

HOUSE BILL NO. 243

INTRODUCED BY RICE

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

IN THE HOUSE

JANUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 18, 1989	FIRST READING.
JANUARY 24, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 25, 1989	PRINTING REPORT.
JANUARY 26, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
JANUARY 27, 1989	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 4, 1989	SECOND READING, DO PASS.
FEBRUARY 6, 1989	ENGROSSING REPORT.
FEBRUARY 7, 1989	THIRD READING, PASSED. AYES, 93; NOES, 6.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
MARCH 4, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.

MARCH 6, 1989

SECOND READING, CONCURRED IN.

MARCH 8, 1989

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 1.

RETURNED TO HOUSE WITH AMENDMENTS
AND STATEMENT OF INTENT.

IN THE HOUSE

MARCH 10, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 11, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 243
 2 INTRODUCED BY _____
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
 4 AND REHABILITATION SERVICES
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE SUPERVISED
 7 WORK PROGRAMS AND SUPPORT SERVICES FOR PERSONS WITH SEVERE
 8 DISABILITIES; TO REDEFINE TERMS AND CLARIFY PROVISIONS
 9 RELATING TO SHELTERED WORKSHOPS AND WORK ACTIVITY CENTERS;
 10 AMENDING SECTIONS 53-7-201 THROUGH 53-7-204, MCA; AND
 11 PROVIDING EFFECTIVE DATES."
 12

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

14 **Section 1.** Section 53-7-201, MCA, is amended to read:

15 "53-7-201. Legislative findings and purpose. (1) The
 16 purpose of this part is to encourage the development, and
 17 improvement, and expansion of sheltered employment and of
 18 supervised work programs and support services for mentally
 19 retarded, severely handicapped, and disadvantaged
 20 individuals to enable them to become contributing and
 21 self-supporting members of society as an alternative to
 22 dependency persons with severe disabilities.

23 (2) The condition of the mentally retarded, severely
 24 handicapped, and disadvantaged is such that after laborious
 25 training in the schools and otherwise, they reach the point

1 in their lives where they can and should under proper and
 2 continued guidance engage in sheltered employment or
 3 supervised work to help them become contributing members of
 4 society instead of being dependent. For such persons,
 5 retention in sheltered employment or supervised work may
 6 constitute satisfactory placement. Such training and
 7 placement is often a suitable alternative to
 8 institutionalization or idleness and its consequences. By
 9 keeping these individuals within their communities and in
 10 touch with their families, a worthwhile dimension is added
 11 to their lives, and they are thus spared the anxieties
 12 naturally attached to separation. All of these factors have
 13 also been shown to reflect tangible benefits upon the
 14 mentally retarded, severely handicapped, or disadvantaged
 15 person by improving his overall well-being. Supervised work
 16 programs and support services should be available to provide
 17 persons with severe disabilities the skills and means by
 18 which they may lead socially and vocationally productive
 19 lives so they can be integrated into society.

20 (3) The state may encourage the establishment of and
 21 provide funding for supervised work programs and support
 22 services for persons with severe disabilities."

23 **Section 2.** Section 53-7-202, MCA, is amended to read:

24 "53-7-202. Definitions. (1) "Department" means the
 25 department of social and rehabilitation services.

(2)--"Physical--or--mental-disability"--means-a-physical or-mental-condition-which-materially-limits,-contributes--to limiting,-or--if--not--corrected--will--probably--result-in limiting-an-individual's-activities-or-functioning.-The-term includes--behavioral--disorders--characterized--by---deviant social--behavior--or--impaired--ability--to-carry-out-normal relationships-with-family-and--community--which--may--result from-----vocational,-educational,-cultural,-social,- environmental,-or-other-factors;

(3)--"Self-care"---means---a---reasonable---degree---of restoration--from--dependency-upon-others-for-personal-needs and-care-and-includes-but-is-not-limited-to-ability-to--live in-own-home-rather-than-requiring-nursing-home-care-and-care for-self-rather-than-requiring-attendant-care;

(4)--"Severely---handicapped---person"----means---any individual;

(a)--who-has-a--physical--or--mental--impairment--which requires--multiple--services-over-an-extended-period-of-time and-results-from--amputation,-blindness,-cancer,-cerebral palsy,-cystic-fibrosis,-deafness,-heart-disease,-hemiplegia,- respiratory--or--pulmonary--dysfunction,-mental-retardation,- mental--illness,-multiple-sclerosis,-muscular--dystrophy,- neurological--disorders--(including--stroke--and--epilepsy),- paraplegia,-quadriplegia,-and-other-spinal-cord--conditions,- renal--failure,-and--any--other-disability-specified-by-the

department-in-regulations-it-shall-prescribe,-or

(b)--who,-because--of--lack--of---social---competence,- mobility,-experience,-skills,-training,-or-other-successful characteristics-is-in-need-of-sheltered-employment--or--work activity-services-in-a-protective-setting;

(2) "Severe disability" means a severe physical or mental impairment that seriously limits a person's functional capacities in respect to obtaining employment.

