

1 HOUSE BILL NO. 53

2 INTRODUCED BY BOHLINGER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING DISABILITIES;
5 SUBSTITUTING REFERENCES TO A PERSON WITH A DISABILITY FOR REFERENCES TO A HANDICAPPED
6 PERSON; AND AMENDING SECTIONS 2-15-2205, 2-15-2212, 7-14-111, 7-15-4207, 7-15-4431,
7 13-3-201, 13-3-202, 13-3-203, 13-3-205, 13-3-207, 13-3-213, 13-13-211, 15-6-201, 15-30-114,
8 15-30-115, 18-5-101, 18-5-102, 18-5-103, 20-7-401, 20-25-707, 22-1-103, 33-22-304, 33-22-506,
9 33-30-1003, 33-30-1004, 37-15-101, 37-30-307, 37-31-301, 37-31-308, 39-2-912, 39-3-406,
10 39-30-101, 39-30-102, 39-30-103, 39-30-106, 39-30-107, 39-30-201, 39-30-202, 39-30-203,
11 39-71-901, 39-71-903, 39-71-904, 39-71-905, 39-71-906, 39-71-907, 50-1-202, 50-5-105, 50-60-201,
12 52-1-103, 52-2-113, 53-2-201, 53-4-607, 53-7-101, 53-7-102, 53-7-105, 53-7-301, 53-7-306,
13 53-18-101, 53-18-103, 53-18-105, 53-19-102, 53-19-301, 53-19-302, 53-19-306, 53-19-307,
14 53-19-310, 53-20-102, 53-20-142, 53-20-148, 53-20-202, 53-20-203, 61-3-332, 61-3-454, 61-12-504,
15 69-3-307, 77-2-318, 87-2-706, 87-2-803, 90-6-103, AND 90-7-104, MCA."

16

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

18

19 Section 1. Section 2-15-2205, MCA, is amended to read:

20 "2-15-2205. **Division of visual services.** There is a division of visual services within the department
21 of public health and human services. The division head is an administrator appointed by the director of the
22 department of public health and human services in accordance with classification requirements. The division
23 is responsible for administration of rehabilitative and other services for blind and visually handicapped
24 persons and persons with low vision."

25

26 Section 2. Section 2-15-2212, MCA, is amended to read:

27 "2-15-2212. **Committee on telecommunications services for ~~the handicapped~~ persons with**
28 **disabilities -- composition -- allocation.** (1) There is a committee on telecommunications services for ~~the~~
29 ~~handicapped~~ persons with disabilities.

30 (2) The committee consists of 11 members appointed by the governor as follows:

1 (a) four members who are ~~handicapped~~ persons with disabilities, two of whom must be deaf or
2 hard-of-hearing;

3 (b) two members who are not ~~handicapped~~ persons with disabilities, one of whom must be
4 engaged in a business other than a business in the telecommunications industry and one of whom must
5 be a senior citizen;

6 (c) one member from the department of public health and human services;

7 (d) one member from the largest local exchange company in Montana;

8 (e) one member from an independent local exchange company;

9 (f) one member from an interLATA interexchange carrier; and

10 (g) one member from the public service commission.

11 (3) The committee is allocated to the department of public health and human services for
12 administrative purposes only as provided in 2-15-121."
13

14 **Section 3.** Section 7-14-111, MCA, is amended to read:

15 **"7-14-111. Transportation for senior citizens and ~~handicapped~~ persons with disabilities.** (1) A
16 county, urban transportation district, or municipality may, in addition to all other property tax levies
17 authorized by law, levy up to 1 mill of property taxes to fund special transportation services for senior
18 citizens and ~~handicapped~~ persons with disabilities.

19 (2) The proceeds of the levy may be used to:

20 (a) contract with public or private transportation providers for services to senior citizens and
21 ~~handicapped~~ individuals with disabilities; or

22 (b) augment or subsidize provisions for the transportation of senior citizens and ~~handicapped~~
23 individuals with disabilities provided by public transportation providers.

24 (3) If the taxing jurisdiction determines that it is not in the best interest of senior citizens and
25 ~~handicapped~~ individuals with disabilities to use the tax levy as provided for in subsection (2), the taxing
26 jurisdiction may use the proceeds of the levy to establish and operate an independent transportation system
27 for senior citizens and ~~handicapped~~ individuals with disabilities.

28 (4) Counties, urban transportation districts, and municipalities are encouraged to enter into
29 interlocal agreements to provide regional transportation services to senior citizens and ~~handicapped~~
30 persons with disabilities and may create regional advisory committees to coordinate regional transportation

1 services."

2

3 **Section 4.** Section 7-15-4207, MCA, is amended to read:

4 **"7-15-4207. Prohibition against discrimination.** For all of the purposes of this part and part 43,
5 ~~no~~ a person may not be subjected to discrimination because of sex, race, creed, religion, age, physical or
6 mental ~~handicap~~ disability, color, or national origin."

7

8 **Section 5.** Section 7-15-4431, MCA, is amended to read:

9 **"7-15-4431. Appointment of commissioners.** (1) An authority consists of seven commissioners
10 appointed by the mayor, ~~and he~~. The mayor shall designate the first ~~chairman~~ presiding officer. A
11 commissioner may not be a city official.

12 (2) Two of the commissioners must be tenants of the housing authority. One tenant commissioner
13 shall represent family tenants, and one tenant commissioner shall represent elderly tenants and ~~handicapped~~
14 tenants with disabilities. Nominees for tenant commissioner shall submit to the city clerk a petition signed
15 by not less than 25 adult tenants of the authority or 25% of the adult tenants of the authority, whichever
16 is greater. The city clerk shall submit a list of the tenant nominees to the mayor for appointment to the
17 housing authority. The staff of the housing authority may not involve itself in the nomination or
18 appointment of tenant commissioners.

19 (3) The mayor shall file with the city clerk a certificate of the appointment or reappointment of any
20 commissioner, and the certificate is conclusive evidence of the ~~due and~~ proper appointment of the
21 commissioner."

22

23 **Section 6.** Section 13-3-201, MCA, is amended to read:

24 **"13-3-201. Purpose.** The purpose of this part is to promote the fundamental right to vote by
25 improving access for ~~handicapped~~ individuals with disabilities and elderly individuals to polling places. The
26 provisions of this part acknowledge that, in certain cases, it may not be possible to locate a polling place
27 that meets the standards for accessibility, either because ~~no~~ an accessible polling place exists does not
28 exist or, if it does, its location in the precinct would require undue travel for a majority of the electors. In
29 those cases when an accessible polling place is not available, this part provides ~~handicapped~~ voters with
30 disabilities and elderly voters an alternative means for casting a ballot on election day."

1 **Section 7.** Section 13-3-202, MCA, is amended to read:

2 "**13-3-202. Definitions.** As used in this part, unless the context indicates otherwise, the following
3 definitions apply:

4 (1) "Accessible" means accessible to ~~handicapped~~ individuals with disabilities and elderly
5 individuals for purposes of voting as determined in accordance with standards established by the secretary
6 of state under 13-3-205.

7 (2) "Disability" means a temporary or permanent physical impairment such as:

8 (a) impaired vision;

9 (b) impaired hearing; or

10 (c) impaired mobility. Individuals having impaired mobility include those who require use of a
11 wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

12 ~~(2)(3)~~ "Elderly" means 65 years of age or older.

13 ~~(3)(4)~~ "Election" means a general, special, or primary election held in an even-numbered year, as
14 provided for in 13-1-104(1) and 13-1-107(1).

15 ~~(4) "Handicapped" means having a temporary or permanent physical impairment such as:~~

16 ~~(a) impaired vision;~~

17 ~~(b) impaired hearing; or~~

18 ~~(c) impaired mobility. Individuals having impaired mobility include those who require use of a~~
19 ~~wheelchair and those who are ambulatory but are physically impaired due to age, disability, or disease."~~

20

21 **Section 8.** Section 13-3-203, MCA, is amended to read:

22 "**13-3-203. Duty of secretary of state -- rulemaking.** (1) Except as provided in 13-3-204, the
23 secretary of state shall ~~assure~~ ensure that all polling places are accessible to ~~handicapped~~ electors with
24 disabilities and elderly electors on election day.

25 (2) The secretary of state shall adopt rules to establish standards that a polling place must meet
26 in order to be designated accessible under this part.

27 (3) The secretary of state may adopt any other rules necessary for implementation of this part."
28

28

29 **Section 9.** Section 13-3-205, MCA, is amended to read:

30 "**13-3-205. Adoption of standards for polling place accessibility -- rulemaking authority.** The

1 secretary of state, with advice from election administrators and ~~handicapped~~ individuals with disabilities
2 and elderly individuals, shall establish standards for accessibility of polling places. The standards, whenever
3 possible, must be consistent with the standards for accessibility established by the American national
4 standards institute and the uniform federal accessibility standards."

5

6 **Section 10.** Section 13-3-207, MCA, is amended to read:

7 **"13-3-207. Polling place classifications.** (1) As a result of the survey provided in 13-3-206, each
8 polling place must be classified as:

9 (a) accessible;

10 (b) inaccessible;

11 (c) technically inaccessible but usable; or

12 (d) rural.

13 (2) An accessible polling place is one that meets the standards for accessibility established by the
14 secretary of state under 13-3-205.

15 (3) An inaccessible polling place is one that does not meet the standards for accessibility and
16 cannot be made accessible through safe, practical, and cost-effective methods.

17 (4) A technically inaccessible but usable polling place is one that does not meet all the standards
18 for accessibility but has been surveyed, evaluated, and certified as being adequate for use as a polling
19 place. ~~Such~~ The certification is cause for the secretary of state to grant the polling place an exemption from
20 the standards for accessibility. However, in a future election, the secretary of state may issue an objection
21 to the criteria used for determining that the facility is usable as a polling place.

22 (5) A rural polling place is one that serves less than 200 registered electors and is:

23 (a) granted an exemption from the standards for accessibility established under 13-3-205; and

24 (b) subject to review and redesignation 45 days prior to an election.

25 (6) A rural designation may not be construed as cause for denying ~~handicapped~~ electors with
26 disabilities or elderly electors at a polling place the right to choose an alternative means for casting a ballot
27 on election day as provided in 13-3-213."

28

29 **Section 11.** Section 13-3-213, MCA, is amended to read:

30 **"13-3-213. Alternative means for casting ballot.** (1) The election administrator shall provide

1 ~~handicapped~~ individuals with disabilities and elderly individuals an alternative means for casting a ballot on
 2 election day if they are assigned to an inaccessible polling place. These alternative means for casting a
 3 ballot include:

4 (a) delivery of a ballot to the elector as provided in 13-13-118;

5 (b) voting by absentee ballot as provided in 13-13-222; and

6 (c) prearranged assignment to an accessible polling place within the county.

7 (2) ~~Any handicapped~~ An elector with a disability or an elderly elector assigned to an inaccessible
 8 polling place who desires to vote at an accessible polling place:

9 (a) shall request assignment to an accessible polling place by notifying the election administrator
 10 in writing at least 7 days preceding the election;

11 (b) must be assigned to the nearest accessible polling place or technically inaccessible polling place
 12 for the purpose of voting in the election;

13 (c) shall sign ~~his~~ the elector's name on a special addendum to the official precinct register as
 14 required in 13-2-601; and

15 (d) ~~shall~~ must receive the same ballot to which ~~he~~ the elector is otherwise entitled.

16 (3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be
 17 processed and counted in the same manner as an absentee ballot."

18

19 **Section 12.** Section 13-13-211, MCA, is amended to read:

20 "13-13-211. **Application of absentee, chronically ill, ~~handicapped~~, elderly, or physically**
 21 **incapacitated elector or elector with a disability for ballot -- special absentee ballot application.** (1) Except
 22 as provided in 13-2-214, during a period beginning 75 days before the day of election and ending at noon
 23 on the day before the election, an individual may apply to the election administrator for an absentee ballot
 24 if ~~he~~ the individual is:

25 (a) an elector expecting to be absent from the county in which ~~his~~ the elector's voting precinct is
 26 situated;

27 (b) an elector who is chronically ill or in general ill health;

28 (c) ~~a handicapped~~ an elector with a disability or an elderly elector who has been assigned to an
 29 inaccessible polling place; or

30 (d) an elector who will be unable to go to the polls because of physical incapacity.

1 (2) A qualified elector who is prevented from voting at the polls as a result of an illness or health
 2 emergency occurring between 5 p.m. on the Friday preceding the election and noon on election day may
 3 request to vote by absentee ballot. The election administrator shall honor ~~any such a~~ request received up
 4 to and including noon on election day. The election administrator is not required to comply with a request
 5 by an elector who is absent from the county."

6
 7 **Section 13.** Section 15-6-201, MCA, is amended to read:

8 **"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

9 (a) except as provided in 15-24-1203, the property of:

10 (i) the United States, except:

11 (A) if congress passes legislation that allows the state to tax property owned by the federal
 12 government or an agency created by congress; or

13 (B) as provided in 15-24-1103;

14 (ii) the state, counties, cities, towns, and school districts;

15 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

16 (iv) municipal corporations;

17 (v) public libraries; and

18 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

19 (b) buildings, with land that they occupy and furnishings in the buildings, owned by a church and
 20 used for actual religious worship or for residences of the clergy, together with adjacent land reasonably
 21 necessary for convenient use of the buildings;

22 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,
 23 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health
 24 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed
 25 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not
 26 exempt.

27 (d) property that is:

28 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or
 29 21;

30 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent

- 1 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 2 (iii) not maintained and operated for private or corporate profit;
- 3 (e) property owned or property that is leased from a federal, state, or local governmental entity by
- 4 institutions of purely public charity if the property is directly used for purely public charitable purposes;
- 5 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 6 Montana;
- 7 (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate
- 8 profit;
- 9 (h) all household goods and furniture, including but not limited to clocks, musical instruments,
- 10 sewing machines, and wearing apparel of members of the family, used by the owner for personal and
- 11 domestic purposes or for furnishing or equipping the family residence;
- 12 (i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations
- 13 attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.
- 14 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 15 (k) motor homes, travel trailers, and campers;
- 16 (l) all watercraft;
- 17 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association
- 18 or nonprofit corporation organized to furnish potable water to its members or customers for uses other than
- 19 the irrigation of agricultural land;
- 20 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 21 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by
- 22 another to explore, prospect, or dig for oil, gas, coal, or minerals;
- 23 (o) property that is owned and used by a corporation or association organized and operated
- 24 exclusively for the care of persons with developmental disabilities, the mentally ill, or ~~the vocationally~~
- 25 ~~handicapped~~ persons with physical or mental impairments that constitute or result in substantial
- 26 impediments to employment as defined in 18-5-104 and that is not operated for gain or profit and property
- 27 that is owned and used by an organization owning and operating facilities that are for the care of the
- 28 retired, aged, or chronically ill and that are not operated for gain or profit;
- 29 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
- 30 machinery with a market value of less than \$100;

1 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for
2 training and practice for or competition in international sports and athletic events and not held or used for
3 private or corporate gain or profit. For purposes of this subsection (1) (q), "nonprofit corporation" means
4 an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated
5 and admitted under the Montana Nonprofit Corporation Act.

6 (r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
7 hand-held and that are used to:

8 (i) construct, repair, and maintain improvements to real property; or

9 (ii) repair and maintain machinery, equipment, appliances, or other personal property;

10 (s) harness, saddlery, and other tack equipment;

11 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
12 33-25-105;

13 (u) timber as defined in 15-44-102;

14 (v) all trailers and semitrailers that have a licensed gross weight of 26,000 pounds or more or that
15 are registered through a proportional registration agreement under 61-3-721. For purposes of this
16 subsection (1) (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that
17 is:

18 (i) designed and used only for carrying property;

19 (ii) designed and used to be drawn by a motor vehicle; and

20 (iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed
21 so that some part of its weight and the weight of its load rests upon or is carried by another vehicle.

22 (w) all vehicles registered under 61-3-456.

23 (2) (a) For the purposes of subsection (1)(e), the term "institutions of purely public charity" includes
24 any organization that meets the following requirements:

25 (i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3),
26 Internal Revenue Code, as amended.

27 (ii) The organization accomplishes its activities through absolute gratuity or grants. However, the
28 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
29 performances or entertainment or by other similar types of fundraising activities.

30 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and

1 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
 2 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property
 3 includes all real and personal property reasonably necessary for use in connection with the public display
 4 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit
 5 organization by an individual or for-profit organization, real and personal property owned by other persons
 6 is exempt if it is:

- 7 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- 8 (ii) held for future display; or
- 9 (iii) used to house or store a public display.

10 (3) The following portions of the appraised value of a capital investment in a recognized nonfossil
 11 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,
 12 are exempt from taxation for a period of 10 years following installation of the property:

- 13 (a) \$20,000 in the case of a single-family residential dwelling;
- 14 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

15

16 **Section 14.** Section 15-30-114, MCA, is amended to read:

17 **"15-30-114. Additional exemption for dependent child with handicap a disability.** (1) In lieu of the
 18 exemption in 15-30-112(5), an exemption for twice the amount allowed for dependents ~~shall be~~ is allowed
 19 ~~for taxable years beginning after December 31, 1976,~~ for each dependent child with a handicap disability.

20 (2) In order to be eligible for the exemption, a dependent child with a handicap disability must, for
 21 the taxable year of the taxpayer, have as ~~his~~ the child's principal place of abode the home of the taxpayer
 22 and have a permanent handicap disability of great enough severity that it constitutes not less than 50%
 23 disability to the body as a whole. An exemption may be allowed for a dependent with a permanent
 24 handicap disability after ~~he~~ the individual reaches the age of majority if ~~he~~ the individual continues to be
 25 a dependent."

26

27 **Section 15.** Section 15-30-115, MCA, is amended to read:

28 **"15-30-115. Physician's verification of handicap disability required.** A taxpayer claiming the
 29 exemption provided for in 15-30-114 ~~must~~ shall provide with ~~his~~ the taxpayer's income tax statement
 30 written documentation by a licensed physician that the handicap disability qualifies under ~~that section~~

1 15-30-114."

2

3 **Section 16.** Section 18-5-101, MCA, is amended to read:

4 "18-5-101. **Definitions.** As used in ~~18-5-101 through 18-5-103~~ this part, the following definitions
5 apply:

6 (1) "Certified sheltered workshop" or "work activity center" means a nonprofit corporation
7 incorporated under the laws of the state for the purpose of providing vocational services to ~~disabled~~
8 ~~vocationally handicapped individuals~~ persons with disabilities, in whole or in part, ~~which that~~:

9 (a) holds a current certificate issued by the United States department of labor for either one or all
10 of the following:

11 (i) evaluation or training;

12 (ii) a regular work program; or

13 (iii) a work activity center;

14 (b) complies with other applicable occupational, health, and safety standards of local, state, and
15 federal governments governing the operation of ~~such~~ the facility not otherwise included in ~~18-5-101~~
16 ~~through 18-5-103~~ this part;

17 (c) in the manufacture of products and in the provision of service, whether or not the product or
18 service is procured under ~~18-5-101 through 18-5-103~~ this part, employs and trains ~~vocationally~~
19 ~~handicapped individuals~~ persons with disabilities for not less than 75% of the ~~man-hours~~ hours of direct
20 labor required for the manufacture of products or the provision of service; and

21 (d) is ~~hereinafter~~ referred to as a "facility".

22 (2) "Department" means the department of administration.

23 (3) ~~"Vocationally handicapped"~~ "Person with a disability" means an individual ~~under~~ with a
24 physical, mental, or emotional disability ~~which that~~ constitutes a substantial ~~handicap~~ impediment to
25 employment and that prevents the individual ~~under~~ with the disability from engaging in normal competitive
26 employment."

27

28 **Section 17.** Section 18-5-102, MCA, is amended to read:

29 "18-5-102. **Duties and powers of department of administration.** (1) The department shall maintain
30 a current list of facilities located in this state, including a list of products and services provided by each

1 facility, based on information provided by the facilities. A facility requesting to be included on the list shall
 2 indicate the products and services available from it and shall provide the department with updated
 3 information, as necessary.

4 (2) The department may contract with a nonprofit organization to:

5 (a) certify facilities;

6 (b) provide technical assistance to facilities on matters of product or service capabilities;

7 (c) facilitate distribution of orders among facilities and to ~~insure~~ ensure equal opportunity in
 8 obtaining orders.

9 (3) The department shall adopt, revise, and amend rules to implement ~~18-5-101 through 18-5-103~~
 10 this part in accordance with the procedures of the Montana Administrative Procedure Act."

11

12 **Section 18.** Section 18-5-103, MCA, is amended to read:

13 **"18-5-103. Procurement requirements.** State departments, institutions, and agencies may procure
 14 listed products and services from a facility. The provisions of this title relating to competitive bidding do
 15 not apply to purchases made in accordance with ~~18-5-101 through 18-5-103~~ this part."

16

17 **Section 19.** Section 20-7-401, MCA, is amended to read:

18 **"20-7-401. Definitions.** In this title, unless the context clearly indicates otherwise, the following
 19 definitions apply:

20 (1) "Assistive technology device" means any item, piece of equipment, or product system, whether
 21 acquired commercially, modified, or customized, that is used to increase, maintain, or improve the
 22 functional capabilities of children with disabilities.

23 (2) "Assistive technology service" means any service that directly assists a child with disabilities
 24 in the selection, acquisition, or use of an assistive technology device. The term includes:

25 (a) the evaluation of the needs of a child with disabilities, including a functional evaluation of the
 26 child in the child's customary environment;

27 (b) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices
 28 by a child with disabilities;

29 (c) selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing
 30 an assistive technology device;

1 (d) coordinating and using other therapies, interventions, or services with assistive technology
2 devices, such as those associated with existing education and rehabilitation plans and programs;

3 (e) training or technical assistance for a child with disabilities or, if appropriate, training or technical
4 assistance for that child's family; and

5 (f) training or technical assistance for professionals, including individuals providing education or
6 rehabilitation services, for employers, or for other individuals who provide services to, employ, or are
7 otherwise substantially involved in the major life functions of children with disabilities.

8 (3) "Autism" means a developmental disability that significantly affects verbal and nonverbal
9 communication and social interaction, that is generally evident before 3 years of age, and that adversely
10 affects a child's educational performance. Other characteristics often associated with autism are
11 engagement in repetitive activities and stereotyped movements, resistance to environment change or to
12 change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's
13 educational performance is adversely affected primarily because the child has a serious emotional
14 disturbance.

15 (4) "Child with ~~disabilities~~ a disability" means a child evaluated in accordance with the regulations
16 of the Individuals With Disabilities Education Act as having cognitive delay; hearing impairment, including
17 deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance;
18 orthopedic impairment; autism; traumatic brain injury; other health impairments; deaf-blindness; multiple
19 disabilities; or specific learning disabilities and who because of those impairments needs special education
20 and related services. A child who is 5 years of age or younger may be identified as a child with disabilities
21 without the specific disabilities being specified.

22 (5) "Cognitive delay" means significantly subaverage general intellectual functioning existing
23 concurrently with deficits in adaptive behavior and manifested during the developmental period that
24 adversely affects a child's educational performance.

25 (6) "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which
26 causes such severe communication problems and other developmental and educational problems that the
27 problems cannot be accommodated in special education programs solely for children with deafness or for
28 children with blindness.

29 (7) "Deafness" means a hearing impairment that is so severe that the child is impaired in processing
30 linguistic information through hearing, with or without amplification, in a manner that adversely affects the

1 child's educational performance.

2 (8) "Emotional disturbance" means a condition exhibiting one or more of the following
3 characteristics to a marked degree and over a long period of time that adversely affects educational
4 performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an
5 inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate
6 types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or
7 depression; or a tendency to develop physical symptoms or fears associated with personal or school
8 problems. The term includes schizophrenia. The term does not include social maladjustment, unless it is
9 determined that the child is emotionally disturbed.

10 (9) "Free appropriate public education" means special education and related services that:

11 (a) are provided at public expense under public supervision and direction and without charge;

12 (b) meet the accreditation standards of the board of public education, the special education
13 requirements of the superintendent of public instruction, and the requirements of the Individuals With
14 Disabilities Education Act;

15 (c) include preschool, elementary school, and high school education in Montana; and

16 (d) are provided in conformity with an individualized education program that meets the
17 requirements of the Individuals With Disabilities Education Act.

18 (10) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that
19 adversely affects a child's educational performance but that is not included within the definition of
20 deafness.

21 (11) "Orthopedic impairment" means a severe orthopedic disability that adversely affects a child's
22 educational performance. The term includes but is not limited to impairment caused by congenital anomaly
23 (e.g., clubfoot or absence of some member), impairments caused by disease (e.g., poliomyelitis or bone
24 tuberculosis), and impairments from other causes (e.g., fractures or burns that cause contractures,
25 amputation, or cerebral palsy).

26 (12) "Other health impairment" means limited strength, vitality, or alertness ~~due to~~ because of
27 chronic or acute health problems, such as a heart condition, tuberculosis, rheumatic fever, nephritis,
28 asthma, ~~sickle cell~~ sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, that
29 adversely affects a child's educational performance.

30 (13) "Related services" means transportation and any developmental, corrective, and other

1 supportive services that are required to assist a child with disabilities to benefit from special education and
2 includes speech-language pathology, audiology, occupational therapy, physical therapy, recreation,
3 including therapeutic recreation, early identification and assessment of disabilities in children, counseling
4 services, including rehabilitation counseling, and medical services for diagnostic or evaluation purposes. The
5 term also includes school health services, social work services in schools, and parental counseling and
6 training.

7 (14) "Special education" means specially designed instruction, given at no cost to the parents or
8 guardians, to meet the unique needs of a child with disabilities, including but not limited to instruction
9 conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.

10 (15) "Specific learning disability" means a disorder in one or more of the basic psychological
11 processes involved in understanding or in using language, spoken or written, that may manifest itself in an
12 imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term
13 includes but is not limited to such conditions as perceptual ~~handicaps~~ disabilities, brain injury, minimal brain
14 dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning
15 problems that are primarily the result of visual, hearing, or motor ~~handicaps~~ disabilities; cognitive delay; or
16 environmental, cultural, or economic disadvantages.

17 (16) "Speech-language impairment" means a communication disorder, such as stuttering, impaired
18 articulation, or a language or voice impairment, that adversely affects a child's interpersonal relationships
19 or educational performance.

20 (17) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the
21 child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the
22 child.

23 (18) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical
24 force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely
25 affects a child's educational performance. The term does not apply to brain injuries that are congenital or
26 degenerative or to brain injuries that are induced by birth trauma.

27 (19) "Visual impairment" means an impairment that, after correction, adversely affects a child's
28 educational performance. The term includes both partial blindness and blindness."

29

30 **Section 20.** Section 20-25-707, MCA, is amended to read:

1 **"20-25-707. Antidiscrimination.** ~~No~~ An employer is not eligible to employ any person under this
2 program if the employer practices discrimination in employment against any individual because of race,
3 creed, religion, color, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability,
4 ancestry, or national origin."

5

6 **Section 21.** Section 22-1-103, MCA, is amended to read:

7 **"22-1-103. State library commission -- authority.** The state library commission ~~has the power to~~
8 may:

9 (1) give assistance and advice to all tax-supported or public libraries in the state and to all counties,
10 cities, towns, or regions in the state that ~~may~~ propose to establish libraries, as to the best means of
11 establishing and improving those libraries;

12 (2) maintain and operate the state library and make provision for its housing;

13 (3) (a) accept and expend in accordance with the terms of a grant any grant of federal funds that
14 ~~may become~~ is available to the state for library purposes;

15 (b) accept, receive, and administer any gifts, donations, bequests, and legacies made to the
16 Montana state library. Unless otherwise provided by the donor, gifts, donations, bequests, and legacies
17 must be deposited in the Montana state library trust established in 22-1-225.

18 (4) make rules and establish standards for the administration of the state library and for the control,
19 distribution, and lending of books and materials;

20 (5) serve as the agency of the state to accept and administer any state, federal, or private funds
21 or property appropriated for or granted to it for library service or foster libraries in the state and establish
22 regulations under which funds must be disbursed;

23 (6) provide library services for the blind and ~~physically handicapped~~ for individuals with physical
24 disabilities;

25 (7) furnish, by contract or otherwise, library assistance and information services to state officials,
26 state departments, and residents of those parts of the state inadequately serviced by libraries;

27 (8) act as a state board of professional standards and library examiners, develop standards for
28 public libraries, and adopt rules for the certification of librarians;

29 (9) designate areas for the establishment of federations of libraries and designate the headquarters
30 library for the federations."

1 **Section 22.** Section 33-22-304, MCA, is amended to read:

2 "**33-22-304. Continuation of coverage for ~~handicapped~~ individuals with disabilities -- individual**
 3 **contracts.** (1) An individual hospital or medical expense insurance policy or hospital or medical service plan
 4 contract delivered or issued for delivery in this state ~~after October 28, 1971, which that~~ provides that
 5 coverage of a dependent child ~~shall terminate~~ terminates upon attainment of the limiting age for dependent
 6 children specified in the policy or contract ~~shall~~ must also provide in substance that attainment of ~~such the~~
 7 limiting age ~~shall~~ may not operate to terminate the coverage of ~~such the~~ child while the child is and
 8 continues to be both incapable of self-sustaining employment by reason of mental retardation or physical
 9 ~~handicap~~ disability and chiefly dependent upon the policyholder or subscriber for support and maintenance,
 10 ~~provided proof~~ Proof of such incapacity retardation or the disability and dependency is must be furnished
 11 to the insurer or hospital or medical service plan corporation by the policyholder or subscriber within 31
 12 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or
 13 corporation, ~~but~~ Proof may not be required more frequently than annually after the 2-year period following
 14 the child's attainment of the limiting age.

15 (2) ~~The~~ Notwithstanding any other exemption or contrary law, the provisions of this section ~~shall~~
 16 have equal application to hospital or medical expense insurance policies and hospital and medical service
 17 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

18
 19 **Section 23.** Section 33-22-506, MCA, is amended to read:

20 "**33-22-506. Continuation of coverage for ~~handicapped~~ persons with disabilities -- group contracts.**
 21 (1) A group hospital or medical expense insurance policy or hospital or medical service plan contract
 22 delivered or issued for delivery in this state ~~after October 28, 1971, which that~~ provides that coverage of
 23 a dependent child of an employee or other member of the covered group ~~shall terminate~~ terminates upon
 24 attainment of the limiting age for dependent children specified in the policy or contract ~~shall~~ must also
 25 provide in substance that attainment of ~~such the~~ limiting age ~~shall~~ may not operate to terminate the
 26 coverage of ~~such the~~ child while the child is and continues to be both incapable of self-sustaining
 27 employment by reason of mental retardation or physical ~~handicap~~ disability and chiefly dependent upon the
 28 employee or member for support and maintenance,
 29 ~~provided proof~~ Proof of such incapacity retardation or
 30 the disability and dependency ~~is~~ must be furnished to the insurer or hospital or medical service plan
 corporation by the employee or member within 31 days of the child's attainment of the limiting age and

1 subsequently as may be required by the insurer or corporation, ~~but Proof may not be required~~ more
2 frequently than annually after the 2-year period following the child's attainment of the limiting age.

3 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
4 have equal application to hospital or medical expense insurance policies and hospital and medical service
5 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

6

7 **Section 24.** Section 33-30-1003, MCA, is amended to read:

8 "**33-30-1003. Continuation of coverage for handicapped persons with disabilities** -- individual
9 **contracts.** (1) An individual hospital or medical service plan contract, delivered or issued for delivery in this
10 state ~~after October 28, 1971, which that~~ provides that coverage of a dependent child ~~shall terminate~~
11 ~~terminates~~ upon attainment of the limiting age for dependent children specified in the contract ~~shall must~~
12 also provide in substance that attainment of ~~such the~~ limiting age ~~shall may~~ not operate to terminate the
13 coverage of ~~such the~~ child while the child is and continues to be both incapable of self-sustaining
14 employment by reason of mental retardation or physical ~~handicap disability~~ and chiefly dependent upon the
15 subscriber for support and maintenance, ~~provided proof Proof of such incapacity retardation or the~~
16 ~~disability~~ and dependency ~~is must be~~ furnished to the hospital or medical service plan corporation by the
17 subscriber within 31 days of the child's attainment of the limiting age and subsequently as may be required
18 by the corporation, ~~but Proof may not be required~~ more frequently than annually after the 2-year period
19 following the child's attainment of the limiting age.

20 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
21 have equal application to hospital or medical expense insurance policies, and hospital and medical service
22 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

23

24 **Section 25.** Section 33-30-1004, MCA, is amended to read:

25 "**33-30-1004. Continuation of coverage for handicapped persons with disabilities** -- group
26 **contracts.** (1) A group hospital or medical service plan contract, delivered or issued for delivery in this state
27 ~~after October 28, 1971, which that~~ provides that coverage of a dependent child of an employee or other
28 member of the covered group ~~shall terminate~~ ~~terminates~~ upon attainment of the limiting age for dependent
29 children specified in the contract ~~shall must~~ also provide in substance that attainment of ~~such the~~ limiting
30 age ~~shall may~~ not operate to terminate the coverage of ~~such the~~ child while the child is and continues to

1 be both incapable of self-sustaining employment by reason of mental retardation or physical handicap
 2 disability and chiefly dependent upon the employee or member for support and maintenance, ~~provided~~
 3 ~~proof~~ Proof of such the incapacity retardation or disability and dependency ~~is~~ must be furnished to the
 4 hospital or medical service plan corporation, by the employee or member within 31 days of the child's
 5 attainment of the limiting age and subsequently as may be required by the corporation, ~~but Proof may not~~
 6 be required more frequently than annually after the 2-year period following the child's attainment of the
 7 limiting age.

8 (2) ~~The~~ Notwithstanding any other exemption or contrary law, the provisions of this section ~~shall~~
 9 have equal application to hospital or medical expense insurance policies, and hospital and medical service
 10 plan contracts, ~~any other exemption or law to the contrary notwithstanding."~~

11

12 **Section 26.** Section 37-15-101, MCA, is amended to read:

13 "**37-15-101. Purpose.** The legislature ~~of the state of Montana~~ declares it to be a policy of this
 14 state that in order to safeguard the public health, safety, and welfare and to protect the public from being
 15 misled by incompetent, unscrupulous, and unauthorized persons and to protect the public from
 16 unprofessional conduct by qualified speech-language pathologists and audiologists and to help ~~assure~~
 17 ensure the availability of the highest possible quality speech-language pathology and audiology services to
 18 the ~~communicatively handicapped~~ people of this state with communicative disabilities, it is necessary to
 19 provide regulatory authority over persons offering speech-language pathology or audiology services to the
 20 public."

21

22 **Section 27.** Section 37-30-307, MCA, is amended to read:

23 "**37-30-307. Fees -- handicapped persons with disabilities exempted -- other fees prohibited.** (1)
 24 The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a
 25 certificate of registration to practice barbering and for the issuance of the certificate must be prescribed
 26 by the board.

27 (2) A person registered as a barber shall, before the expiration date established by rule of the
 28 department, annually pay a license fee, set by the board based on clerical and administrative costs, for the
 29 renewal of the person's certificate of registration. If a barber fails to have the certificate renewed before
 30 the expiration date, the barber shall on renewal of the certificate of registration pay a penalty prescribed

1 by the board in addition to the regular renewal fee. If a certificate of registration is not renewed within 1
2 year after the date of expiration, the barber is not entitled to have the certificate of registration renewed
3 or a new certificate of registration issued without first applying for and taking the examination and paying
4 the fees provided for in this section.

5 (3) However, ~~physically handicapped~~ persons with physical disabilities trained for the barber
6 profession by the department of public health and human services and certified by that department as
7 having graduated from a barber college licensed by the board are not required to pay fees and are for a
8 period of 1 year immediately following their training exempt from all except the sanitary provisions of this
9 chapter.

10 (4) Another or an additional license or fee may not be imposed on barbers by a municipality or
11 other subdivision of this state."

12

13 **Section 28.** Section 37-31-301, MCA, is amended to read:

14 **"37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
15 unlawful to:

16 (a) practice cosmetology for compensation;

17 (b) own, manage, operate, or conduct a school of cosmetology or school of manicuring;

18 (c) manage or operate a cosmetology salon, manicuring salon, or booth;

19 (d) teach in a school of cosmetology or school of manicuring;

20 (e) practice manicuring for compensation;

21 (f) practice as a finger waver.

22 (2) It is unlawful:

23 (a) for a person who owns, manages, or controls a cosmetology salon to employ or use an
24 unlicensed person as a cosmetologist or manicurist;

25 (b) to operate a cosmetology school without complying with all of the regulations of 37-31-311;

26 (c) to practice cosmetology in any place other than in a licensed salon as provided in this chapter,
27 except when a licensed operator is requested:

28 (i) by a customer to go to a place other than a licensed salon and is sent to the customer from a
29 licensed salon; or

30 (ii) by a ~~handicapped~~ customer with a disability or homebound customer to go to the customer's

1 place of residence;

2 (d) for a person who owns, manages, or controls a manicuring salon to employ or use an
3 unlicensed person as a manicurist;

4 (e) to operate a manicuring school without complying with 37-31-311;

5 (f) to violate any of the provisions of this chapter."
6

7 **Section 29.** Section 37-31-308, MCA, is amended to read:

8 **"37-31-308. Examination -- reexamination -- exemption for ~~handicapped~~ persons with disabilities.**

9 (1) Examinations for a license to practice cosmetology or manicuring or to teach cosmetology must be held
10 at places and times specified by the board. The examinations must be supervised by the board. The
11 examinations may not be confined to a specific method or system. The examinations must be conducted
12 by persons who hold current licenses to practice in the profession for which the applicant is being
13 examined.

14 (2) Anyone failing twice to pass the examination for a license to practice cosmetology may not
15 apply to retake the examination:

16 (a) sooner than 6 months after the date of the second failure; or

17 (b) until the applicant has taken 200 hours additional training at a registered school of cosmetology
18 approved by the board.

19 (3) Anyone failing twice to pass the examination for a license to practice manicuring shall meet the
20 additional requirements prescribed by the board before applying to retake the examination.

21 (4) Anyone failing twice to pass the examination for a license to teach cosmetology shall wait 1
22 year before reapplying to take the examination. Upon reapplying, the applicant shall provide certification
23 of completion of 500 hours of teacher training during that year in a registered school licensed as a teacher
24 training unit.

25 (5) ~~Physically handicapped persons~~ Persons with physical disabilities trained for cosmetology or
26 manicuring by the department of public health and human services are, for a period of 1 year immediately
27 following their graduation, exempt from the examination and the fees described in 37-31-323. On
28 certification from the department of public health and human services that a department of public health
29 and human services beneficiary has successfully completed the required training in a cosmetology school
30 or manicuring school, the department shall issue the person the necessary certificate or license to practice

1 the profession in this state."

2

3 **Section 30.** Section 39-2-912, MCA, is amended to read:

4 **"39-2-912. Exemptions.** This part does not apply to a discharge:

5 (1) that is subject to any other state or federal statute that provides a procedure or remedy for
6 contesting the dispute. ~~Such~~ The statutes include those that prohibit discharge for filing complaints,
7 charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national
8 origin, sex, age, ~~handicap~~ disability, creed, religion, political belief, color, marital status, and other similar
9 grounds.

10 (2) of an employee covered by a written collective bargaining agreement or a written contract of
11 employment for a specific term."

12

13 **Section 31.** Section 39-3-406, MCA, is amended to read:

14 **"39-3-406. Exclusions.** (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect
15 to:

16 (a) students participating in a distributive education program established under the auspices of an
17 accredited educational agency;

18 (b) persons employed in private homes whose duties consist of menial chores, such as babysitting,
19 mowing lawns, and cleaning sidewalks;

20 (c) persons employed directly by the head of a household to care for children dependent upon the
21 head of the household;

22 (d) immediate members of the family of an employer or persons dependent upon an employer for
23 half or more of their support in the customary sense of being a dependent;

24 (e) any persons not regular employees of a nonprofit organization who voluntarily offer their
25 services to a nonprofit organization on a fully or partially reimbursed basis;

26 (f) ~~handicapped workers~~ persons with disabilities engaged in work that is incidental to training or
27 evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in
28 competitive employment;

29 (g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed
30 30 days of their employment;

- 1 (h) learners under the age of 18 who are employed as farm workers, provided that the exclusion
2 may not exceed 180 days from their initial date of employment and further provided that during this
3 exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established
4 in this part;
- 5 (i) retired or semiretired persons performing part-time incidental work as a condition of their
6 residence on a farm or ranch;
- 7 (j) any individual employed in a bona fide executive, administrative, or professional capacity as
8 these terms are defined by regulations of the commissioner;
- 9 (k) any individual employed by the United States of America;
- 10 (l) resident managers employed in lodging establishments or personal care facilities who, under the
11 terms of their employment, live in the establishment or facility;
- 12 (m) an outside salesperson or marketing representative paid on a commission, contract, or salary
13 basis who is primarily employed in selling or marketing products or services in the food distribution industry
14 for a food broker, wholesaler, or association;
- 15 (n) a direct seller as defined in 26 U.S.C. 3508.
- 16 (2) The provisions of 39-3-405 do not apply to:
- 17 (a) an employee with respect to whom the United States secretary of transportation has power to
18 establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;
- 19 (b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;
- 20 (c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or
21 natural state;
- 22 (d) an outside salesperson paid on a commission or contract basis who is primarily employed in
23 selling advertising for a newspaper;
- 24 (e) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily
25 engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements
26 if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily
27 engaged in the business of selling the vehicles or implements to ultimate purchasers;
- 28 (f) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is
29 employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats,
30 or aircraft to ultimate purchasers;

1 (g) an outside salesperson paid on a commission or contract basis who is primarily employed in
2 selling office supplies, computers, or other office equipment for an office equipment dealer;

3 (h) a salesperson paid on a commission or contract basis who is primarily engaged in selling
4 advertising for a radio or television station employer;

5 (i) an employee employed as a driver or driver's helper making local deliveries who is compensated
6 for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that
7 the plan has the general purpose and effect of reducing hours worked by the employees to or below the
8 maximum workweek applicable to them under 39-3-405;

9 (j) an employee employed in agriculture or in connection with the operation or maintenance of
10 ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop
11 basis and that are used exclusively for supply and storing of water for agricultural purposes;

12 (k) an employee employed in agriculture by a farmer, notwithstanding other employment of the
13 employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to
14 the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

15 (i) primarily employed during a workweek in agriculture by a farmer; and

16 (ii) paid for employment in connection with the livestock auction operations at a wage rate not less
17 than that prescribed by 39-3-404;

18 (l) an employee of an establishment commonly recognized as a country elevator, including an
19 establishment that sells products and services used in the operation of a farm, if no more than five
20 employees are employed by the establishment;

21 (m) a driver employed by an employer engaged in the business of operating taxicabs;

22 (n) an employee who is employed with the employee's spouse by a nonprofit educational institution
23 to serve as the parents of children who are orphans or one of whose natural parents is deceased or who
24 are enrolled in the institution and reside in residential facilities of the institution so long as the children are
25 in residence at the institution and so long as the employee and the employee's spouse reside in the facilities
26 and receive, without cost, board and lodging from the institution and are together compensated, on a cash
27 basis, at an annual rate of not less than \$10,000;

28 (o) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or
29 transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation
30 terminal if the number of employees employed by the employer in the forestry or lumbering operations does

1 not exceed eight;

2 (p) an employee of a sheriff's department who is working under an established work period in lieu
3 of a workweek pursuant to 7-4-2509(1);

4 (q) an employee of a municipal or county government who is working under a work period not
5 exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a
6 collective bargaining unit represents the employee or by mutual agreement of the employer and employee
7 when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work
8 period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

9 (r) an employee of a hospital or other establishment primarily engaged in the care of the sick,
10 disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in
11 a 14-day period established through either a collective bargaining agreement when a collective bargaining
12 unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit
13 is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be
14 compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

15 (s) a firefighter who is working under a work period established in a collective bargaining agreement
16 entered into between a public employer and a firefighters' organization or its exclusive representative;

17 (t) an officer or other employee of a police department in a city of the first or second class who
18 is working under a work period established by the chief of police under 7-32-4118;

19 (u) an employee of a department of public safety working under a work period established pursuant
20 to 7-32-115;

21 (v) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times
22 the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938 and if more
23 than half of the employee's compensation for a period of not less than 1 month is derived from
24 commissions on goods and services;

25 (w) a person employed as a guide, cook, camp tender, or livestock handler by a licensed outfitter
26 as defined in 37-47-101;

27 (x) an employee employed as a radio announcer, news editor, or chief engineer by an employer in
28 a second- or third-class city or a town."

