

HOUSE BILL NO. 798

INTRODUCED BY MILES, KRUEGER

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

IN THE HOUSE

February 12, 1985	Introduced and referred to Committee on Human Services and Aging.
February 13, 1985	Fiscal Note requested.
February 15, 1985	Fiscal Note returned.
February 25, 1985	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass as amended.
	Correctly engrossed.
February 27, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 28, 1985	Committee recommend bill be not concurred in. Report adopted. Ayes, 30; Noes, 18.
	Returned to House.

IN THE HOUSE

March 28, 1985

Received from Senate.

IN THE SENATE

March 29, 1985

On motion, rules temporarily suspended in order that all bills considered on second reading on the 70th Legislative Day advance to third reading that same day.

March 30, 1985

On motion, HB 798 be reconsidered. Motion adopted.

IN THE HOUSE

March 30, 1985

On motion, request of Senate granted for return of HB 798 for further consideration.

IN THE SENATE

March 30, 1985

Received from House.

Referred to second reading.

April 1, 1985

Second reading, concurred in as amended.

Second reading, Statement of Intent amended.

Third reading, concurred in. Ayes, 49; Noes, 1.

Returned to House with amendments and amended Statement of Intent.

IN THE HOUSE

April 2, 1985	Received from Senate.
April 8, 1985	Second reading, amendments and amended Statement of Intent concurred in. On motion, rules suspended and bill placed on third reading this day. Third reading, amendments and amended Statement of Intent concurred in. Sent to enrolling.
April 12, 1985	Correctly enrolled.
April 15, 1985	Signed by Speaker.
April 16, 1985	Signed by President.
April 18, 1985	Delivered to Governor.
April 19, 1985	Returned from Governor with recommended amendments.
April 20, 1985	Second reading, Governor's amendments concurred in.
April 22, 1985	Third reading, Governor's amendments concurred in. Governor's amendments transmitted to Senate.

IN THE SENATE

April 22, 1985	Received from House.
April 24, 1985	Second reading, Governor's amendments concurred in.

April 25, 1985

Third reading, Governor's
amendments concurred in.

Returned to House.

IN THE HOUSE

April 25, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 governmental units may be authorized by law to provide.

2 (2) The department may establish services and
3 community homes for eligible physically disabled persons and
4 receive services, facilities, and funds as the department
5 and other governmental units may be authorized by law to
6 receive or provide.

7 Section 4. Department contracts for services --
8 governmental units providing for community homes. (1) The
9 department may expend money appropriated or available for
10 the purposes of [this act] and may contract for services for
11 eligible physically disabled persons with any person or
12 entity providing such services.

13 (2) Governmental units, including but not limited to
14 counties, municipalities, school districts, or state
15 institutions of higher learning, may at their own expense
16 provide services, funds, materials, and facilities for
17 services to community homes for physically disabled persons.

18 Section 5. Federal aid. The department may apply for
19 and receive federal-aid money or other assistance that may
20 be available for programs in the nature of the program
21 created by [this act].

22 Section 6. Departmental licensing. (1) A community
23 home for the physically disabled must be licensed annually
24 by the department.

25 (2) In accordance with rules established for such

1 purposes, the department may issue temporary and
2 probationary licenses.

3 Section 7. Rulemaking. (1) For the purposes of
4 providing services to physically disabled persons, the
5 department may adopt rules necessary for the administration
6 of the services provided to physically disabled persons
7 under [this act]. Rules adopted may include but are not
8 limited to eligibility for services, facility design and
9 acquisition, program staffing, staff training, service goals
10 and design, quality of services, client placement
11 procedures, client rights and privileges, client grievance
12 procedures, provider grievance procedures, and accounting
13 procedures which include accounting of client financial
14 resources.

15 (2) (a) The department shall, for the purpose of
16 licensing, adopt rules to govern administration, operation,
17 and health and safety standards of community homes for
18 physically disabled persons in order to protect residents'
19 rights. The department shall provide for temporary and
20 probationary licensing.

21 (b) The department of health and environmental
22 sciences shall provide advice and recommendations to the
23 department of social and rehabilitation services concerning
24 the standards for health and safety to be adopted.

25 (3) The department shall, in cooperation with the

1 board of nursing, adopt rules under which a properly trained
2 staff member of a facility providing services to physically
3 disabled persons under [this act] may supervise and assist a
4 client of a facility in taking a medication if the
5 medication is usually self-administered and if a physician
6 has prescribed the assistance.

7 Section 8. Health and safety standards and
8 certification for licensing. (1) Community homes must be
9 certified annually for fire and life safety by the state
10 fire marshal. The state fire marshal shall notify the
11 department whenever a community home has been so certified
12 or refused such certification.

13 (2) (a) Local health officers shall certify community
14 homes for compliance with health and safety standards. If
15 for any reason the local authority cannot complete the
16 certification in a timely manner, the department of health
17 and environmental sciences may make the determination of
18 certification.

19 (b) The inspecting health officer shall notify the
20 department of social and rehabilitation services whenever a
21 community home has been so certified or refused such
22 certification.

23 (c) A reasonable fee may be charged by local health
24 officers for compliance certifications.

-End-

STATE OF MONTANA

REQUEST NO. FNN410-85

FISCAL NOTE

Form BD-15

In compliance with a written request received February 13 19 85, there is hereby submitted a Fiscal Note for H.B. 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:

This act authorizes the Department of S.R.S. to administer all funds allocated to the department for community programs for the physically disabled persons, license the same, and to provide standards for administration, health and safety, and programs for the physically disabled.

ASSUMPTIONS:

1. In accordance with 53-20-307, MCA as is currently written, "A reasonable fee may be charged to authorized parties as defined in 53-20-303, MCA for Health and Safety Certification." Under proposed law, this would be changed to read, "Local Health Departments."
2. If the State Health Department must do any of the inspections, some source of funding would be required.

FISCAL IMPACT:SRS:

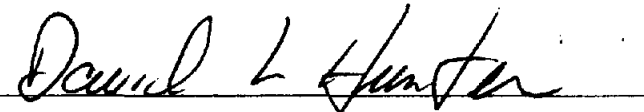
The bill stipulates only that SRS may administer the funds that are appropriated to it for the physically disabled program. This is enabling legislation only.

The funding level would be determined by the legislative appropriations process. The level requested in the Executive Budget is \$289,247 in FY86 and \$280,752 in FY87. Of the biennium total (\$569,999), \$96,000 will be federal monies, and \$437,999 will come from the general fund.

HEALTH DEPARTMENT:

	<u>FY86</u>
Revenue:	Cannot be determined at this time
Expenditure:	Cannot be determined at this time

	<u>FY87</u>
Revenue:	Cannot be determined at this time
Expenditure:	Cannot be determined at this time



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 15, 1985
HB 798

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

STATEMENT OF INTENT

HOUSE BILL 798

House Human Services and Aging Committee

The department of social and rehabilitation services currently does not have authority to either operate special programs for physically disabled individuals or license group homes on their behalf. House Bill No. 798 [LC 1294] would grant such authority.

It is intended that this bill would address some of the more necessary needs of severely disabled persons who:

(1) have a permanent impairment of a physical nature that is diagnosed as such by a physician and substantially limits a major life activity, such as walking, self-care, seeing, hearing, or speaking;

(2) do not meet the state definition for developmental disability;

(3) do not meet the eligibility criteria of vocational rehabilitation; and

(4) do not qualify for medicaid waiver services.

These people represent a wide variety of disability groups, such as people with head or spinal cord injuries, people with a debilitating disease (multiple sclerosis, amyotrophic lateral sclerosis, muscular dystrophy, myasthenia gravis, cancer, etc.), multiply-disabled people,

etc. An effort is currently underway to identify such severely physically disabled individuals in addition to the 426 known people that were considered too severe for vocational rehabilitation services in 1984. The fastest growing segment of this group is the head-injured.

Services to this group are the exception rather than the rule, and traditionally have been medical maintenance types of assistance from medicaid, medicare, or medical assistance.

Rules adopted by the department would have to address the problem of personalized service needs of these individuals which usually do not fit an existing structured service model. Based upon some experience with this group, it is presumed that the following types of services would be necessary:

(1) teaching individuals how to better manage their own personal care and thereby reducing the medicaid costs;

(2) instructing people in the use of transit systems to reduce the need for therapy and to increase mobility.

