

HOUSE BILL NO. 541

INTRODUCED BY GOULD

BY REQUEST OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

IN THE HOUSE

| | |
|-------------------|--|
| FEBRUARY 2, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING. |
| | FIRST READING. |
| FEBRUARY 16, 1989 | COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED. |
| FEBRUARY 17, 1989 | PRINTING REPORT. |
| FEBRUARY 18, 1989 | SECOND READING, DO PASS. |
| FEBRUARY 20, 1989 | ENGROSSING REPORT. |
| FEBRUARY 21, 1989 | THIRD READING, PASSED. AYES, 96; NOES, 0. |
| | TRANSMITTED TO SENATE. |

IN THE SENATE

| | |
|-------------------|--|
| FEBRUARY 28, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS. |
| | FIRST READING. |
| MARCH 10, 1989 | COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 11, 1989 | SECOND READING, CONCURRED IN. |
| MARCH 14, 1989 | THIRD READING, CONCURRED IN. AYES, 49; NOES, 0. |
| | RETURNED TO HOUSE WITH AMENDMENTS. |

IN THE HOUSE

MARCH 16, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 17, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 541
 2 INTRODUCED BY [Signature]
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
 4 AND REHABILITATION SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAW RELATING TO VOCATIONAL REHABILITATION PROGRAMS FOR
 8 PERSONS WITH EMPLOYMENT HANDICAPS AND FOR PERSONS WITH
 9 BLINDNESS OR LOW VISION; AMENDING SECTIONS 53-7-101 THROUGH
 10 53-7-103, 53-7-105, 53-7-106, 53-7-301 THROUGH 53-7-303, AND
 11 53-7-306, MCA; REPEALING SECTIONS 53-7-104, 53-7-304,
 12 53-7-305, AND 53-7-307 THROUGH 53-7-309, MCA; AND PROVIDING
 13 EFFECTIVE DATES."
 14

15 STATEMENT OF INTENT

16 This bill requires a statement of intent because
 17 [sections 2 and 13] require the department of social and
 18 rehabilitation services to adopt administrative rules for
 19 vocational rehabilitation programs for persons with
 20 employment handicaps and for persons with blindness and low
 21 vision.

22 It is the intent of the legislature that the department
 23 adopt rules necessary for administration of vocational
 24 rehabilitation programs provided for under this bill. Rules
 25 adopted by the department may relate to: the provision of

1 vocational rehabilitation services, development of
 2 individual rehabilitation service plans, eligibility for
 3 services, application requirements, service goals and
 4 design, quality of services, provider relationships, program
 5 standards, program staffing, staff training, provider
 6 accounting procedures, confidential information, recipient
 7 grievance procedures, fair hearings, and definitions
 8 necessary to carry out the provisions of this bill.

9 In developing its rules, the department shall provide
 10 such methods of administering vocational rehabilitation
 11 services as may be required by the federal government for
 12 state participation in programs funded under the federal
 13 Rehabilitation Act of 1973.
 14

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

16 Section 1. Section 53-7-101, MCA, is amended to read:

17 "53-7-101. Definitions. ~~As used in this part, Unless~~
 18 ~~the context requires otherwise, in this part the following~~
 19 definitions apply:

20 (1) ~~"Disabled individual" means a person with an~~
 21 ~~impairment of a physical or mental nature that can be~~
 22 ~~diagnosed by a physician or appropriate specialist.~~

23 (1) "Department" means the department of social and
 24 rehabilitation services provided for in 2-15-2201.

25 (2) ~~"Employment handicap" means a physical or mental~~

1 condition which constitutes, contributes to, or if not
2 corrected, will probably result in an obstruction to
3 occupational performance.

4 (3)(2) "Maintenance" means money payments not
5 exceeding the estimated cost of subsistence during
6 vocational rehabilitation made in accordance with [section
7 6].

8 (4)(3) "Occupational licenses license" means licenses
9 a license, permits permit, or other written authority
10 required by any governmental unit to be obtained in order to
11 engage in an occupation.

12 (4) "Person with an employment handicap" means the
13 same as "individual with handicaps" as defined in the
14 federal Rehabilitation Act of 1973 (29 U.S.C. 706(B)(A)), as
15 may be amended. The term includes any individual who lacks
16 occupation or vocational achievement due to the presence of
17 a physical or mental disability.

18 (5) "Physical restoration" means any medical,
19 surgical, or therapeutic treatment necessary to correct or
20 substantially reduce a disabled individual's the employment
21 handicap of a person within a reasonable length of time,
22 including but not limited to medical, psychiatric, dental,
23 and surgical treatment, nursing services, hospital care,
24 convalescent home care, drugs, medical and surgical
25 supplies, and prosthetic appliances, but excluding curative

1 treatment for acute or transitory medical conditions (except
2 medical care for acute conditions during the course of a
3 unless necessary to maintain a person's health in order to
4 complete a rehabilitation plan which, if not corrected,
5 would constitute a hazard to plan completion).

6 (6) "Prosthetic appliance" means an artificial device
7 necessary to support or take the place of a part of the body
8 or to increase the acuity of a sense organ.

9 (7) "Regulations" means regulations made by the
10 department of social and rehabilitation services.

11 (7) "Rehabilitation engineering" means the systematic
12 application of technologies, engineering methodologies, or
13 scientific principles to meet the needs of and address the
14 barriers confronted by persons with employment handicaps.
15 Such barriers may exist in the areas of education,
16 rehabilitation, employment, transportation, independent
17 living, and recreation.

18 (8) "Rehabilitation plan" means a plan, developed with
19 the participation of the recipient, for providing services
20 that will render to assist a disabled individual person with
21 an employment handicap to become independent and productive
22 or employable and is jointly developed by the client and the
23 department of social and rehabilitation services.

24 (9) "Rehabilitation training" means all necessary
25 training provided to a disabled individual person with an

employment handicap to ~~compensate-for-his~~ rehabilitate the person's employment handicap; including but not limited to manual, preconditioning, prevocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities.

(10) "Vocational rehabilitation" ~~and---"vocational rehabilitation--services"--mean-services-provided-directly-or through-public-or-private--instrumentalities--found--by--the department--of--social--and--rehabilitation--services--to-be necessary--to--compensate--a--disabled--individual--for--his employment--handicap--and~~ means the provision of vocational rehabilitation services to a person with an employment handicap to enable him ~~the person~~ insofar as possible to ~~engage-in--a--remunerative--occupation,--including--but--not limited--to--medical--and--vocational--diagnosis,--vocational guidance,--counseling,--and--placement,--rehabilitation training,--physical-restoration,--transportation,--occupational licenses,--customary--occupational--tools--and--equipment, maintenance,--training-books-and--materials,--facilities--for groups--of--handicapped,--service--to--family--members,--and follow-up--service~~ become independent and productive or employable.

(11) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational guidance,

vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, training books and materials, group facilities, family services, followup services, and any other goods and services provided for by rule and that the department determines to be necessary to rehabilitate the person."

Section 2. Section 53-7-102, MCA, is amended to read:

"53-7-102. Powers and duties of department. The department of ~~social-and-rehabilitation-services~~:

(1) shall adopt rules governing ~~personnel~~ necessary for the administration of this part. Rules adopted may include but are not limited to the provision of services, individual service plans, eligibility for services, application, service goals and design, quality of services, provider relationships, program standards, ~~the-protection-of records--and~~ program staffing, staff training, provider accounting procedures, confidential information, ~~the-manner and--form--of--filing--applications,--eligibility--and investigation--and--determination--thereof--for--vocational rehabilitation--services,--procedures--for--fair~~ grievance procedures, hearings, and any ~~other--rules definitions~~ necessary to carry out this part;

(2) ~~except-as-otherwise-provided-by-law,--shall-provide~~

~~vocational--rehabilitation--services--to--eligible--disabled individuals;~~

~~{3}(2)~~ shall may take any other action it considers determines necessary or appropriate to carry out the purposes of this part;

~~{4}(3)~~ may cooperate with other departments and agencies and institutions, both public and private, in providing for vocational rehabilitation of disabled individuals persons with employment handicaps, in studying the problems involved in vocational rehabilitation, and in establishing, developing, and providing necessary programs, facilities, and services;

~~{5}(4)~~ may conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals persons with employment handicaps; and

~~{6}(5)~~ may accept and use gifts to carry out this part. Gifts--made--under--conditions--which--the--department considers--proper--and--consistent--with--this--part--may--be accepted--and--shall--be--held,--invested,--reinvested,--and--used in--accordance--with--the--conditions--of--the--gift."

Section 3. Section 53-7-103, MCA, is amended to read:

"53-7-103. Department to cooperate with federal government. The department ~~of--social--and--rehabilitation services~~ shall cooperate, pursuant to agreements, with the federal government, in carrying out the purposes of any the

federal statutes-pertaining-to-rehabilitation Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may be amended, and may adopt such methods of administration as are--found required by the federal government to-be-necessary for the proper-and-efficient-operation-of-such-agreements--or--plans for-rehabilitation-and-to-comply-with-such-conditions-as-may be--necessary--to--secure--the-full-benefits-of-such-federal statutes state participation in programs funded under the federal act."