29

30 **Section 32.** Section 39-30-101, MCA, is amended to read:

1 **"39-30-101. Short title.** This chapter may be cited as the "~~Montana Handicapped Persons' Persons~~
2 With Disabilities Employment Preference Act"."

3

4 **Section 33.** Section 39-30-102, MCA, is amended to read:

5 **"39-30-102. Purposes.** The purposes of this chapter are to recognize past employment
6 discrimination against ~~handicapped~~ persons with disabilities and to facilitate the habilitation, rehabilitation,
7 and readjustment of ~~handicapped~~ persons with disabilities."

8

9 **Section 34.** Section 39-30-103, MCA, is amended to read:

10 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

11 (1) "Eligible spouse" means the spouse of a ~~handicapped~~ person with a disability determined by
12 the department of public health and human services to have a 100% disability and who is unable to use
13 the employment preference because of the person's disability.

14 (2) ~~"Handicapped person" means an individual certified by the department of public health and~~
15 ~~human services to have a physical or mental impairment that substantially limits one or more major life~~
16 ~~activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to~~
17 ~~obtain, retain, or advance in employment.~~

18 ~~(3)~~ (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
19 ranks of the current employees of:

20 (i) a department, as defined in 2-15-102, for a position within the executive branch;

21 (ii) a legislative agency for a position within the legislative branch;

22 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
23 clerk, state law library, or similar office in a state district court for a position within the judicial branch;

24 (iv) a city or town for a municipal position, including a city or municipal court position; and

25 (v) a county for a county position, including a justice's court position.

26 (b) A personnel action limited to current employees of a specific public entity identified in
27 ~~subsections (3)(a)(i) through (3)(a)(v)~~ this subsection (2), current employees in a reduction-in-force pool
28 who have been laid off from a specific public entity identified in ~~subsections (3)(a)(i) through (3)(a)(v)~~ this
29 subsection (2), or current participants in a federally authorized employment program is not an initial hiring.

30 ~~(4)~~(3) (a) "Mental impairment" means:

1 (i) ~~suffering from~~ a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
2 any other neurologically ~~handicapping~~ disabling condition closely related to mental retardation and requiring
3 treatment similar to that required by mentally retarded individuals; or

4 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
5 or volitional functions.

6 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
7 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
8 as a defense to any criminal charge.

9 (4) "Person with a disability" means an individual certified by the department of public health and
10 human services to have a physical or mental impairment that substantially limits one or more major life
11 activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to
12 obtain, retain, or advance in employment.

13 (5) "Position" means a permanent or seasonal position₂ as defined in 2-18-101₂ for a state position
14 or a similar permanent or seasonal position with a public employer other than the state. However, the term
15 does not include:

16 (a) a temporary position₂ as defined in 2-18-101₂ for a state position or similar temporary position
17 with a public employer other than the state;

18 (b) a state or local elected official;

19 (c) employment as an elected official's immediate secretary, legal ~~adviser~~ adviser, court reporter,
20 or administrative, legislative, or other immediate or first-line aide;

21 (d) appointment by an elected official to a body such as a board, commission, committee, or
22 council;

23 (e) appointment by an elected official to a public office if the appointment is provided for by law;

24 (f) a department head appointment by the governor or an executive department head appointment
25 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
26 government; or

27 (g) engagement as an independent contractor or employment by an independent contractor.

28 (6) (a) "Public employer" means:

29 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
30 executive, judicial, or legislative branch of the government of the state of Montana; and

1 (iii) any county, city, or town.

2 (b) The term does not include a school district, a vocational-technical program, a community
3 college, the board of regents of higher education, the Montana university system, a special purpose district,
4 an authority, or any political subdivision of the state other than a county, city, or town.

5 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
6 whom the public employer cannot make a reasonable determination that the qualifications held by one
7 person are significantly better suited for the position than the qualifications held by the other persons."

8

9 **Section 35.** Section 39-30-106, MCA, is amended to read:

10 **"39-30-106. Adoption of rules.** The department of administration shall adopt rules implementing
11 this chapter and shall consult with the department of public health and human services in adopting rules
12 governing certification of ~~handicapped~~ persons with disabilities for purposes of this chapter. The department
13 of administration's rules apply to all public employers, local as well as state."

14

15 **Section 36.** Section 39-30-107, MCA, is amended to read:

16 **"39-30-107. Certification of ~~handicapped~~ persons with disabilities.** The department of public health
17 and human services shall certify persons ~~as handicapped~~ with disabilities for the purpose of employment
18 preference as provided in this chapter."

19

20 **Section 37.** Section 39-30-201, MCA, is amended to read:

21 **"39-30-201. Employment preference in initial hiring.** (1) (a) Except as provided in 10-2-402, in an
22 initial hiring for a position, if a job applicant who is a ~~handicapped~~ person with a disability or eligible spouse
23 meets the eligibility requirements contained in 39-30-202 and claims a preference as required by
24 39-30-206, a public employer shall hire the applicant over any other applicant with substantially equal
25 qualifications who is not a preference-eligible applicant.

26 (b) In an initial hiring, a public employer shall hire a ~~handicapped~~ person with a disability over any
27 other preference-eligible applicant with substantially equal qualifications.

28 (2) The employment preference provided for in subsection (1) does not apply to a personnel action
29 described in 39-30-103~~(3)(b)~~(2)(b) or to any other personnel action that is not an initial hiring."

30

1 **Section 38.** Section 39-30-202, MCA, is amended to read:

2 **"39-30-202. Eligibility requirements.** An eligible spouse or ~~handicapped~~ person with a disability
3 is not entitled to receive employment preference as provided in 39-30-201 unless:

4 (1) ~~he~~ the individual is a United States citizen;

5 (2) ~~he~~ the individual has resided continuously in the state for at least 1 year immediately before
6 applying for employment;

7 (3) if applying for municipal or county employment, ~~he~~ the individual has resided for at least 30
8 days immediately before applying for employment in the city, town, or county in which employment is
9 sought; and

10 (4) ~~he~~ the individual meets those requirements considered necessary by a public employer to
11 successfully perform the essential duties of the position for which ~~he~~ the individual is applying."

12

13 **Section 39.** Section 39-30-203, MCA, is amended to read:

14 **"39-30-203. Duration of preference.** Subject to 39-30-202, a ~~handicapped~~ person with a disability
15 or eligible spouse qualifies for employment preference as long as the disabling condition exists."

16

17 **Section 40.** Section 39-71-901, MCA, is amended to read:

18 **"39-71-901. Definitions.** As used in this part, the following definitions apply:

19 (1) "Certificate" means documentation issued by the department to an individual who is
20 ~~vocationally handicapped~~ a person with a disability.

21 (2) "Fund" means the subsequent injury fund.

22 (3) ~~"Vocationally handicapped"~~ "Person with a disability" means a person who has a medically
23 certifiable permanent impairment ~~which~~ that is a substantial obstacle to obtaining employment or to
24 obtaining reemployment if the employee should become unemployed, considering such factors as the
25 person's age, education, training, experience, and employment rejection."

26

27 **Section 41.** Section 39-71-903, MCA, is amended to read:

28 **"39-71-903. Procedure and practice.** When a ~~vocationally handicapped~~ person with a disability
29 receives a personal injury, the procedure and practice provided in this chapter ~~applies~~ apply to all
30 proceedings under this part, except ~~where~~ when specifically otherwise provided ~~herein~~ in this part."

1 **Section 42.** Section 39-71-904, MCA, is amended to read:

2 **"39-71-904. Rules for certification.** The department shall promulgate rules for certification of
3 ~~vocationally handicapped~~ persons with disabilities."

4

5 **Section 43.** Section 39-71-905, MCA, is amended to read:

6 **"39-71-905. Certification as ~~vocationally handicapped~~ person with a disability.** A person who
7 wishes to be certified as ~~vocationally handicapped~~ a person with a disability for purposes of this part shall
8 apply to the department on forms furnished by the department. The department shall conduct an
9 investigation and shall issue a certificate to a person who, in the department's discretion, meets the
10 requirements for ~~vocationally handicapped~~ certification. A person shall apply for certification before
11 employment or within 60 days after ~~he~~ the person becomes employed or reemployed and before an injury
12 occurs that is covered by this part. The certification is effective on the date of employment or
13 reemployment. Failure to apply before employment or within 60 days after employment or reemployment
14 precludes the employer from the protection and benefits of this part."

15

16 **Section 44.** Section 39-71-906, MCA, is amended to read:

17 **"39-71-906. Employer hiring or retaining certified ~~vocationally handicapped~~ person with a disability**
18 **to file information with department -- effect of failure to file.** Upon commencement of employment or
19 retention in employment of a certified ~~vocationally handicapped~~ person with a disability, the employer shall
20 submit to the department, on forms furnished by the department, all pertinent information requested by the
21 department. The department shall acknowledge receipt of the information. Failure to file the required
22 information with the department within 60 days after the first day of the ~~vocationally handicapped~~ person's
23 employment or retention in employment precludes the employer from the protection and benefits of this
24 part unless the information is filed before an injury for which benefits are payable under this part."

25

26 **Section 45.** Section 39-71-907, MCA, is amended to read:

27 **"39-71-907. Certified ~~vocationally handicapped~~ person with a disability to be compensated for**
28 **injury as provided by chapter -- insurer liability for compensation limited -- appropriation.** (1) A person
29 certified as ~~vocationally handicapped~~ having a physical or mental disability that constitutes or results in a
30 substantial impediment to employment who receives a personal injury arising out of and in the course of

1 employment and resulting in death or disability must be paid compensation in the manner and to the extent
 2 provided in this chapter or, in case of death resulting from ~~such the~~ injury, the compensation must be paid
 3 to the person's beneficiaries or dependents. The liability of the insurer for payment of medical and burial
 4 benefits as provided in this chapter is limited to those benefits arising from services rendered during the
 5 period of 104 weeks after the date of injury. The liability of the insurer for payment of benefits as provided
 6 in this chapter is limited to 104 weeks of compensation benefits actually paid. ~~Thereafter~~ After 104 weeks,
 7 all compensation and the cost of all medical care and burial ~~is~~ are the liability of the fund.

8 (2) The amounts necessary for the payment of benefits from this fund are statutorily appropriated,
 9 as provided in 17-7-502, from this fund."

10
 11 **Section 46.** Section 50-1-202, MCA, is amended to read:

12 **"50-1-202. General powers and duties.** The department shall:

13 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
 14 records;

15 (2) make investigations, disseminate information, and make recommendations for control of
 16 diseases and improvement of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any federal health program for which responsibilities
 18 are delegated to states;

19 (4) inspect and work in conjunction with custodial institutions and Montana university system units
 20 periodically as necessary and at other times on request of the governor;

21 (5) after each inspection made under subsection (4), submit a written report on sanitary conditions
 22 to the governor and to the director of the department of corrections or the commissioner of higher
 23 education and include recommendations for improvement in conditions if necessary;

24 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
 25 plumbing, sewer systems, and ventilation of public buildings;

26 (7) develop and administer activities for the protection and improvement of dental health and
 27 supervise dentists employed by the state, local boards of health, or schools;

28 (8) develop, adopt, and administer rules setting standards for participation in and operation of
 29 programs to protect the health of mothers and children, which rules may include programs for nutrition,
 30 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public

- 1 Health Service Act and Title V of the federal Social Security Act;
- 2 (9) conduct health education programs;
- 3 (10) provide consultation to school and local community health nurses in the performance of their
- 4 duties;
- 5 (11) consult with the superintendent of public instruction on health measures for schools;
- 6 (12) develop, adopt, and administer rules setting standards for a program to provide services to
- 7 ~~handicapped~~ children with disabilities, including standards for:
- 8 (a) diagnosis;
- 9 (b) medical, surgical, and corrective treatment;
- 10 (c) aftercare and related services; and
- 11 (d) eligibility;
- 12 (13) provide consultation to local boards of health;
- 13 (14) bring actions in court for the enforcement of the health laws and defend actions brought
- 14 against the board or department;
- 15 (15) accept and expend federal funds available for public health services;
- 16 (16) have the power to use personnel of local departments of health to assist in the administration
- 17 of laws relating to public health;
- 18 (17) adopt rules imposing fees for the tests and services performed by the laboratory of the
- 19 department of environmental quality. Fees, established on an annual basis, should reflect the actual costs
- 20 of the tests or services provided. The department may not establish fees exceeding the costs incurred in
- 21 performing tests and services. All fees must be deposited in the state special revenue fund for the use of
- 22 the department in performing tests and services.
- 23 (18) adopt and enforce rules regarding the definition of communicable diseases and the reporting
- 24 and control of communicable diseases;
- 25 (19) adopt and enforce rules regarding the transportation of dead human bodies; and
- 26 (20) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116,
- 27 including regulation of premises, equipment, and methods of operation, solely oriented to the protection
- 28 of public health and the prevention of communicable disease."

29

30 **Section 47.** Section 50-5-105, MCA, is amended to read:

1 **"50-5-105. Discrimination prohibited.** (1) All phases of the operation of a health care facility ~~shall~~
2 must be without discrimination against anyone on the basis of race, creed, religion, color, national origin,
3 sex, age, marital status, physical or mental ~~handicap~~ disability, or political ideas.

4 (2) (a) A health care facility may not refuse to admit a person to the facility solely because the
5 person has an HIV-related condition.

6 (b) For the purposes of this subsection (2), the following definitions apply:

7 (i) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired
8 immunodeficiency syndrome (AIDS) and includes all HIV and HIV-related viruses that damage the cellular
9 branch of the human immune or neurological system and leave the infected person immunodeficient or
10 neurologically impaired.

11 (ii) "HIV-related condition" means any medical condition resulting from an HIV infection, including
12 but not limited to seropositivity for HIV.

13 (3) A person who operates a facility may not discriminate among the patients of licensed
14 physicians. The free and confidential professional relationship between a licensed physician and patient ~~shall~~
15 must continue and remain unaffected.

16 (4) Except for a hospital that employs its medical staff, a hospital considering an application for
17 staff membership or granting privileges within the scope of the applicant's license may not deny the
18 application or privileges because the applicant is licensed under Title 37, chapter 5 or 6.

19 (5) This section does not preclude a hospital from limiting membership or privileges based on
20 education, training, or other relevant criteria."

21
22 **Section 48.** Section 50-60-201, MCA, is amended to read:

23 **"50-60-201. Purpose of state building code.** The state building code ~~shall~~ must be designed to
24 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
25 to:

26 (1) provide reasonably uniform standards and requirements for construction and construction
27 materials consonant with accepted standards of design, engineering, and fire prevention practices;

28 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
29 improvements ~~which~~ that tend to reduce the cost of construction consistent with reasonable requirements
30 for the health and safety of the occupants or users of buildings and, consistent with the conservation of

1 energy, by design requirements and criteria that will result in the efficient utilization ~~use~~ of energy, whether
2 used directly or in a refined form, in buildings;

3 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and
4 requirements ~~which that~~ tend to increase unnecessarily construction costs, retard unnecessarily the use
5 of proven new materials ~~which that~~ have been found adequate through experience or testing, or provide
6 unwarranted preferential treatment to types or classes of materials, products, or methods of construction;

7 (4) ensure that any new buildings constructed with public funds are accessible to and functional
8 for ~~physically-handicapped~~ persons with physical disabilities according to the principles applicable to
9 accessibility to public buildings for ~~handicapped~~ persons with disabilities adopted, recommended, or issued
10 as Part II, Uniform Federal Accessibility Standards, as it reads in the Federal Register dated August 7, 1984,
11 and as the department may amend by rule to reflect changes in the principles;

12 (5) encourage efficiencies of design and insulation ~~which that~~ enable buildings to be heated in the
13 winter with the least possible quantities of energy and to be kept cool in the summer without air
14 conditioning equipment or with the least possible use of ~~such the~~ equipment;

15 (6) encourage efficiencies and criteria directed toward design of building envelopes with high
16 thermal resistance and low air leakage and toward requiring practices in the design and selection of
17 mechanical, electrical, and illumination systems ~~which that~~ promote the efficient use of energy."

18

19 **Section 49.** Section 52-1-103, MCA, is amended to read:

20 "**52-1-103. Powers and duties of department.** The department shall:

21 (1) administer and supervise all forms of child and adult protective services;

22 (2) act as the lead agency in coordinating and planning services to children with multiagency
23 service needs;

24 (3) provide the following functions, as necessary, for youth in need of care:

25 (a) intake, investigation, case management, and client supervision;

26 (b) placement in youth care facilities;

27 (c) contracting for necessary services;

28 (d) protective services day care; and

29 (e) adoption;

30 (4) register or license youth care facilities, child-placing agencies, day-care facilities, community

1 homes for persons with developmental disabilities, community homes for severely disabled persons, and
2 adult foster care facilities;

3 (5) act as lead agency in implementing and coordinating child-care programs and services under
4 the Montana Child Care Act;

5 (6) administer the interstate compact for children;

6 (7) (a) administer child abuse prevention services funded through child abuse grants and the
7 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and

8 (b) administer elder abuse prevention services;

9 (8) (a) make a written evaluation of each plan developed by the local family services advisory
10 councils, as provided in 52-1-203, indicating those portions of each plan that will be implemented by the
11 department, those portions that will not be implemented, and the reasons for not implementing those
12 portions;

13 (b) develop a statewide youth services and resources plan that takes into consideration local needs
14 as reflected in plans developed by the local family services advisory councils;

15 (9) administer services to the aged;

16 (10) provide consultant services to:

17 (a) facilities providing care for adults who are needy, indigent, ~~handicapped~~, or dependent ~~adults~~
18 or who have disabilities; and

19 (b) youth care facilities;

20 (11) ~~utilize~~ use the staff and services of other state agencies and units of the Montana university
21 system, within their respective statutory functions, to carry out its functions under this title;

22 (12) contract, as necessary, with the county board of welfare for administration of child and adult
23 protection services for that county; and

24 (13) adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."
25

26 **Section 50.** Section 52-2-113, MCA, is amended to read:

27 **"52-2-113. Child rehabilitation -- duties of department.** The department shall:

28 (1) enforce all laws pertaining to children and take the initiative in all matters involving the interest
29 of abused or neglected children;

30 (2) use funds allocated or appropriated to the department for the purpose of providing for the

1 special medical or material needs of children with developmental disabilities or ~~physically-handicapped~~
 2 children with physical disabilities who are eligible for department programs;

3 (3) cooperate for the purposes of this part with all reputable child-helping and child-placing
 4 agencies; and

5 (4) inspect and register or license youth care facilities, child-placing agencies, and adoption
 6 agencies."

7
 8 **Section 51.** Section 53-2-201, MCA, is amended to read:

9 **"53-2-201. Powers and duties of department.** (1) The department shall:

10 (a) administer and supervise public assistance, including the provision of food stamps, food
 11 commodities, aid to families with dependent children, energy assistance, weatherization, vocational
 12 rehabilitation, services for persons with severe disabilities, developmental disability services, and medical
 13 care payments in behalf of recipients of public assistance;

14 (b) give consultant service to private institutions providing care for ~~the~~ adults who are needy,
 15 indigent, ~~handicapped,~~ or dependent ~~adults~~ adults or who have disabilities;

16 (c) cooperate with other state agencies and develop provisions for services to the blind, including
 17 the prevention of blindness, the location of blind persons, medical services for eye conditions, and
 18 vocational guidance and training of the blind;

19 (d) provide services in respect to organization and supervise county departments of public welfare
 20 and county boards of public welfare in the administration of public assistance functions and for efficiency
 21 and economy;

22 (e) assist and cooperate with other state and federal departments, bureaus, agencies, and
 23 institutions, when requested, by performing services in conformity with public assistance purposes;

24 (f) administer all state and federal funds allocated to the department for public assistance and do
 25 all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance
 26 purposes; and

27 (g) make rules governing payment for services and supplies provided to recipients of public
 28 assistance.

29 (2) The department may:

30 (a) purchase, exchange, condemn, or receive by gift either real or personal property ~~which~~ that is

1 necessary to carry out its public assistance functions. Title to property obtained under this subsection must
2 be taken in the name of the state of Montana for the use and benefit of the department.

3 (b) contract with the federal government to carry out its public assistance functions. The
4 department may do all things necessary in order to avail itself of federal aid and assistance.

5 (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration
6 of services to be provided to recipients of public assistance."
7

8 **Section 52.** Section 53-4-607, MCA, is amended to read:

9 **"53-4-607. Exemptions from time limitations in pathways.** (1) Recipients of aid to families with
10 dependent children under the FAIM project may be exempted from the time limitations on assistance under
11 pathways contained in 53-4-603 as provided by the department by rule.

12 (2) In establishing categories of individuals who are exempt from the time limitations on assistance
13 under pathways, the department may take into consideration factors that may delay an individual's
14 attainment of self-sufficiency, including but not limited to the following:

15 (a) The individual has a verifiable illness, injury, or physical or mental ~~impairment, handicap, or~~
16 disability.

17 (b) The individual is of advanced age.

18 (c) The individual does not have child care available.

19 (d) The individual is attending high school or is working toward a graduate equivalency diploma,
20 if the individual is under 20 years of age.

21 (e) The individual is the parent of a child under 1 year of age.

22 (f) The individual is providing care to a household member with a disability who requires special
23 care.

24 (g) The individual is a teenage parent participating in activities pursuant to a family investment
25 agreement.

26 (h) The department failed to substantially comply with its obligations under the family investment
27 agreement.

28 (i) The individual is a homeless person.

29 (j) The individual is a victim of domestic violence."
30

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

2 **"53-7-101. Definitions.** Unless the context requires otherwise, in this part, the following definitions
3 apply:

4 (1) "Department" means the department of public health and human services provided for in
5 2-15-2201.

6 (2) "Independent living" means control over one's life based upon a choice between acceptable
7 options in a manner that minimizes reliance upon others for making decisions and conducting activities of
8 daily living.

9 (3) "Maintenance" means money payments made in accordance with 53-7-108.

10 (4) "Occupational license" means a license, permit, or other written authority required by any
11 governmental unit to engage in an occupation.

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

16 (6) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to
17 correct or substantially reduce the impediment to employment ~~handicap~~ of a person within a reasonable
18 length of time, including but not limited to medical, psychiatric, dental, and surgical treatment, nursing
19 services, hospital care, convalescent care, drugs, medical and surgical supplies, and prosthetic appliances,
20 but excluding curative treatment for acute or transitory medical conditions unless necessary to maintain
21 a person's health in order to complete a rehabilitation plan.

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

24 (8) "Rehabilitation engineering" means the systematic application of technologies, engineering
25 methodologies, or scientific principles to meet the needs of and address the barriers confronted by persons
26 with ~~employment handicaps~~ disabilities. The barriers may exist in the areas of education, rehabilitation,
27 employment, transportation, independent living, and recreation.

28 (9) "Rehabilitation plan" means a plan, developed with the participation of the recipient, for
29 providing services to assist a person with ~~an employment handicap~~ a disability to become independent and
30 productive or employable.

1 (10) "Rehabilitation training" means training provided to a person with ~~an employment handicap a~~
 2 disability to rehabilitate overcome the person's impediment to employment handicap. The term includes but
 3 is not limited to manual, preconditioning, prevocational, vocational, and supplementary training and training
 4 provided for the purpose of achieving broader or more remunerative skills and capacities.

5 (11) "Vocational rehabilitation" means the provision of vocational rehabilitation services to a person
 6 with ~~an employment handicap a~~ disability to enable the person insofar as possible to become independent
 7 and productive or employable.

8 (12) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational
 9 guidance, vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering,
 10 physical restoration, transportation, occupational licenses, customary occupational tools and equipment,
 11 maintenance, training books and materials, group facilities, family services, followup services, and any other
 12 goods and services provided for by rule and that the department determines to be necessary to rehabilitate
 13 the person."
 14

15 **Section 54.** Section 53-7-102, MCA, is amended to read:

16 **"53-7-102. Powers and duties of department.** The department:

17 (1) shall adopt rules necessary for the administration of this part. Rules adopted may include but
 18 are not limited to the provision of services, individual service plans, eligibility for services, application,
 19 service goals and design, quality of services, provider relationships, program standards, program staffing,
 20 staff training, provider accounting procedures, confidential information, recipient grievance procedures,
 21 hearings, and definitions necessary to carry out this part;

22 (2) may take any other action that it determines necessary or appropriate to carry out the purposes
 23 of this part;

24 (3) may cooperate with other departments and agencies and institutions, both public and private,
 25 in providing for vocational rehabilitation of persons with ~~employment handicaps~~ disabilities, in studying the
 26 problems involved in vocational rehabilitation, and in establishing, developing, and providing programs,
 27 facilities, and services;

28 (4) may conduct research and compile statistics relating to the vocational rehabilitation of persons
 29 with ~~employment handicaps~~ disabilities; and

30 (5) may accept and use gifts to carry out this part."

1 **Section 55.** Section 53-7-105, MCA, is amended to read:

2 "**53-7-105. Eligibility.** A person with ~~an employment handicap~~ a disability is eligible for vocational
3 rehabilitation services if the department, after full investigation, determines that the person may become
4 employable or achieve accepted vocational objectives through the provision of vocational rehabilitation
5 services that are made available as provided for in 53-7-108."

6

7 **Section 56.** Section 53-7-301, MCA, is amended to read:

8 "**53-7-301. Definitions.** As used in this part, the following definitions apply:

9 (1) (a) "Blindness" means a visual disability in which:

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

11 or

12 (ii) a person's visual field at the widest diameter subtends an angle no greater than 20 degrees.

13 (b) The term includes any visual disability that, in the determination of the department, renders
14 vision seriously defective or causes blindness.

15 (2) "Department" means the department of public health and human services provided for in
16 2-15-2201.

17 (3) "Independent living" means control over one's life based upon a choice between acceptable
18 options in a manner that minimizes reliance upon others for making decisions and conducting activities of
19 daily living.

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

22 (5) "Maintenance" means money payments made in accordance with 53-7-310.

23 (6) "Occupational license" means a license, permit, or other written authority required by any
24 governmental unit to engage in an occupation.

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

29 (8) (a) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to
30 correct or substantially reduce an impediment to employment ~~handicap~~ caused by blindness or low vision

1 within a reasonable length of time, including but not limited to medical, psychiatric, dental, and surgical
2 treatment, nursing services, hospital care, convalescent care, drugs, medical and surgical supplies, and
3 prosthetic appliances.

4 (b) The term does not include curative treatment for acute or transitory medical conditions unless
5 necessary to maintain a person's health in order to complete a rehabilitation plan.

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

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

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

15 (12) "Rehabilitation training" means training provided to a person with blindness or low vision to
16 ~~rehabilitate~~ overcome the person's impediment to employment handicap, including but not limited to
17 manual, preconditioning, prevocational, vocational, and supplementary training and training provided for
18 the purpose of achieving broader or more remunerative skills and capacities.

19 (13) "Vocational rehabilitation" means the provision of vocational rehabilitation services to a person
20 with blindness or low vision to enable the person insofar as possible to become independent and productive
21 or employable.

22 (14) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational
23 guidance, vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering,
24 physical restoration, transportation, occupational licenses, customary occupational tools and equipment,
25 maintenance, training books and materials, group facilities, family services, followup services, and any other
26 goods and services provided for by rule and that the department determines to be necessary to rehabilitate
27 the person."
28

29 **Section 57.** Section 53-7-306, MCA, is amended to read:

30 **"53-7-306. Eligibility for services.** A person with an impediment to employment handicap due to

1 because of blindness or low vision is eligible for vocational rehabilitation services if the department, after
2 full investigation, determines that the person may become employable or achieve accepted vocational
3 objectives through the provision of vocational rehabilitation services that are made available as provided
4 for in 53-7-310."

5

6 **Section 58.** Section 53-18-101, MCA, is amended to read:

7 **"53-18-101. Definitions.** As used in this part, the following definitions apply:

8 (1) "Department" means the department of public health and human services provided for in
9 2-15-2201.

10 (2) "Self-sufficiency trust" means a trust created by a nonprofit corporation that is a 501(c)(3)
11 organization under the United States Internal Revenue Code of 1954, as amended, and that was organized
12 under the Montana Nonprofit Corporation Act, Title 35, chapter 2, for the purpose of providing for the care
13 and treatment of one or more persons who are residents of this state and are persons with developmental
14 disabilities, ~~mentally ill~~ mental illness, ~~physically handicapped~~ or physical disabilities, or are otherwise
15 eligible for department services, as defined by the department."

16

17 **Section 59.** Section 53-18-103, MCA, is amended to read:

18 **"53-18-103. Administration of trust account.** (1) The department may accept money from a
19 self-sufficiency trust for deposit in the self-sufficiency trust account pursuant to an agreement with the
20 self-sufficiency trust naming one or more beneficiaries who are residents of this state and are persons with
21 developmental disabilities, ~~mentally ill~~ mental illness, ~~physically handicapped~~ or physical disabilities, or are
22 otherwise eligible for department services, as defined by the department. The agreement must specify the
23 care or treatment to be provided for each named beneficiary. Money in the trust account must be accounted
24 for separately for each named beneficiary. The department of public health and human services shall
25 administer the trust account for beneficiaries who are mentally ill.

26 (2) (a) The department shall adopt rules to administer the trust account.

27 (b) The money in the trust account may be spent by the department, pursuant to its rules, only to
28 provide care or treatment for the named beneficiary in accordance with the terms of the agreement.

29 (c) If the director of the department determines that the money in the trust account for a named
30 beneficiary cannot be used for the care and treatment of the beneficiary in a manner consistent with the

1 rules of the department and the agreement or upon request of the self-sufficiency trust, the remaining
2 money in the trust account for the named beneficiary, together with any accumulated interest, must be
3 promptly returned to the self-sufficiency trust that provided the money for deposit in the trust account.

4 (3) The trust account money must be deposited in the state treasury and invested as required by
5 law and the earnings credited to the trust account."
6

7 **Section 60.** Section 53-18-105, MCA, is amended to read:

8 **"53-18-105. Special account.** There is created within the self-sufficiency trust account a special
9 account for the disabled. The director of the department may accept money from any source for deposit
10 into the special account. The money in the special account must be used by the department, subject to
11 appropriation, for the purpose of providing for the care and treatment of low-income persons with
12 developmental disabilities, ~~mentally ill persons, and physically handicapped persons~~ mental illness, or
13 physical disabilities or low-income persons otherwise eligible for department services, as defined by the
14 department."
15

16 **Section 61.** Section 53-19-102, MCA, is amended to read:

17 **"53-19-102. Definitions.** As used in this part, the following definitions apply:

18 (1) "Community home for persons with severe disabilities" means a facility licensed by the
19 department, as provided for in 52-4-201 through 52-4-205.

20 (2) "Department" means the department of public health and human services established in
21 2-15-2201.

22 (3) "Disability" means a permanent physical or mental condition recognized as a disability by Title
23 VII of the federal Rehabilitation Act of 1973, 29 U.S.C. 796, et seq., as may be amended.

24 (4) "Live and function independently" means to have control over one's life based upon a choice
25 between acceptable options in a manner that minimizes reliance upon others for making decisions and
26 conducting activities of daily living.

27 (5) "Person with a severe ~~disabilities~~ disability" means the same as "individual with a severe
28 ~~handicaps~~ disability" as defined in the federal Rehabilitation Act of 1973, 29 U.S.C. 706(15)(B), as may
29 be amended. The term includes an individual whose ability to function independently in family or community
30 or whose ability to engage or continue in employment is so limited by the severity of the physical or mental

1 disability that the services provided under this part are required in order for the individual to achieve a
 2 greater level of independence in functioning in family or community or in engaging in or continuing in
 3 employment."

4
 5 **Section 62.** Section 53-19-301, MCA, is amended to read:

6 **"53-19-301. Legislative findings and declaration.** (1) The legislature finds and declares that many
 7 Montana citizens ~~are physically handicapped~~ have physical disabilities and are unable to use traditional
 8 telecommunications equipment and services without assistance. These citizens constitute a substantial and
 9 valuable resource within the United States and the state of Montana, and this segment of our population
 10 needs access to telecommunications services in order to function as contributing and productive members
 11 of our society.

12 (2) The legislature further finds and declares that the role of telecommunications in our world today
 13 is inestimable. Telecommunications is the primary vehicle of commerce and industry, the means to convey
 14 and receive information and knowledge, and the way that we connect with others on a personal as well
 15 as business level. Telecommunications gives people independence and self-sufficiency, and it provides
 16 goods and services, human contact, and fellowship.

17 (3) The legislature further finds that access to telecommunications services should be provided to
 18 persons who ~~are handicapped~~ have disabilities not only for their own sake but for the benefit of society at
 19 large. Access to telecommunications services would enhance the business and personal lives of
 20 ~~handicapped~~ persons with disabilities, and its availability to ~~the handicapped~~ persons with disabilities would
 21 be an investment of benefit to all of Montana.

22 (4) Consistent with the findings stated in subsections (1) through (3), the legislature finds it
 23 appropriate to provide ~~handicapped~~ persons with disabilities access to telecommunications services by
 24 creating a program to make specialized telecommunications equipment and services available to ~~the~~
 25 ~~handicapped~~ persons with disabilities."

26
 27 **Section 63.** Section 53-19-302, MCA, is amended to read:

28 **"53-19-302. Definitions.** As used in this part, unless the context requires otherwise, the following
 29 definitions apply:

30 (1) "Committee" means the committee on telecommunications services for ~~the handicapped~~

1 persons with disabilities established in 2-15-2212.

2 (2) "Dual-party relay system" means a service that permits full and simultaneous communication
3 between those using telecommunications devices for the deaf (TDD) and those using conventional
4 telephone equipment.

5 ~~(3) "Handicapped" means the condition of a person who is blind, deaf, hard of hearing, or~~
6 ~~speech impaired.~~

7 ~~(4)(3)~~ "Local exchange company" means a telecommunications company that provides telephone
8 access lines to members of the general public who are its customers.

9 (4) "Person with a disability" means the condition of a person who is blind, deaf, hard-of-hearing,
10 or speech-impaired.

11 (5) "Program" means the program established in 53-19-306.

12 (6) "Specialized telecommunications equipment" means any telecommunications device that
13 enables or assists a person ~~who is handicapped~~ with a disability to communicate with others by means of
14 the conventional telephone network. The term includes but is not limited to telecommunications devices
15 for the deaf (TDD), amplifiers, signaling devices, puff-blow devices, electronic artificial larynx devices, and
16 telebraille.

17 (7) "Telephone access line" means the telephone exchange access line or channel that provides
18 access from the premises of a customer of a local exchange company to the telecommunications network
19 to effect the transfer of information."
20

21 **Section 64.** Section 53-19-306, MCA, is amended to read:

22 **"53-19-306. Program established -- purpose.** (1) The committee shall establish and administer a
23 program to provide specialized telecommunications equipment and services to persons ~~who are handicapped~~
24 with disabilities.

25 (2) The purpose of the program is to:

26 (a) furnish specialized telecommunications equipment to meet the needs of persons ~~who are~~
27 ~~handicapped~~ with disabilities; and

28 (b) provide a dual-party relay system to connect persons ~~who are handicapped~~ with disabilities with
29 all phases of public telecommunications service, including telecommunications service to emergency
30 services and public safety agencies as defined in 10-4-101."

1 **Section 65.** Section 53-19-307, MCA, is amended to read:

2 "**53-19-307. Provision of services.** In administering the program established in 53-19-306, the
3 committee shall:

4 (1) develop an appropriate means test to determine eligibility for participation in the program;

5 (2) require that participants in the program be residents of Montana and that residency be
6 maintained as a condition of eligibility for continued participation in the program;

7 (3) require that participants provide satisfactory evidence that they ~~are handicapped~~ have
8 disabilities and would benefit from the use of specialized telecommunications equipment;

9 (4) provide specialized telecommunications equipment to participants on the basis of a loan or lease
10 arrangement that may include cost-sharing between the ~~handicapped~~ person with a disability and ~~his~~ the
11 person's employer;

12 (5) determine the type of specialized telecommunications equipment that it considers necessary
13 and economically feasible for use by Montana's ~~handicapped~~ persons with disabilities;

14 (6) purchase or lease all specialized telecommunications equipment through bid by wholesale
15 manufacturers on a competitive basis;

16 (7) require, as a condition of each equipment purchase or lease, that the original manufacturer
17 provide repair and maintenance service for new and returned equipment;

18 (8) maintain records of each item of equipment, including the location, serial number, and telephone
19 number of each device;

20 (9) require an appropriate security deposit for equipment at the time of delivery, which deposit
21 must be refunded without interest when the equipment is returned;

22 (10) make reasonable efforts to recover equipment from those who become ineligible for continued
23 participation in the program;

24 (11) provide a dual-party relay system that, if feasible, would be available statewide for operation
25 7 days a week, 24 hours a day, including holidays; and

26 (12) ~~implement the service described in subsection (11) within 2 years following July 1, 1989; and~~
27 ~~(13)~~ adopt rules necessary to administer the program."

28

29 **Section 66.** Section 53-19-310, MCA, is amended to read:

30 "**53-19-310. Fund for telecommunications services for the ~~handicapped~~ persons with disabilities.**

1 (1) There is an account for telecommunications services for ~~the handicapped~~ persons with disabilities in the
 2 state special revenue fund in the state treasury. The account consists of:

3 (a) all monetary contributions, gifts, and grants received by the committee as provided in
 4 53-19-309; and

5 (b) all charges billed and collected pursuant to 53-19-311.

6 (2) The money in the account is allocated to the committee for purposes of implementing this part.

7 (3) All expenditures of the committee in administering this part must be paid from money deposited
 8 in the account."

9

10 **Section 67.** Section 53-20-102, MCA, is amended to read:

11 **"53-20-102. Definitions.** As used in this part, the following definitions apply:

12 (1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors
 13 created by 2-15-211.

14 (2) "Community-based facilities" or "community-based services" means those facilities and services
 15 that are available for the evaluation, treatment, and habilitation of persons with developmental disabilities
 16 in a community setting.

17 (3) "Court" means a district court of the state of Montana.

18 (4) "Developmental disabilities professional" means a licensed psychologist, a licensed psychiatrist,
 19 or a person with a master's degree in psychology, who:

20 (a) has training and experience in psychometric testing and evaluation;

21 (b) has experience in the field of developmental disabilities; and

22 (c) is certified, as provided in 53-20-106, by the department of public health and human services.

23 (5) "Developmental disability" means a disability that is attributable to mental retardation, cerebral
 24 palsy, epilepsy, autism, or any other neurologically ~~handicapping~~ disabling condition closely related to
 25 mental retardation and that requires treatment similar to that required by mentally retarded individuals. A
 26 developmental disability is a disability that originated before the individual attained age 18, that has
 27 continued or can be expected to continue indefinitely, and that ~~constitutes~~ results in the person having a
 28 substantial ~~handicap~~ disability of the individual.

29 (6) "Habilitation" means the process by which a person who has a developmental disability is
 30 assisted in acquiring and maintaining those life skills that enable the person to cope more effectively with

1 personal needs and the demands of the environment and in raising the level of the person's physical,
2 mental, and social efficiency. Habilitation includes but is not limited to formal, structured education and
3 treatment.

4 (7) "Individual treatment planning team" means the interdisciplinary team of persons involved in
5 and responsible for the habilitation of a resident. The resident is a member of the team.

6 (8) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult
7 brothers and sisters of a person.

8 (9) "Qualified mental retardation professional" means a professional program staff person for the
9 residential facility who the department of public health and human services determines meets the
10 professional requirements necessary for federal certification of the facility.

11 (10) "Resident" means a person committed to a residential facility.

12 (11) "Residential facility" or "facility" means the Montana developmental center and the Eastmont
13 human services center.

14 (12) "Residential facility screening team" means a team of persons, appointed as provided in
15 53-20-133, ~~who are~~ that is responsible for screening a respondent to determine if the commitment of the
16 respondent to a residential facility is appropriate.

17 (13) "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously
18 developmentally disabled and in need of developmental disability services in a residential facility.

19 (14) "Responsible person" means a person willing and able to assume responsibility for a person
20 who is seriously developmentally disabled or alleged to be seriously developmentally disabled.

21 (15) "Seriously developmentally disabled" means a person who:

22 (a) has a developmental disability;

23 (b) is impaired in cognitive functioning; and

24 (c) has behaviors that pose an imminent risk of serious harm to self or others or self-help deficits
25 so severe as to require total care or near total care and who because of those behaviors or deficits, cannot
26 be safely and effectively habilitated in community-based services."