The residential or in-home services for the physically disabled population include but are not limited to:

(1) personal assistance (locating and supervising attendants);

(2) mobility (exploring transportation modes, evaluation of devices needed for ambulation);

1 (3) home management (adaptive techniques or equipment
2 to facilitate independent housekeeping);

3 (4) problem solving (problem identification and
4 methods of solution);

5 (5) equipment (identification of assistive equipment
6 needs: selection, operation, care, and maintenance);

7 (6) sexuality (sexuality and disability, dating, role
8 expectations); and

9 (7) other services the department considers
10 appropriate.

11 In addition to such programmatic rules, it is intended
12 that the department adopt rules for licensing of community
13 homes and in cooperation with other agencies adopt rules to
14 ensure that such homes provide necessary services for the
15 well-being of the individuals in the homes and that their
16 surroundings are safe and healthful. It is intended that the
17 rules providing for such standards recognize the needs of
18 the individual, the resources of home operators, and the
19 goals of this legislation.

HOUSE BILL NO. 798

INTRODUCED BY MILES, KRUEGER

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO OPERATE COMMUNITY PROGRAMS FOR PHYSICALLY DISABLED PERSONS; TO AUTHORIZE THE DEPARTMENT TO LICENSE COMMUNITY HOMES FOR THE PHYSICALLY DISABLED; AND TO PROVIDE FOR STANDARDS FOR PROGRAMS, ADMINISTRATION, HEALTH, AND SAFETY FOR SUCH SERVICES AND COMMUNITY HOMES; AND AMENDING SECTION 50-5-101, MCA."

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

NEW SECTION. Section 1. Purpose. The legislature, in recognition of needs of physically disabled persons and of the desirability of meeting those needs on a community level to the fullest extent possible and in order to reduce the need for institutional care settings, establishes by [this act] a community program to provide facilities and services for the training and treatment of physically disabled persons. The legislature further recognizes the need to provide for the licensing of community homes for physically disabled persons.

NEW SECTION. Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Community home for physically disabled persons" means a family-oriented residence designed to provide residential services for two to eight eligible physically disabled persons THAT DOES NOT PROVIDE SKILLED OR INTERMEDIATE NURSING CARE. THIS DEFINITION DOES NOT PRECLUDE THE PROVISION OF SKILLED OR INTERMEDIATE NURSING CARE BY THIRD-PERSON PROVIDERS.

(2) "Department" means the department of social and rehabilitation services established in 2-15-2201.

(3) "Eligible physically disabled person" means a physically disabled person who after an assessment of his disabilities and needs is determined by the department to be in need of services and for whom appropriate services are available under [this act] and who is not eligible for similar services provided under other programs.

(4) "Physically disabled person" means a disabled person with a permanent impairment that substantially limits major life activity, such as walking, self-care, seeing, hearing, speaking, learning, reasoning, judgment, or memory, and that can be diagnosed by a physician or--appropriate specialist.

NEW SECTION. Section 3. Parties authorized to establish and operate community homes. (1) Nonprofit

1 corporations may be formed in any community for the purposes
 2 of providing services to and establishing community homes
 3 for eligible physically disabled persons under [this act]
 4 and to receive services, facilities, and funds as the
 5 department and other governmental units may be authorized by
 6 law to provide.

7 (2) The department may establish services and
 8 community homes for eligible physically disabled persons and
 9 receive services, facilities, and funds as the department
 10 and other governmental units may be authorized by law to
 11 receive or provide.

12 NEW SECTION. Section 4. Department contracts for
 13 services -- governmental units providing for community
 14 homes. (1) The department may expend money appropriated or
 15 available for the purposes of [this act] and may contract
 16 for services for eligible physically disabled persons with
 17 any person or entity providing such services.

18 (2) Governmental units, including but not limited to
 19 counties, municipalities, school districts, or state
 20 institutions of higher learning, may at their own expense
 21 provide services, funds, materials, and facilities for
 22 services to community homes for physically disabled persons.

23 NEW SECTION. Section 5. Federal aid. The department
 24 may apply for and receive federal-aid money or other
 25 assistance that may be available for programs in the nature

1 of the program created by [this act].

2 NEW SECTION. Section 6. Departmental licensing. (1) A
 3 community home for the physically disabled must be licensed
 4 annually by the department.

5 (2) In accordance with rules established for such
 6 purposes, the department may issue temporary and
 7 probationary licenses.

8 NEW SECTION. Section 7. Rulemaking. (1) For the
 9 purposes of providing services to physically disabled
 10 persons, the department may adopt rules necessary for the
 11 administration of the services provided to physically
 12 disabled persons under [this act]. Rules adopted may include
 13 but are not limited to eligibility for services, facility
 14 design and acquisition, program staffing, staff training,
 15 service goals and design, quality of services, client
 16 placement procedures, client rights and privileges, client
 17 grievance procedures, provider grievance procedures, and
 18 accounting procedures which include accounting of client
 19 financial resources.

20 (2) (a) The department shall, for the purpose of
 21 licensing, adopt rules to govern administration, operation,
 22 and health and safety standards of community homes for
 23 physically disabled persons in order to protect residents'
 24 rights. The department shall provide for temporary and
 25 probationary licensing.

1 (b) The department of health and environmental
 2 sciences shall provide advice and recommendations to the
 3 department of social and rehabilitation services concerning
 4 the standards for health and safety to be adopted.

5 (3) The department shall, in cooperation with the
 6 board of nursing, adopt rules under which a properly trained
 7 staff member of a facility providing services to physically
 8 disabled persons under [this act] may supervise and assist a
 9 client of a facility in taking a medication if the
 10 medication is usually self-administered and if a physician
 11 has prescribed the assistance.

12 NEW SECTION. Section 8. Health and safety standards
 13 ~~and-certification~~ for licensing. (1) Community homes must be
 14 certified annually for fire and life safety by the state
 15 fire marshal. The state fire marshal shall notify the
 16 department whenever a community home has been so certified
 17 or refused such certification.

18 (2) (a) Local health officers shall certify INSPECT
 19 community homes for compliance with health and safety
 20 standards. If for any reason the local authority cannot
 21 complete the certification INSPECTION in a timely manner,
 22 the department of health and environmental sciences may make
 23 the determination--of--certification INSPECTION TO ASSURE
 24 COMPLIANCE WITH THE STANDARDS.

25 (b) The inspecting health officer shall notify the

1 department of social and rehabilitation services whenever
 2 WHETHER a community home ~~has-been-so-certified-or-refused~~
 3 ~~such--certification~~ IS OR IS NOT IN COMPLIANCE WITH
 4 APPLICABLE STANDARDS.

5 (c) A reasonable fee may be charged by ~~local~~ health
 6 ~~officers----~~for AUTHORITIES CONDUCTING compliance
 7 ~~certifications~~ INSPECTIONS.

8 SECTION 9. SECTION 50-5-101, MCA, IS AMENDED TO READ:

9 "50-5-101. Definitions. As used in parts 1 through 4
 10 of this chapter, unless the context clearly indicates
 11 otherwise, the following definitions apply:

12 (1) "Accreditation" means a designation of approval.

13 (2) "Adult day-care center" means a facility,
 14 freestanding or connected to another health care facility,
 15 which provides adults, on an intermittent basis, with the
 16 care necessary to meet the needs of daily living.

17 (3) "Affected persons" means the applicant, members of
 18 the public who are to be served by the proposal, health care
 19 facilities located in the geographic area affected by the
 20 application, agencies which establish rates for health care
 21 facilities, third-party payers who reimburse health care
 22 facilities in the area affected by the proposal, and
 23 agencies which plan or assist in planning for such
 24 facilities, including any agency qualifying as a health
 25 systems agency pursuant to Title XV of the Public Health

1 Service Act.

2 (4) "Ambulatory surgical facility" means a facility,
3 not part of a hospital, which provides surgical treatment to
4 patients not requiring hospitalization. This type of
5 facility may include observation beds for patient recovery
6 from surgery or other treatment.

7 (5) "Batch" means those letters of intent and
8 applications of a specified category and within a specified
9 region of the state, as established by department rule, that
10 are accumulated during a single batching period.

11 (6) "Batching period" means a period, not exceeding 1
12 month, established by department rule during which letters
13 of intent for specified categories of new institutional
14 health services and for specified regions of the state may
15 be accumulated pending further processing of all letters of
16 intent within the batch.

17 (7) "Board" means the board of health and
18 environmental sciences, provided for in 2-15-2104.

19 (8) "Capital expenditure" means an expenditure made by
20 or on behalf of a health care facility that, under generally
21 accepted accounting principles, is not properly chargeable
22 as an expense of operation and maintenance.

23 (9) "Certificate of need" means a written
24 authorization by the department for a person to proceed with
25 a proposal subject to 50-5-301.