Section 4. Section 53-7-105, MCA, is amended to read:

"53-7-105. Eligibility. ~~{1}-Vocational~~ A person with an employment handicap is eligible for vocational rehabilitation services shall-be-provided--to--any--disabled individual-who:

~~{a)--is--in--the--state--at--the--time--of--filing--his application-for-services-and-whose-vocational-rehabilitation if the department, of--social--and--rehabilitation--services determines after full investigation can-be-satisfactorily achieved,--or, determines that the person may become employable or achieve accepted vocational objectives through the provision of vocational rehabilitation services that are made available as provided for in [section 6].~~

~~{b)--is--eligible--for--services--under--the--terms--of--an agreement-with-another-state-or-with-the-federal-government;~~

~~{2)--Except--as--otherwise--provided--by--law--or--as~~

~~specified in any agreement with the federal government with respect to classes of individuals certified to the department, the following rehabilitation services shall be provided at public cost only to disabled individuals found to require financial assistance with respect thereto:~~

~~(a) physical restoration;~~

~~(b) transportation not provided to determine the eligibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary;~~

~~(c) occupational licenses;~~

~~(d) customary occupational tools and equipment;~~

~~(e) maintenance;~~

~~(f) training, including books and materials."~~

Section 5. Section 53-7-106, MCA, is amended to read:

"53-7-106. Hearings. ~~An individual~~ A person applying for or receiving vocational rehabilitation services who is aggrieved by any action or inaction of the department of ~~social and rehabilitation services~~ is entitled to a fair hearing in accordance with ~~regulations to a fair hearing by the board of social and rehabilitation appeals~~ the rules adopted by the department."

NEW SECTION. Section 6. Provision of services -- financial responsibility for services. (1) The department, in accord with this part and the federal Rehabilitation Act

of 1973 (29 U.S.C. 701, et seq.), as may be amended, may provide to persons determined eligible under 53-7-105 any vocational rehabilitation services listed in 53-7-101 that are determined by the department to be appropriate and necessary for the person's vocational rehabilitation.

(2) The following vocational rehabilitation services are available without cost to an eligible person:

(a) counseling and guidance;

(b) diagnostic evaluation; and

(c) placement.

(3) In addition to the services listed in subsection (2), the department may pay the cost of other vocational rehabilitation services for an eligible person to the extent that the department determines that the person is without sufficient financial resources to pay the cost of such services.

(4) The department may in its discretion provide maintenance payments to a recipient of vocational rehabilitation services if the department determines that the recipient is without sufficient financial resources to:

(a) obtain basic necessities at a level the department determines is appropriate; and

(b) pay the cost of vocational rehabilitation services to be provided to the person.

Section 7. Section 53-7-301, MCA, is amended to read:

"53-7-301. Definitions. As used in this part, the following definitions apply:

(1) (a) "Blind----individual Blindness" means an individual-whose a visual disability in which:

(i) a person's central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(ii) whose--visual-acuity-is-greater-than-20/200-but-is accompanied-by-a-limitation-in-the--fields--of--vision--such that a person's visual field at the widest diameter of-the visual-field subtends an angle no greater than 20 degrees, or-who-has-other-eye-conditions-which-render

(b) The term includes any visual disability that, in the determination of the department, renders vision equally seriously defective or who-has-an-eye-condition-which-will cause causes blindness.

{2}--"Business-license"-means-any-license,-permit,-or other-written-authority-required-by-any-governmental-unit-to be-obtained-in-order-to-engage-in-a-business-

{3}{2} "Department" means the department of social and rehabilitation services provided for in Title-2,-chapter-15, part-22 2-15-2201.

(3) "Low vision" means a visual impairment that, even with correction, remains so severe as to make performance of daily tasks difficult.

(4) "Maintenance" means money payments not--exceeding

the--estimated--cost--of-subsistence-during-the-provision-of vocational-rehabilitation-and-rehabilitation--services made in accordance with {section 12}.

(5) "Occupational license" means a license, permit, or other written authority required by any governmental unit to be-obtained-in-order to engage in an occupation.

{6} "Person with an employment handicap" means the same as "individual with handicaps" as defined in the federal Rehabilitation Act of 1973 (29 U.S.C. 706(8)(A)), as may be amended. The term includes any individual who lacks occupation or vocational achievement due to the presence of a physical or mental disability.

{6}{7} "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a--blind--individual's an employment handicap caused by blindness or low vision within a reasonable length of time, including but not limited to medical, psychiatric, dental, and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory medical conditions unless necessary to maintain a person's health in order to complete a rehabilitation plan.

{7}{8} "Prosthetic appliance" means an artificial device necessary to support or take the place of a part of

the body or to increase the acuity of a sense organ.

(8) "Rehabilitation services" means any services, provided directly or through public or private instrumentalities, found by the department to be necessary to compensate a blind individual for his employment handicap or to enable him to achieve the maximum degree of self-care and to engage in productive tasks.

(9) "Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by persons with blindness or low vision. Such barriers may exist in the areas of education, rehabilitation, employment, transportation, independent living, and recreation.

(10) "Rehabilitation plan" means a plan, developed with the participation of the recipient, for providing services to assist a person with blindness or low vision to become independent and productive or employable.

(11) "Rehabilitation training" means all necessary training provided to a blind individual person with blindness or low vision to compensate for his rehabilitate the person's employment handicap, including but not limited to manual, preconditioning, prevocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and

capacities.

(12) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private instrumentalities, found by the department to be necessary to compensate a blind individual for his employment handicap and means the provision of vocational rehabilitation services to a person with blindness or low vision to enable him the person insofar as possible to engage in a remunerative occupation, including but not limited to medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational and business licenses, tools, equipment, initial stocks and supplies, including livestock, capital advances, maintenance, and training books and materials become independent and productive or employable.

(13) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational guidance, vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, training books and materials, group facilities, family services, followup services, and any other goods and services provided for by rule and that the department determines to be

1 necessary to rehabilitate the person."

2 **Section 8.** Section 53-7-302, MCA, is amended to read:

3 "53-7-302. Administration. The department shall
4 provide the services authorized by this part to blind
5 individuals determined by it to be eligible therefor, in
6 carrying out the purposes of this part; the department may,
7 among other things may:

8 (1) cooperate with other departments, and agencies,
9 and institutions, both public and private, in providing the
10 services authorized by this part to blind individuals
11 persons with blindness or low vision; in studying the
12 problems involved therein in vocational rehabilitation; and
13 in establishing, developing, and providing, in conformity
14 with the purposes of this part, such programs, facilities,
15 and services as may be necessary or desirable;

16 (2) enter into reciprocal agreements with other states
17 to provide the services authorized by this part to residents
18 of the states concerned;

19 (3) (2) conduct research and compile statistics
20 relating to the provision of services to or the need of
21 services of blind individuals for persons with blindness or
22 low vision;

23 (4) provide supplementary services to any applicant or
24 recipient who is in need of treatment either to prevent
25 blindness or to restore his eyesight, whether or not he is

1 blind, if he is otherwise qualified for services or training
2 under this part and if the supplementary services are
3 recommended because of the findings of an ophthalmologist or
4 optometric examination. The supplementary services may
5 include necessary travel and other expenses to receive
6 treatment from a hospital or clinic designated by the
7 department.

8 (3) accept and use gifts to carry out this part; and
9 (5) (4) make rules and take any other action it
10 determines necessary or appropriate to carry out this part."

11 **Section 9.** Section 53-7-303, MCA, is amended to read:

12 "53-7-303. Cooperation with federal government. The
13 department may shall cooperate, pursuant to agreements with
14 the federal government, in carrying out the purposes of any
15 the federal statutes pertaining to the purposes of this part
16 and comply with such conditions as may be necessary to
17 secure the full benefits of such federal statutes
18 Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may
19 be amended, and may adopt methods of administration required
20 by the federal government for state participation in
21 programs funded under the federal act."

22 **Section 10.** Section 53-7-306, MCA, is amended to read:

23 "53-7-306. Vocational rehabilitation Eligibility for
24 services. (1) Vocational A person with an employment
25 handicap due to blindness or low vision is eligible for

1 vocational rehabilitation services shall be provided to any
2 blind individual who:

3 (a) at the time of filing his application for
4 services; resides in the state for other than a temporary
5 purpose and whose vocational rehabilitation if the
6 department, after full investigation, determines can be
7 satisfactorily achieved; or that the person may become
8 employable or achieve accepted vocational objectives through
9 the provision of vocational rehabilitation services that are
10 made available as provided for in [section 12].

11 (b) is eligible for services under the terms of an
12 agreement with another state or with the federal government;

13 (2) Except as otherwise provided by law or as
14 specified in any agreement with the federal government with
15 respect to classes of individuals certified to the
16 department thereunder, the following vocational
17 rehabilitation services shall be provided at public cost
18 only to blind individuals found to require financial
19 assistance with respect thereto:

20 (a) physical restoration;

21 (b) transportation not provided to determine the
22 eligibility of the individual for vocational rehabilitation
23 services and the nature and extent of the services
24 necessary;

25 (c) occupational and business licenses;

1 (d) tools; equipment; initial stock and supplies
2 (including livestock); and capital advances;

3 (e) training; including books and materials;

4 (f) maintenance."

5 NEW SECTION. Section 11. Provision of services --
6 financial responsibility for services. (1) The department,
7 in accord with this part and the Rehabilitation Act of 1973
8 (29 U.S.C. 701, et seq.), as may be amended, may provide to
9 persons determined eligible under 53-7-306 any vocational
10 rehabilitation services listed in 53-7-301 that are
11 determined by the department to be appropriate and necessary
12 for the person's vocational rehabilitation.

13 (2) The following vocational rehabilitation services
14 are available without cost to a person eligible for visual
15 services:

16 (a) counseling and guidance;

17 (b) diagnostic evaluation; and

18 (c) placement.

