 25 or in part by the director of the department.

1 (4) Counties opting for state assumption shall permit
 2 the department to use the same facilities currently occupied
 3 by the county department or substantially equal facilities,
 4 with fair rental value for such facilities to be paid by the
 5 department.

6 NEW SECTION. Section 4. State assumption -- permanent
 7 transfer to department -- exceptions. A county opting for
 8 state assumption does so on a complete and permanent basis,
 9 unless the county requests to retain or reassume operational
 10 responsibility under contract with the department for
 11 medical assistance or monetary payments to needy persons as
 12 provided in Title 53, chapter 3, pursuant to the adoption of
 13 a resolution or ordinance as provided in [section 3(2)] and
 14 notice to the department as provided in [section 3(3)].
 15 Under such a retention or reassumption, staff personnel
 16 continue under the supervision and control of the
 17 department. A county may not retain or reassume assistance
 18 programs partially funded by the federal government.

19 NEW SECTION. Section 5. Creation of advisory
 20 councils. The department may establish one or more advisory
 21 councils to advise the department on policies relating to
 22 public assistance or protective services. The director of
 23 the department shall appoint members of the advisory council
 24 for a term set by him, and they may be dismissed at his
 25 discretion. No compensation or expenses may be paid

1 advisory council members. The requirements of 2-15-122 do
2 not apply to an advisory council appointed pursuant to this
3 section.

4 **NEW SECTION.** Section 6. Authority to adopt rules. The
5 department may adopt rules necessary to carry out the
6 purposes of [sections 1 through 7], including implementing
7 transfer of the county programs to the department. The
8 department may adopt rules to determine the amount, scope,
9 and duration of general relief, which may not exceed those
10 services and amounts payable under the department's programs
11 of medicaid and aid to families with dependent children.

12 **NEW SECTION.** Section 7. Mill levy for counties
13 transferring public assistance and protective services.
14 (1) (a) Except as provided in subsection (1)(b), for the
15 purpose of [sections 1 through 7], 12 mills must be levied
16 annually in those counties opting for state assumption.

17 (b) A county that levied an amount less than 12 mills
18 for purposes of its county poor fund during fiscal year 1982
19 must levy an equivalent amount to the poor fund mill levy
20 assessed by that county during fiscal year 1982, less a mill
21 levy equivalent to an amount the county can demonstrate was
22 spent during fiscal year 1982 for the building or operation
23 of a medical facility. The reduced mill levy exception
24 provided in this subsection (1)(b) continues in effect until
25 June 30, 1988. After that date 12 mills must be levied in

1 all counties where state assumption is in effect.

2 (2) The proceeds of the mill levy established in
3 subsection (1) must be deposited in the earmarked revenue
4 fund in the state treasury for the purpose of paying the
5 expenses of the department. The mill levy may not exceed 12
6 mills, notwithstanding actual expenditures made by the
7 department.

8 (3) For a county retaining or reassuming operational
9 responsibility for medical assistance or monetary payments
10 to needy persons as provided in [section 4], the levy
11 provided in subsection (1) must be reduced by the mill levy
12 equivalent expended by that county or the department for
13 such purposes in the fiscal year immediately preceding the
14 option to retain or reassume such responsibility.

15 Section 8. Section 53-2-301, MCA, is amended to read:

16 "53-2-301. County departments to be established. There
17 shall be established in each county of the state ~~except in~~
18 ~~a county that has transferred its public assistance and~~
19 ~~protective services responsibilities to the department of~~
20 ~~social and rehabilitation services under the provisions of~~
21 ~~[sections 1 through 7].~~ a county department of public
22 welfare which shall consist of a county board of public
23 welfare and such staff personnel as may be necessary for the
24 efficient performance of the public assistance activities of
25 the county. If conditions warrant and if two or more county

boards enter into an agreement, two or more counties may combine into one administrative unit and use the same staff personnel throughout the administrative unit."

Section 9. Section 53-2-302, MCA, is amended to read:

"53-2-302. County commissioners ex officio county welfare board. ~~The Except in a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 7], the~~ board of county commissioners shall be the ex officio county welfare board and is hereby authorized to devote such additional time for public assistance matters as may be found necessary. The members of the county welfare board shall receive the same compensation for their services and the same mileage when acting as the county board of public welfare as they receive when acting as the board of county commissioners and shall be limited as to meetings as now provided by law, and the compensation and mileage of the members of the board shall be paid from county funds. They may transact business as a board of county commissioners and as a county welfare board on the same day, and in such cases they shall be paid as a board of county commissioners but may not receive compensation for more than 1 day's work for all services performed on the same calendar day."

Section 10. Section 53-2-304, MCA, is amended to read:

"53-2-304. Staff personnel of county department. (1) Each county board shall select and appoint from a list of qualified persons furnished by the department of social and rehabilitation services such staff personnel as are necessary. The staff personnel in each county shall consist of at least one qualified staff worker (or investigator) and such clerks and stenographers as may be decided necessary. If conditions warrant, the county board, with the approval of the department of social and rehabilitation services, may appoint some fully qualified person listed by the department as supervisor of its staff personnel. The staff personnel of each county department are directly responsible to the county board, but the department of social and rehabilitation services may supervise such county employees in respect to the efficient and proper performance of their duties. The county board of public welfare may not dismiss any member of the staff personnel without the approval of the department of social and rehabilitation services, but the department may request the county board to dismiss any member of the staff personnel for inefficiency, incompetence, or similar cause.

(2) Public assistance staff personnel attached to the county board shall be paid from state public assistance funds both their salaries and their travel expenses as provided for in 2-18-501 through 2-18-503 when away from the

1 county seat in the performance of their duties, but the
 2 county board of public welfare shall reimburse the
 3 department of social and rehabilitation services from county
 4 poor funds the full amount of the salaries and travel
 5 expenses not reimbursed to the department by the federal
 6 government and the full amount of the department's
 7 administrative costs which are allocated by the department
 8 to the county for the administration of county welfare
 9 programs and not reimbursed to the department by the federal
 10 government. Under circumstances prescribed by the department
 11 of social and rehabilitation services, the reimbursement by
 12 the county board of public welfare may be less than the
 13 county share as prescribed above. All other administrative
 14 costs of the county department shall also be paid from
 15 county poor funds.

16 (3) On or before the 20th day of the month following
 17 the month for which the payments to the public assistance
 18 staff personnel of the county were made, the department of
 19 social and rehabilitation services shall present to the
 20 county department of public welfare a claim for the required
 21 reimbursements. The county board shall make such
 22 reimbursements within 20 days after the presentation of the
 23 claim, and the department of social and rehabilitation
 24 services shall credit (add) all such reimbursements to its
 25 account for administrative costs.

1 (4) If a county has transferred its public assistance
 2 and protective services responsibilities to the department
 3 of social and rehabilitation services under [sections 1
 4 through 7], the department shall select, appoint, and
 5 supervise all necessary public assistance and protective
 6 services personnel, including if necessary a supervisor of
 7 staff personnel. All such personnel are directly
 8 responsible to the department."

9 Section 11. Section 53-2-306, MCA, is amended to read:
 10 "53-2-306. County department charged with local
 11 administration of public assistance. The Except in a county
 12 that has transferred its public assistance and protective
 13 services responsibilities to the department of social and
 14 rehabilitation services under [sections 1 through 7], the
 15 county department of public welfare shall be charged with
 16 the local administration of all forms of public assistance
 17 operations in the county, including but not limited to food
 18 stamp programs and social services programs. All such local
 19 administration must conform to federal and state law and the
 20 rules as established by the department of social and
 21 rehabilitation services."

22 Section 12. Section 53-2-307, MCA, is amended to read:
 23 "53-2-307. County board to establish local
 24 administrative policies and rules. The Except in a county
 25 that has transferred its public assistance and protective

~~services responsibilities to the department of social and rehabilitation services under [sections 1 through 7]. the county board of public welfare is responsible for establishing local policies and such rules as are necessary to govern the county department and local administration of public assistance activities, except that all such policies and rules must be in conformity with general policies and rules established by the department of social and rehabilitation services."~~

Section 13. Section 53-2-322, MCA, is amended to read:

"53-2-322. County to levy taxes, budget, and make expenditures for public assistance activities. (1) The board of county commissioners in each county shall levy 13.5 mills for the county poor fund as provided by law or so much thereof as may be necessary. ~~Counties transferring public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 7] may not levy more than the difference between 13.5 mills and the amount paid the state pursuant to [section 7].~~

(2) The board shall budget and expend so much of the funds in the county poor fund for public assistance purposes as will enable the county welfare department to pay the general relief activities of the county and to reimburse the department of social and rehabilitation services for the

county's proportionate share of the administrative costs of the county welfare department and of all public assistance and its proportionate share of any other public assistance activity that may be carried on jointly by the state and the county.

~~(3)(3)~~ The amounts set up in the budget for the reimbursements to the department of social and rehabilitation services shall be sufficient to make all of these reimbursements in full. The budget shall make separate provision for each one of these public assistance activities, and proper accounts shall be established for the funds for all such activities.

~~(3)(4)~~ As soon as the preliminary budget provided for in 7-6-2315 has been agreed upon, a copy thereof shall without delay be mailed to the department of social and rehabilitation services, and at any time before the final adoption of the budget, the department shall make such recommendations with regard to changes in any part of the budget relating to the county poor fund as considered necessary in order to enable the county to discharge its obligations under the public assistance laws.

~~(4)(5)~~ The department of social and rehabilitation services shall promptly examine the preliminary budget in order to ascertain if the amounts provided for reimbursements to the department are likely to be sufficient

1 and shall notify the county clerk of its findings. The board
2 shall make such changes in the amounts provided for
3 reimbursements, if any are required, in order that the
4 county will be able to make the reimbursements in full.

5 ~~(5)(6)~~ The board of county commissioners may not make
6 any transfer from the amounts budgeted for reimbursing the
7 department of social and rehabilitation services without
8 having first obtained a statement in writing from the
9 department to the effect that the amount to be transferred
10 will not be required during the fiscal year for the purposes
11 for which the amounts were provided in the budget.

12 ~~(6)(7)~~ No part of the county poor fund, irrespective
13 of the source of any part thereof, may be used directly or
14 indirectly for the erection or improvement of any county
15 building so long as the fund is needed for general relief
16 expenditures by the county or is needed for paying the
17 county's proportionate share of public assistance or its
18 proportionate share of any other public assistance activity
19 that may be carried on jointly by the state and the county.
20 Expenditures for improvement of any county buildings used
21 directly for care of the poor may be made out of any moneys
22 in the county poor fund, whether such moneys are produced by
23 the 13.5-mill levy provided for in subsection (1) of this
24 section or from any additional levy authorized or to be
25 authorized by law. Such expenditure shall be authorized only

1 when any county building used for the care of the poor must
2 be improved in order to meet legal standards required for
3 such buildings by the department of health and environmental
4 sciences and when such expenditure has been approved by the
5 department of social and rehabilitation services."

6 Section 14. Section 53-2-323, MCA, is amended to read:
7 "53-2-323. Emergency grants from state funds to
8 counties. ~~A Except when a county has transferred its public~~
9 ~~assistance and protective services responsibilities to the~~
10 ~~department of social and rehabilitation services under~~
11 ~~[sections 1 through 7], a county may apply to the department~~
12 ~~for an emergency grant-in-aid, and the grant shall be made~~
13 ~~to the county upon the following conditions:~~

14 (1) The board of county commissioners or a duly
15 elected or appointed executive officer of the county shall
16 make written application to the department for emergency
17 assistance and shall show by written report and sworn
18 affidavit of the county clerk and recorder and chairman of
19 the board of county commissioners or other duly elected or
20 appointed executive officer of the county the following:

21 (a) that the county will not be able to meet its
22 obligations under law to provide assistance to the needy of
23 the county or meet its proportionate share of any public
24 assistance activity carried on jointly with the department;

25 (b) that all lawful sources of revenue and other

1 income to the county poor fund will be exhausted;

2 (c) that all expenditures from the county poor fund
3 have been lawfully made; and

4 (d) that all expenditures from the county poor fund
5 have been reasonable and necessary, according to criteria
6 set by the department in rules adopted for that purpose, for
7 the county to meet its obligations under law to provide
8 assistance to the needy.

9 (2) Within 10 days of receipt of the application and
10 affidavit, the department shall determine whether the county
11 poor fund will be depleted and shall give notice to the
12 county of the department's intention to deny or allow the
13 grant-in-aid. Before a grant-in-aid for any fiscal year may
14 be made to a county under this section, any money credited
15 during that fiscal year to the depletion allowance reserve
16 fund from the sources provided by 7-34-2402(2) shall be
17 transferred to the county poor fund to be used for lawful
18 poor fund expenditures. The amount of the grant-in-aid shall
19 be determined after all sources of income available to the
20 poor fund, including the depletion allowance reserve fund
21 transfers, have been exhausted.

22 (3) Within 10 days of receiving notice from the
23 department that a grant-in-aid will be made to the county,
24 the board of county commissioners or other duly elected or
25 appointed executive officer of the county shall adopt an

1 emergency budget. There is no requirement of notice and
2 hearing for that emergency budget. The emergency budget
3 shall state the amount required to meet the obligation of
4 the county and shall allocate that whole amount among the
5 various classes of expenditures for which the grant was
6 made.

7 (4) Upon receipt and approval of the county emergency
8 budget, the department shall issue a warrant to the county
9 treasurer of the county for the total amount stated in the
10 approved emergency budget.

11 (5) The grant-in-aid received by the county shall be
12 placed in an emergency fund account to be kept separate and
13 distinct from the poor fund account. All expenditures from
14 the emergency fund account shall be made by a separate
15 series of warrants or checks marked as emergency warrants or
16 checks.

