

HOUSE BILL NO. 723

INTRODUCED BY COBB

BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

IN THE HOUSE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
FEBRUARY 16, 1989	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 3, 1989	PRINTING REPORT.
MARCH 4, 1989	SECOND READING, DO PASS.
MARCH 6, 1989	ENGROSSING REPORT.
MARCH 7, 1989	THIRD READING, PASSED. AYES, 92; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 2.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 723
 2 INTRODUCED BY CSB
 3 BY REQUEST OF THE DEPARTMENT OF
 4 SOCIAL AND REHABILITATION SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE LAWS RELATING TO THE PROVISION OF GENERAL RELIEF
 8 ASSISTANCE; AMENDING SECTIONS 53-2-822, 53-3-108, 53-3-109,
 9 53-3-113, 53-3-205, 53-3-206, 53-3-209, 53-3-304, 53-3-309,
 10 AND 53-3-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

13 **Section 1.** Section 53-2-822, MCA, is amended to read:

14 "53-2-822. Work Workfare program required. The
 15 department of social and rehabilitation services shall
 16 establish a work workfare program as provided in 53-3-304.
 17 The department of social and rehabilitation services may
 18 contract with the county, a municipality, or state agency
 19 that has work available to operate workfare projects for
 20 recipients of general relief."

21 **Section 2.** Section 53-3-108, MCA, is amended to read:

22 "53-3-108. Purpose. (1) The legislature, in order to
 23 implement the provisions of Article XII, section 3, of the
 24 Montana constitution, finds that certain persons are in need
 25 of assistance because of misfortune and must be provided

1 with certain assistance through programs for general relief.
 2 These programs are to be efficiently administered by local
 3 county welfare boards or, whenever responsibility for local
 4 welfare programs has been assumed by the state of Montana,
 5 by the department of social and rehabilitation services.
 6 General relief, along with other assistance programs, is
 7 made available to provide basic necessities that provide
 8 minimum subsistence compatible with decency and health and
 9 to provide financial assistance for medical services
 10 necessary for serious medical conditions. General relief
 11 medical assistance is not intended to provide catastrophic
 12 medical insurance to nonindigent persons.

13 (2) The legislature finds that assistance under the
 14 general relief program should not be available to those
 15 persons who have either adequate income or resources of
 16 their own or who are able-bodied. When benefits and services
 17 are available through other federal or state assistance
 18 programs, general relief should not be provided in
 19 duplication of such other assistance.

20 ~~{3}--The legislature, in recognition of the need to~~
 21 ~~expand the employment opportunities available to able-bodied~~
 22 ~~persons who do not have dependent minor children, will~~
 23 ~~provide 2 months of general relief so that such able-bodied~~
 24 ~~persons may be eligible for the job readiness training~~
 25 ~~authorized in 53-3-304{3}.~~

1 †4†(3) The legislature further finds that the purposes
2 of the general relief program must be implemented only to
3 the extent necessary and allowable by the mandates of
4 Article VIII, sections 12 and 14, of the Montana
5 constitution, regarding financial accountability and
6 expenditure by appropriation."

7 **Section 3.** Section 53-3-109, MCA, is amended to read:

8 "53-3-109. Definitions. For the purposes of this
9 chapter, the following definitions apply:

10 (1) "Able-bodied" means the condition of a person who
11 is not infirm.

12 (2) "Basic necessities" means food, shelter,
13 utilities, and personal needs.

14 (3) "Children" means minor and adult children who
15 reside in the same household with their parents. The term
16 includes both adoptive and natural children.

17 †3†(4) "Department" means the department of social and
18 rehabilitation services provided for in Title 2, chapter 15,
19 part 22.

20 †4†(5) "General relief" or "general relief assistance"
21 means, in accordance with this chapter, a program of public
22 assistance for basic necessities and medical needs to those
23 persons determined to be eligible for that assistance.

24 †5†(6) "Household" means:

25 (a) a collective body of persons consisting of spouses

1 or parents and their children who reside in the same
2 residence; or

3 (b) all other persons who by choice, or necessity, or
4 ~~legal-relationship~~ are mutually dependent upon each other
5 for basic necessities and who reside in the same residence.

6 †6†(7) "Income" means the value of all property of any
7 nature, earned, unearned, or in-kind, including benefits,
8 that is reasonably certain to be received by or available to
9 is actually received during the month by members of a
10 household during-the-month-of-the-receipt-of-the-income.

11 †7†(8) "Indigent" or "misfortunate" means a person who
12 is lacking the means, financial or otherwise, by which to
13 prevent destitution for himself and others dependent upon
14 him for basic necessities and who is otherwise eligible for
15 assistance under this chapter. ~~Except-as-provided-otherwise~~
16 ~~in---53-3-205---and---53-3-209,--the--terms--do--not--include~~
17 ~~able-bodied--persons--unless--they--have---dependent---minor~~
18 ~~children-living-in-the-household.~~

19 †8†(9) "Infirm" means the condition of a person who is
20 diagnosed by a licensed medical practitioner and confirmed
21 by an expert medical review to have a physical or mental
22 handicap that significantly impairs the person's ability to
23 be employed.

24 †9†(10) "Lump-sum income" means a nonrecurring source
25 of income received in a single payment by a household during

1 any eligibility period, including but not limited to
 2 proceeds from a lawsuit, insurance settlement, inheritance,
 3 lump-sum retirement, veterans' or unemployment benefits;
 4 benefits received under the federal Social Security Act;
 5 prizes; and tax refunds.

6 {11} "Presumptive income" means the amount of financial
 7 assistance that a person would have received under the aid
 8 to families with dependent children program, as provided for
 9 in Title 53, chapter 4, part 2, if the person had not been
 10 determined ineligible due to receipt of lump-sum income,
 11 overpayment, fraud, or failure or refusal to comply with
 12 requirements for continued participation in the program.

13 {10}(12) "Resource" means all real and personal
 14 property retained after the calendar month of its receipt
 15 and which the household or a member of the household has a
 16 legal right to sell or liquidate.

17 {11}(13) "Secure facility" means any facility in which
 18 a person may be lawfully held against his will by federal,
 19 state, or local authorities.

20 {12}(14) "Serious medical condition" means a mental or
 21 physical condition that causes a serious health risk to a
 22 person and for which treatment is medically necessary,
 23 including pregnancy. Diagnosis and determination of
 24 necessary treatment must be made by a licensed medical
 25 practitioner, and the department may confirm it through an

1 expert medical review. Necessary treatment includes prenatal
 2 care and such other elective treatments as determined by
 3 department rule to be medically necessary."

4 **Section 4.** Section 53-3-113, MCA, is amended to read:

5 "53-3-113. Contested case hearing. (1) Except as
 6 provided in subsection (2), a hearing must be held on
 7 request of any person who is dissatisfied with:

- 8 (a) an action taken on an application;
- 9 (b) an eligibility determination; or
- 10 (c) the amount or condition of payment.

11 (2) A hearing need not be granted if either state or
 12 federal law requires automatic grant adjustments for classes
 13 of persons unless the reason for an individual appeal is
 14 incorrect grant computation.

15 (3) The applicant or recipient must be informed of the
 16 right to request a hearing at the time any adverse action
 17 affects his eligibility.

18 (4) A hearing must be requested within 90 calendar
 19 days from the date of notice of adverse action. An applicant
 20 is considered to have been given notice on the date the
 21 notice is mailed ~~by certified-mail~~ or personally served.

22 (5) The hearing must be held in:

- 23 (a) the person's county of residence;
- 24 (b) the county where application is made if residency
- 25 is unestablished; or

(c) Lewis and Clark County if a real party in interest requests a hearing for an applicant in any county with state-assumed welfare services.

(6) When a real party in interest requests a hearing for an applicant, venue for judicial review of the final administrative action is Lewis and Clark County if financial responsibility is alleged to be with a state-assumed county welfare program."

Section 5. Section 53-3-205, MCA, is amended to read:

"53-3-205. Eligibility for general relief. (1) A person or persons constituting a household may receive general relief assistance for basic necessities if the household is determined to be eligible under the provisions of this section and is in need of such assistance as a result of their infirmity, misfortune, or indigency.

(2) A household is eligible for general relief assistance if the household income, including presumptive income but exclusive of the first \$50 earned each month by each household member, does not exceed that set forth in the following table:

Number of Persons in Household	Monthly Income Standard
1	\$212
2	282
3	354

4	426
5	501
6	570
7	642
8	713
9	785
10 or more	857

~~(3) Able-bodied persons without dependent minor children living in the household are not eligible for nonmedical general relief assistance, except as provided in 53-3-209.~~

~~(4)~~ (3) (a) When the household's income exceeds the monthly income standard for a household of that size because of receipt of lump-sum income, the household will be ineligible for general relief assistance for the full number of months, beginning with the month of receipt, derived by dividing the total of the lump-sum income and other income by the monthly income standard for a household of that size. Any income remaining from this calculation will be considered as income in the first month following the period of ineligibility.

(b) The period of ineligibility may be recalculated if the household size changes or if a portion of the lump sum was used to pay medical bills for a serious medical condition.

1 (c) Ineligibility due to the receipt of a lump sum
2 does not preclude eligibility for general relief medical
3 assistance.

4 ~~{5}(4)~~ All applicants for and recipients of general
5 relief assistance who reside in the same residence are
6 considered as one household.

7 ~~{6}--Prospective income that is reasonably--certain--to~~
8 ~~be--received--by--the household during an eligibility period~~
9 ~~must be considered when determining eligibility.~~

10 (5) Eligibility for general relief assistance must be
11 determined prospectively based on household income and other
12 relevant circumstances reasonably certain to exist in the
13 month in which assistance is to be provided. Once
14 eligibility is determined, an individual must be paid
15 benefits in accordance with the method provided for in
16 53-3-311.

17 (6) (a) Except as provided in subsection (6)(b), the
18 equity value of all household resources must be considered
19 available to meet the needs of the individual applying for
20 general relief.

21 ~~{7}(b)~~ The following resources of a household must be
22 excluded from consideration of resources for eligibility
23 purposes:

24 ~~{a}(i)~~ the domicile of the household, including
25 necessary appurtenant land not exceeding 10 acres;

1 ~~{b}(ii)~~ a motor vehicle that has no more than \$1,500 in
2 equity value;

3 ~~{c}(iii)~~ personal items, clothing, household furniture,
4 appliances, and other essential household items, the total
5 equity value of which does not exceed resource eligibility
6 limits established by rule; and

7 ~~{d}(iv)~~ tools of a trade that are essential to the
8 current or future employment of a household member.

9 ~~{8}(7)~~ A person who is committed or sentenced by legal
10 process to a state institution or a secure facility or who
11 is incarcerated in a secure facility pending resolution of
12 legal process is not eligible for general relief.

13 ~~{9}(8)~~ A person who resides for a period of 1 day or
14 more in any state or federally operated institution or
15 residence is not eligible for general relief for the period
16 of that residency.

17 ~~{10}(9)~~ For the purposes of an eligibility
18 determination, an applicant for or recipient of general
19 relief may be requested to produce all financial and other
20 information concerning the household.

21 ~~{11}(10)~~ Whenever practical, an eligibility
22 determination must be made within 30 days of the date of
23 application and the applicant must be notified in writing of
24 the eligibility determination and the reasons for the
25 determination.

1 ~~{12}~~(11) An alien determined to be illegally within the
2 United States is not eligible for general relief."