27

28 **Section 68.** Section 53-20-142, MCA, is amended to read:

29 **"53-20-142. Rights while in a residential facility.** Persons admitted to a residential facility for a
30 period of habilitation shall enjoy the following rights:

1 (1) Residents have a right to dignity, privacy, and humane care.

2 (2) Residents are entitled to send and receive sealed mail. Moreover, it is the duty of the facility
3 to foster the exercise of this right by furnishing the necessary materials and assistance.

4 (3) Residents must have the same rights and access to private telephone communication as
5 patients at any public hospital except to the extent that the individual treatment planning team or the
6 qualified mental retardation professional responsible for formulation of a particular resident's habilitation
7 plan writes an order imposing special restrictions and explains the reasons for the restrictions. The written
8 order must be renewed monthly if any restrictions are to be continued.

9 (4) Residents have an unrestricted right to visitation except to the extent that the individual
10 treatment planning team or the qualified mental retardation professional responsible for formulation of a
11 particular resident's habilitation plan writes an order imposing special restrictions and explains the reasons
12 for the restrictions. The written order must be renewed monthly if restrictions are to be continued.

13 (5) Residents have a right to receive suitable educational and habilitation services regardless of
14 chronological age, degree of retardation, or accompanying disabilities ~~or handicaps~~.

15 (6) Each resident must have an adequate allowance of neat, clean, suitably fitting, and seasonable
16 clothing. Except when a particular kind of clothing is required because of a particular condition, residents
17 must have the opportunity to select from various types of neat, clean, and seasonable clothing. The
18 clothing must be considered the resident's throughout ~~his~~ the resident's stay in the facility. Clothing, both
19 in amount and type, must make it possible for residents to go out of doors in inclement weather, to go for
20 trips or visits appropriately dressed, and to make a normal appearance in the community. The facility shall
21 make provision for the adequate and regular laundering of the residents' clothing.

22 (7) Each resident has the right to keep and use ~~his~~ the resident's own personal possessions except
23 insofar as ~~such~~ the clothes or personal possessions may be determined by the individual treatment planning
24 team or the qualified mental retardation professional to be dangerous either to ~~himself~~ the resident or to
25 others.

26 (8) Each resident has a right to a humane physical environment within the residential facility. The
27 facility must be designed to make a positive contribution to the efficient attainment of the habilitation goals
28 of the resident. To accomplish this purpose:

29 (a) regular housekeeping and maintenance procedures that will ensure that the facility is maintained
30 in a safe, clean, and attractive condition must be developed and implemented;

1 (b) pursuant to an established routine maintenance and repair program, the physical plant must be
2 kept in a continuous state of good repair and operation so as to ensure the health, comfort, safety, and
3 well-being of the residents and so as not to impede in any manner the habilitation programs of the
4 residents;

5 (c) the physical facilities ~~must~~ shall meet all fire and safety standards established by the state and
6 locality. In addition, the facility ~~must~~ shall meet the provisions of the life safety code of the national fire
7 protection association that are applicable to it.

8 (d) there must be special facilities for nonambulatory residents to ensure their safety and comfort,
9 including special fittings on toilets and wheelchairs. Appropriate provision must be made to permit
10 nonambulatory residents to communicate their needs to staff.

11 (9) Residents have a right to receive prompt and adequate medical treatment for any physical or
12 mental ailments or injuries or physical disabilities and for the prevention of any illness or disability. ~~Such~~
13 The medical treatment must meet standards of medical practice in the community. However, nothing in this
14 subsection may be interpreted to impair other rights of a resident in regard to involuntary commitment for
15 mental illness, use of psychotropic medication, use of hazardous, aversive, or experimental procedures, or
16 the refusal of ~~such~~ treatment.

17 (10) Corporal punishment is not permitted.

18 (11) The opportunity for religious worship must be accorded to each resident who desires ~~such~~
19 worship. Provisions for religious worship must be made available to all residents on a nondiscriminatory
20 basis. An individual may not be compelled to engage in any religious activities.

21 (12) Residents have a right to a nourishing, well-balanced diet. The diet for residents must provide
22 at a minimum the recommended daily dietary allowance as developed by the national academy of sciences.
23 Provisions must be made for special therapeutic diets and for substitutes at the request of the resident, ~~his~~
24 the resident's parents, guardian, or next of kin, or the responsible person appointed by the court in
25 accordance with the religious requirements of any resident's faith. Denial of a nutritionally adequate diet
26 may not be used as punishment.

27 (13) Residents have a right to regular physical exercise several times a week. It is the duty of the
28 facility to provide both indoor and outdoor facilities and equipment for ~~such~~ exercise. Residents have a right
29 to be outdoors daily in the absence of contrary medical considerations.

30 (14) Residents have a right, under appropriate supervision, to suitable opportunities for the

1 interaction with members of the opposite sex except ~~where~~ when the individual treatment planning team
2 or the qualified mental retardation professional responsible for the formulation of a particular resident's
3 habilitation plan writes an order to the contrary and explains the reasons for the order. The order must be
4 renewed monthly if the restriction is to be continued."
5

6 **Section 69.** Section 53-20-148, MCA, is amended to read:

7 **"53-20-148. Right to habilitation.** (1) Persons admitted to residential facilities ~~shall~~ have a right
8 to habilitation, including medical treatment, education, and care suited to their needs, regardless of age,
9 degree of retardation, or ~~handicapping~~ disabling condition. Each resident has a right to a habilitation
10 program that will maximize ~~his~~ the resident's human abilities and enhance ~~his~~ the resident's ability to cope
11 with ~~his~~ the environment. Every residential facility shall recognize that each resident, regardless of ability
12 or status, is entitled to develop and realize ~~his~~ the resident's fullest potential. The facility shall implement
13 the principle of normalization so that each resident may live as normally as possible.

14 (2) Residents have a right to the least restrictive conditions necessary to achieve the purposes of
15 habilitation. To this end, the facility shall make every attempt to move residents from:

- 16 (a) more to less structured living;
17 (b) larger to smaller facilities;
18 (c) larger to smaller living units;
19 (d) group to individual residences;
20 (e) segregated from the community to integrated into the community living;
21 (f) dependent to independent living.

22 (3) Within 30 days of ~~his~~ admission to a residential facility, each resident must have an evaluation
23 by appropriate specialists for programming purposes.

24 (4) Each resident must have an individualized habilitation plan formulated by an individual treatment
25 planning team. This plan must be implemented as soon as possible, but no later than 30 days after the
26 resident's admission to the facility. An interim program of habilitation, based on the preadmission evaluation
27 conducted pursuant to this part, must commence promptly upon the resident's admission. Each
28 individualized habilitation plan must contain:

- 29 (a) a statement of the nature of the specific limitations and the needs of the resident;
30 (b) a description of intermediate and long-range habilitation goals, with a projected timetable for

1 their attainment;

2 (c) a statement of and an explanation for the plan of habilitation for achieving these intermediate
3 and long-range goals;

4 (d) a statement of the least restrictive setting for habilitation necessary to achieve the habilitation
5 goals of the resident;

6 (e) a specification of the professionals and other staff members who are responsible for the
7 particular resident's attaining these habilitation goals;

8 (f) criteria for release to less restrictive settings for habilitation, based on the resident's needs,
9 including criteria for discharge and a projected date for discharge.

10 (5) As part of ~~his~~ the habilitation plan, each resident must have an individualized
11 postinstitutionalization plan that includes an identification of services needed to make a satisfactory
12 community placement possible. This plan must be developed by the individual treatment planning team that
13 shall begin preparation of the plan upon the resident's admission to the facility and shall complete the plan
14 as soon as practicable. The parents or guardian or next of kin of the resident, the responsible person
15 appointed by the court, if any, and the resident, if able to give informed consent, must be consulted in the
16 development of the plan and must be informed of the content of the plan.

17 (6) In the interests of continuity of care, one qualified mental retardation professional shall
18 whenever possible be responsible for supervising the implementation of the habilitation plan, integrating
19 the various aspects of the habilitation program, and recording the resident's progress as measured by
20 objective indicators. The qualified mental retardation professional ~~shall~~ is also ~~be~~ responsible for ensuring
21 that the resident is released when appropriate to a less restrictive habilitation setting.

22 (7) The habilitation plan must be reviewed monthly by the qualified mental retardation professional
23 responsible for supervising the implementation of the plan and must be modified if necessary. In addition,
24 6 months after admission and at least annually thereafter, each resident must receive a comprehensive
25 psychological, social, habilitative, and medical diagnosis and evaluation and ~~his~~ the resident's habilitation
26 plan must be reviewed and revised accordingly by the individual treatment planning team. A habilitation plan
27 must be reviewed monthly.

28 (8) Each resident placed in the community must receive transitional habilitation assistance.

29 (9) The superintendent of the residential facility, or ~~his~~ the superintendent's designee, shall report
30 in writing to the parents or guardian of the resident or the responsible person at least every 6 months on

1 the resident's habilitation and medical condition. The report must also state any appropriate habilitation
 2 program that has not been afforded to the resident because of inadequate habilitation resources.

3 (10) Each resident, the parents or guardian of each resident, and the responsible person appointed
 4 by the court must promptly upon the resident's admission receive a written copy of and be orally informed
 5 of all the above standards for adequate habilitation, the rights accorded by 53-20-142, and other
 6 information concerning the care and habilitation of the resident that may be available to assist them in
 7 understanding the situation of the resident and the rights of the resident in the facility."

8

9 **Section 70.** Section 53-20-202, MCA, is amended to read:

10 **"53-20-202. Definitions.** As used in this part, the following definitions apply:

11 (1) "Comprehensive developmental disability system" means a system of services, including but
 12 not limited to the following basic services, with the intention of providing alternatives to institutionalization:

13 (a) evaluation services;

14 (b) diagnostic services;

15 (c) treatment services;

16 (d) day-care services;

17 (e) training services;

18 (f) education services;

19 (g) employment services;

20 (h) recreation services;

21 (i) personal-care services;

22 (j) domiciliary-care services;

23 (k) special living arrangements services;

24 (l) counseling services;

25 (m) information and referral services;

26 (n) follow-along services;

27 (o) protective and other social and sociolegal services; and

28 (p) transportation services.

29 (2) "Department" means the department of public health and human services.

30 (3) "Developmental disabilities" means disabilities attributable to mental retardation, cerebral palsy,

1 epilepsy, autism, or any other ~~neurological~~ neurologically handicapping ~~disabling~~ condition closely related
 2 to mental retardation and requiring treatment similar to that required by mentally retarded individuals if the
 3 disability originated before the person attained age 18, has continued or can be expected to continue
 4 indefinitely, and ~~constitutes~~ results in the person having a substantial ~~handicap~~ disability of the person.

5 (4) "Developmental disabilities facility" means any service or group of services offering care to
 6 persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other
 7 programmatic basis.

8 (5) "Planning and advisory council" or "council" means the developmental disabilities planning and
 9 advisory council created in 2-15-2204."

10
 11 **Section 71.** Section 53-20-203, MCA, is amended to read:

12 **"53-20-203. Responsibilities of department.** The department shall:

13 (1) take cognizance of matters affecting the citizens of the state who are persons with
 14 developmental disabilities;

15 (2) initiate a preventive developmental disabilities program ~~which shall~~ that must include but not
 16 be limited to the implementation of developmental disabilities care, treatment, prevention, and research as
 17 can best be accomplished by community-centered services. Every means ~~shall~~ must be ~~utilized~~ used
 18 to initiate and operate the service program in cooperation with local agencies under the provisions of
 19 53-20-205 and 53-20-207.

20 (3) collect and disseminate information relating to developmental disabilities;

21 (4) prepare, with the assistance of the planning and advisory council, an annual comprehensive
 22 plan for the initiation and maintenance of developmental disabilities services in the state. The services ~~shall~~
 23 must include but not be limited to community comprehensive developmental disabilities services as referred
 24 to in 53-20-202.

25 (5) provide by rule for the evaluation of persons who apply for services or persons admitted into
 26 a program at a developmental disability facility;

27 (6) provide state personnel to assist regional councils provided for in 53-20-207;

28 (7) receive from agencies of the government of the United States and other agencies, persons or
 29 groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
 30 materials, and contributions to initiate and maintain developmental disabilities services within the state;

1 (8) require that habilitation plans be developed, implemented, and continuously maintained for all
2 persons with developmental disabilities who are served through a community-based program funded by the
3 state; and

4 (9) use funds available for cases in which special medical or material assistance is necessary to
5 rehabilitate children with developmental disabilities or ~~physically handicapped~~ children with physical
6 disabilities if ~~each~~ assistance is not otherwise provided for by law."
7

8 **Section 72.** Section 61-3-332, MCA, is amended to read:

9 **"61-3-332. Number plates.** (1) A motor vehicle that is driven upon the streets or highways of
10 Montana must display both front and rear number plates, bearing the distinctive number assigned to the
11 vehicle. The number plates are in 10 series: one series for owners of motorcars, one for owners of motor
12 vehicles of the motorcycle or quadricycle type, one for trailers, one for trucks, one for dealers in vehicles
13 of the motorcycle or quadricycle type that bear the distinctive letters "MCD" or the letters "MC" and the
14 word "DEALER", one for franchised dealers in new motorcars (including trucks and trailers) or new and
15 used motorcars (including trucks and trailers) that bear the distinctive letter "D" or the word "DEALER",
16 one for dealers in used motorcars only (including used trucks and trailers) that bear the distinctive letters
17 "UD" or the letter "U" and the word "DEALER", one for dealers in trailers and/or semitrailers (new or used)
18 that bear the distinctive letters "DTR" or the letters "TR" and the word "DEALER", one for dealers in
19 recreational vehicles that bear the distinctive letters "RV" or the letter "R" and the word "DEALER", and
20 one for special license plates. All markings for the various kinds of dealers' plates must be placed on the
21 number plates assigned to the dealer, in the position that the department designates.

22 (2) All number plates for motor vehicles must be issued for a minimum period of 4 years, bear a
23 distinctive marking, and be furnished by the state. In years when number plates are not issued, the
24 department shall provide nonremovable stickers bearing appropriate registration numbers that must be
25 affixed to the license plates in use.

26 (3) Subject to the provisions of this section, the department shall create a new design for number
27 plates as provided in this section.

28 (4) In the case of motorcars and trucks, plates must be of metal 6 inches wide and 12 inches in
29 length. The outline of the state of Montana must be used as a distinctive border on the license plates, and
30 the word "Montana" and the year must be placed across the plates. Registration plates must be treated

1 with a reflectorized background material according to specifications prescribed by the department.

2 (5) The distinctive registration numbers must begin with a number one or with a letter-number
3 combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. The
4 distinctive registration number or letter-number combination assigned to the vehicle must appear on the
5 plate preceded by the number of the county and appearing in horizontal order on the same horizontal
6 baseline. The county number must be separated from the distinctive registration number by a separation
7 mark unless a letter-number combination is used. The dimensions of the numerals and letters must be
8 determined by the department, and all county and registration numbers must be of equal height.

9 (6) For the use of tax-exempt motor vehicles, in addition to the markings provided in this section,
10 number plates must bear the following distinctive markings:

11 (a) For vehicles owned by the state, the department may designate the prefix number for the
12 various state departments. All numbered plates issued to state departments must bear the words "State
13 Owned", and a year number may not be indicated on the plates because these numbered plates are of a
14 permanent nature and will be replaced by the department only when the physical condition of numbered
15 plates requires it.

16 (b) For vehicles that are owned by the counties, municipalities, and special districts, as defined in
17 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and
18 operated by officials and employees in the line of duty and for vehicles on loan from the United States
19 government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials
20 and employees in the line of duty, there must be placed on the number plates assigned, in a position that
21 the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for
22 plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and
23 special districts that obtain plates within each county must begin with number one and be numbered
24 consecutively. Because these number plates are of a permanent nature, they are subject to replacement
25 by the department only when the physical condition of the number plates requires it and a year number may
26 not be displayed on the number plates.

27 (7) On all number plates assigned to motor vehicles of the truck and trailer type, other than
28 tax-exempt trucks and tax-exempt trailers, there must appear the letter "T" or the word "TRUCK" on plates
29 assigned to trucks and the letters "TR" or the word "TRAILER" on plates assigned to trailers and
30 housetrailer. The letters "MC" or the word "CYCLE" must appear on plates assigned to vehicles of the

1 motorcycle or quadricycle type.

2 (8) Number plates issued to a passenger car, truck, trailer, or vehicle of the motorcycle or
3 quadricycle type may be transferred only to a replacement passenger car, truck, trailer, or motorcycle-
4 quadricycle-type vehicle. A registration or license fee may not be assessed upon a transfer of a number
5 plate under 61-3-317 and 61-3-335.

6 (9) For the purpose of this chapter, the several counties of the state are assigned numbers as
7 follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead,
8 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson,
9 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23;
10 Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31;
11 Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon,
12 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46;
13 Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral,
14 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they
15 may be formed, beginning with the number 57.

16 (10) Each type of special license plate approved by the legislature, except collegiate license plates
17 authorized in 61-3-463, must be a separate series of plates, numbered as provided in subsection (5), except
18 that the county number must be replaced by a nonremovable design or decal designating the group or
19 organization to which the applicant belongs. Unless otherwise specifically stated in this section, the special
20 plates are subject to the same rules and laws as govern the issuance of regular license plates, must be
21 placed or mounted on a vehicle owned by the person who is eligible to receive them, and must be removed
22 upon sale or other disposition of the vehicle. The special license plates must be issued to national guard
23 members, former prisoners of war, ~~handicapped~~ persons with disabilities, reservists, disabled veterans,
24 survivors of the Pearl Harbor attack, veterans of the armed services, or veterans of the armed services who
25 were awarded the purple heart medal, who comply with the following provisions:

26 (a) An active member of the Montana national guard may be issued special license plates with a
27 design or decal displaying the letters "NG". The adjutant general shall issue to each active member of the
28 Montana national guard a certificate authorizing the department to issue national guard plates, numbered
29 in sets of two with a different number on each set, and the member shall surrender the plates to the
30 department upon becoming ineligible to use them.

1 (b) An active member of the reserve armed forces of the United States of America who is a
2 resident of this state may be issued special license plates with a design or decal displaying the following:
3 United States army reserve, AR (symbol); United States naval reserve, NR (anchor); United States air force
4 reserve, AFR (symbol); and United States marine corps reserve, MCR (globe and anchor). The commanding
5 officer of each armed forces reserve unit shall issue to each eligible member of the reserve unit a certificate
6 authorizing the issuance of special license plates, numbered in sets of two with a different number on each
7 set. The member shall surrender the plates to the department upon becoming ineligible to use them.

8 (c) (i) A resident of Montana who is a veteran of the armed forces of the United States and who
9 is 100% disabled because of an injury that has been determined by the department of veterans affairs to
10 be service-connected may, upon presentation to the department of proof of the 100% disability, be issued:

11 (A) a special license plate under this section with a design or decal displaying the letters "DV"; or

12 (B) one set of any other military-related plates that the disabled veteran is eligible to receive under
13 this section.

14 (ii) The fee for original or renewal registration by a 100% disabled veteran for a passenger vehicle
15 or a truck with a GVW-rated capacity of 1 ton or less is \$5 and is in lieu of all other fees and taxes for that
16 vehicle under this chapter.

17 (iii) Special license plates issued to a disabled veteran are not transferable to another person.

18 (iv) A disabled veteran is not entitled to a special disabled veteran's license plate for more than one
19 vehicle.

20 (v) A vehicle lawfully displaying a disabled veteran's plate and that is conveying a 100% disabled
21 veteran is entitled to the parking privileges allowed a ~~handicapped person's~~ person with a disability's vehicle
22 under this title.

23 (d) A Montana resident who is a veteran of the armed forces of the United States and was
24 captured and held prisoner by a military force of a foreign nation, documented by the veteran's service
25 record, may upon application and presentation of proof be issued special license plates, numbered in sets
26 of two with a different number on each set, with a design or decal displaying the words "ex-prisoner of
27 war" or an abbreviation that the department considers appropriate.

28 (e) Except as provided in subsection (10)(c), upon payment of all taxes and fees required by parts
29 3 and 5 of this chapter and upon furnishing proof satisfactory to the department that the applicant meets
30 the requirements of this subsection (10)(e), the department shall issue to a Montana resident who is a

1 veteran of the armed services of the United States special license plates, numbered in sets of two with a
2 different number on each set, designed to indicate that the applicant is a survivor of the Pearl Harbor attack
3 if the applicant was a member of the United States armed forces on December 7, 1941, was on station on
4 December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) at Pearl Harbor, the island
5 of Oahu, or offshore at a distance of not more than 3 miles, and received an honorable discharge from the
6 United States armed forces. If special license plates issued under this subsection are lost, stolen, or
7 mutilated, the recipient of the plates is entitled to replacement plates upon request and without charge.

8 (f) A motor vehicle owner and resident of this state who is a veteran or the surviving spouse of
9 a veteran of the armed services of the United States may be issued license plates inscribed as provided in
10 subsection (10)(f)(i) if the veteran was separated from the armed services under other than dishonorable
11 circumstances or was awarded the purple heart medal:

12 (i) Upon submission of a department of defense form 214(DD-214) or its successor or documents
13 showing an other-than-dishonorable discharge or a reenlistment, proper identification, and other relevant
14 documents to show an applicant's qualification under this subsection, there must be issued to the applicant,
15 in lieu of the regular license plates prescribed by law, special license plates numbered in sets of two with
16 a different number on each set. The plates must display:

17 (A) the word "VETERAN" and a symbol signifying the United States army, United States navy,
18 United States air force, United States marine corps, or United States coast guard, according to the record
19 of service verified in the application; or

20 (B) a symbol representing the purple heart medal.

21 (ii) Plates must be furnished by the department to the county treasurer, who shall issue them to a
22 qualified veteran or to the veteran's surviving spouse. The plates must be placed or mounted on the vehicle
23 owned by the veteran or the veteran's surviving spouse designated in the application and must be removed
24 upon sale or other disposition of the vehicle.

25 (iii) Except as provided in subsection (10)(c), a veteran or surviving spouse who receives special
26 license plates under this subsection (10)(f) is liable for payment of all taxes and fees required under parts
27 3 and 4 of this chapter and a special veteran's or purple heart medal license plate fee of \$10. Upon an
28 original application for a license under this subsection (10)(f), the county treasurer shall:

29 (A) deposit \$3 of the special fee in the county general fund;

30 (B) remit \$1 for deposit in the state general fund; and

1 (C) deposit the remainder of the special fee in the state special revenue account established in
2 10-2-603 for administration, construction, operation, and maintenance of the state veterans' cemetery.

3 (iv) Upon subsequent annual renewal of registration, the county treasurer shall deposit all of the
4 special fee as provided in subsection (10)(f)(iii)(C).

5 (g) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may,
6 upon written application on a form prescribed by the department, be issued a special license plate with a
7 design or decal bearing a representation of a wheelchair as the symbol of ~~the handicapped~~ a person with
8 a disability."

9

10 **Section 73.** Section 61-3-454, MCA, is amended to read:

11 "**61-3-454. Special parking privilege.** A vehicle lawfully displaying specially inscribed license plates
12 issued under 61-3-332(10)(c)(i)(A) or 61-3-426(2) and conveying a 100% disabled veteran is entitled to
13 the parking privileges allowed a ~~handicapped person's~~ person with a disability's vehicle under 49-4-302."

14

15 **Section 74.** Section 61-12-504, MCA, is amended to read:

16 "**61-12-504. Fees for identification cards.** (1) Fees not in excess of \$8 for identification cards
17 issued pursuant to this part must be collected and deposited in the general fund. A ~~handicapped~~ person
18 with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged
19 from any correctional facility must be furnished a free identification card upon release, discharge, or parole.

20 (2) Each identification card expires on the anniversary of the date of birth of the holder 4 years
21 after the date of issue."

22

23 **Section 75.** Section 69-3-307, MCA, is amended to read:

24 "**69-3-307. Treatment of advertisement costs and contributions.** Costs or expenses incurred by
25 public utilities for advertising, transfers of funds without full and adequate consideration, contributions,
26 donations, and gifts may not be treated as expenses deductible from income or from capital assets or in
27 any other manner by the public service commission in setting or regulating rates ~~which that~~ may be charged
28 by the public utilities pursuant to this chapter. This section ~~shall~~ does not apply to advertising ~~which that~~
29 encourages the conservation of energy or product safety or informs the public of the availability of
30 alternative forms of energy or recommends usage at times of lower rates or lower demand. Furthermore,

1 for communications public utilities, the provisions of this section ~~shall do~~ not apply to advertising ~~which~~
 2 that relates to special equipment that is available to aid ~~the handicapped~~ persons with disabilities or to
 3 special services that are designed to protect the public health, welfare, and safety, to promote more
 4 efficient use of a communications system, or to promote increased use of regulated communications
 5 services."

6

7 **Section 76.** Section 77-2-318, MCA, is amended to read:

8 **"77-2-318. Sale of leased cabin or home sites or city or town lots.** (1) At the request of the lessee
 9 and if consistent with the orderly development and management of state lands, the board may make
 10 available for sale, in the manner provided in this part, any leased cabin or home site or city or town lot that
 11 was under lease on October 1, 1989.

12 (2) The lessee requesting the sale shall have prepared a current certificate of survey for the
 13 property. The cost of preparation of the certificate of survey must be included in the settlement for
 14 improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser.

15 (3) The sale of a lease is exempt from the subdivision laws, except that the development of any
 16 new, replacement, or additional water supply or sewage disposal system on the property must be approved
 17 pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.

18 (4) The sale of a leased cabin or home site or city or town lot under 77-2-318 through 77-2-320
 19 must be completed no later than 10 years after October 1, 1989. A lessee may request a lease sale at any
 20 time during the 10-year period. Upon request, the board may grant a ~~handicapped~~ lessee with a disability
 21 or a lessee 65 years of age or older an additional 10-year period to request a sale of leased land.

22 (5) Upon a sale of leased land, the department shall, upon compliance with 77-2-101 through
 23 77-2-106, grant a permanent easement across state lands to secure access using current routes."

24

25 **Section 77.** Section 87-2-706, MCA, is amended to read:

26 **"87-2-706. Drawing for special antelope licenses.** (1) In the event that the number of valid
 27 applications for special antelope licenses for a hunting district exceeds the quota set by the department for
 28 the district, ~~such~~ the licenses ~~shall~~ must be awarded by a drawing. The department shall provide for those
 29 persons making valid application for special antelope licenses a method of selecting first, second, and third
 30 choice hunting districts for any drawing held pursuant to this section.

1 (2) The department shall reserve for applicants who are ~~permanently physically handicapped and~~
 2 nonambulatory and have a permanent physical disability, as determined by the department, up to 25 of the
 3 total special antelope licenses authorized for sale in the state, for use in the district designated by the
 4 commission. If the number of valid disabled applicants exceeds the number of licenses available, the
 5 department may hold a drawing ~~whereby in which~~ all applicants have an equal chance of being selected.

6 (3) The department may promulgate ~~such rules and regulations as that~~ are necessary to implement
 7 this section."
 8

9 **Section 78.** Section 87-2-803, MCA, is amended to read:

10 "**87-2-803. ~~Disabled persons~~ Persons with disabilities.** (1) ~~Disabled persons~~ Persons with
 11 disabilities are entitled to fish and to hunt game birds with only a conservation license if they are residents
 12 of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule.

13 (2) A resident of Montana who is certified as disabled by the department and who is not residing
 14 in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident
 15 who is 15 years of age or older and who is under 62 years of age.

16 (3) A resident or nonresident ~~disabled~~ person with a disability who is certified as disabled by the
 17 department and who is not residing in an institution may carry a permit on a form prescribed by the
 18 department. A ~~disabled~~ person with a disability who is issued a permit under this subsection is entitled to
 19 have the department stamp the permit with "Permission to Hunt From a Vehicle" if the person establishes
 20 to the satisfaction of the department that the person is ~~permanently physically handicapped and~~
 21 nonambulatory and has a permanent physical disability or that the person's mobility is substantially
 22 impaired.

23 (4) A ~~disabled~~ person with a disability carrying a permit as required in subsection (3), upon which
 24 is stamped "Permission to Hunt From a Vehicle", may hunt by shooting a firearm from the shoulder, berm,
 25 or barrow pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway,
 26 or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a
 27 shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists
 28 or that is parked in an area, not a public highway, where hunting is permitted. ~~Nothing in this~~ This
 29 subsection ~~allows~~ does not allow a ~~disabled~~ person with a disability to shoot across the roadway of any
 30 public highway or to hunt on private property without permission of the landowner. A ~~disabled~~ person with

1 a disability who hunts as authorized in this subsection must have a companion to assist in immediately
 2 dressing any killed game animal. The companion may also assist the ~~disabled~~ hunter with a disability by
 3 hunting a game animal that has been wounded by the ~~disabled~~ hunter with a disability when the ~~disabled~~
 4 hunter with a disability is unable to pursue and kill the wounded game animal. Any vehicle from which a
 5 ~~disabled~~ person with a disability is hunting must be conspicuously marked with an orange-colored
 6 international symbol of ~~the handicapped persons with disabilities~~ persons with disabilities on the front, rear, and each side of the
 7 vehicle.

8 (5) A resident of Montana who is certified by the department as a blind individual, as defined in
 9 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
 10 license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by
 11 department rule. An applicant for a license under this subsection need not obtain a wildlife conservation
 12 license as a prerequisite to licensure."

13

14 **Section 79.** Section 90-6-103, MCA, is amended to read:

15 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
 16 definitions apply:

17 (1) "Board" means the board of housing created in 2-15-1814.

18 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
 19 indebtedness issued by the board pursuant to this part, including those on which interest payments are
 20 taxable and those on which interest payments are tax exempt.

21 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

22 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

23 (5) "Federally insured mortgage" means a mortgage loan for land development or residential
 24 housing insured or guaranteed by the United States or a governmental agency or instrumentality ~~thereof~~
 25 of the United States or a commitment by the United States or a governmental agency or instrumentalities
 26 ~~thereof of the United States~~ to insure ~~such~~ a mortgage.

27 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
 28 repayment of principal and interest by the United States or an instrumentality ~~thereof of the United States~~.

29 (7) "Governmental agency" means any department, division, public corporation, public agency,
 30 political subdivision, or other public instrumentality of the state, the federal government, any other state

1 or public agency, or any two or more ~~thereof~~ of the entities listed in this subsection.

2 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
3 projects, nursing home projects, ~~personal care~~ personal-care projects, and any work or undertaking financed
4 in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating ~~each~~
5 accommodations for persons or families of lower income in need of housing. An undertaking may include
6 any buildings, land, equipment, facilities, or other real or personal properties ~~which~~ that are necessary,
7 convenient, or desirable in connection ~~therewith~~ with a development, including but not limited to streets,
8 sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities ~~as~~ that the board
9 determines to be necessary, convenient, or desirable.

10 (9) "Housing development costs" means the sum total of all costs incurred in a housing
11 development approved by the board as reasonable and necessary, including but not limited to:

12 (a) cost of land acquisition and any buildings ~~thereon~~ on the land, including payments for options,
13 deposits, or contracts to purchase properties on the proposed housing development site or payments for
14 the purchase of properties;

15 (b) cost of site preparation, demolition, and clearing;

16 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
17 connection with the planning, execution, and financing of the housing development and the finding of an
18 eligible mortgagee or mortgagees for the housing development;

19 (d) cost of necessary studies, surveys, plans, and permits;

20 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs
21 during construction;

22 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
23 apparatus, and similar facilities related to the real property;

24 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the
25 costs have been paid in cash or in a form other than cash;

26 (h) necessary expenses in connection with initial occupancy of the housing development;

27 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if
28 applicable, a limited-profit housing sponsor;

29 (j) an allowance established by the board for working capital and contingency reserves and reserves
30 for any anticipated operating deficits during construction and initial occupancy;

1 (k) ~~costs~~ cost of other items, including tenant relocation, ~~as~~ that the board determines to be
 2 reasonable and necessary for the housing development, less any ~~and all~~ net rents and other net ~~revenues~~
 3 revenue received from the operation of the real and personal property on the development site during the
 4 construction.

5 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts,
 6 firms, associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit
 7 corporations, or other legal entities or any combination ~~thereof~~ of the entities listed in this subsection that
 8 are:

9 (a) approved by the board;

10 (b) qualified ~~either~~ to either own, construct, acquire, rehabilitate, operate, manage, or maintain a
 11 housing development;

12 (c) subject to the rules of the board and other terms and conditions set forth in this part.

13 (11) "Lending institution" means any public or private entity or governmental agency approved by
 14 the board maintaining an office in this state and authorized by law to make or participate in making
 15 residential mortgages in the state.

16 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other
 17 entity, or an individual restricted as to distribution of income and regulated as to rents, charges, rate of
 18 return, and methods of operation as the board determines necessary to carry out this part.

19 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument ~~which shall constitute~~
 20 that constitutes a valid lien on real property in fee simple or on a leasehold under a lease having a remaining
 21 term at the time that the mortgage is acquired, ~~which that~~ does not expire for at least that number of years
 22 beyond the maturity date of the obligation secured by the mortgage established by the board as necessary
 23 to protect its interest as mortgagee.

24 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
 25 improvements in the state.

26 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15,
 27 or a nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and
 28 regulated as to rents, charges, rate of return, and methods of operation as the board determines necessary,
 29 and whose articles of incorporation provide in addition that:

30 (a) the organization has been organized exclusively to provide housing developments for persons

1 and families of lower income;

2 (b) all the income and earnings of the organization ~~shall~~ must be used exclusively for housing
3 development purposes and ~~no~~ part of the net income or net earnings of the organization ~~shall~~ may not inure
4 to the benefit or profit of any private individual, firm, corporation, partnership, or association;

5 (c) the organization is in no manner controlled or under the direction or acting in the substantial
6 interest of any private individual, firm, partnership, or association seeking to derive profit or gain ~~therefrom~~
7 from the organization or seeking to eliminate or minimize losses in any transactions ~~therewith~~ with the
8 organization, except that the limitations ~~shall~~ apply to members of a cooperative only to the extent provided
9 by rules of the board;

10 (d) the operations of the organization may be supervised by the board and the organization will
11 enter into agreements with the board to regulate planning, development, and management of any housing
12 development undertaken by the organization and the disposition of the property or other interests of the
13 organization.

14 (16) "Persons and families of lower income" means persons and families with insufficient personal
15 or family income or other financial resources who require assistance under this part, as determined by the
16 board, taking into consideration:

17 (a) the amount of the total personal and family income, assets, and other financial resources
18 available for housing needs;

19 (b) the size of the family;

20 (c) the eligibility of persons and families under federal housing assistance of any type based on
21 lower income or a functional or physical disability;

22 (d) the ability of persons and families to compete successfully in the normal housing market and
23 to pay the amount at which private enterprise is providing decent, safe, and sanitary housing;

24 (e) the availability and cost of housing in particular areas; and

25 (f) needs of particular persons or families ~~due to~~ because of age or physical ~~handicaps~~ disabilities.

26 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to
27 provide decent, safe, and sanitary housing or to conform housing with state or local health, building, fire
28 prevention, and safety codes as determined by the board."

29

30 **Section 80.** Section 90-7-104, MCA, is amended to read:

1 **"90-7-104. Eligible health facility.** (1) Eligible health facility means any structure or building used
2 as a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101; ~~center~~ facilities for
3 persons with ~~developmental~~ disabilities; ~~center for the handicapped~~; chemical dependency treatment ~~center~~
4 facilities; nursing school; medical teaching facility; laboratory; dental care facility; or other structure or
5 facility related to any of the foregoing or required or useful for the operation of a health facility. These
6 related facilities include supporting service structures and all necessary, useful, and related equipment,
7 furnishings, and appurtenances and include without limitation the acquisition, preparation, and development
8 of all lands and real and personal property necessary or convenient as a site for any of the foregoing.

9 (2) An eligible health facility does not include such items as food, fuel, supplies, or other items that
10 are customarily considered as current operating expenses; and eligible health facility does not include a
11 structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities
12 or religious worship."

13

-END-

1 HOUSE BILL NO. 53

2 INTRODUCED BY BOHLINGER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING DISABILITIES;
5 SUBSTITUTING REFERENCES TO A PERSON WITH A DISABILITY FOR REFERENCES TO A HANDICAPPED
6 PERSON; AND AMENDING SECTIONS 2-15-2205, 2-15-2212, 7-14-111, 7-15-4207, 7-15-4431,
7 13-3-201, 13-3-202, 13-3-203, 13-3-205, 13-3-207, 13-3-213, 13-13-211, 15-6-201, 15-30-114,
8 15-30-115, 18-5-101, 18-5-102, 18-5-103, 20-7-401, 20-25-707, 22-1-103, 33-22-304, 33-22-506,
9 33-30-1003, 33-30-1004, 37-15-101, 37-30-307, 37-31-301, 37-31-308, 39-2-912, 39-3-406,
10 39-30-101, 39-30-102, 39-30-103, 39-30-106, 39-30-107, 39-30-201, 39-30-202, 39-30-203,
11 39-71-901, 39-71-903, 39-71-904, 39-71-905, 39-71-906, 39-71-907, 50-1-202, 50-5-105, 50-60-201,
12 52-1-103, 52-2-113, 53-2-201, 53-4-607, 53-7-101, 53-7-102, 53-7-105, 53-7-301, 53-7-306,
13 53-18-101, 53-18-103, 53-18-105, 53-19-102, 53-19-301, 53-19-302, 53-19-306, 53-19-307,
14 53-19-310, 53-20-102, 53-20-142, 53-20-148, 53-20-202, 53-20-203, 61-3-332, 61-3-454, 61-12-504,
15 69-3-307, 77-2-318, 87-2-706, 87-2-803, 90-6-103, AND 90-7-104, MCA."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 **Section 1.** Section 2-15-2205, MCA, is amended to read:

20 **"2-15-2205. Division of visual services.** There is a division of visual services within the department
21 of public health and human services. The division head is an administrator appointed by the director of the
22 department of public health and human services in accordance with classification requirements. The division
23 is responsible for administration of rehabilitative and other services for blind ~~and visually handicapped~~
24 persons and persons with low vision."

25
26 **Section 2.** Section 2-15-2212, MCA, is amended to read:

27 **"2-15-2212. Committee on telecommunications services for ~~the handicapped~~ persons with**
28 **disabilities -- composition -- allocation.** (1) There is a committee on telecommunications services for ~~the~~
29 ~~handicapped~~ persons with disabilities.

30 (2) The committee consists of 11 members appointed by the governor as follows:

1 (a) four members who are ~~handicapped~~ persons with disabilities, two of whom must be deaf or
2 hard-of-hearing;

3 (b) two members who are not ~~handicapped~~ persons with disabilities, one of whom must be
4 engaged in a business other than a business in the telecommunications industry and one of whom must
5 be a senior citizen;

6 (c) one member from the department of public health and human services;

7 (d) one member from the largest local exchange company in Montana;

8 (e) one member from an independent local exchange company;

9 (f) one member from an interLATA interexchange carrier; and

10 (g) one member from the public service commission.

11 (3) The committee is allocated to the department of public health and human services for
12 administrative purposes only as provided in 2-15-121."

13
14 **Section 3.** Section 7-14-111, MCA, is amended to read:

15 **"7-14-111. Transportation for senior citizens and ~~handicapped~~ persons with disabilities.** (1) A
16 county, urban transportation district, or municipality may, in addition to all other property tax levies
17 authorized by law, levy up to 1 mill of property taxes to fund special transportation services for senior
18 citizens and ~~handicapped~~ persons with disabilities.

19 (2) The proceeds of the levy may be used to:

20 (a) contract with public or private transportation providers for services to senior citizens and
21 ~~handicapped~~ individuals with disabilities; or

22 (b) augment or subsidize provisions for the transportation of senior citizens and ~~handicapped~~
23 individuals with disabilities provided by public transportation providers.

24 (3) If the taxing jurisdiction determines that it is not in the best interest of senior citizens and
25 ~~handicapped~~ individuals with disabilities to use the tax levy as provided for in subsection (2), the taxing
26 jurisdiction may use the proceeds of the levy to establish and operate an independent transportation system
27 for senior citizens and ~~handicapped~~ individuals with disabilities.

28 (4) Counties, urban transportation districts, and municipalities are encouraged to enter into
29 interlocal agreements to provide regional transportation services to senior citizens and ~~handicapped~~ persons
30 with disabilities and may create regional advisory committees to coordinate regional transportation

1 services."

2

3 **Section 4.** Section 7-15-4207, MCA, is amended to read:

4 **"7-15-4207. Prohibition against discrimination.** For all of the purposes of this part and part 43,
5 ~~no~~ a person may not be subjected to discrimination because of sex, race, creed, religion, age, physical or
6 mental ~~handicap~~ disability, color, or national origin."

7

8 **Section 5.** Section 7-15-4431, MCA, is amended to read:

9 **"7-15-4431. Appointment of commissioners.** (1) An authority consists of seven commissioners
10 appointed by the mayor, ~~and he.~~ The mayor shall designate the first ~~chairman~~ presiding officer. A
11 commissioner may not be a city official.

12 (2) Two of the commissioners must be tenants of the housing authority. One tenant commissioner
13 shall represent family tenants, and one tenant commissioner shall represent elderly tenants and ~~handicapped~~
14 tenants with disabilities. Nominees for tenant commissioner shall submit to the city clerk a petition signed
15 by not less than 25 adult tenants of the authority or 25% of the adult tenants of the authority, whichever
16 is greater. The city clerk shall submit a list of the tenant nominees to the mayor for appointment to the
17 housing authority. The staff of the housing authority may not involve itself in the nomination or
18 appointment of tenant commissioners.

19 (3) The mayor shall file with the city clerk a certificate of the appointment or reappointment of any
20 commissioner, and the certificate is conclusive evidence of the ~~due and~~ proper appointment of the
21 commissioner."

22

23 **Section 6.** Section 13-3-201, MCA, is amended to read:

24 **"13-3-201. Purpose.** The purpose of this part is to promote the fundamental right to vote by
25 improving access for ~~handicapped~~ handicapped individuals with disabilities and elderly individuals to polling places. The
26 provisions of this part acknowledge that, in certain cases, it may not be possible to locate a polling place
27 that meets the standards for accessibility, either because ~~no~~ an accessible polling place ~~exists~~ does not
28 exist or, if it does, its location in the precinct would require undue travel for a majority of the electors. In
29 those cases when an accessible polling place is not available, this part provides ~~handicapped~~ handicapped voters with
30 disabilities and elderly voters an alternative means for casting a ballot on election day."