19 (3) In addition to the services listed in subsection
20 (2), the department may pay the cost of other vocational
21 rehabilitation services for an eligible person to the extent
22 that the department determines that the person is without
23 sufficient financial resources to pay the cost of such
24 services.

25 (4) The department may in its discretion provide

1 maintenance payments to a recipient of vocational
2 rehabilitation services if the department determines that
3 the recipient is without sufficient financial resources to:

4 (a) obtain basic necessities at a level the department
5 determines is appropriate; and

6 (b) pay the cost of vocational rehabilitation services
7 to be provided to the person.

8 NEW SECTION. Section 12. Hearings. A person applying
9 for or receiving vocational rehabilitation services who is
10 aggrieved by any action or inaction of the department is
11 entitled to a fair hearing in accordance with rules adopted
12 by the department.

13 NEW SECTION. Section 13. Rulemaking authority. The
14 department shall adopt rules necessary for the
15 administration of this part. Rules adopted may include but
16 are not limited to the provision of services, individual
17 service plans, eligibility for services, application,
18 service goals and design, quality of services, provider
19 relationships, program standards, program staffing, staff
20 training, provider accounting procedures, confidential
21 information, recipient grievance procedures, hearings, and
22 definitions necessary to carry out this part.

23 NEW SECTION. Section 14. Administration of vocational
24 rehabilitation programs -- applicability. (1) Those
25 divisions of the department that have programs for the

1 provision of vocational rehabilitation services may share
2 administrative personnel, operations, and policies so as to
3 assure uniform administration necessary under the federal
4 Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may
5 be amended. Within the department, the vocational
6 rehabilitation services provided under the federal act must
7 be administered in such a way that they are kept separate
8 and independent from other programs.

9 (2) This section applies to all programs and services
10 in Title 53, chapter 7, administered by the department with
11 funds provided under the federal Rehabilitation Act of 1973
12 (29 U.S.C. 701, et seq.), as may be amended.

13 NEW SECTION. Section 15. Repealer. Sections 53-7-104,
14 53-7-304, 53-7-305, and 53-7-307 through 53-7-309, MCA, are
15 repealed.

16 NEW SECTION. Section 16. Extension of authority. Any
17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

20 NEW SECTION. Section 17. Codification instruction.
21 (1) [Sections 6 and 14] are intended to be codified as an
22 integral part of Title 53, chapter 7, part 1, and the
23 provisions of Title 53, chapter 7, part 1, apply to
24 [sections 6 and 14].

25 (2) [Sections 11 through 13] are intended to be

LC 0436/01

1 codified as an integral part of Title 53, chapter 7, part 3,
2 and the provisions of Title 53, chapter 7, part 3, apply to
3 [sections 11 through 13].

4 NEW SECTION. **Section 18.** Effective dates. (1)
5 [Sections 2, 13, 16, and this section] are effective on
6 passage and approval.

7 (2) [Sections 1, 3 through 12, 14, 15, and 17] are
8 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 HB541, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the law relating to vocational rehabilitation programs for persons with employment handicaps and for persons with blindness or low vision; amending sections 53-7-101 through 53-7-103, 53-7-105, 53-7-106, 53-7-301 through 53-7-303, and 53-7-306, MCA; repealing sections 53-7-104, 53-7-304, 53-7-305, and 53-7-307 through 53-7-309, MCA; and providing an immediate effective date.

ASSUMPTIONS:

There is no fiscal impact to the Department of Social and Rehabilitation Services.

Ray Shackelford 2/20/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

R. BUDD GOULD 2/21/89
R. BUDD GOULD, PRIMARY SPONSOR DATE
Fiscal Note for HB541, as introduced
HB 541

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

1 HOUSE BILL NO. 541
2 INTRODUCED BY [Signature]
3 BY REQUEST OF THE DEPARTMENT OF SOCIAL
4 AND REHABILITATION SERVICES
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 LAW RELATING TO VOCATIONAL REHABILITATION PROGRAMS FOR
8 PERSONS WITH EMPLOYMENT HANDICAPS AND FOR PERSONS WITH
9 BLINDNESS OR LOW VISION; AMENDING SECTIONS 53-7-101 THROUGH
10 53-7-103, 53-7-105, 53-7-106, 53-7-301 THROUGH 53-7-303, AND
11 53-7-306, MCA; REPEALING SECTIONS 53-7-104, 53-7-304,
12 53-7-305, AND 53-7-307 THROUGH 53-7-309, MCA; AND PROVIDING
13 EFFECTIVE DATES."

14
15 STATEMENT OF INTENT

16 This bill requires a statement of intent because
17 [sections 2 and 13] require the department of social and
18 rehabilitation services to adopt administrative rules for
19 vocational rehabilitation programs for persons with
20 employment handicaps and for persons with blindness and low
21 vision.

22 It is the intent of the legislature that the department
23 adopt rules necessary for administration of vocational
24 rehabilitation programs provided for under this bill. Rules
25 adopted by the department may relate to: the provision of

1 vocational rehabilitation services, development of
2 individual rehabilitation service plans, eligibility for
3 services, application requirements, service goals and
4 design, quality of services, provider relationships, program
5 standards, program staffing, staff training, provider
6 accounting procedures, confidential information, recipient
7 grievance procedures, fair hearings, and definitions
8 necessary to carry out the provisions of this bill.

9 In developing its rules, the department shall provide
10 such methods of administering vocational rehabilitation
11 services as may be required by the federal government for
12 state participation in programs funded under the federal
13 Rehabilitation Act of 1973.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 53-7-101, MCA, is amended to read:
17 "53-7-101. Definitions. As-used-in-this--part; Unless
18 the context requires otherwise, in this part the following
19 definitions apply:

20 (1)--"Disabled--individual"--means--a--person--with--an
21 impairment--of--a--physical--or--mental--nature--that--can--be
22 diagnosed--by--a--physician--or--appropriate--specialist--

23 (1) "Department" means the department of social and
24 rehabilitation services provided for in 2-15-2201.

25 (2)--"Employment--handicap"--means--a--physical--or--mental

1 condition which constitutes, contributes to, or if not
2 corrected will probably result in an obstruction to
3 occupational performance.

4 (3)(2) "Maintenance" means money payments not
5 exceeding the estimated cost of subsistence during
6 vocational rehabilitation made in accordance with [section
7 6].

8 (4)(3) "Occupational licenses license" means licenses
9 a license, permits permit, or other written authority
10 required by any governmental unit to be obtained in order to
11 engage in an occupation.

12 (4) "Person with an employment handicap" means the
13 same as "individual with handicaps" as defined in the
14 federal Rehabilitation Act of 1973 (29 U.S.C. 706(8)(A)), as
15 may be amended. The term includes any individual who lacks
16 occupation or vocational achievement due to the presence of
17 a physical or mental disability.

18 (5) "Physical restoration" means any medical,
19 surgical, or therapeutic treatment necessary to correct or
20 substantially reduce a disabled individual's the employment
21 handicap of a person within a reasonable length of time,
22 including but not limited to medical, psychiatric, dental,
23 and surgical treatment, nursing services, hospital care,
24 convalescent home care, drugs, medical and surgical
25 supplies, and prosthetic appliances, but excluding curative

1 treatment for acute or transitory medical conditions (except
2 medical care for acute conditions during the course of a
3 unless necessary to maintain a person's health in order to
4 complete a rehabilitation plan which, if not corrected,
5 would constitute a hazard to plan completion).

6 (6) "Prosthetic appliance" means an artificial device
7 necessary to support or take the place of a part of the body
8 or to increase the acuity of a sense organ.

9 (7) "Regulations" means regulations made by the
10 department of social and rehabilitation services.

11 (7) "Rehabilitation engineering" means the systematic
12 application of technologies, engineering methodologies, or
13 scientific principles to meet the needs of and address the
14 barriers confronted by persons with employment handicaps.
15 Such barriers may exist in the areas of education,
16 rehabilitation, employment, transportation, independent
17 living, and recreation.

18 (8) "Rehabilitation plan" means a plan, developed with
19 the participation of the recipient, for providing services
20 that will render to assist a disabled individual person with
21 an employment handicap to become independent and productive
22 or employable and is jointly developed by the client and the
23 department of social and rehabilitation services.

24 (9) "Rehabilitation training" means all necessary
25 training provided to a disabled individual person with an

1 employment handicap to compensate-for-his rehabilitate the
 2 person's employment handicap; including but not limited to
 3 manual, preconditioning, prevocational, vocational, and
 4 supplementary training and training provided for the purpose
 5 of achieving broader or more remunerative skills and
 6 capacities.

7 (10) "Vocational rehabilitation" and----"vocational
 8 ~~rehabilitation--services--mean-services-provided-directly-or~~
 9 ~~through-public-or-private--instrumentalities--found--by--the~~
 10 ~~department--of--social--and--rehabilitation--services--to-be~~
 11 ~~necessary--to--compensate--a--disabled--individual--for--his~~
 12 ~~employment--handicap--and~~ means the provision of vocational
 13 rehabilitation services to a person with an employment
 14 handicap to enable him the person insofar as possible to
 15 ~~engage-in--a--remunerative--occupation;--including--but--not~~
 16 ~~limited--to--medical--and--vocational--diagnosis;--vocational~~
 17 ~~guidance;--counseling;--and--placement;--rehabilitation~~
 18 ~~training;--physical--restoration;--transportation;--occupational~~
 19 ~~licenses;--customary--occupational--tools--and--equipment;~~
 20 ~~maintenance;--training-books-and--materials;--facilities--for~~
 21 ~~groups--of--handicapped;--service--to--family--members;--and~~
 22 ~~follow-up--service~~ become independent and productive or
 23 employable.