3 **Section 6.** Section 53-3-206, MCA, is amended to read:

4 **"53-3-206. Eligibility for general relief medical**
5 **assistance.** (1) In order to be considered for eligibility
6 for general relief medical assistance, a person must be
7 found to have a serious medical condition.

8 (2) Eligibility for general relief medical assistance
9 must be determined as provided in this section and 53-3-205.
10 A person with a serious medical condition must apply for
11 general relief medical assistance prior to the provision of
12 medical services or within 90 days of the date the medical
13 service is first provided. Eligibility is determined as of
14 the date medical service is first provided.

15 (3) All persons who reside in the same residence and
16 are ~~legally-related-to-or-responsible-for-each-other~~ either
17 married to each other or are the parents or children of
18 other persons living in the same residence are considered to
19 be one household for purposes of determining general relief
20 medical assistance.

21 (4) All individual or household resources must be used
22 to offset medical obligations except those resources
23 excluded in 53-3-205{7}(6) or used to offset nonmedical
24 general relief payments during the same period.

25 (5) A household is ineligible to receive general

1 relief medical assistance if the household is ineligible for
2 medicaid as a result of overpayment, fraud, or failure or
3 refusal to comply with requirements for continued
4 participation in the medicaid program.

5 ~~{5}~~(6) To determine eligibility for county general
6 relief medical assistance, a county welfare board may
7 promulgate rules to establish the circumstances under which
8 persons are unable to pay for their medical aid and
9 hospitalization. However, no household with an income
10 exceeding 300% of the amount set forth in 53-3-205(2) is
11 eligible for such medical assistance.

12 ~~{6}~~(7) In a county with state-assumed welfare
13 services,

14 ~~{a}--covered-medical-services-must-be--provided--at--no~~
15 ~~cost--to--the--person-residing-in-a-household-if-the-average~~
16 ~~household-monthly-income-that-is-reasonably--certain--to--be~~
17 ~~received--in--a-12-month-period-beginning-with-the-month-the~~
18 ~~medical-service-was-provided-does-not-exceed-the--amount--in~~
19 ~~53-3-205{2};~~

20 ~~{b}~~ a person is not eligible for medical services if
21 the household in which he resides has an average monthly
22 income reasonably certain to be received in a 12-month
23 period beginning with the month the medical service was
24 provided in excess of that set forth in the following table:

Monthly

1	Family Size	Income Level
2	1	\$ 287
3	2	433
4	3	526
5	4	618
6	5	714
7	6	804
8	7	896
9	8	988
10	9	1,081
11	10	1,173
12	11	1,194
13	12	1,215
14	13	1,236
15	14	1,256
16	15	1,277
17	16 or more	1,298
18	{c}--if-the-average-household-monthly-income-reasonably	
19	certain--to--be-received-in-a-12-month-period-beginning-with	
20	the-month-the-medical-service-was-provided--is--between--the	
21	amount-in-53-3-205(2)-and-the-monthly-income-level-set-forth	
22	in--subsection--(b),--a--household--must-first-incur-covered	
23	medical-costs-equal-to-the-difference--between--its--average	
24	monthly---income---and---the---monthly--income--standard--in	
25	53-3-205(2)-before-medical-assistance-is-provided."	

1 **Section 7.** Section 53-3-209, MCA, is amended to read:

2 "53-3-209. Period of eligibility. (1) The period of

3 eligibility for receipt of general relief for basic

4 necessities is 1 month,--except. Except as provided in

5 ~~subsections (2) and subsection (3)-A,~~ a person may seek to

6 establish eligibility for the succeeding month prior to the

7 end of the current month of eligibility.

8 ~~(2)--Able-bodied--persons--without--dependent--minor~~

9 ~~children--living--in--the-household--are--eligible--for--no--more~~

10 ~~than--2--months--of--nonmedical--general--relief--assistance--within~~

11 ~~any--12--month--period,--except--that--assistance--received--prior~~

12 ~~to--November--17--1986,--shall--not--be--counted.~~

13 ~~(3)(2)~~ Eligibility for general relief medical

14 assistance is granted for a period of 1 month and terminates

15 when the serious medical condition of the person has been

16 treated. Except as provided in subsection (3), continued

17 eligibility for general relief medical assistance may be

18 established in any subsequent month.

19 ~~(4)(3)~~ The period of eligibility for any type of

20 general relief assistance terminates at any time the county

21 welfare board or the department determines that the

22 household:

23 (a) no longer meets the applicable eligibility

24 requirements; or

25 (b) received general relief assistance by means of

1 fraud or mistake."

2 **Section 8.** Section 53-3-304, MCA, is amended to read:

3 "53-3-304. Power to require recipient to participate
4 in job search, training, and work workfare programs. (1) The
5 department shall cooperate with the department of labor and
6 industry and other designated agencies to initiate, promote,
7 and develop job search, training, and work workfare programs
8 that will contribute to the employability of persons
9 receiving general relief assistance under the provisions of
10 this chapter. These programs must be designed to preserve
11 and improve the work habits and job-finding skills of
12 recipients for whom jobs are not otherwise immediately
13 available.

14 (2) For each county with state-assumed welfare
15 services, the department shall contract with the department
16 of labor and industry or other designated agencies to
17 institute a job search, training, and work workfare program
18 programs that provides provide able-bodied general relief
19 assistance recipients with the necessary job-finding skills
20 to seek unsubsidized employment independently.

21 (3) In a county with state-assumed welfare services,
22 an able-bodied recipient of general relief assistance shall
23 enroll in a structured job search and training program at an
24 employment office or other site designated by the
25 department. The program must include but is not limited to

1 the following elements:

2 (a) assessment and testing;

3 (b) an employability plan;

4 (c) remedial education or job skills training, if it
5 is called for in the employability plan and if it provides
6 for immediate referral to an appropriate Job Training
7 Partnership Act program;

8 (d) a job readiness and job search program that must
9 include but is not limited to:

10 (i) self-assessment and occupational testing;

11 (ii) instruction in completing applications, writing
12 resumes, and preparing for interviews;

13 (iii) identification of and contact with potential
14 employers; and

15 (iv) participation in simulated job interviews;

16 (e) a supervised effort to find employment; and

17 (f) efforts to address barriers to employment.

18 (4) ~~{a}~~ In addition to the training required in
19 subsection (3), ~~if--a-public-agency-or-a-private-nonprofit~~
20 ~~agency-has-work--available--which--a--recipient--of--general~~
21 ~~relief--is-capable-of-performing-or-the-department-of-social~~
22 ~~and-rehabilitation-services-is-required-to--operate--a--work~~
23 ~~program--under--the--provisions-of-53-2-822--then the county~~
24 department of public welfare or the department of social and
25 rehabilitation services may require a recipient to perform

work--at--the--minimum--wage--or--may--pay--a--recipient--at--the
prevailing--rate--of--wages--paid--in--that--county--by--that--agency
for--similar--work,--to--be--paid--from--the--county--poor--fund--or
state--funds,--in--place--of--granting--him--general--relief,
participate in a workfare program. The purpose of the
workfare program is to provide work experience and training
for general relief recipients in specifically created work
projects operated by a public agency or a private, nonprofit
agency. A workfare program established under this section
must provide that:

{b}{a} No A currently employed worker may not be
displaced by any recipient (including partial displacement
such as a reduction in the hours of nonovertime work, wages,
or employment benefits).

{c}{b} No A recipient may not be employed when given a
work experience or training assignment if:

(i) the assignment would fill an established unfilled
vacancy that exists because an employee has been laid off
any--other--person--is--on--layoff--from--the--same--or--any
substantially-equivalent-job; or

(ii) when the employer has terminated the employment of
any regular employee or otherwise reduced its workforce with
the intention of filling the vacancy so--created--by--hiring
with a general relief recipient whose wages are subsidized
under this section.

(c) A recipient may not be required to participate in
a workfare program if participation is determined to
interfere with:

(i) participation in a job search or job training
program; or

(ii) attendance in a secondary education program.

(d) The maximum number of hours that a recipient may
be required to participate in a workfare program and job
search and training programs may not exceed 40 hours in a
week.

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

{6}--A--recipient--who--has--completed--the--assessment--and
testing--portions--of--the--program--and--has--developed--an
employability--plan--shall--participate--in--the--job--readiness
and--job--search--program--provided--for--in--subsection--{3}{d}--for
at--least--80--hours--in--any--5--week--period--and--shall--spend--at
least--8--hours--a--week--in--a--supervised--effort--to--find

1 employment:

2 {7}(6) A recipient who has completed the job search
3 and training program provided for in subsection (3) shall:

4 (a) continue to spend at least 8 hours a week in a
5 supervised effort to find employment; and

6 (b) for the duration of his eligibility for general
7 relief, spend 32 hours a week, as called for in the
8 employability plan, in:

9 (i) remedial education;

10 (ii) counseling;

11 (iii) job skills training;

12 (iv) work--for--a--public-agency-or-a-private-nonprofit
13 agency, workfare, as required in subsection (4); or

14 (v) job-seeking or other related activities.

15 {8}--Nothing-in-this-chapter-requires-a-recipient--to-

16 {a}--participate-in-the-job-search-and-training-program
17 required---by--subsection--(3)--or--to--perform--work--under
18 subsection-(4)--if-the-training-or-work-site-is-more-than--10
19 miles--from--his--residence,--unless-the-department-provides
20 transportation---or---reimburses---the---recipient---for
21 transportation-costs;-or

22 {b}--continue-the-activities-required-by-subsection-(7)
23 for-longer-than-6-months-

24 {9}(7) Where a labor organization represents a
25 substantial number of employees who are engaged in similar

1 work or training in the area where it is proposed to assign
2 the recipient to ~~work-or-training~~ a workfare assignment, an
3 opportunity must be provided for that organization to submit
4 comments with respect to such proposal.

5 {10}(8) No A work workfare program may not impair
6 existing contracts for services or collective bargaining
7 agreements, and ~~no--work~~ a workfare program that would be
8 inconsistent with the terms of a collective bargaining
9 agreement may not be undertaken without the written
10 concurrence of the labor organization and employer
11 concerned."

12 **Section 9.** Section 53-3-309, MCA, is amended to read:

13 "53-3-309. **Form of relief.** The choice as to the form
14 or forms of relief provided is at the discretion of the
15 county welfare department in counties without state-assumed
16 welfare services or the department if the state has assumed
17 responsibility for the welfare services in a county. The
18 form of relief may include but is not limited to cash,
19 checks, vouchers, lines of credit, in-kind goods and
20 services, and food commodities."

21 **Section 10.** Section 53-3-311, MCA, is amended to read:

22 "53-3-311. **Amount of general relief for basic**
23 **necessities.** (1) In a county without state-assumed welfare
24 services, the amounts of general relief for basic
25 necessities must be determined and adopted at the discretion

of the county welfare board.

(2) In a county with state-assumed welfare services, the amount of general relief for basic necessities available to an eligible household is the amount listed for the same size household in the table in 53-3-205(2), less countable income and resources not excluded in 53-3-205~~(7)~~(6).

(3) Except as provided in subsection (4), the amount of general relief for basic necessities that is available to an eligible household must be determined retrospectively on the basis of the household's actual countable income in the 2 months immediately preceding the month in which assistance is to be received. All available nonexempt resources must be considered in determining the amount of general relief available to the household, as provided in 53-3-205(6), during the benefit month.

(4) During the first 2 months following an initial application for assistance, the amount of general relief for basic necessities must be determined prospectively on the basis of household income and resources that are reasonably certain to exist during the month that assistance is to be granted."

NEW SECTION. Section 11. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 13. Effective date. [This act] is 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 HB723, as introduced.