1 **Section 7.** Section 13-3-202, MCA, is amended to read:

2 "**13-3-202. Definitions.** As used in this part, unless the context indicates otherwise, the following
3 definitions apply:

4 (1) "Accessible" means accessible to ~~handicapped~~ individuals with disabilities and elderly
5 individuals for purposes of voting as determined in accordance with standards established by the secretary
6 of state under 13-3-205.

7 (2) "Disability" means a temporary or permanent physical impairment such as:

8 (a) impaired vision;

9 (b) impaired hearing; or

10 (c) impaired mobility. Individuals having impaired mobility include those who require use of a
11 wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

12 ~~{2}~~(3) "Elderly" means 65 years of age or older.

13 ~~{3}~~(4) "Election" means a general, special, or primary election held in an even-numbered year, as
14 provided for in 13-1-104(1) and 13-1-107(1).

15 ~~{4}~~ "Handicapped" means having a temporary or permanent physical impairment such as:

16 ~~(a) impaired vision;~~

17 ~~(b) impaired hearing; or~~

18 ~~(c) impaired mobility. Individuals having impaired mobility include those who require use of a~~
19 ~~wheelchair and those who are ambulatory but are physically impaired due to age, disability, or disease."~~

20

21 **Section 8.** Section 13-3-203, MCA, is amended to read:

22 "**13-3-203. Duty of secretary of state -- rulemaking.** (1) Except as provided in 13-3-204, the
23 secretary of state shall ~~assure~~ ensure that all polling places are accessible to ~~handicapped~~ electors with
24 disabilities and elderly electors on election day.

25 (2) The secretary of state shall adopt rules to establish standards that a polling place must meet
26 in order to be designated accessible under this part.

27 (3) The secretary of state may adopt any other rules necessary for implementation of this part."
28

29 **Section 9.** Section 13-3-205, MCA, is amended to read:

30 "**13-3-205. Adoption of standards for polling place accessibility -- rulemaking authority.** The

1 secretary of state, with advice from election administrators and ~~handicapped~~ individuals with disabilities
2 and elderly individuals, shall establish standards for accessibility of polling places. The standards, whenever
3 possible, must be consistent with the standards for accessibility established by the American national
4 standards institute and the uniform federal accessibility standards."
5

6 **Section 10.** Section 13-3-207, MCA, is amended to read:

7 **"13-3-207. Polling place classifications.** (1) As a result of the survey provided in 13-3-206, each
8 polling place must be classified as:

9 (a) accessible;

10 (b) inaccessible;

11 (c) technically inaccessible but usable; or

12 (d) rural.

13 (2) An accessible polling place is one that meets the standards for accessibility established by the
14 secretary of state under 13-3-205.

15 (3) An inaccessible polling place is one that does not meet the standards for accessibility and
16 cannot be made accessible through safe, practical, and cost-effective methods.

17 (4) A technically inaccessible but usable polling place is one that does not meet all the standards
18 for accessibility but has been surveyed, evaluated, and certified as being adequate for use as a polling
19 place. ~~Such~~ The certification is cause for the secretary of state to grant the polling place an exemption from
20 the standards for accessibility. However, in a future election, the secretary of state may issue an objection
21 to the criteria used for determining that the facility is usable as a polling place.

22 (5) A rural polling place is one that serves less than 200 registered electors and is:

23 (a) granted an exemption from the standards for accessibility established under 13-3-205; and

24 (b) subject to review and redesignation 45 days prior to an election.

25 (6) A rural designation may not be construed as cause for denying ~~handicapped~~ electors with
26 disabilities or elderly electors at a polling place the right to choose an alternative means for casting a ballot
27 on election day as provided in 13-3-213."
28

29 **Section 11.** Section 13-3-213, MCA, is amended to read:

30 **"13-3-213. Alternative means for casting ballot.** (1) The election administrator shall provide

1 ~~handicapped~~ individuals with disabilities and elderly individuals an alternative means for casting a ballot on
 2 election day if they are assigned to an inaccessible polling place. These alternative means for casting a
 3 ballot include:

4 (a) delivery of a ballot to the elector as provided in 13-13-118;

5 (b) voting by absentee ballot as provided in 13-13-222; and

6 (c) prearranged assignment to an accessible polling place within the county.

7 (2) ~~Any handicapped~~ An elector with a disability or an elderly elector assigned to an inaccessible
 8 polling place who desires to vote at an accessible polling place:

9 (a) shall request assignment to an accessible polling place by notifying the election administrator
 10 in writing at least 7 days preceding the election;

11 (b) must be assigned to the nearest accessible polling place or technically inaccessible polling place
 12 for the purpose of voting in the election;

13 (c) shall sign ~~his~~ the elector's name on a special addendum to the official precinct register as
 14 required in 13-2-601; and

15 (d) ~~shall~~ must receive the same ballot to which ~~he~~ the elector is otherwise entitled.

16 (3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be
 17 processed and counted in the same manner as an absentee ballot."
 18

19 **Section 12.** Section 13-13-211, MCA, is amended to read:

20 "13-13-211. **Application of absentee, chronically ill, ~~handicapped,~~ elderly, or physically**
 21 **incapacitated elector or elector with a disability for ballot -- special absentee ballot application.** (1) Except
 22 as provided in 13-2-214, during a period beginning 75 days before the day of election and ending at noon
 23 on the day before the election, an individual may apply to the election administrator for an absentee ballot
 24 if ~~he~~ the individual is:

25 (a) an elector expecting to be absent from the county in which ~~his~~ the elector's voting precinct is
 26 situated;

27 (b) an elector who is chronically ill or in general ill health;

28 (c) ~~a handicapped~~ an elector with a disability or an elderly elector who has been assigned to an
 29 inaccessible polling place; or

30 (d) an elector who will be unable to go to the polls because of physical incapacity.

1 (2) A qualified elector who is prevented from voting at the polls as a result of an illness or health
 2 emergency occurring between 5 p.m. on the Friday preceding the election and noon on election day may
 3 request to vote by absentee ballot. The election administrator shall honor ~~any such a~~ request received up
 4 to and including noon on election day. The election administrator is not required to comply with a request
 5 by an elector who is absent from the county."

6
 7 **Section 13.** Section 15-6-201, MCA, is amended to read:

8 **"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

9 (a) except as provided in 15-24-1203, the property of:

10 (i) the United States, except:

11 (A) if congress passes legislation that allows the state to tax property owned by the federal
 12 government or an agency created by congress; or

13 (B) as provided in 15-24-1103;

14 (ii) the state, counties, cities, towns, and school districts;

15 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

16 (iv) municipal corporations;

17 (v) public libraries; and

18 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

19 (b) buildings, with land that they occupy and furnishings in the buildings, owned by a church and
 20 used for actual religious worship or for residences of the clergy, together with adjacent land reasonably
 21 necessary for convenient use of the buildings;

22 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,
 23 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health
 24 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed
 25 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not
 26 exempt.

27 (d) property that is:

28 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or
 29 21;

30 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent

- 1 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 2 (iii) not maintained and operated for private or corporate profit;
- 3 (e) property owned or property that is leased from a federal, state, or local governmental entity by
- 4 institutions of purely public charity if the property is directly used for purely public charitable purposes;
- 5 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 6 Montana;
- 7 (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate
- 8 profit;
- 9 (h) all household goods and furniture, including but not limited to clocks, musical instruments,
- 10 sewing machines, and wearing apparel of members of the family, used by the owner for personal and
- 11 domestic purposes or for furnishing or equipping the family residence;
- 12 (i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations
- 13 attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.
- 14 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 15 (k) motor homes, travel trailers, and campers;
- 16 (l) all watercraft;
- 17 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association
- 18 or nonprofit corporation organized to furnish potable water to its members or customers for uses other than
- 19 the irrigation of agricultural land;
- 20 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 21 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by
- 22 another to explore, prospect, or dig for oil, gas, coal, or minerals;
- 23 (o) property that is owned and used by a corporation or association organized and operated
- 24 exclusively for the care of persons with developmental disabilities, ~~the mentally ill~~ PERSONS WITH MENTAL
- 25 ILLNESS, or ~~the vocationally handicapped~~ persons with physical or mental impairments that constitute or
- 26 result in substantial impediments to employment as defined in 18-5-101 and that is not operated for gain
- 27 or profit and property that is owned and used by an organization owning and operating facilities that are
- 28 for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 29 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
- 30 machinery with a market value of less than \$100;

1 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for
2 training and practice for or competition in international sports and athletic events and not held or used for
3 private or corporate gain or profit. For purposes of this subsection (1) (q), "nonprofit corporation" means
4 an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated
5 and admitted under the Montana Nonprofit Corporation Act.

6 (r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
7 hand-held and that are used to:

8 (i) construct, repair, and maintain improvements to real property; or

9 (ii) repair and maintain machinery, equipment, appliances, or other personal property;

10 (s) harness, saddlery, and other tack equipment;

11 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
12 33-25-105;

13 (u) timber as defined in 15-44-102;

14 (v) all trailers and semitrailers that have a licensed gross weight of 26,000 pounds or more or that
15 are registered through a proportional registration agreement under 61-3-721. For purposes of this
16 subsection (1) (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that
17 is:

18 (i) designed and used only for carrying property;

19 (ii) designed and used to be drawn by a motor vehicle; and

20 (iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed
21 so that some part of its weight and the weight of its load rests upon or is carried by another vehicle.

22 (w) all vehicles registered under 61-3-456.

23 (2) (a) For the purposes of subsection (1)(e), the term "institutions of purely public charity" includes
24 any organization that meets the following requirements:

25 (i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3),
26 Internal Revenue Code, as amended.

27 (ii) The organization accomplishes its activities through absolute gratuity or grants. However, the
28 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
29 performances or entertainment or by other similar types of fundraising activities.

30 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and

1 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
 2 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property
 3 includes all real and personal property reasonably necessary for use in connection with the public display
 4 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit
 5 organization by an individual or for-profit organization, real and personal property owned by other persons
 6 is exempt if it is:

- 7 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- 8 (ii) held for future display; or
- 9 (iii) used to house or store a public display.

10 (3) The following portions of the appraised value of a capital investment in a recognized nonfossil
 11 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,
 12 are exempt from taxation for a period of 10 years following installation of the property:

- 13 (a) \$20,000 in the case of a single-family residential dwelling;
- 14 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

15
 16 **Section 14.** Section 15-30-114, MCA, is amended to read:

17 **"15-30-114. Additional exemption for dependent child with handicap a disability.** (1) In lieu of the
 18 exemption in 15-30-112(5), an exemption for twice the amount allowed for dependents ~~shall be~~ is allowed
 19 ~~for taxable years beginning after December 31, 1976,~~ for each dependent child with a handicap disability.

20 (2) In order to be eligible for the exemption, a dependent child with a handicap disability must, for
 21 the taxable year of the taxpayer, have as ~~his~~ the child's principal place of abode the home of the taxpayer
 22 and have a permanent handicap disability of great enough severity that it constitutes not less than 50%
 23 disability to the body as a whole. An exemption may be allowed for a dependent with a permanent
 24 handicap disability after ~~he~~ the individual reaches the age of majority if ~~he~~ the individual continues to be
 25 a dependent."

26
 27 **Section 15.** Section 15-30-115, MCA, is amended to read:

28 **"15-30-115. Physician's verification of handicap disability required.** A taxpayer claiming the
 29 exemption provided for in 15-30-114 ~~must~~ shall provide with ~~his~~ the taxpayer's income tax statement
 30 written documentation by a licensed physician that the handicap disability qualifies under ~~that section~~

1 15-30-114."

2

3 **Section 16.** Section 18-5-101, MCA, is amended to read:

4 **"18-5-101. Definitions.** As used in ~~18-5-101 through 18-5-103~~ this part, the following definitions
5 apply:

6 (1) "Certified sheltered workshop" or "work activity center" means a nonprofit corporation
7 incorporated under the laws of the state for the purpose of providing vocational services to ~~disabled~~
8 ~~vocationally handicapped individuals~~ persons with disabilities, in whole or in part, ~~which that~~:

9 (a) holds a current certificate issued by the United States department of labor for either one or all
10 of the following:

11 (i) evaluation or training;

12 (ii) a regular work program; or

13 (iii) a work activity center;

14 (b) complies with other applicable occupational, health, and safety standards of local, state, and
15 federal governments governing the operation of ~~such~~ the facility not otherwise included in ~~18-5-101~~
16 ~~through 18-5-103~~ this part;

17 (c) in the manufacture of products and in the provision of service, whether or not the product or
18 service is procured under ~~18-5-101 through 18-5-103~~ this part, employs and trains ~~vocationally~~
19 ~~handicapped individuals~~ persons with disabilities for not less than 75% of the ~~man-hours~~ hours of direct
20 labor required for the manufacture of products or the provision of service; and

21 (d) is ~~hereinafter~~ referred to as a "facility".

22 (2) "Department" means the department of administration.

23 (3) ~~"Vocationally handicapped"~~ "Person with a disability" means an individual ~~under~~ with a
24 physical, mental, or emotional disability ~~which that~~ constitutes a substantial ~~handicap~~ impediment to
25 employment and that prevents the individual ~~under~~ with the disability from engaging in normal competitive
26 employment."

27

28 **Section 17.** Section 18-5-102, MCA, is amended to read:

29 **"18-5-102. Duties and powers of department of administration.** (1) The department shall maintain
30 a current list of facilities located in this state, including a list of products and services provided by each

1 facility, based on information provided by the facilities. A facility requesting to be included on the list shall
2 indicate the products and services available from it and shall provide the department with updated
3 information, as necessary.

4 (2) The department may contract with a nonprofit organization to:

5 (a) certify facilities;

6 (b) provide technical assistance to facilities on matters of product or service capabilities;

7 (c) facilitate distribution of orders among facilities and to ~~insure~~ ensure equal opportunity in
8 obtaining orders.

9 (3) The department shall adopt, revise, and amend rules to implement ~~18-5-101 through 18-5-103~~
10 this part in accordance with the procedures of the Montana Administrative Procedure Act."
11

12 **Section 18.** Section 18-5-103, MCA, is amended to read:

13 **"18-5-103. Procurement requirements.** State departments, institutions, and agencies may procure
14 listed products and services from a facility. The provisions of this title relating to competitive bidding do
15 not apply to purchases made in accordance with ~~18-5-101 through 18-5-103~~ this part."
16

17 **Section 19.** Section 20-7-401, MCA, is amended to read:

18 **"20-7-401. Definitions.** In this title, unless the context clearly indicates otherwise, the following
19 definitions apply:

20 (1) "Assistive technology device" means any item, piece of equipment, or product system, whether
21 acquired commercially, modified, or customized, that is used to increase, maintain, or improve the
22 functional capabilities of children with disabilities.

23 (2) "Assistive technology service" means any service that directly assists a child with disabilities
24 in the selection, acquisition, or use of an assistive technology device. The term includes:

25 (a) the evaluation of the needs of a child with disabilities, including a functional evaluation of the
26 child in the child's customary environment;

27 (b) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices
28 by a child with disabilities;

29 (c) selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing
30 an assistive technology device;

1 (d) coordinating and using other therapies, interventions, or services with assistive technology
2 devices, such as those associated with existing education and rehabilitation plans and programs;

3 (e) training or technical assistance for a child with disabilities or, if appropriate, training or technical
4 assistance for that child's family; and

5 (f) training or technical assistance for professionals, including individuals providing education or
6 rehabilitation services, for employers, or for other individuals who provide services to, employ, or are
7 otherwise substantially involved in the major life functions of children with disabilities.

8 (3) "Autism" means a developmental disability that significantly affects verbal and nonverbal
9 communication and social interaction, that is generally evident before 3 years of age, and that adversely
10 affects a child's educational performance. Other characteristics often associated with autism are
11 engagement in repetitive activities and stereotyped movements, resistance to environment change or to
12 change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's
13 educational performance is adversely affected primarily because the child has a serious emotional
14 disturbance.

15 (4) "Child with ~~disabilities~~ a disability" means a child evaluated in accordance with the regulations
16 of the Individuals With Disabilities Education Act as having cognitive delay; hearing impairment, including
17 deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance;
18 orthopedic impairment; autism; traumatic brain injury; other health impairments; deaf-blindness; multiple
19 disabilities; or specific learning disabilities and who because of those impairments needs special education
20 and related services. A child who is 5 years of age or younger may be identified as a child with disabilities
21 without the specific disabilities being specified.

22 (5) "Cognitive delay" means significantly subaverage general intellectual functioning existing
23 concurrently with deficits in adaptive behavior and manifested during the developmental period that
24 adversely affects a child's educational performance.

25 (6) "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which
26 causes such severe communication problems and other developmental and educational problems that the
27 problems cannot be accommodated in special education programs solely for children with deafness or for
28 children with blindness.

29 (7) "Deafness" means a hearing impairment that is so severe that the child is impaired in processing
30 linguistic information through hearing, with or without amplification, in a manner that adversely affects the

1 child's educational performance.

2 (8) "Emotional disturbance" means a condition exhibiting one or more of the following
3 characteristics to a marked degree and over a long period of time that adversely affects educational
4 performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an
5 inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate
6 types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or
7 depression; or a tendency to develop physical symptoms or fears associated with personal or school
8 problems. The term includes schizophrenia. The term does not include social maladjustment, unless it is
9 determined that the child is emotionally disturbed.

10 (9) "Free appropriate public education" means special education and related services that:

11 (a) are provided at public expense under public supervision and direction and without charge;

12 (b) meet the accreditation standards of the board of public education, the special education
13 requirements of the superintendent of public instruction, and the requirements of the Individuals With
14 Disabilities Education Act;

15 (c) include preschool, elementary school, and high school education in Montana; and

16 (d) are provided in conformity with an individualized education program that meets the
17 requirements of the Individuals With Disabilities Education Act.

18 (10) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that
19 adversely affects a child's educational performance but that is not included within the definition of
20 deafness.

21 (11) "Orthopedic impairment" means a severe orthopedic disability that adversely affects a child's
22 educational performance. The term includes but is not limited to impairment caused by congenital anomaly
23 (e.g., clubfoot or absence of some member), impairments caused by disease (e.g., poliomyelitis or bone
24 tuberculosis), and impairments from other causes (e.g., fractures or burns that cause contractures,
25 amputation, or cerebral palsy).

26 (12) "Other health impairment" means limited strength, vitality, or alertness ~~due to~~ because of
27 chronic or acute health problems, such as a heart condition, tuberculosis, rheumatic fever, nephritis,
28 asthma, ~~sickle cell~~ sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, that
29 adversely affects a child's educational performance.

30 (13) "Related services" means transportation and any developmental, corrective, and other

1 supportive services that are required to assist a child with disabilities to benefit from special education and
2 includes speech-language pathology, audiology, occupational therapy, physical therapy, recreation,
3 including therapeutic recreation, early identification and assessment of disabilities in children, counseling
4 services, including rehabilitation counseling, and medical services for diagnostic or evaluation purposes. The
5 term also includes school health services, social work services in schools, and parental counseling and
6 training.

7 (14) "Special education" means specially designed instruction, given at no cost to the parents or
8 guardians, to meet the unique needs of a child with disabilities, including but not limited to instruction
9 conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.

10 (15) "Specific learning disability" means a disorder in one or more of the basic psychological
11 processes involved in understanding or in using language, spoken or written, that may manifest itself in an
12 imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term
13 includes but is not limited to such conditions as perceptual ~~handicaps~~ disabilities, brain injury, minimal brain
14 dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning
15 problems that are primarily the result of visual, hearing, or motor ~~handicaps~~ disabilities; cognitive delay; or
16 environmental, cultural, or economic disadvantages.

17 (16) "Speech-language impairment" means a communication disorder, such as stuttering, impaired
18 articulation, or a language or voice impairment, that adversely affects a child's interpersonal relationships
19 or educational performance.

20 (17) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the
21 child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the
22 child.

23 (18) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical
24 force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely
25 affects a child's educational performance. The term does not apply to brain injuries that are congenital or
26 degenerative or to brain injuries that are induced by birth trauma.

27 (19) "Visual impairment" means an impairment that, after correction, adversely affects a child's
28 educational performance. The term includes both partial blindness and blindness."

29

30 **Section 20.** Section 20-25-707, MCA, is amended to read:

1 **"20-25-707. Antidiscrimination. No** An employer is not eligible to employ any person under this
2 program if the employer practices discrimination in employment against any individual because of race,
3 creed, religion, color, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability,
4 ancestry, or national origin."

5

6 **Section 21.** Section 22-1-103, MCA, is amended to read:

7 **"22-1-103. State library commission -- authority.** The state library commission ~~has the power to~~
8 may:

9 (1) give assistance and advice to all tax-supported or public libraries in the state and to all counties,
10 cities, towns, or regions in the state that ~~may~~ propose to establish libraries, as to the best means of
11 establishing and improving those libraries;

12 (2) maintain and operate the state library and make provision for its housing;

13 (3) (a) accept and expend in accordance with the terms of a grant any grant of federal funds that
14 ~~may become~~ is available to the state for library purposes;

15 (b) accept, receive, and administer any gifts, donations, bequests, and legacies made to the
16 Montana state library. Unless otherwise provided by the donor, gifts, donations, bequests, and legacies
17 must be deposited in the Montana state library trust established in 22-1-225.

18 (4) make rules and establish standards for the administration of the state library and for the control,
19 distribution, and lending of books and materials;

20 (5) serve as the agency of the state to accept and administer any state, federal, or private funds
21 or property appropriated for or granted to it for library service or foster libraries in the state and establish
22 regulations under which funds must be disbursed;

23 (6) provide library services ~~for the blind and physically handicapped~~ for individuals with physical
24 disabilities;

25 (7) furnish, by contract or otherwise, library assistance and information services to state officials,
26 state departments, and residents of those parts of the state inadequately serviced by libraries;

27 (8) act as a state board of professional standards and library examiners, develop standards for
28 public libraries, and adopt rules for the certification of librarians;

29 (9) designate areas for the establishment of federations of libraries and designate the headquarters
30 library for the federations."

1 **Section 22.** Section 33-22-304, MCA, is amended to read:

2 **"33-22-304. Continuation of coverage for handicapped individuals with disabilities -- individual**
 3 **contracts.** (1) An individual hospital or medical expense insurance policy or hospital or medical service plan
 4 contract delivered or issued for delivery in this state ~~after October 28, 1971, which that~~ provides that
 5 coverage of a dependent child ~~shall terminate~~ terminates upon attainment of the limiting age for dependent
 6 children specified in the policy or contract ~~shall~~ must also provide in substance that attainment of ~~such the~~
 7 limiting age ~~shall~~ may not operate to terminate the coverage of ~~such the~~ child while the child is and
 8 continues to be both incapable of self-sustaining employment by reason of mental retardation or physical
 9 handicap disability and chiefly dependent upon the policyholder or subscriber for support and maintenance,
 10 ~~provided proof~~ Proof of such incapacity retardation or the disability and dependency is must be furnished
 11 to the insurer or hospital or medical service plan corporation by the policyholder or subscriber within 31
 12 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or
 13 corporation, ~~but~~ Proof may not be required more frequently than annually after the 2-year period following
 14 the child's attainment of the limiting age.

15 (2) ~~The Notwithstanding any other exemption or contrary law, the~~ provisions of this section ~~shall~~
 16 have equal application to hospital or medical expense insurance policies and hospital and medical service
 17 plan contracts, ~~any other exemption or law to the contrary notwithstanding."~~

18

19 **Section 23.** Section 33-22-506, MCA, is amended to read:

20 **"33-22-506. Continuation of coverage for handicapped persons with disabilities -- group contracts.**
 21 (1) A group hospital or medical expense insurance policy or hospital or medical service plan contract
 22 delivered or issued for delivery in this state ~~after October 28, 1971, which that~~ provides that coverage of
 23 a dependent child of an employee or other member of the covered group ~~shall terminate~~ terminates upon
 24 attainment of the limiting age for dependent children specified in the policy or contract ~~shall~~ must also
 25 provide in substance that attainment of ~~such the~~ limiting age ~~shall~~ may not operate to terminate the
 26 coverage of ~~such the~~ child while the child is and continues to be both incapable of self-sustaining
 27 employment by reason of mental retardation or physical handicap disability and chiefly dependent upon the
 28 employee or member for support and maintenance,
 29 ~~provided proof~~ Proof of such incapacity retardation or
 30 the disability and dependency is must be furnished to the insurer or hospital or medical service plan
 corporation by the employee or member within 31 days of the child's attainment of the limiting age and

1 subsequently as may be required by the insurer or corporation, but Proof may not be required more
 2 frequently than annually after the 2-year period following the child's attainment of the limiting age.

3 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
 4 have equal application to hospital or medical expense insurance policies and hospital and medical service
 5 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

6
 7 **Section 24.** Section 33-30-1003, MCA, is amended to read:

8 "**33-30-1003. Continuation of coverage for handicapped persons with disabilities -- individual**
 9 **contracts.** (1) An individual hospital or medical service plan contract, delivered or issued for delivery in this
 10 state ~~after October 28, 1971, which that~~ provides that coverage of a dependent child ~~shall terminate~~
 11 terminates upon attainment of the limiting age for dependent children specified in the contract ~~shall~~ must
 12 also provide in substance that attainment of ~~such the~~ limiting age ~~shall~~ may not operate to terminate the
 13 coverage of ~~such the~~ child while the child is and continues to be both incapable of self-sustaining
 14 employment by reason of mental retardation or physical handicap disability and chiefly dependent upon the
 15 subscriber for support and maintenance, ~~provided proof~~ Proof of such incapacity retardation or the
 16 disability and dependency ~~is~~ must be furnished to the hospital or medical service plan corporation by the
 17 subscriber within 31 days of the child's attainment of the limiting age and subsequently as may be required
 18 by the corporation, but Proof may not be required more frequently than annually after the 2-year period
 19 following the child's attainment of the limiting age.

20 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
 21 have equal application to hospital or medical expense insurance policies, and hospital and medical service
 22 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

23
 24 **Section 25.** Section 33-30-1004, MCA, is amended to read:

25 "**33-30-1004. Continuation of coverage for handicapped persons with disabilities -- group**
 26 **contracts.** (1) A group hospital or medical service plan contract, delivered or issued for delivery in this state
 27 ~~after October 28, 1971, which that~~ provides that coverage of a dependent child of an employee or other
 28 member of the covered group ~~shall terminate~~ terminates upon attainment of the limiting age for dependent
 29 children specified in the contract ~~shall~~ must also provide in substance that attainment of ~~such the~~ limiting
 30 age ~~shall~~ may not operate to terminate the coverage of ~~such the~~ child while the child is and continues to

1 be both incapable of self-sustaining employment by reason of mental retardation or physical ~~handicap~~
 2 disability and chiefly dependent upon the employee or member for support and maintenance, ~~provided~~
 3 ~~proof~~ Proof of such the incapacity retardation or disability and dependency ~~is~~ must be furnished to the
 4 hospital or medical service plan corporation, by the employee or member within 31 days of the child's
 5 attainment of the limiting age and subsequently as may be required by the corporation, ~~but~~ Proof may not
 6 be required more frequently than annually after the 2-year period following the child's attainment of the
 7 limiting age.

8 (2) ~~The~~ Notwithstanding any other exemption or contrary law, the provisions of this section shall
 9 have equal application to hospital or medical expense insurance policies, and hospital and medical service
 10 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

11

12 **Section 26.** Section 37-15-101, MCA, is amended to read:

13 **"37-15-101. Purpose.** The legislature ~~of the state of Montana~~ declares it to be a policy of this
 14 state that in order to safeguard the public health, safety, and welfare and to protect the public from being
 15 misled by incompetent, unscrupulous, and unauthorized persons and to protect the public from
 16 unprofessional conduct by qualified speech-language pathologists and audiologists and to help ~~ensure~~
 17 ensure the availability of the highest possible quality speech-language pathology and audiology services to
 18 the ~~communicatively handicapped~~ people of this state with communicative disabilities, it is necessary to
 19 provide regulatory authority over persons offering speech-language pathology or audiology services to the
 20 public."

21

22 **Section 27.** Section 37-30-307, MCA, is amended to read:

23 **"37-30-307. Fees -- ~~handicapped persons with disabilities~~ exempted -- other fees prohibited.** (1)
 24 The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a
 25 certificate of registration to practice barbering and for the issuance of the certificate must be prescribed
 26 by the board.

27 (2) A person registered as a barber shall, before the expiration date established by rule of the
 28 department, annually pay a license fee, set by the board based on clerical and administrative costs, for the
 29 renewal of the person's certificate of registration. If a barber fails to have the certificate renewed before
 30 the expiration date, the barber shall on renewal of the certificate of registration pay a penalty prescribed

1 by the board in addition to the regular renewal fee. If a certificate of registration is not renewed within 1
2 year after the date of expiration, the barber is not entitled to have the certificate of registration renewed
3 or a new certificate of registration issued without first applying for and taking the examination and paying
4 the fees provided for in this section.

5 (3) However, ~~physically handicapped~~ persons with physical disabilities trained for the barber
6 profession by the department of public health and human services and certified by that department as
7 having graduated from a barber college licensed by the board are not required to pay fees and are for a
8 period of 1 year immediately following their training exempt from all except the sanitary provisions of this
9 chapter.

10 (4) Another or an additional license or fee may not be imposed on barbers by a municipality or
11 other subdivision of this state."

12

13 **Section 28.** Section 37-31-301, MCA, is amended to read:

14 "**37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
15 unlawful to:

16 (a) practice cosmetology for compensation;

17 (b) own, manage, operate, or conduct a school of cosmetology or school of manicuring;

18 (c) manage or operate a cosmetology salon, manicuring salon, or booth;

19 (d) teach in a school of cosmetology or school of manicuring;

20 (e) practice manicuring for compensation;

21 (f) practice as a finger waver.

22 (2) It is unlawful:

23 (a) for a person who owns, manages, or controls a cosmetology salon to employ or use an
24 unlicensed person as a cosmetologist or manicurist;

25 (b) to operate a cosmetology school without complying with all of the regulations of 37-31-311;

26 (c) to practice cosmetology in any place other than in a licensed salon as provided in this chapter,
27 except when a licensed operator is requested:

28 (i) by a customer to go to a place other than a licensed salon and is sent to the customer from a
29 licensed salon; or

30 (ii) by a ~~handicapped~~ customer with a disability or homebound customer to go to the customer's

1 place of residence;

2 (d) for a person who owns, manages, or controls a manicuring salon to employ or use an
3 unlicensed person as a manicurist;

4 (e) to operate a manicuring school without complying with 37-31-311;

5 (f) to violate any of the provisions of this chapter."
6

7 **Section 29.** Section 37-31-308, MCA, is amended to read:

8 **"37-31-308. Examination -- reexamination -- exemption for ~~handicapped~~ persons with disabilities.**

9 (1) Examinations for a license to practice cosmetology or manicuring or to teach cosmetology must be held
10 at places and times specified by the board. The examinations must be supervised by the board. The
11 examinations may not be confined to a specific method or system. The examinations must be conducted
12 by persons who hold current licenses to practice in the profession for which the applicant is being
13 examined.

14 (2) Anyone failing twice to pass the examination for a license to practice cosmetology may not
15 apply to retake the examination:

16 (a) sooner than 6 months after the date of the second failure; or

17 (b) until the applicant has taken 200 hours additional training at a registered school of cosmetology
18 approved by the board.

19 (3) Anyone failing twice to pass the examination for a license to practice manicuring shall meet the
20 additional requirements prescribed by the board before applying to retake the examination.

21 (4) Anyone failing twice to pass the examination for a license to teach cosmetology shall wait 1
22 year before reapplying to take the examination. Upon reapplying, the applicant shall provide certification
23 of completion of 500 hours of teacher training during that year in a registered school licensed as a teacher
24 training unit.

25 (5) ~~Physically handicapped persons~~ Persons with physical disabilities trained for cosmetology or
26 manicuring by the department of public health and human services are, for a period of 1 year immediately
27 following their graduation, exempt from the examination and the fees described in 37-31-323. On
28 certification from the department of public health and human services that a department of public health
29 and human services beneficiary has successfully completed the required training in a cosmetology school
30 or manicuring school, the department shall issue the person the necessary certificate or license to practice

1 the profession in this state."

2

3 **Section 30.** Section 39-2-912, MCA, is amended to read:

4 **"39-2-912. Exemptions.** This part does not apply to a discharge:

5 (1) that is subject to any other state or federal statute that provides a procedure or remedy for
6 contesting the dispute. ~~Such~~ The statutes include those that prohibit discharge for filing complaints,
7 charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national
8 origin, sex, age, ~~handicap~~ disability, creed, religion, political belief, color, marital status, and other similar
9 grounds.

10 (2) of an employee covered by a written collective bargaining agreement or a written contract of
11 employment for a specific term."

12

13 **Section 31.** Section 39-3-406, MCA, is amended to read:

14 **"39-3-406. Exclusions.** (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect
15 to:

16 (a) students participating in a distributive education program established under the auspices of an
17 accredited educational agency;

18 (b) persons employed in private homes whose duties consist of menial chores, such as babysitting,
19 mowing lawns, and cleaning sidewalks;

20 (c) persons employed directly by the head of a household to care for children dependent upon the
21 head of the household;

22 (d) immediate members of the family of an employer or persons dependent upon an employer for
23 half or more of their support in the customary sense of being a dependent;

24 (e) any persons not regular employees of a nonprofit organization who voluntarily offer their
25 services to a nonprofit organization on a fully or partially reimbursed basis;

26 (f) ~~handicapped workers~~ persons with disabilities engaged in work that is incidental to training or
27 evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in
28 competitive employment;

29 (g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed
30 30 days of their employment;

1 (h) learners under the age of 18 who are employed as farm workers, provided that the exclusion
2 may not exceed 180 days from their initial date of employment and further provided that during this
3 exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established
4 in this part;

5 (i) retired or semiretired persons performing part-time incidental work as a condition of their
6 residence on a farm or ranch;

7 (j) any individual employed in a bona fide executive, administrative, or professional capacity as
8 these terms are defined by regulations of the commissioner;

9 (k) any individual employed by the United States of America;

10 (l) resident managers employed in lodging establishments or personal care facilities who, under the
11 terms of their employment, live in the establishment or facility;

12 (m) an outside salesperson or marketing representative paid on a commission, contract, or salary
13 basis who is primarily employed in selling or marketing products or services in the food distribution industry
14 for a food broker, wholesaler, or association;

15 (n) a direct seller as defined in 26 U.S.C. 3508.

16 (2) The provisions of 39-3-405 do not apply to:

17 (a) an employee with respect to whom the United States secretary of transportation has power to
18 establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

19 (b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

20 (c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or
21 natural state;

22 (d) an outside salesperson paid on a commission or contract basis who is primarily employed in
23 selling advertising for a newspaper;

24 (e) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily
25 engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements
26 if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily
27 engaged in the business of selling the vehicles or implements to ultimate purchasers;

28 (f) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is
29 employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats,
30 or aircraft to ultimate purchasers;

1 (g) an outside salesperson paid on a commission or contract basis who is primarily employed in
2 selling office supplies, computers, or other office equipment for an office equipment dealer;

3 (h) a salesperson paid on a commission or contract basis who is primarily engaged in selling
4 advertising for a radio or television station employer;

5 (i) an employee employed as a driver or driver's helper making local deliveries who is compensated
6 for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that
7 the plan has the general purpose and effect of reducing hours worked by the employees to or below the
8 maximum workweek applicable to them under 39-3-405;

9 (j) an employee employed in agriculture or in connection with the operation or maintenance of
10 ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop
11 basis and that are used exclusively for supply and storing of water for agricultural purposes;

12 (k) an employee employed in agriculture by a farmer, notwithstanding other employment of the
13 employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to
14 the raising of livestock, either alone or in conjunction with other farmers, if the employee is:

15 (i) primarily employed during a workweek in agriculture by a farmer; and

16 (ii) paid for employment in connection with the livestock auction operations at a wage rate not less
17 than that prescribed by 39-3-404;

18 (l) an employee of an establishment commonly recognized as a country elevator, including an
19 establishment that sells products and services used in the operation of a farm, if no more than five
20 employees are employed by the establishment;

21 (m) a driver employed by an employer engaged in the business of operating taxicabs;

22 (n) an employee who is employed with the employee's spouse by a nonprofit educational institution
23 to serve as the parents of children who are orphans or one of whose natural parents is deceased or who
24 are enrolled in the institution and reside in residential facilities of the institution so long as the children are
25 in residence at the institution and so long as the employee and the employee's spouse reside in the facilities
26 and receive, without cost, board and lodging from the institution and are together compensated, on a cash
27 basis, at an annual rate of not less than \$10,000;

28 (o) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or
29 transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation
30 terminal if the number of employees employed by the employer in the forestry or lumbering operations does

1 not exceed eight;

2 (p) an employee of a sheriff's department who is working under an established work period in lieu
3 of a workweek pursuant to 7-4-2509(1);

4 (q) an employee of a municipal or county government who is working under a work period not
5 exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a
6 collective bargaining unit represents the employee or by mutual agreement of the employer and employee
7 when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work
8 period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

9 (r) an employee of a hospital or other establishment primarily engaged in the care of the sick,
10 disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in
11 a 14-day period established through either a collective bargaining agreement when a collective bargaining
12 unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit
13 is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be
14 compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

15 (s) a firefighter who is working under a work period established in a collective bargaining agreement
16 entered into between a public employer and a firefighters' organization or its exclusive representative;

17 (t) an officer or other employee of a police department in a city of the first or second class who
18 is working under a work period established by the chief of police under 7-32-4118;

19 (u) an employee of a department of public safety working under a work period established pursuant
20 to 7-32-115;

21 (v) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times
22 the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938 and if more
23 than half of the employee's compensation for a period of not less than 1 month is derived from
24 commissions on goods and services;

25 (w) a person employed as a guide, cook, camp tender, or livestock handler by a licensed outfitter
26 as defined in 37-47-101;

27 (x) an employee employed as a radio announcer, news editor, or chief engineer by an employer in
28 a second- or third-class city or a town."

29

30 **Section 32.** Section 39-30-101, MCA, is amended to read:

1 **"39-30-101. Short title.** This chapter may be cited as the "Montana ~~Handicapped Persons'~~ Persons
2 With Disabilities Employment Preference Act". "

3
4 **Section 33.** Section 39-30-102, MCA, is amended to read:

5 **"39-30-102. Purposes.** The purposes of this chapter are to recognize past employment
6 discrimination against ~~handicapped~~ persons with disabilities and to facilitate the habilitation, rehabilitation,
7 and readjustment of ~~handicapped~~ persons with disabilities."

8
9 **Section 34.** Section 39-30-103, MCA, is amended to read:

10 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

11 (1) "Eligible spouse" means the spouse of a ~~handicapped~~ person with a disability determined by
12 the department of public health and human services to have a 100% disability and who is unable to use
13 the employment preference because of the person's disability.

14 (2) ~~"Handicapped person" means an individual certified by the department of public health and~~
15 ~~human services to have a physical or mental impairment that substantially limits one or more major life~~
16 ~~activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to~~
17 ~~obtain, retain, or advance in employment.~~

18 ~~(3)~~ (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
19 ranks of the current employees of:

- 20 (i) a department, as defined in 2-15-102, for a position within the executive branch;
- 21 (ii) a legislative agency for a position within the legislative branch;
- 22 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
23 clerk, state law library, or similar office in a state district court for a position within the judicial branch;
- 24 (iv) a city or town for a municipal position, including a city or municipal court position; and
- 25 (v) a county for a county position, including a justice's court position.

26 (b) A personnel action limited to current employees of a specific public entity identified in
27 ~~subsections (3)(a)(i) through (3)(a)(v)~~ this subsection (2), current employees in a reduction-in-force pool
28 who have been laid off from a specific public entity identified in ~~subsections (3)(a)(i) through (3)(a)(v)~~ this
29 subsection (2), or current participants in a federally authorized employment program is not an initial hiring.

30 ~~(4)~~(3) (a) "Mental impairment" means:

1 (i) ~~suffering from~~ a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
2 any other neurologically ~~handicapping~~ disabling condition closely related to mental retardation and requiring
3 treatment similar to that required by mentally retarded individuals; or

4 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
5 or volitional functions.

6 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
7 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
8 as a defense to any criminal charge.

9 (4) "Person with a disability" means an individual certified by the department of public health and
10 human services to have a physical or mental impairment that substantially limits one or more major life
11 activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to
12 obtain, retain, or advance in employment.

13 (5) "Position" means a permanent or seasonal position, as defined in 2-18-101, for a state position
14 or a similar permanent or seasonal position with a public employer other than the state. However, the term
15 does not include:

16 (a) a temporary position, as defined in 2-18-101, for a state position or similar temporary position
17 with a public employer other than the state;

18 (b) a state or local elected official;

19 (c) employment as an elected official's immediate secretary, ~~legal adviser~~ adviser, court reporter,
20 or administrative, legislative, or other immediate or first-line aide;

21 (d) appointment by an elected official to a body such as a board, commission, committee, or
22 council;

23 (e) appointment by an elected official to a public office if the appointment is provided for by law;

24 (f) a department head appointment by the governor or an executive department head appointment
25 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
26 government; or

27 (g) engagement as an independent contractor or employment by an independent contractor.

28 (6) (a) "Public employer" means:

29 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
30 executive, judicial, or legislative branch of the government of the state of Montana; and

1 (ii) any county, city, or town.

2 (b) The term does not include a school district, a vocational-technical program, a community
3 college, the board of regents of higher education, the Montana university system, a special purpose district,
4 an authority, or any political subdivision of the state other than a county, city, or town.

5 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
6 whom the public employer cannot make a reasonable determination that the qualifications held by one
7 person are significantly better suited for the position than the qualifications held by the other persons."
8

9 **Section 35.** Section 39-30-106, MCA, is amended to read:

10 **"39-30-106. Adoption of rules.** The department of administration shall adopt rules implementing
11 this chapter and shall consult with the department of public health and human services in adopting rules
12 governing certification of ~~handicapped~~ persons with disabilities for purposes of this chapter. The department
13 of administration's rules apply to all public employers, local as well as state."
14

15 **Section 36.** Section 39-30-107, MCA, is amended to read:

16 **"39-30-107. Certification of ~~handicapped~~ persons with disabilities.** The department of public health
17 and human services shall certify persons ~~as handicapped~~ with disabilities for the purpose of employment
18 preference as provided in this chapter."
19

20 **Section 37.** Section 39-30-201, MCA, is amended to read:

21 **"39-30-201. Employment preference in initial hiring.** (1) (a) Except as provided in 10-2-402, in an
22 initial hiring for a position, if a job applicant who is a ~~handicapped~~ person with a disability or eligible spouse
23 meets the eligibility requirements contained in 39-30-202 and claims a preference as required by
24 39-30-206, a public employer shall hire the applicant over any other applicant with substantially equal
25 qualifications who is not a preference-eligible applicant.