(5)(3) "Sheltered workshop employment" means a charitable-organization-or--institution--conducted--not--for profit--but--for--the--purpose--of-carrying-out a recognized program of rehabilitation, for--handicapped--workers---or providing--such-individuals-with remunerative employment, or other occupational rehabilitating activity of an educational or therapeutic nature provided by a nonprofit sheltered workshop provider. Sheltered employment includes job skills and social skills training and remunerative employment.

(4) "Supervised work program" means a program providing guidance in learning and achieving the requirements of job performance through work activity, sheltered employment, and supported employment.

(5) "Supported employment" means competitive work in an intergrated work setting for a person with a severe disability who is in need of assistance in order to become employed or remain employed. Supported employment includes

assessment, preplacement preparation, job development, job placement, job skills training, and support services.

(6) "Support services" means continuous or periodic job skills training provided to a person at a worksite to enable the person to perform work. Support services also include services away from the worksite that are necessary to allow a person with a severe disability to participate in a supervised work program, such as transportation, direction and assistance in functional skills, and counseling for family members.

~~{6}--"Vocational--rehabilitation--services"--means--goods or--services--provided--handicapped--persons--to--enable--such persons--to--be--fit--for--gainful--occupation--or--to--attain--or maintain--a--maximum--degree--of--self--support--or--self--care--and includes--every--type--of--goods--and--services--for--which--federal funds--are--available--for--vocational--rehabilitation--purposes, including---but---not---limited---to---the---establishment, construction, development, operation, and maintenance--of workshops--and--rehabilitation--facilities.~~

(7) "Work activity center" means a--physically separated department of a workshop--having--an--identifiable program,--separate--supervision--and--records,--and--which--is planned--and--designed--exclusively--to--provide therapeutic work-related activities provided by a nonprofit work activity center provider for handicapped workers to persons

whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic work-related activities include custodial activities--such as activities where the focus is on teaching the training in basic skills of living, and any purposeful activity so long as work or production is not the main purpose."

Section 3. Section 53-7-203, MCA, is amended to read:

"53-7-203. Purchase of sheltered-employment services.

(1) The department may purchase services under this part for severely---handicapped persons with severe disabilities, sheltered--employment to the extent that funds are appropriated and allocated, --services from any sheltered workshop, in Montana or work activity services from any work activity center, supported employment provider, or support services provider within Montana. The performance of and payment for such services--shall--be--subject--to--postaudit review by the state auditor.

(2) ~~The---department--shall--maintain--a--register--of nonprofit organizations which it and other appropriate state and federal agencies have inspected and certified as meeting required standards and as qualifying to serve the needs of such---severely---handicapped---or---disadvantaged--persons.~~ Eligibility of organizations to An organization may receive the--funds--specified--by funding under this part shall be based--upon if it meets the standards and criteria

promulgated by the department.

(3) ~~The department is authorized to promulgate such rules as it may deem necessary or proper to carry out the provisions of this section.~~ The department shall adopt standards and criteria for the services purchased under this part to assure the quality and appropriateness of such services. The department may adopt standards and criteria of a nationally recognized accreditation organization for accrediting facilities providing services under this part.

Section 4. Section 53-7-204, MCA, is amended to read:

"53-7-204. Use of federal funds Federal and other aid.

(1) The department may apply for and receive federal aid money or other funding available for the programs provided for under this part.

(2) Federal funds and other funding as may be available are appropriated to the department for use in administering the provisions of this part."

NEW SECTION. Section 5. Eligibility for services. (1)

A person may receive services provided for under this part if the department determines that:

(a) the person has a severe disability;

(b) the person lacks social competence, mobility, experience, skills, training, or other characteristics of independence;

(c) the person is in need of services provided for

under this part; and

(d) the needed services are available for that person.

(2) The receipt of services under this part by an eligible person shall be governed by an individual service plan developed in accordance with state and federal requirements.

NEW SECTION. Section 6. Rulemaking. For the purposes of providing supervised work programs and support services for persons with severe disabilities, the department may adopt rules necessary for the administration of such programs. Rules adopted may include but are not limited to rules regarding eligibility for services, certification of services, program staffing, staff training, service goals and design, quality of services, recipient placement procedures, individual service plans, recipient rights and privileges, recipient grievance procedures, fair hearings, provider relationships, provider accounting procedures, and definitions necessary to implement this part.

NEW SECTION. Section 7. Codification instruction.

[Sections 5 and 6] are intended to be codified as an integral part of Title 53, chapter 7, part 2, and the provisions of Title 53, chapter 7, part 2, apply to [sections 5 and 6].

NEW SECTION. Section 8. Effective dates. (1)

[Sections 6, 7, and this section] are effective on passage

LC 0428/01

1 and approval.

2 (2) [Sections 1 through 5] are effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB243, on second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide supervised work programs and support services for persons with severe disabilities; to redefine terms and clarify provisions relating to sheltered workshops and work activity centers; amending sections 53-7-201 through 53-7-204, MCA; and providing effective dates.