24 (11) "Vocational rehabilitation services" means the
 25 following services: medical diagnosis, vocational guidance,

1 vocational counseling, vocational placement, rehabilitation
 2 training, rehabilitation engineering, physical restoration,
 3 transportation, occupational licenses, customary
 4 occupational tools and equipment, maintenance, training
 5 books and materials, group facilities, family services,
 6 followup services, and any other goods and services provided
 7 for by rule and that the department determines to be
 8 necessary to rehabilitate the person."

9 **Section 2.** Section 53-7-102, MCA, is amended to read:
 10 "53-7-102. Powers and duties of department. The
 11 department ~~of-social-and-rehabilitation-services:~~

12 (1) shall adopt rules ~~governing-personnel~~ necessary
 13 for the administration of this part. Rules adopted may
 14 include but are not limited to the provision of services,
 15 individual service plans, eligibility for services,
 16 application, service goals and design, quality of services,
 17 provider relationships, program standards, the-protection-of
 18 records--and program staffing, staff training, provider
 19 accounting procedures, confidential information, the-manner
 20 and--form--of--filing--applications;--eligibility--and
 21 investigation--and--determination--thereof--for--vocational
 22 rehabilitation--services;--procedures--for--fair recipient
 23 grievance procedures, hearings, and any--other--rules
 24 definitions necessary to carry out this part;

25 (2) ~~except-as-otherwise-provided-by-law; shall provide~~

1 vocational--rehabilitation--services--to--eligible--disabled
2 individuals;

3 {3}(2) shall may take any other action it considers
4 determines necessary or appropriate to carry out the
5 purposes of this part;

6 {4}(3) may cooperate with other departments and
7 agencies and institutions, both public and private, in
8 providing for vocational rehabilitation of disabled
9 individuals persons with employment handicaps, in studying
10 the problems involved in vocational rehabilitation, and in
11 establishing, developing, and providing necessary programs,
12 facilities, and services;

13 {5}(4) may conduct research and compile statistics
14 relating to the vocational rehabilitation of disabled
15 individuals persons with employment handicaps; and

16 {6}(5) may accept and use gifts to carry out this
17 part. Gifts--made--under--conditions--which--the--department
18 considers--proper--and--consistent--with--this--part--may--be
19 accepted--and--shall--be--held--invested--reinvested--and--used
20 in--accordance--with--the--conditions--of--the--gift."

21 Section 3. Section 53-7-103, MCA, is amended to read:

22 "53-7-103. Department to cooperate with federal
23 government. The department of--social--and--rehabilitation
24 services shall cooperate, pursuant to agreements, with the
25 federal government, in carrying out the purposes of any the

1 federal statutes-pertaining-to-rehabilitation Rehabilitation
2 Act of 1973 (29 U.S.C. 701, et seq.), as may be amended, and
3 may adopt such methods of administration as are--found
4 required by the federal government to-be-necessary for the
5 proper-and-efficient-operation-of-such-agreements--or--plans
6 for-rehabilitation-and-to-comply-with-such-conditions-as-may
7 be-necessary--to--secure--the-full-benefits-of-such-federal
8 statutes state participation in programs funded under the
9 federal act."

10 Section 4. Section 53-7-105, MCA, is amended to read:

11 "53-7-105. Eligibility. {1}-Vocational: A person with
12 an employment handicap is eligible for vocational
13 rehabilitation services shall-be-provided--to--any--disabled
14 individual-who:

15 {a)--is--in--the--state--at--the--time--of--filing--his
16 application-for-services-and-whose-vocational-rehabilitation
17 if the department, of--social--and--rehabilitation--services
18 determines after full investigation can-be-satisfactorily
19 achieved,--or, determines that the person may become
20 employable or achieve accepted vocational objectives through
21 the provision of vocational rehabilitation services that are
22 made available as provided for in [section 6].

23 {b)--is--eligible--for--services--under--the--terms--of--an
24 agreement-with-another-state-or-with-the-federal-government:

25 {2)--Except--as--otherwise--provided--by--law--or--as

1 specified--in-any-agreement-with-the-federal-government-with
 2 respect--to--classes--of--individuals---certified---to---the
 3 department;--the--following-rehabilitation-services-shall-be
 4 provided-at-public-cost-only-to-disabled--individuals--found
 5 to-require-financial-assistance-with-respect-thereto:

- 6 (a)--physical-restoration;
- 7 (b)--transportation---not--provided--to--determine--the
- 8 eligibility-of-the-individual-for-vocational--rehabilitation
- 9 services---and---the--nature--and--extent--of--the--services
- 10 necessary;
- 11 (c)--occupational-licenses;
- 12 (d)--customary-occupational-tools-and-equipment;
- 13 (e)--maintenance;
- 14 (f)--training,-including-books-and-materials."

15 **Section 5.** Section 53-7-106, MCA, is amended to read:

16 "53-7-106. Hearings. An--individual A person applying
 17 for or receiving vocational rehabilitation services who is
 18 aggrieved by any action or inaction of the department of
 19 social-and-rehabilitation-services is entitled to a fair
 20 hearing in accordance with regulations-to-a-fair-hearing-by
 21 the-board-of-social-and--rehabilitation--appeals the rules
 22 adopted by the department."

23 **NEW SECTION. Section 6.** Provision of services --
 24 financial responsibility for services. (1) The department,
 25 in accord with this part and the federal Rehabilitation Act

1 of 1973 (29 U.S.C. 701, et seq.), as may be amended, may
 2 provide to persons determined eligible under 53-7-105 any
 3 vocational rehabilitation services listed in 53-7-101 that
 4 are determined by the department to be appropriate and
 5 necessary for the person's vocational rehabilitation.

6 (2) The following vocational rehabilitation services
 7 are available without cost to an eligible person:

- 8 (a) counseling and guidance;
- 9 (b) diagnostic evaluation; and
- 10 (c) placement.

11 (3) In addition to the services listed in subsection
 12 (2), the department may pay the cost of other vocational
 13 rehabilitation services for an eligible person to the extent
 14 that the department determines that the person is without
 15 sufficient financial resources to pay the cost of such
 16 services.

17 (4) The department may in its discretion provide
 18 maintenance payments to a recipient of vocational
 19 rehabilitation services if the department determines that
 20 the recipient is without sufficient financial resources to:

- 21 (a) obtain basic necessities at a level the department
- 22 determines is appropriate; and
- 23 (b) pay the cost of vocational rehabilitation services
- 24 to be provided to the person.

25 **Section 7.** Section 53-7-301, MCA, is amended to read:

"53-7-301. Definitions. As used in this part, the following definitions apply:

(1) (a) "Blind----individual Blindness" means an individual whose a visual disability in which:

(i) a person's central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(ii) whose--visual-acuity-is-greater-than-20/200-but-is accompanied-by-a-limitation-in-the--fields--of--vision--such that a person's visual field at the widest diameter of-the visual-field subtends an angle no greater than 20 degrees, or-who-has-other-eye-conditions-which-render

(b) The term includes any visual disability that, in the determination of the department, renders vision equally seriously defective or who-has-an-eye-condition-which-will cause causes blindness.

(2)--"Business-license"-means-any-license,-permit,-or other-written-authority-required-by-any-governmental-unit-to be-obtained-in-order-to-engage-in-a-business:

(3)(2) "Department" means the department of social and rehabilitation services provided for in Title-2,-chapter-15, part-22 2-15-2201.

(3) "Low vision" means a visual impairment that, even with correction, remains so severe as to make performance of daily tasks difficult.

(4) "Maintenance" means money payments not--exceeding

the--estimated--cost--of-subsistence-during-the-provision-of vocational-rehabilitation-and-rehabilitation--services made in accordance with (section 12).

(5) "Occupational license" means a license, permit, or other written authority required by any governmental unit to be-obtained-in-order to engage in an occupation.

(6) "Person with an employment handicap" means the same as "individual with handicaps" as defined in the federal Rehabilitation Act of 1973 (29 U.S.C. 706(8)(A)), as may be amended. The term includes any individual who lacks occupation or vocational achievement due to the presence of a physical or mental disability.

(6)(7) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a--blind--individual's an employment handicap caused by blindness or low vision within a reasonable length of time, including but not limited to medical, psychiatric, dental, and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory medical conditions unless necessary to maintain a person's health in order to complete a rehabilitation plan.

(7)(8) "Prosthetic appliance" means an artificial device necessary to support or take the place of a part of

1 the body or to increase the acuity of a sense organ.

2 {8}--"Rehabilitation---services"--means--any--services;
3 provided---directly---or---through---public---or---private
4 instrumentalities,--found--by-the-department-to-be-necessary
5 to-compensate-a-blind-individual-for-his-employment-handicap
6 or-to-enable-him-to-achieve-the-maximum-degree-of--self-care
7 and-to-engage-in-productive-tasks;

8 (9) "Rehabilitation engineering" means the systematic
9 application of technologies, engineering methodologies, or
10 scientific principles to meet the needs of and address the
11 barriers confronted by persons with blindness or low vision.
12 Such barriers may exist in the areas of education,
13 rehabilitation, employment, transportation, independent
14 living, and recreation.

15 (10) "Rehabilitation plan" means a plan, developed with
16 the participation of the recipient, for providing services
17 to assist a person with blindness or low vision to become
18 independent and productive or employable.