1 (10) "Challenge period" means a period, not exceeding 1
2 month, established by department rule during which any
3 person may apply for comparative review with an applicant
4 whose letter of intent has been received during the
5 preceding batching period.

6 (11) "Clinical laboratory" means a facility for the
7 microbiological, serological, chemical, hematological,
8 radioassay, cytological, immunohematological,
9 pathological, or other examination of materials derived from
10 the human body for the purpose of providing information for
11 the diagnosis, prevention, or treatment of any disease or
12 assessment of a medical condition.

13 (12) "College of American pathologists" means the
14 organization nationally recognized by that name with
15 headquarters in Traverse City, Michigan, that surveys
16 clinical laboratories upon their requests and accredits
17 clinical laboratories that it finds meet its standards and
18 requirements.

19 (13) "Comparative review" means a joint review of two
20 or more certificate of need applications within a given
21 batch which are determined by the department to be
22 competitive in that the granting of a certificate of need to
23 one of the applicants would substantially prejudice the
24 department's review of the other applications.

25 (14) "Construction" means the physical erection of a

1 health care facility and any stage thereof, including ground
2 breaking, or remodeling, replacement, or renovation of an
3 existing health care facility.

4 (15) "Department" means the department of health and
5 environmental sciences provided for in Title 2, chapter 15,
6 part 21.

7 (16) "Federal acts" means federal statutes for the
8 construction of health care facilities.

9 (17) "Governmental unit" means the state, a state
10 agency, a county, municipality, or political subdivision of
11 the state, or an agency of a political subdivision.

12 (18) "Health care facility" or "facility" means any
13 institution, building, or agency or portion thereof, private
14 or public, excluding federal facilities, whether organized
15 for profit or not, used, operated, or designed to provide
16 health services, medical treatment, or nursing,
17 rehabilitative, or preventive care to any person or persons.
18 The term does not include offices of private physicians or
19 dentists. The term includes but is not limited to ambulatory
20 surgical facilities, health maintenance organizations, home
21 health agencies, hospices, hospitals, infirmaries, kidney
22 treatment centers, long-term care facilities, mental health
23 centers, outpatient facilities, public health centers,
24 rehabilitation facilities, and adult day-care centers.

25 (19) "Health maintenance organization" means a public

1 or private organization organized as defined in 42 U.S.C.
2 300e, as amended.

3 (20) "Health systems agency" means an entity which is
4 organized and operated in the manner described in 42 U.S.C.
5 3001-2 and which is capable, as determined by the secretary
6 of the United States department of health and human
7 services, of performing each of the functions described in
8 42 U.S.C. 3001-2.

9 (21) "Home health agency" means a public agency or
10 private organization or subdivision thereof which is engaged
11 in providing home health services to individuals in the
12 places where they live. Home health services must include
13 the services of a licensed registered nurse and at least one
14 other therapeutic service and may include additional support
15 services.

16 (22) "Hospice" means a coordinated program of home and
17 inpatient health care that provides or coordinates
18 palliative and supportive care to meet the needs of a
19 terminally ill patient and his family arising out of
20 physical, psychological, spiritual, social, and economic
21 stresses experienced during the final stages of illness and
22 dying and that includes formal bereavement programs as an
23 essential component.

24 (23) "Hospital" means a facility providing, by or under
25 the supervision of licensed physicians, services for medical

1 diagnosis, treatment, rehabilitation, and care of injured,
 2 disabled, or sick persons. Services provided may or may not
 3 include obstetrical care, emergency care, or any other
 4 service as allowed by state licensing authority. A hospital
 5 has an organized medical staff which is on call and
 6 available within 20 minutes, 24 hours per day, 7 days per
 7 week, and provides 24-hour nursing care by licensed
 8 registered nurses. This term includes hospitals specializing
 9 in providing health services for psychiatric, mentally
 10 retarded, and tubercular patients.

11 (24) "Infirmery" means a facility located in a
 12 university, college, government institution, or industry for
 13 the treatment of the sick or injured, with the following
 14 subdefinitions:

15 (a) an "infirmery--A" provides outpatient and
 16 inpatient care;

17 (b) an "infirmery--B" provides outpatient care only.

18 (25) "Joint commission on accreditation of hospitals"
 19 means the organization nationally recognized by that name
 20 with headquarters in Chicago, Illinois, that surveys health
 21 care facilities upon their requests and grants accreditation
 22 status to any health care facility that it finds meets its
 23 standards and requirements.

24 (26) "Kidney treatment center" means a facility which
 25 specializes in treatment of kidney diseases, including

1 freestanding hemodialysis units.

2 (27) (a) "Long-term care facility" means a facility or
 3 part thereof which provides skilled nursing care,
 4 intermediate nursing care, or intermediate developmental
 5 disability care to a total of two or more persons or
 6 personal care to more than four persons who are not related
 7 to the owner or administrator by blood or marriage. The
 8 term does not include adult foster care licensed under
 9 53-5-303, community homes for the developmentally disabled
 10 licensed under 53-20-305, community homes for physically
 11 disabled persons licensed under [section 6], boarding or
 12 foster homes for children licensed under ~~41-3-503~~ 41-3-1142,
 13 hotels, motels, boardinghouses, roominghouses, or similar
 14 accommodations providing for transients, students, or
 15 persons not requiring institutional health care, or juvenile
 16 and adult correctional facilities operating under the
 17 authority of the department of institutions.

18 (b) "Skilled nursing care" means the provision of
 19 nursing care services, health-related services, and social
 20 services under the supervision of a licensed registered
 21 nurse on a 24-hour basis.

22 (c) "Intermediate nursing care" means the provision of
 23 nursing care services, health-related services, and social
 24 services under the supervision of a licensed nurse to
 25 patients not requiring 24-hour nursing care.

1 (d) "Intermediate developmental disability care" means
2 the provision of nursing care services, health-related
3 services, and social services for the developmentally
4 disabled, as defined in 53-20-102(4), or persons with
5 related problems.

6 (e) "Personal care" means the provision of services
7 and care which do not require nursing skills to residents
8 needing some assistance in performing the activities of
9 daily living.

10 (28) "Major medical equipment" means a single unit of
11 medical equipment or a single system of components with
12 related functions which is used to provide medical or other
13 health services.

14 (29) "Mental health center" means a facility providing
15 services for the prevention or diagnosis of mental illness,
16 the care and treatment of mentally ill patients or the
17 rehabilitation of such persons, or any combination of these
18 services.

19 (30) "Nonprofit health care facility" means a health
20 care facility owned or operated by one or more nonprofit
21 corporations or associations.

22 (31) "Observation bed" means a bed occupied for not
23 more than 6 hours by a patient recovering from surgery or
24 other treatment.

25 (32) "Offer" means the holding out by a health care

1 facility that it can provide specific health services.

2 (33) "Outpatient facility" means a facility, located in
3 or apart from a hospital, providing, under the direction of
4 a licensed physician, either diagnosis or treatment, or
5 both, to ambulatory patients in need of medical, surgical,
6 or mental care. An outpatient facility may have observation
7 beds.

8 (34) "Patient" means an individual obtaining services,
9 including skilled nursing care, from a health care facility.

10 (35) "Person" means any individual, firm, partnership,
11 association, organization, agency, institution, corporation,
12 trust, estate, or governmental unit, whether organized for
13 profit or not.

14 (36) "Public health center" means a publicly owned
15 facility providing health services, including laboratories,
16 clinics, and administrative offices.

17 (37) "Rehabilitation facility" means a facility which
18 is operated for the primary purpose of assisting in the
19 rehabilitation of disabled persons by providing
20 comprehensive medical evaluations and services,
21 psychological and social services, or vocational evaluation
22 and training or any combination of these services and in
23 which the major portion of the services is furnished within
24 the facility.

25 (38) "Resident" means a person who is in a long-term

1 care facility for intermediate or personal care.
2 (39) "State health plan" means the plan prepared by the
3 department pursuant to 42 U.S.C. 300m-2(a)(2)."

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Human Services and Aging Committee

4
5 The department of social and rehabilitation services
6 currently does not have authority to either operate special
7 programs for physically disabled individuals or license
8 group homes on their behalf. House Bill No. 798 [LC 1294]
9 would grant such authority.

10 It is intended that this bill would address some of the
11 more necessary needs of severely disabled persons who:

12 (1) have a permanent impairment of a physical nature
13 that is diagnosed as such by a physician and substantially
14 limits a major life activity, such as walking, self-care,
15 seeing, hearing, or speaking;

16 (2) do not meet the state definition for developmental
17 disability;

18 (3) do not meet the eligibility criteria of vocational
19 rehabilitation; and

20 (4) do not qualify for medicaid waiver services.