17 (6) The grants-in-aid from the department may be used
18 only for public assistance activities lawfully conducted by
19 the county, including but not limited to medical aid,
20 hospitalization, and institutional care. No part of a
21 grant-in-aid may be used, directly or indirectly, to pay for
22 the erection or improvement of any county building or for
23 furniture, fixtures, appliances, or equipment for a county
24 building.

25 (7) In the event the county poor fund is replenished

1 by other lawful sources of revenue, the county shall issue
2 warrants to meet its obligations from the county poor fund
3 until such time as that fund is again so depleted that
4 warrants can no longer lawfully be drawn on that account.
5 Upon depletion of the county poor fund, the county may again
6 make disbursements from the emergency fund account as
7 provided in subsection (5). At the close of the county
8 fiscal year, the county shall return to the department any
9 amounts remaining in the county poor fund and the emergency
10 fund account, but the remaining amount to be returned may
11 not exceed the total amount of the emergency grant-in-aid
12 for that fiscal year.

13 (8) Any amount which is unlawfully disbursed or
14 transferred from the emergency fund account or used for a
15 purpose other than that specified in the grant-in-aid shall
16 be returned by the county to the department."

17 NEW SECTION. Section 15. Effective date. This act is
18 effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 439-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 798 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 798 provides for transfer of authority of the County Department of Public Welfare to the Department of Social and Rehabilitation Services at the option of the Board of County Commissioners.

ASSUMPTIONS:

- 1) Assumes 12 counties to select state option with 5 counties to levy maximum 12 mills, with the mill levy averaging 8.37 mills for the other 7 counties.
- 2) All counties now eligible for emergency grant-in-aid will opt for state assumption.

FISCAL IMPACT:

Anticipated poor fund expenditures FY 83
for counties expressing interest in state
assumption.

\$ 10,323,286

Estimated cost for rent of office space
Total Increased Cost

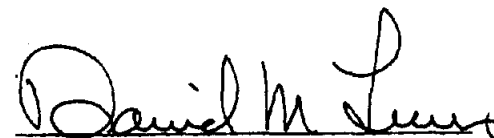
157,000
\$ 10,480,286

Estimated revenue from mill levy
Net Increased Cost

6,529,711
\$ 3,950,575

Future years costs would depend on the number of counties opting for state assumption, program expenditure increases and the rate of revenue growth from the mill levy but it is estimated the net cost increase should approximate 4 million per year.

FISCAL NOTE 15:N/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

STATE OF MONTANA

REQUEST NO. 522-83

FISCAL NOTE

Form BD-15

In compliance with a written request received March 25, 19 83, there is hereby submitted a Fiscal Note for House Bill 798, Amended pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

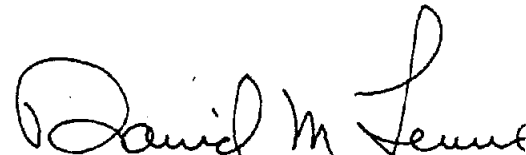
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 798, amended, provides for transfer of authority of the County Department of Public Welfare to the Department of Social and Rehabilitation Services at the option of the Board of County Commissioners.

COMMENTS:

The amendments do not change the original fiscal note. Refer to that for the assumptions and fiscal impact.

FISCAL NOTE 15:N/2



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-26-83

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Local Government Committee
4

5 A statement of intent is required of this bill because
6 section 6 gives the Department of Social and Rehabilitation
7 Services rulemaking authority.

8 It is intended that the department establish general
9 relief standards, scope, duration, and amount that may not
10 exceed medicaid or AFDC program services. Such items should
11 be in accord with rules adopted by the department for county
12 department under 53-3-301 so that departmental benefits are
13 comparable to those of counties.

14 The department may also make rules governing transfer
15 of functions between the department and the county. It is
16 contemplated such rules would cover administrative
17 provisions such as forms, deadlines, and financial
18 certifications as may be needed to implement the bill. Other
19 necessary administrative type rules governing rental
20 payments, employees and functions formerly administered by a
21 county would also be addressed.

Approved by Comm.
on Local Government

HOUSE BILL NO. 798

INTRODUCED BY MCBRIDE, REGAN,

FABREGA, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
TRANSFER OF AUTHORITY OF THE COUNTY DEPARTMENT OF PUBLIC
WELFARE TO THE DEPARTMENT OF SOCIAL AND REHABILITATION
SERVICES AT THE OPTION OF THE BOARD OF COUNTY COMMISSIONERS;
AMENDING SECTIONS 53-2-301, 53-2-302, 53-2-304, 53-2-306,
53-2-307, 53-2-322, AND 53-2-323, ~~53-3-301, AND 53-3-304,~~
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. The purpose of
[sections 1 through 7 &] is to provide for the department of
social and rehabilitation services to assume all
responsibilities for public assistance programs and
protective services for children and adults that, as of July
1, 1983, are provided by the counties pursuant to Titles 41
and 53. The assumption may become effective only at the
option and with the express consent of each individual
county requesting state assumption.

NEW SECTION. Section 2. Definitions. Unless the
context requires otherwise, in [sections 1 through 7 &] the
following definitions apply:

(1) "County department" means the county department of
public welfare provided for in Title 53, chapter 2, part 3.

(2) "Department" means the department of social and
rehabilitation services provided for in Title 2, chapter 15,
part 22.

(3) "Mill levy equivalent" means the prior year's
expenditure divided by the value of 1 mill.

(4) "Needy person" is one who is eligible for public
assistance under the laws of this state.

(5) "Protective services" means services to children
and adults to be provided by the department as permitted by
Titles 41 and 53.

(6) "Public assistance" or "assistance" means any type
of monetary or other assistance furnished under this title
to a person by a state or county department, regardless of
the original source of assistance.

(7) "State assumption" means the transfer to the
department for the county by the board of county
commissioners of all powers and duties, including staff
personnel as provided in 53-2-301 through 53-2-307 and
public assistance and protective services provided by the
county department pursuant to Titles 41 and 53, except as
otherwise specifically provided in [sections 1 through 7 &].

NEW SECTION. Section 3. Transfer of county public
assistance and protective services to state department. (1)

1 All authority granted to the board of county commissioners
2 to establish and operate a public assistance program and
3 provide protective services for children and adults pursuant
4 to Titles 41 and 53 may be transferred to the department,
5 except that the county attorney shall continue to provide
6 legal assistance and representation for the purposes of
7 adult and child protective services without charge and all
8 debts and obligations incurred prior to the effective date
9 of state assumption continue as the responsibility of the
10 county.

11 (2) The board of county commissioners, after public
12 hearing, may by resolution or ordinance transfer to the
13 department all powers and duties for public assistance and
14 protective services for children and adults, including the
15 selection, supervision, and termination of staff personnel
16 associated with the performance of these activities. Upon
17 the effective date of such transfer, the department shall
18 assume all powers and duties related to public assistance
19 and protective services and accorded by law to the county
20 welfare department. If the notice required in subsection
21 (3) is given, the transfer is effective at the start of the
22 next state fiscal year.

23 (3) Counties opting for state assumption shall notify
24 the department at least 90 days prior to the start of the
25 state fiscal year unless the time period is waived in whole

1 or in part by the director of the department.

2 (4) Counties opting for state assumption shall permit
3 the department to use the same facilities currently occupied
4 by the county department or substantially equal facilities,
5 with fair rental value for such facilities to be paid by the
6 department. ~~COUNTIES OPTING FOR STATE ASSUMPTION SHALL~~
7 ~~TRANSFER TO THE DEPARTMENT ALL MATERIALS AND SUPPLIES USED~~
8 ~~IN THE OPERATION OF THE COUNTY DEPARTMENT AND WHICH WERE~~
9 ~~PAID FOR IN WHOLE OR IN PART WITH FEDERAL OR STATE FUNDS.~~

10 ~~NEW SECTION.~~ Section 4. State assumption -- permanent
11 transfer to department -- exceptions. ~~11~~ A county opting
12 for state assumption does so on a complete and permanent
13 basis, unless the county requests to retain or reassume
14 operational responsibility under---contract---with---the
15 department for medical assistance or monetary payments to
16 needy persons as provided in Title 53, chapter 3, pursuant
17 to the adoption of a resolution or ordinance as provided in
18 [section 3(2)] and notice to the department as provided in
19 [section 3(3)]. Under such a retention or reassumption,
20 staff personnel continue under the supervision and control
21 of the department ~~BUT THE DEPARTMENT MAY CONTRACT WITH THE~~
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 13 director of the department shall appoint members of the
 14 advisory council for a term set by him, and they may be
 15 dismissed at his discretion.

16 (2) UPON REQUEST OF THE GOVERNING BODY OF A COUNTY
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 18 ESTABLISH A COUNTY ADVISORY COUNCIL FOR THE COUNTY. THE
 19 ADVISORY COUNCIL SHALL CONSIST OF THE BOARD OF COUNTY
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 21 CONSISTS OF GREATER THAN THREE MEMBERS, THREE MEMBERS OF THE
 22 GOVERNING BODY CHOSEN BY THE GOVERNING BODY. THE DEPARTMENT
 23 MAY APPOINT TWO OTHER MEMBERS TO THE ADVISORY COUNCIL AS
 24 PROVIDED IN SUBSECTION (1).

25 (3) No compensation or expenses may be paid advisory

1 ~~council members FOR THEIR SERVICE ON THE ADVISORY COUNCIL.~~
 2 The requirements of 2-15-122 do not apply to an advisory
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 5 department may adopt rules necessary to carry out the
 6 purposes of [sections 1 through 7 B], including implementing
 7 transfer of the county programs to the department. The
 8 department may adopt rules to determine the amount, scope,
 9 and duration of general relief, which may not exceed those
 10 services and amounts payable under the department's programs
 11 of medicaid and aid to families with dependent children AS
 12 NECESSARY TO CARRY OUT THE PURPOSES OF [SECTIONS 1 THROUGH
 13 8].

14 NEW SECTION. Section 7. Mill levy for counties
 15 transferring public assistance and protective services.
 16 (1) (a) Except as provided in subsection (1)(b), for the
 17 purpose of [sections 1 through 7 B], 12 mills must be levied
 18 annually in those counties opting for state assumption.

19 (b) A county that levied an amount less than 12 mills
 20 for purposes of its county poor fund during fiscal year 1982
 21 must levy an equivalent amount to the poor fund mill levy
 22 assessed by that county during fiscal year 1982, less a mill
 23 levy equivalent to an amount the county can demonstrate was
 24 spent during fiscal year 1992 for the building or operation
 25 of a medical facility. The reduced mill levy exception

provided in this subsection (1)(b) continues in effect until June 30, 1988. After that date 12 mills must be levied in all counties where state assumption is in effect.

(2) The proceeds of the mill levy established in subsection (1) must be deposited in the earmarked revenue fund in the state treasury for the purpose of paying the expenses of the department. The mill levy may not exceed 12 mills, notwithstanding actual expenditures made by the department.

(3) For a county retaining or reassuming operational responsibility for medical assistance or monetary payments to needy persons as provided in [section 4], the levy provided in subsection (1) must be reduced by the mill levy equivalent expended by that county or the department for such purposes in the fiscal year immediately preceding the option to retain or reassume such responsibility.

THERE IS A NEW MCA SECTION THAT READS:

Section 8. Work program required. The department shall establish a work program as provided in 53-3-304. The department may contract with the county, a municipality, or state agency that has work available for recipients of general relief.

Section 9. Section 53-2-301, MCA, is amended to read:

"53-2-301. County departments to be established. There shall be established in each county of the state, except in

a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under the provisions of [sections 1 through 8], a county department of public welfare which shall consist of a county board of public welfare and such staff personnel as may be necessary for the efficient performance of the public assistance activities of the county. If conditions warrant and if two or more county boards enter into an agreement, two or more counties may combine into one administrative unit and use the same staff personnel throughout the administrative unit."

Section 10. Section 53-2-302, MCA, is amended to read:

"53-2-302. County commissioners ex officio county welfare board. The Except in a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 8], the board of county commissioners shall be the ex officio county welfare board and is hereby authorized to devote such additional time for public assistance matters as may be found necessary. The members of the county welfare board shall receive the same compensation for their services and the same mileage when acting as the county board of public welfare as they receive when acting as the board of county commissioners and shall be limited as to meetings as now

1 provided by law, and the compensation and mileage of the
 2 members of the board shall be paid from county funds. They
 3 may transact business as a board of county commissioners and
 4 as a county welfare board on the same day, and in such cases
 5 they shall be paid as a board of county commissioners but
 6 may not receive compensation for more than 1 day's work for
 7 all services performed on the same calendar day."

8 Section 11. Section 53-2-304, MCA, is amended to read:

9 "53-2-304. Staff personnel of county department. (1)
 10 Each county board shall select and appoint from a list of
 11 qualified persons furnished by the department of social and
 12 rehabilitation services such staff personnel as are
 13 necessary. The staff personnel in each county shall consist
 14 of at least one qualified staff worker (or investigator) and
 15 such clerks and stenographers as may be decided necessary.
 16 If conditions warrant, the county board, with the approval
 17 of the department of social and rehabilitation services, may
 18 appoint some fully qualified person listed by the department
 19 as supervisor of its staff personnel. The staff personnel of
 20 each county department are directly responsible to the
 21 county board, but the department of social and
 22 rehabilitation services may supervise such county employees
 23 in respect to the efficient and proper performance of their
 24 duties. The county board of public welfare may not dismiss
 25 any member of the staff personnel without the approval of

1 the department of social and rehabilitation services, but
 2 the department may request the county board to dismiss any
 3 member of the staff personnel for inefficiency,
 4 incompetence, or similar cause.