ASSUMPTIONS:

1. The bill allows the Department of Social and Rehabilitation Services to provide support services for supported employment.
2. Supported services will be provided using part of the current level appropriation for extended employment services. There is no additional funding requested by SRS.

FISCAL IMPACT:Expenditures:

	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
SRS						
Benefits	\$283,768	\$283,768	\$ 0	\$283,768	\$283,768	\$ 0

Funding:

General fund	\$283,768	\$283,768	\$ 0	\$283,768	\$283,768	\$ 0
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Ray Shackelford 2/1/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Jim Rice 2-2-89
JIM RICE, PRIMARY SPONSOR DATE

Fiscal Note for HB243, on 2nd reading

HB 243

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 243

INTRODUCED BY RICE

BY REQUEST OF THE DEPARTMENT OF SOCIAL

AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE SUPERVISED WORK PROGRAMS AND SUPPORT SERVICES FOR PERSONS WITH SEVERE DISABILITIES; TO REDEFINE TERMS AND CLARIFY PROVISIONS RELATING TO SHELTERED WORKSHOPS AND WORK ACTIVITY CENTERS; AMENDING SECTIONS 53-7-201 THROUGH 53-7-204, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 53-7-201, MCA, is amended to read:

"53-7-201. Legislative findings and purpose. (1) The purpose of this part is to encourage the development, and improvement, and expansion of sheltered employment and of supervised work programs and support services for mentally retarded, severely handicapped, and disadvantaged individuals to enable them to become contributing and self-supporting members of society as an alternative to dependency persons with severe disabilities.

(2) The condition of the mentally retarded, severely handicapped, and disadvantaged is such that after laborious training in the schools and otherwise, they reach the point

in their lives where they can and should under proper and continued guidance engage in sheltered employment or supervised work to help them become contributing members of society instead of being dependent. For such persons, retention in sheltered employment or supervised work may constitute satisfactory placement. Such training and placement is often a suitable alternative to institutionalization or idleness and its consequences. By keeping these individuals within their communities and in touch with their families, a worthwhile dimension is added to their lives, and they are thus spared the anxieties naturally attached to separation. All of these factors have also been shown to reflect tangible benefits upon the mentally retarded, severely handicapped, or disadvantaged person by improving his overall well-being. Supervised work programs and support services should be available to provide persons with severe disabilities the skills and means by which they may lead socially and vocationally productive lives so they can be integrated into society.

(3) The state may encourage the establishment of and provide funding for supervised work programs and support services for persons with severe disabilities."

Section 2. Section 53-7-202, MCA, is amended to read:

"53-7-202. Definitions. (1) "Department" means the department of social and rehabilitation services.

1 (2)--"Physical--or--mental-disability"--means-a-physical
 2 or-mental-condition-which-materially-limits,-contributes--to
 3 limiting,-or-if-not-corrected--will--probably--result-in
 4 limiting-an-individual's-activities-or-functioning.-The-term
 5 includes--behavioral--disorders--characterized--by--deviant
 6 social--behavior--or--impaired--ability--to-carry-out-normal
 7 relationships-with-family-and--community--which--may--result
 8 from----vocational,-educational,-cultural,-social,
 9 environmental,-or-other-factors.

10 (3)--"Self-care"--means--a--reasonable--degree--of
 11 restoration--from--dependency-upon-others-for-personal-needs
 12 and-care-and-includes-but-is-not-limited-to-ability-to--live
 13 in-own-home-rather-than-requiring-nursing-home-care-and-care
 14 for-self-rather-than-requiring-attendant-care.

15 (4)--"Severely---handicapped---person"----means---any
 16 individual:

17 (a)--who-has-a--physical--or--mental--impairment--which
 18 requires--multiple--services-over-an-extended-period-of-time
 19 and-results-from--amputation,-blindness,-cancer,-cerebral
 20 palsy,-cystic-fibrosis,-deafness,-heart-disease,-hemiplegia,
 21 respiratory--or--pulmonary--dysfunction,-mental-retardation,
 22 mental--illness,-multiple-sclerosis,-muscular-dystrophy,
 23 neurological--disorders--(including--stroke--and--epilepsy),
 24 paraplegia,-quadriplegia,-and-other-spinal-cord--conditions,
 25 renal--failure,-and--any--other-disability-specified-by-the

1 department-in-regulations-it-shall-prescribe;-or

2 (b)--who,-because--of--lack--of--social--competence,
 3 mobility,-experience,-skills,-training,-or-other-successful
 4 characteristics-is-in-need-of-sheltered-employment--or--work
 5 activity-services-in-a-protective-setting.

6 (2) "Severe disability" means a severe physical or
 7 mental impairment that seriously limits a person's
 8 functional capacities in respect to obtaining employment.

9 (5)(3) "Sheltered workshop employment" means a
 10 charitable-organization-or--institution--conducted--not--for
 11 profit--but--for--the--purpose--of-carrying-out a recognized
 12 program of rehabilitation, for--handicapped--workers---or
 13 providing--such-individuals-with remunerative employment, or
 14 other occupational rehabilitating activity of an educational
 15 or therapeutic nature provided by a nonprofit sheltered
 16 workshop provider. Sheltered employment includes job skills
 17 and social skills training and remunerative employment.