26 (b) In an initial hiring, a public employer shall hire a ~~handicapped~~ person with a disability over any
27 other preference-eligible applicant with substantially equal qualifications.

28 (2) The employment preference provided for in subsection (1) does not apply to a personnel action
29 described in 39-30-103~~(2)(b)~~ (2)(b) or to any other personnel action that is not an initial hiring."
30

1 **Section 38.** Section 39-30-202, MCA, is amended to read:

2 **"39-30-202. Eligibility requirements.** An eligible spouse or ~~handicapped~~ person with a disability
3 is not entitled to receive employment preference as provided in 39-30-201 unless:

4 (1) ~~he~~ the individual is a United States citizen;

5 (2) ~~he~~ the individual has resided continuously in the state for at least 1 year immediately before
6 applying for employment;

7 (3) if applying for municipal or county employment, ~~he~~ the individual has resided for at least 30
8 days immediately before applying for employment in the city, town, or county in which employment is
9 sought; and

10 (4) ~~he~~ the individual meets those requirements considered necessary by a public employer to
11 successfully perform the essential duties of the position for which ~~he~~ the individual is applying."

12

13 **Section 39.** Section 39-30-203, MCA, is amended to read:

14 **"39-30-203. Duration of preference.** Subject to 39-30-202, a ~~handicapped~~ person with a disability
15 or eligible spouse qualifies for employment preference as long as the disabling condition exists."

16

17 **Section 40.** Section 39-71-901, MCA, is amended to read:

18 **"39-71-901. Definitions.** As used in this part, the following definitions apply:

19 (1) "Certificate" means documentation issued by the department to an individual who is
20 ~~vocationally handicapped~~ a person with a disability.

21 (2) "Fund" means the subsequent injury fund.

22 (3) ~~"Vocationally handicapped"~~ "Person with a disability" means a person who has a medically
23 certifiable permanent impairment ~~which~~ that is a substantial obstacle to obtaining employment or to
24 obtaining reemployment if the employee should become unemployed, considering such factors as the
25 person's age, education, training, experience, and employment rejection."

26

27 **Section 41.** Section 39-71-903, MCA, is amended to read:

28 **"39-71-903. Procedure and practice.** When a ~~vocationally handicapped~~ person with a disability
29 receives a personal injury, the procedure and practice provided in this chapter ~~applies~~ apply to all
30 proceedings under this part, except ~~where~~ when specifically otherwise provided ~~herein~~ in this part."

1 **Section 42.** Section 39-71-904, MCA, is amended to read:

2 **"39-71-904. Rules for certification.** The department shall promulgate rules for certification of
3 ~~vocationally handicapped~~ persons with disabilities."

4
5 **Section 43.** Section 39-71-905, MCA, is amended to read:

6 **"39-71-905. Certification as ~~vocationally handicapped~~ person with a disability.** A person who
7 wishes to be certified as ~~vocationally handicapped~~ a person with a disability for purposes of this part shall
8 apply to the department on forms furnished by the department. The department shall conduct an
9 investigation and shall issue a certificate to a person who, in the department's discretion, meets the
10 requirements for ~~vocationally handicapped~~ certification. A person shall apply for certification before
11 employment or within 60 days after ~~he~~ the person becomes employed or reemployed and before an injury
12 occurs that is covered by this part. The certification is effective on the date of employment or
13 reemployment. Failure to apply before employment or within 60 days after employment or reemployment
14 precludes the employer from the protection and benefits of this part."

15
16 **Section 44.** Section 39-71-906, MCA, is amended to read:

17 **"39-71-906. Employer hiring or retaining certified ~~vocationally handicapped~~ person with a disability**
18 **to file information with department -- effect of failure to file.** Upon commencement of employment or
19 retention in employment of a certified ~~vocationally handicapped~~ person with a disability, the employer shall
20 submit to the department, on forms furnished by the department, all pertinent information requested by the
21 department. The department shall acknowledge receipt of the information. Failure to file the required
22 information with the department within 60 days after the first day of the ~~vocationally handicapped~~ person's
23 employment or retention in employment precludes the employer from the protection and benefits of this
24 part unless the information is filed before an injury for which benefits are payable under this part."

25
26 **Section 45.** Section 39-71-907, MCA, is amended to read:

27 **"39-71-907. Certified ~~vocationally handicapped~~ person with a disability to be compensated for**
28 **injury as provided by chapter -- insurer liability for compensation limited -- appropriation.** (1) A person
29 certified as ~~vocationally handicapped~~ having a physical or mental disability that constitutes or results in a
30 substantial impediment to employment who receives a personal injury arising out of and in the course of

1 employment and resulting in death or disability must be paid compensation in the manner and to the extent
 2 provided in this chapter or, in case of death resulting from ~~such~~ the injury, the compensation must be paid
 3 to the person's beneficiaries or dependents. The liability of the insurer for payment of medical and burial
 4 benefits as provided in this chapter is limited to those benefits arising from services rendered during the
 5 period of 104 weeks after the date of injury. The liability of the insurer for payment of benefits as provided
 6 in this chapter is limited to 104 weeks of compensation benefits actually paid. ~~Thereafter~~ After 104 weeks,
 7 all compensation and the cost of all medical care and burial ~~is~~ are the liability of the fund.

8 (2) The amounts necessary for the payment of benefits from this fund are statutorily appropriated,
 9 as provided in 17-7-502, from this fund."

10

11 **Section 46.** Section 50-1-202, MCA, is amended to read:

12 **"50-1-202. General powers and duties.** The department shall:

13 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
 14 records;

15 (2) make investigations, disseminate information, and make recommendations for control of
 16 diseases and improvement of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any federal health program for which responsibilities
 18 are delegated to states;

19 (4) inspect and work in conjunction with custodial institutions and Montana university system units
 20 periodically as necessary and at other times on request of the governor;

21 (5) after each inspection made under subsection (4), submit a written report on sanitary conditions
 22 to the governor and to the director of the department of corrections or the commissioner of higher
 23 education and include recommendations for improvement in conditions if necessary;

24 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
 25 plumbing, sewer systems, and ventilation of public buildings;

26 (7) develop and administer activities for the protection and improvement of dental health and
 27 supervise dentists employed by the state, local boards of health, or schools;

28 (8) develop, adopt, and administer rules setting standards for participation in and operation of
 29 programs to protect the health of mothers and children, which rules may include programs for nutrition,
 30 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public

- 1 Health Service Act and Title V of the federal Social Security Act;
- 2 (9) conduct health education programs;
- 3 (10) provide consultation to school and local community health nurses in the performance of their
- 4 duties;
- 5 (11) consult with the superintendent of public instruction on health measures for schools;
- 6 (12) develop, adopt, and administer rules setting standards for a program to provide services to
- 7 ~~handicapped~~ children with disabilities, including standards for:
- 8 (a) diagnosis;
- 9 (b) medical, surgical, and corrective treatment;
- 10 (c) aftercare and related services; and
- 11 (d) eligibility;
- 12 (13) provide consultation to local boards of health;
- 13 (14) bring actions in court for the enforcement of the health laws and defend actions brought
- 14 against the board or department;
- 15 (15) accept and expend federal funds available for public health services;
- 16 (16) have the power to use personnel of local departments of health to assist in the administration
- 17 of laws relating to public health;
- 18 (17) adopt rules imposing fees for the tests and services performed by the laboratory of the
- 19 department of environmental quality. Fees, established on an annual basis, should reflect the actual costs
- 20 of the tests or services provided. The department may not establish fees exceeding the costs incurred in
- 21 performing tests and services. All fees must be deposited in the state special revenue fund for the use of
- 22 the department in performing tests and services.
- 23 (18) adopt and enforce rules regarding the definition of communicable diseases and the reporting
- 24 and control of communicable diseases;
- 25 (19) adopt and enforce rules regarding the transportation of dead human bodies; and
- 26 (20) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116,
- 27 including regulation of premises, equipment, and methods of operation, solely oriented to the protection
- 28 of public health and the prevention of communicable disease."

29

30 **Section 47.** Section 50-5-105, MCA, is amended to read:

1 **"50-5-105. Discrimination prohibited.** (1) All phases of the operation of a health care facility shall
 2 must be without discrimination against anyone on the basis of race, creed, religion, color, national origin,
 3 sex, age, marital status, physical or mental ~~handicap~~ disability, or political ideas.

4 (2) (a) A health care facility may not refuse to admit a person to the facility solely because the
 5 person has an HIV-related condition.

6 (b) For the purposes of this subsection (2), the following definitions apply:

7 (i) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired
 8 immunodeficiency syndrome (AIDS) and includes all HIV and HIV-related viruses that damage the cellular
 9 branch of the human immune or neurological system and leave the infected person immunodeficient or
 10 neurologically impaired.

11 (ii) "HIV-related condition" means any medical condition resulting from an HIV infection, including
 12 but not limited to seropositivity for HIV.

13 (3) A person who operates a facility may not discriminate among the patients of licensed
 14 physicians. The free and confidential professional relationship between a licensed physician and patient shall
 15 must continue and remain unaffected.

16 (4) Except for a hospital that employs its medical staff, a hospital considering an application for
 17 staff membership or granting privileges within the scope of the applicant's license may not deny the
 18 application or privileges because the applicant is licensed under Title 37, chapter 5 or 6.

19 (5) This section does not preclude a hospital from limiting membership or privileges based on
 20 education, training, or other relevant criteria."

21
 22 **Section 48.** Section 50-60-201, MCA, is amended to read:

23 **"50-60-201. Purpose of state building code.** The state building code shall must be designed to
 24 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
 25 to:

26 (1) provide reasonably uniform standards and requirements for construction and construction
 27 materials consonant with accepted standards of design, engineering, and fire prevention practices;

28 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
 29 improvements ~~which that~~ that tend to reduce the cost of construction consistent with reasonable requirements
 30 for the health and safety of the occupants or users of buildings and, consistent with the conservation of

1 energy, by design requirements and criteria that will result in the efficient ~~utilization~~ use of energy, whether
2 used directly or in a refined form, in buildings;

3 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and
4 requirements ~~which that~~ tend to increase unnecessarily construction costs, retard unnecessarily the use
5 of proven new materials ~~which that~~ have been found adequate through experience or testing, or provide
6 unwarranted preferential treatment to types or classes of materials, products, or methods of construction;

7 (4) ensure that any new buildings constructed with public funds are accessible to and functional
8 for ~~physically handicapped~~ persons with physical disabilities according to the principles applicable to
9 accessibility to public buildings for ~~handicapped~~ persons with disabilities adopted, recommended, or issued
10 as Part II, Uniform Federal Accessibility Standards, as it reads in the Federal Register dated August 7, 1984,
11 and as the department may amend by rule to reflect changes in the principles;

12 (5) encourage efficiencies of design and insulation ~~which that~~ enable buildings to be heated in the
13 winter with the least possible quantities of energy and to be kept cool in the summer without air
14 conditioning equipment or with the least possible use of ~~such the~~ equipment;

15 (6) encourage efficiencies and criteria directed toward design of building envelopes with high
16 thermal resistance and low air leakage and toward requiring practices in the design and selection of
17 mechanical, electrical, and illumination systems ~~which that~~ promote the efficient use of energy."

18
19 **Section 49.** Section 52-1-103, MCA, is amended to read:

20 **"52-1-103. Powers and duties of department.** The department shall:

- 21 (1) administer and supervise all forms of child and adult protective services;
- 22 (2) act as the lead agency in coordinating and planning services to children with multiagency
23 service needs;
- 24 (3) provide the following functions, as necessary, for youth in need of care:
- 25 (a) intake, investigation, case management, and client supervision;
- 26 (b) placement in youth care facilities;
- 27 (c) contracting for necessary services;
- 28 (d) protective services day care; and
- 29 (e) adoption;
- 30 (4) register or license youth care facilities, child-placing agencies, day-care facilities, community

- 1 homes for persons with developmental disabilities, community homes for severely disabled persons, and
 2 adult foster care facilities;
- 3 (5) act as lead agency in implementing and coordinating child-care programs and services under
 4 the Montana Child Care Act;
- 5 (6) administer the interstate compact for children;
- 6 (7) (a) administer child abuse prevention services funded through child abuse grants and the
 7 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and
- 8 (b) administer elder abuse prevention services;
- 9 (8) (a) make a written evaluation of each plan developed by the local family services advisory
 10 councils, as provided in 52-1-203, indicating those portions of each plan that will be implemented by the
 11 department, those portions that will not be implemented, and the reasons for not implementing those
 12 portions;
- 13 (b) develop a statewide youth services and resources plan that takes into consideration local needs
 14 as reflected in plans developed by the local family services advisory councils;
- 15 (9) administer services to the aged;
- 16 (10) provide consultant services to:
- 17 (a) facilities providing care for adults who are needy, indigent, ~~handicapped~~, or dependent ~~adults~~
 18 or who have disabilities; and
- 19 (b) youth care facilities;
- 20 (11) ~~utilize~~ use the staff and services of other state agencies and units of the Montana university
 21 system, within their respective statutory functions, to carry out its functions under this title;
- 22 (12) contract, as necessary, with the county board of welfare for administration of child and adult
 23 protection services for that county; and
- 24 (13) adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."

25
 26 **Section 50.** Section 52-2-113, MCA, is amended to read:

27 **"52-2-113. Child rehabilitation -- duties of department.** The department shall:

- 28 (1) enforce all laws pertaining to children and take the initiative in all matters involving the interest
 29 of abused or neglected children;
- 30 (2) use funds allocated or appropriated to the department for the purpose of providing for the

1 special medical or material needs of children with developmental disabilities or ~~physically handicapped~~
2 children with physical disabilities who are eligible for department programs;

3 (3) cooperate for the purposes of this part with all reputable child-helping and child-placing
4 agencies; and

5 (4) inspect and register or license youth care facilities, child-placing agencies, and adoption
6 agencies."

7
8 **Section 51.** Section 53-2-201, MCA, is amended to read:

9 **"53-2-201. Powers and duties of department.** (1) The department shall:

10 (a) administer and supervise public assistance, including the provision of food stamps, food
11 commodities, aid to families with dependent children, energy assistance, weatherization, vocational
12 rehabilitation, services for persons with severe disabilities, developmental disability services, and medical
13 care payments in behalf of recipients of public assistance;

14 (b) give consultant service to private institutions providing care for ~~the~~ adults who are needy,
15 indigent, ~~handicapped~~, or dependent adults or who have disabilities;

16 (c) cooperate with other state agencies and develop provisions for services to the blind, including
17 the prevention of blindness, the location of blind persons, medical services for eye conditions, and
18 vocational guidance and training of the blind;

19 (d) provide services in respect to organization and supervise county departments of public welfare
20 and county boards of public welfare in the administration of public assistance functions and for efficiency
21 and economy;

22 (e) assist and cooperate with other state and federal departments, bureaus, agencies, and
23 institutions, when requested, by performing services in conformity with public assistance purposes;

24 (f) administer all state and federal funds allocated to the department for public assistance and do
25 all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance
26 purposes; and

27 (g) make rules governing payment for services and supplies provided to recipients of public
28 assistance.

29 (2) The department may:

30 (a) purchase, exchange, condemn, or receive by gift either real or personal property ~~which~~ that is

1 necessary to carry out its public assistance functions. Title to property obtained under this subsection must
2 be taken in the name of the state of Montana for the use and benefit of the department.

3 (b) contract with the federal government to carry out its public assistance functions. The
4 department may do all things necessary in order to avail itself of federal aid and assistance.

5 (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration
6 of services to be provided to recipients of public assistance."
7

8 **Section 52.** Section 53-4-607, MCA, is amended to read:

9 **"53-4-607. Exemptions from time limitations in pathways.** (1) Recipients of aid to families with
10 dependent children under the FAIM project may be exempted from the time limitations on assistance under
11 pathways contained in 53-4-603 as provided by the department by rule.

12 (2) In establishing categories of individuals who are exempt from the time limitations on assistance
13 under pathways, the department may take into consideration factors that may delay an individual's
14 attainment of self-sufficiency, including but not limited to the following:

15 (a) The individual has a verifiable illness, injury, or physical or mental ~~impairment, handicap, or~~
16 disability.

17 (b) The individual is of advanced age.

18 (c) The individual does not have child care available.

19 (d) The individual is attending high school or is working toward a graduate equivalency diploma,
20 if the individual is under 20 years of age.

21 (e) The individual is the parent of a child under 1 year of age.

22 (f) The individual is providing care to a household member with a disability who requires special
23 care.

24 (g) The individual is a teenage parent participating in activities pursuant to a family investment
25 agreement.

26 (h) The department failed to substantially comply with its obligations under the family investment
27 agreement.

28 (i) The individual is a homeless person.

29 (j) The individual is a victim of domestic violence."
30

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

2 **"53-7-101. Definitions.** Unless the context requires otherwise, in this part, the following definitions
3 apply:

4 (1) "Department" means the department of public health and human services provided for in
5 2-15-2201.

6 (2) "Independent living" means control over one's life based upon a choice between acceptable
7 options in a manner that minimizes reliance upon others for making decisions and conducting activities of
8 daily living.

9 (3) "Maintenance" means money payments made in accordance with 53-7-108.

10 (4) "Occupational license" means a license, permit, or other written authority required by any
11 governmental unit to engage in an occupation.

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

16 (6) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to
17 correct or substantially reduce the impediment to employment ~~handicap~~ of a person within a reasonable
18 length of time, including but not limited to medical, psychiatric, dental, and surgical treatment, nursing
19 services, hospital care, convalescent care, drugs, medical and surgical supplies, and prosthetic appliances,
20 but excluding curative treatment for acute or transitory medical conditions unless necessary to maintain
21 a person's health in order to complete a rehabilitation plan.

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

24 (8) "Rehabilitation engineering" means the systematic application of technologies, engineering
25 methodologies, or scientific principles to meet the needs of and address the barriers confronted by persons
26 with ~~employment handicaps~~ disabilities. The barriers may exist in the areas of education, rehabilitation,
27 employment, transportation, independent living, and recreation.

28 (9) "Rehabilitation plan" means a plan, developed with the participation of the recipient, for
29 providing services to assist a person with ~~an employment handicap~~ a disability to become independent and
30 productive or employable.

1 (10) "Rehabilitation training" means training provided to a person with an ~~employment handicap~~ a
 2 disability to ~~rehabilitate~~ overcome the person's impediment to employment handicap. The term includes but
 3 is not limited to manual, preconditioning, prevocational, vocational, and supplementary training and training
 4 provided for the purpose of achieving broader or more remunerative skills and capacities.

5 (11) "Vocational rehabilitation" means the provision of vocational rehabilitation services to a person
 6 with an ~~employment handicap~~ a disability to enable the person insofar as possible to become independent
 7 and productive or employable.

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

14
 15 **Section 54.** Section 53-7-102, MCA, is amended to read:

16 **"53-7-102. Powers and duties of department.** The department:

17 (1) shall adopt rules necessary for the administration of this part. Rules adopted may include but
 18 are not limited to the provision of services, individual service plans, eligibility for services, application,
 19 service goals and design, quality of services, provider relationships, program standards, program staffing,
 20 staff training, provider accounting procedures, confidential information, recipient grievance procedures,
 21 hearings, and definitions necessary to carry out this part;

22 (2) may take any other action that it determines necessary or appropriate to carry out the purposes
 23 of this part;

24 (3) may cooperate with other departments and agencies and institutions, both public and private,
 25 in providing for vocational rehabilitation of persons with ~~employment handicaps~~ disabilities, in studying the
 26 problems involved in vocational rehabilitation, and in establishing, developing, and providing programs,
 27 facilities, and services;

28 (4) may conduct research and compile statistics relating to the vocational rehabilitation of persons
 29 with ~~employment handicaps~~ disabilities; and

30 (5) may accept and use gifts to carry out this part."

1 **Section 55.** Section 53-7-105, MCA, is amended to read:

2 "**53-7-105. Eligibility.** A person with ~~an employment handicap~~ a disability is eligible for vocational
3 rehabilitation services if the department, after full investigation, determines that the person may become
4 employable or achieve accepted vocational objectives through the provision of vocational rehabilitation
5 services that are made available as provided for in 53-7-108."

6

7 **Section 56.** Section 53-7-301, MCA, is amended to read:

8 "**53-7-301. Definitions.** As used in this part, the following definitions apply:

9 (1) (a) "Blindness" means a visual disability in which:

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

11 or

12 (ii) a person's visual field at the widest diameter subtends an angle no greater than 20 degrees.

13 (b) The term includes any visual disability that, in the determination of the department, renders
14 vision seriously defective or causes blindness.

15 (2) "Department" means the department of public health and human services provided for in
16 2-15-2201.

17 (3) "Independent living" means control over one's life based upon a choice between acceptable
18 options in a manner that minimizes reliance upon others for making decisions and conducting activities of
19 daily living.

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

22 (5) "Maintenance" means money payments made in accordance with 53-7-310.

23 (6) "Occupational license" means a license, permit, or other written authority required by any
24 governmental unit to engage in an occupation.

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

29 (8) (a) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to
30 correct or substantially reduce an impediment to employment ~~handicap~~ caused by blindness or low vision

1 within a reasonable length of time, including but not limited to medical, psychiatric, dental, and surgical
 2 treatment, nursing services, hospital care, convalescent care, drugs, medical and surgical supplies, and
 3 prosthetic appliances.

4 (b) The term does not include curative treatment for acute or transitory medical conditions unless
 5 necessary to maintain a person's health in order to complete a rehabilitation plan.

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

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

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

15 (12) "Rehabilitation training" means training provided to a person with blindness or low vision to
 16 ~~rehabilitate~~ overcome the person's impediment to employment ~~handicap~~, including but not limited to
 17 manual, preconditioning, prevocational, vocational, and supplementary training and training provided for
 18 the purpose of achieving broader or more remunerative skills and capacities.

19 (13) "Vocational rehabilitation" means the provision of vocational rehabilitation services to a person
 20 with blindness or low vision to enable the person insofar as possible to become independent and productive
 21 or employable.

22 (14) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational
 23 guidance, vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering,
 24 physical restoration, transportation, occupational licenses, customary occupational tools and equipment,
 25 maintenance, training books and materials, group facilities, family services, followup services, and any other
 26 goods and services provided for by rule and that the department determines to be necessary to rehabilitate
 27 the person."
 28

29 **Section 57.** Section 53-7-306, MCA, is amended to read:

30 **"53-7-306. Eligibility for services.** A person with an ~~impediment to~~ employment ~~handicap due to~~

1 ~~because of~~ blindness or low vision is eligible for vocational rehabilitation services if the department, after
 2 full investigation, determines that the person may become employable or achieve accepted vocational
 3 objectives through the provision of vocational rehabilitation services that are made available as provided
 4 for in 53-7-310."

5
 6 **Section 58.** Section 53-18-101, MCA, is amended to read:

7 **"53-18-101. Definitions.** As used in this part, the following definitions apply:

8 (1) "Department" means the department of public health and human services provided for in
 9 2-15-2201.

10 (2) "Self-sufficiency trust" means a trust created by a nonprofit corporation that is a 501(c)(3)
 11 organization under the United States Internal Revenue Code of 1954, as amended, and that was organized
 12 under the Montana Nonprofit Corporation Act, Title 35, chapter 2, for the purpose of providing for the care
 13 and treatment of one or more persons who are residents of this state and are persons with developmental
 14 disabilities, ~~mentally ill~~ mental illness, ~~physically handicapped~~ or physical disabilities, or are otherwise
 15 eligible for department services, as defined by the department."

16
 17 **Section 59.** Section 53-18-103, MCA, is amended to read:

18 **"53-18-103. Administration of trust account.** (1) The department may accept money from a
 19 self-sufficiency trust for deposit in the self-sufficiency trust account pursuant to an agreement with the
 20 self-sufficiency trust naming one or more beneficiaries who are residents of this state and are persons with
 21 developmental disabilities, ~~mentally ill~~ mental illness, ~~physically handicapped~~ or physical disabilities, or are
 22 otherwise eligible for department services, as defined by the department. The agreement must specify the
 23 care or treatment to be provided for each named beneficiary. Money in the trust account must be accounted
 24 for separately for each named beneficiary. The department of public health and human services shall
 25 administer the trust account for beneficiaries who are mentally ill.

26 (2) (a) The department shall adopt rules to administer the trust account.

27 (b) The money in the trust account may be spent by the department, pursuant to its rules, only to
 28 provide care or treatment for the named beneficiary in accordance with the terms of the agreement.

29 (c) If the director of the department determines that the money in the trust account for a named
 30 beneficiary cannot be used for the care and treatment of the beneficiary in a manner consistent with the

1 rules of the department and the agreement or upon request of the self-sufficiency trust, the remaining
 2 money in the trust account for the named beneficiary, together with any accumulated interest, must be
 3 promptly returned to the self-sufficiency trust that provided the money for deposit in the trust account.

4 (3) The trust account money must be deposited in the state treasury and invested as required by
 5 law and the earnings credited to the trust account."

6
 7 **Section 60.** Section 53-18-105, MCA, is amended to read:

8 **"53-18-105. Special account.** There is created within the self-sufficiency trust account a special
 9 account for the disabled. The director of the department may accept money from any source for deposit
 10 into the special account. The money in the special account must be used by the department, subject to
 11 appropriation, for the purpose of providing for the care and treatment of low-income persons with
 12 developmental disabilities, ~~mentally ill persons, and physically handicapped persons~~ mental illness, or
 13 physical disabilities or low-income persons otherwise eligible for department services, as defined by the
 14 department."

15
 16 **Section 61.** Section 53-19-102, MCA, is amended to read:

17 **"53-19-102. Definitions.** As used in this part, the following definitions apply:

18 (1) "Community home for persons with severe disabilities" means a facility licensed by the
 19 department, as provided for in 52-4-201 through 52-4-205.

20 (2) "Department" means the department of public health and human services established in
 21 2-15-2201.

22 (3) "Disability" means a permanent physical or mental condition recognized as a disability by Title
 23 VII of the federal Rehabilitation Act of 1973, 29 U.S.C. 796, et seq., as may be amended.

24 (4) "Live and function independently" means to have control over one's life based upon a choice
 25 between acceptable options in a manner that minimizes reliance upon others for making decisions and
 26 conducting activities of daily living.

27 (5) "Person with a severe disabilities disability" means the same as "individual with a severe
 28 ~~handicaps~~ disability" as defined in the federal Rehabilitation Act of 1973, 29 U.S.C. 706(15)(B), as may
 29 be amended. The term includes an individual whose ability to function independently in family or community
 30 or whose ability to engage or continue in employment is so limited by the severity of the physical or mental

1 disability that the services provided under this part are required in order for the individual to achieve a
 2 greater level of independence in functioning in family or community or in engaging in or continuing in
 3 employment."

4

5 **Section 62.** Section 53-19-301, MCA, is amended to read:

6 **"53-19-301. Legislative findings and declaration.** (1) The legislature finds and declares that many
 7 Montana citizens ~~are physically handicapped~~ have physical disabilities and are unable to use traditional
 8 telecommunications equipment and services without assistance. These citizens constitute a substantial and
 9 valuable resource within the United States and the state of Montana, and this segment of our population
 10 needs access to telecommunications services in order to function as contributing and productive members
 11 of our society.

12 (2) The legislature further finds and declares that the role of telecommunications in our world today
 13 is inestimable. Telecommunications is the primary vehicle of commerce and industry, the means to convey
 14 and receive information and knowledge, and the way that we connect with others on a personal as well
 15 as business level. Telecommunications gives people independence and self-sufficiency, and it provides
 16 goods and services, human contact, and fellowship.

17 (3) The legislature further finds that access to telecommunications services should be provided to
 18 persons who ~~are handicapped~~ have disabilities not only for their own sake but for the benefit of society at
 19 large. Access to telecommunications services would enhance the business and personal lives of
 20 ~~handicapped~~ persons with disabilities, and its availability to ~~the handicapped~~ persons with disabilities would
 21 be an investment of benefit to all of Montana.

22 (4) Consistent with the findings stated in subsections (1) through (3), the legislature finds it
 23 appropriate to provide ~~handicapped~~ persons with disabilities access to telecommunications services by
 24 creating a program to make specialized telecommunications equipment and services available to ~~the~~
 25 ~~handicapped~~ persons with disabilities."

26

27 **Section 63.** Section 53-19-302, MCA, is amended to read:

28 **"53-19-302. Definitions.** As used in this part, unless the context requires otherwise, the following
 29 definitions apply:

30 (1) "Committee" means the committee on telecommunications services for ~~the handicapped~~

1 persons with disabilities established in 2-15-2212.

2 (2) "Dual-party relay system" means a service that permits full and simultaneous communication
3 between those using telecommunications devices for the deaf (TDD) and those using conventional
4 telephone equipment.

5 ~~(3) "Handicapped" means the condition of a person who is blind, deaf, hard of hearing, or~~
6 ~~speech impaired.~~

7 ~~(4)(3)~~ "Local exchange company" means a telecommunications company that provides telephone
8 access lines to members of the general public who are its customers.

9 (4) "Person with a disability" means the condition of a person who is blind, deaf, hard-of-hearing,
10 or speech-impaired.

11 (5) "Program" means the program established in 53-19-306.

12 (6) "Specialized telecommunications equipment" means any telecommunications device that
13 enables or assists a person ~~who is handicapped~~ with a disability to communicate with others by means of
14 the conventional telephone network. The term includes but is not limited to telecommunications devices
15 for the deaf (TDD), amplifiers, signaling devices, puff-blow devices, electronic artificial larynx devices, and
16 telebraille.

17 (7) "Telephone access line" means the telephone exchange access line or channel that provides
18 access from the premises of a customer of a local exchange company to the telecommunications network
19 to effect the transfer of information."
20

21 **Section 64.** Section 53-19-306, MCA, is amended to read:

22 **"53-19-306. Program established -- purpose.** (1) The committee shall establish and administer a
23 program to provide specialized telecommunications equipment and services to persons ~~who are handicapped~~
24 with disabilities.

25 (2) The purpose of the program is to:

26 (a) furnish specialized telecommunications equipment to meet the needs of persons ~~who are~~
27 ~~handicapped~~ with disabilities; and

28 (b) provide a dual-party relay system to connect persons ~~who are handicapped~~ with disabilities with
29 all phases of public telecommunications service, including telecommunications service to emergency
30 services and public safety agencies as defined in 10-4-101."

1 **Section 65.** Section 53-19-307, MCA, is amended to read:

2 "**53-19-307. Provision of services.** In administering the program established in 53-19-306, the
3 committee shall:

4 (1) develop an appropriate means test to determine eligibility for participation in the program;

5 (2) require that participants in the program be residents of Montana and that residency be
6 maintained as a condition of eligibility for continued participation in the program;

7 (3) require that participants provide satisfactory evidence that they ~~are handicapped~~ have
8 disabilities and would benefit from the use of specialized telecommunications equipment;

9 (4) provide specialized telecommunications equipment to participants on the basis of a loan or lease
10 arrangement that may include cost-sharing between the ~~handicapped~~ person with a disability and ~~his~~ the
11 person's employer;

12 (5) determine the type of specialized telecommunications equipment that it considers necessary
13 and economically feasible for use by Montana's ~~handicapped~~ persons with disabilities;

14 (6) purchase or lease all specialized telecommunications equipment through bid by wholesale
15 manufacturers on a competitive basis;

16 (7) require, as a condition of each equipment purchase or lease, that the original manufacturer
17 provide repair and maintenance service for new and returned equipment;

18 (8) maintain records of each item of equipment, including the location, serial number, and telephone
19 number of each device;

20 (9) require an appropriate security deposit for equipment at the time of delivery, which deposit
21 must be refunded without interest when the equipment is returned;

22 (10) make reasonable efforts to recover equipment from those who become ineligible for continued
23 participation in the program;

24 (11) provide a dual-party relay system that, if feasible, would be available statewide for operation
25 7 days a week, 24 hours a day, including holidays; and

26 (12) ~~implement the service described in subsection (11) within 2 years following July 1, 1989; and~~

27 ~~(13)~~ adopt rules necessary to administer the program."
28

29 **Section 66.** Section 53-19-310, MCA, is amended to read:

30 "**53-19-310. Fund for telecommunications services for the ~~handicapped~~ persons with disabilities.**"

1 (1) There is an account for telecommunications services for ~~the handicapped~~ persons with disabilities in the
 2 state special revenue fund in the state treasury. The account consists of:

3 (a) all monetary contributions, gifts, and grants received by the committee as provided in
 4 53-19-309; and

5 (b) all charges billed and collected pursuant to 53-19-311.

6 (2) The money in the account is allocated to the committee for purposes of implementing this part.

7 (3) All expenditures of the committee in administering this part must be paid from money deposited
 8 in the account."
 9

10 **Section 67.** Section 53-20-102, MCA, is amended to read:

11 **"53-20-102. Definitions.** As used in this part, the following definitions apply:

12 (1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors
 13 created by 2-15-211.

14 (2) "Community-based facilities" or "community-based services" means those facilities and services
 15 that are available for the evaluation, treatment, and habilitation of persons with developmental disabilities
 16 in a community setting.

17 (3) "Court" means a district court of the state of Montana.

18 (4) "Developmental disabilities professional" means a licensed psychologist, a licensed psychiatrist,
 19 or a person with a master's degree in psychology, who:

20 (a) has training and experience in psychometric testing and evaluation;

21 (b) has experience in the field of developmental disabilities; and

22 (c) is certified, as provided in 53-20-106, by the department of public health and human services.

23 (5) "Developmental disability" means a disability that is attributable to mental retardation, cerebral
 24 palsy, epilepsy, autism, or any other neurologically ~~handicapping~~ disabling condition closely related to
 25 mental retardation and that requires treatment similar to that required by mentally retarded individuals. A
 26 developmental disability is a disability that originated before the individual attained age 18, that has
 27 continued or can be expected to continue indefinitely, and that ~~constitutes~~ results in the person having a
 28 substantial handicap disability of the individual.

29 (6) "Habilitation" means the process by which a person who has a developmental disability is
 30 assisted in acquiring and maintaining those life skills that enable the person to cope more effectively with

1 personal needs and the demands of the environment and in raising the level of the person's physical,
2 mental, and social efficiency. Habilitation includes but is not limited to formal, structured education and
3 treatment.

4 (7) "Individual treatment planning team" means the interdisciplinary team of persons involved in
5 and responsible for the habilitation of a resident. The resident is a member of the team.

6 (8) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult
7 brothers and sisters of a person.

8 (9) "Qualified mental retardation professional" means a professional program staff person for the
9 residential facility who the department of public health and human services determines meets the
10 professional requirements necessary for federal certification of the facility.

11 (10) "Resident" means a person committed to a residential facility.

12 (11) "Residential facility" or "facility" means the Montana developmental center and the Eastmont
13 human services center.

14 (12) "Residential facility screening team" means a team of persons, appointed as provided in
15 53-20-133, ~~who are~~ that is responsible for screening a respondent to determine if the commitment of the
16 respondent to a residential facility is appropriate.

17 (13) "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously
18 developmentally disabled and in need of developmental disability services in a residential facility.

19 (14) "Responsible person" means a person willing and able to assume responsibility for a person
20 who is seriously developmentally disabled or alleged to be seriously developmentally disabled.

21 (15) "Seriously developmentally disabled" means a person who:

22 (a) has a developmental disability;

23 (b) is impaired in cognitive functioning; and

24 (c) has behaviors that pose an imminent risk of serious harm to self or others or self-help deficits
25 so severe as to require total care or near total care and who because of those behaviors or deficits, cannot
26 be safely and effectively habilitated in community-based services."

27

28 **Section 68.** Section 53-20-142, MCA, is amended to read:

29 **"53-20-142. Rights while in a residential facility.** Persons admitted to a residential facility for a
30 period of habilitation shall enjoy the following rights:

1 (1) Residents have a right to dignity, privacy, and humane care.

2 (2) Residents are entitled to send and receive sealed mail. Moreover, it is the duty of the facility
3 to foster the exercise of this right by furnishing the necessary materials and assistance.

4 (3) Residents must have the same rights and access to private telephone communication as
5 patients at any public hospital except to the extent that the individual treatment planning team or the
6 qualified mental retardation professional responsible for formulation of a particular resident's habilitation
7 plan writes an order imposing special restrictions and explains the reasons for the restrictions. The written
8 order must be renewed monthly if any restrictions are to be continued.

9 (4) Residents have an unrestricted right to visitation except to the extent that the individual
10 treatment planning team or the qualified mental retardation professional responsible for formulation of a
11 particular resident's habilitation plan writes an order imposing special restrictions and explains the reasons
12 for the restrictions. The written order must be renewed monthly if restrictions are to be continued.

13 (5) Residents have a right to receive suitable educational and habilitation services regardless of
14 chronological age, degree of retardation, or accompanying disabilities ~~or handicaps~~.

15 (6) Each resident must have an adequate allowance of neat, clean, suitably fitting, and seasonable
16 clothing. Except when a particular kind of clothing is required because of a particular condition, residents
17 must have the opportunity to select from various types of neat, clean, and seasonable clothing. The
18 clothing must be considered the resident's throughout ~~his~~ the resident's stay in the facility. Clothing, both
19 in amount and type, must make it possible for residents to go out of doors in inclement weather, to go for
20 trips or visits appropriately dressed, and to make a normal appearance in the community. The facility shall
21 make provision for the adequate and regular laundering of the residents' clothing.

22 (7) Each resident has the right to keep and use ~~his~~ the resident's own personal possessions except
23 insofar as ~~such~~ the clothes or personal possessions may be determined by the individual treatment planning
24 team or the qualified mental retardation professional to be dangerous either to ~~himself~~ the resident or to
25 others.

26 (8) Each resident has a right to a humane physical environment within the residential facility. The
27 facility must be designed to make a positive contribution to the efficient attainment of the habilitation goals
28 of the resident. To accomplish this purpose:

29 (a) regular housekeeping and maintenance procedures that will ensure that the facility is maintained
30 in a safe, clean, and attractive condition must be developed and implemented;

1 (b) pursuant to an established routine maintenance and repair program, the physical plant must be
2 kept in a continuous state of good repair and operation so as to ensure the health, comfort, safety, and
3 well-being of the residents and so as not to impede in any manner the habilitation programs of the
4 residents;

5 (c) the physical facilities ~~must~~ shall meet all fire and safety standards established by the state and
6 locality. In addition, the facility ~~must~~ shall meet the provisions of the life safety code of the national fire
7 protection association that are applicable to it.

8 (d) there must be special facilities for nonambulatory residents to ensure their safety and comfort,
9 including special fittings on toilets and wheelchairs. Appropriate provision must be made to permit
10 nonambulatory residents to communicate their needs to staff.

11 (9) Residents have a right to receive prompt and adequate medical treatment for any physical or
12 mental ailments or injuries or physical disabilities and for the prevention of any illness or disability. ~~Such~~
13 The medical treatment must meet standards of medical practice in the community. However, nothing in this
14 subsection may be interpreted to impair other rights of a resident in regard to involuntary commitment for
15 mental illness, use of psychotropic medication, use of hazardous, aversive, or experimental procedures, or
16 the refusal of ~~such~~ treatment.

17 (10) Corporal punishment is not permitted.

18 (11) The opportunity for religious worship must be accorded to each resident who desires ~~such~~
19 worship. Provisions for religious worship must be made available to all residents on a nondiscriminatory
20 basis. An individual may not be compelled to engage in any religious activities.

21 (12) Residents have a right to a nourishing, well-balanced diet. The diet for residents must provide
22 at a minimum the recommended daily dietary allowance as developed by the national academy of sciences.
23 Provisions must be made for special therapeutic diets and for substitutes at the request of the resident, ~~his~~
24 the resident's parents, guardian, or next of kin, or the responsible person appointed by the court in
25 accordance with the religious requirements of any resident's faith. Denial of a nutritionally adequate diet
26 may not be used as punishment.

27 (13) Residents have a right to regular physical exercise several times a week. It is the duty of the
28 facility to provide both indoor and outdoor facilities and equipment for ~~such~~ exercise. Residents have a right
29 to be outdoors daily in the absence of contrary medical considerations.

30 (14) Residents have a right, under appropriate supervision, to suitable opportunities for the

1 interaction with members of the opposite sex except ~~where~~ when the individual treatment planning team
 2 or the qualified mental retardation professional responsible for the formulation of a particular resident's
 3 habilitation plan writes an order to the contrary and explains the reasons for the order. The order must be
 4 renewed monthly if the restriction is to be continued,"

5

6 **Section 69.** Section 53-20-148, MCA, is amended to read:

7 "53-20-148. **Right to habilitation.** (1) Persons admitted to residential facilities ~~shall~~ have a right
 8 to habilitation, including medical treatment, education, and care suited to their needs, regardless of age,
 9 degree of retardation, or ~~handicapping~~ disabling condition. Each resident has a right to a habilitation
 10 program that will maximize ~~his~~ the resident's human abilities and enhance ~~his~~ the resident's ability to cope
 11 with ~~his~~ the environment. Every residential facility shall recognize that each resident, regardless of ability
 12 or status, is entitled to develop and realize ~~his~~ the resident's fullest potential. The facility shall implement
 13 the principle of normalization so that each resident may live as normally as possible.

14 (2) Residents have a right to the least restrictive conditions necessary to achieve the purposes of
 15 habilitation. To this end, the facility shall make every attempt to move residents from:

- 16 (a) more to less structured living;
 17 (b) larger to smaller facilities;
 18 (c) larger to smaller living units;
 19 (d) group to individual residences;
 20 (e) segregated from the community to integrated into the community living;
 21 (f) dependent to independent living.

22 (3) Within 30 days of ~~his~~ admission to a residential facility, each resident must have an evaluation
 23 by appropriate specialists for programming purposes.

24 (4) Each resident must have an individualized habilitation plan formulated by an individual treatment
 25 planning team. This plan must be implemented as soon as possible, but no later than 30 days after the
 26 resident's admission to the facility. An interim program of habilitation, based on the preadmission evaluation
 27 conducted pursuant to this part, must commence promptly upon the resident's admission. Each
 28 individualized habilitation plan must contain:

- 29 (a) a statement of the nature of the specific limitations and the needs of the resident;
 30 (b) a description of intermediate and long-range habilitation goals, with a projected timetable for

1 their attainment;

2 (c) a statement of and an explanation for the plan of habilitation for achieving these intermediate
3 and long-range goals;

4 (d) a statement of the least restrictive setting for habilitation necessary to achieve the habilitation
5 goals of the resident;

6 (e) a specification of the professionals and other staff members who are responsible for the
7 particular resident's attaining these habilitation goals;

8 (f) criteria for release to less restrictive settings for habilitation, based on the resident's needs,
9 including criteria for discharge and a projected date for discharge.