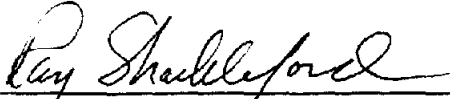
DESCRIPTION OF PROPOSED LEGISLATION:

HB723 is an Act to generally revise and clarify the laws relating to the provision of General Relief Assistance.

ASSUMPTIONS:

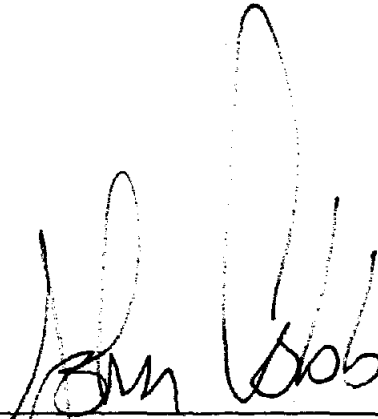
1. Assumes the size and scope of the Workfare program does not change.
2. Assumes SRS local welfare offices determine eligibility and Project Work operators serve only those clients referred by SRS.
3. SRS will continue to contract with DOLI to administer the Workfare program.
4. DOLI will continue to use the current process for assigning General Assistance recipients to workfare sites.
5. SRS and DOLI will operate under a Memorandum of Agreement, similar to the one currently in place.

Based on the above assumptions, HB723 would have no fiscal impact on DOLI or on SRS.



DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 2/21/89

JOHN COBB, PRIMARY SPONSOR

Fiscal Note for HB723, as introduced

HB 723

APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 723
INTRODUCED BY COBB
BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO THE PROVISION OF GENERAL RELIEF
ASSISTANCE; AMENDING SECTIONS 53-2-822, 53-3-108, 53-3-109,
53-3-113, 53-3-205, 53-3-206, 53-3-209, 53-3-304, 53-3-309,
AND 53-3-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-822, MCA, is amended to read:

"53-2-822. Work Workfare program required. The
department of social and rehabilitation services shall
establish a work workfare program as provided in 53-3-304.
The department of social and rehabilitation services may
contract with the county, a municipality, or state agency
~~that has work available to operate workfare projects~~ for
recipients of general relief."

Section 2. Section 53-3-108, MCA, is amended to read:

"53-3-108. Purpose. (1) The legislature, in order to
implement the provisions of Article XII, section 3, of the
Montana constitution, finds that certain persons are in need
of assistance because of misfortune and must be provided

with certain assistance through programs for general relief.
These programs are to be efficiently administered by local
county welfare boards or, whenever responsibility for local
welfare programs has been assumed by the state of Montana,
by the department of social and rehabilitation services.
General relief, along with other assistance programs, is
made available to provide basic necessities that provide
minimum subsistence compatible with decency and health and
to provide financial assistance for medical services
necessary for serious medical conditions. General relief
medical assistance is not intended to provide catastrophic
medical insurance to nonindigent persons.

(2) The legislature finds that assistance under the
general relief program should not be available to those
persons who have either adequate income or resources of
their own ~~or who are able-bodied~~. When benefits and services
are available through other federal or state assistance
programs, general relief should not be provided in
duplication of such other assistance.

~~{3}--The legislature, in recognition of the need to
expand the employment opportunities available to able-bodied
persons who do not have dependent minor children, will
provide 2 months of general relief so that such able-bodied
persons may be eligible for the job readiness training
authorized in 53-3-304{3}.~~

1 ~~(4)~~(3) The legislature further finds that the purposes
2 of the general relief program must be implemented only to
3 the extent necessary and allowable by the mandates of
4 Article VIII, sections 12 and 14, of the Montana
5 constitution, regarding financial accountability and
6 expenditure by appropriation."

7 **Section 3.** Section 53-3-109, MCA, is amended to read:

8 "53-3-109. **Definitions.** For the purposes of this
9 chapter, the following definitions apply:

10 (1) "Able-bodied" means the condition of a person who
11 is not infirm.

12 (2) "Basic necessities" means food, shelter,
13 utilities, and personal needs.

14 (3) "Children" means minor and adult children who
15 reside in the same household with their parents. The term
16 includes both adoptive and natural children.

17 ~~(3)~~(4) "Department" means the department of social and
18 rehabilitation services provided for in Title 2, chapter 15,
19 part 22.

20 ~~(4)~~(5) "General relief" or "general relief assistance"
21 means, in accordance with this chapter, a program of public
22 assistance for basic necessities and medical needs to those
23 persons determined to be eligible for that assistance.

24 ~~(5)~~(6) "Household" means:

25 (a) a collective body of persons consisting of spouses

1 or parents and their children who reside in the same
2 residence; or

3 (b) all other persons who by choice, or necessity, or
4 legal relationship are mutually dependent upon each other
5 for basic necessities and who reside in the same residence.

6 ~~(6)~~(7) "Income" means the value of all property of any
7 nature, earned, unearned, or in-kind, including benefits,
8 that is reasonably certain to be received by or available to
9 is actually received during the month by members of a
10 household during the month of the receipt of the income.

11 ~~(7)~~(8) "Indigent" or "misfortunate" means a person who
12 is lacking the means, financial or otherwise, by which to
13 prevent destitution for himself and others dependent upon
14 him for basic necessities and who is otherwise eligible for
15 assistance under this chapter. ~~Except as provided otherwise~~
16 ~~in 53-3-205 and 53-3-209, the terms do not include~~
17 ~~able-bodied persons unless they have dependent minor~~
18 ~~children living in the household.~~

19 ~~(8)~~(9) "Infirm" means the condition of a person who is
20 diagnosed by a licensed medical practitioner and confirmed
21 by an expert medical review to have a physical or mental
22 handicap that significantly impairs the person's ability to
23 be employed.

24 ~~(9)~~(10) "Lump-sum income" means a nonrecurring source
25 of income received in a single payment by a household during

any eligibility period, including but not limited to proceeds from a lawsuit, insurance settlement, inheritance, lump-sum retirement, veterans' or unemployment benefits; benefits received under the federal Social Security Act; prizes; and tax refunds.

(11) "Presumptive income" means the amount of financial assistance that a person would have received under the aid to families with dependent children program, as provided for in Title 53, chapter 4, part 2, if the person had not been determined ineligible due to receipt of lump-sum income, overpayment, fraud, or failure or refusal to comply with requirements for continued participation in the program.

~~(10)~~ (12) "Resource" means all real and personal property retained after the calendar month of its receipt and which the household or a member of the household has a legal right to sell or liquidate.

~~(11)~~ (13) "Secure facility" means any facility in which a person may be lawfully held against his will by federal, state, or local authorities.

~~(12)~~ (14) "Serious medical condition" means a mental or physical condition that causes a serious health risk to a person and for which treatment is medically necessary, including pregnancy. Diagnosis and determination of necessary treatment must be made by a licensed medical practitioner, and the department may confirm it through an

expert medical review. Necessary treatment includes prenatal care and such other elective treatments as determined by department rule to be medically necessary."

Section 4. Section 53-3-113, MCA, is amended to read:

"53-3-113. Contested case hearing. (1) Except as provided in subsection (2), a hearing must be held on request of any person who is dissatisfied with:

(a) an action taken on an application;

(b) an eligibility determination; or

(c) the amount or condition of payment.

(2) A hearing need not be granted if either state or federal law requires automatic grant adjustments for classes of persons unless the reason for an individual appeal is incorrect grant computation.

(3) The applicant or recipient must be informed of the right to request a hearing at the time any adverse action affects his eligibility.

(4) A hearing must be requested within 90 calendar days from the date of notice of adverse action. An applicant is considered to have been given notice on the date the notice is mailed ~~by certified mail~~ or personally served.

(5) The hearing must be held in:

(a) the person's county of residence;

(b) the county where application is made if residency is unestablished; or

(c) Lewis and Clark County if a real party in interest requests a hearing for an applicant in any county with state-assumed welfare services.

(6) When a real party in interest requests a hearing for an applicant, venue for judicial review of the final administrative action is Lewis and Clark County if financial responsibility is alleged to be with a state-assumed county welfare program."

Section 5. Section 53-3-205, MCA, is amended to read:

"53-3-205. Eligibility for general relief. (1) A person or persons constituting a household may receive general relief assistance for basic necessities if the household is determined to be eligible under the provisions of this section and is in need of such assistance as a result of their infirmity, misfortune, or indigency.

(2) A household is eligible for general relief assistance if the household income, including presumptive income but exclusive of the first \$50 earned each month by each household member, does not exceed that set forth in the following table:

Number of Persons in Household	Monthly Income Standard
1	\$212
2	282
3	354

4	426
5	501
6	570
7	642
8	713
9	785
10 or more	857

~~(3) Able-bodied persons without dependent minor children living in the household are not eligible for nonmedical general relief assistance, except as provided in 53-3-209.~~

~~(4)~~ (3) (a) When the household's income exceeds the monthly income standard for a household of that size because of receipt of lump-sum income, the household will be ineligible for general relief assistance for the full number of months, beginning with the month of receipt, derived by dividing the total of the lump-sum income and other income by the monthly income standard for a household of that size. Any income remaining from this calculation will be considered as income in the first month following the period of ineligibility.

(b) The period of ineligibility may be recalculated if the household size changes or if a portion of the lump sum was used to pay medical bills for a serious medical condition.

(c) Ineligibility due to the receipt of a lump sum does not preclude eligibility for general relief medical assistance.

~~{5}{4}~~ All applicants for and recipients of general relief assistance who reside in the same residence are considered as one household.

~~{6}--Prospective income that is reasonably certain to be received by the household during an eligibility period must be considered when determining eligibility--~~

(5) Eligibility for general relief assistance must be determined prospectively based on household income and other relevant circumstances reasonably certain to exist in the month in which assistance is to be provided. Once eligibility is determined, an individual must be paid benefits in accordance with the method provided for in 53-3-311.

(6) (a) Except as provided in subsection (6)(b), the equity value of all household resources must be considered available to meet the needs of the individual applying for general relief.

~~{7}{b}~~ The following resources of a household must be excluded from consideration of resources for eligibility purposes:

~~{a}{i}~~ the domicile of the household, including necessary appurtenant land not exceeding 10 acres;

~~{b}{ii}~~ a motor vehicle that has no more than \$1,500 in equity value;

~~{c}{iii}~~ personal items, clothing, household furniture, appliances, and other essential household items, the total equity value of which does not exceed resource eligibility limits established by rule; and

~~{d}{iv}~~ tools of a trade that are essential to the current or future employment of a household member.

~~{8}{7}~~ A person who is committed or sentenced by legal process to a state institution or a secure facility or who is incarcerated in a secure facility pending resolution of legal process is not eligible for general relief.

~~{9}{8}~~ A person who resides for a period of 1 day or more in any state or federally operated institution or residence is not eligible for general relief for the period of that residency.

~~{10}{9}~~ For the purposes of an eligibility determination, an applicant for or recipient of general relief may be requested to produce all financial and other information concerning the household.

~~{11}{10}~~ Whenever practical, an eligibility determination must be made within 30 days of the date of application and the applicant must be notified in writing of the eligibility determination and the reasons for the determination.

1 ~~(12)~~(11) An alien determined to be illegally within the
2 United States is not eligible for general relief."

3 **Section 6.** Section 53-3-206, MCA, is amended to read:

4 "53-3-206. Eligibility for general relief medical
5 assistance. (1) In order to be considered for eligibility
6 for general relief medical assistance, a person must be
7 found to have a serious medical condition.