5 (2) Public assistance staff personnel attached to the
 6 county board shall be paid from state public assistance
 7 funds both their salaries and their travel expenses as
 8 provided for in 2-18-501 through 2-18-503 when away from the
 9 county seat in the performance of their duties, but the
 10 county board of public welfare shall reimburse the
 11 department of social and rehabilitation services from county
 12 poor funds the full amount of the salaries and travel
 13 expenses not reimbursed to the department by the federal
 14 government and the full amount of the department's
 15 administrative costs which are allocated by the department
 16 to the county for the administration of county welfare
 17 programs and not reimbursed to the department by the federal
 18 government. Under circumstances prescribed by the department
 19 of social and rehabilitation services, the reimbursement by
 20 the county board of public welfare may be less than the
 21 county share as prescribed above. All other administrative
 22 costs of the county department shall also be paid from
 23 county poor funds.

24 (3) On or before the 20th day of the month following
 25 the month for which the payments to the public assistance

1 staff personnel of the county were made, the department of
2 social and rehabilitation services shall present to the
3 county department of public welfare a claim for the required
4 reimbursements. The county board shall make such
5 reimbursements within 20 days after the presentation of the
6 claim, and the department of social and rehabilitation
7 services shall credit (add) all such reimbursements to its
8 account for administrative costs.

9 ~~(41. If a county has transferred its public assistance~~
10 ~~and protective services responsibilities to the department~~
11 ~~of social and rehabilitation services under [sections 1~~
12 ~~through 8], the department shall select, appoint, and~~
13 ~~supervise all necessary public assistance and protective~~
14 ~~services personnel, including if necessary a supervisor of~~
15 ~~staff personnel. All such personnel are directly~~
16 ~~responsible to the department."~~

17 Section 12. Section 53-2-306, MCA, is amended to read:

18 "53-2-306. County department charged with local
19 administration of public assistance. ~~The Except in a county~~
20 ~~that has transferred its public assistance and protective~~
21 ~~services responsibilities to the department of social and~~
22 ~~rehabilitation services under [sections 1 through 8], the~~
23 county department of public welfare shall be charged with
24 the local administration of all forms of public assistance
25 operations in the county, including but not limited to food

1 stamp programs and social services programs. All such local
2 administration must conform to federal and state law and the
3 rules as established by the department of social and
4 rehabilitation services."

5 Section 13. Section 53-2-307, MCA, is amended to read:

6 "53-2-307. County board to establish local
7 administrative policies and rules. ~~The Except in a county~~
8 ~~that has transferred its public assistance and protective~~
9 ~~services responsibilities to the department of social and~~
10 ~~rehabilitation services under [sections 1 through 8], the~~
11 county board of public welfare is responsible for
12 establishing local policies and such rules as are necessary
13 to govern the county department and local administration of
14 public assistance activities, except that all such policies
15 and rules must be in conformity with general policies and
16 rules established by the department of social and
17 rehabilitation services."

18 Section 14. Section 53-2-322, MCA, is amended to read:

19 "53-2-322. County to levy taxes, budget, and make
20 expenditures for public assistance activities. (1) The board
21 of county commissioners in each county shall levy 13.5 mills
22 for the county poor fund as provided by law or so much
23 thereof as may be necessary. ~~Counties transferring public~~
24 ~~assistance and protective services responsibilities to the~~
25 ~~department of social and rehabilitation services under~~

~~[sections 1 through 8] may not levy more than the difference between 13.5 mills and the amount paid the state LEY pursuant to [section 7].~~

121 The board shall budget and expend so much of the funds in the county poor fund for public assistance purposes as will enable the county welfare department to pay the general relief activities of the county and to reimburse the department of social and rehabilitation services for the county's proportionate share of the administrative costs of the county welfare department and of all public assistance and its proportionate share of any other public assistance activity that may be carried on jointly by the state and the county.

122 The amounts set up in the budget for the reimbursements to the department of social and rehabilitation services shall be sufficient to make all of these reimbursements in full. The budget shall make separate provision for each one of these public assistance activities, and proper accounts shall be established for the funds for all such activities.

123 As soon as the preliminary budget provided for in 7-6-2315 has been agreed upon, a copy thereof shall without delay be mailed to the department of social and rehabilitation services, and at any time before the final adoption of the budget, the department shall make such

recommendations with regard to changes in any part of the budget relating to the county poor fund as considered necessary in order to enable the county to discharge its obligations under the public assistance laws.

124 The department of social and rehabilitation services shall promptly examine the preliminary budget in order to ascertain if the amounts provided for reimbursements to the department are likely to be sufficient and shall notify the county clerk of its findings. The board shall make such changes in the amounts provided for reimbursements, if any are required, in order that the county will be able to make the reimbursements in full.

125 The board of county commissioners may not make any transfer from the amounts budgeted for reimbursing the department of social and rehabilitation services without having first obtained a statement in writing from the department to the effect that the amount to be transferred will not be required during the fiscal year for the purposes for which the amounts were provided in the budget.

126 No part of the county poor fund, irrespective of the source of any part thereof, may be used directly or indirectly for the erection or improvement of any county building so long as the fund is needed for general relief expenditures by the county or is needed for paying the county's proportionate share of public assistance or its

1 proportionate share of any other public assistance activity
2 that may be carried on jointly by the state and the county.
3 Expenditures for improvement of any county buildings used
4 directly for care of the poor may be made out of any moneys
5 in the county poor fund, whether such moneys are produced by
6 the 13.5-mill levy provided for in subsection (1) of this
7 section or from any additional levy authorized or to be
8 authorized by law. Such expenditure shall be authorized only
9 when any county building used for the care of the poor must
10 be improved in order to meet legal standards required for
11 such buildings by the department of health and environmental
12 sciences and when such expenditure has been approved by the
13 department of social and rehabilitation services."

14 Section 15. Section 53-2-323, MCA, is amended to read:

15 "53-2-323. Emergency grants from state funds to
16 counties. ~~* Except when a county has transferred its public~~
17 ~~assistance and protective services responsibilities to the~~
18 ~~department of social and rehabilitation services under~~
19 ~~[sections 1 through 3], a county may apply to the~~
20 department for an emergency grant-in-aid, and the grant
21 shall be made to the county upon the following conditions:

22 (1) The board of county commissioners or a duly
23 elected or appointed executive officer of the county shall
24 make written application to the department for emergency
25 assistance and shall show by written report and sworn

1 affidavit of the county clerk and recorder and chairman of
2 the board of county commissioners or other duly elected or
3 appointed executive officer of the county the followings:

4 (a) that the county will not be able to meet its
5 obligations under law to provide assistance to the needy of
6 the county or meet its proportionate share of any public
7 assistance activity carried on jointly with the department;

8 (b) that all lawful sources of revenue and other
9 income to the county poor fund will be exhausted;

10 (c) that all expenditures from the county poor fund
11 have been lawfully made; and

12 (d) that all expenditures from the county poor fund
13 have been reasonable and necessary, according to criteria
14 set by the department in rules adopted for that purpose, for
15 the county to meet its obligations under law to provide
16 assistance to the needy.

17 (2) Within 10 days of receipt of the application and
18 affidavit, the department shall determine whether the county
19 poor fund will be depleted and shall give notice to the
20 county of the department's intention to deny or allow the
21 grant-in-aid. Before a grant-in-aid for any fiscal year may
22 be made to a county under this section, any money credited
23 during that fiscal year to the depletion allowance reserve
24 fund from the sources provided by 7-34-2402(2) shall be
25 transferred to the county poor fund to be used for lawful

1 poor fund expenditures. The amount of the grant-in-aid shall
2 be determined after all sources of income available to the
3 poor fund, including the depletion allowance reserve fund
4 transfers, have been exhausted.

5 (3) Within 10 days of receiving notice from the
6 department that a grant-in-aid will be made to the county,
7 the board of county commissioners or other duly elected or
8 appointed executive officer of the county shall adopt an
9 emergency budget. There is no requirement of notice and
10 hearing for that emergency budget. The emergency budget
11 shall state the amount required to meet the obligation of
12 the county and shall allocate that whole amount among the
13 various classes of expenditures for which the grant was
14 made.

15 (4) Upon receipt and approval of the county emergency
16 budget, the department shall issue a warrant to the county
17 treasurer of the county for the total amount stated in the
18 approved emergency budget.

19 (5) The grant-in-aid received by the county shall be
20 placed in an emergency fund account to be kept separate and
21 distinct from the poor fund account. All expenditures from
22 the emergency fund account shall be made by a separate
23 series of warrants or checks marked as emergency warrants or
24 checks.

25 (6) The grants-in-aid from the department may be used

1 only for public assistance activities lawfully conducted by
2 the county, including but not limited to medical aid,
3 hospitalization, and institutional care. No part of a
4 grant-in-aid may be used, directly or indirectly, to pay for
5 the erection or improvement of any county building or for
6 furniture, fixtures, appliances, or equipment for a county
7 building.

8 (7) In the event the county poor fund is replenished
9 by other lawful sources of revenue, the county shall issue
10 warrants to meet its obligations from the county poor fund
11 until such time as that fund is again so depleted that
12 warrants can no longer lawfully be drawn on that account.
13 Upon depletion of the county poor fund, the county may again
14 make disbursements from the emergency fund account as
15 provided in subsection (5). At the close of the county
16 fiscal year, the county shall return to the department any
17 amounts remaining in the county poor fund and the emergency
18 fund account, but the remaining amount to be returned may
19 not exceed the total amount of the emergency grant-in-aid
20 for that fiscal year.

21 (8) Any amount which is unlawfully disbursed or
22 transferred from the emergency fund account or used for a
23 purpose other than that specified in the grant-in-aid shall
24 be returned by the county to the department."

25 SECTION 16, SECTION 23-1-301, MCA, IS AMENDED TO READ:

"53-3-301. Amount of general relief assistance to be determined by county board. ~~The Except in a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 8], the~~ amount of general relief assistance granted any person or family shall be determined by the county board of public welfare, according to rules and standards of assistance established by the board and approved by the department."

SECTION 17. ~~SECTION 53-3-304, MCA, IS AMENDED TO READ:~~

"53-3-304. Power of--county--department to require recipient to perform county work. (1) If the county has work available which a recipient of general relief is capable of performing ~~or the department of social and rehabilitation services is required to operate a work program under the provisions of [section 8],~~ then the county department of public welfare ~~or the department of social and rehabilitation services~~ may require the a recipient to perform the work at ~~the minimum wage or may pay a recipient~~ at the prevailing rate of wages paid by that county for similar work, to be paid from the county poor fund ~~or state funds~~ in place of granting him general relief.

(2) The county department of public welfare ~~or the department of social and rehabilitation services, as the case may be,~~ shall provide coverage under the Workers'

Compensation Act for those recipients of general relief working under the provisions hereof and may enter into such agreements with the division of workers' compensation of the department of labor and industry as may be necessary to carry out the provisions of this section."

~~NEW SECTION.~~ Section 18. Effective date. This act is effective ~~July 1, 1983~~ ON PASSAGE AND APPROVAL.

, -End-

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Local Government Committee
4

5 A statement of intent is required of this bill because
6 section 6 gives the Department of Social and Rehabilitation
7 Services rulemaking authority.

8 It is intended that the department establish general
9 relief standards, scope, duration, and amount that may not
10 exceed medicaid or AFDC program services. Such items should
11 be in accord with rules adopted by the department for county
12 department under 53-3-301 so that departmental benefits are
13 comparable to those of counties.

14 The department may also make rules governing transfer
15 of functions between the department and the county. It is
16 contemplated such rules would cover administrative
17 provisions such as forms, deadlines, and financial
18 certifications as may be needed to implement the bill. Other
19 necessary administrative type rules governing rental
20 payments, employees and functions formerly administered by a
21 county would also be addressed.

THIRD READING

HB 798

HOUSE BILL NO. 798
INTRODUCED BY MCBRIDE, REGAN,
FABREGA, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
TRANSFER OF AUTHORITY OF THE COUNTY DEPARTMENT OF PUBLIC
WELFARE TO THE DEPARTMENT OF SOCIAL AND REHABILITATION
SERVICES AT THE OPTION OF THE BOARD OF COUNTY COMMISSIONERS;
AMENDING SECTIONS 53-2-301, 53-2-302, 53-2-304, 53-2-306,
53-2-307, 53-2-322, AND 53-2-323, ~~53-3-301, AND 53-3-304,~~
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. The purpose of
[sections 1 through 7 &] is to provide for the department of
social and rehabilitation services to assume all
responsibilities for public assistance programs and
protective services for children and adults that, as of July
1, 1983, are provided by the counties pursuant to Titles 41
and 53. The assumption may become effective only at the
option and with the express consent of each individual
county requesting state assumption.

NEW SECTION. Section 2. Definitions. Unless the
context requires otherwise, in [sections 1 through 7 &] the
following definitions apply:

(1) "County department" means the county department of
public welfare provided for in Title 53, chapter 2, part 3.

(2) "Department" means the department of social and
rehabilitation services provided for in Title 2, chapter 15,
part 22.

(3) "Mill levy equivalent" means the prior year's
expenditure divided by the value of 1 mill.

(4) "Needy person" is one who is eligible for public
assistance under the laws of this state.

(5) "Protective services" means services to children
and adults to be provided by the department as permitted by
Titles 41 and 53.

(6) "Public assistance" or "assistance" means any type
of monetary or other assistance furnished under this title
to a person by a state or county department, regardless of
the original source of assistance.