21 These people represent a wide variety of disability
22 groups, such as people with head or spinal cord injuries,
23 people with a debilitating disease (multiple sclerosis,
24 amyotrophic lateral sclerosis, muscular dystrophy,
25 myasthenia gravis, cancer, etc.), multiply-disabled people,

1 etc. An effort is currently underway to identify such
2 severely physically disabled individuals in addition to the
3 426 known people that were considered too severe for
4 vocational rehabilitation services in 1984. The fastest
5 growing segment of this group is the head-injured.

6 Services to this group are the exception rather than
7 the rule, and traditionally have been medical maintenance
8 types of assistance from medicaid, medicare, or medical
9 assistance.

10 Rules adopted by the department would have to address
11 the problem of personalized service needs of these
12 individuals which usually do not fit an existing structured
13 service model. Based upon some experience with this group,
14 it is presumed that the following types of services would be
15 necessary:

16 (1) teaching individuals how to better manage their
17 own personal care and thereby reducing the medicaid costs;

18 (2) instructing people in the use of transit systems
19 to reduce the need for therapy and to increase mobility.

20 The residential or in-home services for the physically
21 disabled population include but are not limited to:

22 (1) personal assistance (locating and supervising
23 attendants);

24 (2) mobility (exploring transportation modes,
25 evaluation of devices needed for ambulation);

- 1 (3) home management (adaptive techniques or equipment
- 2 to facilitate independent housekeeping);
- 3 (4) problem solving (problem identification and
- 4 methods of solution);
- 5 (5) equipment (identification of assistive equipment
- 6 needs: selection, operation, care, and maintenance);
- 7 (6) sexuality (sexuality and disability, dating, role
- 8 expectations); and
- 9 (7) other services the department considers
- 10 appropriate.

11 In addition to such programmatic rules, it is intended
12 that the department adopt rules for licensing of community
13 homes and in cooperation with other agencies adopt rules to
14 ensure that such homes provide necessary services for the
15 well-being of the individuals in the homes and that their
16 surroundings are safe and healthful. It is intended that the
17 rules providing for such standards recognize the needs of
18 the individual, the resources of home operators, and the
19 goals of this legislation.

1 HOUSE BILL NO. 798

2 INTRODUCED BY MILES, KRUEGER

3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
4 AND REHABILITATION SERVICES5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
7 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO OPERATE
8 COMMUNITY PROGRAMS FOR PHYSICALLY DISABLED PERSONS; TO
9 AUTHORIZE THE DEPARTMENT TO LICENSE COMMUNITY HOMES FOR THE
10 PHYSICALLY DISABLED; AND TO PROVIDE FOR STANDARDS FOR
11 PROGRAMS, ADMINISTRATION, HEALTH, AND SAFETY FOR SUCH
12 SERVICES AND COMMUNITY HOMES; AND AMENDING SECTION 50-5-101,
13 MCA."14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 NEW SECTION. Section 1. Purpose. The legislature, in
17 recognition of needs of physically disabled persons and of
18 the desirability of meeting those needs on a community level
19 to the fullest extent possible and in order to reduce the
20 need for institutional care settings, establishes by [this
21 act] a community program to provide facilities and services
22 for the training and treatment of physically disabled
23 persons. The legislature further recognizes the need to
24 provide for the licensing of community homes for physically
25 disabled persons.1 NEW SECTION. Section 2. Definitions. As used in [this
2 act], the following definitions apply:3 (1) "Community home for physically disabled persons"
4 means a family-oriented residence designed to provide
5 residential services for two to eight eligible physically
6 disabled persons THAT DOES NOT PROVIDE SKILLED OR
7 INTERMEDIATE NURSING CARE. THIS DEFINITION DOES NOT PRECLUDE
8 THE PROVISION OF SKILLED OR INTERMEDIATE NURSING CARE BY
9 THIRD-PERSON PROVIDERS.10 (2) "Department" means the department of social and
11 rehabilitation services established in 2-15-2201.12 (3) "Eligible physically disabled person" means a
13 physically disabled person who after an assessment of his
14 disabilities and needs is determined by the department to be
15 in need of services and for whom appropriate services are
16 available under [this act] and who is not eligible for
17 similar services provided under other programs.18 (4) "Physically disabled person" means a disabled
19 person with a permanent impairment that substantially limits
20 major life activity, such as walking, self-care, seeing,
21 hearing, speaking, learning, reasoning, judgment, or memory,
22 and that can be diagnosed by a physician or--appropriate
23 specialist.24 NEW SECTION. Section 3. Parties authorized to
25 establish and operate community homes. (1) Nonprofit

1 corporations may be formed in any community for the purposes
 2 of providing services to and establishing community homes
 3 for eligible physically disabled persons under [this act]
 4 and to receive services, facilities, and funds as the
 5 department and other governmental units may be authorized by
 6 law to provide.

7 (2) The department may establish AND PROVIDE services
 8 and community homes for eligible physically disabled persons
 9 and receive services, facilities, and funds as the
 10 department and other governmental units may be authorized by
 11 law to receive or provide.

12 NEW SECTION. Section 4. Department contracts for
 13 services -- governmental units providing for community
 14 homes. (1) The department may expend money appropriated or
 15 available for the purposes of [this act] and may contract
 16 for services for eligible physically disabled persons with
 17 any person or entity providing such services.

18 (2) Governmental units, including but not limited to
 19 counties, municipalities, school districts, or state
 20 institutions of higher learning, may at their own expense
 21 provide services, funds, materials, and facilities for
 22 services to community homes for physically disabled persons.

23 NEW SECTION. Section 5. Federal aid. The department
 24 may apply for and receive federal aid money or other
 25 assistance that may be available for programs in the nature

1 of the program created by [this act].

2 NEW SECTION. Section 6. Departmental licensing. (1) A
 3 community home for the physically disabled must be licensed
 4 annually by the department.

5 (2) In accordance with rules established for such
 6 purposes, the department may issue temporary and
 7 probationary licenses.

8 NEW SECTION. Section 7. Rulemaking. (1) For the
 9 purposes of providing services to physically disabled
 10 persons, the department may adopt rules necessary for the
 11 administration of the services provided to physically
 12 disabled persons under [this act]. Rules adopted may include
 13 but are not limited to eligibility for services, facility
 14 design and acquisition, program staffing, staff training,
 15 service goals and design, quality of services, client
 16 placement procedures, client rights and privileges, client
 17 grievance procedures, provider grievance procedures, and
 18 accounting procedures which include accounting of client
 19 financial resources.

20 (2) (a) The department shall, for the purpose of
 21 licensing, adopt rules to govern administration, operation,
 22 and health and safety standards of community homes for
 23 physically disabled persons in order to protect residents'
 24 rights. The department shall provide for temporary and
 25 probationary licensing.

1 (b) The department of health and environmental
2 sciences shall provide advice and recommendations to the
3 department of social and rehabilitation services concerning
4 the standards for health and safety to be adopted.

5 (3) The department shall, in cooperation with the
6 board of nursing, adopt rules under which a properly trained
7 staff member of a facility providing services to physically
8 disabled persons under [this act] may supervise and assist a
9 client of a facility in taking a medication if the
10 medication is usually self-administered and if a physician
11 has prescribed the assistance.

12 NEW SECTION. Section 8. Health and safety standards
13 and certification for licensing. (1) Community homes must be
14 certified annually for fire and life safety by the state
15 fire marshal. The state fire marshal shall notify the
16 department whenever a community home has been so certified
17 or refused such certification.

18 (2) (a) Local health officers shall certify INSPECT
19 community homes for compliance with health and safety
20 standards. If for any reason the local authority cannot
21 complete the certification INSPECTION in a timely manner,
22 the department of health and environmental sciences may make
23 the determination--of--certification INSPECTION TO ASSURE
24 COMPLIANCE WITH THE STANDARDS.

25 (b) The inspecting health officer shall notify the

1 department of social and rehabilitation services whenever
2 WHETHER a community home has been so certified or refused
3 such certification IS OR IS NOT IN COMPLIANCE WITH
4 APPLICABLE STANDARDS.

5 (c) A reasonable fee may be charged by local health
6 officers for AUTHORITIES CONDUCTING compliance
7 certifications INSPECTIONS.