18 (4) "Supervised work program" means a program
 19 providing guidance in learning and achieving the
 20 requirements of job performance through work activity,
 21 sheltered employment, and supported employment.

22 (5) "Supported employment" means competitive work in
 23 an intergrated work setting for a person with a severe
 24 disability who is in need of assistance in order to become
 25 employed or remain employed. Supported employment includes

1 assessment, preplacement preparation, job development, job
2 placement, job skills training, and support services.

3 (6) "Support services" means continuous or periodic
4 job skills training provided to a person at a worksite to
5 enable the person to perform work. Support services also
6 include services away from the worksite that are necessary
7 to allow a person with a severe disability to participate in
8 a supervised work program, such as transportation, direction
9 and assistance in functional skills, and counseling for
10 family members.

11 ~~(6) "Vocational rehabilitation services" means goods~~
12 ~~or services provided to handicapped persons to enable such~~
13 ~~persons to be fit for gainful occupation or to attain or~~
14 ~~maintain a maximum degree of self-support or self-care and~~
15 ~~includes every type of goods and services for which federal~~
16 ~~funds are available for vocational rehabilitation purposes,~~
17 ~~including but not limited to the establishment,~~
18 ~~construction, development, operation, and maintenance of~~
19 ~~workshops and rehabilitation facilities.~~

20 (7) "Work activity center" means a physically
21 separated department of a workshop having an identifiable
22 program, separate supervision and records, and which is
23 planned and designed exclusively to provide therapeutic
24 work-related activities provided by a nonprofit work
25 activity center provider for handicapped workers to persons

1 whose physical or mental impairment is so severe as to make
2 their productive capacity inconsequential. Therapeutic
3 work-related activities include custodial activities (such
4 as activities where the focus is on teaching the training in
5 basic skills of living) and any purposeful activity so long
6 as work or production is not the main purpose."

7 **Section 3.** Section 53-7-203, MCA, is amended to read:

8 **"53-7-203. Purchase of sheltered employment services.**

9 (1) The department may purchase services under this part for
10 severely handicapped persons with severe disabilities,
11 sheltered employment to the extent that funds are
12 appropriated and allocated, services from any sheltered
13 workshop EMPLOYMENT PROVIDER, in Montana or work activity
14 services from any work activity center, supported employment
15 provider, or support services provider within Montana. The
16 performance of and payment for such services shall be
17 subject to postaudit review by the state auditor.

18 (2) ~~The department shall maintain a register of~~
19 ~~nonprofit organizations which it and other appropriate state~~
20 ~~and federal agencies have inspected and certified as meeting~~
21 ~~required standards and as qualifying to serve the needs of~~
22 ~~such severely handicapped or disadvantaged persons.~~
23 Eligibility of organizations to An organization may receive
24 the funds specified by funding under this part shall be
25 based upon if it meets the standards and criteria

1 promulgated by the department.

2 ~~(3) The department is authorized to promulgate such~~
3 ~~rules as it may deem necessary or proper to carry out the~~
4 ~~provisions of this section. The department shall adopt~~
5 ~~standards and criteria for the services purchased under this~~
6 ~~part to assure the quality and appropriateness of such~~
7 ~~services. The department may adopt standards and criteria of~~
8 ~~a nationally recognized accreditation organization for~~
9 ~~accrediting facilities providing services under this part."~~

10 **Section 4.** Section 53-7-204, MCA, is amended to read:

11 **"53-7-204. Use of federal funds** Federal and other aid.

12 (1) The department may apply for and receive federal aid
13 money or other funding available for the programs provided
14 for under this part.

15 (2) Federal funds and other funding as may be
16 available are appropriated to the department for use in
17 administering the provisions of this part."

18 **NEW SECTION. Section 5. Eligibility for services.** (1)
19 A person may receive services provided for under this part
20 if the department determines that:

- 21 (a) the person has a severe disability;
- 22 (b) the person lacks social competence, mobility,
- 23 experience, skills, training, or other characteristics of
- 24 independence;
- 25 (c) the person is in need of services provided for

1 under this part; and

2 (d) the needed services are available for that person.

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4 eligible person shall be governed by an individual service
5 plan developed in accordance with state and federal
6 requirements.

7 **NEW SECTION. Section 6. Rulemaking.** For the purposes
8 of providing supervised work programs and support services
9 for persons with severe disabilities, the department may
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11 programs. Rules adopted may include but are not limited to
12 rules regarding eligibility for services, certification of
13 services, program staffing, staff training, service goals
14 and design, quality of services, recipient placement
15 procedures, individual service plans, recipient rights and
16 privileges, recipient grievance procedures, fair hearings,
17 provider relationships, provider accounting procedures, and
18 definitions necessary to implement this part.