(7) "State assumption" means the transfer to the
department for the county by the board of county
commissioners of all powers and duties, including staff
personnel as provided in 53-2-301 through 53-2-307 and
public assistance and protective services provided by the
county department pursuant to Titles 41 and 53, except as
otherwise specifically provided in [sections 1 through 7 &].

NEW SECTION. Section 3. Transfer of county public
assistance and protective services to state department. (1)

1 All authority granted to the board of county commissioners
2 to establish and operate a public assistance program and
3 provide protective services for children and adults pursuant
4 to Titles 41 and 53 may be transferred to the department,
5 except that the county attorney shall continue to provide
6 legal assistance and representation for the purposes of
7 adult and child protective services without charge and all
8 debts and obligations incurred prior to the effective date
9 of state assumption continue as the responsibility of the
10 county.

11 (2) The board of county commissioners, after public
12 hearing, may by resolution or ordinance transfer to the
13 department all powers and duties for public assistance and
14 protective services for children and adults, including the
15 selection, supervision, and termination of staff personnel
16 associated with the performance of these activities. Upon
17 the effective date of such transfer, the department shall
18 assume all powers and duties related to public assistance
19 and protective services and accorded by law to the county
20 welfare department. If the notice required in subsection
21 (3) is given, the transfer is effective at the start of the
22 next state fiscal year.

23 (3) Counties opting for state assumption shall notify
24 the department at least 90 days prior to the start of the
25 state fiscal year unless the time period is waived in whole

1 or in part by the director of the department.

2 (4) Counties opting for state assumption shall permit
3 the department to use the same facilities currently occupied
4 by the county department or substantially equal facilities,
5 with fair rental value for such facilities to be paid by the
6 department. COUNTIES OPTING FOR STATE ASSUMPTION SHALL
7 TRANSFER TO THE DEPARTMENT ALL MATERIALS AND SUPPLIES USED
8 IN THE OPERATION OF THE COUNTY DEPARTMENT AND WHICH WERE
9 PAID FOR IN WHOLE OR IN PART WITH FEDERAL OR STATE FUNDS.

10 NEW SECTION. Section 4. State assumption -- permanent
11 transfer to department -- exceptions. (1) A county opting
12 for state assumption does so on a complete and permanent
13 basis, unless the county requests to retain or reassume
14 operations~~st~~ responsibility under~~---contract---with---~~the
15 department for medical assistance or monetary payments to
16 needy persons as provided in Title 53, chapter 3, pursuant
17 to the adoption of a resolution or ordinance as provided in
18 [section 3(2)] and notice to the department as provided in
19 [section 3(3)]. Under such a retention or reassumption,
20 staff personnel continue under the supervision and control
21 of the department BUT THE DEPARTMENT MAY CONTRACT WITH THE
22 COUNTIES FOR THE OPERATION OF PROGRAMS PROVIDED IN TITLE 53.
23 CHAPTER 3. A county may not retain or reassume assistance
24 programs partially funded by the federal government.

25 (2) A COUNTY TRANSFERRING ALL DUTIES AND

~~RESPONSIBILITIES TO THE DEPARTMENT MAY REASSUME LIMITED
RESPONSIBILITY FOR MEDICAL ASSISTANCE OR MONETARY PAYMENTS
TO NEEDY PERSONS AS PROVIDED IN SUBSECTION (1), BUT MAY NOT
THEREAFTER REQUEST FULL STATE ASSUMPTION. A COUNTY INITIALLY
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OR FULL STATE ASSUMPTION DOES SO ON A PERMANENT BASIS,
EXCEPT AS PROVIDED IN THIS SECTION.~~

~~NEW SECTION. Section 5. Creation of advisory
councils. (1) The department may establish one or more
advisory councils to advise the department on policies
relating to public assistance or protective services. The
director of the department shall appoint members of the
advisory council for a term set by him, and they may be
dismissed at his discretion.~~

~~(2) UPON REQUEST OF THE GOVERNING BODY OF A COUNTY
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GOVERNING BODY CHOSEN BY THE GOVERNING BODY. THE DEPARTMENT
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~~(3) No compensation or expenses may be paid advisory~~

~~council members FOR THEIR SERVICE ON THE ADVISORY COUNCIL.~~

~~The requirements of 2-15-122 do not apply to an advisory
council appointed pursuant to this section.~~

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department may adopt rules necessary to carry out the
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~~NEW SECTION. Section 7. Mill levy for counties
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(1) (a) Except as provided in subsection (1)(b), for the
purpose of [sections 1 through 7 B], 12 mills must be levied
annually in those counties opting for state assumption.~~

~~(b) A county that levied an amount less than 12 mills
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must levy an equivalent amount to the poor fund mill levy
assessed by that county during fiscal year 1982, less a mill
levy equivalent to an amount the county can demonstrate was
spent during fiscal year 1992 for the building or operation
of a medical facility. The reduced mill levy exception~~

provided in this subsection (1)(b) continues in effect until June 30, 1988. After that date 12 mills must be levied in all counties where state assumption is in effect.

(2) The proceeds of the mill levy established in subsection (1) must be deposited in the earmarked revenue fund in the state treasury for the purpose of paying the expenses of the department. The mill levy may not exceed 12 mills, notwithstanding actual expenditures made by the department.

(3) For a county retaining or reassuming operational responsibility for medical assistance or monetary payments to needy persons as provided in [section 4], the levy provided in subsection (1) must be reduced by the mill levy equivalent expended by that county or the department for such purposes in the fiscal year immediately preceding the option to retain or reassume such responsibility.

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Section 8. Work program required. The department shall establish a work program as provided in 53-3-304. The department may contract with the county, a municipality, or state agency that has work available for recipients of general relief.

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"53-2-302. County commissioners ex officio county welfare board. The Except in a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 8], the board of county commissioners shall be the ex officio county welfare board and is hereby authorized to devote such additional time for public assistance matters as may be found necessary. The members of the county welfare board shall receive the same compensation for their services and the same mileage when acting as the county board of public welfare as they receive when acting as the board of county commissioners and shall be limited as to meetings as now

provided by law, and the compensation and mileage of the members of the board shall be paid from county funds. They may transact business as a board of county commissioners and as a county welfare board on the same day, and in such cases they shall be paid as a board of county commissioners but may not receive compensation for more than 1 day's work for all services performed on the same calendar day."

Section 11. Section 53-2-304, MCA, is amended to read:

"53-2-304. Staff personnel of county department. (1)

Each county board shall select and appoint from a list of qualified persons furnished by the department of social and rehabilitation services such staff personnel as are necessary. The staff personnel in each county shall consist of at least one qualified staff worker (or investigator) and such clerks and stenographers as may be decided necessary. If conditions warrant, the county board, with the approval of the department of social and rehabilitation services, may appoint some fully qualified person listed by the department as supervisor of its staff personnel. The staff personnel of each county department are directly responsible to the county board, but the department of social and rehabilitation services may supervise such county employees in respect to the efficient and proper performance of their duties. The county board of public welfare may not dismiss any member of the staff personnel without the approval of

the department of social and rehabilitation services, but the department may request the county board to dismiss any member of the staff personnel for inefficiency, incompetence, or similar cause.

(2) Public assistance staff personnel attached to the county board shall be paid from state public assistance funds both their salaries and their travel expenses as provided for in 2-18-501 through 2-18-503 when away from the county seat in the performance of their duties, but the county board of public welfare shall reimburse the department of social and rehabilitation services from county poor funds the full amount of the salaries and travel expenses not reimbursed to the department by the federal government and the full amount of the department's administrative costs which are allocated by the department to the county for the administration of county welfare programs and not reimbursed to the department by the federal government. Under circumstances prescribed by the department of social and rehabilitation services, the reimbursement by the county board of public welfare may be less than the county share as prescribed above. All other administrative costs of the county department shall also be paid from county poor funds.

(3) On or before the 20th day of the month following the month for which the payments to the public assistance

1 staff personnel of the county were made, the department of
2 social and rehabilitation services shall present to the
3 county department of public welfare a claim for the required
4 reimbursements. The county board shall make such
5 reimbursements within 20 days after the presentation of the
6 claim, and the department of social and rehabilitation
7 services shall credit (add) all such reimbursements to its
8 account for administrative costs.

9 ~~(4) If a county has transferred its public assistance~~
10 ~~and protective services responsibilities to the department~~
11 ~~of social and rehabilitation services under [sections 1~~
12 ~~through 7 8], the department shall select, appoint, and~~
13 ~~supervise all necessary public assistance and protective~~
14 ~~services personnel, including if necessary a supervisor of~~
15 ~~staff personnel. All such personnel are directly~~
16 ~~responsible to the department."~~

17 Section 12. Section 53-2-306, MCA, is amended to read:

18 "53-2-306. County department charged with local
19 administration of public assistance. ~~The Except in a county~~
20 ~~that has transferred its public assistance and protective~~
21 ~~services responsibilities to the department of social and~~
22 ~~rehabilitation services under [sections 1 through 7 8], the~~
23 county department of public welfare shall be charged with
24 the local administration of all forms of public assistance
25 operations in the county, including but not limited to food

1 stamp programs and social services programs. All such local
2 administration must conform to federal and state law and the
3 rules as established by the department of social and
4 rehabilitation services."

5 Section 13. Section 53-2-307, MCA, is amended to read:

6 "53-2-307. County board to establish local
7 administrative policies and rules. ~~The Except in a county~~
8 ~~that has transferred its public assistance and protective~~
9 ~~services responsibilities to the department of social and~~
10 ~~rehabilitation services under [sections 1 through 7 8], the~~
11 county board of public welfare is responsible for
12 establishing local policies and such rules as are necessary
13 to govern the county department and local administration of
14 public assistance activities, except that all such policies
15 and rules must be in conformity with general policies and
16 rules established by the department of social and
17 rehabilitation services."

18 Section 14. Section 53-2-322, MCA, is amended to read:

19 "53-2-322. County to levy taxes, budget, and make
20 expenditures for public assistance activities. (1) The board
21 of county commissioners in each county shall levy 13.5 mills
22 for the county poor fund as provided by law or so much
23 thereof as may be necessary. ~~Counties transferring public~~
24 ~~assistance and protective services responsibilities to the~~
25 ~~department of social and rehabilitation services under~~

1 ~~[sections 1 through 7 8] may not levy more than the~~
 2 ~~difference between 13.5 mills and the amount paid the state~~
 3 ~~LEVY pursuant to [section 7].~~

4 (2) The board shall budget and expend so much of the
 5 funds in the county poor fund for public assistance purposes
 6 as will enable the county welfare department to pay the
 7 general relief activities of the county and to reimburse the
 8 department of social and rehabilitation services for the
 9 county's proportionate share of the administrative costs of
 10 the county welfare department and of all public assistance
 11 and its proportionate share of any other public assistance
 12 activity that may be carried on jointly by the state and the
 13 county.

14 (2)(1) The amounts set up in the budget for the
 15 reimbursements to the department of social and
 16 rehabilitation services shall be sufficient to make all of
 17 these reimbursements in full. The budget shall make separate
 18 provision for each one of these public assistance
 19 activities, and proper accounts shall be established for the
 20 funds for all such activities.

21 (3)(1) As soon as the preliminary budget provided for
 22 in 7-6-2315 has been agreed upon, a copy thereof shall
 23 without delay be mailed to the department of social and
 24 rehabilitation services, and at any time before the final
 25 adoption of the budget, the department shall make such

1 recommendations with regard to changes in any part of the
 2 budget relating to the county poor fund as considered
 3 necessary in order to enable the county to discharge its
 4 obligations under the public assistance laws.

5 (4)(1) The department of social and rehabilitation
 6 services shall promptly examine the preliminary budget in
 7 order to ascertain if the amounts provided for
 8 reimbursements to the department are likely to be sufficient
 9 and shall notify the county clerk of its findings. The board
 10 shall make such changes in the amounts provided for
 11 reimbursements, if any are required, in order that the
 12 county will be able to make the reimbursements in full.

13 (5)(1) The board of county commissioners may not make
 14 any transfer from the amounts budgeted for reimbursing the
 15 department of social and rehabilitation services without
 16 having first obtained a statement in writing from the
 17 department to the effect that the amount to be transferred
 18 will not be required during the fiscal year for the purposes
 19 for which the amounts were provided in the budget.

20 (6)(1) No part of the county poor fund, irrespective
 21 of the source of any part thereof, may be used directly or
 22 indirectly for the erection or improvement of any county
 23 building so long as the fund is needed for general relief
 24 expenditures by the county or is needed for paying the
 25 county's proportionate share of public assistance or its

1 proportionate share of any other public assistance activity
 2 that may be carried on jointly by the state and the county.
 3 Expenditures for improvement of any county buildings used
 4 directly for care of the poor may be made out of any moneys
 5 in the county poor fund, whether such moneys are produced by
 6 the 13-5-mill levy provided for in subsection (1) of this
 7 section or from any additional levy authorized or to be
 8 authorized by law. Such expenditure shall be authorized only
 9 when any county building used for the care of the poor must
 10 be improved in order to meet legal standards required for
 11 such buildings by the department of health and environmental
 12 sciences and when such expenditure has been approved by the
 13 department of social and rehabilitation services."