8 SECTION 9. SECTION 50-5-101, MCA, IS AMENDED TO READ:

9 "50-5-101. Definitions. As used in parts 1 through 4
10 of this chapter, unless the context clearly indicates
11 otherwise, the following definitions apply:

12 (1) "Accreditation" means a designation of approval.

13 (2) "Adult day-care center" means a facility,
14 freestanding or connected to another health care facility,
15 which provides adults, on an intermittent basis, with the
16 care necessary to meet the needs of daily living.

17 (3) "Affected persons" means the applicant, members of
18 the public who are to be served by the proposal, health care
19 facilities located in the geographic area affected by the
20 application, agencies which establish rates for health care
21 facilities, third-party payers who reimburse health care
22 facilities in the area affected by the proposal, and
23 agencies which plan or assist in planning for such
24 facilities, including any agency qualifying as a health
25 systems agency pursuant to Title XV of the Public Health

1 Service Act.

2 (4) "Ambulatory surgical facility" means a facility,
3 not part of a hospital, which provides surgical treatment to
4 patients not requiring hospitalization. This type of
5 facility may include observation beds for patient recovery
6 from surgery or other treatment.

7 (5) "Batch" means those letters of intent and
8 applications of a specified category and within a specified
9 region of the state, as established by department rule, that
10 are accumulated during a single batching period.

11 (6) "Batching period" means a period, not exceeding 1
12 month, established by department rule during which letters
13 of intent for specified categories of new institutional
14 health services and for specified regions of the state may
15 be accumulated pending further processing of all letters of
16 intent within the batch.

17 (7) "Board" means the board of health and
18 environmental sciences, provided for in 2-15-2104.

19 (8) "Capital expenditure" means an expenditure made by
20 or on behalf of a health care facility that, under generally
21 accepted accounting principles, is not properly chargeable
22 as an expense of operation and maintenance.

23 (9) "Certificate of need" means a written
24 authorization by the department for a person to proceed with
25 a proposal subject to 50-5-301.

1 (10) "Challenge period" means a period, not exceeding 1
2 month, established by department rule during which any
3 person may apply for comparative review with an applicant
4 whose letter of intent has been received during the
5 preceding batching period.

6 (11) "Clinical laboratory" means a facility for the
7 microbiological, serological, chemical, hematological,
8 radioassay, cytological, immunohematological,
9 pathological, or other examination of materials derived from
10 the human body for the purpose of providing information for
11 the diagnosis, prevention, or treatment of any disease or
12 assessment of a medical condition.

13 (12) "College of American pathologists" means the
14 organization nationally recognized by that name with
15 headquarters in Traverse City, Michigan, that surveys
16 clinical laboratories upon their requests and accredits
17 clinical laboratories that it finds meet its standards and
18 requirements.

19 (13) "Comparative review" means a joint review of two
20 or more certificate of need applications within a given
21 batch which are determined by the department to be
22 competitive in that the granting of a certificate of need to
23 one of the applicants would substantially prejudice the
24 department's review of the other applications.

25 (14) "Construction" means the physical erection of a

1 health care facility and any stage thereof, including ground
2 breaking, or remodeling, replacement, or renovation of an
3 existing health care facility.

4 (15) "Department" means the department of health and
5 environmental sciences provided for in Title 2, chapter 15,
6 part 21.

7 (16) "Federal acts" means federal statutes for the
8 construction of health care facilities.

9 (17) "Governmental unit" means the state, a state
10 agency, a county, municipality, or political subdivision of
11 the state, or an agency of a political subdivision.

12 (18) "Health care facility" or "facility" means any
13 institution, building, or agency or portion thereof, private
14 or public, excluding federal facilities, whether organized
15 for profit or not, used, operated, or designed to provide
16 health services, medical treatment, or nursing,
17 rehabilitative, or preventive care to any person or persons.
18 The term does not include offices of private physicians or
19 dentists. The term includes but is not limited to ambulatory
20 surgical facilities, health maintenance organizations, home
21 health agencies, hospices, hospitals, infirmaries, kidney
22 treatment centers, long-term care facilities, mental health
23 centers, outpatient facilities, public health centers,
24 rehabilitation facilities, and adult day-care centers.

25 (19) "Health maintenance organization" means a public

1 or private organization organized as defined in 42 U.S.C.
2 300e, as amended.

3 (20) "Health systems agency" means an entity which is
4 organized and operated in the manner described in 42 U.S.C.
5 3001-2 and which is capable, as determined by the secretary
6 of the United States department of health and human
7 services, of performing each of the functions described in
8 42 U.S.C. 3001-2.

9 (21) "Home health agency" means a public agency or
10 private organization or subdivision thereof which is engaged
11 in providing home health services to individuals in the
12 places where they live. Home health services must include
13 the services of a licensed registered nurse and at least one
14 other therapeutic service and may include additional support
15 services.

16 (22) "Hospice" means a coordinated program of home and
17 inpatient health care that provides or coordinates
18 palliative and supportive care to meet the needs of a
19 terminally ill patient and his family arising out of
20 physical, psychological, spiritual, social, and economic
21 stresses experienced during the final stages of illness and
22 dying and that includes formal bereavement programs as an
23 essential component.

24 (23) "Hospital" means a facility providing, by or under
25 the supervision of licensed physicians, services for medical

1 diagnosis, treatment, rehabilitation, and care of injured,
 2 disabled, or sick persons. Services provided may or may not
 3 include obstetrical care, emergency care, or any other
 4 service as allowed by state licensing authority. A hospital
 5 has an organized medical staff which is on call and
 6 available within 20 minutes, 24 hours per day, 7 days per
 7 week, and provides 24-hour nursing care by licensed
 8 registered nurses. This term includes hospitals specializing
 9 in providing health services for psychiatric, mentally
 10 retarded, and tubercular patients.

11 (24) "Infirmery" means a facility located in a
 12 university, college, government institution, or industry for
 13 the treatment of the sick or injured, with the following
 14 subdefinitions:

15 (a) an "infirmery--A" provides outpatient and
 16 inpatient care;

17 (b) an "infirmery--B" provides outpatient care only.

18 (25) "Joint commission on accreditation of hospitals"
 19 means the organization nationally recognized by that name
 20 with headquarters in Chicago, Illinois, that surveys health
 21 care facilities upon their requests and grants accreditation
 22 status to any health care facility that it finds meets its
 23 standards and requirements.

24 (26) "Kidney treatment center" means a facility which
 25 specializes in treatment of kidney diseases, including

1 freestanding hemodialysis units.

2 (27) (a) "Long-term care facility" means a facility or
 3 part thereof which provides skilled nursing care,
 4 intermediate nursing care, or intermediate developmental
 5 disability care to a total of two or more persons or
 6 personal care to more than four persons who are not related
 7 to the owner or administrator by blood or marriage. The
 8 term does not include adult foster care licensed under
 9 53-5-303, community homes for the developmentally disabled
 10 licensed under 53-20-305, community homes for physically
 11 disabled persons licensed under [section 6], boarding or
 12 foster homes for children licensed under 41-3-503 41-3-1142,
 13 hotels, motels, boardinghouses, roominghouses, or similar
 14 accommodations providing for transients, students, or
 15 persons not requiring institutional health care, or juvenile
 16 and adult correctional facilities operating under the
 17 authority of the department of institutions.

18 (b) "Skilled nursing care" means the provision of
 19 nursing care services, health-related services, and social
 20 services under the supervision of a licensed registered
 21 nurse on a 24-hour basis.

22 (c) "Intermediate nursing care" means the provision of
 23 nursing care services, health-related services, and social
 24 services under the supervision of a licensed nurse to
 25 patients not requiring 24-hour nursing care.

1 (d) "Intermediate developmental disability care" means
2 the provision of nursing care services, health-related
3 services, and social services for the developmentally
4 disabled, as defined in 53-20-102(4), or persons with
5 related problems.

6 (e) "Personal care" means the provision of services
7 and care which do not require nursing skills to residents
8 needing some assistance in performing the activities of
9 daily living.

10 (28) "Major medical equipment" means a single unit of
11 medical equipment or a single system of components with
12 related functions which is used to provide medical or other
13 health services.

14 (29) "Mental health center" means a facility providing
15 services for the prevention or diagnosis of mental illness,
16 the care and treatment of mentally ill patients or the
17 rehabilitation of such persons, or any combination of these
18 services.

19 (30) "Nonprofit health care facility" means a health
20 care facility owned or operated by one or more nonprofit
21 corporations or associations.

22 (31) "Observation bed" means a bed occupied for not
23 more than 6 hours by a patient recovering from surgery or
24 other treatment.