8 (2) Eligibility for general relief medical assistance
9 must be determined as provided in this section and 53-3-205.
10 A person with a serious medical condition must apply for
11 general relief medical assistance prior to the provision of
12 medical services or within 90 days of the date the medical
13 service is first provided. Eligibility is determined as of
14 the date medical service is first provided.

15 (3) All persons who reside in the same residence and
16 are ~~legally-related-to-or-responsible-for-each-other~~ either
17 married to each other or are the parents or children of
18 other persons living in the same residence are considered to
19 be one household for purposes of determining general relief
20 medical assistance.

21 (4) All individual or household resources must be used
22 to offset medical obligations except those resources
23 excluded in 53-3-205~~(7)~~(6) or used to offset nonmedical
24 general relief payments during the same period.

25 (5) A household is ineligible to receive general

1 relief medical assistance if the household is ineligible for
2 medicaid as a result of overpayment, fraud, or failure or
3 refusal to comply with requirements for continued
4 participation in the medicaid program.

5 ~~(5)~~(6) To determine eligibility for county general
6 relief medical assistance, a county welfare board may
7 promulgate rules to establish the circumstances under which
8 persons are unable to pay for their medical aid and
9 hospitalization. However, no household with an income
10 exceeding 300% of the amount set forth in 53-3-205(2) is
11 eligible for such medical assistance.

12 ~~(6)~~(7) In a county with state-assumed welfare
13 services:

14 ~~(a) covered medical services must be provided at no~~
15 ~~cost to the person residing in a household if the average~~
16 ~~household monthly income that is reasonably certain to be~~
17 ~~received in a 12-month period beginning with the month the~~
18 ~~medical service was provided does not exceed the amount in~~
19 53-3-205~~(2)~~;

20 ~~(b) a person is not eligible for medical services if~~
21 the household in which he resides has an average monthly
22 income reasonably certain to be received in a 12-month
23 period beginning with the month the medical service was
24 provided in excess of that set forth in the following table:

Monthly

1	Family Size	Income Level
2	1	\$ 287
3	2	433
4	3	526
5	4	618
6	5	714
7	6	804
8	7	896
9	8	988
10	9	1,081
11	10	1,173
12	11	1,194
13	12	1,215
14	13	1,236
15	14	1,256
16	15	1,277
17	16 or more	1,298
18	(c) if the average household monthly income reasonably	
19	certain to be received in a 12-month period beginning with	
20	the month the medical service was provided is between the	
21	amount in 53-3-205(2) and the monthly income level set forth	
22	in subsection (b); a household must first incur covered	
23	medical costs equal to the difference between its average	
24	monthly income and the monthly income standard in	
25	53-3-205(2) before medical assistance is provided."	

1 **Section 7.** Section 53-3-209, MCA, is amended to read:

2 "53-3-209. Period of eligibility. (1) The period of

3 eligibility for receipt of general relief for basic

4 necessities is 1 month, except. Except as provided in

5 subsections (2) and subsection (3), A, a person may seek to

6 establish eligibility for the succeeding month prior to the

7 end of the current month of eligibility.

8 (2) ~~Able-bodied persons without dependent minor~~

9 ~~children living in the household are eligible for no more~~

10 ~~than 2 months of nonmedical general relief assistance within~~

11 ~~any 12-month period, except that assistance received prior~~

12 ~~to November 17, 1986, shall not be counted.~~

13 (3)(2) Eligibility for general relief medical

14 assistance is granted for a period of 1 month and terminates

15 when the serious medical condition of the person has been

16 treated. Except as provided in subsection (3), continued

17 eligibility for general relief medical assistance may be

18 established in any subsequent month.

19 (4)(3) The period of eligibility for any type of

20 general relief assistance terminates at any time the county

21 welfare board or the department determines that the

22 household:

23 (a) no longer meets the applicable eligibility

24 requirements; or

25 (b) received general relief assistance by means of

1 fraud or mistake."

2 **Section 8.** Section 53-3-304, MCA, is amended to read:

3 "53-3-304. Power to require recipient to participate
4 in job search, training, and work workfare programs. (1) The
5 department shall cooperate with the department of labor and
6 industry and other designated agencies to initiate, promote,
7 and develop job search, training, and work workfare programs
8 that will contribute to the employability of persons
9 receiving general relief assistance under the provisions of
10 this chapter. These programs must be designed to preserve
11 and improve the work habits and job-finding skills of
12 recipients for whom jobs are not otherwise immediately
13 available.

14 (2) For each county with state-assumed welfare
15 services, the department shall contract with the department
16 of labor and industry or other designated agencies to
17 institute a job search, training, and work workfare program
18 programs that provides provide able-bodied general relief
19 assistance recipients with the necessary job-finding skills
20 to seek unsubsidized employment independently.

21 (3) In a county with state-assumed welfare services,
22 an able-bodied recipient of general relief assistance shall
23 enroll in a structured job search and training program at an
24 employment office or other site designated by the
25 department. The program must include but is not limited to

1 the following elements:

2 (a) assessment and testing;

3 (b) an employability plan;

4 (c) remedial education or job skills training, if it
5 is called for in the employability plan and if it provides
6 for immediate referral to an appropriate Job Training
7 Partnership Act program;

8 (d) a job readiness and job search program that must
9 include but is not limited to:

10 (i) self-assessment and occupational testing;

11 (ii) instruction in completing applications, writing
12 resumes, and preparing for interviews;

13 (iii) identification of and contact with potential
14 employers; and

15 (iv) participation in simulated job interviews;

16 (e) a supervised effort to find employment; and

17 (f) efforts to address barriers to employment.

18 (4) ~~the~~ In addition to the training required in
19 subsection (3), ~~if--a-public-agency-or-a-private-nonprofit~~
20 ~~agency-has-work--available--which--a--recipient--of--general~~
21 ~~relief--is-capable-of-performing-or-the-department-of-social~~
22 ~~and-rehabilitation-services-is-required-to--operate--a--work~~
23 ~~program--under--the--provisions-of-53-2-822,--then the county~~
24 department of public welfare or the department of social and
25 rehabilitation services may require a recipient to perform

1 work--at--the--minimum--wage--or--may pay a recipient at the
 2 prevailing rate of wages paid in that county by that--agency
 3 for--similar--work,--to be paid from the county poor fund or
 4 state funds,--in--place--of--granting--him--general--relief.
 5 participate in a workfare program. The purpose of the
 6 workfare program is to provide work experience and training
 7 for general relief recipients in specifically created work
 8 projects operated by a public agency or a private, nonprofit
 9 agency. A workfare program established under this section
 10 must provide that:

11 (b)(a) No A currently employed worker may not be
 12 displaced by any recipient (including partial displacement
 13 such as a reduction in the hours of nonovertime work, wages,
 14 or employment benefits).

15 (c)(b) No A recipient may not be employed when given a
 16 work experience or training assignment if:

17 (i) the assignment would fill an established unfilled
 18 vacancy that exists because an employee has been laid off
 19 any--other--person--is--on--layoff--from--the--same--or--any
 20 substantially equivalent job; or

21 (ii) when the employer has terminated the employment of
 22 any regular employee or otherwise reduced its workforce with
 23 the intention of filling the vacancy so--created--by--hiring
 24 with a general relief recipient whose wages are subsidized
 25 under this section.

1 (c) A recipient may not be required to participate in
 2 a workfare program if participation is determined to
 3 interfere with:

4 (i) participation in a job search or job training
 5 program; or

6 (ii) attendance in a secondary education program.

7 (d) The maximum number of hours that a recipient may
 8 be required to participate in a workfare program and job
 9 search and training programs may not exceed 40 hours in a
 10 week.

11 (5) The county department of public welfare or the
 12 department of social and rehabilitation services, as the
 13 case may be, shall provide coverage under the Workers'
 14 Compensation Act for those recipients of general relief
 15 working under the provisions--hereof participating in the
 16 workfare program and may enter into such agreements with the
 17 division of workers' compensation of the department of labor
 18 and industry as may be necessary to carry out the provisions
 19 of this section.

20 (6) A--recipient--who has completed the assessment and
 21 testing--portions--of--the--program--and--has--developed--an
 22 employability--plan--shall--participate in the job readiness
 23 and job search program provided for in subsection (3)(d) for
 24 at least 80 hours in any 5-week period and--shall--spend--at
 25 least--8--hours--a--week--in--a--supervised--effort--to find

1 employment.

2 ~~{7}~~(6) A recipient who has completed the job search
3 and training program provided for in subsection (3) shall:

4 (a) ~~continue-to~~ spend at least 8 hours a week in a
5 supervised effort to find employment; and

6 (b) for the duration of his eligibility for general
7 relief, spend 32 hours a week, as called for in the
8 employability plan, in:

9 (i) remedial education;

10 (ii) counseling;

11 (iii) job skills training;

12 (iv) ~~work--for--a--public-agency-or-a-private-nonprofit~~
13 ~~agency,~~ workfare, as required in subsection (4); or

14 (v) job-seeking or other related activities.

15 ~~{8}--Nothing-in-this-chapter-requires-a--recipient--to--~~

16 ~~{a}--participate-in-the-job-search-and-training-program~~
17 ~~required--by--subsection--{3}--or--to--perform--work--under~~
18 ~~subsection--{4}--if-the-training-or-work-site-is-more-than--10~~
19 ~~miles--from--his--residence,--unless-the-department-provides~~
20 ~~transportation--or--reimburses--the--recipient--for~~
21 ~~transportation-costs;--or~~

22 ~~{b}--continue-the-activities-required-by-subsection--{7}~~
23 ~~for-longer-than-6-months;~~

24 ~~{9}~~(7) Where a labor organization represents a
25 substantial number of employees who are engaged in similar

1 work or training in the area where it is proposed to assign
2 the recipient to ~~work-or-training~~ a workfare assignment, an
3 opportunity must be provided for that organization to submit
4 comments with respect to such proposal.

5 ~~{10}~~(8) ~~No~~ A work workfare program may not impair
6 existing contracts for services or collective bargaining
7 agreements, and ~~no--work~~ a workfare program that would be
8 inconsistent with the terms of a collective bargaining
9 agreement may not be undertaken without the written
10 concurrence of the labor organization and employer
11 concerned."

12 **Section 9.** Section 53-3-309, MCA, is amended to read:

13 "53-3-309. Form of relief. The choice as to the form
14 or forms of relief provided is at the discretion of the
15 county welfare department in counties without state-assumed
16 welfare services or the department if the state has assumed
17 responsibility for the welfare services in a county. The
18 form of relief may include but is not limited to cash,
19 checks, vouchers, lines of credit, in-kind goods and
20 services, and food commodities."

21 **Section 10.** Section 53-3-311, MCA, is amended to read:

22 "53-3-311. Amount of general relief for basic
23 necessities. (1) In a county without state-assumed welfare
24 services, the amounts of general relief for basic
25 necessities must be determined and adopted at the discretion

of the county welfare board.

(2) In a county with state-assumed welfare services, the amount of general relief for basic necessities available to an eligible household is the amount listed for the same size household in the table in 53-3-205(2), less countable income and resources not excluded in 53-3-205(7)(6).