14 Section 15. Section 53-2-323, MCA, is amended to read:

15 *53-2-323. Emergency grants from state funds to
 16 counties. * ~~Except when a county has transferred its public~~
 17 ~~assistance and protective services responsibilities to the~~
 18 ~~department of social and rehabilitation services under~~
 19 ~~[sections 1 through 8],~~ a county may apply to the
 20 department for an emergency grant-in-aid, and the grant
 21 shall be made to the county upon the following conditions:

22 (1) The board of county commissioners or a duly
 23 elected or appointed executive officer of the county shall
 24 make written application to the department for emergency
 25 assistance and shall show by written report and sworn

1 affidavit of the county clerk and recorder and chairman of
 2 the board of county commissioners or other duly elected or
 3 appointed executive officer of the county the following:

4 (a) that the county will not be able to meet its
 5 obligations under law to provide assistance to the needy of
 6 the county or meet its proportionate share of any public
 7 assistance activity carried on jointly with the department;

8 (b) that all lawful sources of revenue and other
 9 income to the county poor fund will be exhausted;

10 (c) that all expenditures from the county poor fund
 11 have been lawfully made; and

12 (d) that all expenditures from the county poor fund
 13 have been reasonable and necessary, according to criteria
 14 set by the department in rules adopted for that purpose, for
 15 the county to meet its obligations under law to provide
 16 assistance to the needy.

17 (2) Within 10 days of receipt of the application and
 18 affidavit, the department shall determine whether the county
 19 poor fund will be depleted and shall give notice to the
 20 county of the department's intention to deny or allow the
 21 grant-in-aid. Before a grant-in-aid for any fiscal year may
 22 be made to a county under this section, any money credited
 23 during that fiscal year to the depletion allowance reserve
 24 fund from the sources provided by 7-34-2402(2) shall be
 25 transferred to the county poor fund to be used for lawful

1 poor fund expenditures. The amount of the grant-in-aid shall
2 be determined after all sources of income available to the
3 poor fund, including the depletion allowance reserve fund
4 transfers, have been exhausted.

5 (3) Within 10 days of receiving notice from the
6 department that a grant-in-aid will be made to the county,
7 the board of county commissioners or other duly elected or
8 appointed executive officer of the county shall adopt an
9 emergency budget. There is no requirement of notice and
10 hearing for that emergency budget. The emergency budget
11 shall state the amount required to meet the obligation of
12 the county and shall allocate that whole amount among the
13 various classes of expenditures for which the grant was
14 made.

15 (4) Upon receipt and approval of the county emergency
16 budget, the department shall issue a warrant to the county
17 treasurer of the county for the total amount stated in the
18 approved emergency budget.

19 (5) The grant-in-aid received by the county shall be
20 placed in an emergency fund account to be kept separate and
21 distinct from the poor fund account. All expenditures from
22 the emergency fund account shall be made by a separate
23 series of warrants or checks marked as emergency warrants or
24 checks.

25 (6) The grants-in-aid from the department may be used

1 only for public assistance activities lawfully conducted by
2 the county, including but not limited to medical aid,
3 hospitalization, and institutional care. No part of a
4 grant-in-aid may be used, directly or indirectly, to pay for
5 the erection or improvement of any county building or for
6 furniture, fixtures, appliances, or equipment for a county
7 building.

8 (7) In the event the county poor fund is replenished
9 by other lawful sources of revenue, the county shall issue
10 warrants to meet its obligations from the county poor fund
11 until such time as that fund is again so depleted that
12 warrants can no longer lawfully be drawn on that account.
13 Upon depletion of the county poor fund, the county may again
14 make disbursements from the emergency fund account as
15 provided in subsection (5). At the close of the county
16 fiscal year, the county shall return to the department any
17 amounts remaining in the county poor fund and the emergency
18 fund account, but the remaining amount to be returned may
19 not exceed the total amount of the emergency grant-in-aid
20 for that fiscal year.

21 (8) Any amount which is unlawfully disbursed or
22 transferred from the emergency fund account or used for a
23 purpose other than that specified in the grant-in-aid shall
24 be returned by the county to the department."

25 SECTION 16. SECTION 23-3-301, MCA, IS AMENDED TO READ:

"53-3-301. Amount of general relief assistance to be determined by county board. ~~The Except in a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 8], the~~ amount of general relief assistance granted any person or family shall be determined by the county board of public welfare, according to rules and standards of assistance established by the board and approved by the department."

SECTION 17. ~~SECTION 53-3-304, MCA, IS AMENDED TO READ:~~

"53-3-304. Power of--county--department to require recipient to perform county work. (1) If the county has work available which a recipient of general relief is capable of performing ~~or the department of social and rehabilitation services is required to operate a work program under the provisions of [section 8],~~ then the county department of public welfare ~~or the department of social and rehabilitation services~~ may require the a recipient to perform the work at ~~the minimum wage or may pay a recipient~~ at the prevailing rate of wages paid by that county for similar work, to be paid from the county poor fund ~~or state funds~~ in place of granting him general relief.

(2) The county department of public welfare ~~or the department of social and rehabilitation services, as the case may be~~ shall provide coverage under the Workers'

Compensation Act for those recipients of general relief working under the provisions hereof and may enter into such agreements with the division of workers' compensation of the department of labor and industry as may be necessary to carry out the provisions of this section."

NEW SECTION. Section 18. Effective date. This act is effective July-1-1983 ON PASSAGE AND APPROVAL.

-End-

March 25, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 798 be amended as follows:

1. Title, line 8.

Following: "COMMISSIONERS;"

Insert: "AUTHORIZING A WORKFARE REQUIREMENT FOR STATE AND COUNTY
GENERAL RELIEF RECIPIENTS; ESTABLISHING A WAGE OPTION FOR
WORKFARE RECIPIENTS;"

March 25, 1983

COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 798 be amended as follows:

1. Page 19, line 19.

Following: "at"

Strike: "the minimum wage or may pay a recipient at"

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Local Government Committee

4
5 A statement of intent is required of this bill because
6 section 6 gives the Department of Social and Rehabilitation
7 Services rulemaking authority.

8 It is intended that the department establish general
9 relief standards, scope, duration, and amount that may not
10 exceed medicaid or AFDC program services. Such items should
11 be in accord with rules adopted by the department for county
12 department under 53-3-301 so that departmental benefits are
13 comparable to those of counties.

14 The department may also make rules governing transfer
15 of functions between the department and the county. It is
16 contemplated such rules would cover administrative
17 provisions such as forms, deadlines, and financial
18 certifications as may be needed to implement the bill. Other
19 necessary administrative type rules governing rental
20 payments, employees and functions formerly administered by a
21 county would also be addressed.

REFERENCE BILL

HB 798

HOUSE BILL NO. 798

INTRODUCED BY MCBRIDE, REGAN,

FABREGA, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE TRANSFER OF AUTHORITY OF THE COUNTY DEPARTMENT OF PUBLIC WELFARE TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES AT THE OPTION OF THE BOARD OF COUNTY COMMISSIONERS; ~~AUTHORIZING A WORKFARE REQUIREMENT FOR STATE AND COUNTY GENERAL RELIEF RECIPIENTS; ESTABLISHING A WAGE OPTION FOR WORKFARE RECIPIENTS;~~ AMENDING SECTIONS 53-2-301, 53-2-302, 53-2-304, 53-2-306, 53-2-307, 53-2-322, AND 53-2-323, ~~53-3-301, AND 53-3-304,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. Purpose. The purpose of [sections 1 through 7 &] is to provide for the department of social and rehabilitation services to assume all responsibilities for public assistance programs and protective services for children and adults that, as of July 1, 1983, are provided by the counties pursuant to Titles 41 and 53. The assumption may become effective only at the option and with the express consent of each individual county requesting state assumption.

~~NEW SECTION.~~ Section 2. Definitions. Unless the context requires otherwise, in [sections 1 through 7 &] the following definitions apply:

(1) "County department" means the county department of public welfare provided for in Title 53, chapter 2, part 3.

(2) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(3) "Mill levy equivalent" means the prior year's expenditure divided by the value of 1 mill.

(4) "Needy person" is one who is eligible for public assistance under the laws of this state.

(5) "Protective services" means services to children and adults to be provided by the department as permitted by Titles 41 and 53.

(6) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county department, regardless of the original source of assistance.

(7) "State assumption" means the transfer to the department for the county by the board of county commissioners of all powers and duties, including staff personnel as provided in 53-2-301 through 53-2-307 and public assistance and protective services provided by the county department pursuant to Titles 41 and 53, except as

1 otherwise specifically provided in [sections 1 through 7 &].

2 ~~NEW SECTION.~~ Section 3. Transfer of county public
3 assistance and protective services to state department. (1)
4 All authority granted to the board of county commissioners
5 to establish and operate a public assistance program and
6 provide protective services for children and adults pursuant
7 to Titles 41 and 53 may be transferred to the department,
8 except that the county attorney shall continue to provide
9 legal assistance and representation for the purposes of
10 adult and child protective services without charge and all
11 debts and obligations incurred prior to the effective date
12 of state assumption continue as the responsibility of the
13 county.

14 (2) The board of county commissioners, after public
15 hearing, may by resolution or ordinance transfer to the
16 department all powers and duties for public assistance and
17 protective services for children and adults, including the
18 selection, supervision, and termination of staff personnel
19 associated with the performance of these activities. Upon
20 the effective date of such transfer, the department shall
21 assume all powers and duties related to public assistance
22 and protective services and accorded by law to the county
23 welfare department. If the notice required in subsection
24 (3) is given, the transfer is effective at the start of the
25 next state fiscal year.

1 (3) Counties opting for state assumption shall notify
2 the department at least 90 days prior to the start of the
3 state fiscal year unless the time period is waived in whole
4 or in part by the director of the department.

5 (4) Counties opting for state assumption shall permit
6 the department to use the same facilities currently occupied
7 by the county department or substantially equal facilities,
8 with fair rental value for such facilities to be paid by the
9 department. ~~COUNTIES OPTING FOR STATE ASSUMPTION SHALL~~
10 ~~TRANSFER TO THE DEPARTMENT ALL MATERIALS AND SUPPLIES USED~~
11 ~~IN THE OPERATION OF THE COUNTY DEPARTMENT AND WHICH WERE~~
12 ~~PAID FOR IN WHOLE OR IN PART WITH FEDERAL OR STATE FUNDS.~~

13 ~~NEW SECTION.~~ Section 4. State assumption -- permanent
14 transfer to department -- exceptions. (1) A county opting
15 for state assumption does so on a complete and permanent
16 basis, unless the county requests to retain or reassume
17 operational responsibility under---contract---with---the
18 department for medical assistance or monetary payments to
19 needy persons as provided in Title 53, chapter 3, pursuant
20 to the adoption of a resolution or ordinance as provided in
21 [section 3(2)] and notice to the department as provided in
22 [section 3(3)]. Under such a retention or reassumption,
23 staff personnel continue under the supervision and control
24 of the department ~~BUT THE DEPARTMENT MAY CONTRACT WITH THE~~
25 ~~COUNTIES FOR THE OPERATION OF PROGRAMS PROVIDED IN TITLE 53.~~

CHAPTER 3. A county may not retain or reassume assistance programs partially funded by the federal government.

~~(2) A COUNTY TRANSFERRING ALL DUTIES AND RESPONSIBILITIES TO THE DEPARTMENT MAY REASSUME LIMITED RESPONSIBILITY FOR MEDICAL ASSISTANCE OR MONETARY PAYMENTS TO NEEDY PERSONS AS PROVIDED IN SUBSECTION (1), BUT MAY NOT THEREAFTER REQUEST FULL STATE ASSUMPTION. A COUNTY INITIALLY REQUESTING LIMITED STATE ASSUMPTION MAY NOT THEREAFTER REQUEST FULL STATE ASSUMPTION. A COUNTY OPTING FOR LIMITED OR FULL STATE ASSUMPTION DOES SO ON A PERMANENT BASIS, EXCEPT AS PROVIDED IN THIS SECTION.~~

NEW SECTION. Section 5. Creation of advisory councils. (1) The department may establish one or more advisory councils to advise the department on policies relating to public assistance or protective services. The director of the department shall appoint members of the advisory council for a term set by him, and they may be dismissed at his discretion.

~~(2) UPON REQUEST OF THE GOVERNING BODY OF A COUNTY HAVING OPTED FOR STATE ASSUMPTION, THE DEPARTMENT SHALL ESTABLISH A COUNTY ADVISORY COUNCIL FOR THE COUNTY. THE ADVISORY COUNCIL SHALL CONSIST OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY, OR IF THE COUNTY GOVERNING BODY CONSISTS OF GREATER THAN THREE MEMBERS, THREE MEMBERS OF THE GOVERNING BODY CHOSEN BY THE GOVERNING BODY. THE DEPARTMENT~~

~~MAY APPOINT TWO OTHER MEMBERS TO THE ADVISORY COUNCIL AS PROVIDED IN SUBSECTION (1).~~

(3) No compensation or expenses may be paid advisory council members FOR THEIR SERVICE ON THE ADVISORY COUNCIL. The requirements of 2-15-122 do not apply to an advisory council appointed pursuant to this section.

NEW SECTION. Section 6. Authority to adopt rules. The department may adopt rules necessary to carry out the purposes of [sections 1 through 7 B], including implementing transfer of the county programs to the department. The department may adopt rules to determine the amount, scope, and duration of general relief, which may not exceed those services and amounts payable under the department's programs of medicaid and aid to families with dependent children AS NECESSARY TO CARRY OUT THE PURPOSES OF [SECTIONS 1 THROUGH 8].

NEW SECTION. Section 7. Mill levy for counties transferring public assistance and protective services. (1) (a) Except as provided in subsection (1)(b), for the purpose of [sections 1 through 7 B], 12 mills must be levied annually in those counties opting for state assumption.

(b) A county that levied an amount less than 12 mills for purposes of its county poor fund during fiscal year 1982 must levy an equivalent amount to the poor fund mill levy assessed by that county during fiscal year 1982, less a mill

1 levy equivalent to an amount the county can demonstrate was
2 spent during fiscal year 1982 for the building or operation
3 of a medical facility. The reduced mill levy exception
4 provided in this subsection (1)(b) continues in effect until
5 June 30, 1988. After that date 12 mills must be levied in
6 all counties where state assumption is in effect.