19 {9}{11} "Rehabilitation training" means all--necessary
20 training provided to a blind--individual person with
21 blindness or low vision to compensate-for--his rehabilitate
22 the person's employment handicap, including but not limited
23 to manual, preconditioning, prevocational, vocational, and
24 supplementary training and training provided for the purpose
25 of achieving broader or more remunerative skills and

1 capacities.

2 {10}{12} "Vocational rehabilitation" and--"vocational
3 rehabilitation---services"---mean---any--services,--provided
4 directly-or-through--public--or--private--instrumentalities,
5 found--by--the--department--to--be-necessary-to-compensate-a
6 blind-individual-for-his-employment-handicap-and means the
7 provision of vocational rehabilitation services to a person
8 with blindness or low vision to enable him the person
9 insofar as possible to engage-in-a-remunerative-occupation,
10 including--but--not--limited--to--medical---and---vocational
11 diagnosis,--vocational--guidance,--counseling-and-placement,
12 rehabilitation---training,-----physical-----restoration,
13 transportation,--occupational--and-business-licenses,--tools,
14 equipment,--initial-stocks-and-supplies,--including-livestock,
15 capital--advances,--maintenance,--and--training--books---and
16 materials become independent and productive or employable.

17 (13) "Vocational rehabilitation services" means the
18 following services: medical diagnosis, vocational guidance,
19 vocational counseling, vocational placement, rehabilitation
20 training, rehabilitation engineering, physical restoration,
21 transportation, occupational licenses, customary
22 occupational tools and equipment, maintenance, training
23 books and materials, group facilities, family services,
24 followup services, and any other goods and services provided
25 for by rule and that the department determines to be

1 necessary to rehabilitate the person."

2 **Section 8.** Section 53-7-302, MCA, is amended to read:

3 "53-7-302. Administration. The department shall
4 ~~provide the services authorized by this part to blind~~
5 ~~individuals determined by it to be eligible therefor. In~~
6 ~~carrying out the purposes of this part, the department may,~~
7 ~~among other things may:~~

8 (1) cooperate with other departments, and agencies,
9 and institutions, both public and private, in providing the
10 services authorized by this part to ~~blind individuals~~
11 persons with blindness or low vision; in studying the
12 problems involved therein in vocational rehabilitation; and
13 in establishing, developing, and providing, ~~in conformity~~
14 ~~with the purposes of this part, such~~ programs, facilities,
15 and services ~~as may be necessary or desirable~~;

16 ~~(2) enter into reciprocal agreements with other states~~
17 ~~to provide the services authorized by this part to residents~~
18 ~~of the states concerned;~~

19 ~~(3)(2)~~ conduct research and compile statistics
20 relating to the provision of services to or the need of
21 services ~~of blind individuals~~ for persons with blindness or
22 low vision;

23 ~~(4) provide supplementary services to any applicant or~~
24 ~~recipient who is in need of treatment either to prevent~~
25 ~~blindness or to restore his eyesight, whether or not he is~~

1 ~~blind, if he is otherwise qualified for services or training~~
2 ~~under this part and if the supplementary services are~~
3 ~~recommended because of the findings of an ophthalmologist or~~
4 ~~optometric examination. The supplementary services may~~
5 ~~include necessary travel and other expenses to receive~~
6 ~~treatment from a hospital or clinic designated by the~~
7 ~~department.~~

8 (3) accept and use gifts to carry out this part; and
9 ~~(5)(4)~~ make rules and take any other action it
10 determines necessary or appropriate to carry out this part."

11 **Section 9.** Section 53-7-303, MCA, is amended to read:

12 "53-7-303. Cooperation with federal government. The
13 department ~~may~~ shall cooperate, pursuant to agreements with
14 the federal government, in carrying out the purposes of any
15 the federal statutes pertaining to the purposes of this part
16 ~~and comply with such conditions as may be necessary to~~
17 ~~secure the full benefits of such federal statutes~~
18 Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may
19 be amended, and may adopt methods of administration required
20 by the federal government for state participation in
21 programs funded under the federal act."

22 **Section 10.** Section 53-7-306, MCA, is amended to read:

23 "53-7-306. Vocational rehabilitation Eligibility for
24 services. ~~(1) Vocational~~ A person with an employment
25 handicap due to blindness or low vision is eligible for

1 ~~vocational~~ rehabilitation services shall be provided to any
2 blind individual who:

3 (a) at the time of filing his application for
4 services, resides in the state for other than a temporary
5 purpose and whose vocational rehabilitation if the
6 department, after full investigation, determines can be
7 satisfactory achieved; or that the person may become
8 employable or achieve accepted vocational objectives through
9 the provision of vocational rehabilitation services that are
10 made available as provided for in [section 12].

11 (b) is eligible for services under the terms of an
12 agreement with another state or with the federal government.

13 (2) Except as otherwise provided by law or as
14 specified in any agreement with the federal government with
15 respect to classes of individuals certified to the
16 department thereunder, the following vocational
17 rehabilitation services shall be provided at public cost
18 only to blind individuals found to require financial
19 assistance with respect thereto:

20 (a) physical restoration;

21 (b) transportation not provided to determine the
22 eligibility of the individual for vocational rehabilitation
23 services and the nature and extent of the services
24 necessary;

25 (c) occupational and business licenses;

1 (d) tools, equipment, initial stock and supplies
2 including livestock, and capital advances;
3 (e) training, including books and materials;
4 (f) maintenance."

5 **NEW SECTION. Section 11.** Provision of services --
6 financial responsibility for services. (1) The department,
7 in accord with this part and the Rehabilitation Act of 1973
8 (29 U.S.C. 701, et seq.), as may be amended, may provide to
9 persons determined eligible under 53-7-306 any vocational
10 rehabilitation services listed in 53-7-301 that are
11 determined by the department to be appropriate and necessary
12 for the person's vocational rehabilitation.

13 (2) The following vocational rehabilitation services
14 are available without cost to a person eligible for visual
15 services:

- 16 (a) counseling and guidance;
- 17 (b) diagnostic evaluation; and
- 18 (c) placement.

19 (3) In addition to the services listed in subsection
20 (2), the department may pay the cost of other vocational
21 rehabilitation services for an eligible person to the extent
22 that the department determines that the person is without
23 sufficient financial resources to pay the cost of such
24 services.

25 (4) The department may in its discretion provide

1 maintenance payments to a recipient of vocational
2 rehabilitation services if the department determines that
3 the recipient is without sufficient financial resources to:

4 (a) obtain basic necessities at a level the department
5 determines is appropriate; and

6 (b) pay the cost of vocational rehabilitation services
7 to be provided to the person.

8 **NEW SECTION. Section 12. Hearings.** A person applying
9 for or receiving vocational rehabilitation services who is
10 aggrieved by any action or inaction of the department is
11 entitled to a fair hearing in accordance with rules adopted
12 by the department.

13 **NEW SECTION. Section 13. Rulemaking authority.** The
14 department shall adopt rules necessary for the
15 administration of this part. Rules adopted may include but
16 are not limited to the provision of services, individual
17 service plans, eligibility for services, application,
18 service goals and design, quality of services, provider
19 relationships, program standards, program staffing, staff
20 training, provider accounting procedures, confidential
21 information, recipient grievance procedures, hearings, and
22 definitions necessary to carry out this part.

23 **NEW SECTION. Section 14. Administration of vocational**
24 **rehabilitation programs -- applicability.** (1) Those
25 divisions of the department that have programs for the

1 provision of vocational rehabilitation services may share
2 administrative personnel, operations, and policies so as to
3 assure uniform administration necessary under the federal
4 Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may
5 be amended. Within the department, the vocational
6 rehabilitation services provided under the federal act must
7 be administered in such a way that they are kept separate
8 and independent from other programs.

9 (2) This section applies to all programs and services
10 in Title 53, chapter 7, administered by the department with
11 funds provided under the federal Rehabilitation Act of 1973
12 (29 U.S.C. 701, et seq.), as may be amended.

13 **NEW SECTION. Section 15. Repealer.** Sections 53-7-104,
14 53-7-304, 53-7-305, and 53-7-307 through 53-7-309, MCA, are
15 repealed.

16 **NEW SECTION. Section 16. Extension of authority.** Any
17 existing authority to make rules on the subject of the
18 provisions of [this act] is extended to the provisions of
19 [this act].

20 **NEW SECTION. Section 17. Codification instruction.**
21 (1) [Sections 6 and 14] are intended to be codified as an
22 integral part of Title 53, chapter 7, part 1, and the
23 provisions of Title 53, chapter 7, part 1, apply to
24 [sections 6 and 14].

25 (2) [Sections 11 through 13] are intended to be

1 codified as an integral part of Title 53, chapter 7, part 3,
2 and the provisions of Title 53, chapter 7, part 3, apply to
3 [sections 11 through 13].

4 NEW SECTION. **Section 18.** Effective dates. (1)
5 [Sections 2, 13, 16, and this section] are effective on
6 passage and approval.

7 (2) [Sections 1, 3 through 12, 14, 15, and 17] are
8 effective July 1, 1989.