19 **NEW SECTION. Section 7. Codification** instruction.
20 [Sections 5 and 6] are intended to be codified as an
21 integral part of Title 53, chapter 7, part 2, and the
22 provisions of Title 53, chapter 7, part 2, apply to
23 [sections 5 and 6].

24 **NEW SECTION. Section 8. Effective** dates. (1)
25 [Sections 6, 7, and this section] are effective on passage

HB 0243/02

1 and approval.

2 (2) [Sections 1 through 5] are effective July 1, 1989.

-End-

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~~{3}--"Self-care"--means--a--reasonable--degree--of--restoration--from--dependency--upon--others--for--personal--needs--and--care--and--includes--but--is--not--limited--to--ability--to--live--in--own--home--rather--than--requiring--nursing--home--care--and--care--for--self--rather--than--requiring--attendant--care.~~

~~{4}--"Severely--handicapped--person"--means--any--individual:~~

~~{a)--who--has--a--physical--or--mental--impairment--which--requires--multiple--services--over--an--extended--period--of--time--and--results--from--amputation,--blindness,--cancer,--cerebral--palsy,--cystic--fibrosis,--deafness,--heart--disease,--hemiplegia,--respiratory--or--pulmonary--dysfunction,--mental--retardation,--mental--illness,--multiple--sclerosis,--muscular--dystrophy,--neurological--disorders--(including--stroke--and--epilepsy),--paraplegia,--quadriplegia,--and--other--spinal--cord--conditions,--renal--failure,--and--any--other--disability--specified--by--the~~

~~department--in--regulations--it--shall--prescribe;--or~~

~~{b)--who,--because--of--lack--of--social--competence,--mobility,--experience,--skills,--training,--or--other--successful--characteristics--is--in--need--of--sheltered--employment--or--work--activity--services--in--a--protective--setting;~~

(2) "Severe disability" means a severe physical or mental impairment that seriously limits a person's functional capacities in respect to obtaining employment.

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~~(6) "Vocational rehabilitation services" means goods or services provided handicapped persons to enable such persons to be fit for gainful occupation or to attain or maintain a maximum degree of self-support or self-care and includes every type of goods and services for which federal funds are available for vocational rehabilitation purposes, including but not limited to the establishment, construction, development, operation, and maintenance of workshops and rehabilitation facilities.~~

(7) "Work activity center" means a physically separated department of a workshop having an identifiable program, separate supervision and records, and which is planned and designed exclusively to provide therapeutic work-related activities provided by a nonprofit work activity center provider for handicapped workers to persons

whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic work-related activities include ~~custodial activities (such as activities where the focus is on teaching the training in~~ basic skills of living) and any purposeful activity so long as work or production is not the main purpose."

Section 3. Section 53-7-203, MCA, is amended to read:

"53-7-203. Purchase of sheltered employment services.

(1) The department may purchase services under this part for severely---handicapped persons with severe disabilities, sheltered employment to the extent that funds are appropriated and allocated, -services from any sheltered workshop EMPLOYMENT PROVIDER, in Montana--or--work--activity services from any work activity center, supported employment provider, or support services provider within Montana. The performance of--and--payment--for--such--services--shall--be subject to postaudit review by the state auditor.

(2) ~~The--department--shall--maintain--a--register--of nonprofit organizations which it and other appropriate state and federal agencies have inspected and certified as meeting required standards and as qualifying to serve the--needs--of such--severely--handicapped--or--disadvantaged--persons.~~ Eligibility of organizations to An organization may receive the--funds--specified--by funding under this part shall be based--upon if it meets the standards and criteria

promulgated by the department.

(3) ~~The department is authorized to promulgate such rules as it may deem necessary or proper to carry out the provisions of this section.~~ The department shall adopt standards and criteria for the services purchased under this part to assure the quality and appropriateness of such services. The department may adopt standards and criteria of a nationally recognized accreditation organization for accrediting facilities providing services under this part.

Section 4. Section 53-7-204, MCA, is amended to read:

***53-7-204. Use of federal funds** Federal and other aid.

(1) The department may apply for and receive federal aid money or other funding available for the programs provided for under this part.

(2) Federal funds and other funding as may be available are appropriated to the department for use in administering the provisions of this part.

NEW SECTION. Section 5. Eligibility for services. (1)

A person may receive services provided for under this part if the department determines that:

(a) the person has a severe disability;

(b) the person lacks social competence, mobility, experience, skills, training, or other characteristics of independence;

(c) the person is in need of services provided for

under this part; and

(d) the needed services are available for that person.

(2) The receipt of services under this part by an eligible person shall be governed by an individual service plan developed in accordance with state and federal requirements.

NEW SECTION. Section 6. Rulemaking. For the purposes of providing supervised work programs and support services for persons with severe disabilities, the department may adopt rules necessary for the administration of such programs. Rules adopted may include but are not limited to rules regarding eligibility for services, certification of services, program staffing, staff training, service goals and design, quality of services, recipient placement procedures, individual service plans, recipient rights and privileges, recipient grievance procedures, fair hearings, provider relationships, provider accounting procedures, and definitions necessary to implement this part.