7 (2) The proceeds of the mill levy established in
8 subsection (1) must be deposited in the earmarked revenue
9 fund in the state treasury for the purpose of paying the
10 expenses of the department. The mill levy may not exceed 12
11 mills, notwithstanding actual expenditures made by the
12 department.

13 (3) For a county retaining or reassuming operational
14 responsibility for medical assistance or monetary payments
15 to needy persons as provided in [section 4], the levy
16 provided in subsection (1) must be reduced by the mill levy
17 equivalent expended by that county or the department for
18 such purposes in the fiscal year immediately preceding the
19 option to retain or reassume such responsibility.

20 THERE IS A NEW MCA SECTION THAT READS:

21 Section 8. Work program required. The department shall
22 establish a work program as provided in 53-3-304. The
23 department may contract with the county, a municipality, or
24 state agency that has work available for recipients of
25 general relief.

1 Section 9. Section 53-2-301, MCA, is amended to read:

2 "53-2-301. County departments to be established. There
3 shall be established in each county of the state, except in
4 a county that has transferred its public assistance and
5 protective services responsibilities to the department of
6 social and rehabilitation services under the provisions of
7 [sections 1 through 8], a county department of public
8 welfare which shall consist of a county board of public
9 welfare and such staff personnel as may be necessary for the
10 efficient performance of the public assistance activities of
11 the county. If conditions warrant and if two or more county
12 boards enter into an agreement, two or more counties may
13 combine into one administrative unit and use the same staff
14 personnel throughout the administrative unit."

15 Section 10. Section 53-2-302, MCA, is amended to read:

16 "53-2-302. County commissioners ex officio county
17 welfare board. The except in a county that has transferred
18 its public assistance and protective services
19 responsibilities to the department of social and
20 rehabilitation services under [sections 1 through 8], the
21 board of county commissioners shall be the ex officio county
22 welfare board and is hereby authorized to devote such
23 additional time for public assistance matters as may be
24 found necessary. The members of the county welfare board
25 shall receive the same compensation for their services and

1 the same mileage when acting as the county board of public
 2 welfare as they receive when acting as the board of county
 3 commissioners and shall be limited as to meetings as now
 4 provided by law, and the compensation and mileage of the
 5 members of the board shall be paid from county funds. They
 6 may transact business as a board of county commissioners and
 7 as a county welfare board on the same day, and in such cases
 8 they shall be paid as a board of county commissioners but
 9 may not receive compensation for more than 1 day's work for
 10 all services performed on the same calendar day."

11 Section 11. Section 53-2-304, MCA, is amended to read:

12 "53-2-304. Staff personnel of county department. (1)
 13 Each county board shall select and appoint from a list of
 14 qualified persons furnished by the department of social and
 15 rehabilitation services such staff personnel as are
 16 necessary. The staff personnel in each county shall consist
 17 of at least one qualified staff worker (or investigator) and
 18 such clerks and stenographers as may be decided necessary.
 19 If conditions warrant, the county board, with the approval
 20 of the department of social and rehabilitation services, may
 21 appoint some fully qualified person listed by the department
 22 as supervisor of its staff personnel. The staff personnel of
 23 each county department are directly responsible to the
 24 county board, but the department of social and
 25 rehabilitation services may supervise such county employees

1 in respect to the efficient and proper performance of their
 2 duties. The county board of public welfare may not dismiss
 3 any member of the staff personnel without the approval of
 4 the department of social and rehabilitation services, but
 5 the department may request the county board to dismiss any
 6 member of the staff personnel for inefficiency,
 7 incompetence, or similar cause.

8 (2) Public assistance staff personnel attached to the
 9 county board shall be paid from state public assistance
 10 funds both their salaries and their travel expenses as
 11 provided for in 2-18-501 through 2-18-503 when away from the
 12 county seat in the performance of their duties, but the
 13 county board of public welfare shall reimburse the
 14 department of social and rehabilitation services from county
 15 poor funds the full amount of the salaries and travel
 16 expenses not reimbursed to the department by the federal
 17 government and the full amount of the department's
 18 administrative costs which are allocated by the department
 19 to the county for the administration of county welfare
 20 programs and not reimbursed to the department by the federal
 21 government. Under circumstances prescribed by the department
 22 of social and rehabilitation services, the reimbursement by
 23 the county board of public welfare may be less than the
 24 county share as prescribed above. All other administrative
 25 costs of the county department shall also be paid from

1 county poor funds.

2 (3) On or before the 20th day of the month following
3 the month for which the payments to the public assistance
4 staff personnel of the county were made, the department of
5 social and rehabilitation services shall present to the
6 county department of public welfare a claim for the required
7 reimbursements. The county board shall make such
8 reimbursements within 20 days after the presentation of the
9 claim, and the department of social and rehabilitation
10 services shall credit (add) all such reimbursements to its
11 account for administrative costs.

12 ~~(4) If a county has transferred its public assistance~~
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15 ~~through 7 B], the department shall select, appoint, and~~
16 ~~supervise all necessary public assistance and protective~~
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18 ~~staff personnel. All such personnel are directly~~
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1 county department of public welfare shall be charged with
2 the local administration of all forms of public assistance
3 operations in the county, including but not limited to food
4 stamp programs and social services programs. All such local
5 administration must conform to federal and state law and the
6 rules as established by the department of social and
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14 county board of public welfare is responsible for
15 establishing local policies and such rules as are necessary
16 to govern the county department and local administration of
17 public assistance activities, except that all such policies
18 and rules must be in conformity with general policies and
19 rules established by the department of social and
20 rehabilitation services."

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23 expenditures for public assistance activities. (1) The board
24 of county commissioners in each county shall levy 13.5 mills
25 for the county poor fund as provided by law or so much

thereof as may be necessary. ~~Counties transferring public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 8] may not levy more than the difference between 13.5 mills and the amount paid the state LEVY pursuant to [section 7].~~

(2) The board shall budget and expend so much of the funds in the county poor fund for public assistance purposes as will enable the county welfare department to pay the general relief activities of the county and to reimburse the department of social and rehabilitation services for the county's proportionate share of the administrative costs of the county welfare department and of all public assistance and its proportionate share of any other public assistance activity that may be carried on jointly by the state and the county.

(2)(2) The amounts set up in the budget for the reimbursements to the department of social and rehabilitation services shall be sufficient to make all of these reimbursements in full. The budget shall make separate provision for each one of these public assistance activities, and proper accounts shall be established for the funds for all such activities.

(3)(1) As soon as the preliminary budget provided for in 7-6-2315 has been agreed upon, a copy thereof shall

without delay be mailed to the department of social and rehabilitation services, and at any time before the final adoption of the budget, the department shall make such recommendations with regard to changes in any part of the budget relating to the county poor fund as considered necessary in order to enable the county to discharge its obligations under the public assistance laws.

(4)(1) The department of social and rehabilitation services shall promptly examine the preliminary budget in order to ascertain if the amounts provided for reimbursements to the department are likely to be sufficient and shall notify the county clerk of its findings. The board shall make such changes in the amounts provided for reimbursements, if any are required, in order that the county will be able to make the reimbursements in full.

(5)(1) The board of county commissioners may not make any transfer from the amounts budgeted for reimbursing the department of social and rehabilitation services without having first obtained a statement in writing from the department to the effect that the amount to be transferred will not be required during the fiscal year for the purposes for which the amounts were provided in the budget.

(6)(1) No part of the county poor fund, irrespective of the source of any part thereof, may be used directly or indirectly for the erection or improvement of any county

1 building so long as the fund is needed for general relief
 2 expenditures by the county or is needed for paying the
 3 county's proportionate share of public assistance or its
 4 proportionate share of any other public assistance activity
 5 that may be carried on jointly by the state and the county.
 6 Expenditures for improvement of any county buildings used
 7 directly for care of the poor may be made out of any moneys
 8 in the county poor fund, whether such moneys are produced by
 9 the 13.5-mill levy provided for in subsection (1) of this
 10 section or from any additional levy authorized or to be
 11 authorized by law. Such expenditure shall be authorized only
 12 when any county building used for the care of the poor must
 13 be improved in order to meet legal standards required for
 14 such buildings by the department of health and environmental
 15 sciences and when such expenditure has been approved by the
 16 department of social and rehabilitation services."

17 Section 15. Section 53-2-323, MCA, is amended to read:
 18 "53-2-323. Emergency grants from state funds to
 19 counties. ~~* Except when a county has transferred its public~~
 20 ~~assistance and protective services responsibilities to the~~
 21 ~~department of social and rehabilitation services under~~
 22 ~~[sections 1 through 7]~~ a county may apply to the
 23 department for an emergency grant-in-aid, and the grant
 24 shall be made to the county upon the following conditions:

25 (1) The board of county commissioners or a duly

1 elected or appointed executive officer of the county shall
 2 make written application to the department for emergency
 3 assistance and shall show by written report and sworn
 4 affidavit of the county clerk and recorder and chairman of
 5 the board of county commissioners or other duly elected or
 6 appointed executive officer of the county the following:

7 (a) that the county will not be able to meet its
 8 obligations under law to provide assistance to the needy of
 9 the county or meet its proportionate share of any public
 10 assistance activity carried on jointly with the department;

11 (b) that all lawful sources of revenue and other
 12 income to the county poor fund will be exhausted;

13 (c) that all expenditures from the county poor fund
 14 have been lawfully made; and

15 (d) that all expenditures from the county poor fund
 16 have been reasonable and necessary, according to criteria
 17 set by the department in rules adopted for that purpose, for
 18 the county to meet its obligations under law to provide
 19 assistance to the needy.

20 (2) Within 10 days of receipt of the application and
 21 affidavit, the department shall determine whether the county
 22 poor fund will be depleted and shall give notice to the
 23 county of the department's intention to deny or allow the
 24 grant-in-aid. Before a grant-in-aid for any fiscal year may
 25 be made to a county under this section, any money credited

1 during that fiscal year to the depletion allowance reserve
2 fund from the sources provided by 7-34-2402(2) shall be
3 transferred to the county poor fund to be used for lawful
4 poor fund expenditures. The amount of the grant-in-aid shall
5 be determined after all sources of income available to the
6 poor fund, including the depletion allowance reserve fund
7 transfers, have been exhausted.

8 (3) Within 10 days of receiving notice from the
9 department that a grant-in-aid will be made to the county,
10 the board of county commissioners or other duly elected or
11 appointed executive officer of the county shall adopt an
12 emergency budget. There is no requirement of notice and
13 hearing for that emergency budget. The emergency budget
14 shall state the amount required to meet the obligation of
15 the county and shall allocate that whole amount among the
16 various classes of expenditures for which the grant was
17 made.

18 (4) Upon receipt and approval of the county emergency
19 budget, the department shall issue a warrant to the county
20 treasurer of the county for the total amount stated in the
21 approved emergency budget.

22 (5) The grant-in-aid received by the county shall be
23 placed in an emergency fund account to be kept separate and
24 distinct from the poor fund account. All expenditures from
25 the emergency fund account shall be made by a separate

1 series of warrants or checks marked as emergency warrants or
2 checks.

3 (6) The grants-in-aid from the department may be used
4 only for public assistance activities lawfully conducted by
5 the county, including but not limited to medical aid,
6 hospitalization, and institutional care. No part of a
7 grant-in-aid may be used, directly or indirectly, to pay for
8 the erection or improvement of any county building or for
9 furniture, fixtures, appliances, or equipment for a county
10 building.

11 (7) In the event the county poor fund is replenished
12 by other lawful sources of revenue, the county shall issue
13 warrants to meet its obligations from the county poor fund
14 until such time as that fund is again so depleted that
15 warrants can no longer lawfully be drawn on that account.
16 Upon depletion of the county poor fund, the county may again
17 make disbursements from the emergency fund account as
18 provided in subsection (5). At the close of the county
19 fiscal year, the county shall return to the department any
20 amounts remaining in the county poor fund and the emergency
21 fund account, but the remaining amount to be returned may
22 not exceed the total amount of the emergency grant-in-aid
23 for that fiscal year.

24 (8) Any amount which is unlawfully disbursed or
25 transferred from the emergency fund account or used for a

1 purpose other than that specified in the grant-in-aid shall
2 be returned by the county to the department."

3 SECTION 16. SECTION 53-3-301, MCA, IS AMENDED TO READ:

4 "53-3-301. Amount of general relief assistance to be
5 determined by county board. The Except in a county that has
6 transferred its public assistance and protective services
7 responsibilities to the department of social and
8 rehabilitation services under [sections 1 through 8], the
9 amount of general relief assistance granted any person or
10 family shall be determined by the county board of public
11 welfare, according to rules and standards of assistance
12 established by the board and approved by the department."

13 SECTION 17. SECTION 53-3-304, MCA, IS AMENDED TO READ:

14 "53-3-304. Power of ~~county~~ department to require
15 recipient to perform county work. (1) If the county has work
16 available which a recipient of general relief is capable of
17 performing or the department of social and rehabilitation
18 services is required to operate a work program under the
19 provisions of [section 8], then the county department of
20 public welfare or the department of social and
21 rehabilitation services may require the a recipient to
22 perform the work at the minimum wage or may pay a recipient
23 at the prevailing rate of wages paid by that county for
24 similar work, to be paid from the county poor fund or state
25 funds in place of granting him general relief.