10 (5) As part of ~~his~~ the habilitation plan, each resident must have an individualized
11 postinstitutionalization plan that includes an identification of services needed to make a satisfactory
12 community placement possible. This plan must be developed by the individual treatment planning team that
13 shall begin preparation of the plan upon the resident's admission to the facility and shall complete the plan
14 as soon as practicable. The parents or guardian or next of kin of the resident, the responsible person
15 appointed by the court, if any, and the resident, if able to give informed consent, must be consulted in the
16 development of the plan and must be informed of the content of the plan.

17 (6) In the interests of continuity of care, one qualified mental retardation professional shall
18 whenever possible be responsible for supervising the implementation of the habilitation plan, integrating
19 the various aspects of the habilitation program, and recording the resident's progress as measured by
20 objective indicators. The qualified mental retardation professional ~~shall~~ is also be responsible for ensuring
21 that the resident is released when appropriate to a less restrictive habilitation setting.

22 (7) The habilitation plan must be reviewed monthly by the qualified mental retardation professional
23 responsible for supervising the implementation of the plan and must be modified if necessary. In addition,
24 6 months after admission and at least annually thereafter, each resident must receive a comprehensive
25 psychological, social, habilitative, and medical diagnosis and evaluation and ~~his~~ the resident's habilitation
26 plan must be reviewed and revised accordingly by the individual treatment planning team. A habilitation plan
27 must be reviewed monthly.

28 (8) Each resident placed in the community must receive transitional habilitation assistance.

29 (9) The superintendent of the residential facility, or ~~his~~ the superintendent's designee, shall report
30 in writing to the parents or guardian of the resident or the responsible person at least every 6 months on

1 the resident's habilitation and medical condition. The report must also state any appropriate habilitation
2 program that has not been afforded to the resident because of inadequate habilitation resources.

3 (10) Each resident, the parents or guardian of each resident, and the responsible person appointed
4 by the court must promptly upon the resident's admission receive a written copy of and be orally informed
5 of all the above standards for adequate habilitation, the rights accorded by 53-20-142, and other
6 information concerning the care and habilitation of the resident that may be available to assist them in
7 understanding the situation of the resident and the rights of the resident in the facility."
8

9 **Section 70.** Section 53-20-202, MCA, is amended to read:

10 **"53-20-202. Definitions.** As used in this part, the following definitions apply:

11 (1) "Comprehensive developmental disability system" means a system of services, including but
12 not limited to the following basic services, with the intention of providing alternatives to institutionalization:

- 13 (a) evaluation services;
- 14 (b) diagnostic services;
- 15 (c) treatment services;
- 16 (d) day-care services;
- 17 (e) training services;
- 18 (f) education services;
- 19 (g) employment services;
- 20 (h) recreation services;
- 21 (i) personal-care services;
- 22 (j) domiciliary-care services;
- 23 (k) special living arrangements services;
- 24 (l) counseling services;
- 25 (m) information and referral services;
- 26 (n) follow-along services;
- 27 (o) protective and other social and sociolegal services; and
- 28 (p) transportation services.

29 (2) "Department" means the department of public health and human services.

30 (3) "Developmental disabilities" means disabilities attributable to mental retardation, cerebral palsy,

1 epilepsy, autism, or any other ~~neurological~~ neurologically handicapping disabling condition closely related
 2 to mental retardation and requiring treatment similar to that required by mentally retarded individuals if the
 3 disability originated before the person attained age 18, has continued or can be expected to continue
 4 indefinitely, and ~~constitutes~~ results in the person having a substantial handicap disability of the person.

5 (4) "Developmental disabilities facility" means any service or group of services offering care to
 6 persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other
 7 programmatic basis.

8 (5) "Planning and advisory council" or "council" means the developmental disabilities planning and
 9 advisory council created in 2-15-2204."

10

11 **Section 71.** Section 53-20-203, MCA, is amended to read:

12 **"53-20-203. Responsibilities of department.** The department shall:

13 (1) take cognizance of matters affecting the citizens of the state who are persons with
 14 developmental disabilities;

15 (2) initiate a preventive developmental disabilities program ~~which shall~~ that must include but not
 16 be limited to the implementation of developmental disabilities care, treatment, prevention, and research as
 17 can best be accomplished by community-centered services. Every means ~~shall~~ must be ~~utilized~~ used to
 18 initiate and operate the service program in cooperation with local agencies under the provisions of
 19 53-20-205 and 53-20-207.

20 (3) collect and disseminate information relating to developmental disabilities;

21 (4) prepare, with the assistance of the planning and advisory council, an annual comprehensive
 22 plan for the initiation and maintenance of developmental disabilities services in the state. The services ~~shall~~
 23 must include but not be limited to community comprehensive developmental disabilities services as referred
 24 to in 53-20-202.

25 (5) provide by rule for the evaluation of persons who apply for services or persons admitted into
 26 a program at a developmental disability facility;

27 (6) provide state personnel to assist regional councils provided for in 53-20-207;

28 (7) receive from agencies of the government of the United States and other agencies, persons or
 29 groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
 30 materials, and contributions to initiate and maintain developmental disabilities services within the state;

1 (8) require that habilitation plans be developed, implemented, and continuously maintained for all
2 persons with developmental disabilities who are served through a community-based program funded by the
3 state; and

4 (9) use funds available for cases in which special medical or material assistance is necessary to
5 rehabilitate children with developmental disabilities or ~~physically handicapped~~ children with physical
6 disabilities if ~~such~~ assistance is not otherwise provided for by law."

7
8 **Section 72.** Section 61-3-332, MCA, is amended to read:

9 **"61-3-332. Number plates.** (1) A motor vehicle that is driven upon the streets or highways of
10 Montana must display both front and rear number plates, bearing the distinctive number assigned to the
11 vehicle. The number plates are in 10 series: one series for owners of motorcars, one for owners of motor
12 vehicles of the motorcycle or quadricycle type, one for trailers, one for trucks, one for dealers in vehicles
13 of the motorcycle or quadricycle type that bear the distinctive letters "MCD" or the letters "MC" and the
14 word "DEALER", one for franchised dealers in new motorcars (including trucks and trailers) or new and
15 used motorcars (including trucks and trailers) that bear the distinctive letter "D" or the word "DEALER",
16 one for dealers in used motorcars only (including used trucks and trailers) that bear the distinctive letters
17 "UD" or the letter "U" and the word "DEALER", one for dealers in trailers and/or semitrailers (new or used)
18 that bear the distinctive letters "DTR" or the letters "TR" and the word "DEALER", one for dealers in
19 recreational vehicles that bear the distinctive letters "RV" or the letter "R" and the word "DEALER", and
20 one for special license plates. All markings for the various kinds of dealers' plates must be placed on the
21 number plates assigned to the dealer, in the position that the department designates.

22 (2) All number plates for motor vehicles must be issued for a minimum period of 4 years, bear a
23 distinctive marking, and be furnished by the state. In years when number plates are not issued, the
24 department shall provide nonremovable stickers bearing appropriate registration numbers that must be
25 affixed to the license plates in use.

26 (3) Subject to the provisions of this section, the department shall create a new design for number
27 plates as provided in this section.

28 (4) In the case of motorcars and trucks, plates must be of metal 6 inches wide and 12 inches in
29 length. The outline of the state of Montana must be used as a distinctive border on the license plates, and
30 the word "Montana" and the year must be placed across the plates. Registration plates must be treated

1 with a reflectorized background material according to specifications prescribed by the department.

2 (5) The distinctive registration numbers must begin with a number one or with a letter-number
3 combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. The
4 distinctive registration number or letter-number combination assigned to the vehicle must appear on the
5 plate preceded by the number of the county and appearing in horizontal order on the same horizontal
6 baseline. The county number must be separated from the distinctive registration number by a separation
7 mark unless a letter-number combination is used. The dimensions of the numerals and letters must be
8 determined by the department, and all county and registration numbers must be of equal height.

9 (6) For the use of tax-exempt motor vehicles, in addition to the markings provided in this section,
10 number plates must bear the following distinctive markings:

11 (a) For vehicles owned by the state, the department may designate the prefix number for the
12 various state departments. All numbered plates issued to state departments must bear the words "State
13 Owned", and a year number may not be indicated on the plates because these numbered plates are of a
14 permanent nature and will be replaced by the department only when the physical condition of numbered
15 plates requires it.

16 (b) For vehicles that are owned by the counties, municipalities, and special districts, as defined in
17 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and
18 operated by officials and employees in the line of duty and for vehicles on loan from the United States
19 government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials
20 and employees in the line of duty, there must be placed on the number plates assigned, in a position that
21 the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for
22 plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and
23 special districts that obtain plates within each county must begin with number one and be numbered
24 consecutively. Because these number plates are of a permanent nature, they are subject to replacement
25 by the department only when the physical condition of the number plates requires it and a year number may
26 not be displayed on the number plates.

27 (7) On all number plates assigned to motor vehicles of the truck and trailer type, other than
28 tax-exempt trucks and tax-exempt trailers, there must appear the letter "T" or the word "TRUCK" on plates
29 assigned to trucks and the letters "TR" or the word "TRAILER" on plates assigned to trailers and
30 housetrailers. The letters "MC" or the word "CYCLE" must appear on plates assigned to vehicles of the

1 motorcycle or quadricycle type.

2 (8) Number plates issued to a passenger car, truck, trailer, or vehicle of the motorcycle or
3 quadricycle type may be transferred only to a replacement passenger car, truck, trailer, or motorcycle- or
4 quadricycle-type vehicle. A registration or license fee may not be assessed upon a transfer of a number
5 plate under 61-3-317 and 61-3-335.

6 (9) For the purpose of this chapter, the several counties of the state are assigned numbers as
7 follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead,
8 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson,
9 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23;
10 Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31;
11 Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon,
12 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46;
13 Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral,
14 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they
15 may be formed, beginning with the number 57.

16 (10) Each type of special license plate approved by the legislature, except collegiate license plates
17 authorized in 61-3-463, must be a separate series of plates, numbered as provided in subsection (5), except
18 that the county number must be replaced by a nonremovable design or decal designating the group or
19 organization to which the applicant belongs. Unless otherwise specifically stated in this section, the special
20 plates are subject to the same rules and laws as govern the issuance of regular license plates, must be
21 placed or mounted on a vehicle owned by the person who is eligible to receive them, and must be removed
22 upon sale or other disposition of the vehicle. The special license plates must be issued to national guard
23 members, former prisoners of war, ~~handicapped~~ persons with disabilities, reservists, disabled veterans,
24 survivors of the Pearl Harbor attack, veterans of the armed services, or veterans of the armed services who
25 were awarded the purple heart medal, who comply with the following provisions:

26 (a) An active member of the Montana national guard may be issued special license plates with a
27 design or decal displaying the letters "NG". The adjutant general shall issue to each active member of the
28 Montana national guard a certificate authorizing the department to issue national guard plates, numbered
29 in sets of two with a different number on each set, and the member shall surrender the plates to the
30 department upon becoming ineligible to use them.

1 (b) An active member of the reserve armed forces of the United States of America who is a
2 resident of this state may be issued special license plates with a design or decal displaying the following:
3 United States army reserve, AR (symbol); United States naval reserve, NR (anchor); United States air force
4 reserve, AFR (symbol); and United States marine corps reserve, MCR (globe and anchor). The commanding
5 officer of each armed forces reserve unit shall issue to each eligible member of the reserve unit a certificate
6 authorizing the issuance of special license plates, numbered in sets of two with a different number on each
7 set. The member shall surrender the plates to the department upon becoming ineligible to use them.

8 (c) (i) A resident of Montana who is a veteran of the armed forces of the United States and who
9 is 100% disabled because of an injury that has been determined by the department of veterans affairs to
10 be service-connected may, upon presentation to the department of proof of the 100% disability, be issued:

11 (A) a special license plate under this section with a design or decal displaying the letters "DV"; or

12 (B) one set of any other military-related plates that the disabled veteran is eligible to receive under
13 this section.

14 (ii) The fee for original or renewal registration by a 100% disabled veteran for a passenger vehicle
15 or a truck with a GVW-rated capacity of 1 ton or less is \$5 and is in lieu of all other fees and taxes for that
16 vehicle under this chapter.

17 (iii) Special license plates issued to a disabled veteran are not transferable to another person.

18 (iv) A disabled veteran is not entitled to a special disabled veteran's license plate for more than one
19 vehicle.

20 (v) A vehicle lawfully displaying a disabled veteran's plate and that is conveying a 100% disabled
21 veteran is entitled to the parking privileges allowed a ~~handicapped person's~~ person with a disability's vehicle
22 under this title.

23 (d) A Montana resident who is a veteran of the armed forces of the United States and was
24 captured and held prisoner by a military force of a foreign nation, documented by the veteran's service
25 record, may upon application and presentation of proof be issued special license plates, numbered in sets
26 of two with a different number on each set, with a design or decal displaying the words "ex-prisoner of
27 war" or an abbreviation that the department considers appropriate.

28 (e) Except as provided in subsection (10)(c), upon payment of all taxes and fees required by parts
29 3 and 5 of this chapter and upon furnishing proof satisfactory to the department that the applicant meets
30 the requirements of this subsection (10)(e), the department shall issue to a Montana resident who is a

1 veteran of the armed services of the United States special license plates, numbered in sets of two with a
2 different number on each set, designed to indicate that the applicant is a survivor of the Pearl Harbor attack
3 if the applicant was a member of the United States armed forces on December 7, 1941, was on station on
4 December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) at Pearl Harbor, the island
5 of Oahu, or offshore at a distance of not more than 3 miles, and received an honorable discharge from the
6 United States armed forces. If special license plates issued under this subsection are lost, stolen, or
7 mutilated, the recipient of the plates is entitled to replacement plates upon request and without charge.

8 (f) A motor vehicle owner and resident of this state who is a veteran or the surviving spouse of
9 a veteran of the armed services of the United States may be issued license plates inscribed as provided in
10 subsection (10)(f)(i) if the veteran was separated from the armed services under other than dishonorable
11 circumstances or was awarded the purple heart medal:

12 (i) Upon submission of a department of defense form 214(DD-214) or its successor or documents
13 showing an other-than-dishonorable discharge or a reenlistment, proper identification, and other relevant
14 documents to show an applicant's qualification under this subsection, there must be issued to the applicant,
15 in lieu of the regular license plates prescribed by law, special license plates numbered in sets of two with
16 a different number on each set. The plates must display:

17 (A) the word "VETERAN" and a symbol signifying the United States army, United States navy,
18 United States air force, United States marine corps, or United States coast guard, according to the record
19 of service verified in the application; or

20 (B) a symbol representing the purple heart medal.

21 (ii) Plates must be furnished by the department to the county treasurer, who shall issue them to a
22 qualified veteran or to the veteran's surviving spouse. The plates must be placed or mounted on the vehicle
23 owned by the veteran or the veteran's surviving spouse designated in the application and must be removed
24 upon sale or other disposition of the vehicle.

25 (iii) Except as provided in subsection (10)(c), a veteran or surviving spouse who receives special
26 license plates under this subsection (10)(f) is liable for payment of all taxes and fees required under parts
27 3 and 4 of this chapter and a special veteran's or purple heart medal license plate fee of \$10. Upon an
28 original application for a license under this subsection (10)(f), the county treasurer shall:

29 (A) deposit \$3 of the special fee in the county general fund;

30 (B) remit \$1 for deposit in the state general fund; and

1 (C) deposit the remainder of the special fee in the state special revenue account established in
2 10-2-603 for administration, construction, operation, and maintenance of the state veterans' cemetery.

3 (iv) Upon subsequent annual renewal of registration, the county treasurer shall deposit all of the
4 special fee as provided in subsection (10)(f)(iii)(C).

5 (g) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may,
6 upon written application on a form prescribed by the department, be issued a special license plate with a
7 design or decal bearing a representation of a wheelchair as the symbol of ~~the handicapped~~ a person with
8 a disability."

9
10 **Section 73.** Section 61-3-454, MCA, is amended to read:

11 "**61-3-454. Special parking privilege.** A vehicle lawfully displaying specially inscribed license plates
12 issued under 61-3-332(10)(c)(i)(A) or 61-3-426(2) and conveying a 100% disabled veteran is entitled to
13 the parking privileges allowed a ~~handicapped person's~~ person with a disability's vehicle under 49-4-302."

14
15 **Section 74.** Section 61-12-504, MCA, is amended to read:

16 "**61-12-504. Fees for identification cards.** (1) Fees not in excess of \$8 for identification cards
17 issued pursuant to this part must be collected and deposited in the general fund. A ~~handicapped~~ person
18 with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged
19 from any correctional facility must be furnished a free identification card upon release, discharge, or parole.
20 (2) Each identification card expires on the anniversary of the date of birth of the holder 4 years
21 after the date of issue."

22
23 **Section 75.** Section 69-3-307, MCA, is amended to read:

24 "**69-3-307. Treatment of advertisement costs and contributions.** Costs or expenses incurred by
25 public utilities for advertising, transfers of funds without full and adequate consideration, contributions,
26 donations, and gifts may not be treated as expenses deductible from income or from capital assets or in
27 any other manner by the public service commission in setting or regulating rates ~~which that~~ may be charged
28 by the public utilities pursuant to this chapter. This section ~~shall~~ does not apply to advertising ~~which that~~
29 encourages the conservation of energy or product safety or informs the public of the availability of
30 alternative forms of energy or recommends usage at times of lower rates or lower demand. Furthermore,

1 for communications public utilities, the provisions of this section ~~shall do~~ not apply to advertising ~~which~~
 2 that relates to special equipment that is available to aid ~~the handicapped~~ persons with disabilities or to
 3 special services that are designed to protect the public health, welfare, and safety, to promote more
 4 efficient use of a communications system, or to promote increased use of regulated communications
 5 services."

6

7 **Section 76.** Section 77-2-318, MCA, is amended to read:

8 **"77-2-318. Sale of leased cabin or home sites or city or town lots.** (1) At the request of the lessee
 9 and if consistent with the orderly development and management of state lands, the board may make
 10 available for sale, in the manner provided in this part, any leased cabin or home site or city or town lot that
 11 was under lease on October 1, 1989.

12 (2) The lessee requesting the sale shall have prepared a current certificate of survey for the
 13 property. The cost of preparation of the certificate of survey must be included in the settlement for
 14 improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser.

15 (3) The sale of a lease is exempt from the subdivision laws, except that the development of any
 16 new, replacement, or additional water supply or sewage disposal system on the property must be approved
 17 pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.

18 (4) The sale of a leased cabin or home site or city or town lot under 77-2-318 through 77-2-320
 19 must be completed no later than 10 years after October 1, 1989. A lessee may request a lease sale at any
 20 time during the 10-year period. Upon request, the board may grant a ~~handicapped~~ lessee with a disability
 21 or a lessee 65 years of age or older an additional 10-year period to request a sale of leased land.

22 (5) Upon a sale of leased land, the department shall, upon compliance with 77-2-101 through
 23 77-2-106, grant a permanent easement across state lands to secure access using current routes."

24

25 **Section 77.** Section 87-2-706, MCA, is amended to read:

26 **"87-2-706. Drawing for special antelope licenses.** (1) In the event that the number of valid
 27 applications for special antelope licenses for a hunting district exceeds the quota set by the department for
 28 the district, ~~such the~~ licenses ~~shall~~ must be awarded by a drawing. The department shall provide for those
 29 persons making valid application for special antelope licenses a method of selecting first, second, and third
 30 choice hunting districts for any drawing held pursuant to this section.

1 (2) The department shall reserve for applicants who are ~~permanently physically handicapped and~~
 2 nonambulatory and have a permanent physical disability, as determined by the department, up to 25 of the
 3 total special antelope licenses authorized for sale in the state, for use in the district designated by the
 4 commission. If the number of valid disabled applicants exceeds the number of licenses available, the
 5 department may hold a drawing whereby in which all applicants have an equal chance of being selected.

6 (3) The department may promulgate ~~such rules and regulations as that~~ are necessary to implement
 7 this section."
 8

9 **Section 78.** Section 87-2-803, MCA, is amended to read:

10 "**87-2-803. ~~Disabled persons~~ Persons with disabilities.** (1) ~~Disabled persons~~ Persons with
 11 disabilities are entitled to fish and to hunt game birds with only a conservation license if they are residents
 12 of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule.

13 (2) A resident of Montana who is certified as disabled by the department and who is not residing
 14 in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident
 15 who is 15 years of age or older and who is under 62 years of age.

16 (3) A resident or nonresident ~~disabled~~ person with a disability who is certified as disabled by the
 17 department and who is not residing in an institution may carry a permit on a form prescribed by the
 18 department. A ~~disabled~~ person with a disability who is issued a permit under this subsection is entitled to
 19 have the department stamp the permit with "Permission to Hunt From a Vehicle" if the person establishes
 20 to the satisfaction of the department that the person is ~~permanently physically handicapped and~~
 21 nonambulatory and has a permanent physical disability or that the person's mobility is substantially
 22 impaired.

23 (4) A ~~disabled~~ person with a disability carrying a permit as required in subsection (3), upon which
 24 is stamped "Permission to Hunt From a Vehicle", may hunt by shooting a firearm from the shoulder, berm,
 25 or barrow pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway,
 26 or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a
 27 shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists
 28 or that is parked in an area, not a public highway, where hunting is permitted. ~~Nothing in this~~ This
 29 subsection ~~allows~~ does not allow a ~~disabled~~ person with a disability to shoot across the roadway of any
 30 public highway or to hunt on private property without permission of the landowner. A ~~disabled~~ person with

1 a disability who hunts as authorized in this subsection must have a companion to assist in immediately
 2 dressing any killed game animal. The companion may also assist the ~~disabled~~ hunter with a disability by
 3 hunting a game animal that has been wounded by the ~~disabled~~ hunter with a disability when the ~~disabled~~
 4 hunter with a disability is unable to pursue and kill the wounded game animal. Any vehicle from which a
 5 ~~disabled~~ person with a disability is hunting must be conspicuously marked with an orange-colored
 6 international symbol of ~~the handicapped persons with disabilities~~ on the front, rear, and each side of the
 7 vehicle.

8 (5) A resident of Montana who is certified by the department as a blind individual, as defined in
 9 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
 10 license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by
 11 department rule. An applicant for a license under this subsection need not obtain a wildlife conservation
 12 license as a prerequisite to licensure."

13

14 **Section 79.** Section 90-6-103, MCA, is amended to read:

15 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
 16 definitions apply:

17 (1) "Board" means the board of housing created in 2-15-1814.

18 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
 19 indebtedness issued by the board pursuant to this part, including those on which interest payments are
 20 taxable and those on which interest payments are tax exempt.

21 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

22 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

23 (5) "Federally insured mortgage" means a mortgage loan for land development or residential
 24 housing insured or guaranteed by the United States or a governmental agency or instrumentality ~~thereof~~
 25 of the United States or a commitment by the United States or a governmental agency or instrumentalities
 26 ~~thereof of the United States~~ to insure ~~each~~ a mortgage.

27 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
 28 repayment of principal and interest by the United States or an instrumentality ~~thereof of the United States~~.

29 (7) "Governmental agency" means any department, division, public corporation, public agency,
 30 political subdivision, or other public instrumentality of the state, the federal government, any other state

1 or public agency, or any two or more ~~thereof~~ of the entities listed in this subsection.

2 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
3 projects, nursing home projects, ~~personal-care~~ personal-care projects, and any work or undertaking financed
4 in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating ~~such~~
5 accommodations for persons or families of lower income in need of housing. An undertaking may include
6 any buildings, land, equipment, facilities, or other real or personal properties ~~which~~ that are necessary,
7 convenient, or desirable in connection ~~therewith~~ with a development, including but not limited to streets,
8 sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities ~~as~~ that the board
9 determines to be necessary, convenient, or desirable.

10 (9) "Housing development costs" means the sum total of all costs incurred in a housing
11 development approved by the board as reasonable and necessary, including but not limited to:

12 (a) cost of land acquisition and any buildings ~~thereon~~ on the land, including payments for options,
13 deposits, or contracts to purchase properties on the proposed housing development site or payments for
14 the purchase of properties;

15 (b) cost of site preparation, demolition, and clearing;

16 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
17 connection with the planning, execution, and financing of the housing development and the finding of an
18 eligible mortgagee or mortgagees for the housing development;

19 (d) cost of necessary studies, surveys, plans, and permits;

20 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs
21 during construction;

22 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
23 apparatus, and similar facilities related to the real property;

24 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the
25 costs have been paid in cash or in a form other than cash;

26 (h) necessary expenses in connection with initial occupancy of the housing development;

27 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if
28 applicable, a limited-profit housing sponsor;

29 (j) an allowance established by the board for working capital and contingency reserves and reserves
30 for any anticipated operating deficits during construction and initial occupancy;

1 (k) ~~costs~~ cost of other items, including tenant relocation, ~~as~~ that the board determines to be
 2 reasonable and necessary for the housing development, less any ~~and all~~ net rents and other net ~~revenues~~
 3 revenue received from the operation of the real and personal property on the development site during the
 4 construction.

5 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts,
 6 firms, associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit
 7 corporations, or other legal entities or any combination ~~thereof~~ of the entities listed in this subsection that
 8 are:

9 (a) approved by the board;

10 (b) qualified ~~either~~ to either own, construct, acquire, rehabilitate, operate, manage, or maintain a
 11 housing development;

12 (c) subject to the rules of the board and other terms and conditions set forth in this part.

13 (11) "Lending institution" means any public or private entity or governmental agency approved by
 14 the board maintaining an office in this state and authorized by law to make or participate in making
 15 residential mortgages in the state.

16 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other
 17 entity, or an individual restricted as to distribution of income and regulated as to rents, charges, rate of
 18 return, and methods of operation as the board determines necessary to carry out this part.

19 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument ~~which shall constitute~~
 20 that constitutes a valid lien on real property in fee simple or on a leasehold under a lease having a remaining
 21 term at the time that the mortgage is acquired, ~~which that~~ does not expire for at least that number of years
 22 beyond the maturity date of the obligation secured by the mortgage established by the board as necessary
 23 to protect its interest as mortgagee.

24 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
 25 improvements in the state.

26 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15,
 27 or a nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and
 28 regulated as to rents, charges, rate of return, and methods of operation as the board determines necessary,
 29 and whose articles of incorporation provide in addition that:

30 (a) the organization has been organized exclusively to provide housing developments for persons

1 and families of lower income;

2 (b) all the income and earnings of the organization ~~shall~~ must be used exclusively for housing
3 development purposes and ~~no~~ part of the net income or net earnings of the organization ~~shall~~ may not inure
4 to the benefit or profit of any private individual, firm, corporation, partnership, or association;

5 (c) the organization is in no manner controlled or under the direction or acting in the substantial
6 interest of any private individual, firm, partnership, or association seeking to derive profit or gain ~~therefrom~~
7 from the organization or seeking to eliminate or minimize losses in any transactions ~~therewith~~ with the
8 organization, except that the limitations ~~shall~~ apply to members of a cooperative only to the extent provided
9 by rules of the board;

10 (d) the operations of the organization may be supervised by the board and the organization will
11 enter into agreements with the board to regulate planning, development, and management of any housing
12 development undertaken by the organization and the disposition of the property or other interests of the
13 organization.

14 (16) "Persons and families of lower income" means persons and families with insufficient personal
15 or family income or other financial resources who require assistance under this part, as determined by the
16 board, taking into consideration:

17 (a) the amount of the total personal and family income, assets, and other financial resources
18 available for housing needs;

19 (b) the size of the family;

20 (c) the eligibility of persons and families under federal housing assistance of any type based on
21 lower income or a functional or physical disability;

22 (d) the ability of persons and families to compete successfully in the normal housing market and
23 to pay the amount at which private enterprise is providing decent, safe, and sanitary housing;

24 (e) the availability and cost of housing in particular areas; and

25 (f) needs of particular persons or families ~~due to~~ because of age or physical ~~handicaps~~ disabilities.

26 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to
27 provide decent, safe, and sanitary housing or to conform housing with state or local health, building, fire
28 prevention, and safety codes as determined by the board."

29

30 **Section 80.** Section 90-7-104, MCA, is amended to read:

1 **"90-7-104. Eligible health facility.** (1) Eligible health facility means any structure or building used
2 as a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101; ~~center~~ facilities for
3 persons with ~~developmental~~ disabilities; ~~center for the handicapped~~; chemical dependency treatment ~~center~~
4 facilities; nursing school; medical teaching facility; laboratory; dental care facility; or other structure or
5 facility related to any of the foregoing or required or useful for the operation of a health facility. These
6 related facilities include supporting service structures and all necessary, useful, and related equipment,
7 furnishings, and appurtenances and include without limitation the acquisition, preparation, and development
8 of all lands and real and personal property necessary or convenient as a site for any of the foregoing.

9 (2) An eligible health facility does not include such items as food, fuel, supplies, or other items that
10 are customarily considered as current operating expenses; and eligible health facility does not include a
11 structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities
12 or religious worship."

13

-END-

1 HOUSE BILL NO. 53

2 INTRODUCED BY BOHLINGER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING DISABILITIES;
5 SUBSTITUTING REFERENCES TO A PERSON WITH A DISABILITY FOR REFERENCES TO A HANDICAPPED
6 PERSON; AND AMENDING SECTIONS 2-15-2205, 2-15-2212, 7-14-111, 7-15-4207, 7-15-4431,
7 13-3-201, 13-3-202, 13-3-203, 13-3-205, 13-3-207, 13-3-213, 13-13-211, 15-6-201, 15-30-114,
8 15-30-115, 18-5-101, 18-5-102, 18-5-103, 20-7-401, 20-25-707, 22-1-103, 33-22-304, 33-22-506,
9 33-30-1003, 33-30-1004, 37-15-101, 37-30-307, 37-31-301, 37-31-308, 39-2-912, 39-3-406,
10 39-30-101, 39-30-102, 39-30-103, 39-30-106, 39-30-107, 39-30-201, 39-30-202, 39-30-203,
11 39-71-901, 39-71-903, 39-71-904, 39-71-905, 39-71-906, 39-71-907, 50-1-202, 50-5-105, 50-60-201,
12 52-1-103, 52-2-113, 53-2-201, 53-4-607, 53-7-101, 53-7-102, 53-7-105, 53-7-301, 53-7-306,
13 53-18-101, 53-18-103, 53-18-105, 53-19-102, 53-19-301, 53-19-302, 53-19-306, 53-19-307,
14 53-19-310, 53-20-102, 53-20-142, 53-20-148, 53-20-202, 53-20-203, 61-3-332, 61-3-454, 61-12-504,
15 69-3-307, 77-2-318, 87-2-706, 87-2-803, 90-6-103, AND 90-7-104, MCA."

16

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

APPROVED BY COM ON PUBLIC
HEALTH, WELFARE & SAFETY

HOUSE BILL NO. 53

INTRODUCED BY BOHLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING DISABILITIES;
SUBSTITUTING REFERENCES TO A PERSON WITH A DISABILITY FOR REFERENCES TO A HANDICAPPED
PERSON; AND AMENDING SECTIONS 2-15-2205, 2-15-2212, 7-14-111, 7-15-4207, 7-15-4431,
13-3-201, 13-3-202, 13-3-203, 13-3-205, 13-3-207, 13-3-213, 13-13-211, 15-6-201, 15-30-114,
15-30-115, 18-5-101, 18-5-102, 18-5-103, 20-7-401, 20-25-707, 22-1-103, 33-22-304, 33-22-506,
33-30-1003, 33-30-1004, 37-15-101, 37-30-307, 37-31-301, 37-31-308, 39-2-912, 39-3-406,
39-30-101, 39-30-102, 39-30-103, 39-30-106, 39-30-107, 39-30-201, 39-30-202, 39-30-203,
39-71-901, 39-71-903, 39-71-904, 39-71-905, 39-71-906, 39-71-907, 50-1-202, 50-5-105, 50-60-201,
52-1-103, 52-2-113, 53-2-201, 53-4-607, 53-7-101, 53-7-102, 53-7-105, 53-7-301, 53-7-306,
53-18-101, 53-18-103, 53-18-105, 53-19-102, 53-19-301, 53-19-302, 53-19-306, 53-19-307,
53-19-310, 53-20-102, 53-20-142, 53-20-148, 53-20-202, 53-20-203, 61-3-332, 61-3-454, 61-12-504,
69-3-307, 77-2-318, 87-2-706, 87-2-803, 90-6-103, AND 90-7-104, MCA."

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

Section 1. Section 2-15-2205, MCA, is amended to read:

"2-15-2205. Division of visual services. There is a division of visual services within the department of public health and human services. The division head is an administrator appointed by the director of the department of public health and human services in accordance with classification requirements. The division is responsible for administration of rehabilitative and other services for blind and visually handicapped persons and persons with low vision."

Section 2. Section 2-15-2212, MCA, is amended to read:

"2-15-2212. Committee on telecommunications services for ~~the handicapped persons with disabilities~~ -- composition -- allocation. (1) There is a committee on telecommunications services for ~~the handicapped persons with disabilities.~~

(2) The committee consists of 11 members appointed by the governor as follows:

1 (a) four members who are ~~handicapped~~ persons with disabilities, two of whom must be deaf or
2 hard-of-hearing;

3 (b) two members who are not ~~handicapped~~ persons with disabilities, one of whom must be
4 engaged in a business other than a business in the telecommunications industry and one of whom must
5 be a senior citizen;

6 (c) one member from the department of public health and human services;

7 (d) one member from the largest local exchange company in Montana;

8 (e) one member from an independent local exchange company;

9 (f) one member from an interLATA interexchange carrier; and

10 (g) one member from the public service commission.

11 (3) The committee is allocated to the department of public health and human services for
12 administrative purposes only as provided in 2-15-121."

13
14 **Section 3.** Section 7-14-111, MCA, is amended to read:

15 **"7-14-111. Transportation for senior citizens and ~~handicapped~~ persons with disabilities.** (1) A
16 county, urban transportation district, or municipality may, in addition to all other property tax levies
17 authorized by law, levy up to 1 mill of property taxes to fund special transportation services for senior
18 citizens and ~~handicapped~~ persons with disabilities.

19 (2) The proceeds of the levy may be used to:

20 (a) contract with public or private transportation providers for services to senior citizens and
21 ~~handicapped~~ individuals with disabilities; or

22 (b) augment or subsidize provisions for the transportation of senior citizens and ~~handicapped~~
23 individuals with disabilities provided by public transportation providers.

24 (3) If the taxing jurisdiction determines that it is not in the best interest of senior citizens and
25 ~~handicapped~~ individuals with disabilities to use the tax levy as provided for in subsection (2), the taxing
26 jurisdiction may use the proceeds of the levy to establish and operate an independent transportation system
27 for senior citizens and ~~handicapped~~ individuals with disabilities.

28 (4) Counties, urban transportation districts, and municipalities are encouraged to enter into
29 interlocal agreements to provide regional transportation services to senior citizens and ~~handicapped~~
30 with disabilities and may create regional advisory committees to coordinate regional transportation

1 services."

2

3 **Section 4.** Section 7-15-4207, MCA, is amended to read:

4 "7-15-4207. **Prohibition against discrimination.** For all of the purposes of this part and part 43,
5 ~~no~~ a person may not be subjected to discrimination because of sex, race, creed, religion, age, physical or
6 mental ~~handicap~~ disability, color, or national origin."

7

8 **Section 5.** Section 7-15-4431, MCA, is amended to read:

9 "7-15-4431. **Appointment of commissioners.** (1) An authority consists of seven commissioners
10 appointed by the mayor, ~~and he.~~ The mayor shall designate the first ~~chairman~~ presiding officer. A
11 commissioner may not be a city official.

12 (2) Two of the commissioners must be tenants of the housing authority. One tenant commissioner
13 shall represent family tenants, and one tenant commissioner shall represent elderly tenants and ~~handicapped~~
14 tenants with disabilities. Nominees for tenant commissioner shall submit to the city clerk a petition signed
15 by not less than 25 adult tenants of the authority or 25% of the adult tenants of the authority, whichever
16 is greater. The city clerk shall submit a list of the tenant nominees to the mayor for appointment to the
17 housing authority. The staff of the housing authority may not involve itself in the nomination or
18 appointment of tenant commissioners.

19 (3) The mayor shall file with the city clerk a certificate of the appointment or reappointment of any
20 commissioner, and the certificate is conclusive evidence of the ~~due and~~ proper appointment of the
21 commissioner."

22

23 **Section 6.** Section 13-3-201, MCA, is amended to read:

24 "13-3-201. **Purpose.** The purpose of this part is to promote the fundamental right to vote by
25 improving access for ~~handicapped~~ handicapped individuals with disabilities and elderly individuals to polling places. The
26 provisions of this part acknowledge that, in certain cases, it may not be possible to locate a polling place
27 that meets the standards for accessibility, either because ~~no~~ an accessible polling place ~~exists~~ does not
28 exist or, if it does, its location in the precinct would require undue travel for a majority of the electors. In
29 those cases when an accessible polling place is not available, this part provides ~~handicapped~~ handicapped voters with
30 disabilities and elderly voters an alternative means for casting a ballot on election day."

1 Section 7. Section 13-3-202, MCA, is amended to read:

2 "13-3-202. Definitions. As used in this part, unless the context indicates otherwise, the following
3 definitions apply:

4 (1) "Accessible" means accessible to ~~handicapped individuals with disabilities~~ and elderly
5 individuals for purposes of voting as determined in accordance with standards established by the secretary
6 of state under 13-3-205.

7 (2) "Disability" means a temporary or permanent physical impairment such as:

8 (a) impaired vision;

9 (b) impaired hearing; or

10 (c) impaired mobility. Individuals having impaired mobility include those who require use of a
11 wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

12 ~~(2)(3)~~ "Elderly" means 65 years of age or older.

13 ~~(3)(4)~~ "Election" means a general, special, or primary election held in an even-numbered year, as
14 provided for in 13-1-104(1) and 13-1-107(1).

15 ~~(4) "Handicapped" means having a temporary or permanent physical impairment such as:~~

16 ~~(a) impaired vision;~~

17 ~~(b) impaired hearing; or~~

18 ~~(c) impaired mobility. Individuals having impaired mobility include those who require use of a~~
19 ~~wheelchair and those who are ambulatory but are physically impaired due to age, disability, or disease."~~

20

21 Section 8. Section 13-3-203, MCA, is amended to read:

22 "13-3-203. Duty of secretary of state -- rulemaking. (1) Except as provided in 13-3-204, the
23 secretary of state shall ~~assure~~ ensure that all polling places are accessible to ~~handicapped~~ electors with
24 disabilities and elderly electors on election day.

25 (2) The secretary of state shall adopt rules to establish standards that a polling place must meet
26 in order to be designated accessible under this part.

27 (3) The secretary of state may adopt any other rules necessary for implementation of this part."

28

29 Section 9. Section 13-3-205, MCA, is amended to read:

30 "13-3-205. Adoption of standards for polling place accessibility -- rulemaking authority. The

1 secretary of state, with advice from election administrators and ~~handicapped~~ handicapped individuals with disabilities
2 and elderly individuals, shall establish standards for accessibility of polling places. The standards, whenever
3 possible, must be consistent with the standards for accessibility established by the American national
4 standards institute and the uniform federal accessibility standards."
5

6 **Section 10.** Section 13-3-207, MCA, is amended to read:

7 **"13-3-207. Polling place classifications.** (1) As a result of the survey provided in 13-3-206, each
8 polling place must be classified as:

- 9 (a) accessible;
10 (b) inaccessible;
11 (c) technically inaccessible but usable; or
12 (d) rural.

13 (2) An accessible polling place is one that meets the standards for accessibility established by the
14 secretary of state under 13-3-205.

15 (3) An inaccessible polling place is one that does not meet the standards for accessibility and
16 cannot be made accessible through safe, practical, and cost-effective methods.

17 (4) A technically inaccessible but usable polling place is one that does not meet all the standards
18 for accessibility but has been surveyed, evaluated, and certified as being adequate for use as a polling
19 place. ~~Such~~ The certification is cause for the secretary of state to grant the polling place an exemption from
20 the standards for accessibility. However, in a future election, the secretary of state may issue an objection
21 to the criteria used for determining that the facility is usable as a polling place.

22 (5) A rural polling place is one that serves less than 200 registered electors and is:

- 23 (a) granted an exemption from the standards for accessibility established under 13-3-205; and
24 (b) subject to review and redesignation 45 days prior to an election.

25 (6) A rural designation may not be construed as cause for denying ~~handicapped~~ handicapped electors with
26 disabilities or elderly electors at a polling place the right to choose an alternative means for casting a ballot
27 on election day as provided in 13-3-213."
28

29 **Section 11.** Section 13-3-213, MCA, is amended to read:

30 **"13-3-213. Alternative means for casting ballot.** (1) The election administrator shall provide

1 ~~handicapped~~ individuals with disabilities and elderly individuals an alternative means for casting a ballot on
 2 election day if they are assigned to an inaccessible polling place. These alternative means for casting a
 3 ballot include:

4 (a) delivery of a ballot to the elector as provided in 13-13-118;

5 (b) voting by absentee ballot as provided in 13-13-222; and

6 (c) prearranged assignment to an accessible polling place within the county.

7 (2) ~~Any handicapped~~ An elector with a disability or an elderly elector assigned to an inaccessible
 8 polling place who desires to vote at an accessible polling place:

9 (a) shall request assignment to an accessible polling place by notifying the election administrator
 10 in writing at least 7 days preceding the election;

11 (b) must be assigned to the nearest accessible polling place or technically inaccessible polling place
 12 for the purpose of voting in the election;

13 (c) shall sign ~~his~~ the elector's name on a special addendum to the official precinct register as
 14 required in 13-2-601; and

15 (d) ~~shall~~ must receive the same ballot to which ~~he~~ the elector is otherwise entitled.

16 (3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be
 17 processed and counted in the same manner as an absentee ballot."