NEW SECTION. Section 7. Codification instruction. [Sections 5 and 6] are intended to be codified as an integral part of Title 53, chapter 7, part 2, and the provisions of Title 53, chapter 7, part 2, apply to [sections 5 and 6].

NEW SECTION. Section 8. Effective dates. (1) [Sections 6, 7, and this section] are effective on passage

HB 0243/02

1 and approval.

2 (2) [Sections 1 through 5] are effective July 1, 1989.

-End-

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 4, 1989

SENATE COMMITTEE ON LABOR, HB 243
page 2 of 2

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 243 (third reading copy -- blue), respectfully report that HB 243 be amended and as so amended be concurred in:

Sponsor: Rice (Keating)

1. Page 1, line 13.
Following: line 12
Insert: "

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 3 and 6] delegate authority to the department of social and rehabilitation services to adopt rules necessary for administration of programs and services provided in [sections 1, 3, and 5].

It is the intent of the legislature, in enacting this bill, to establish a comprehensive program of supervised work and support services for persons with severe disabilities. The program must include sheltered employment, supported employment, work activity, and support services that will help persons who are severely disabled to lead socially and vocationally productive lives so they can be integrated into society.

The department may adopt such rules as are necessary to implement a spectrum of services under the program. Rules may be adopted to govern eligibility for services, certification of services, program staffing, staff training, service goals and design, quality of services, recipient placement procedures, individual service plans, recipient rights and privileges, recipient grievance procedures, fair hearings, provider relationships, provider accounting procedures, and any other matters necessary to implement the provisions of this bill."

2. Page 8, line 19.
Following: line 18
Insert: "NEW SECTION. Section 7. Coordination requirements -- consolidation of services authorized. (1) The governor shall assure that services under this part are coordinated with programs and services in Title 53, chapter 7, parts 1 and 3, and Title 53, chapter 19, part 1, that are administered by the department with funds provided under the federal Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as amended.

(2) The governor may consolidate services under this part with other programs and services in order to maximize coordination of services as required in subsection (1) and to prevent overlapping and duplication of services within state government."

Renumber: subsequent sections

3. Page 8, line 20.
Following: "5"
Strike: "and 6"
Insert: "through 7"

4. Page 8, line 23.
Following: "5"
Strike: "and 6"
Insert: "through 7"

5. Page 8, line 25.
Following: "6"
Strike: "; 7,"
Insert: "through 8"

AND AS AMENDED BE CONCURRED IN
Statement of Intent Adopted

Signed: 
Gary C. Aklestad, Chairman

continued

scrhb243.304

HB 243

SENATE

scrhb243.304

HB 243

1 HOUSE BILL NO. 243

2 INTRODUCED BY RICE

3 BY REQUEST OF THE DEPARTMENT OF SOCIAL

4 AND REHABILITATION SERVICES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE SUPERVISED
7 WORK PROGRAMS AND SUPPORT SERVICES FOR PERSONS WITH SEVERE
8 DISABILITIES; TO REDEFINE TERMS AND CLARIFY PROVISIONS
9 RELATING TO SHELTERED WORKSHOPS AND WORK ACTIVITY CENTERS;
10 AMENDING SECTIONS 53-7-201 THROUGH 53-7-204, MCA; AND
11 PROVIDING EFFECTIVE DATES."

12
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because
15 [sections 3 and 6] delegate authority to the department of
16 social and rehabilitation services to adopt rules necessary
17 for administration of programs and services provided in
18 [sections 1, 3, and 5].

19 It is the intent of the legislature, in enacting this
20 bill, to establish a comprehensive program of supervised
21 work and support services for persons with severe
22 disabilities. The program must include sheltered employment,
23 supported employment, work activity, and support services
24 that will help persons who are severely disabled to lead
25 socially and vocationally productive lives so they can be

1 integrated into society.

2 The department may adopt such rules as are necessary to
3 implement a spectrum of services under the program. Rules
4 may be adopted to govern eligibility for services,
5 certification of services, program staffing, staff training,
6 service goals and design, quality of services, recipient
7 placement procedures, individual service plans, recipient
8 rights and privileges, recipient grievance procedures, fair
9 hearings, provider relationships, provider accounting
10 procedures, and any other matters necessary to implement the
11 provisions of this bill.

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

14 Section 1. Section 53-7-201, MCA, is amended to read:

15 "53-7-201. Legislative findings and purpose. (1) The
16 purpose of this part is to encourage the development, and
17 improvement,--and--expansion--of--sheltered-employment--and--of
18 supervised work programs and support services for mentally
19 retarded,---severely---handicapped,---and---disadvantaged
20 individuals--to--enable--them--to--become--contributing--and
21 self-supporting--members--of--society--as--an--alternative--to
22 dependency persons with severe disabilities.