1 (2) The county department of public welfare or the
2 department of social and rehabilitation services, as the
3 case may be, shall provide coverage under the Workers'
4 Compensation Act for those recipients of general relief
5 working under the provisions hereof and may enter into such
6 agreements with the division of workers' compensation of the
7 department of labor and industry as may be necessary to
8 carry out the provisions of this section."

9 NEW SECTION. Section 18. Effective date. This act is
10 effective July 1, 1965 ON PASSAGE AND APPROVAL.

-End-

April 13, 1983

FREE CONFERENCE COMMITTEE
HOUSE BILL 798

19

Mr. Speaker:

We, your Free Conference Committee on House Bill 798, met and considered:

House Bill 106, third reading copy (blue); and
Senate Committee of the Whole amendment of March 25, 1983.

We respectfully recommend as follows:

That the House accede to Senate Committee of the Whole amendment of March 25, 1983;

That House Bill 798 be further amended as specified in Clerical Instructions 1 through 4; and

That this Free Conference Committee report be adopted.

.....
CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 1, line 13.

Following: "MCA;"

Insert: "PROVIDING AN APPROPRIATION;

2. Page 6, line 25.

Following: "1982,"

Insert: "plus 1.5 mills not to exceed a total of 12 mills,"

3. Page 7, line 5.

Following: "June 30,"

Strike: "1988"

Insert: "1984"

4. Page 20.

Following: line 8

Insert: "NEW SECTION. Section 18. Appropriation. To carry out the purposes of this act, the following is appropriated to the department of social and rehabilitation services for the biennium ending June 30, 1985:

(1) \$8 million from the general fund; and

(2) all revenues accruing under the provisions of section 7 of this act."

Renumber: subsequent section

FOR THE HOUSE

FOR THE SENATE

Kathleen McBride
McBRIDE, CHAIR

Harold Phelan
DOVER, CHAIR

Verner L. Bertelsen
BERTELSEN

Bardanoue
BARDANOUE

Paul H. Fuller
FULLER

Chas. T. Aklestad
AKLESTAD

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Local Government Committee
4

5 A statement of intent is required of this bill because
6 section 6 gives the Department of Social and Rehabilitation
7 Services rulemaking authority.

8 It is intended that the department establish general
9 relief standards, scope, duration, and amount that may not
10 exceed medicaid or AFDC program services. Such items should
11 be in accord with rules adopted by the department for county
12 department under 53-3-301 so that departmental benefits are
13 comparable to those of counties.

14 The department may also make rules governing transfer
15 of functions between the department and the county. It is
16 contemplated such rules would cover administrative
17 provisions such as forms, deadlines, and financial
18 certifications as may be needed to implement the bill. Other
19 necessary administrative type rules governing rental
20 payments, employees and functions formerly administered by a
21 county would also be addressed.

HOUSE BILL NO. 798

INTRODUCED BY MCBRIDE, REGAN,

FABREGA, CRIPPEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE TRANSFER OF AUTHORITY OF THE COUNTY DEPARTMENT OF PUBLIC WELFARE TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES AT THE OPTION OF THE BOARD OF COUNTY COMMISSIONERS; ~~AUTHORIZING A WORKEARE REQUIREMENT FOR STATE AND COUNTY GENERAL RELIEF RECIPIENTS; ESTABLISHING A WAGE OPTION FOR WORKEARE RECIPIENTS;~~ AMENDING SECTIONS 53-2-301, 53-2-302, 53-2-304, 53-2-306, 53-2-307, 53-2-322, AND 53-2-323, ~~53-3-301, AND 53-3-304;~~ MCA; ~~PROVIDING AN APPROPRIATION;~~ AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. Purpose. The purpose of [sections 1 through 7 &] is to provide for the department of social and rehabilitation services to assume all responsibilities for public assistance programs and protective services for children and adults that, as of July 1, 1983, are provided by the counties pursuant to Titles 41 and 53. The assumption may become effective only at the option and with the express consent of each individual county requesting state assumption.

~~NEW SECTION.~~ Section 2. Definitions. Unless the context requires otherwise, in [sections 1 through 7 &] the following definitions apply:

(1) "County department" means the county department of public welfare provided for in Title 53, chapter 2, part 3.

(2) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(3) "Mill levy equivalent" means the prior year's expenditure divided by the value of 1 mill.

(4) "Needy person" is one who is eligible for public assistance under the laws of this state.

(5) "Protective services" means services to children and adults to be provided by the department as permitted by Titles 41 and 53.

(6) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county department, regardless of the original source of assistance.

(7) "State assumption" means the transfer to the department for the county by the board of county commissioners of all powers and duties, including staff personnel as provided in 53-2-301 through 53-2-307 and public assistance and protective services provided by the county department pursuant to Titles 41 and 53, except as

1 otherwise specifically provided in [sections 1 through 7 8].

2 ~~NEW SECTION.~~ Section 3. Transfer of county public
3 assistance and protective services to state department. (1)
4 All authority granted to the board of county commissioners
5 to establish and operate a public assistance program and
6 provide protective services for children and adults pursuant
7 to Titles 41 and 53 may be transferred to the department,
8 except that the county attorney shall continue to provide
9 legal assistance and representation for the purposes of
10 adult and child protective services without charge and all
11 debts and obligations incurred prior to the effective date
12 of state assumption continue as the responsibility of the
13 county.

14 (2) The board of county commissioners, after public
15 hearing, may by resolution or ordinance transfer to the
16 department all powers and duties for public assistance and
17 protective services for children and adults, including the
18 selection, supervision, and termination of staff personnel
19 associated with the performance of these activities. Upon
20 the effective date of such transfer, the department shall
21 assume all powers and duties related to public assistance
22 and protective services and accorded by law to the county
23 welfare department. If the notice required in subsection
24 (3) is given, the transfer is effective at the start of the
25 next state fiscal year.

1 (3) Counties opting for state assumption shall notify
2 the department at least 90 days prior to the start of the
3 state fiscal year unless the time period is waived in whole
4 or in part by the director of the department.

5 (4) Counties opting for state assumption shall permit
6 the department to use the same facilities currently occupied
7 by the county department or substantially equal facilities,
8 with fair rental value for such facilities to be paid by the
9 department. ~~COUNTIES OPTING FOR STATE ASSUMPTION SHALL~~
10 ~~TRANSFER TO THE DEPARTMENT ALL MATERIALS AND SUPPLIES USED~~
11 ~~IN THE OPERATION OF THE COUNTY DEPARTMENT AND WHICH WERE~~
12 ~~PAID FOR IN WHOLE OR IN PART WITH FEDERAL OR STATE FUNDS.~~

13 ~~NEW SECTION.~~ Section 4. State assumption -- permanent
14 transfer to department -- exceptions. (1) A county opting
15 for state assumption does so on a complete and permanent
16 basis, unless the county requests to retain or reassume
17 operational responsibility under ~~contract with the~~
18 department for medical assistance or monetary payments to
19 needy persons as provided in Title 53, chapter 3, pursuant
20 to the adoption of a resolution or ordinance as provided in
21 [section 3(2)] and notice to the department as provided in
22 [section 3(3)]. Under such a retention or reassumption,
23 staff personnel continue under the supervision and control
24 of the department ~~BUT THE DEPARTMENT MAY CONTRACT WITH THE~~
25 ~~COUNTIES FOR THE OPERATION OF PROGRAMS PROVIDED IN TITLE 53.~~

1 ~~CHAPTER 3. A county may not retain or reassume assistance~~
2 ~~programs partially funded by the federal government.~~

3 ~~(2) A COUNTY TRANSFERRING ALL DUTIES AND~~
4 ~~RESPONSIBILITIES TO THE DEPARTMENT MAY REASSUME LIMITED~~
5 ~~RESPONSIBILITY FOR MEDICAL ASSISTANCE OR MONETARY PAYMENTS~~
6 ~~TO NEEDY PERSONS AS PROVIDED IN SUBSECTION (1), BUT MAY NOT~~
7 ~~THEREAFTER REQUEST FULL STATE ASSUMPTION. A COUNTY INITIALLY~~
8 ~~REQUESTING LIMITED STATE ASSUMPTION MAY NOT THEREAFTER~~
9 ~~REQUEST FULL STATE ASSUMPTION. A COUNTY OPTING FOR LIMITED~~
10 ~~OR FULL STATE ASSUMPTION DOES SO ON A PERMANENT BASIS,~~
11 ~~EXCEPT AS PROVIDED IN THIS SECTION.~~

12 ~~NEW SECTION. Section 5. Creation of advisory~~
13 ~~councils. (1) The department may establish one or more~~
14 ~~advisory councils to advise the department on policies~~
15 ~~relating to public assistance or protective services. The~~
16 ~~director of the department shall appoint members of the~~
17 ~~advisory council for a term set by him, and they may be~~
18 ~~dismissed at his discretion.~~

19 ~~(2) UPON REQUEST OF THE GOVERNING BODY OF A COUNTY~~
20 ~~HAVING OPTED FOR STATE ASSUMPTION, THE DEPARTMENT SHALL~~
21 ~~ESTABLISH A COUNTY ADVISORY COUNCIL FOR THE COUNTY. THE~~
22 ~~ADVISORY COUNCIL SHALL CONSIST OF THE BOARD OF COUNTY~~
23 ~~COMMISSIONERS OF THE COUNTY, OR IF THE COUNTY GOVERNING BODY~~
24 ~~CONSISTS OF GREATER THAN THREE MEMBERS, THREE MEMBERS OF THE~~
25 ~~GOVERNING BODY CHOSEN BY THE GOVERNING BODY. THE DEPARTMENT~~

1 ~~MAY APPOINT TWO OTHER MEMBERS TO THE ADVISORY COUNCIL AS~~
2 ~~PROVIDED IN SUBSECTION (1).~~

3 ~~(3) No compensation or expenses may be paid advisory~~
4 ~~council members FOR THEIR SERVICE ON THE ADVISORY COUNCIL.~~
5 ~~The requirements of 2-15-122 do not apply to an advisory~~
6 ~~council appointed pursuant to this section.~~

7 ~~NEW SECTION. Section 6. Authority to adopt rules. The~~
8 ~~department may adopt rules necessary to carry out the~~
9 ~~purposes of [sections 1 through 7 B], including implementing~~
10 ~~transfer of the county programs to the department. The~~
11 ~~department may adopt rules to determine the amount, scope,~~
12 ~~and duration of general relief, which may not exceed those~~
13 ~~services and amounts payable under the department's programs~~
14 ~~of medicaid and aid to families with dependent children AS~~
15 ~~NECESSARY TO CARRY OUT THE PURPOSES OF [SECTIONS 1 THROUGH~~
16 ~~B].~~

17 ~~NEW SECTION. Section 7. Mill levy for counties~~
18 ~~transferring public assistance and protective services.~~
19 ~~(1) (a) Except as provided in subsection (1)(b), for the~~
20 ~~purpose of [sections 1 through 7 B], 12 mills must be levied~~
21 ~~annually in those counties opting for state assumption.~~

22 ~~(b) A county that levied an amount less than 12 mills~~
23 ~~for purposes of its county poor fund during fiscal year 1982~~
24 ~~must levy an equivalent amount to the poor fund mill levy~~
25 ~~assessed by that county during fiscal year 1982, PLUS 1.5~~

1 ~~MILLS NOT TO EXCEED A TOTAL OF 12 MILLS,~~ less a mill levy
2 equivalent to an amount the county can demonstrate was spent
3 during fiscal year 1982 for the building or operation of a
4 medical facility. The reduced mill levy exception provided
5 in this subsection (1)(b) continues in effect until June 30,
6 ~~1988 1984.~~ After that date 12 mills must be levied in all
7 counties where state assumption is in effect.

8 (2) The proceeds of the mill levy established in
9 subsection (1) must be deposited in the earmarked revenue
10 fund in the state treasury for the purpose of paying the
11 expenses of the department. The mill levy may not exceed 12
12 mills, notwithstanding actual expenditures made by the
13 department.

14 (3) For a county retaining or reassuming operational
15 responsibility for medical assistance or monetary payments
16 to needy persons as provided in [section 4], the levy
17 provided in subsection (1) must be reduced by the mill levy
18 equivalent expended by that county or the department for
19 such purposes in the fiscal year immediately preceding the
20 option to retain or reassume such responsibility.

21 ~~THERE IS A NEW MCA SECTION THAT READS:~~

22 Section 8. Work program required. The department shall
23 establish a work program as provided in 53-3-304. The
24 department may contract with the county, a municipality, or
25 state agency that has work available for recipients of

1 general relief.

2 Section 9. Section 53-2-301, MCA, is amended to read:

3 "53-2-301. County departments to be established. There
4 shall be established in each county of the state, ~~except in~~
5 ~~a county that has transferred its public assistance and~~
6 ~~protective services responsibilities to the department of~~
7 ~~social and rehabilitation services under the provisions of~~
8 ~~(sections 1 through 7 8),~~ a county department of public
9 welfare which shall consist of a county board of public
10 welfare and such staff personnel as may be necessary for the
11 efficient performance of the public assistance activities of
12 the county. If conditions warrant and if two or more county
13 boards enter into an agreement, two or more counties may
14 combine into one administrative unit and use the same staff
15 personnel throughout the administrative unit."

16 Section 10. Section 53-2-302, MCA, is amended to read:

17 "53-2-302. County commissioners ex officio county
18 welfare board. ~~The Except in a county that has transferred~~
19 ~~its public assistance and protective services~~
20 ~~responsibilities to the department of social and~~
21 ~~rehabilitation services under (sections 1 through 7 8), the~~
22 board of county commissioners shall be the ex officio county
23 welfare board and is hereby authorized to devote such
24 additional time for public assistance matters as may be
25 found necessary. The members of the county welfare board

1 shall receive the same compensation for their services and
 2 the same mileage when acting as the county board of public
 3 welfare as they receive when acting as the board of county
 4 commissioners and shall be limited as to meetings as now
 5 provided by law, and the compensation and mileage of the
 6 members of the board shall be paid from county funds. They
 7 may transact business as a board of county commissioners and
 8 as a county welfare board on the same day, and in such cases
 9 they shall be paid as a board of county commissioners but
 10 may not receive compensation for more than 1 day's work for
 11 all services performed on the same calendar day."