~~(3) Except as provided in subsection (4), the amount of general relief for basic necessities that is available to an eligible household must be determined retrospectively on the basis of the household's actual countable income in the 2 months immediately preceding the month in which assistance is to be received. All available nonexempt resources must be considered in determining the amount of general relief available to the household, as provided in 53-3-205(6), during the benefit month.~~

~~(4) During the first 2 months following an initial application for assistance, the amount of general relief for basic necessities must be determined prospectively on the basis of household income and resources that are reasonably certain to exist during the month that assistance is to be granted.~~

(A) COUNTABLE INCOME DURING THE FIRST 2 MONTHS OF CONTINUOUS ELIGIBILITY IS THE INCOME THE HOUSEHOLD IS LIKELY TO RECEIVE DURING THE BENEFIT MONTH LESS THE AMOUNTS EXCLUDED IN 53-3-205(2).

(B) COUNTABLE INCOME IN THE THIRD AND ALL CONSECUTIVE CONTINUOUS MONTHS OF ELIGIBILITY IS THE INCOME THE HOUSEHOLD RECEIVED IN THE SECOND CALENDAR MONTH IMMEDIATELY PRECEDING THE BENEFIT MONTH LESS THE AMOUNTS EXCLUDED IN 53-3-205(2)."

NEW SECTION. **Section 11.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 12.** Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 13.** Effective date. [This act] is effective July 1, 1989.

-End-

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1 or parents and their children who reside in the same
2 residence; or

3 (b) all other persons who by choice, or necessity, or
4 legal-relationship are mutually dependent upon each other
5 for basic necessities and who reside in the same residence.

6 ~~(6)~~(7) "Income" means the value of all property of any
7 nature, earned, unearned, or in-kind, including benefits,
8 that is reasonably certain to be received by or available to
9 is actually received during the month by members of a
10 household during the month of the receipt of the income.

11 ~~(7)~~(8) "Indigent" or "misfortunate" means a person who
12 is lacking the means, financial or otherwise, by which to
13 prevent destitution for himself and others dependent upon
14 him for basic necessities and who is otherwise eligible for
15 assistance under this chapter. ~~Except as provided otherwise~~
16 ~~in 53-3-205 and 53-3-209, the terms do not include~~
17 ~~able-bodied persons unless they have dependent minor~~
18 ~~children living in the household.~~

19 ~~(8)~~(9) "Infirm" means the condition of a person who is
20 diagnosed by a licensed medical practitioner and confirmed
21 by an expert medical review to have a physical or mental
22 handicap that significantly impairs the person's ability to
23 be employed.

24 ~~(9)~~(10) "Lump-sum income" means a nonrecurring source
25 of income received in a single payment by a household during

any eligibility period, including but not limited to proceeds from a lawsuit, insurance settlement, inheritance, lump-sum retirement, veterans' or unemployment benefits; benefits received under the federal Social Security Act; prizes; and tax refunds.

(11) "Presumptive income" means the amount of financial assistance that a person would have received under the aid to families with dependent children program, as provided for in Title 53, chapter 4, part 2, if the person had not been determined ineligible due to receipt of lump-sum income, overpayment, fraud, or failure or refusal to comply with requirements for continued participation in the program.

~~(10)~~(12) "Resource" means all real and personal property retained after the calendar month of its receipt and which the household or a member of the household has a legal right to sell or liquidate.

~~(11)~~(13) "Secure facility" means any facility in which a person may be lawfully held against his will by federal, state, or local authorities.

~~(12)~~(14) "Serious medical condition" means a mental or physical condition that causes a serious health risk to a person and for which treatment is medically necessary, including pregnancy. Diagnosis and determination of necessary treatment must be made by a licensed medical practitioner, and the department may confirm it through an

expert medical review. Necessary treatment includes prenatal care and such other elective treatments as determined by department rule to be medically necessary."

Section 4. Section 53-3-113, MCA, is amended to read:

"53-3-113. Contested case hearing. (1) Except as provided in subsection (2), a hearing must be held on request of any person who is dissatisfied with:

- (a) an action taken on an application;
- (b) an eligibility determination; or
- (c) the amount or condition of payment.

(2) A hearing need not be granted if either state or federal law requires automatic grant adjustments for classes of persons unless the reason for an individual appeal is incorrect grant computation.

(3) The applicant or recipient must be informed of the right to request a hearing at the time any adverse action affects his eligibility.

(4) A hearing must be requested within 90 calendar days from the date of notice of adverse action. An applicant is considered to have been given notice on the date the notice is mailed ~~by-certified-mail~~ or personally served.

(5) The hearing must be held in:

- (a) the person's county of residence;
- (b) the county where application is made if residency is unestablished; or

(c) Lewis and Clark County if a real party in interest requests a hearing for an applicant in any county with state-assumed welfare services.

(6) When a real party in interest requests a hearing for an applicant, venue for judicial review of the final administrative action is Lewis and Clark County if financial responsibility is alleged to be with a state-assumed county welfare program."

Section 5. Section 53-3-205, MCA, is amended to read:

"53-3-205. Eligibility for general relief. (1) A person or persons constituting a household may receive general relief assistance for basic necessities if the household is determined to be eligible under the provisions of this section and is in need of such assistance as a result of their infirmity, misfortune, or indigency.

(2) A household is eligible for general relief assistance if the household income, including presumptive income but exclusive of the first \$50 earned each month by each household member, does not exceed that set forth in the following table:

Number of Persons in Household	Monthly Income Standard
1	\$212
2	282
3	354

4	426
5	501
6	570
7	642
8	713
9	785
10 or more	857

~~(3) Able-bodied persons without dependent minor children living in the household are not eligible for nonmedical general relief assistance, except as provided in 53-3-209.~~

~~(4)~~ (3) (a) When the household's income exceeds the monthly income standard for a household of that size because of receipt of lump-sum income, the household will be ineligible for general relief assistance for the full number of months, beginning with the month of receipt, derived by dividing the total of the lump-sum income and other income by the monthly income standard for a household of that size. Any income remaining from this calculation will be considered as income in the first month following the period of ineligibility.

(b) The period of ineligibility may be recalculated if the household size changes or if a portion of the lump sum was used to pay medical bills for a serious medical condition.

(c) Ineligibility due to the receipt of a lump sum does not preclude eligibility for general relief medical assistance.

~~f5~~(4) All applicants for and recipients of general relief assistance who reside in the same residence are considered as one household.

~~f6~~--Prospective income that is reasonably certain to be received by the household during an eligibility period must be considered when determining eligibility--

(5) Eligibility for general relief assistance must be determined prospectively based on household income and other relevant circumstances reasonably certain to exist in the month in which assistance is to be provided. Once eligibility is determined, an individual must be paid benefits in accordance with the method provided for in 53-3-311.

(6) (a) Except as provided in subsection (6)(b), the equity value of all household resources must be considered available to meet the needs of the individual applying for general relief.

~~f7~~(b) The following resources of a household must be excluded from consideration of resources for eligibility purposes:

~~f8~~(i) the domicile of the household, including necessary appurtenant land not exceeding 10 acres;

~~f9~~(ii) a motor vehicle that has no more than \$1,500 in equity value;

~~f10~~(iii) personal items, clothing, household furniture, appliances, and other essential household items, the total equity value of which does not exceed resource eligibility limits established by rule; and

~~f11~~(iv) tools of a trade that are essential to the current or future employment of a household member.

~~f12~~(7) A person who is committed or sentenced by legal process to a state institution or a secure facility or who is incarcerated in a secure facility pending resolution of legal process is not eligible for general relief.

~~f13~~(8) A person who resides for a period of 1 day or more in any state or federally operated institution or residence is not eligible for general relief for the period of that residency.

~~f14~~(9) For the purposes of an eligibility determination, an applicant for or recipient of general relief may be requested to produce all financial and other information concerning the household.

~~f15~~(10) Whenever practical, an eligibility determination must be made within 30 days of the date of application and the applicant must be notified in writing of the eligibility determination and the reasons for the determination.

1 ~~{12}~~(11) An alien determined to be illegally within the
2 United States is not eligible for general relief."

3 **Section 6.** Section 53-3-206, MCA, is amended to read:

4 **"53-3-206. Eligibility for general relief medical**
5 **assistance.** (1) In order to be considered for eligibility
6 for general relief medical assistance, a person must be
7 found to have a serious medical condition.

8 (2) Eligibility for general relief medical assistance
9 must be determined as provided in this section and 53-3-205.
10 A person with a serious medical condition must apply for
11 general relief medical assistance prior to the provision of
12 medical services or within 90 days of the date the medical
13 service is first provided. Eligibility is determined as of
14 the date medical service is first provided.

15 (3) All persons who reside in the same residence and
16 are ~~legally-related-to-or-responsible-for-each-other~~ either
17 married to each other or are the parents or children of
18 other persons living in the same residence are considered to
19 be one household for purposes of determining general relief
20 medical assistance.

21 (4) All individual or household resources must be used
22 to offset medical obligations except those resources
23 excluded in 53-3-205{7}(6) or used to offset nonmedical
24 general relief payments during the same period.

25 (5) A household is ineligible to receive general

1 relief medical assistance if the household is ineligible for
2 medicaid as a result of overpayment, fraud, or failure or
3 refusal to comply with requirements for continued
4 participation in the medicaid program.

5 ~~{5}~~(6) To determine eligibility for county general
6 relief medical assistance, a county welfare board may
7 promulgate rules to establish the circumstances under which
8 persons are unable to pay for their medical aid and
9 hospitalization. However, no household with an income
10 exceeding 300% of the amount set forth in 53-3-205(2) is
11 eligible for such medical assistance.

12 ~~{6}~~(7) In a county with state-assumed welfare
13 services:

14 ~~{a}--covered-medical-services-must-be--provided--at--no~~
15 ~~cost--to--the--person-residing-in-a-household-if-the-average~~
16 ~~household-monthly-income-that-is-reasonably--certain--to--be~~
17 ~~received--in--a-12-month-period-beginning-with-the-month-the~~
18 ~~medical-service-was-provided-does-not-exceed-the--amount--in~~
19 ~~53-3-205(2);~~

20 ~~{b}~~ a person is not eligible for medical services if
21 the household in which he resides has an average monthly
22 income reasonably certain to be received in a 12-month
23 period beginning with the month the medical service was
24 provided in excess of that set forth in the following table:

Monthly

1	Family Size	Income Level
2	1	\$ 287
3	2	433
4	3	526
5	4	618
6	5	714
7	6	804
8	7	896
9	8	988
10	9	1,081
11	10	1,173
12	11	1,194
13	12	1,215
14	13	1,236
15	14	1,256
16	15	1,277
17	16 or more	1,298
18	{c}--if-the-average-household-monthly-income-reasonably	
19	certain--to--be-received-in-a-12-month-period-beginning-with	
20	the-month-the-medical-service-was-provided--is--between--the	
21	amount-in-53-3-205(2)-and-the-monthly-income-level-set-forth	
22	in--subsection--(b),--a--household--must-first-incur-covered	
23	medical-costs-equal-to-the-difference--between--its--average	
24	monthly--income---and---the---monthly--income--standard--in	
25	53-3-205(2)-before-medical-assistance-is-provided."	

1 **Section 7.** Section 53-3-209, MCA, is amended to read:

2 "53-3-209. Period of eligibility. (1) The period of
3 eligibility for receipt of general relief for basic
4 necessities is 1 month, ~~except.~~ Except as provided in
5 ~~subsections (2) and subsection (3).~~ A, a person may seek to
6 establish eligibility for the succeeding month prior to the
7 end of the current month of eligibility.