23 (2) ~~The condition of the mentally retarded, severely~~
24 ~~handicapped, and disadvantaged is such that after laborious~~
25 ~~training in the schools and otherwise, they reach the point~~

1 in--their--lives--where--they--can--and--should--under--proper--and
 2 continued--guidance--engage--in--sheltered---employment---or
 3 supervised--work--to--help--them--become--contributing--members--of
 4 society--instead--of--being--dependent---For--such--persons,
 5 retention--in--sheltered--employment--or--supervised--work--may
 6 constitute--satisfactory--placement---Such---training---and
 7 placement----is----often----a----suitable---alternative---to
 8 institutionalization--or--idleness--and--its--consequences---By
 9 keeping--these--individuals--within--their--communities--and--in
 10 touch--with--their--families,--a--worthwhile--dimension--is--added
 11 to--their--lives,--and--they--are--thus--spared--the--anxieties
 12 naturally--attached--to--separation---All--of--these--factors--have
 13 also--been--shown--to--reflect--tangible--benefits--upon--the
 14 mentally--retarded,--severely--handicapped,--or--disadvantaged
 15 person--by--improving--his--overall--well-being Supervised work
 16 programs and support services should be available to provide
 17 persons with severe disabilities the skills and means by
 18 which they may lead socially and vocationally productive
 19 lives so they can be integrated into society.

20 (3) The state may encourage the establishment of and
 21 provide funding for supervised work programs and support
 22 services for persons with severe disabilities."

23 **Section 2.** Section 53-7-202, MCA, is amended to read:

24 "53-7-202. Definitions. (1) "Department" means the
 25 department of social and rehabilitation services.

1 {2}--"Physical--or--mental--disability"--means--a--physical
 2 or--mental--condition--which--materially--limits,--contributes--to
 3 limiting,--or--if--not--corrected--will--probably--result--in
 4 limiting--an--individual's--activities--or--functioning---The--term
 5 includes---behavioral--disorders--characterized--by--deviant
 6 social--behavior--or--impaired--ability--to--carry--out--normal
 7 relationships--with--family--and--community--which--may--result
 8 from---vocational,---educational,---cultural,---social,
 9 environmental,--or--other--factors--

10 {3}--"Self-care"---means---a---reasonable---degree---of
 11 restoration--from--dependency--upon--others--for--personal--needs
 12 and--care--and--includes--but--is--not--limited--to--ability--to--live
 13 in--own--home--rather--than--requiring--nursing--home--care--and--care
 14 for--self--rather--than--requiring--attendant--care--

15 {4}--"Severely---handicapped---person"---means---any
 16 individual--

17 {a}--who--has--a--physical--or--mental--impairment--which
 18 requires--multiple--services--over--an--extended--period--of--time
 19 and--results--from--amputation,--blindness,--cancer,--cerebral
 20 palsy,--cystic--fibrosis,--deafness,--heart--disease,--hemiplegia,
 21 respiratory--or--pulmonary--dysfunction,--mental--retardation,
 22 mental--illness,--multiple--sclerosis,--muscular--dystrophy,
 23 neurological--disorders--(including--stroke--and--epilepsy),
 24 paraplegia,--quadriplegia,--and--other--spinal--cord--conditions,
 25 renal--failure,--and--any--other--disability--specified--by--the

department-in-regulations-it-shall-prescribe;-or

(b)--who,---because---of---lack---of---social---competence,
mobility,-experience,-skills,-training,-or-other---successful
characteristics---is---in-need-of-sheltered-employment-or-work
activity-services-in-a-protective-setting-

(2) "Severe disability" means a severe physical or
mental impairment that seriously limits a person's
functional capacities in respect to obtaining employment.

(3) "Sheltered workshop employment" means a
charitable--organization--or--institution--conducted-not-for
profit-but-for-the-purpose--of--carrying--out a recognized
program of rehabilitation, for--handicapped--workers--or
providing-such-individuals-with remunerative employment, or
other occupational rehabilitating activity of an educational
or therapeutic nature provided by a nonprofit sheltered
workshop provider. Sheltered employment includes job skills
and social skills training and remunerative employment.

(4) "Supervised work program" means a program
providing guidance in learning and achieving the
requirements of job performance through work activity,
sheltered employment, and supported employment.

(5) "Supported employment" means competitive work in
an integrated work setting for a person with a severe
disability who is in need of assistance in order to become
employed or remain employed. Supported employment includes

assessment, preplacement preparation, job development, job
placement, job skills training, and support services.

(6) "Support services" means continuous or periodic
job skills training provided to a person at a worksite to
enable the person to perform work. Support services also
include services away from the worksite that are necessary
to allow a person with a severe disability to participate in
a supervised work program, such as transportation, direction
and assistance in functional skills, and counseling for
family members.