-End-

1

HOUSE BILL NO. *541*

2

INTRODUCED BY *W. Lee*

3

BY REQUEST OF THE DEPARTMENT OF SOCIAL

4

AND REHABILITATION SERVICES

5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 LAW RELATING TO VOCATIONAL REHABILITATION PROGRAMS FOR
8 PERSONS WITH EMPLOYMENT HANDICAPS AND FOR PERSONS WITH
9 BLINDNESS OR LOW VISION; AMENDING SECTIONS 53-7-101 THROUGH
10 53-7-103, 53-7-105, 53-7-106, 53-7-301 THROUGH 53-7-303, AND
11 53-7-306, MCA; REPEALING SECTIONS 53-7-104, 53-7-304,
12 53-7-305, AND 53-7-307 THROUGH 53-7-309, MCA; AND PROVIDING
13 EFFECTIVE DATES."

14

15

STATEMENT OF INTENT

16 This bill requires a statement of intent because
17 [sections 2 and 13] require the department of social and
18 rehabilitation services to adopt administrative rules for
19 vocational rehabilitation programs for persons with
20 employment handicaps and for persons with blindness and low
21 vision.

22 It is the intent of the legislature that the department
23 adopt rules necessary for administration of vocational
24 rehabilitation programs provided for under this bill. Rules
25 adopted by the department may relate to: the provision of

There is no change on HB 541 and will not
be reprinted. Please refer to introduced
(white) or second reading (yellow) for
complete text.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration HB 541 (third reading copy -- blue), respectfully report that HB 541 be amended and as so amended be concurred in:

Sponsor: Gould (Keating)

1. Page 20, line 8.

Following: "programs"

Insert: ", except as provided in [section 15]."

2. Page 20, line 13.

Following: line 12

Insert: "NEW SECTION. Section 15. Coordination requirements -- consolidation of programs authorized. (1) The governor shall assure that services under Title 53, chapter 19, part 1, are coordinated with programs and services in Title 53, chapter 7, parts 1 through 3, that are administered by the department of social and rehabilitation services 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 Title 53 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.

(3) The governor may transfer employees, appropriations, and spending authority necessary to accomplish the coordination of services as mandated by this section. The authority contained in this subsection is limited to the programs and services described in subsection (1). This subsection supersedes any restrictions on the transfer of employees, appropriations, and spending authority contained in [House Bill No. 100]."

Renumber: subsequent sections

3. Page 21, line 5.

Following: "13,"

Strike: "16"

Insert: "17"

4. Page 21, line 7.

Following: "14"

Strike: ", 15"

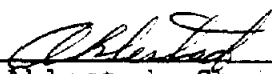
Insert: "through 16"

Strike: "17"

Insert: "18"

AND AS AMENDED BE CONCURRED IN

Signed: _____


Gary C. Aklestad, Chairman

SENATE

HB 541

1 HOUSE BILL NO. 541

2 INTRODUCED BY GOULD

3 BY REQUEST OF THE DEPARTMENT OF SOCIAL

4 AND REHABILITATION SERVICES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 LAW RELATING TO VOCATIONAL REHABILITATION PROGRAMS FOR
8 PERSONS WITH EMPLOYMENT HANDICAPS AND FOR PERSONS WITH
9 BLINDNESS OR LOW VISION; AMENDING SECTIONS 53-7-101 THROUGH
10 53-7-103, 53-7-105, 53-7-106, 53-7-301 THROUGH 53-7-303, AND
11 53-7-306, MCA; REPEALING SECTIONS 53-7-104, 53-7-304,
12 53-7-305, AND 53-7-307 THROUGH 53-7-309, MCA; AND PROVIDING
13 EFFECTIVE DATES."
14

15 STATEMENT OF INTENT

16 This bill requires a statement of intent because
17 [sections 2 and 13] require the department of social and
18 rehabilitation services to adopt administrative rules for
19 vocational rehabilitation programs for persons with
20 employment handicaps and for persons with blindness and low
21 vision.

22 It is the intent of the legislature that the department
23 adopt rules necessary for administration of vocational
24 rehabilitation programs provided for under this bill. Rules
25 adopted by the department may relate to: the provision of

1 vocational rehabilitation services, development of
2 individual rehabilitation service plans, eligibility for
3 services, application requirements, service goals and
4 design, quality of services, provider relationships, program
5 standards, program staffing, staff training, provider
6 accounting procedures, confidential information, recipient
7 grievance procedures, fair hearings, and definitions
8 necessary to carry out the provisions of this bill.

9 In developing its rules, the department shall provide
10 such methods of administering vocational rehabilitation
11 services as may be required by the federal government for
12 state participation in programs funded under the federal
13 Rehabilitation Act of 1973.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 53-7-101, MCA, is amended to read:

17 "53-7-101. Definitions. As-used-in-this--part, Unless
18 the context requires otherwise, in this part the following
19 definitions apply:

20 {1}--"Disabled--individual"--means--a--person--with--an
21 impairment--of--a--physical--or--mental--nature--that--can--be
22 diagnosed--by--a--physician--or--appropriate--specialist--

23 (1) "Department" means the department of social and
24 rehabilitation services provided for in 2-15-2201.

25 {2}--"Employment--handicap"--means--a--physical--or--mental

condition which constitutes, contributes to, or if not corrected, will probably result in an obstruction to occupational performance.

{3}(2) "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation made in accordance with [section 6].

{4}(3) "Occupational licenses license" means licenses a license, permits permit, or other written authority required by any governmental unit to be obtained in order to engage in an occupation.

(4) "Person with an employment handicap" means the same as "individual with handicaps" as defined in the federal Rehabilitation Act of 1973 (29 U.S.C. 706(8)(A)), as may be amended. The term includes any individual who lacks occupation or vocational achievement due to the presence of a physical or mental disability.

(5) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to correct or substantially reduce a disabled individual's the employment handicap of a person within a reasonable length of time, including but not limited to medical, psychiatric, dental, and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative

treatment for acute or transitory medical conditions (except medical care for acute conditions during the course of a unless necessary to maintain a person's health in order to complete a rehabilitation plan which, if not corrected, would constitute a hazard to plan completion).

(6) "Prosthetic appliance" means an artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ.

{7} "Regulations" means regulations made by the department of social and rehabilitation services.

(7) "Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by persons with employment handicaps. Such barriers may exist in the areas of education, rehabilitation, employment, transportation, independent living, and recreation.

(8) "Rehabilitation plan" means a plan, developed with the participation of the recipient, for providing services that will render to assist a disabled individual person with an employment handicap to become independent and productive or employable and is jointly developed by the client and the department of social and rehabilitation services.

(9) "Rehabilitation training" means all necessary training provided to a disabled individual person with an

1 employment handicap to compensate for his rehabilitate the
 2 person's employment handicap, including but not limited to
 3 manual, preconditioning, prevocational, vocational, and
 4 supplementary training and training provided for the purpose
 5 of achieving broader or more remunerative skills and
 6 capacities.

7 (10) "Vocational rehabilitation" and ~~----~~ "vocational
 8 rehabilitation--services" ~~mean services provided directly or~~
 9 ~~through public or private instrumentalities found by the~~
 10 ~~department of social and rehabilitation services to be~~
 11 ~~necessary to compensate a disabled individual for his~~
 12 ~~employment handicap and~~ means the provision of vocational
 13 rehabilitation services to a person with an employment
 14 handicap to enable him the person insofar as possible to
 15 ~~engage in a remunerative occupation, including but not~~
 16 ~~limited to medical and vocational diagnosis, vocational~~
 17 ~~guidance, counseling, and placement, rehabilitation~~
 18 ~~training, physical restoration, transportation, occupational~~
 19 ~~licenses, customary occupational tools and equipment,~~
 20 ~~maintenance, training books and materials, facilities for~~
 21 ~~groups of handicapped, service to family members, and~~
 22 ~~follow-up service~~ become independent and productive or
 23 employable.

24 (11) "Vocational rehabilitation services" means the
 25 following services: medical diagnosis, vocational guidance,

1 vocational counseling, vocational placement, rehabilitation
 2 training, rehabilitation engineering, physical restoration,
 3 transportation, occupational licenses, customary
 4 occupational tools and equipment, maintenance, training
 5 books and materials, group facilities, family services,
 6 followup services, and any other goods and services provided
 7 for by rule and that the department determines to be
 8 necessary to rehabilitate the person."

9 Section 2. Section 53-7-102, MCA, is amended to read:
 10 "53-7-102. Powers and duties of department. The
 11 department of social and rehabilitation services:

12 (1) shall adopt rules governing personnel necessary
 13 for the administration of this part. Rules adopted may
 14 include but are not limited to the provision of services,
 15 individual service plans, eligibility for services,
 16 application, service goals and design, quality of services,
 17 provider relationships, program standards, the protection of
 18 records and program staffing, staff training, provider
 19 accounting procedures, confidential information, the manner
 20 and form of filing applications, eligibility and
 21 investigation and determination thereof for vocational
 22 rehabilitation services, procedures for fair recipient
 23 grievance procedures, hearings, and any other rules
 24 definitions necessary to carry out this part;

25 (2) ~~except as otherwise provided by law, shall provide~~

1 vocational--rehabilitation--services--to--eligible--disabled
2 individuals;

3 {3}{2} shall may take any other action it considers
4 determines necessary or appropriate to carry out the
5 purposes of this part;

6 {4}{3} may cooperate with other departments and
7 agencies and institutions, both public and private, in
8 providing for vocational rehabilitation of disabled
9 individuals persons with employment handicaps, in studying
10 the problems involved in vocational rehabilitation, and in
11 establishing, developing, and providing necessary programs,
12 facilities, and services;

13 {5}{4} may conduct research and compile statistics
14 relating to the vocational rehabilitation of disabled
15 individuals persons with employment handicaps; and

16 {6}{5} may accept and use gifts to carry out this
17 part. Gifts--made--under--conditions--which--the--department
18 considers--proper--and--consistent--with--this--part--may--be
19 accepted--and--shall--be--held,--invested,--reinvested,--and--used
20 in--accordance--with--the--conditions--of--the--gift--"

21 Section 3. Section 53-7-103, MCA, is amended to read:

22 "53-7-103. Department to cooperate with federal
23 government. The department of--social--and--rehabilitation
24 services shall cooperate, pursuant to agreements, with the
25 federal government, in carrying out the purposes of any the

1 federal statutes-pertaining-to-rehabilitation Rehabilitation
2 Act of 1973 (29 U.S.C. 701, et seq.), as may be amended, and
3 may adopt such methods of administration as are--found
4 required by the federal government to-be-necessary for the
5 proper-and-efficient-operation-of-such-agreements--or--plans
6 for-rehabilitation-and-to-comply-with-such-conditions-as-may
7 be--necessary--to--secure--the--full-benefits-of-such-federal
8 statutes state participation in programs funded under the
9 federal act."