8 ~~{2}--Able-bodied persons--without--dependent--minor~~
9 ~~children--living--in--the-household--are--eligible--for--no--more~~
10 ~~than--2--months--of--nonmedical--general--relief--assistance--within~~
11 ~~any--12--month--period,--except--that--assistance--received--prior~~
12 ~~to--November--1,--1986,--shall--not--be--counted.~~

13 ~~{3}{2}~~ Eligibility for general relief medical
14 assistance is granted for a period of 1 month and terminates
15 when the serious medical condition of the person has been
16 treated. Except as provided in subsection (3), continued
17 eligibility for general relief medical assistance may be
18 established in any subsequent month.

19 ~~{4}{3}~~ The period of eligibility for any type of
20 general relief assistance terminates at any time the county
21 welfare board or the department determines that the
22 household:

23 (a) no longer meets the applicable eligibility
24 requirements; or

25 (b) received general relief assistance by means of

1 fraud or mistake."

2 **Section 8.** Section 53-3-304, MCA, is amended to read:

3 "53-3-304. Power to require recipient to participate
4 in job search, training, and work workfare programs. (1) The
5 department shall cooperate with the department of labor and
6 industry and other designated agencies to initiate, promote,
7 and develop job search, training, and work workfare programs
8 that will contribute to the employability of persons
9 receiving general relief assistance under the provisions of
10 this chapter. These programs must be designed to preserve
11 and improve the work habits and job-finding skills of
12 recipients for whom jobs are not otherwise immediately
13 available.

14 (2) For each county with state-assumed welfare
15 services, the department shall contract with the department
16 of labor and industry or other designated agencies to
17 institute a job search, training, and work workfare program
18 programs that provides provide able-bodied general relief
19 assistance recipients with the necessary job-finding skills
20 to seek unsubsidized employment independently.

21 (3) In a county with state-assumed welfare services,
22 an able-bodied recipient of general relief assistance shall
23 enroll in a structured job search and training program at an
24 employment office or other site designated by the
25 department. The program must include but is not limited to

1 the following elements:

2 (a) assessment and testing;

3 (b) an employability plan;

4 (c) remedial education or job skills training, if it
5 is called for in the employability plan and if it provides
6 for immediate referral to an appropriate Job Training
7 Partnership Act program;

8 (d) a job readiness and job search program that must
9 include but is not limited to:

10 (i) self-assessment and occupational testing;

11 (ii) instruction in completing applications, writing
12 resumes, and preparing for interviews;

13 (iii) identification of and contact with potential
14 employers; and

15 (iv) participation in simulated job interviews;

16 (e) a supervised effort to find employment; and

17 (f) efforts to address barriers to employment.

18 (4) ~~{a}~~ In addition to the training required in
19 subsection (3), ~~if--a-public-agency-or-a-private-nonprofit~~
20 ~~agency-has-work--available--which--a--recipient--of--general~~
21 ~~relief--is-capable-of-performing-or-the-department-of-social~~
22 ~~and-rehabilitation-services-is-required-to--operate--a--work~~
23 ~~program--under--the--provisions-of-53-2-822--then the county~~
24 department of public welfare or the department of social and
25 rehabilitation services may require a recipient to perform

1 work--at--the--minimum--wage--or--may--pay--a--recipient--at--the
 2 prevailing--rate--of--wages--paid--in--that--county--by--that--agency
 3 for--similar--work;--to--be--paid--from--the--county--poor--fund--or
 4 state--funds;--in--place--of--granting--him--general--relief--
 5 participate in a workfare program. The purpose of the
 6 workfare program is to provide work experience and training
 7 for general relief recipients in specifically created work
 8 projects operated by a public agency or a private, nonprofit
 9 agency. A workfare program established under this section
 10 must provide that:

11 (b)(a) No A currently employed worker may not be
 12 displaced by any recipient (including partial displacement
 13 such as a reduction in the hours of nonovertime work, wages,
 14 or employment benefits).

15 (c)(b) No A recipient may not be employed when given a
 16 work experience or training assignment if:

17 (i) the assignment would fill an established unfilled
 18 vacancy that exists because an employee has been laid off
 19 any--other--person--is--on--layoff--from--the--same--or--any
 20 substantially-equivalent-job; or

21 (ii) when the employer has terminated the employment of
 22 any regular employee or otherwise reduced its workforce with
 23 the intention of filling the vacancy so--created--by--hiring
 24 with a general relief recipient whose wages are subsidized
 25 under this section.

1 (c) A recipient may not be required to participate in
 2 a workfare program if participation is determined to
 3 interfere with:

4 (i) participation in a job search or job training
 5 program; or

6 (ii) attendance in a secondary education program.

7 (d) The maximum number of hours that a recipient may
 8 be required to participate in a workfare program and job
 9 search and training programs may not exceed 40 hours in a
 10 week.

11 (5) The county department of public welfare or the
 12 department of social and rehabilitation services, as the
 13 case may be, shall provide coverage under the Workers'
 14 Compensation Act for those recipients of general relief
 15 working-under-the-provisions--hereof participating in the
 16 workfare program and may enter into such agreements with the
 17 division of workers' compensation of the department of labor
 18 and industry as may be necessary to carry out the provisions
 19 of this section.

20 (6) A--recipient--who--has--completed--the--assessment--and
 21 testing--portions--of--the--program--and--has--developed--an
 22 employability--plan--shall--participate--in--the--job--readiness
 23 and--job--search--program--provided--for--in--subsection--(3)(d)--for
 24 at--least--80--hours--in--any--5--week--period--and--shall--spend--at
 25 least--8--hours--a--week--in--a--supervised--effort--to--find

1 employment:

2 {7}(6) A recipient who has completed the job search
3 and training program provided for in subsection (3) shall:

4 (a) continue-to spend at least 8 hours a week in a
5 supervised effort to find employment; and

6 (b) for the duration of his eligibility for general
7 relief, spend 32 hours a week, as called for in the
8 employability plan, in:

9 (i) remedial education;

10 (ii) counseling;

11 (iii) job skills training;

12 (iv) work--for--a--public-agency-or-a-private-nonprofit
13 agency; workfare, as required in subsection (4); or

14 (v) job-seeking or other related activities.

15 {8}--Nothing-in-this-chapter-requires-a--recipient--to:

16 {a}--participate-in-the-job-search-and-training-program
17 required---by---subsection---{3}---or---to---perform---work---under
18 subsection-{4}-if-the-training-or-work-site-is-more-than--10
19 miles--from--his--residence;--unless-the-department-provides
20 transportation---or---reimburses---the---recipient---for
21 transportation-costs;--or

22 {b}--continue-the-activities-required-by-subsection-{7}
23 for-longer-than-6-months;

24 {9}(7) Where a labor organization represents a
25 substantial number of employees who are engaged in similar

1 work or training in the area where it is proposed to assign
2 the recipient to work-or-training a workfare assignment, an
3 opportunity must be provided for that organization to submit
4 comments with respect to such proposal.

5 {10}(8) No A work workfare program may not impair
6 existing contracts for services or collective bargaining
7 agreements, and no--work a workfare program that would be
8 inconsistent with the terms of a collective bargaining
9 agreement may not be undertaken without the written
10 concurrence of the labor organization and employer
11 concerned."

12 **Section 9.** Section 53-3-309, MCA, is amended to read:

13 "53-3-309. **Form of relief.** The choice as to the form
14 or forms of relief provided is at the discretion of the
15 county welfare department in counties without state-assumed
16 welfare services or the department if the state has assumed
17 responsibility for the welfare services in a county. The
18 form of relief may include but is not limited to cash,
19 checks, vouchers, lines of credit, in-kind goods and
20 services, and food commodities."

21 **Section 10.** Section 53-3-311, MCA, is amended to read:

22 "53-3-311. **Amount of general relief for basic**
23 **necessities.** (1) In a county without state-assumed welfare
24 services, the amounts of general relief for basic
25 necessities must be determined and adopted at the discretion

1 of the county welfare board.

2 (2) In a county with state-assumed welfare services,
3 the amount of general relief for basic necessities available
4 to an eligible household is the amount listed for the same
5 size household in the table in 53-3-205(2), less countable
6 income and resources not excluded in 53-3-205(7)(6).

7 ~~(3) Except as provided in subsection (4), the amount~~
8 ~~of general relief for basic necessities that is available to~~
9 ~~an eligible household must be determined retrospectively on~~
10 ~~the basis of the household's actual countable income in the~~
11 ~~2 months immediately preceding the month in which assistance~~
12 ~~is to be received. All available nonexempt resources must be~~
13 ~~considered in determining the amount of general relief~~
14 ~~available to the household, as provided in 53-3-205(6),~~
15 ~~during the benefit month.~~

16 ~~(4) During the first 2 months following an initial~~
17 ~~application for assistance, the amount of general relief for~~
18 ~~basic necessities must be determined prospectively on the~~
19 ~~basis of household income and resources that are reasonably~~
20 ~~certain to exist during the month that assistance is to be~~
21 ~~granted.~~

22 (A) COUNTABLE INCOME DURING THE FIRST 2 MONTHS OF
23 CONTINUOUS ELIGIBILITY IS THE INCOME THE HOUSEHOLD IS LIKELY
24 TO RECEIVE DURING THE BENEFIT MONTH LESS THE AMOUNTS
25 EXCLUDED IN 53-3-205(2).

1 (B) COUNTABLE INCOME IN THE THIRD AND ALL CONSECUTIVE
2 CONTINUOUS MONTHS OF ELIGIBILITY IS THE INCOME THE HOUSEHOLD
3 RECEIVED IN THE SECOND CALENDAR MONTH IMMEDIATELY PRECEDING
4 THE BENEFIT MONTH LESS THE AMOUNTS EXCLUDED IN 53-3-205(2)."

5 NEW SECTION. Section 11. Extension of authority. Any
6 existing authority to make rules on the subject of the
7 provisions of [this act] is extended to the provisions of
8 [this act].

9 NEW SECTION. Section 12. Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

15 NEW SECTION. Section 13. Effective date. [This act]
16 is effective July 1, 1989.

-End-

HOUSE BILL NO. 723

INTRODUCED BY COBB

BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
CLARIFY THE LAWS RELATING TO THE PROVISION OF GENERAL RELIEF
ASSISTANCE; AMENDING SECTIONS 53-2-822, 53-3-108, 53-3-109,
53-3-113, 53-3-205, 53-3-206, 53-3-209, 53-3-304, 53-3-309,
AND 53-3-311, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 53-2-822, MCA, is amended to read:

"53-2-822. Work Workfare program required. The
department of social and rehabilitation services shall
establish a work workfare program as provided in 53-3-304.
The department of social and rehabilitation services may
contract with the county, a municipality, or state agency
that has work available to operate workfare projects for
recipients of general relief."

Section 2. Section 53-3-108, MCA, is amended to read:

"53-3-108. Purpose. (1) The legislature, in order to
implement the provisions of Article XII, section 3, of the
Montana constitution, finds that certain persons are in need
of assistance because of misfortune and must be provided

with certain assistance through programs for general relief.
These programs are to be efficiently administered by local
county welfare boards or, whenever responsibility for local
welfare programs has been assumed by the state of Montana,
by the department of social and rehabilitation services.
General relief, along with other assistance programs, is
made available to provide basic necessities that provide
minimum subsistence compatible with decency and health and
to provide financial assistance for medical services
necessary for serious medical conditions. General relief
medical assistance is not intended to provide catastrophic
medical insurance to nonindigent persons.

(2) The legislature finds that assistance under the
general relief program should not be available to those
persons who have either adequate income or resources of
their own or who are able-bodied. When benefits and services
are available through other federal or state assistance
programs, general relief should not be provided in
duplication of such other assistance.