25 (32) "Offer" means the holding out by a health care

1 facility that it can provide specific health services.

2 (33) "Outpatient facility" means a facility, located in
3 or apart from a hospital, providing, under the direction of
4 a licensed physician, either diagnosis or treatment, or
5 both, to ambulatory patients in need of medical, surgical,
6 or mental care. An outpatient facility may have observation
7 beds.

8 (34) "Patient" means an individual obtaining services,
9 including skilled nursing care, from a health care facility.

10 (35) "Person" means any individual, firm, partnership,
11 association, organization, agency, institution, corporation,
12 trust, estate, or governmental unit, whether organized for
13 profit or not.

14 (36) "Public health center" means a publicly owned
15 facility providing health services, including laboratories,
16 clinics, and administrative offices.

17 (37) "Rehabilitation facility" means a facility which
18 is operated for the primary purpose of assisting in the
19 rehabilitation of disabled persons by providing
20 comprehensive medical evaluations and services,
21 psychological and social services, or vocational evaluation
22 and training or any combination of these services and in
23 which the major portion of the services is furnished within
24 the facility.

25 (38) "Resident" means a person who is in a long-term

HB 0798/03

1 care facility for intermediate or personal care.
2 (39) "State health plan" means the plan prepared by the
3 department pursuant to 42 U.S.C. 300m-2(a)(2)."

-End-

COMMITTEE OF THE WHOLE AMENDMENT

April 1, 1985

~~XXXXXXXXXX~~

DATE

SENATE

8:00

TIME

MR. CHAIRMAN: I MOVE TO AMEND _____ HOUSE BILL

No. 798

third reading copy (blue) as follows:
Color

1. Statement of Intent.

Page 3, line 12.

Following: "licensing of"

Insert: "current"

2. Page 1, line 19.

Following: "to the"

Strike: "fullest extent possible"

Insert: "extent of federal funding"

3. Page 1, line 24.

Following: "licensing of"

Insert: "current"

4. Page 2, line 24 through line 7, page 3.

Following: "Section 3." on line 24

Strike: remainder of line 24 through "(2)" on line 7

Insert: "Department authorized to provide services."

PC3HB798.691

ADOPT

REJECT

(Statement of Intent Amended)

Judy Jacobson
JACOBSON

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Human Services and Aging Committee

4
5 The department of social and rehabilitation services
6 currently does not have authority to either operate special
7 programs for physically disabled individuals or license
8 group homes on their behalf. House Bill No. 798 [HC 1294]
9 would grant such authority.

10 It is intended that this bill would address some of the
11 more necessary needs of severely disabled persons who:

12 (1) have a permanent impairment of a physical nature
13 that is diagnosed as such by a physician and substantially
14 limits a major life activity, such as walking, self-care,
15 seeing, hearing, or speaking;

16 (2) do not meet the state definition for developmental
17 disability;

18 (3) do not meet the eligibility criteria of vocational
19 rehabilitation; and

20 (4) do not qualify for medicaid waiver services.

21 These people represent a wide variety of disability
22 groups, such as people with head or spinal cord injuries,
23 people with a debilitating disease (multiple sclerosis,
24 amyotrophic lateral sclerosis, muscular dystrophy,
25 myasthenia gravis, cancer, etc.), multiply-disabled people,

1 etc. An effort is currently underway to identify such
2 severely physically disabled individuals in addition to the
3 426 known people that were considered too severe for
4 vocational rehabilitation services in 1984. The fastest
5 growing segment of this group is the head-injured.

6 Services to this group are the exception rather than
7 the rule, and traditionally have been medical maintenance
8 types of assistance from medicaid, medicare, or medical
9 assistance.

10 Rules adopted by the department would have to address
11 the problem of personalized service needs of these
12 individuals which usually do not fit an existing structured
13 service model. Based upon some experience with this group,
14 it is presumed that the following types of services would be
15 necessary:

16 (1) teaching individuals how to better manage their
17 own personal care and thereby reducing the medicaid costs;

18 (2) instructing people in the use of transit systems
19 to reduce the need for therapy and to increase mobility.

20 The residential or in-home services for the physically
21 disabled population include but are not limited to:

22 (1) personal assistance (locating and supervising
23 attendants);

24 (2) mobility (exploring transportation modes,
25 evaluation of devices needed for ambulation);

- 1 (3) home management (adaptive techniques or equipment
- 2 to facilitate independent housekeeping);
- 3 (4) problem solving (problem identification and
- 4 methods of solution);
- 5 (5) equipment (identification of assistive equipment
- 6 needs: selection, operation, care, and maintenance);
- 7 (6) sexuality (sexuality and disability, dating, role
- 8 expectations); and
- 9 (7) other services the department considers
- 10 appropriate.

11 In addition to such programmatic rules, it is intended
12 that the department adopt rules for licensing of CURRENT
13 community homes and in cooperation with other agencies adopt
14 rules to ensure that such homes provide necessary services
15 for the well-being of the individuals in the homes and that
16 their surroundings are safe and healthful. It is intended
17 that the rules providing for such standards recognize the
18 needs of the individual, the resources of home operators,
19 and the goals of this legislation.

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3 BY REQUEST OF THE DEPARTMENT OF SOCIAL

4 AND REHABILITATION SERVICES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
7 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO OPERATE
8 COMMUNITY PROGRAMS FOR PHYSICALLY DISABLED PERSONS; TO
9 AUTHORIZE THE DEPARTMENT TO LICENSE COMMUNITY HOMES FOR THE
10 PHYSICALLY DISABLED; AND TO PROVIDE FOR STANDARDS FOR
11 PROGRAMS, ADMINISTRATION, HEALTH, AND SAFETY FOR SUCH
12 SERVICES AND COMMUNITY HOMES; AND AMENDING SECTION 50-5-101,
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Purpose. The legislature, in
17 recognition of needs of physically disabled persons and of
18 the desirability of meeting those needs on a community level
19 to the ~~fullest-extent-possible~~ EXTENT OF FEDERAL FUNDING and
20 in order to reduce the need for institutional care settings,
21 establishes by [this act] a community program to provide
22 facilities and services for the training and treatment of
23 physically disabled persons. The legislature further
24 recognizes the need to provide for the licensing of CURRENT
25 community homes for physically disabled persons.

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2 act], the following definitions apply:

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4 means a family-oriented residence designed to provide
5 residential services for two to eight eligible physically
6 disabled persons THAT DOES NOT PROVIDE SKILLED OR
7 INTERMEDIATE NURSING CARE. THIS DEFINITION DOES NOT PRECLUDE
8 THE PROVISION OF SKILLED OR INTERMEDIATE NURSING CARE BY
9 THIRD-PERSON PROVIDERS.

10 (2) "Department" means the department of social and
11 rehabilitation services established in 2-15-2201.

12 (3) "Eligible physically disabled person" means a
13 physically disabled person who after an assessment of his
14 disabilities and needs is determined by the department to be
15 in need of services and for whom appropriate services are
16 available under [this act] and who is not eligible for
17 similar services provided under other programs.

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19 person with a permanent impairment that substantially limits
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21 hearing, speaking, learning, reasoning, judgment, or memory,
22 and that can be diagnosed by a physician or--appropriate
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~~corporations may be formed in any community for the purposes of providing services to and establishing community homes for eligible physically disabled persons under this act and to receive services, facilities, and funds as the department and other governmental units may be authorized by law to provide:~~

{2} DEPARTMENT AUTHORIZED TO PROVIDE SERVICES. The department may establish AND PROVIDE services and community homes for eligible physically disabled persons and receive services, facilities, and funds as the department and other governmental units may be authorized by law to receive or provide.

NEW SECTION. Section 4. Department contracts for services -- governmental units providing for community homes. (1) The department may expend money appropriated or available for the purposes of [this act] and may contract for services for eligible physically disabled persons with any person or entity providing such services.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, may at their own expense provide services, funds, materials, and facilities for services to community homes for physically disabled persons.

NEW SECTION. Section 5. Federal aid. The department may apply for and receive federal-aid money or other

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(2) In accordance with rules established for such purposes, the department may issue temporary and probationary licenses.

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(2) (a) The department shall, for the purpose of licensing, adopt rules to govern administration, operation, and health and safety standards of community homes for physically disabled persons in order to protect residents' rights. The department shall provide for temporary and

1 probationary licensing.

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3 sciences shall provide advice and recommendations to the
4 department of social and rehabilitation services concerning
5 the standards for health and safety to be adopted.