10 Section 4. Section 53-7-105, MCA, is amended to read:

11 "53-7-105. Eligibility. {1}-Vocational A person with
12 an employment handicap is eligible for vocational
13 rehabilitation services shall-be-provided--to--any--disabled
14 individual-who:

15 {a}--is--in--the--state--at--the--time--of--filing--his
16 application-for-services-and-whose-vocational-rehabilitation
17 if the department, of--social--and--rehabilitation--services
18 determines after full investigation can-be-satisfactorily
19 achieved,--or, determines that the person may become
20 employable or achieve accepted vocational objectives through
21 the provision of vocational rehabilitation services that are
22 made available as provided for in [section 6].

23 {b}--is--eligible--for--services--under-the-terms-of-an
24 agreement-with-another-state-or-with-the-federal-government--

25 {2}--Except--as--otherwise--provided--by--law--or--as

~~specified--in-any-agreement-with-the-federal-government-with
respect--to--classes--of--individuals---certified---to---the
department;--the--following-rehabilitation-services-shall-be
provided-at-public-cost-only-to-disabled--individuals--found
to-require-financial-assistance-with-respect-thereto;~~

~~{a}--physical-restoration;~~

~~{b}--transportation---not--provided--to--determine--the
eligibility-of-the-individual-for-vocational--rehabilitation
services---and---the--nature--and--extent--of--the--services
necessary;~~

~~{c}--occupational-licenses;~~

~~{d}--customary-occupational-tools-and-equipment;~~

~~{e}--maintenance;~~

~~{f}--training;--including-books-and-materials--"~~

Section 5. Section 53-7-106, MCA, is amended to read:

"53-7-106. Hearings. ~~An--individual~~ A person applying for or receiving vocational rehabilitation services who is aggrieved by any action or inaction of the department of ~~social-and-rehabilitation-services~~ is entitled to a fair hearing in accordance with ~~regulations-to-a-fair-hearing-by-the-board-of-social-and--rehabilitation--appeals~~ the rules adopted by the department."

NEW SECTION. Section 6. Provision of services -- financial responsibility for services. (1) The department, in accord with this part and the federal Rehabilitation Act

of 1973 (29 U.S.C. 701, et seq.), as may be amended, may provide to persons determined eligible under 53-7-105 any vocational rehabilitation services listed in 53-7-101 that are determined by the department to be appropriate and necessary for the person's vocational rehabilitation.

(2) The following vocational rehabilitation services are available without cost to an eligible person:

(a) counseling and guidance;

(b) diagnostic evaluation; and

(c) placement.

(3) In addition to the services listed in subsection (2), the department may pay the cost of other vocational rehabilitation services for an eligible person to the extent that the department determines that the person is without sufficient financial resources to pay the cost of such services.

(4) The department may in its discretion provide maintenance payments to a recipient of vocational rehabilitation services if the department determines that the recipient is without sufficient financial resources to:

(a) obtain basic necessities at a level the department determines is appropriate; and

(b) pay the cost of vocational rehabilitation services to be provided to the person.

Section 7. Section 53-7-301, MCA, is amended to read:

1 "53-7-301. Definitions. As used in this part, the
2 following definitions apply:

3 (1) (a) "~~Blind~~----individual Blindness" means an
4 individual whose a visual disability in which:

5 (i) a person's central visual acuity does not exceed
6 20/200 in the better eye with correcting lenses; or

7 (ii) whose--visual-acuity-is-greater-than-20/200-but-is
8 accompanied-by-a-limitation-in-the--fields--of--vision--such
9 that a person's visual field at the widest diameter of the
10 visual-field subtends an angle no greater than 20 degrees,
11 or who has other eye conditions which render

12 (b) The term includes any visual disability that, in
13 the determination of the department, renders vision equally
14 seriously defective or who has an eye condition which will
15 cause causes blindness.

16 ~~{2}--"Business license"--means any license,--permit,--or~~
17 ~~other written authority required by any governmental unit to~~
18 ~~be obtained in order to engage in a business.~~

19 ~~{3}{2} "Department" means the department of social and~~
20 ~~rehabilitation services provided for in Title 27, chapter 15,~~
21 ~~part 22 2-15-2201.~~

22 (3) "Low vision" means a visual impairment that, even
23 with correction, remains so severe as to make performance of
24 daily tasks difficult.

25 (4) "Maintenance" means money payments ~~not--exceeding~~

1 ~~the--estimated--cost--of--subsistence--during--the--provision--of~~
2 ~~vocational--rehabilitation--and--rehabilitation--services made~~
3 ~~in accordance with [section 12].~~

4 (5) "Occupational license" means a license, permit, or
5 other written authority required by any governmental unit ~~to~~
6 ~~be obtained in order to engage in an occupation.~~

7 ~~{6} "Person with an employment handicap" means the~~
8 ~~same as "individual with handicaps" as defined in the~~
9 ~~federal Rehabilitation Act of 1973 (29 U.S.C. 706(B)(A)), as~~
10 ~~may be amended. The term includes any individual who lacks~~
11 ~~occupation or vocational achievement due to the presence of~~
12 ~~a physical or mental disability.~~

13 ~~{6}{7} "Physical restoration" means any medical,~~
14 ~~surgical, or therapeutic treatment necessary to correct or~~
15 ~~substantially reduce a--blind--individual's an employment~~
16 ~~handicap caused by blindness or low vision within a~~
17 ~~reasonable length of time, including but not limited to~~
18 ~~medical, psychiatric, dental, and surgical treatment,~~
19 ~~nursing services, hospital care, convalescent home care,~~
20 ~~drugs, medical and surgical supplies, and prosthetic~~
21 ~~appliances, but excluding curative treatment for acute or~~
22 ~~transitory medical conditions unless necessary to maintain a~~
23 ~~person's health in order to complete a rehabilitation plan.~~

24 ~~{7}{8} "Prosthetic appliance" means an artificial~~
25 ~~device necessary to support or take the place of a part of~~

1 the body or to increase the acuity of a sense organ.

2 {8}--"Rehabilitation---services"---means---any---services,
3 provided---directly---or---through---public---or---private
4 instrumentalities,--found--by-the-department-to-be-necessary
5 to-compensate-a-blind-individual-for-his-employment-handicap
6 or-to-enable-him-to-achieve-the-maximum-degree-of--self-care
7 and-to-engage-in-productive-tasks.

8 (9) "Rehabilitation engineering" means the systematic
9 application of technologies, engineering methodologies, or
10 scientific principles to meet the needs of and address the
11 barriers confronted by persons with blindness or low vision.
12 Such barriers may exist in the areas of education,
13 rehabilitation, employment, transportation, independent
14 living, and recreation.

15 (10) "Rehabilitation plan" means a plan, developed with
16 the participation of the recipient, for providing services
17 to assist a person with blindness or low vision to become
18 independent and productive or employable.

19 {9}(11) "Rehabilitation training" means all--necessary
20 training provided to a blind--individual person with
21 blindness or low vision to compensate-for--his rehabilitate
22 the person's employment handicap, including but not limited
23 to manual, preconditioning, prevocational, vocational, and
24 supplementary training and training provided for the purpose
25 of achieving broader or more remunerative skills and

1 capacities.

2 {10}(12) "Vocational rehabilitation" and--"vocational
3 rehabilitation---services"---mean---any---services,--provided
4 directly-or-through--public--or--private--instrumentalities,
5 found--by--the--department--to--be-necessary-to-compensate-a
6 blind-individual-for-his-employment-handicap-and means the
7 provision of vocational rehabilitation services to a person
8 with blindness or low vision to enable him the person
9 insofar as possible to engage-in-a-remunerative-occupation,
10 including--but--not--limited--to--medical---and---vocational
11 diagnosis,--vocational--guidance,--counseling-and-placement,
12 rehabilitation---training,-----physical-----restoration,
13 transportation,--occupational--and-business-licenses,tools,
14 equipment,initial-stocks-and-supplies,including-livestock,
15 capital--advances,--maintenance,--and--training--books---and
16 materials become independent and productive or employable.

17 (13) "Vocational rehabilitation services" means the
18 following services: medical diagnosis, vocational guidance,
19 vocational counseling, vocational placement, rehabilitation
20 training, rehabilitation engineering, physical restoration,
21 transportation, occupational licenses, customary
22 occupational tools and equipment, maintenance, training
23 books and materials, group facilities, family services,
24 followup services, and any other goods and services provided
25 for by rule and that the department determines to be

1 necessary to rehabilitate the person."