(3) The legislature, in recognition of the need to
expand the employment opportunities available to able-bodied
persons who do not have dependent minor children, will
provide 2 months of general relief so that such able-bodied
persons may be eligible for the job readiness training
authorized in 53-3-304(3).

1 †4†(3) The legislature further finds that the purposes
2 of the general relief program must be implemented only to
3 the extent necessary and allowable by the mandates of
4 Article VIII, sections 12 and 14, of the Montana
5 constitution, regarding financial accountability and
6 expenditure by appropriation."

7 **Section 3.** Section 53-3-109, MCA, is amended to read:
8 **"53-3-109. Definitions.** For the purposes of this
9 chapter, the following definitions apply:

10 (1) "Able-bodied" means the condition of a person who
11 is not infirm.

12 (2) "Basic necessities" means food, shelter,
13 utilities, and personal needs.

14 (3) "Children" means minor and adult children who
15 reside in the same household with their parents. The term
16 includes both adoptive and natural children.

17 †3†(4) "Department" means the department of social and
18 rehabilitation services provided for in Title 2, chapter 15,
19 part 22.

20 †4†(5) "General relief" or "general relief assistance"
21 means, in accordance with this chapter, a program of public
22 assistance for basic necessities and medical needs to those
23 persons determined to be eligible for that assistance.

24 †5†(6) "Household" means:
25 (a) a collective body of persons consisting of spouses

1 or parents and their children who reside in the same
2 residence; or

3 (b) all other persons who by choice, or necessity, or
4 legal relationship are mutually dependent upon each other
5 for basic necessities and who reside in the same residence.

6 †6†(7) "Income" means the value of all property of any
7 nature, earned, unearned, or in-kind, including benefits,
8 that is reasonably certain to be received by or available to
9 is actually received during the month by members of a
10 household during the month of receipt of the income.

11 †7†(8) "Indigent" or "misfortunate" means a person who
12 is lacking the means, financial or otherwise, by which to
13 prevent destitution for himself and others dependent upon
14 him for basic necessities and who is otherwise eligible for
15 assistance under this chapter. Except as provided otherwise
16 in 53-3-205 and 53-3-209, the terms do not include
17 able-bodied persons unless they have dependent minor
18 children living in the household.

19 †8†(9) "Infirm" means the condition of a person who is
20 diagnosed by a licensed medical practitioner and confirmed
21 by an expert medical review to have a physical or mental
22 handicap that significantly impairs the person's ability to
23 be employed.

24 †9†(10) "Lump-sum income" means a nonrecurring source
25 of income received in a single payment by a household during

1 any eligibility period, including but not limited to
2 proceeds from a lawsuit, insurance settlement, inheritance,
3 lump-sum retirement, veterans' or unemployment benefits;
4 benefits received under the federal Social Security Act;
5 prizes; and tax refunds.

6 {11} "Presumptive income" means the amount of financial
7 assistance that a person would have received under the aid
8 to families with dependent children program, as provided for
9 in Title 53, chapter 4, part 2, if the person had not been
10 determined ineligible due to receipt of lump-sum income,
11 overpayment, fraud, or failure or refusal to comply with
12 requirements for continued participation in the program.

13 {10}{12} "Resource" means all real and personal
14 property retained after the calendar month of its receipt
15 and which the household or a member of the household has a
16 legal right to sell or liquidate.

17 {11}{13} "Secure facility" means any facility in which
18 a person may be lawfully held against his will by federal,
19 state, or local authorities.

20 {12}{14} "Serious medical condition" means a mental or
21 physical condition that causes a serious health risk to a
22 person and for which treatment is medically necessary,
23 including pregnancy. Diagnosis and determination of
24 necessary treatment must be made by a licensed medical
25 practitioner, and the department may confirm it through an

1 expert medical review. Necessary treatment includes prenatal
2 care and such other elective treatments as determined by
3 department rule to be medically necessary."

4 **Section 4.** Section 53-3-113, MCA, is amended to read:

5 "53-3-113. Contested case hearing. (1) Except as
6 provided in subsection (2), a hearing must be held on
7 request of any person who is dissatisfied with:

- 8 (a) an action taken on an application;
- 9 (b) an eligibility determination; or
- 10 (c) the amount or condition of payment.

11 (2) A hearing need not be granted if either state or
12 federal law requires automatic grant adjustments for classes
13 of persons unless the reason for an individual appeal is
14 incorrect grant computation.

15 (3) The applicant or recipient must be informed of the
16 right to request a hearing at the time any adverse action
17 affects his eligibility.

18 (4) A hearing must be requested within 90 calendar
19 days from the date of notice of adverse action. An applicant
20 is considered to have been given notice on the date the
21 notice is mailed ~~by certified-mail~~ or personally served.

22 (5) The hearing must be held in:

- 23 (a) the person's county of residence;
- 24 (b) the county where application is made if residency
- 25 is unestablished; or

1 (c) Lewis and Clark County if a real party in interest
2 requests a hearing for an applicant in any county with
3 state-assumed welfare services.

4 (6) When a real party in interest requests a hearing
5 for an applicant, venue for judicial review of the final
6 administrative action is Lewis and Clark County if financial
7 responsibility is alleged to be with a state-assumed county
8 welfare program."

9 **Section 5.** Section 53-3-205, MCA, is amended to read:

10 "53-3-205. Eligibility for general relief. (1) A
11 person or persons constituting a household may receive
12 general relief assistance for basic necessities if the
13 household is determined to be eligible under the provisions
14 of this section and is in need of such assistance as a
15 result of their infirmity, misfortune, or indigency.

16 (2) A household is eligible for general relief
17 assistance if the household income, including presumptive
18 income but exclusive of the first \$50 earned each month by
19 each household member, does not exceed that set forth in the
20 following table:

21	Number of Persons	Monthly Income Standard
22	in Household	
23	1	\$212
24	2	282
25	3	354

1	4	426
2	5	501
3	6	570
4	7	642
5	8	713
6	9	785
7	10 or more	857

8 ~~(3)--Able-bodied--persons---without---dependent---minor~~
9 ~~children--living--in--the--household--are--not--eligible--for~~
10 ~~nonmedical-general-relief-assistance,--except--as--provided--in~~
11 ~~53-3-209.~~

12 ~~(4)(3)~~ (a) When the household's income exceeds the
13 monthly income standard for a household of that size because
14 of receipt of lump-sum income, the household will be
15 ineligible for general relief assistance for the full number
16 of months, beginning with the month of receipt, derived by
17 dividing the total of the lump-sum income and other income
18 by the monthly income standard for a household of that size.
19 Any income remaining from this calculation will be
20 considered as income in the first month following the period
21 of ineligibility.

22 (b) The period of ineligibility may be recalculated if
23 the household size changes or if a portion of the lump sum
24 was used to pay medical bills for a serious medical
25 condition.

1 (c) Ineligibility due to the receipt of a lump sum
2 does not preclude eligibility for general relief medical
3 assistance.

4 ~~{5}{4}~~ All applicants for and recipients of general
5 relief assistance who reside in the same residence are
6 considered as one household.

7 ~~{6}--Prospective-income-that-is-reasonably--certain--to~~
8 ~~be--received--by--the-household-during-an-eligibility-period~~
9 ~~must-be-considered-when-determining-eligibility-~~

10 {5} Eligibility for general relief assistance must be
11 determined prospectively based on household income and other
12 relevant circumstances reasonably certain to exist in the
13 month in which assistance is to be provided. Once
14 eligibility is determined, an individual must be paid
15 benefits in accordance with the method provided for in
16 53-3-311.

17 {6} (a) Except as provided in subsection {6}(b), the
18 equity value of all household resources must be considered
19 available to meet the needs of the individual applying for
20 general relief.

21 ~~{7}{b}~~ The following resources of a household must be
22 excluded from consideration of resources for eligibility
23 purposes:

24 ~~{a}{i}~~ the domicile of the household, including
25 necessary appurtenant land not exceeding 10 acres;

1 ~~{b}{ii}~~ a motor vehicle that has no more than \$1,500 in
2 equity value;

3 ~~{c}{iii}~~ personal items, clothing, household furniture,
4 appliances, and other essential household items, the total
5 equity value of which does not exceed resource eligibility
6 limits established by rule; and

7 ~~{d}{iv}~~ tools of a trade that are essential to the
8 current or future employment of a household member.

9 ~~{8}{7}~~ A person who is committed or sentenced by legal
10 process to a state institution or a secure facility or who
11 is incarcerated in a secure facility pending resolution of
12 legal process is not eligible for general relief.

13 ~~{9}{8}~~ A person who resides for a period of 1 day or
14 more in any state or federally operated institution or
15 residence is not eligible for general relief for the period
16 of that residency.

17 ~~{10}{9}~~ For the purposes of an eligibility
18 determination, an applicant for or recipient of general
19 relief may be requested to produce all financial and other
20 information concerning the household.

21 ~~{11}{10}~~ Whenever practical, an eligibility
22 determination must be made within 30 days of the date of
23 application and the applicant must be notified in writing of
24 the eligibility determination and the reasons for the
25 determination.

1 ~~†12†~~(11) An alien determined to be illegally within the
2 United States is not eligible for general relief."

3 **Section 6.** Section 53-3-206, MCA, is amended to read:

4 "53-3-206. Eligibility for general relief medical
5 assistance. (1) In order to be considered for eligibility
6 for general relief medical assistance, a person must be
7 found to have a serious medical condition.

8 (2) Eligibility for general relief medical assistance
9 must be determined as provided in this section and 53-3-205.
10 A person with a serious medical condition must apply for
11 general relief medical assistance prior to the provision of
12 medical services or within 90 days of the date the medical
13 service is first provided. Eligibility is determined as of
14 the date medical service is first provided.

15 (3) All persons who reside in the same residence and
16 are ~~legally-related-to-or-responsible-for-each-other~~ either
17 married to each other or are the parents or children of
18 other persons living in the same residence are considered to
19 be one household for purposes of determining general relief
20 medical assistance.

21 (4) All individual or household resources must be used
22 to offset medical obligations except those resources
23 excluded in 53-3-205†7†(6) or used to offset nonmedical
24 general relief payments during the same period.

25 (5) A household is ineligible to receive general

1 relief medical assistance if the household is ineligible for
2 medicaid as a result of overpayment, fraud, or failure or
3 refusal to comply with requirements for continued
4 participation in the medicaid program.

5 ~~†5†~~(6) To determine eligibility for county general
6 relief medical assistance, a county welfare board may
7 promulgate rules to establish the circumstances under which
8 persons are unable to pay for their medical aid and
9 hospitalization. However, no household with an income
10 exceeding 300% of the amount set forth in 53-3-205(2) is
11 eligible for such medical assistance.

12 ~~†6†~~(7) In a county with state-assumed welfare
13 services,

14 ~~†a†--covered-medical-services-must-be--provided--at--no~~
15 ~~cost--to--the--person-residing-in-a-household-if-the-average~~
16 ~~household-monthly-income-that-is-reasonably--certain--to--be~~
17 ~~received--in--a-12-month-period-beginning-with-the-month-the~~
18 ~~medical-service-was-provided-does-not-exceed-the--amount--in~~
19 ~~53-3-205†2†;~~

20 ~~†b†~~ a person is not eligible for medical services if
21 the household in which he resides has an average monthly
22 income reasonably certain to be received in a 12-month
23 period beginning with the month the medical service was
24 provided in excess of that set forth in the following table:

25 Monthly

1	Family Size	Income Level
2	1	\$ 287
3	2	433
4	3	526
5	4	618
6	5	714
7	6	804
8	7	896
9	8	988
10	9	1,081
11	10	1,173
12	11	1,194
13	12	1,215
14	13	1,236
15	14	1,256
16	15	1,277
17	16 or more	1,298
18	(c)---if-the-average-household-monthly-income-reasonably	
19	certain---to---be-received-in-a-12-month-period-beginning-with	
20	the-month-the-medical-service-was-provided---is---between---the	
21	amount-in-53-3-205(2)-and-the-monthly-income-level-set-forth	
22	in---subsection---(b);---a---household---must-first-incur-covered	
23	medical-costs-equal-to-the-difference---between---its---average	
24	monthly---income---and---the---monthly---income---standard---in	
25	53-3-205(2)-before-medical-assistance-is-provided."	