6 (3) The department shall, in cooperation with the
7 board of nursing, adopt rules under which a properly trained
8 staff member of a facility providing services to physically
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20 community homes for compliance with health and safety
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22 complete the certification INSPECTION in a timely manner,
23 the department of health and environmental sciences may make
24 the ~~determination--of--certification~~ INSPECTION TO ASSURE
25 COMPLIANCE WITH THE STANDARDS.

1 (b) The inspecting health officer shall notify the
2 department of social and rehabilitation services ~~whenever~~
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18 (3) "Affected persons" means the applicant, members of
19 the public who are to be served by the proposal, health care
20 facilities located in the geographic area affected by the
21 application, agencies which establish rates for health care
22 facilities, third-party payers who reimburse health care
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24 agencies which plan or assist in planning for such
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13 month, established by department rule during which letters
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17 intent within the batch.

18 (7) "Board" means the board of health and
19 environmental sciences, provided for in 2-15-2104.

20 (8) "Capital expenditure" means an expenditure made by
21 or on behalf of a health care facility that, under generally
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7 part 21.

8 (16) "Federal acts" means federal statutes for the
9 construction of health care facilities.

10 (17) "Governmental unit" means the state, a state
11 agency, a county, municipality, or political subdivision of
12 the state, or an agency of a political subdivision.

13 (18) "Health care facility" or "facility" means any
14 institution, building, or agency or portion thereof, private
15 or public, excluding federal facilities, whether organized
16 for profit or not, used, operated, or designed to provide
17 health services, medical treatment, or nursing,
18 rehabilitative, or preventive care to any person or persons.
19 The term does not include offices of private physicians or
20 dentists. The term includes but is not limited to ambulatory
21 surgical facilities, health maintenance organizations, home
22 health agencies, hospices, hospitals, infirmaries, kidney
23 treatment centers, long-term care facilities, mental health
24 centers, outpatient facilities, public health centers,
25 rehabilitation facilities, and adult day-care centers.

1 (19) "Health maintenance organization" means a public
2 or private organization organized as defined in 42 U.S.C.
3 300e, as amended.

4 (20) "Health systems agency" means an entity which is
5 organized and operated in the manner described in 42 U.S.C.
6 3001-2 and which is capable, as determined by the secretary
7 of the United States department of health and human
8 services, of performing each of the functions described in
9 42 U.S.C. 3001-2.

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11 private organization or subdivision thereof which is engaged
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13 places where they live. Home health services must include
14 the services of a licensed registered nurse and at least one
15 other therapeutic service and may include additional support
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20 terminally ill patient and his family arising out of
21 physical, psychological, spiritual, social, and economic
22 stresses experienced during the final stages of illness and
23 dying and that includes formal bereavement programs as an
24 essential component.

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1 the supervision of licensed physicians, services for medical
 2 diagnosis, treatment, rehabilitation, and care of injured,
 3 disabled, or sick persons. Services provided may or may not
 4 include obstetrical care, emergency care, or any other
 5 service as allowed by state licensing authority. A hospital
 6 has an organized medical staff which is on call and
 7 available within 20 minutes, 24 hours per day, 7 days per
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 21 with headquarters in Chicago, Illinois, that surveys health
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1 specializes in treatment of kidney diseases, including
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 4 part thereof which provides skilled nursing care,
 5 intermediate nursing care, or intermediate developmental
 6 disability care to a total of two or more persons or
 7 personal care to more than four persons who are not related
 8 to the owner or administrator by blood or marriage. The
 9 term does not include adult foster care licensed under
 10 53-5-303, community homes for the developmentally disabled
 11 licensed under 53-20-305, community homes for physically
 12 disabled persons licensed under [section 6], boarding or
 13 foster homes for children licensed under ~~41-3-503~~ 41-3-1142,
 14 hotels, motels, boardinghouses, roominghouses, or similar
 15 accommodations providing for transients, students, or
 16 persons not requiring institutional health care, or juvenile
 17 and adult correctional facilities operating under the
 18 authority of the department of institutions.

19 (b) "Skilled nursing care" means the provision of
 20 nursing care services, health-related services, and social
 21 services under the supervision of a licensed registered
 22 nurse on a 24-hour basis.

23 (c) "Intermediate nursing care" means the provision of
 24 nursing care services, health-related services, and social
 25 services under the supervision of a licensed nurse to

1 patients not requiring 24-hour nursing care.

2 (d) "Intermediate developmental disability care" means
3 the provision of nursing care services, health-related
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5 disabled, as defined in 53-20-102(4), or persons with
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7 (e) "Personal care" means the provision of services
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24 more than 6 hours by a patient recovering from surgery or
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4 or apart from a hospital, providing, under the direction of
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7 or mental care. An outpatient facility may have observation
8 beds.

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10 including skilled nursing care, from a health care facility.

11 (35) "Person" means any individual, firm, partnership,
12 association, organization, agency, institution, corporation,
13 trust, estate, or governmental unit, whether organized for
14 profit or not.

15 (36) "Public health center" means a publicly owned
16 facility providing health services, including laboratories,
17 clinics, and administrative offices.

18 (37) "Rehabilitation facility" means a facility which
19 is operated for the primary purpose of assisting in the
20 rehabilitation of disabled persons by providing
21 comprehensive medical evaluations and services,
22 psychological and social services, or vocational evaluation
23 and training or any combination of these services and in
24 which the major portion of the services is furnished within
25 the facility.

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2 care facility for intermediate or personal care.

3 (39) "State health plan" means the plan prepared by the
4 department pursuant to 42 U.S.C. 300m-2(a)(2)."

-End-

GOVERNOR'S PROPOSED AMENDMENT
TO HOUSE BILL NO. 798
REFERENCE COPY
April 19, 1985

1. Page 1, line 19.
Following: "OF"
Strike: "FEDERAL"
Insert: "available"

-END-

1 STATEMENT OF INTENT

2 HOUSE BILL 798

3 House Human Services and Aging Committee
45 The department of social and rehabilitation services
6 currently does not have authority to either operate special
7 programs for physically disabled individuals or license
8 group homes on their behalf. House Bill No. 798 [LC 1294]
9 would grant such authority.10 It is intended that this bill would address some of the
11 more necessary needs of severely disabled persons who:12 (1) have a permanent impairment of a physical nature
13 that is diagnosed as such by a physician and substantially
14 limits a major life activity, such as walking, self-care,
15 seeing, hearing, or speaking;16 (2) do not meet the state definition for developmental
17 disability;18 (3) do not meet the eligibility criteria of vocational
19 rehabilitation; and

20 (4) do not qualify for medicaid waiver services.

21 These people represent a wide variety of disability
22 groups, such as people with head or spinal cord injuries,
23 people with a debilitating disease (multiple sclerosis,
24 amyotrophic lateral sclerosis, muscular dystrophy,
25 myasthenia gravis, cancer, etc.), multiply-disabled people,1 etc. An effort is currently underway to identify such
2 severely physically disabled individuals in addition to the
3 426 known people that were considered too severe for
4 vocational rehabilitation services in 1984. The fastest
5 growing segment of this group is the head-injured.6 Services to this group are the exception rather than
7 the rule, and traditionally have been medical maintenance
8 types of assistance from medicaid, medicare, or medical
9 assistance.10 Rules adopted by the department would have to address
11 the problem of personalized service needs of these
12 individuals which usually do not fit an existing structured
13 service model. Based upon some experience with this group,
14 it is presumed that the following types of services would be
15 necessary:16 (1) teaching individuals how to better manage their
17 own personal care and thereby reducing the medicaid costs;18 (2) instructing people in the use of transit systems
19 to reduce the need for therapy and to increase mobility.20 The residential or in-home services for the physically
21 disabled population include but are not limited to:22 (1) personal assistance (locating and supervising
23 attendants);24 (2) mobility (exploring transportation modes,
25 evaluation of devices needed for ambulation);

1 (3) home management (adaptive techniques or equipment
2 to facilitate independent housekeeping);

3 (4) problem solving (problem identification and
4 methods of solution);

5 (5) equipment (identification of assistive equipment
6 needs: selection, operation, care, and maintenance);

7 (6) sexuality (sexuality and disability, dating, role
8 expectations); and

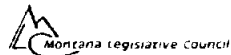
9 (7) other services the department considers
10 appropriate.

11 In addition to such programmatic rules, it is intended
12 that the department adopt rules for licensing of community
13 homes and in cooperation with other agencies adopt rules to
14 ensure that such homes provide necessary services for the
15 well-being of the individuals in the homes and that their
16 surroundings are safe and healthful. It is intended that the
17 rules providing for such standards recognize the needs of
18 the individual, the resources of home operators, and the
19 goals of this legislation.