2 **Section 8.** Section 53-7-302, MCA, is amended to read:

3 "53-7-302. **Administration.** The department shall
4 provide the--services--authorized--by--this--part--to--blind
5 individuals--determined--by--it--to-be-eligible-therefor--in
6 carrying-out-the-purposes-of-this-part, the department--may,
7 among-other-things may:

8 (1) cooperate with other departments, and agencies,
9 and institutions, both public and private, in providing the
10 services authorized by this part to blind--individuals
11 persons with blindness or low vision; in studying the
12 problems involved therein in vocational rehabilitation; and
13 in establishing, developing, and providing--in--conformity
14 with--the--purposes-of-this-part, such programs, facilities,
15 and services as--may-be-necessary-or-desirable;

16 (2)--enter-into-reciprocal-agreements-with-other-states
17 to-provide-the-services-authorized-by-this-part-to-residents
18 of-the-states-concerned;

19 (3)(2) conduct research and compile statistics
20 relating to the provision of services to or the need of
21 services of-blind-individuals for persons with blindness or
22 low vision;

23 (4)--provide-supplementary-services-to-any-applicant-or
24 recipient--who--is--in--need--of-treatment-either-to-prevent
25 blindness-or-to-restore-his-eyesight, whether-or-not--he--is

1 blind, if he is otherwise qualified for services or training
2 under--this--part--and--if--the--supplementary--services--are
3 recommended--because-of-the-findings-of-an-ophthalmologist-or
4 optometric--examination--The--supplementary--services--may
5 include--necessary--travel--and--other--expenses--to-receive
6 treatment-from-a-hospital--or--clinic--designated--by--the
7 department;

8 (3) accept and use gifts to carry out this part; and

9 (5)(4) make rules and take any other action it
10 determines necessary or appropriate to carry out this part."

11 **Section 9.** Section 53-7-303, MCA, is amended to read:

12 "53-7-303. **Cooperation with federal government.** The
13 department may shall cooperate, pursuant to agreements with
14 the federal government, in carrying out the purposes of any
15 the federal statutes-pertaining-to-the-purposes-of-this-part
16 and--comply--with--such--conditions--as--may-be-necessary-to
17 secure--the--full--benefits---of---such---federal---statutes
18 Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may
19 be amended, and may adopt methods of administration required
20 by the federal government for state participation in
21 programs funded under the federal act."

22 **Section 10.** Section 53-7-306, MCA, is amended to read:

23 "53-7-306. **Vocational--rehabilitation Eligibility for**
24 **services.** (1)--Vocational A person with an employment
25 handicap due to blindness or low vision is eligible for

1 ~~vocational~~ rehabilitation services shall be provided to any
2 ~~blind individual who:~~

3 {a}--at the time of filing his application for
4 services, resides in the state for other than a temporary
5 purpose and whose vocational rehabilitation if the
6 department, after full investigation, determines can be
7 satisfactorily achieved; or that the person may become
8 employable or achieve accepted vocational objectives through
9 the provision of vocational rehabilitation services that are
10 made available as provided for in [section 12].

11 {b}--is eligible for services under the terms of an
12 agreement with another state or with the federal government.

13 {2}--Except as otherwise provided by law or as
14 specified in any agreement with the federal government with
15 respect to classes of individuals certified to the
16 department thereunder, the following vocational
17 rehabilitation services shall be provided at public cost
18 only to blind individuals found to require financial
19 assistance with respect thereto:

20 {a}--physical restoration;

21 {b}--transportation not provided to determine the
22 eligibility of the individual for vocational rehabilitation
23 services and the nature and extent of the services
24 necessary;

25 {c}--occupational and business licenses;

1 {d}--tools, equipment, initial stock and supplies
2 {including livestock}, and capital advances;
3 {e}--training, including books and materials;
4 {f}--maintenance."

5 NEW SECTION. Section 11. Provision of services --
6 financial responsibility for services. (1) The department,
7 in accord with this part and the Rehabilitation Act of 1973
8 (29 U.S.C. 701, et seq.), as may be amended, may provide to
9 persons determined eligible under 53-7-306 any vocational
10 rehabilitation services listed in 53-7-301 that are
11 determined by the department to be appropriate and necessary
12 for the person's vocational rehabilitation.

13 (2) The following vocational rehabilitation services
14 are available without cost to a person eligible for visual
15 services:

- 16 (a) counseling and guidance;
- 17 (b) diagnostic evaluation; and
- 18 (c) placement.

19 (3) In addition to the services listed in subsection
20 (2), the department may pay the cost of other vocational
21 rehabilitation services for an eligible person to the extent
22 that the department determines that the person is without
23 sufficient financial resources to pay the cost of such
24 services.

25 (4) The department may in its discretion provide

1 maintenance payments to a recipient of vocational
2 rehabilitation services if the department determines that
3 the recipient is without sufficient financial resources to:

4 (a) obtain basic necessities at a level the department
5 determines is appropriate; and

6 (b) pay the cost of vocational rehabilitation services
7 to be provided to the person.

8 NEW SECTION. Section 12. Hearings. A person applying
9 for or receiving vocational rehabilitation services who is
10 aggrieved by any action or inaction of the department is
11 entitled to a fair hearing in accordance with rules adopted
12 by the department.

13 NEW SECTION. Section 13. Rulemaking authority. The
14 department shall adopt rules necessary for the
15 administration of this part. Rules adopted may include but
16 are not limited to the provision of services, individual
17 service plans, eligibility for services, application,
18 service goals and design, quality of services, provider
19 relationships, program standards, program staffing, staff
20 training, provider accounting procedures, confidential
21 information, recipient grievance procedures, hearings, and
22 definitions necessary to carry out this part.

23 NEW SECTION. Section 14. Administration of vocational
24 rehabilitation programs -- applicability. (1) Those
25 divisions of the department that have programs for the

1 provision of vocational rehabilitation services may share
2 administrative personnel, operations, and policies so as to
3 assure uniform administration necessary under the federal
4 Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as may
5 be amended. Within the department, the vocational
6 rehabilitation services provided under the federal act must
7 be administered in such a way that they are kept separate
8 and independent from other programs, EXCEPT AS PROVIDED IN
9 [SECTION 15].

10 (2) This section applies to all programs and services
11 in Title 53, chapter 7, administered by the department with
12 funds provided under the federal Rehabilitation Act of 1973
13 (29 U.S.C. 701, et seq.), as may be amended.

14 NEW SECTION. SECTION 15. COORDINATION REQUIREMENTS --
15 CONSOLIDATION OF PROGRAMS AUTHORIZED. (1) THE GOVERNOR SHALL
16 ASSURE THAT SERVICES UNDER TITLE 53, CHAPTER 19, PART 1, ARE
17 COORDINATED WITH PROGRAMS AND SERVICES IN TITLE 53, CHAPTER
18 7, PARTS 1 THROUGH 3, THAT ARE ADMINISTERED BY THE
19 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES WITH FUNDS
20 PROVIDED UNDER THE FEDERAL REHABILITATION ACT OF 1973 (29
21 U.S.C. 701, ET SEQ.), AS AMENDED.

22 (2) THE GOVERNOR MAY CONSOLIDATE SERVICES UNDER TITLE
23 53 WITH OTHER PROGRAMS AND SERVICES IN ORDER TO MAXIMIZE
24 COORDINATION OF SERVICES AS REQUIRED IN SUBSECTION (1) AND
25 TO PREVENT OVERLAPPING AND DUPLICATION OF SERVICES WITHIN

1 STATE GOVERNMENT.

2 (3) THE GOVERNOR MAY TRANSFER EMPLOYEES,
 3 APPROPRIATIONS, AND SPENDING AUTHORITY NECESSARY TO
 4 ACCOMPLISH THE COORDINATION OF SERVICES AS MANDATED BY THIS
 5 SECTION. THE AUTHORITY CONTAINED IN THIS SUBSECTION IS
 6 LIMITED TO THE PROGRAMS AND SERVICES DESCRIBED IN SUBSECTION
 7 (1). THIS SUBSECTION SUPERSEDES ANY RESTRICTIONS ON THE
 8 TRANSFER OF EMPLOYEES, APPROPRIATIONS, AND SPENDING
 9 AUTHORITY CONTAINED IN [HOUSE BILL NO. 100].

10 NEW SECTION. Section 16. Repealer. Sections 53-7-104,
 11 53-7-304, 53-7-305, and 53-7-307 through 53-7-309, MCA, are
 12 repealed.

13 NEW SECTION. Section 17. Extension of authority. Any
 14 existing authority to make rules on the subject of the
 15 provisions of [this act] is extended to the provisions of
 16 [this act].

17 NEW SECTION. Section 18. Codification instruction.
 18 (1) [Sections 6 and 14] are intended to be codified as an
 19 integral part of Title 53, chapter 7, part 1, and the
 20 provisions of Title 53, chapter 7, part 1, apply to
 21 [sections 6 and 14].

22 (2) [Sections 11 through 13] are intended to be
 23 codified as an integral part of Title 53, chapter 7, part 3,
 24 and the provisions of Title 53, chapter 7, part 3, apply to
 25 [sections 11 through 13].

1 NEW SECTION. Section 19. Effective dates. (1)
 2 [Sections 2, 13, ~~16~~ 17, and this section] are effective on
 3 passage and approval.
 4 (2) [Sections 1, 3 through 12, 14~~7~~-15 THROUGH 16, and
 5 ~~17~~ 18] are effective July 1, 1989.

-End-