18

19 **Section 12.** Section 13-13-211, MCA, is amended to read:

20 "13-13-211. **Application of absentee, chronically ill, ~~handicapped~~, elderly, or physically**
 21 **incapacitated elector or elector with a disability for ballot -- special absentee ballot application.** (1) Except
 22 as provided in 13-2-214, during a period beginning 75 days before the day of election and ending at noon
 23 on the day before the election, an individual may apply to the election administrator for an absentee ballot
 24 if ~~he~~ the individual is:

25 (a) an elector expecting to be absent from the county in which ~~his~~ the elector's voting precinct is
 26 situated;

27 (b) an elector who is chronically ill or in general ill health;

28 (c) ~~a handicapped~~ an elector with a disability or an elderly elector who has been assigned to an
 29 inaccessible polling place; or

30 (d) an elector who will be unable to go to the polls because of physical incapacity.

1 (2) A qualified elector who is prevented from voting at the polls as a result of an illness or health
2 emergency occurring between 5 p.m. on the Friday preceding the election and noon on election day may
3 request to vote by absentee ballot. The election administrator shall honor ~~any such a~~ request received up
4 to and including noon on election day. The election administrator is not required to comply with a request
5 by an elector who is absent from the county."

6
7 **Section 13.** Section 15-6-201, MCA, is amended to read:

8 **"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

9 (a) except as provided in 15-24-1203, the property of:

10 (i) the United States, except:

11 (A) if congress passes legislation that allows the state to tax property owned by the federal
12 government or an agency created by congress; or

13 (B) as provided in 15-24-1103;

14 (ii) the state, counties, cities, towns, and school districts;

15 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

16 (iv) municipal corporations;

17 (v) public libraries; and

18 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

19 (b) buildings, with land that they occupy and furnishings in the buildings, owned by a church and
20 used for actual religious worship or for residences of the clergy, together with adjacent land reasonably
21 necessary for convenient use of the buildings;

22 (c) property used exclusively for agricultural and horticultural societies, for educational purposes,
23 and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health
24 and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed
25 by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not
26 exempt.

27 (d) property that is:

28 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or
29 21;

30 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent

- 1 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 2 (iii) not maintained and operated for private or corporate profit;
- 3 (e) property owned or property that is leased from a federal, state, or local governmental entity by
- 4 institutions of purely public charity if the property is directly used for purely public charitable purposes;
- 5 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 6 Montana;
- 7 (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate
- 8 profit;
- 9 (h) all household goods and furniture, including but not limited to clocks, musical instruments,
- 10 sewing machines, and wearing apparel of members of the family, used by the owner for personal and
- 11 domestic purposes or for furnishing or equipping the family residence;
- 12 (i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations
- 13 attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.
- 14 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 15 (k) motor homes, travel trailers, and campers;
- 16 (l) all watercraft;
- 17 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association
- 18 or nonprofit corporation organized to furnish potable water to its members or customers for uses other than
- 19 the irrigation of agricultural land;
- 20 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 21 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by
- 22 another to explore, prospect, or dig for oil, gas, coal, or minerals;
- 23 (o) property that is owned and used by a corporation or association organized and operated
- 24 exclusively for the care of persons with developmental disabilities, ~~the mentally ill~~ PERSONS WITH MENTAL
- 25 ILLNESS, or ~~the vocationally handicapped persons with physical or mental impairments that constitute or~~
- 26 result in substantial impediments to employment as defined in 18-5-101 and that is not operated for gain
- 27 or profit and property that is owned and used by an organization owning and operating facilities that are
- 28 for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- 29 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
- 30 machinery with a market value of less than \$100;

1 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for
2 training and practice for or competition in international sports and athletic events and not held or used for
3 private or corporate gain or profit. For purposes of this subsection (1) (q), "nonprofit corporation" means
4 an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated
5 and admitted under the Montana Nonprofit Corporation Act.

6 (r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
7 hand-held and that are used to:

8 (i) construct, repair, and maintain improvements to real property; or

9 (ii) repair and maintain machinery, equipment, appliances, or other personal property;

10 (s) harness, saddlery, and other tack equipment;

11 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
12 33-25-105;

13 (u) timber as defined in 15-44-102;

14 (v) all trailers and semitrailers that have a licensed gross weight of 26,000 pounds or more or that
15 are registered through a proportional registration agreement under 61-3-721. For purposes of this
16 subsection (1) (v), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that
17 is:

18 (i) designed and used only for carrying property;

19 (ii) designed and used to be drawn by a motor vehicle; and

20 (iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed
21 so that some part of its weight and the weight of its load rests upon or is carried by another vehicle.

22 (w) all vehicles registered under 61-3-456.

23 (2) (a) For the purposes of subsection (1)(e), the term "institutions of purely public charity" includes
24 any organization that meets the following requirements:

25 (i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3),
26 Internal Revenue Code, as amended.

27 (ii) The organization accomplishes its activities through absolute gratuity or grants. However, the
28 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
29 performances or entertainment or by other similar types of fundraising activities.

30 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and

1 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
 2 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property
 3 includes all real and personal property reasonably necessary for use in connection with the public display
 4 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit
 5 organization by an individual or for-profit organization, real and personal property owned by other persons
 6 is exempt if it is:

- 7 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- 8 (ii) held for future display; or
- 9 (iii) used to house or store a public display.

10 (3) The following portions of the appraised value of a capital investment in a recognized nonfossil
 11 form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102,
 12 are exempt from taxation for a period of 10 years following installation of the property:

- 13 (a) \$20,000 in the case of a single-family residential dwelling;
- 14 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

15

16 **Section 14.** Section 15-30-114, MCA, is amended to read:

17 **"15-30-114. Additional exemption for dependent child with handicap a disability.** (1) In lieu of the
 18 exemption in 15-30-112(5), an exemption for twice the amount allowed for dependents ~~shall be~~ is allowed
 19 ~~for taxable years beginning after December 31, 1976,~~ for each dependent child with a handicap disability.

20 (2) In order to be eligible for the exemption, a dependent child with a handicap disability must, for
 21 the taxable year of the taxpayer, have as ~~his~~ the child's principal place of abode the home of the taxpayer
 22 and have a permanent handicap disability of great enough severity that it constitutes not less than 50%
 23 disability to the body as a whole. An exemption may be allowed for a dependent with a permanent
 24 handicap disability after ~~he~~ the individual reaches the age of majority if ~~he~~ the individual continues to be
 25 a dependent."

26

27 **Section 15.** Section 15-30-115, MCA, is amended to read:

28 **"15-30-115. Physician's verification of handicap disability required.** A taxpayer claiming the
 29 exemption provided for in 15-30-114 ~~must~~ shall provide with ~~his~~ the taxpayer's income tax statement
 30 written documentation by a licensed physician that the handicap disability qualifies under ~~that section~~

1 15-30-114."

2

3 **Section 16.** Section 18-5-101, MCA, is amended to read:

4 **"18-5-101. Definitions.** As used in ~~18-5-101 through 18-5-103~~ this part, the following definitions
5 apply:

6 (1) "Certified sheltered workshop" or "work activity center" means a nonprofit corporation
7 incorporated under the laws of the state for the purpose of providing vocational services to ~~disabled~~
8 ~~vocationally handicapped individuals~~ persons with disabilities, in whole or in part, ~~which that~~:

9 (a) holds a current certificate issued by the United States department of labor for either one or all
10 of the following:

11 (i) evaluation or training;

12 (ii) a regular work program; or

13 (iii) a work activity center;

14 (b) complies with other applicable occupational, health, and safety standards of local, state, and
15 federal governments governing the operation of ~~such~~ the facility not otherwise included in ~~18-5-101~~
16 ~~through 18-5-103~~ this part;

17 (c) in the manufacture of products and in the provision of service, whether or not the product or
18 service is procured under ~~18-5-101 through 18-5-103~~ this part, employs and trains ~~vocationally~~
19 ~~handicapped individuals~~ persons with disabilities for not less than 75% of the ~~man hours~~ hours of direct
20 labor required for the manufacture of products or the provision of service; and

21 (d) is ~~hereinafter~~ referred to as a "facility".

22 (2) "Department" means the department of administration.

23 (3) ~~"Vocationally handicapped"~~ "Person with a disability" means an individual ~~under~~ with a
24 physical, mental, or emotional disability ~~which that~~ constitutes a substantial ~~handicap~~ impediment
25 employment and that prevents the individual ~~under~~ with the disability from engaging in normal competitive
26 employment."

27

28 **Section 17.** Section 18-5-102, MCA, is amended to read:

29 **"18-5-102. Duties and powers of department of administration.** (1) The department shall maintain
30 a current list of facilities located in this state, including a list of products and services provided by each

1 facility, based on information provided by the facilities. A facility requesting to be included on the list shall
 2 indicate the products and services available from it and shall provide the department with updated
 3 information, as necessary.

4 (2) The department may contract with a nonprofit organization to:

5 (a) certify facilities;

6 (b) provide technical assistance to facilities on matters of product or service capabilities;

7 (c) facilitate distribution of orders among facilities and to ~~insure~~ ensure equal opportunity in
 8 obtaining orders.

9 (3) The department shall adopt, revise, and amend rules to implement ~~18-5-101 through 18-5-103~~
 10 this part in accordance with the procedures of the Montana Administrative Procedure Act."

11

12 **Section 18.** Section 18-5-103, MCA, is amended to read:

13 "**18-5-103. Procurement requirements.** State departments, institutions, and agencies may procure
 14 listed products and services from a facility. The provisions of this title relating to competitive bidding do
 15 not apply to purchases made in accordance with ~~18-5-101 through 18-5-103~~ this part."

16

17 **Section 19.** Section 20-7-401, MCA, is amended to read:

18 "**20-7-401. Definitions.** In this title, unless the context clearly indicates otherwise, the following
 19 definitions apply:

20 (1) "Assistive technology device" means any item, piece of equipment, or product system, whether
 21 acquired commercially, modified, or customized, that is used to increase, maintain, or improve the
 22 functional capabilities of children with disabilities.

23 (2) "Assistive technology service" means any service that directly assists a child with disabilities
 24 in the selection, acquisition, or use of an assistive technology device. The term includes:

25 (a) the evaluation of the needs of a child with disabilities, including a functional evaluation of the
 26 child in the child's customary environment;

27 (b) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices
 28 by a child with disabilities;

29 (c) selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing
 30 an assistive technology device;

1 (d) coordinating and using other therapies, interventions, or services with assistive technology
2 devices, such as those associated with existing education and rehabilitation plans and programs;

3 (e) training or technical assistance for a child with disabilities or, if appropriate, training or technical
4 assistance for that child's family; and

5 (f) training or technical assistance for professionals, including individuals providing education or
6 rehabilitation services, for employers, or for other individuals who provide services to, employ, or are
7 otherwise substantially involved in the major life functions of children with disabilities.

8 (3) "Autism" means a developmental disability that significantly affects verbal and nonverbal
9 communication and social interaction, that is generally evident before 3 years of age, and that adversely
10 affects a child's educational performance. Other characteristics often associated with autism are
11 engagement in repetitive activities and stereotyped movements, resistance to environment change or to
12 change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's
13 educational performance is adversely affected primarily because the child has a serious emotional
14 disturbance.

15 (4) "Child with ~~disabilities~~ a disability" means a child evaluated in accordance with the regulations
16 of the Individuals With Disabilities Education Act as having cognitive delay; hearing impairment, including
17 deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance;
18 orthopedic impairment; autism; traumatic brain injury; other health impairments; deaf-blindness; multiple
19 disabilities; or specific learning disabilities and who because of those impairments needs special education
20 and related services. A child who is 5 years of age or younger may be identified as a child with disabilities
21 without the specific disabilities being specified.

22 (5) "Cognitive delay" means significantly subaverage general intellectual functioning existing
23 concurrently with deficits in adaptive behavior and manifested during the developmental period that
24 adversely affects a child's educational performance.

25 (6) "Deaf-blindness" means concomitant hearing and visual impairments, the combination of which
26 causes such severe communication problems and other developmental and educational problems that the
27 problems cannot be accommodated in special education programs solely for children with deafness or for
28 children with blindness.

29 (7) "Deafness" means a hearing impairment that is so severe that the child is impaired in processing
30 linguistic information through hearing, with or without amplification, in a manner that adversely affects the

1 child's educational performance.

2 (8) "Emotional disturbance" means a condition exhibiting one or more of the following
3 characteristics to a marked degree and over a long period of time that adversely affects educational
4 performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an
5 inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate
6 types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or
7 depression; or a tendency to develop physical symptoms or fears associated with personal or school
8 problems. The term includes schizophrenia. The term does not include social maladjustment, unless it is
9 determined that the child is emotionally disturbed.

10 (9) "Free appropriate public education" means special education and related services that:

11 (a) are provided at public expense under public supervision and direction and without charge;

12 (b) meet the accreditation standards of the board of public education, the special education
13 requirements of the superintendent of public instruction, and the requirements of the Individuals With
14 Disabilities Education Act;

15 (c) include preschool, elementary school, and high school education in Montana; and

16 (d) are provided in conformity with an individualized education program that meets the
17 requirements of the Individuals With Disabilities Education Act.

18 (10) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that
19 adversely affects a child's educational performance but that is not included within the definition of
20 deafness.

21 (11) "Orthopedic impairment" means a severe orthopedic disability that adversely affects a child's
22 educational performance. The term includes but is not limited to impairment caused by congenital anomaly
23 (e.g., clubfoot or absence of some member), impairments caused by disease (e.g., poliomyelitis or bone
24 tuberculosis), and impairments from other causes (e.g., fractures or burns that cause contractures,
25 amputation, or cerebral palsy).

26 (12) "Other health impairment" means limited strength, vitality, or alertness ~~due to~~ because of
27 chronic or acute health problems, such as a heart condition, tuberculosis, rheumatic fever, nephritis,
28 asthma, ~~sickle-cell~~ sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, that
29 adversely affects a child's educational performance.

30 (13) "Related services" means transportation and any developmental, corrective, and other

1 supportive services that are required to assist a child with disabilities to benefit from special education and
2 includes speech-language pathology, audiology, occupational therapy, physical therapy, recreation,
3 including therapeutic recreation, early identification and assessment of disabilities in children, counseling
4 services, including rehabilitation counseling, and medical services for diagnostic or evaluation purposes. The
5 term also includes school health services, social work services in schools, and parental counseling and
6 training.

7 (14) "Special education" means specially designed instruction, given at no cost to the parents or
8 guardians, to meet the unique needs of a child with disabilities, including but not limited to instruction
9 conducted in a classroom, home, hospital, institution, or other setting and instruction in physical education.

10 (15) "Specific learning disability" means a disorder in one or more of the basic psychological
11 processes involved in understanding or in using language, spoken or written, that may manifest itself in an
12 imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term
13 includes but is not limited to such conditions as perceptual ~~handicaps~~ disabilities, brain injury, minimal brain
14 dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning
15 problems that are primarily the result of visual, hearing, or motor ~~handicaps~~ disabilities; cognitive delay; or
16 environmental, cultural, or economic disadvantages.

17 (16) "Speech-language impairment" means a communication disorder, such as stuttering, impaired
18 articulation, or a language or voice impairment, that adversely affects a child's interpersonal relationships
19 or educational performance.

20 (17) "Surrogate parent" means an individual appointed to safeguard a child's rights and protect the
21 child's interests in educational evaluation, placement, and hearing or appeal procedures concerning the
22 child.

23 (18) "Traumatic brain injury" means an acquired injury to the brain caused by an external physical
24 force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely
25 affects a child's educational performance. The term does not apply to brain injuries that are congenital or
26 degenerative or to brain injuries that are induced by birth trauma.

27 (19) "Visual impairment" means an impairment that, after correction, adversely affects a child's
28 educational performance. The term includes both partial blindness and blindness."

29

30 **Section 20.** Section 20-25-707, MCA, is amended to read:

1 **"20-25-707. Antidiscrimination. No An** employer is not eligible to employ any person under this
 2 program if the employer practices discrimination in employment against any individual because of race,
 3 creed, religion, color, political ideas, sex, age, marital status, physical or mental ~~handicap~~ disability,
 4 ancestry, or national origin."

5
 6 **Section 21.** Section 22-1-103, MCA, is amended to read:

7 **"22-1-103. State library commission -- authority.** The state library commission ~~has the power to~~
 8 may:

9 (1) give assistance and advice to all tax-supported or public libraries in the state and to all counties,
 10 cities, towns, or regions in the state that ~~may~~ propose to establish libraries, as to the best means of
 11 establishing and improving those libraries;

12 (2) maintain and operate the state library and make provision for its housing;

13 (3) (a) accept and expend in accordance with the terms of a grant any grant of federal funds that
 14 ~~may become~~ is available to the state for library purposes;

15 (b) accept, receive, and administer any gifts, donations, bequests, and legacies made to the
 16 Montana state library. Unless otherwise provided by the donor, gifts, donations, bequests, and legacies
 17 must be deposited in the Montana state library trust established in 22-1-225.

18 (4) make rules and establish standards for the administration of the state library and for the control,
 19 distribution, and lending of books and materials;

20 (5) serve as the agency of the state to accept and administer any state, federal, or private funds
 21 or property appropriated for or granted to it for library service or foster libraries in the state and establish
 22 regulations under which funds must be disbursed;

23 (6) provide library services ~~for the blind and physically handicapped~~ FOR THE BLIND AND for
 24 individuals with physical PHYSICAL disabilities;

25 (7) furnish, by contract or otherwise, library assistance and information services to state officials,
 26 state departments, and residents of those parts of the state inadequately serviced by libraries;

27 (8) act as a state board of professional standards and library examiners, develop standards for
 28 public libraries, and adopt rules for the certification of librarians;

29 (9) designate areas for the establishment of federations of libraries and designate the headquarters
 30 library for the federations."

1 **Section 22.** Section 33-22-304, MCA, is amended to read:

2 "**33-22-304. Continuation of coverage for handicapped individuals with disabilities -- individual**
 3 **contracts.** (1) An individual hospital or medical expense insurance policy or hospital or medical service plan
 4 contract delivered or issued for delivery in this state ~~after October 28, 1971, which that~~ provides that
 5 coverage of a dependent child ~~shall terminate~~ terminates upon attainment of the limiting age for dependent
 6 children specified in the policy or contract ~~shall~~ must also provide in substance that attainment of ~~such the~~
 7 limiting age ~~shall~~ may not operate to terminate the coverage of ~~such the~~ child while the child is and
 8 continues to be both incapable of self-sustaining employment by reason of mental retardation or physical
 9 ~~handicap~~ disability and chiefly dependent upon the policyholder or subscriber for support and maintenance;
 10 ~~provided proof~~ Proof of ~~such incapacity~~ retardation or the disability and dependency ~~is~~ must be furnished
 11 to the insurer or hospital or medical service plan corporation by the policyholder or subscriber within 31
 12 days of the child's attainment of the limiting age and subsequently as may be required by the insurer or
 13 corporation, ~~but~~ Proof may not be required more frequently than annually after the 2-year period following
 14 the child's attainment of the limiting age.

15 (2) ~~The~~ Notwithstanding any other exemption or contrary law, the provisions of this section ~~shall~~
 16 have equal application to hospital or medical expense insurance policies and hospital and medical service
 17 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

18

19 **Section 23.** Section 33-22-506, MCA, is amended to read:

20 "**33-22-506. Continuation of coverage for handicapped persons with disabilities -- group contracts.**
 21 (1) A group hospital or medical expense insurance policy or hospital or medical service plan contract
 22 delivered or issued for delivery in this state ~~after October 28, 1971, which that~~ provides that coverage of
 23 a dependent child of an employee or other member of the covered group ~~shall terminate~~ terminates upon
 24 attainment of the limiting age for dependent children specified in the policy or contract ~~shall~~ must also
 25 provide in substance that attainment of ~~such the~~ limiting age ~~shall~~ may not operate to terminate the
 26 coverage of ~~such the~~ child while the child is and continues to be both incapable of self-sustaining
 27 employment by reason of mental retardation or physical ~~handicap~~ disability and chiefly dependent upon the
 28 employee or member for support and maintenance;
 29 ~~provided proof~~ Proof of ~~such incapacity~~ retardation or
 30 the disability and dependency ~~is~~ must be furnished to the insurer or hospital or medical service plan
 corporation by the employee or member within 31 days of the child's attainment of the limiting age and

1 subsequently as may be required by the insurer or corporation, ~~but~~ Proof may not be required more
 2 frequently than annually after the 2-year period following the child's attainment of the limiting age.

3 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
 4 have equal application to hospital or medical expense insurance policies and hospital and medical service
 5 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

6
 7 **Section 24.** Section 33-30-1003, MCA, is amended to read:

8 "**33-30-1003. Continuation of coverage for handicapped persons with disabilities** -- individual
 9 **contracts.** (1) An individual hospital or medical service plan contract, delivered or issued for delivery in this
 10 state ~~after October 28, 1971, which that~~ provides that coverage of a dependent child ~~shall terminate~~
 11 terminates upon attainment of the limiting age for dependent children specified in the contract ~~shall~~ must
 12 also provide in substance that attainment of ~~such the~~ limiting age ~~shall may~~ not operate to terminate the
 13 coverage of ~~such the~~ child while the child is and continues to be both incapable of self-sustaining
 14 employment by reason of mental retardation or physical ~~handicap~~ disability and chiefly dependent upon the
 15 subscriber for support and maintenance, ~~provided proof~~ Proof of ~~such incapacity~~ retardation or the
 16 disability and dependency ~~is~~ must be furnished to the hospital or medical service plan corporation by the
 17 subscriber within 31 days of the child's attainment of the limiting age and subsequently as may be required
 18 by the corporation, ~~but~~ Proof may not be required more frequently than annually after the 2-year period
 19 following the child's attainment of the limiting age.

20 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
 21 have equal application to hospital or medical expense insurance policies, and hospital and medical service
 22 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

23
 24 **Section 25.** Section 33-30-1004, MCA, is amended to read:

25 "**33-30-1004. Continuation of coverage for handicapped persons with disabilities** -- group
 26 **contracts.** (1) A group hospital or medical service plan contract, delivered or issued for delivery in this state
 27 ~~after October 28, 1971, which that~~ provides that coverage of a dependent child of an employee or other
 28 member of the covered group ~~shall terminate~~ terminates upon attainment of the limiting age for dependent
 29 children specified in the contract ~~shall~~ must also provide in substance that attainment of ~~such the~~ limiting
 30 age ~~shall~~ may not operate to terminate the coverage of ~~such the~~ child while the child is and continues to

1 be both incapable of self-sustaining employment by reason of mental retardation or physical handicap
 2 disability and chiefly dependent upon the employee or member for support and maintenance, ~~provided~~
 3 ~~proof~~ Proof of ~~such the incapacity~~ retardation or disability and dependency is must be furnished to the
 4 hospital or medical service plan corporation, by the employee or member within 31 days of the child's
 5 attainment of the limiting age and subsequently as may be required by the corporation, ~~but~~ Proof may not
 6 be required more frequently than annually after the 2-year period following the child's attainment of the
 7 limiting age.

8 (2) ~~The Notwithstanding any other exemption or contrary law, the provisions of this section shall~~
 9 have equal application to hospital or medical expense insurance policies, and hospital and medical service
 10 plan contracts, ~~any other exemption or law to the contrary notwithstanding.~~"

11

12 **Section 26.** Section 37-15-101, MCA, is amended to read:

13 "**37-15-101. Purpose.** The legislature ~~of the state of Montana~~ declares it to be a policy of this
 14 state that in order to safeguard the public health, safety, and welfare and to protect the public from being
 15 misled by incompetent, unscrupulous, and unauthorized persons and to protect the public from
 16 unprofessional conduct by qualified speech-language pathologists and audiologists and to help ~~assure~~
 17 ensure the availability of the highest possible quality speech-language pathology and audiology services to
 18 the ~~communicatively handicapped~~ people of this state with communicative disabilities, it is necessary to
 19 provide regulatory authority over persons offering speech-language pathology or audiology services to the
 20 public."

21

22 **Section 27.** Section 37-30-307, MCA, is amended to read:

23 "**37-30-307. Fees -- ~~handicapped persons with disabilities~~ exempted -- other fees prohibited.** (1)
 24 The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a
 25 certificate of registration to practice barbering and for the issuance of the certificate must be prescribed
 26 by the board.

27 (2) A person registered as a barber shall, before the expiration date established by rule of the
 28 department, annually pay a license fee, set by the board based on clerical and administrative costs, for the
 29 renewal of the person's certificate of registration. If a barber fails to have the certificate renewed before
 30 the expiration date, the barber shall on renewal of the certificate of registration pay a penalty prescribed

1 by the board in addition to the regular renewal fee. If a certificate of registration is not renewed within 1
2 year after the date of expiration, the barber is not entitled to have the certificate of registration renewed
3 or a new certificate of registration issued without first applying for and taking the examination and paying
4 the fees provided for in this section.

5 (3) However, ~~physically handicapped~~ persons with physical disabilities trained for the barber
6 profession by the department of public health and human services and certified by that department as
7 having graduated from a barber college licensed by the board are not required to pay fees and are for a
8 period of 1 year immediately following their training exempt from all except the sanitary provisions of this
9 chapter.

10 (4) Another or an additional license or fee may not be imposed on barbers by a municipality or
11 other subdivision of this state."

12
13 **Section 28.** Section 37-31-301, MCA, is amended to read:

14 "**37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
15 unlawful to:

- 16 (a) practice cosmetology for compensation;
17 (b) own, manage, operate, or conduct a school of cosmetology or school of manicuring;
18 (c) manage or operate a cosmetology salon, manicuring salon, or booth;
19 (d) teach in a school of cosmetology or school of manicuring;
20 (e) practice manicuring for compensation;
21 (f) practice as a finger waver.

22 (2) It is unlawful:

23 (a) for a person who owns, manages, or controls a cosmetology salon to employ or use an
24 unlicensed person as a cosmetologist or manicurist;

25 (b) to operate a cosmetology school without complying with all of the regulations of 37-31-311;

26 (c) to practice cosmetology in any place other than in a licensed salon as provided in this chapter,
27 except when a licensed operator is requested:

28 (i) by a customer to go to a place other than a licensed salon and is sent to the customer from a
29 licensed salon; or

30 (ii) by a ~~handicapped~~ customer with a disability or homebound customer to go to the customer's

1 place of residence;

2 (d) for a person who owns, manages, or controls a manicuring salon to employ or use an
3 unlicensed person as a manicurist;

4 (e) to operate a manicuring school without complying with 37-31-311;

5 (f) to violate any of the provisions of this chapter."
6

7 **Section 29.** Section 37-31-308, MCA, is amended to read:

8 **"37-31-308. Examination -- reexamination -- exemption for ~~handicapped~~ persons with disabilities.**

9 (1) Examinations for a license to practice cosmetology or manicuring or to teach cosmetology must be held
10 at places and times specified by the board. The examinations must be supervised by the board. The
11 examinations may not be confined to a specific method or system. The examinations must be conducted
12 by persons who hold current licenses to practice in the profession for which the applicant is being
13 examined.

14 (2) Anyone failing twice to pass the examination for a license to practice cosmetology may not
15 apply to retake the examination:

16 (a) sooner than 6 months after the date of the second failure; or

17 (b) until the applicant has taken 200 hours additional training at a registered school of cosmetology
18 approved by the board.

19 (3) Anyone failing twice to pass the examination for a license to practice manicuring shall meet the
20 additional requirements prescribed by the board before applying to retake the examination.

21 (4) Anyone failing twice to pass the examination for a license to teach cosmetology shall wait 1
22 year before reapplying to take the examination. Upon reapplying, the applicant shall provide certification
23 of completion of 500 hours of teacher training during that year in a registered school licensed as a teacher
24 training unit.

25 (5) ~~Physically handicapped persons~~ Persons with physical disabilities trained for cosmetology or
26 manicuring by the department of public health and human services are, for a period of 1 year immediately
27 following their graduation, exempt from the examination and the fees described in 37-31-323. On
28 certification from the department of public health and human services that a department of public health
29 and human services beneficiary has successfully completed the required training in a cosmetology school
30 or manicuring school, the department shall issue the person the necessary certificate or license to practice

1 the profession in this state."

2

3 **Section 30.** Section 39-2-912, MCA, is amended to read:

4 **"39-2-912. Exemptions.** This part does not apply to a discharge:

5 (1) that is subject to any other state or federal statute that provides a procedure or remedy for
6 contesting the dispute. ~~Such~~ The statutes include those that prohibit discharge for filing complaints,
7 charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national
8 origin, sex, age, ~~handicap~~ disability, creed, religion, political belief, color, marital status, and other similar
9 grounds.

10 (2) of an employee covered by a written collective bargaining agreement or a written contract of
11 employment for a specific term."

12

13 **Section 31.** Section 39-3-406, MCA, is amended to read:

14 **"39-3-406. Exclusions.** (1) The provisions of 39-3-404 and 39-3-405 do not apply with respect
15 to:

16 (a) students participating in a distributive education program established under the auspices of an
17 accredited educational agency;

18 (b) persons employed in private homes whose duties consist of menial chores, such as babysitting,
19 mowing lawns, and cleaning sidewalks;

20 (c) persons employed directly by the head of a household to care for children dependent upon the
21 head of the household;

22 (d) immediate members of the family of an employer or persons dependent upon an employer for
23 half or more of their support in the customary sense of being a dependent;

24 (e) any persons not regular employees of a nonprofit organization who voluntarily offer their
25 services to a nonprofit organization on a fully or partially reimbursed basis;

26 (f) ~~handicapped workers~~ persons with disabilities engaged in work that is incidental to training or
27 evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in
28 competitive employment;

29 (g) apprentices or learners, who may be exempted by the commissioner for a period not to exceed
30 30 days of their employment;

1 (h) learners under the age of 18 who are employed as farm workers, provided that the exclusion
2 may not exceed 180 days from their initial date of employment and further provided that during this
3 exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established
4 in this part;

5 (i) retired or semiretired persons performing part-time incidental work as a condition of their
6 residence on a farm or ranch;

7 (j) any individual employed in a bona fide executive, administrative, or professional capacity as
8 these terms are defined by regulations of the commissioner;

9 (k) any individual employed by the United States of America;

10 (l) resident managers employed in lodging establishments or personal care facilities who, under the
11 terms of their employment, live in the establishment or facility;

12 (m) an outside salesperson or marketing representative paid on a commission, contract, or salary
13 basis who is primarily employed in selling or marketing products or services in the food distribution industry
14 for a food broker, wholesaler, or association;

15 (n) a direct seller as defined in 26 U.S.C. 3508.

16 (2) The provisions of 39-3-405 do not apply to:

17 (a) an employee with respect to whom the United States secretary of transportation has power to
18 establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S.C. 304;

19 (b) an employee of an employer subject to the provisions of part I of the Interstate Commerce Act;

20 (c) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or
21 natural state;

22 (d) an outside salesperson paid on a commission or contract basis who is primarily employed in
23 selling advertising for a newspaper;

24 (e) a salesperson, parts person, or mechanic paid on a commission or contract basis and primarily
25 engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements
26 if the salesperson, parts person, or mechanic is employed by a nonmanufacturing establishment primarily
27 engaged in the business of selling the vehicles or implements to ultimate purchasers;

28 (f) a salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is
29 employed by a nonmanufacturing establishment primarily engaged in the business of selling trailers, boats,
30 or aircraft to ultimate purchasers;

- 1 (g) an outside salesperson paid on a commission or contract basis who is primarily employed in
2 selling office supplies, computers, or other office equipment for an office equipment dealer;
- 3 (h) a salesperson paid on a commission or contract basis who is primarily engaged in selling
4 advertising for a radio or television station employer;
- 5 (i) an employee employed as a driver or driver's helper making local deliveries who is compensated
6 for the employment on the basis of trip rates or other delivery payment plan if the commissioner finds that
7 the plan has the general purpose and effect of reducing hours worked by the employees to or below the
8 maximum workweek applicable to them under 39-3-405;
- 9 (j) an employee employed in agriculture or in connection with the operation or maintenance of
10 ditches, canals, reservoirs, or waterways not owned or operated for profit and not operated on a sharecrop
11 basis and that are used exclusively for supply and storing of water for agricultural purposes;
- 12 (k) an employee employed in agriculture by a farmer, notwithstanding other employment of the
13 employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to
14 the raising of livestock, either alone or in conjunction with other farmers, if the employee is:
- 15 (i) primarily employed during a workweek in agriculture by a farmer; and
16 (ii) paid for employment in connection with the livestock auction operations at a wage rate not less
17 than that prescribed by 39-3-404;
- 18 (l) an employee of an establishment commonly recognized as a country elevator, including an
19 establishment that sells products and services used in the operation of a farm, if no more than five
20 employees are employed by the establishment;
- 21 (m) a driver employed by an employer engaged in the business of operating taxicabs;
- 22 (n) an employee who is employed with the employee's spouse by a nonprofit educational institution
23 to serve as the parents of children who are orphans or one of whose natural parents is deceased or who
24 are enrolled in the institution and reside in residential facilities of the institution so long as the children are
25 in residence at the institution and so long as the employee and the employee's spouse reside in the facilities
26 and receive, without cost, board and lodging from the institution and are together compensated, on a cash
27 basis, at an annual rate of not less than \$10,000;
- 28 (o) an employee employed in planting or tending trees; cruising, surveying, or felling timber; or
29 transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation
30 terminal if the number of employees employed by the employer in the forestry or lumbering operations does

1 not exceed eight;

2 (p) an employee of a sheriff's department who is working under an established work period in lieu
3 of a workweek pursuant to 7-4-2509(1);

4 (q) an employee of a municipal or county government who is working under a work period not
5 exceeding 40 hours in a 7-day period established through a collective bargaining agreement when a
6 collective bargaining unit represents the employee or by mutual agreement of the employer and employee
7 when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work
8 period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

9 (r) an employee of a hospital or other establishment primarily engaged in the care of the sick,
10 disabled, aged, or mentally ill or defective who is working under a work period not exceeding 80 hours in
11 a 14-day period established through either a collective bargaining agreement when a collective bargaining
12 unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit
13 is not recognized. Employment in excess of 8 hours a day or 80 hours in a 14-day period must be
14 compensated for at a rate of not less than 1 1/2 times the hourly wage rate for the employee.

15 (s) a firefighter who is working under a work period established in a collective bargaining agreement
16 entered into between a public employer and a firefighters' organization or its exclusive representative;

17 (t) an officer or other employee of a police department in a city of the first or second class who
18 is working under a work period established by the chief of police under 7-32-4118;

19 (u) an employee of a department of public safety working under a work period established pursuant
20 to 7-32-115;

21 (v) an employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times
22 the minimum hourly rate applicable under section 206 of the Fair Labor Standards Act of 1938 and if more
23 than half of the employee's compensation for a period of not less than 1 month is derived from
24 commissions on goods and services;

25 (w) a person employed as a guide, cook, camp tender, or livestock handler by a licensed outfitter
26 as defined in 37-47-101;

27 (x) an employee employed as a radio announcer, news editor, or chief engineer by an employer in
28 a second- or third-class city or a town."

29

30 **Section 32.** Section 39-30-101, MCA, is amended to read:

1 "**39-30-101. Short title.** This chapter may be cited as the "Montana ~~Handicapped Persons'~~ Persons
2 With Disabilities Employment Preference Act"."

3
4 **Section 33.** Section 39-30-102, MCA, is amended to read:

5 "**39-30-102. Purposes.** The purposes of this chapter are to recognize past employment
6 discrimination against ~~handicapped~~ persons with disabilities and to facilitate the habilitation, rehabilitation,
7 and readjustment of ~~handicapped~~ persons with disabilities."

8
9 **Section 34.** Section 39-30-103, MCA, is amended to read:

10 "**39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

11 (1) "Eligible spouse" means the spouse of a ~~handicapped~~ person with a disability determined by
12 the department of public health and human services to have a 100% disability and who is unable to use
13 the employment preference because of the person's disability.

14 (2) ~~"Handicapped person" means an individual certified by the department of public health and~~
15 ~~human services to have a physical or mental impairment that substantially limits one or more major life~~
16 ~~activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to~~
17 ~~obtain, retain, or advance in employment.~~

18 ~~(3)~~ (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
19 ranks of the current employees of:

20 (i) a department, as defined in 2-15-102, for a position within the executive branch;

21 (ii) a legislative agency for a position within the legislative branch;

22 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
23 clerk, state law library, or similar office in a state district court for a position within the judicial branch;

24 (iv) a city or town for a municipal position, including a city or municipal court position; and

25 (v) a county for a county position, including a justice's court position.

26 (b) A personnel action limited to current employees of a specific public entity identified in
27 ~~subsections (3)(a)(i) through (3)(a)(v)~~ this subsection (2), current employees in a reduction-in-force pool
28 who have been laid off from a specific public entity identified in ~~subsections (3)(a)(i) through (3)(a)(v)~~ this
29 subsection (2), or current participants in a federally authorized employment program is not an initial hiring.

30 ~~(4)~~(3) (a) "Mental impairment" means:

1 (i) ~~suffering from~~ a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
 2 any other neurologically ~~handicapping~~ disabling condition closely related to mental retardation and requiring
 3 treatment similar to that required by mentally retarded individuals; or

4 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
 5 or volitional functions.

6 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
 7 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
 8 as a defense to any criminal charge.

9 (4) "Person with a disability" means an individual certified by the department of public health and
 10 human services to have a physical or mental impairment that substantially limits one or more major life
 11 activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to
 12 obtain, retain, or advance in employment.

13 (5) "Position" means a permanent or seasonal position, as defined in 2-18-101, for a state position
 14 or a similar permanent or seasonal position with a public employer other than the state. However, the term
 15 does not include:

16 (a) a temporary position, as defined in 2-18-101, for a state position or similar temporary position
 17 with a public employer other than the state;

18 (b) a state or local elected official;

19 (c) employment as an elected official's immediate secretary, legal ~~adviser~~ adviser, court reporter,
 20 or administrative, legislative, or other immediate or first-line aide;

21 (d) appointment by an elected official to a body such as a board, commission, committee, or
 22 council;

23 (e) appointment by an elected official to a public office if the appointment is provided for by law;

24 (f) a department head appointment by the governor or an executive department head appointment
 25 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
 26 government; or

27 (g) engagement as an independent contractor or employment by an independent contractor.

28 (6) (a) "Public employer" means:

29 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
 30 executive, judicial, or legislative branch of the government of the state of Montana; and

1 (ii) any county, city, or town.

2 (b) The term does not include a school district, a vocational-technical program, a community
3 college, the board of regents of higher education, the Montana university system, a special purpose district,
4 an authority, or any political subdivision of the state other than a county, city, or town.

5 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
6 whom the public employer cannot make a reasonable determination that the qualifications held by one
7 person are significantly better suited for the position than the qualifications held by the other persons."
8

9 **Section 35.** Section 39-30-106, MCA, is amended to read:

10 "**39-30-106. Adoption of rules.** The department of administration shall adopt rules implementing
11 this chapter and shall consult with the department of public health and human services in adopting rules
12 governing certification of ~~handicapped~~ persons with disabilities for purposes of this chapter. The department
13 of administration's rules apply to all public employers, local as well as state."
14

15 **Section 36.** Section 39-30-107, MCA, is amended to read:

16 "**39-30-107. Certification of ~~handicapped~~ persons with disabilities.** The department of public health
17 and human services shall certify persons ~~as handicapped~~ with disabilities for the purpose of employment
18 preference as provided in this chapter."
19

20 **Section 37.** Section 39-30-201, MCA, is amended to read:

21 "**39-30-201. Employment preference in initial hiring.** (1) (a) Except as provided in 10-2-402, in an
22 initial hiring for a position, if a job applicant who is a ~~handicapped~~ person with a disability or eligible spouse
23 meets the eligibility requirements contained in 39-30-202 and claims a preference as required by
24 39-30-206, a public employer shall hire the applicant over any other applicant with substantially equal
25 qualifications who is not a preference-eligible applicant.

26 (b) In an initial hiring, a public employer shall hire a ~~handicapped~~ person with a disability over any
27 other preference-eligible applicant with substantially equal qualifications.

28 (2) The employment preference provided for in subsection (1) does not apply to a personnel action
29 described in 39-30-103~~(3)(b)~~(2)(b) or to any other personnel action that is not an initial hiring."
30

1 **Section 38.** Section 39-30-202, MCA, is amended to read:

2 "**39-30-202. Eligibility requirements.** An eligible spouse or ~~handicapped~~ person with a disability
3 is not entitled to receive employment preference as provided in 39-30-201 unless:

4 (1) ~~he~~ the individual is a United States citizen;

5 (2) ~~he~~ the individual has resided continuously in the state for at least 1 year immediately before
6 applying for employment;

7 (3) if applying for municipal or county employment, ~~he~~ the individual has resided for at least 30
8 days immediately before applying for employment in the city, town, or county in which employment is
9 sought; and

10 (4) ~~he~~ the individual meets those requirements considered necessary by a public employer to
11 successfully perform the essential duties of the position for which ~~he~~ the individual is applying."

12

13 **Section 39.** Section 39-30-203, MCA, is amended to read:

14 "**39-30-203. Duration of preference.** Subject to 39-30-202, a ~~handicapped~~ person with a disability
15 or eligible spouse qualifies for employment preference as long as the disabling condition exists."

16

17 **Section 40.** Section 39-71-901, MCA, is amended to read:

18 "**39-71-901. Definitions.** As used in this part, the following definitions apply:

19 (1) "Certificate" means documentation issued by the department to an individual who is
20 ~~vocationally handicapped~~ a person with a disability.

21 (2) "Fund" means the subsequent injury fund.

22 (3) ~~"Vocationally handicapped"~~ "Person with a disability" means a person who has a medically
23 certifiable permanent impairment ~~which~~ that is a substantial obstacle to obtaining employment or to
24 obtaining reemployment if the employee should become unemployed, considering such factors as the
25 person's age, education, training, experience, and employment rejection."

26

27 **Section 41.** Section 39-71-903, MCA, is amended to read:

28 "**39-71-903. Procedure and practice.** When a ~~vocationally handicapped~~ person with a disability
29 receives a personal injury, the procedure and practice provided in this chapter ~~applies~~ apply to all
30 proceedings under this part, except ~~where~~ when specifically otherwise provided ~~herein~~ in this part."

1 **Section 42.** Section 39-71-904, MCA, is amended to read:

2 **"39-71-904. Rules for certification.** The department shall promulgate rules for certification of
3 ~~vocationally handicapped~~ persons with disabilities."