1 HOUSE BILL NO. 798
 2 INTRODUCED BY MILES, KRUEGER
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
 4 AND REHABILITATION SERVICES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
 7 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO OPERATE
 8 COMMUNITY PROGRAMS FOR PHYSICALLY DISABLED PERSONS; TO
 9 AUTHORIZE THE DEPARTMENT TO LICENSE COMMUNITY HOMES FOR THE
 10 PHYSICALLY DISABLED; AND TO PROVIDE FOR STANDARDS FOR
 11 PROGRAMS, ADMINISTRATION, HEALTH, AND SAFETY FOR SUCH
 12 SERVICES AND COMMUNITY HOMES; AND AMENDING SECTION 50-5-101,
 13 MCA."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 NEW SECTION. Section 1. Purpose. The legislature, in
 17 recognition of needs of physically disabled persons and of
 18 the desirability of meeting those needs on a community level
 19 to the ~~fullest extent possible~~ EXTENT OF FEWERAS AVAILABLE
 20 FUNDING and in order to reduce the need for institutional
 21 care settings, establishes by [this act] a community program
 22 to provide facilities and services for the training and
 23 treatment of physically disabled persons. The legislature
 24 further recognizes the need to provide for the licensing of
 25 CURRENT community homes for physically disabled persons.

1 NEW SECTION. Section 2. Definitions. As used in [this
 2 act], the following definitions apply:
 3 (1) "Community home for physically disabled persons"
 4 means a family-oriented residence designed to provide
 5 residential services for two to eight eligible physically
 6 disabled persons THAT DOES NOT PROVIDE SKILLED OR
 7 INTERMEDIATE NURSING CARE. THIS DEFINITION DOES NOT PRECLUDE
 8 THE PROVISION OF SKILLED OR INTERMEDIATE NURSING CARE BY
 9 THIRD-PERSON PROVIDERS.
 10 (2) "Department" means the department of social and
 11 rehabilitation services established in 2-15-2201.
 12 (3) "Eligible physically disabled person" means a
 13 physically disabled person who after an assessment of his
 14 disabilities and needs is determined by the department to be
 15 in need of services and for whom appropriate services are
 16 available under [this act] and who is not eligible for
 17 similar services provided under other programs.
 18 (4) "Physically disabled person" means a disabled
 19 person with a permanent impairment that substantially limits
 20 major life activity, such as walking, self-care, seeing,
 21 hearing, speaking, learning, reasoning, judgment, or memory,
 22 and that can be diagnosed by a physician ~~or appropriate~~
 23 ~~specialist.~~
 24 NEW SECTION. Section 3. ~~Parties-----authorized-----to~~
 25 ~~establish---and---operate---community---homes---(1)---Nonprofit~~



~~corporations may be formed in any community for the purposes of providing services to and establishing community homes for eligible physically disabled persons under {this act} and to receive services, facilities, and funds as the department and other governmental units may be authorized by law to provide.~~

{2} DEPARTMENT AUTHORIZED TO PROVIDE SERVICES. The department may establish AND PROVIDE services and community homes for eligible physically disabled persons and receive services, facilities, and funds as the department and other governmental units may be authorized by law to receive or provide.

NEW SECTION. Section 4. Department contracts for services -- governmental units providing for community homes. (1) The department may expend money appropriated or available for the purposes of [this act] and may contract for services for eligible physically disabled persons with any person or entity providing such services.

(2) Governmental units, including but not limited to counties, municipalities, school districts, or state institutions of higher learning, may at their own expense provide services, funds, materials, and facilities for services to community homes for physically disabled persons.

NEW SECTION. Section 5. Federal aid. The department may apply for and receive federal-aid money or other

assistance that may be available for programs in the nature of the program created by [this act].

NEW SECTION. Section 6. Departmental licensing. (1) A community home for the physically disabled must be licensed annually by the department.

(2) In accordance with rules established for such purposes, the department may issue temporary and probationary licenses.

NEW SECTION. Section 7. Rulemaking. (1) For the purposes of providing services to physically disabled persons, the department may adopt rules necessary for the administration of the services provided to physically disabled persons under [this act]. Rules adopted may include but are not limited to eligibility for services, facility design and acquisition, program staffing, staff training, service goals and design, quality of services, client placement procedures, client rights and privileges, client grievance procedures, provider grievance procedures, and accounting procedures which include accounting of client financial resources.

(2) (a) The department shall, for the purpose of licensing, adopt rules to govern administration, operation, and health and safety standards of community homes for physically disabled persons in order to protect residents' rights. The department shall provide for temporary and

1 probationary licensing.

2 (b) The department of health and environmental
3 sciences shall provide advice and recommendations to the
4 department of social and rehabilitation services concerning
5 the standards for health and safety to be adopted.

6 (3) The department shall, in cooperation with the
7 board of nursing, adopt rules under which a properly trained
8 staff member of a facility providing services to physically
9 disabled persons under [this act] may supervise and assist a
10 client of a facility in taking a medication if the
11 medication is usually self-administered and if a physician
12 has prescribed the assistance.

13 NEW SECTION. Section 8. Health and safety standards
14 ~~and-certification~~ for licensing. (1) Community homes must be
15 certified annually for fire and life safety by the state
16 fire marshal. The state fire marshal shall notify the
17 department whenever a community home has been so certified
18 or refused such certification.

19 (2) (a) Local health officers shall ~~certify~~ INSPECT
20 community homes for compliance with health and safety
21 standards. If for any reason the local authority cannot
22 complete the ~~certification~~ INSPECTION in a timely manner,
23 the department of health and environmental sciences may make
24 the ~~determination--of--certification~~ INSPECTION TO ASSURE
25 COMPLIANCE WITH THE STANDARDS.

1 (b) The inspecting health officer shall notify the
2 department of social and rehabilitation services whenever
3 ~~WHETHER~~ a community home ~~has-been-so-certified-or-refused~~
4 ~~such---certification~~ IS OR IS NOT IN COMPLIANCE WITH
5 APPLICABLE STANDARDS.

6 (c) A reasonable fee may be charged by ~~local~~ health
7 ~~officers-----for~~ AUTHORITIES CONDUCTING compliance
8 ~~certifications~~ INSPECTIONS.

9 SECTION 9. SECTION 50-5-101, MCA, IS AMENDED TO READ:
10 "50-5-101. Definitions. As used in parts 1 through 4
11 of this chapter, unless the context clearly indicates
12 otherwise, the following definitions apply:

13 (1) "Accreditation" means a designation of approval.

14 (2) "Adult day-care center" means a facility,
15 freestanding or connected to another health care facility,
16 which provides adults, on an intermittent basis, with the
17 care necessary to meet the needs of daily living.

18 (3) "Affected persons" means the applicant, members of
19 the public who are to be served by the proposal, health care
20 facilities located in the geographic area affected by the
21 application, agencies which establish rates for health care
22 facilities, third-party payers who reimburse health care
23 facilities in the area affected by the proposal, and
24 agencies which plan or assist in planning for such
25 facilities, including any agency qualifying as a health

1 systems agency pursuant to Title XV of the Public Health
2 Service Act.

3 (4) "Ambulatory surgical facility" means a facility,
4 not part of a hospital, which provides surgical treatment to
5 patients not requiring hospitalization. This type of
6 facility may include observation beds for patient recovery
7 from surgery or other treatment.

8 (5) "Batch" means those letters of intent and
9 applications of a specified category and within a specified
10 region of the state, as established by department rule, that
11 are accumulated during a single batching period.

12 (6) "Batching period" means a period, not exceeding 1
13 month, established by department rule during which letters
14 of intent for specified categories of new institutional
15 health services and for specified regions of the state may
16 be accumulated pending further processing of all letters of
17 intent within the batch.

18 (7) "Board" means the board of health and
19 environmental sciences, provided for in 2-15-2104.

20 (8) "Capital expenditure" means an expenditure made by
21 or on behalf of a health care facility that, under generally
22 accepted accounting principles, is not properly chargeable
23 as an expense of operation and maintenance.

24 (9) "Certificate of need" means a written
25 authorization by the department for a person to proceed with

1 a proposal subject to 50-5-301.

2 (10) "Challenge period" means a period, not exceeding 1
3 month, established by department rule during which any
4 person may apply for comparative review with an applicant
5 whose letter of intent has been received during the
6 preceding batching period.

7 (11) "Clinical laboratory" means a facility for the
8 microbiological, serological, chemical, hematological,
9 radiobioassay, cytological, immunohematological,
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-End-