12 Section 11. Section 53-2-304, MCA, is amended to read:

13 "53-2-304. Staff personnel of county department. (1)
 14 Each county board shall select and appoint from a list of
 15 qualified persons furnished by the department of social and
 16 rehabilitation services such staff personnel as are
 17 necessary. The staff personnel in each county shall consist
 18 of at least one qualified staff worker (or investigator) and
 19 such clerks and stenographers as may be decided necessary.
 20 If conditions warrant, the county board, with the approval
 21 of the department of social and rehabilitation services, may
 22 appoint some fully qualified person listed by the department
 23 as supervisor of its staff personnel. The staff personnel of
 24 each county department are directly responsible to the
 25 county board, but the department of social and

1 rehabilitation services may supervise such county employees
 2 in respect to the efficient and proper performance of their
 3 duties. The county board of public welfare may not dismiss
 4 any member of the staff personnel without the approval of
 5 the department of social and rehabilitation services, but
 6 the department may request the county board to dismiss any
 7 member of the staff personnel for inefficiency,
 8 incompetence, or similar cause.

9 (2) Public assistance staff personnel attached to the
 10 county board shall be paid from state public assistance
 11 funds both their salaries and their travel expenses as
 12 provided for in 2-18-501 through 2-18-503 when away from the
 13 county seat in the performance of their duties, but the
 14 county board of public welfare shall reimburse the
 15 department of social and rehabilitation services from county
 16 poor funds the full amount of the salaries and travel
 17 expenses not reimbursed to the department by the federal
 18 government and the full amount of the department's
 19 administrative costs which are allocated by the department
 20 to the county for the administration of county welfare
 21 programs and not reimbursed to the department by the federal
 22 government. Under circumstances prescribed by the department
 23 of social and rehabilitation services, the reimbursement by
 24 the county board of public welfare may be less than the
 25 county share as prescribed above. All other administrative

1 costs of the county department shall also be paid from
2 county poor funds.

3 (3) On or before the 20th day of the month following
4 the month for which the payments to the public assistance
5 staff personnel of the county were made, the department of
6 social and rehabilitation services shall present to the
7 county department of public welfare a claim for the required
8 reimbursements. The county board shall make such
9 reimbursements within 20 days after the presentation of the
10 claim, and the department of social and rehabilitation
11 services shall credit (add) all such reimbursements to its
12 account for administrative costs.

13 ~~(4) If a county has transferred its public assistance~~
14 ~~and protective services responsibilities to the department~~
15 ~~of social and rehabilitation services under [sections 1~~
16 ~~through 8], the department shall select, appoint, and~~
17 ~~supervise all necessary public assistance and protective~~
18 ~~services personnel, including if necessary a supervisor of~~
19 ~~staff personnel. All such personnel are directly~~
20 ~~responsible to the department."~~

21 Section 12. Section 53-2-306, MCA, is amended to read:

22 "53-2-306. County department charged with local
23 administration of public assistance. ~~The Except in a county~~
24 ~~that has transferred its public assistance and protective~~
25 ~~services responsibilities to the department of social and~~

1 ~~rehabilitation services under [sections 1 through 8], the~~
2 county department of public welfare shall be charged with
3 the local administration of all forms of public assistance
4 operations in the county, including but not limited to food
5 stamp programs and social services programs. All such local
6 administration must conform to federal and state law and the
7 rules as established by the department of social and
8 rehabilitation services."

9 Section 13. Section 53-2-307, MCA, is amended to read:

10 "53-2-307. County board to establish local
11 administrative policies and rules. ~~The Except in a county~~
12 ~~that has transferred its public assistance and protective~~
13 ~~services responsibilities to the department of social and~~
14 ~~rehabilitation services under [sections 1 through 8], the~~
15 county board of public welfare is responsible for
16 establishing local policies and such rules as are necessary
17 to govern the county department and local administration of
18 public assistance activities, except that all such policies
19 and rules must be in conformity with general policies and
20 rules established by the department of social and
21 rehabilitation services."

22 Section 14. Section 53-2-322, MCA, is amended to read:

23 "53-2-322. County to levy taxes, budget, and make
24 expenditures for public assistance activities. (1) The board
25 of county commissioners in each county shall levy 13.5 mills

1 for the county poor fund as provided by law or so much
 2 thereof as may be necessary. ~~Counties transferring public~~
 3 ~~assistance and protective services responsibilities to the~~
 4 ~~department of social and rehabilitation services under~~
 5 ~~[Sections 1 through 7] may not levy more than the~~
 6 ~~difference between 13.5 mills and the amount paid the state~~
 7 ~~LEVY pursuant to [section 7].~~

8 (2) The board shall budget and expend so much of the
 9 funds in the county poor fund for public assistance purposes
 10 as will enable the county welfare department to pay the
 11 general relief activities of the county and to reimburse the
 12 department of social and rehabilitation services for the
 13 county's proportionate share of the administrative costs of
 14 the county welfare department and of all public assistance
 15 and its proportionate share of any other public assistance
 16 activity that may be carried on jointly by the state and the
 17 county.

18 (2)(3) The amounts set up in the budget for the
 19 reimbursements to the department of social and
 20 rehabilitation services shall be sufficient to make all of
 21 these reimbursements in full. The budget shall make separate
 22 provision for each one of these public assistance
 23 activities, and proper accounts shall be established for the
 24 funds for all such activities.

25 (3)(4) As soon as the preliminary budget provided for

1 in 7-6-2315 has been agreed upon, a copy thereof shall
 2 without delay be mailed to the department of social and
 3 rehabilitation services, and at any time before the final
 4 adoption of the budget, the department shall make such
 5 recommendations with regard to changes in any part of the
 6 budget relating to the county poor fund as considered
 7 necessary in order to enable the county to discharge its
 8 obligations under the public assistance laws.

9 (4)(5) The department of social and rehabilitation
 10 services shall promptly examine the preliminary budget in
 11 order to ascertain if the amounts provided for
 12 reimbursements to the department are likely to be sufficient
 13 and shall notify the county clerk of its findings. The board
 14 shall make such changes in the amounts provided for
 15 reimbursements, if any are required, in order that the
 16 county will be able to make the reimbursements in full.

17 (5)(6) The board of county commissioners may not make
 18 any transfer from the amounts budgeted for reimbursing the
 19 department of social and rehabilitation services without
 20 having first obtained a statement in writing from the
 21 department to the effect that the amount to be transferred
 22 will not be required during the fiscal year for the purposes
 23 for which the amounts were provided in the budget.

24 (6)(7) No part of the county poor fund, irrespective
 25 of the source of any part thereof, may be used directly or

1 indirectly for the erection or improvement of any county
 2 building so long as the fund is needed for general relief
 3 expenditures by the county or is needed for paying the
 4 county's proportionate share of public assistance or its
 5 proportionate share of any other public assistance activity
 6 that may be carried on jointly by the state and the county.
 7 Expenditures for improvement of any county buildings used
 8 directly for care of the poor may be made out of any moneys
 9 in the county poor fund, whether such moneys are produced by
 10 the 13.5-mill levy provided for in subsection (1) of this
 11 section or from any additional levy authorized or to be
 12 authorized by law. Such expenditure shall be authorized only
 13 when any county building used for the care of the poor must
 14 be improved in order to meet legal standards required for
 15 such buildings by the department of health and environmental
 16 sciences and when such expenditure has been approved by the
 17 department of social and rehabilitation services."

18 Section 15. Section 53-2-323, MCA, is amended to read:

19 "53-2-323. Emergency grants from state funds to
 20 counties. ~~A Except when a county has transferred its public~~
 21 ~~assistance and protective services responsibilities to the~~
 22 ~~department of social and rehabilitation services under~~
 23 ~~(sections 1 through 7 8), a county may apply to the~~
 24 department for an emergency grant-in-aid, and the grant
 25 shall be made to the county upon the following conditions:

1 (1) The board of county commissioners or a duly
 2 elected or appointed executive officer of the county shall
 3 make written application to the department for emergency
 4 assistance and shall show by written report and sworn
 5 affidavit of the county clerk and recorder and chairman of
 6 the board of county commissioners or other duly elected or
 7 appointed executive officer of the county the following:

8 (a) that the county will not be able to meet its
 9 obligations under law to provide assistance to the needy of
 10 the county or meet its proportionate share of any public
 11 assistance activity carried on jointly with the department;

12 (b) that all lawful sources of revenue and other
 13 income to the county poor fund will be exhausted;

14 (c) that all expenditures from the county poor fund
 15 have been lawfully made; and

16 (d) that all expenditures from the county poor fund
 17 have been reasonable and necessary, according to criteria
 18 set by the department in rules adopted for that purpose, for
 19 the county to meet its obligations under law to provide
 20 assistance to the needy.

21 (2) Within 10 days of receipt of the application and
 22 affidavit, the department shall determine whether the county
 23 poor fund will be depleted and shall give notice to the
 24 county of the department's intention to deny or allow the
 25 grant-in-aid. Before a grant-in-aid for any fiscal year may

1 be made to a county under this section, any money credited
 2 during that fiscal year to the depletion allowance reserve
 3 fund from the sources provided by 7-34-2402(2) shall be
 4 transferred to the county poor fund to be used for lawful
 5 poor fund expenditures. The amount of the grant-in-aid shall
 6 be determined after all sources of income available to the
 7 poor fund, including the depletion allowance reserve fund
 8 transfers, have been exhausted.

9 (3) Within 10 days of receiving notice from the
 10 department that a grant-in-aid will be made to the county,
 11 the board of county commissioners or other duly elected or
 12 appointed executive officer of the county shall adopt an
 13 emergency budget. There is no requirement of notice and
 14 hearing for that emergency budget. The emergency budget
 15 shall state the amount required to meet the obligation of
 16 the county and shall allocate that whole amount among the
 17 various classes of expenditures for which the grant was
 18 made.

19 (4) Upon receipt and approval of the county emergency
 20 budget, the department shall issue a warrant to the county
 21 treasurer of the county for the total amount stated in the
 22 approved emergency budget.

23 (5) The grant-in-aid received by the county shall be
 24 placed in an emergency fund account to be kept separate and
 25 distinct from the poor fund account. All expenditures from

1 the emergency fund account shall be made by a separate
 2 series of warrants or checks marked as emergency warrants or
 3 checks.

4 (6) The grants-in-aid from the department may be used
 5 only for public assistance activities lawfully conducted by
 6 the county, including but not limited to medical aid,
 7 hospitalization, and institutional care. No part of a
 8 grant-in-aid may be used, directly or indirectly, to pay for
 9 the erection or improvement of any county building or for
 10 furniture, fixtures, appliances, or equipment for a county
 11 building.

12 (7) In the event the county poor fund is replenished
 13 by other lawful sources of revenue, the county shall issue
 14 warrants to meet its obligations from the county poor fund
 15 until such time as that fund is again so depleted that
 16 warrants can no longer lawfully be drawn on that account.
 17 Upon depletion of the county poor fund, the county may again
 18 make disbursements from the emergency fund account as
 19 provided in subsection (5). At the close of the county
 20 fiscal year, the county shall return to the department any
 21 amounts remaining in the county poor fund and the emergency
 22 fund account, but the remaining amount to be returned may
 23 not exceed the total amount of the emergency grant-in-aid
 24 for that fiscal year.

25 (8) Any amount which is unlawfully disbursed or

transferred from the emergency fund account or used for a purpose other than that specified in the grant-in-aid shall be returned by the county to the department."

SECTION 16. SECTION 53-3-301, MCA, IS AMENDED TO READ:

"53-3-301. Amount of general relief assistance to be determined by county board. The Except in a county that has transferred its public assistance and protective services responsibilities to the department of social and rehabilitation services under [sections 1 through 8], the amount of general relief assistance granted any person or family shall be determined by the county board of public welfare, according to rules and standards of assistance established by the board and approved by the department."

SECTION 17. SECTION 53-3-304, MCA, IS AMENDED TO READ:

"53-3-304. Power of--county--department to require recipient to perform county work. (1) If the county has work available which a recipient of general relief is capable of performing or the department of social and rehabilitation services is required to operate a work program under the provisions of [section 8], then the county department of public welfare or the department of social and rehabilitation services may require the a recipient to perform the work at the minimum wage or may pay a recipient at the prevailing rate of wages paid by that county for similar work, to be paid from the county poor fund or state

funds in place of granting him general relief.

(2) The county department of public welfare or the department of social and rehabilitation services, as the case may be, shall provide coverage under the workers' Compensation Act for those recipients of general relief working under the provisions hereof and may enter into such agreements with the division of workers' compensation of the department of labor and industry as may be necessary to carry out the provisions of this section."

SECTION 18. APPROPRIATION TO CARRY OUT THE PURPOSES OF THIS ACT. THE FOLLOWING IS APPROPRIATED TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES FOR THE BIENNium ENDING JUNE 30, 1985:

(1) \$8 MILLION FROM THE GENERAL FUND; AND

(2) ALL REVENUES ACCRUING UNDER THE PROVISIONS OF [SECTION 7] OF THIS ACT.

NEW SECTION. Section 19. Effective date. This act is effective July 1, 1983 ON PASSAGE AND APPROVAL.

-End-