1 **Section 7.** Section 53-3-209, MCA, is amended to read:

2 "53-3-209. Period of eligibility. (1) The period of

3 eligibility for receipt of general relief for basic

4 necessities is 1 month;--except. Except as provided in

5 subsections-(2)-and subsection (3);--A, a person may seek to

6 establish eligibility for the succeeding month prior to the

7 end of the current month of eligibility.

8 ~~(2)---Able-bodied---persons---without---dependent---minor~~

9 ~~children---living---in---the-household---are-eligible-for-no-more~~

10 ~~than-2-months-of-nonmedical-general-relief-assistance-within~~

11 ~~any-12-month-period;--except-that-assistance---received---prior~~

12 ~~to-November-17-1986;--shall-not-be-counted.~~

13 (3)(2) Eligibility for general relief medical

14 assistance is granted for a period of 1 month and terminates

15 when the serious medical condition of the person has been

16 treated. Except as provided in subsection (3), continued

17 eligibility for general relief medical assistance may be

18 established in any subsequent month.

19 (4)(3) The period of eligibility for any type of

20 general relief assistance terminates at any time the county

21 welfare board or the department determines that the

22 household:

23 (a) no longer meets the applicable eligibility

24 requirements; or

25 (b) received general relief assistance by means of

1 fraud or mistake."

2 **Section 8.** Section 53-3-304, MCA, is amended to read:

3 "53-3-304. Power to require recipient to participate
4 in job search, training, and work workfare programs. (1) The
5 department shall cooperate with the department of labor and
6 industry and other designated agencies to initiate, promote,
7 and develop job search, training, and work workfare programs
8 that will contribute to the employability of persons
9 receiving general relief assistance under the provisions of
10 this chapter. These programs must be designed to preserve
11 and improve the work habits and job-finding skills of
12 recipients for whom jobs are not otherwise immediately
13 available.

14 (2) For each county with state-assumed welfare
15 services, the department shall contract with the department
16 of labor and industry or other designated agencies to
17 institute a job search, training, and work workfare program
18 programs that provides provide able-bodied general relief
19 assistance recipients with the necessary job-finding skills
20 to seek unsubsidized employment independently.

21 (3) In a county with state-assumed welfare services,
22 an able-bodied recipient of general relief assistance shall
23 enroll in a structured job search and training program at an
24 employment office or other site designated by the
25 department. The program must include but is not limited to

1 the following elements:

2 (a) assessment and testing;

3 (b) an employability plan;

4 (c) remedial education or job skills training, if it
5 is called for in the employability plan and if it provides
6 for immediate referral to an appropriate Job Training
7 Partnership Act program;

8 (d) a job readiness and job search program that must
9 include but is not limited to:

10 (i) self-assessment and occupational testing;

11 (ii) instruction in completing applications, writing
12 resumes, and preparing for interviews;

13 (iii) identification of and contact with potential
14 employers; and

15 (iv) participation in simulated job interviews;

16 (e) a supervised effort to find employment; and

17 (f) efforts to address barriers to employment.

18 (4) ~~{a}~~ In addition to the training required in
19 subsection (3), ~~if--a-public-agency-or-a-private-nonprofit~~
20 ~~agency-has-work--available--which--a--recipient--of--general~~
21 ~~relief--is-capable-of-performing-or-the-department-of-social~~
22 ~~and-rehabilitation-services-is-required-to--operate--a--work~~
23 ~~program--under--the--provisions-of-53-2-822--then~~ the county
24 department of public welfare or the department of social and
25 rehabilitation services may require a recipient to perform

1 work--at--the--minimum--wage--or--may--pay--a--recipient--at--the
 2 prevailing--rate--of--wages--paid--in--that--county--by--that--agency
 3 for--similar--work,--to--be--paid--from--the--county--poor--fund--or
 4 state--funds,--in--place--of--granting--him--general--relief;
 5 participate in a workfare program. The purpose of the
 6 workfare program is to provide work experience and training
 7 for general relief recipients in specifically created work
 8 projects operated by a public agency or a private, nonprofit
 9 agency. A workfare program established under this section
 10 must provide that:

11 {b}(a) No A currently employed worker may not be
 12 displaced by any recipient (including partial displacement
 13 such as a reduction in the hours of nonovertime work, wages,
 14 or employment benefits).

15 {c}(b) No A recipient may not be employed--when given a
 16 work experience or training assignment if:

17 (i) the assignment would fill an established unfilled
 18 vacancy that exists because an employee has been laid off
 19 any--other--person--is--on--layoff--from--the--same--or--any
 20 substantially-equivalent-job; or

21 (ii) when the employer has terminated the employment of
 22 any regular employee or otherwise reduced its workforce with
 23 the intention of filling the vacancy so--created--by--hiring
 24 with a general relief recipient whose wages are subsidized
 25 under this section.

1 (c) A recipient may not be required to participate in
 2 a workfare program if participation is determined to
 3 interfere with:

4 (i) participation in a job search or job training
 5 program; or

6 (ii) attendance in a secondary education program.

7 (d) The maximum number of hours that a recipient may
 8 be required to participate in a workfare program and job
 9 search and training programs may not exceed 40 hours in a
 10 week.

11 (5) The county department of public welfare or the
 12 department of social and rehabilitation services, as the
 13 case may be, shall provide coverage under the Workers'
 14 Compensation Act for those recipients of general relief
 15 working-under-the-provisions--hereof participating in the
 16 workfare program and may enter into such agreements with the
 17 division of workers' compensation of the department of labor
 18 and industry as may be necessary to carry out the provisions
 19 of this section.

20 {6}--A--recipient--who--has--completed--the--assessment--and
 21 testing--portions--of--the--program--and--has--developed--an
 22 employability--plan--shall--participate--in--the--job--readiness
 23 and--job--search--program--provided--for--in--subsection--(3)(d)--for
 24 at--least--80--hours--in--any--5--week--period--and--shall--spend--at
 25 least--8--hours--a--week--in--a--supervised--effort--to--find

1 **employment:**

2 ~~{7}~~(6) A recipient who has completed the job search
3 and training program provided for in subsection (3) shall:

4 (a) ~~continue-to~~ spend at least 8 hours a week in a
5 supervised effort to find employment; and

6 (b) for the duration of his eligibility for general
7 relief, spend 32 hours a week, as called for in the
8 employability plan, in:

9 (i) remedial education;

10 (ii) counseling;

11 (iii) job skills training;

12 (iv) ~~work-for-a-public-agency-or-a-private-nonprofit~~
13 agency; workfare, as required in subsection (4); or

14 (v) job-seeking or other related activities.

15 ~~{8}--Nothing-in-this-chapter-requires-a-recipient-to-~~

16 ~~{a}--participate-in-the-job-search-and-training-program~~
17 ~~required-by-subsection-{3}-or-to-perform-work-under~~
18 ~~subsection-{4}-if-the-training-or-work-site-is-more-than-10~~
19 ~~miles-from-his-residence,-unless-the-department-provides~~
20 ~~transportation-or-reimburses-the-recipient-for~~
21 ~~transportation-costs;-or~~

22 ~~{b}--continue-the-activities-required-by-subsection-{7}~~
23 ~~for-longer-than-6-months;~~

24 ~~{9}~~(7) Where a labor organization represents a
25 substantial number of employees who are engaged in similar

1 work or training in the area where it is proposed to assign
2 the recipient to work-or-training a workfare assignment, an
3 opportunity must be provided for that organization to submit
4 comments with respect to such proposal.

5 ~~{10}~~(8) No A work workfare program may not impair
6 existing contracts for services or collective bargaining
7 agreements, and no-work a workfare program that would be
8 inconsistent with the terms of a collective bargaining
9 agreement may not be undertaken without the written
10 concurrence of the labor organization and employer
11 concerned."

12 **Section 9.** Section 53-3-309, MCA, is amended to read:

13 "53-3-309. **Form of relief.** The choice as to the form
14 or forms of relief provided is at the discretion of the
15 county welfare department in counties without state-assumed
16 welfare services or the department if the state has assumed
17 responsibility for the welfare services in a county. The
18 form of relief may include but is not limited to cash,
19 checks, vouchers, lines of credit, in-kind goods and
20 services, and food commodities."

21 **Section 10.** Section 53-3-311, MCA, is amended to read:

22 "53-3-311. **Amount of general relief for basic**
23 **necessities.** (1) In a county without state-assumed welfare
24 services, the amounts of general relief for basic
25 necessities must be determined and adopted at the discretion

1 of the county welfare board.

2 (2) In a county with state-assumed welfare services,
3 the amount of general relief for basic necessities available
4 to an eligible household is the amount listed for the same
5 size household in the table in 53-3-205(2), less countable
6 income and resources not excluded in 53-3-205(7)(6).

7 ~~{3}--Except--as--provided--in--subsection--{4}--the--amount~~
8 ~~of--general--relief--for--basic--necessities--that--is--available--to~~
9 ~~an--eligible--household--must--be--determined--retrospectively--on~~
10 ~~the--basis--of--the--household's--actual--countable--income--in--the~~
11 ~~2--months--immediately--preceding--the--month--in--which--assistance~~
12 ~~is--to--be--received--All--available--nonexempt--resources--must--be~~
13 ~~considered--in--determining--the--amount--of--general--relief~~
14 ~~available--to--the--household--as--provided--in--53-3-205(6)--~~
15 ~~during--the--benefit--month--~~

16 ~~{4}--During--the--first--2--months--following--an--initial~~
17 ~~application--for--assistance--the--amount--of--general--relief--for~~
18 ~~basic--necessities--must--be--determined--prospectively--on--the~~
19 ~~basis--of--household--income--and--resources--that--are--reasonably~~
20 ~~certain--to--exist--during--the--month--that--assistance--is--to--be~~
21 ~~granted--~~

22 (A) COUNTABLE INCOME DURING THE FIRST 2 MONTHS OF
23 CONTINUOUS ELIGIBILITY IS THE INCOME THE HOUSEHOLD IS LIKELY
24 TO RECEIVE DURING THE BENEFIT MONTH LESS THE AMOUNTS
25 EXCLUDED IN 53-3-205(2).

1 (B) COUNTABLE INCOME IN THE THIRD AND ALL CONSECUTIVE
2 CONTINUOUS MONTHS OF ELIGIBILITY IS THE INCOME THE HOUSEHOLD
3 RECEIVED IN THE SECOND CALENDAR MONTH IMMEDIATELY PRECEDING
4 THE BENEFIT MONTH LESS THE AMOUNTS EXCLUDED IN 53-3-205(2)."

5 NEW SECTION. Section 11. Extension of authority. Any
6 existing authority to make rules on the subject of the
7 provisions of [this act] is extended to the provisions of
8 [this act].

9 NEW SECTION. Section 12. Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

15 NEW SECTION. Section 13. Effective date. [This act]
16 is effective July 1, 1989.

-End-