(6)--"Vocational-rehabilitation-services"--means--goods
or--services--provided--handicapped--persons--to-enable-such
persons-to-be-fit-for-gainful-occupation--or--to--attain--or
maintain--a--maximum-degree-of-self-support-or-self-care-and
includes-every-type-of-goods-and-services-for-which--federal
funds--are-available-for-vocational-rehabilitation-purposes,
including---but---not---limited---to---the---establishment,
construction,-development,-operation,-and-maintenance-of
workshops-and-rehabilitation-facilities-

(7) "Work activity center" means a--physically
separated--department--of--a-workshop-having-an-identifiable
program,-separate-supervision--and--records,-and-which-is
planned--and--designed--exclusively--to--provide therapeutic
work-related activities provided by a nonprofit work
activity center provider for-handicapped-workers to persons

whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic work-related activities include ~~custodial--activities--(such as--activities--where--the--focus--is--on--teaching--the~~ training in basic skills of living) and any purposeful activity so long as work or production is not the main purpose."

Section 3. Section 53-7-203, MCA, is amended to read:

"53-7-203. Purchase of sheltered-employment services.

(1) The department may purchase services under this part for severely--handicapped persons with severe disabilities, sheltered---employment to the extent that funds are appropriated and allocated, -services from any sheltered workshop EMPLOYMENT PROVIDER, in-Montana-or-work-activity services-from-any work activity center, supported employment provider, or support services provider within Montana. The ~~performance--of--and--payment--for--such--services--shall-be subject-to-postaudit-review-by-the-state-auditor-~~

(2) ~~The--department--shall--maintain--a--register---of nonprofit-organizations-which-it-and-other-appropriate-state and-federal-agencies-have-inspected-and-certified-as-meeting required--standards--and-as-qualifying-to-serve-the-needs-of such--severely---handicapped---or---disadvantaged---persons-~~ Eligibility--of-organizations-to An organization may receive the-funds-specified-by funding under this part shall--be based---upon if it meets the standards and criteria

promulgated by the department.

(3) ~~The-department-is-authorized--to--promulgate--such rules--as--it--may-deem-necessary-or-proper-to-carry-out-the provisions-of--this--section:~~ The department shall adopt standards and criteria for the services purchased under this part to assure the quality and appropriateness of such services. The department may adopt standards and criteria of a nationally recognized accreditation organization for accrediting facilities providing services under this part."

Section 4. Section 53-7-204, MCA, is amended to read:

"53-7-204. Use-of-federal-funds Federal and other aid.

(1) The department may apply for and receive federal aid money or other funding available for the programs provided for under this part.

(2) Federal funds and other funding as may be available are appropriated to the department for use in administering the provisions of this part."

NEW SECTION. Section 5. Eligibility for services. (1)

A person may receive services provided for under this part if the department determines that:

- (a) the person has a severe disability;
- (b) the person lacks social competence, mobility, experience, skills, training, or other characteristics of independence;
- (c) the person is in need of services provided for

1 under this part; and

2 (d) the needed services are available for that person.

3 (2) The receipt of services under this part by an
4 eligible person shall be governed by an individual service
5 plan developed in accordance with state and federal
6 requirements.

7 NEW SECTION. Section 6. Rulemaking. For the purposes
8 of providing supervised work programs and support services
9 for persons with severe disabilities, the department may
10 adopt rules necessary for the administration of such
11 programs. Rules adopted may include but are not limited to
12 rules regarding eligibility for services, certification of
13 services, program staffing, staff training, service goals
14 and design, quality of services, recipient placement
15 procedures, individual service plans, recipient rights and
16 privileges, recipient grievance procedures, fair hearings,
17 provider relationships, provider accounting procedures, and
18 definitions necessary to implement this part.

19 NEW SECTION. SECTION 7. COORDINATION REQUIREMENTS --
20 CONSOLIDATION OF SERVICES AUTHORIZED. (1) THE GOVERNOR SHALL
21 ASSURE THAT SERVICES UNDER THIS PART ARE COORDINATED WITH
22 PROGRAMS AND SERVICES IN TITLE 53, CHAPTER 7, PARTS 1 AND 3,
23 AND TITLE 53, CHAPTER 19, PART 1, THAT ARE ADMINISTERED BY
24 THE DEPARTMENT WITH FUNDS PROVIDED UNDER THE FEDERAL
25 REHABILITATION ACT OF 1973 (29 U.S.C. 701, ET SEQ.), AS

1 AMENDED.

2 (2) THE GOVERNOR MAY CONSOLIDATE SERVICES UNDER THIS
3 PART WITH OTHER PROGRAMS AND SERVICES IN ORDER TO MAXIMIZE
4 COORDINATION OF SERVICES AS REQUIRED IN SUBSECTION (1) AND
5 TO PREVENT OVERLAPPING AND DUPLICATION OF SERVICES WITHIN
6 STATE GOVERNMENT.

7 NEW SECTION. Section 8. Codification instruction.
8 [Sections 5 and-6 THROUGH 7] are intended to be codified as
9 an integral part of Title 53, chapter 7, part 2, and the
10 provisions of Title 53, chapter 7, part 2, apply to
11 [sections 5 and-6 THROUGH 7].

12 NEW SECTION. Section 9. Effective dates. (1)
13 [Sections 6, -7, THROUGH 8 and this section] are effective on
14 passage and approval.

15 (2) [Sections 1 through 5] are effective July 1, 1989.

-End-