4

5 **Section 43.** Section 39-71-905, MCA, is amended to read:

6 **"39-71-905. Certification as ~~vocationally handicapped~~ person with a disability.** A person who
7 wishes to be certified as ~~vocationally handicapped~~ a person with a disability for purposes of this part shall
8 apply to the department on forms furnished by the department. The department shall conduct an
9 investigation and shall issue a certificate to a person who, in the department's discretion, meets the
10 requirements for ~~vocationally handicapped~~ certification. A person shall apply for certification before
11 employment or within 60 days after ~~he~~ the person becomes employed or reemployed and before an injury
12 occurs that is covered by this part. The certification is effective on the date of employment or
13 reemployment. Failure to apply before employment or within 60 days after employment or reemployment
14 precludes the employer from the protection and benefits of this part."

15

16 **Section 44.** Section 39-71-906, MCA, is amended to read:

17 **"39-71-906. Employer hiring or retaining certified ~~vocationally handicapped~~ person with a disability**
18 **to file information with department -- effect of failure to file.** Upon commencement of employment or
19 retention in employment of a certified ~~vocationally handicapped~~ person with a disability, the employer shall
20 submit to the department, on forms furnished by the department, all pertinent information requested by the
21 department. The department shall acknowledge receipt of the information. Failure to file the required
22 information with the department within 60 days after the first day of the ~~vocationally handicapped~~ person's
23 employment or retention in employment precludes the employer from the protection and benefits of this
24 part unless the information is filed before an injury for which benefits are payable under this part."

25

26 **Section 45.** Section 39-71-907, MCA, is amended to read:

27 **"39-71-907. Certified ~~vocationally handicapped~~ person with a disability to be compensated for**
28 **injury as provided by chapter -- insurer liability for compensation limited -- appropriation.** (1) A person
29 certified as ~~vocationally handicapped~~ having a physical or mental disability that constitutes or results in a
30 substantial impediment to employment who receives a personal injury arising out of and in the course of

1 employment and resulting in death or disability must be paid compensation in the manner and to the extent
 2 provided in this chapter or, in case of death resulting from ~~such~~ the injury, the compensation must be paid
 3 to the person's beneficiaries or dependents. The liability of the insurer for payment of medical and burial
 4 benefits as provided in this chapter is limited to those benefits arising from services rendered during the
 5 period of 104 weeks after the date of injury. The liability of the insurer for payment of benefits as provided
 6 in this chapter is limited to 104 weeks of compensation benefits actually paid. ~~Thereafter~~ After 104 weeks,
 7 all compensation and the cost of all medical care and burial ~~is~~ are the liability of the fund.

8 (2) The amounts necessary for the payment of benefits from this fund are statutorily appropriated,
 9 as provided in 17-7-502, from this fund."

10

11 **Section 46.** Section 50-1-202, MCA, is amended to read:

12 **"50-1-202. General powers and duties.** The department shall:

13 (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness
 14 records;

15 (2) make investigations, disseminate information, and make recommendations for control of
 16 diseases and improvement of public health to persons, groups, or the public;

17 (3) at the request of the governor, administer any federal health program for which responsibilities
 18 are delegated to states;

19 (4) inspect and work in conjunction with custodial institutions and Montana university system units
 20 periodically as necessary and at other times on request of the governor;

21 (5) after each inspection made under subsection (4), submit a written report on sanitary conditions
 22 to the governor and to the director of the department of corrections or the commissioner of higher
 23 education and include recommendations for improvement in conditions if necessary;

24 (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating,
 25 plumbing, sewer systems, and ventilation of public buildings;

26 (7) develop and administer activities for the protection and improvement of dental health and
 27 supervise dentists employed by the state, local boards of health, or schools;

28 (8) develop, adopt, and administer rules setting standards for participation in and operation of
 29 programs to protect the health of mothers and children, which rules may include programs for nutrition,
 30 family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public

- 1 Health Service Act and Title V of the federal Social Security Act;
- 2 (9) conduct health education programs;
- 3 (10) provide consultation to school and local community health nurses in the performance of their
- 4 duties;
- 5 (11) consult with the superintendent of public instruction on health measures for schools;
- 6 (12) develop, adopt, and administer rules setting standards for a program to provide services to
- 7 ~~handicapped~~ children with disabilities, including standards for:
- 8 (a) diagnosis;
- 9 (b) medical, surgical, and corrective treatment;
- 10 (c) aftercare and related services; and
- 11 (d) eligibility;
- 12 (13) provide consultation to local boards of health;
- 13 (14) bring actions in court for the enforcement of the health laws and defend actions brought
- 14 against the board or department;
- 15 (15) accept and expend federal funds available for public health services;
- 16 (16) have the power to use personnel of local departments of health to assist in the administration
- 17 of laws relating to public health;
- 18 (17) adopt rules imposing fees for the tests and services performed by the laboratory of the
- 19 department of environmental quality. Fees, established on an annual basis, should reflect the actual costs
- 20 of the tests or services provided. The department may not establish fees exceeding the costs incurred in
- 21 performing tests and services. All fees must be deposited in the state special revenue fund for the use of
- 22 the department in performing tests and services.
- 23 (18) adopt and enforce rules regarding the definition of communicable diseases and the reporting
- 24 and control of communicable diseases;
- 25 (19) adopt and enforce rules regarding the transportation of dead human bodies; and
- 26 (20) adopt and enforce minimum sanitation requirements for tattooing as provided in 50-2-116,
- 27 including regulation of premises, equipment, and methods of operation, solely oriented to the protection
- 28 of public health and the prevention of communicable disease."

29

30 **Section 47.** Section 50-5-105, MCA, is amended to read:

1 **"50-5-105. Discrimination prohibited.** (1) All phases of the operation of a health care facility ~~shall~~
 2 must be without discrimination against anyone on the basis of race, creed, religion, color, national origin,
 3 sex, age, marital status, physical or mental ~~handicap~~ disability, or political ideas.

4 (2) (a) A health care facility may not refuse to admit a person to the facility solely because the
 5 person has an HIV-related condition.

6 (b) For the purposes of this subsection (2), the following definitions apply:

7 (i) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired
 8 immunodeficiency syndrome (AIDS) and includes all HIV and HIV-related viruses that damage the cellular
 9 branch of the human immune or neurological system and leave the infected person immunodeficient or
 10 neurologically impaired.

11 (ii) "HIV-related condition" means any medical condition resulting from an HIV infection, including
 12 but not limited to seropositivity for HIV.

13 (3) A person who operates a facility may not discriminate among the patients of licensed
 14 physicians. The free and confidential professional relationship between a licensed physician and patient ~~shall~~
 15 must continue and remain unaffected.

16 (4) Except for a hospital that employs its medical staff, a hospital considering an application for
 17 staff membership or granting privileges within the scope of the applicant's license may not deny the
 18 application or privileges because the applicant is licensed under Title 37, chapter 5 or 6.

19 (5) This section does not preclude a hospital from limiting membership or privileges based on
 20 education, training, or other relevant criteria."

21
 22 **Section 48.** Section 50-60-201, MCA, is amended to read:

23 **"50-60-201. Purpose of state building code.** The state building code ~~shall~~ must be designed to
 24 effectuate the general purposes of parts 1 through 4 and the following specific objectives and standards
 25 to:

26 (1) provide reasonably uniform standards and requirements for construction and construction
 27 materials consonant with accepted standards of design, engineering, and fire prevention practices;

28 (2) permit to the fullest extent feasible the use of modern technical methods, devices, and
 29 improvements ~~which that~~ that tend to reduce the cost of construction consistent with reasonable requirements
 30 for the health and safety of the occupants or users of buildings and, consistent with the conservation of

1 energy, by design requirements and criteria that will result in the efficient ~~utilization~~ use of energy, whether
2 used directly or in a refined form, in buildings;

3 (3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and
4 requirements ~~which that~~ tend to increase unnecessarily construction costs, retard unnecessarily the use
5 of proven new materials ~~which that~~ have been found adequate through experience or testing, or provide
6 unwarranted preferential treatment to types or classes of materials, products, or methods of construction;

7 (4) ensure that any new buildings constructed with public funds are accessible to and functional
8 for ~~physically handicapped~~ persons with physical disabilities according to the principles applicable to
9 accessibility to public buildings for ~~handicapped~~ persons with disabilities adopted, recommended, or issued
10 as Part II, Uniform Federal Accessibility Standards, as it reads in the Federal Register dated August 7, 1984,
11 and as the department may amend by rule to reflect changes in the principles;

12 (5) encourage efficiencies of design and insulation ~~which that~~ enable buildings to be heated in the
13 winter with the least possible quantities of energy and to be kept cool in the summer without air
14 conditioning equipment or with the least possible use of ~~such the~~ equipment;

15 (6) encourage efficiencies and criteria directed toward design of building envelopes with high
16 thermal resistance and low air leakage and toward requiring practices in the design and selection of
17 mechanical, electrical, and illumination systems ~~which that~~ promote the efficient use of energy."

18

19 **Section 49.** Section 52-1-103, MCA, is amended to read:

20 **"52-1-103. Powers and duties of department.** The department shall:

21 (1) administer and supervise all forms of child and adult protective services;

22 (2) act as the lead agency in coordinating and planning services to children with multiagency
23 service needs;

24 (3) provide the following functions, as necessary, for youth in need of care:

25 (a) intake, investigation, case management, and client supervision;

26 (b) placement in youth care facilities;

27 (c) contracting for necessary services;

28 (d) protective services day care; and

29 (e) adoption;

30 (4) register or license youth care facilities, child-placing agencies, day-care facilities, community

1 homes for persons with developmental disabilities, community homes for severely disabled persons, and
2 adult foster care facilities;

3 (5) act as lead agency in implementing and coordinating child-care programs and services under
4 the Montana Child Care Act;

5 (6) administer the interstate compact for children;

6 (7) (a) administer child abuse prevention services funded through child abuse grants and the
7 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and

8 (b) administer elder abuse prevention services;

9 (8) (a) make a written evaluation of each plan developed by the local family services advisory
10 councils, as provided in 52-1-203, indicating those portions of each plan that will be implemented by the
11 department, those portions that will not be implemented, and the reasons for not implementing those
12 portions;

13 (b) develop a statewide youth services and resources plan that takes into consideration local needs
14 as reflected in plans developed by the local family services advisory councils;

15 (9) administer services to the aged;

16 (10) provide consultant services to:

17 (a) facilities providing care for adults who are needy, indigent, ~~handicapped~~, or dependent ~~adults~~
18 or who have disabilities; and

19 (b) youth care facilities;

20 (11) ~~utilize~~ use the staff and services of other state agencies and units of the Montana university
21 system, within their respective statutory functions, to carry out its functions under this title;

22 (12) contract, as necessary, with the county board of welfare for administration of child and adult
23 protection services for that county; and

24 (13) adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."
25

26 **Section 50.** Section 52-2-113, MCA, is amended to read:

27 **"52-2-113. Child rehabilitation -- duties of department.** The department shall:

28 (1) enforce all laws pertaining to children and take the initiative in all matters involving the interest
29 of abused or neglected children;

30 (2) use funds allocated or appropriated to the department for the purpose of providing for the

1 special medical or material needs of children with developmental disabilities or ~~physically handicapped~~
 2 children with physical disabilities who are eligible for department programs;

3 (3) cooperate for the purposes of this part with all reputable child-helping and child-placing
 4 agencies; and

5 (4) inspect and register or license youth care facilities, child-placing agencies, and adoption
 6 agencies."

7
 8 **Section 51.** Section 53-2-201, MCA, is amended to read:

9 **"53-2-201. Powers and duties of department.** (1) The department shall:

10 (a) administer and supervise public assistance, including the provision of food stamps, food
 11 commodities, aid to families with dependent children, energy assistance, weatherization, vocational
 12 rehabilitation, services for persons with severe disabilities, developmental disability services, and medical
 13 care payments in behalf of recipients of public assistance;

14 (b) give consultant service to private institutions providing care for ~~the~~ adults who are needy,
 15 indigent, ~~handicapped~~, or dependent ~~adults~~ or who have disabilities;

16 (c) cooperate with other state agencies and develop provisions for services to the blind, including
 17 the prevention of blindness, the location of blind persons, medical services for eye conditions, and
 18 vocational guidance and training of the blind;

19 (d) provide services in respect to organization and supervise county departments of public welfare
 20 and county boards of public welfare in the administration of public assistance functions and for efficiency
 21 and economy;

22 (e) assist and cooperate with other state and federal departments, bureaus, agencies, and
 23 institutions, when requested, by performing services in conformity with public assistance purposes;

24 (f) administer all state and federal funds allocated to the department for public assistance and do
 25 all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance
 26 purposes; and

27 (g) make rules governing payment for services and supplies provided to recipients of public
 28 assistance.

29 (2) The department may:

30 (a) purchase, exchange, condemn, or receive by gift either real or personal property ~~which~~ that is

1 necessary to carry out its public assistance functions. Title to property obtained under this subsection must
2 be taken in the name of the state of Montana for the use and benefit of the department.

3 (b) contract with the federal government to carry out its public assistance functions. The
4 department may do all things necessary in order to avail itself of federal aid and assistance.

5 (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration
6 of services to be provided to recipients of public assistance."

7

8 **Section 52.** Section 53-4-607, MCA, is amended to read:

9 **"53-4-607. Exemptions from time limitations in pathways.** (1) Recipients of aid to families with
10 dependent children under the FAIM project may be exempted from the time limitations on assistance under
11 pathways contained in 53-4-603 as provided by the department by rule.

12 (2) In establishing categories of individuals who are exempt from the time limitations on assistance
13 under pathways, the department may take into consideration factors that may delay an individual's
14 attainment of self-sufficiency, including but not limited to the following:

15 (a) The individual has a verifiable illness, injury, or physical or mental impairment, ~~handicap, or~~
16 disability.

17 (b) The individual is of advanced age.

18 (c) The individual does not have child care available.

19 (d) The individual is attending high school or is working toward a graduate equivalency diploma,
20 if the individual is under 20 years of age.

21 (e) The individual is the parent of a child under 1 year of age.

22 (f) The individual is providing care to a household member with a disability who requires special
23 care.

24 (g) The individual is a teenage parent participating in activities pursuant to a family investment
25 agreement.

26 (h) The department failed to substantially comply with its obligations under the family investment
27 agreement.

28 (i) The individual is a homeless person.

29 (j) The individual is a victim of domestic violence."
30

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

2 **"53-7-101. Definitions.** Unless the context requires otherwise, in this part, the following definitions
3 apply:

4 (1) "Department" means the department of public health and human services provided for in
5 2-15-2201.

6 (2) "Independent living" means control over one's life based upon a choice between acceptable
7 options in a manner that minimizes reliance upon others for making decisions and conducting activities of
8 daily living.

9 (3) "Maintenance" means money payments made in accordance with 53-7-108.

10 (4) "Occupational license" means a license, permit, or other written authority required by any
11 governmental unit to engage in an occupation.

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

16 (6) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to
17 correct or substantially reduce the impediment to employment ~~handicap~~ of a person within a reasonable
18 length of time, including but not limited to medical, psychiatric, dental, and surgical treatment, nursing
19 services, hospital care, convalescent care, drugs, medical and surgical supplies, and prosthetic appliances,
20 but excluding curative treatment for acute or transitory medical conditions unless necessary to maintain
21 a person's health in order to complete a rehabilitation plan.

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

24 (8) "Rehabilitation engineering" means the systematic application of technologies, engineering
25 methodologies, or scientific principles to meet the needs of and address the barriers confronted by persons
26 with ~~employment handicaps~~ disabilities. The barriers may exist in the areas of education, rehabilitation,
27 employment, transportation, independent living, and recreation.

28 (9) "Rehabilitation plan" means a plan, developed with the participation of the recipient, for
29 providing services to assist a person with ~~an employment handicap~~ a disability to become independent and
30 productive or employable.

1 (10) "Rehabilitation training" means training provided to a person with ~~an employment handicap~~ a
2 disability to ~~rehabilitate~~ overcome the person's impediment to employment handicap. The term includes but
3 is not limited to manual, preconditioning, prevocational, vocational, and supplementary training and training
4 provided for the purpose of achieving broader or more remunerative skills and capacities.

5 (11) "Vocational rehabilitation" means the provision of vocational rehabilitation services to a person
6 with ~~an employment handicap~~ a disability to enable the person insofar as possible to become independent
7 and productive or employable.

8 (12) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational
9 guidance, vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering,
10 physical restoration, transportation, occupational licenses, customary occupational tools and equipment,
11 maintenance, training books and materials, group facilities, family services, followup services, and any other
12 goods and services provided for by rule and that the department determines to be necessary to rehabilitate
13 the person."
14

15 **Section 54.** Section 53-7-102, MCA, is amended to read:

16 **"53-7-102. Powers and duties of department.** The department:

17 (1) shall adopt rules necessary for the administration of this part. Rules adopted may include but
18 are not limited to the provision of services, individual service plans, eligibility for services, application,
19 service goals and design, quality of services, provider relationships, program standards, program staffing,
20 staff training, provider accounting procedures, confidential information, recipient grievance procedures,
21 hearings, and definitions necessary to carry out this part;

22 (2) may take any other action that it determines necessary or appropriate to carry out the purposes
23 of this part;

24 (3) may cooperate with other departments and agencies and institutions, both public and private,
25 in providing for vocational rehabilitation of persons with ~~employment handicaps~~ disabilities, in studying the
26 problems involved in vocational rehabilitation, and in establishing, developing, and providing programs,
27 facilities, and services;

28 (4) may conduct research and compile statistics relating to the vocational rehabilitation of persons
29 with ~~employment handicaps~~ disabilities; and

30 (5) may accept and use gifts to carry out this part."

1 **Section 55.** Section 53-7-105, MCA, is amended to read:

2 "**53-7-105. Eligibility.** A person with ~~an employment handicap~~ a disability is eligible for vocational
3 rehabilitation services if the department, after full investigation, determines that the person may become
4 employable or achieve accepted vocational objectives through the provision of vocational rehabilitation
5 services that are made available as provided for in 53-7-108."

6

7 **Section 56.** Section 53-7-301, MCA, is amended to read:

8 "**53-7-301. Definitions.** As used in this part, the following definitions apply:

9 (1) (a) "Blindness" means a visual disability in which:

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

11 or

12 (ii) a person's visual field at the widest diameter subtends an angle no greater than 20 degrees.

13 (b) The term includes any visual disability that, in the determination of the department, renders
14 vision seriously defective or causes blindness.

15 (2) "Department" means the department of public health and human services provided for in
16 2-15-2201.

17 (3) "Independent living" means control over one's life based upon a choice between acceptable
18 options in a manner that minimizes reliance upon others for making decisions and conducting activities of
19 daily living.

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

22 (5) "Maintenance" means money payments made in accordance with 53-7-310.

23 (6) "Occupational license" means a license, permit, or other written authority required by any
24 governmental unit to engage in an occupation.

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

29 (8) (a) "Physical restoration" means any medical, surgical, or therapeutic treatment necessary to
30 correct or substantially reduce an impediment to employment ~~handicap~~ caused by blindness or low vision

1 within a reasonable length of time, including but not limited to medical, psychiatric, dental, and surgical
2 treatment, nursing services, hospital care, convalescent care, drugs, medical and surgical supplies, and
3 prosthetic appliances.

4 (b) The term does not include curative treatment for acute or transitory medical conditions unless
5 necessary to maintain a person's health in order to complete a rehabilitation plan.

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

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

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

15 (12) "Rehabilitation training" means training provided to a person with blindness or low vision to
16 ~~rehabilitate~~ overcome the person's impediment to employment handicap, including but not limited to
17 manual, preconditioning, prevocational, vocational, and supplementary training and training provided for
18 the purpose of achieving broader or more remunerative skills and capacities.

19 (13) "Vocational rehabilitation" means the provision of vocational rehabilitation services to a person
20 with blindness or low vision to enable the person insofar as possible to become independent and productive
21 or employable.

22 (14) "Vocational rehabilitation services" means the following services: medical diagnosis, vocational
23 guidance, vocational counseling, vocational placement, rehabilitation training, rehabilitation engineering,
24 physical restoration, transportation, occupational licenses, customary occupational tools and equipment,
25 maintenance, training books and materials, group facilities, family services, followup services, and any other
26 goods and services provided for by rule and that the department determines to be necessary to rehabilitate
27 the person."

28

29 **Section 57.** Section 53-7-306, MCA, is amended to read:

30 **"53-7-306. Eligibility for services.** A person with an ~~impediment to employment handicap~~ due to

1 ~~because of~~ A DISABILITY BECAUSE OF blindness or low vision is eligible for vocational rehabilitation
2 services if the department, after full investigation, determines that the person may become employable or
3 achieve accepted vocational objectives through the provision of vocational rehabilitation services that are
4 made available as provided for in 53-7-310."

5

6 **Section 58.** Section 53-18-101, MCA, is amended to read:

7 **"53-18-101. Definitions.** As used in this part, the following definitions apply:

8 (1) "Department" means the department of public health and human services provided for in
9 2-15-2201.

10 (2) "Self-sufficiency trust" means a trust created by a nonprofit corporation that is a 501(c)(3)
11 organization under the United States Internal Revenue Code of 1954, as amended, and that was organized
12 under the Montana Nonprofit Corporation Act, Title 35, chapter 2, for the purpose of providing for the care
13 and treatment of one or more persons who are residents of this state and are persons with developmental
14 disabilities, ~~mentally ill~~ mental illness, ~~physically handicapped~~ or physical disabilities, or are otherwise
15 eligible for department services, as defined by the department."

16

17 **Section 59.** Section 53-18-103, MCA, is amended to read:

18 **"53-18-103. Administration of trust account.** (1) The department may accept money from a
19 self-sufficiency trust for deposit in the self-sufficiency trust account pursuant to an agreement with the
20 self-sufficiency trust naming one or more beneficiaries who are residents of this state and are persons with
21 developmental disabilities, ~~mentally ill~~ mental illness, ~~physically handicapped~~ or physical disabilities, or are
22 otherwise eligible for department services, as defined by the department. The agreement must specify the
23 care or treatment to be provided for each named beneficiary. Money in the trust account must be accounted
24 for separately for each named beneficiary. The department of public health and human services shall
25 administer the trust account for beneficiaries who are mentally ill.

26 (2) (a) The department shall adopt rules to administer the trust account.

27 (b) The money in the trust account may be spent by the department, pursuant to its rules, only to
28 provide care or treatment for the named beneficiary in accordance with the terms of the agreement.

29 (c) If the director of the department determines that the money in the trust account for a named
30 beneficiary cannot be used for the care and treatment of the beneficiary in a manner consistent with the

1 rules of the department and the agreement or upon request of the self-sufficiency trust, the remaining
 2 money in the trust account for the named beneficiary, together with any accumulated interest, must be
 3 promptly returned to the self-sufficiency trust that provided the money for deposit in the trust account.

4 (3) The trust account money must be deposited in the state treasury and invested as required by
 5 law and the earnings credited to the trust account."

6
 7 **Section 60.** Section 53-18-105, MCA, is amended to read:

8 **"53-18-105. Special account.** There is created within the self-sufficiency trust account a special
 9 account for the disabled. The director of the department may accept money from any source for deposit
 10 into the special account. The money in the special account must be used by the department, subject to
 11 appropriation, for the purpose of providing for the care and treatment of low-income persons with
 12 developmental disabilities, ~~mentally ill persons, and physically handicapped persons~~ mental illness, or
 13 physical disabilities or low-income persons otherwise eligible for department services, as defined by the
 14 department."

15
 16 **Section 61.** Section 53-19-102, MCA, is amended to read:

17 **"53-19-102. Definitions.** As used in this part, the following definitions apply:

18 (1) "Community home for persons with severe disabilities" means a facility licensed by the
 19 department, as provided for in 52-4-201 through 52-4-205.

20 (2) "Department" means the department of public health and human services established in
 21 2-15-2201.

22 (3) "Disability" means a permanent physical or mental condition recognized as a disability by Title
 23 VII of the federal Rehabilitation Act of 1973, 29 U.S.C. 796, et seq., as may be amended.

24 (4) "Live and function independently" means to have control over one's life based upon a choice
 25 between acceptable options in a manner that minimizes reliance upon others for making decisions and
 26 conducting activities of daily living.

27 (5) "Person with a severe ~~disabilities~~ disability" means the same as "individual with a severe
 28 ~~handicaps~~ disability" as defined in the federal Rehabilitation Act of 1973, 29 U.S.C. 706(15)(B), as may
 29 be amended. The term includes an individual whose ability to function independently in family or community
 30 or whose ability to engage or continue in employment is so limited by the severity of the physical or mental

1 disability that the services provided under this part are required in order for the individual to achieve a
 2 greater level of independence in functioning in family or community or in engaging in or continuing in
 3 employment."

4

5 **Section 62.** Section 53-19-301, MCA, is amended to read:

6 **"53-19-301. Legislative findings and declaration.** (1) The legislature finds and declares that many
 7 Montana citizens ~~are physically handicapped~~ have physical disabilities and are unable to use traditional
 8 telecommunications equipment and services without assistance. These citizens constitute a substantial and
 9 valuable resource within the United States and the state of Montana, and this segment of our population
 10 needs access to telecommunications services in order to function as contributing and productive members
 11 of our society.

12 (2) The legislature further finds and declares that the role of telecommunications in our world today
 13 is inestimable. Telecommunications is the primary vehicle of commerce and industry, the means to convey
 14 and receive information and knowledge, and the way that we connect with others on a personal as well
 15 as business level. Telecommunications gives people independence and self-sufficiency, and it provides
 16 goods and services, human contact, and fellowship.

17 (3) The legislature further finds that access to telecommunications services should be provided to
 18 persons who ~~are handicapped~~ have disabilities not only for their own sake but for the benefit of society at
 19 large. Access to telecommunications services would enhance the business and personal lives of
 20 ~~handicapped~~ persons with disabilities, and its availability to ~~the handicapped~~ persons with disabilities would
 21 be an investment of benefit to all of Montana.

22 (4) Consistent with the findings stated in subsections (1) through (3), the legislature finds it
 23 appropriate to provide ~~handicapped~~ persons with disabilities access to telecommunications services by
 24 creating a program to make specialized telecommunications equipment and services available to ~~the~~
 25 ~~handicapped~~ persons with disabilities."

26

27 **Section 63.** Section 53-19-302, MCA, is amended to read:

28 **"53-19-302. Definitions.** As used in this part, unless the context requires otherwise, the following
 29 definitions apply:

30 (1) "Committee" means the committee on telecommunications services for ~~the handicapped~~

1 persons with disabilities established in 2-15-2212.

2 (2) "Dual-party relay system" means a service that permits full and simultaneous communication
3 between those using telecommunications devices for the deaf (TDD) and those using conventional
4 telephone equipment.

5 ~~(3) "Handicapped" means the condition of a person who is blind, deaf, hard of hearing, or~~
6 ~~speech impaired.~~

7 ~~(4)(3)~~ "Local exchange company" means a telecommunications company that provides telephone
8 access lines to members of the general public who are its customers.

9 (4) "Person with a disability" means the condition of a person who is blind, deaf, hard-of-hearing,
10 or speech-impaired.

11 (5) "Program" means the program established in 53-19-306.

12 (6) "Specialized telecommunications equipment" means any telecommunications device that
13 enables or assists a person ~~who is handicapped~~ with a disability to communicate with others by means of
14 the conventional telephone network. The term includes but is not limited to telecommunications devices
15 for the deaf (TDD), amplifiers, signaling devices, puff-blow devices, electronic artificial larynx devices, and
16 telebraille.

17 (7) "Telephone access line" means the telephone exchange access line or channel that provides
18 access from the premises of a customer of a local exchange company to the telecommunications network
19 to effect the transfer of information."
20

21 **Section 64.** Section 53-19-306, MCA, is amended to read:

22 "**53-19-306. Program established -- purpose.** (1) The committee shall establish and administer a
23 program to provide specialized telecommunications equipment and services to persons ~~who are handicapped~~
24 with disabilities.

25 (2) The purpose of the program is to:

26 (a) furnish specialized telecommunications equipment to meet the needs of persons ~~who are~~
27 ~~handicapped~~ with disabilities; and

28 (b) provide a dual-party relay system to connect persons ~~who are handicapped~~ with disabilities with
29 all phases of public telecommunications service, including telecommunications service to emergency
30 services and public safety agencies as defined in 10-4-101."

1 **Section 65.** Section 53-19-307, MCA, is amended to read:

2 **"53-19-307. Provision of services.** In administering the program established in 53-19-306, the
3 committee shall:

4 (1) develop an appropriate means test to determine eligibility for participation in the program;

5 (2) require that participants in the program be residents of Montana and that residency be
6 maintained as a condition of eligibility for continued participation in the program;

7 (3) require that participants provide satisfactory evidence that they ~~are handicapped~~ have
8 disabilities and would benefit from the use of specialized telecommunications equipment;

9 (4) provide specialized telecommunications equipment to participants on the basis of a loan or lease
10 arrangement that may include cost-sharing between the ~~handicapped~~ person with a disability and ~~his~~ the
11 person's employer;

12 (5) determine the type of specialized telecommunications equipment that it considers necessary
13 and economically feasible for use by Montana's ~~handicapped~~ persons with disabilities;

14 (6) purchase or lease all specialized telecommunications equipment through bid by wholesale
15 manufacturers on a competitive basis;

16 (7) require, as a condition of each equipment purchase or lease, that the original manufacturer
17 provide repair and maintenance service for new and returned equipment;

18 (8) maintain records of each item of equipment, including the location, serial number, and telephone
19 number of each device;

20 (9) require an appropriate security deposit for equipment at the time of delivery, which deposit
21 must be refunded without interest when the equipment is returned;

22 (10) make reasonable efforts to recover equipment from those who become ineligible for continued
23 participation in the program;

24 (11) provide a dual-party relay system that, if feasible, would be available statewide for operation
25 7 days a week, 24 hours a day, including holidays; and

26 (12) ~~implement the service described in subsection (11) within 2 years following July 1, 1989; and~~
27 ~~(13) adopt rules necessary to administer the program."~~

28
29 **Section 66.** Section 53-19-310, MCA, is amended to read:

30 **"53-19-310. Fund for telecommunications services for ~~the handicapped~~ persons with disabilities.**

1 (1) There is an account for telecommunications services for ~~the handicapped persons with disabilities~~ in the
 2 state special revenue fund in the state treasury. The account consists of:

3 (a) all monetary contributions, gifts, and grants received by the committee as provided in
 4 53-19-309; and

5 (b) all charges billed and collected pursuant to 53-19-311.

6 (2) The money in the account is allocated to the committee for purposes of implementing this part.

7 (3) All expenditures of the committee in administering this part must be paid from money deposited
 8 in the account."
 9

10 **Section 67.** Section 53-20-102, MCA, is amended to read:

11 **"53-20-102. Definitions.** As used in this part, the following definitions apply:

12 (1) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors
 13 created by 2-15-211.

14 (2) "Community-based facilities" or "community-based services" means those facilities and services
 15 that are available for the evaluation, treatment, and habilitation of persons with developmental disabilities
 16 in a community setting.

17 (3) "Court" means a district court of the state of Montana.

18 (4) "Developmental disabilities professional" means a licensed psychologist, a licensed psychiatrist,
 19 or a person with a master's degree in psychology, who:

20 (a) has training and experience in psychometric testing and evaluation;

21 (b) has experience in the field of developmental disabilities; and

22 (c) is certified, as provided in 53-20-106, by the department of public health and human services.

23 (5) "Developmental disability" means a disability that is attributable to mental retardation, cerebral
 24 palsy, epilepsy, autism, or any other neurologically ~~handicapping~~ disabling condition closely related to
 25 mental retardation and that requires treatment similar to that required by mentally retarded individuals. A
 26 developmental disability is a disability that originated before the individual attained age 18, that has
 27 continued or can be expected to continue indefinitely, and that ~~constitutes~~ results in the person having a
 28 substantial ~~handicap~~ disability of the individual.

29 (6) "Habilitation" means the process by which a person who has a developmental disability is
 30 assisted in acquiring and maintaining those life skills that enable the person to cope more effectively with

1 personal needs and the demands of the environment and in raising the level of the person's physical,
2 mental, and social efficiency. Habilitation includes but is not limited to formal, structured education and
3 treatment.

4 (7) "Individual treatment planning team" means the interdisciplinary team of persons involved in
5 and responsible for the habilitation of a resident. The resident is a member of the team.

6 (8) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult
7 brothers and sisters of a person.

8 (9) "Qualified mental retardation professional" means a professional program staff person for the
9 residential facility who the department of public health and human services determines meets the
10 professional requirements necessary for federal certification of the facility.

11 (10) "Resident" means a person committed to a residential facility.

12 (11) "Residential facility" or "facility" means the Montana developmental center and the Eastmont
13 human services center.

14 (12) "Residential facility screening team" means a team of persons, appointed as provided in
15 53-20-133, ~~who are~~ that is responsible for screening a respondent to determine if the commitment of the
16 respondent to a residential facility is appropriate.

17 (13) "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously
18 developmentally disabled and in need of developmental disability services in a residential facility.

19 (14) "Responsible person" means a person willing and able to assume responsibility for a person
20 who is seriously developmentally disabled or alleged to be seriously developmentally disabled.

21 (15) "Seriously developmentally disabled" means a person who:

22 (a) has a developmental disability;

23 (b) is impaired in cognitive functioning; and

24 (c) has behaviors that pose an imminent risk of serious harm to self or others or self-help deficits
25 so severe as to require total care or near total care and who because of those behaviors or deficits, cannot
26 be safely and effectively habilitated in community-based services."

27

28 **Section 68.** Section 53-20-142, MCA, is amended to read:

29 **"53-20-142. Rights while in a residential facility.** Persons admitted to a residential facility for a
30 period of habilitation shall enjoy the following rights:

1 (1) Residents have a right to dignity, privacy, and humane care.

2 (2) Residents are entitled to send and receive sealed mail. Moreover, it is the duty of the facility
3 to foster the exercise of this right by furnishing the necessary materials and assistance.

4 (3) Residents must have the same rights and access to private telephone communication as
5 patients at any public hospital except to the extent that the individual treatment planning team or the
6 qualified mental retardation professional responsible for formulation of a particular resident's habilitation
7 plan writes an order imposing special restrictions and explains the reasons for the restrictions. The written
8 order must be renewed monthly if any restrictions are to be continued.

9 (4) Residents have an unrestricted right to visitation except to the extent that the individual
10 treatment planning team or the qualified mental retardation professional responsible for formulation of a
11 particular resident's habilitation plan writes an order imposing special restrictions and explains the reasons
12 for the restrictions. The written order must be renewed monthly if restrictions are to be continued.

13 (5) Residents have a right to receive suitable educational and habilitation services regardless of
14 chronological age, degree of retardation, or accompanying disabilities ~~or handicaps~~.

15 (6) Each resident must have an adequate allowance of neat, clean, suitably fitting, and seasonable
16 clothing. Except when a particular kind of clothing is required because of a particular condition, residents
17 must have the opportunity to select from various types of neat, clean, and seasonable clothing. The
18 clothing must be considered the resident's throughout ~~his~~ the resident's stay in the facility. Clothing, both
19 in amount and type, must make it possible for residents to go out of doors in inclement weather, to go for
20 trips or visits appropriately dressed, and to make a normal appearance in the community. The facility shall
21 make provision for the adequate and regular laundering of the residents' clothing.

22 (7) Each resident has the right to keep and use ~~his~~ the resident's own personal possessions except
23 insofar as ~~such~~ the clothes or personal possessions may be determined by the individual treatment planning
24 team or the qualified mental retardation professional to be dangerous either to ~~himself~~ the resident or to
25 others.

26 (8) Each resident has a right to a humane physical environment within the residential facility. The
27 facility must be designed to make a positive contribution to the efficient attainment of the habilitation goals
28 of the resident. To accomplish this purpose:

29 (a) regular housekeeping and maintenance procedures that will ensure that the facility is maintained
30 in a safe, clean, and attractive condition must be developed and implemented;

1 (b) pursuant to an established routine maintenance and repair program, the physical plant must be
2 kept in a continuous state of good repair and operation so as to ensure the health, comfort, safety, and
3 well-being of the residents and so as not to impede in any manner the habilitation programs of the
4 residents;

5 (c) the physical facilities ~~must~~ shall meet all fire and safety standards established by the state and
6 locality. In addition, the facility ~~must~~ shall meet the provisions of the life safety code of the national fire
7 protection association that are applicable to it.

8 (d) there must be special facilities for nonambulatory residents to ensure their safety and comfort,
9 including special fittings on toilets and wheelchairs. Appropriate provision must be made to permit
10 nonambulatory residents to communicate their needs to staff.

11 (9) Residents have a right to receive prompt and adequate medical treatment for any physical or
12 mental ailments or injuries or physical disabilities and for the prevention of any illness or disability. ~~Such~~
13 The medical treatment must meet standards of medical practice in the community. However, nothing in this
14 subsection may be interpreted to impair other rights of a resident in regard to involuntary commitment for
15 mental illness, use of psychotropic medication, use of hazardous, aversive, or experimental procedures, or
16 the refusal of ~~such~~ treatment.

17 (10) Corporal punishment is not permitted.

18 (11) The opportunity for religious worship must be accorded to each resident who desires ~~such~~
19 worship. Provisions for religious worship must be made available to all residents on a nondiscriminatory
20 basis. An individual may not be compelled to engage in any religious activities.

21 (12) Residents have a right to a nourishing, well-balanced diet. The diet for residents must provide
22 at a minimum the recommended daily dietary allowance as developed by the national academy of sciences.
23 Provisions must be made for special therapeutic diets and for substitutes at the request of the resident, ~~his~~
24 the resident's parents, guardian, or next of kin, or the responsible person appointed by the court in
25 accordance with the religious requirements of any resident's faith. Denial of a nutritionally adequate diet
26 may not be used as punishment.

27 (13) Residents have a right to regular physical exercise several times a week. It is the duty of the
28 facility to provide both indoor and outdoor facilities and equipment for ~~such~~ exercise. Residents have a right
29 to be outdoors daily in the absence of contrary medical considerations.

30 (14) Residents have a right, under appropriate supervision, to suitable opportunities for the

1 interaction with members of the opposite sex except ~~where~~ when the individual treatment planning team
 2 or the qualified mental retardation professional responsible for the formulation of a particular resident's
 3 habilitation plan writes an order to the contrary and explains the reasons for the order. The order must be
 4 renewed monthly if the restriction is to be continued."

5

6 **Section 69.** Section 53-20-148, MCA, is amended to read:

7 **"53-20-148. Right to habilitation.** (1) Persons admitted to residential facilities ~~shall~~ have a right
 8 to habilitation, including medical treatment, education, and care suited to their needs, regardless of age,
 9 degree of retardation, or ~~handicapping~~ disabling condition. Each resident has a right to a habilitation
 10 program that will maximize ~~his~~ the resident's human abilities and enhance ~~his~~ the resident's ability to cope
 11 with ~~his~~ the environment. Every residential facility shall recognize that each resident, regardless of ability
 12 or status, is entitled to develop and realize ~~his~~ the resident's fullest potential. The facility shall implement
 13 the principle of normalization so that each resident may live as normally as possible.

14 (2) Residents have a right to the least restrictive conditions necessary to achieve the purposes of
 15 habilitation. To this end, the facility shall make every attempt to move residents from:

- 16 (a) more to less structured living;
- 17 (b) larger to smaller facilities;
- 18 (c) larger to smaller living units;
- 19 (d) group to individual residences;
- 20 (e) segregated from the community to integrated into the community living;
- 21 (f) dependent to independent living.

22 (3) Within 30 days of ~~his~~ admission to a residential facility, each resident must have an evaluation
 23 by appropriate specialists for programming purposes.

24 (4) Each resident must have an individualized habilitation plan formulated by an individual treatment
 25 planning team. This plan must be implemented as soon as possible, but no later than 30 days after the
 26 resident's admission to the facility. An interim program of habilitation, based on the preadmission evaluation
 27 conducted pursuant to this part, must commence promptly upon the resident's admission. Each
 28 individualized habilitation plan must contain:

- 29 (a) a statement of the nature of the specific limitations and the needs of the resident;
- 30 (b) a description of intermediate and long-range habilitation goals, with a projected timetable for

1 their attainment;

2 (c) a statement of and an explanation for the plan of habilitation for achieving these intermediate
3 and long-range goals;

4 (d) a statement of the least restrictive setting for habilitation necessary to achieve the habilitation
5 goals of the resident;

6 (e) a specification of the professionals and other staff members who are responsible for the
7 particular resident's attaining these habilitation goals;

8 (f) criteria for release to less restrictive settings for habilitation, based on the resident's needs,
9 including criteria for discharge and a projected date for discharge.

10 (5) As part of ~~his~~ the habilitation plan, each resident must have an individualized
11 postinstitutionalization plan that includes an identification of services needed to make a satisfactory
12 community placement possible. This plan must be developed by the individual treatment planning team that
13 shall begin preparation of the plan upon the resident's admission to the facility and shall complete the plan
14 as soon as practicable. The parents or guardian or next of kin of the resident, the responsible person
15 appointed by the court, if any, and the resident, if able to give informed consent, must be consulted in the
16 development of the plan and must be informed of the content of the plan.

17 (6) In the interests of continuity of care, one qualified mental retardation professional shall
18 whenever possible be responsible for supervising the implementation of the habilitation plan, integrating
19 the various aspects of the habilitation program, and recording the resident's progress as measured by
20 objective indicators. The qualified mental retardation professional ~~shall is~~ also ~~be~~ responsible for ensuring
21 that the resident is released when appropriate to a less restrictive habilitation setting.

22 (7) The habilitation plan must be reviewed monthly by the qualified mental retardation professional
23 responsible for supervising the implementation of the plan and must be modified if necessary. In addition,
24 6 months after admission and at least annually thereafter, each resident must receive a comprehensive
25 psychological, social, habilitative, and medical diagnosis and evaluation and ~~his~~ the resident's habilitation
26 plan must be reviewed and revised accordingly by the individual treatment planning team. A habilitation plan
27 ~~must be reviewed~~ monthly.

28 (8) Each resident placed in the community must receive transitional habilitation assistance.

29 (9) The superintendent of the residential facility, or ~~his~~ the superintendent's designee, shall report
30 in writing to the parents or guardian of the resident or the responsible person at least every 6 months on

1 the resident's habilitation and medical condition. The report must also state any appropriate habilitation
2 program that has not been afforded to the resident because of inadequate habilitation resources.

3 (10) Each resident, the parents or guardian of each resident, and the responsible person appointed
4 by the court must promptly upon the resident's admission receive a written copy of and be orally informed
5 of all the above standards for adequate habilitation, the rights accorded by 53-20-142, and other
6 information concerning the care and habilitation of the resident that may be available to assist them in
7 understanding the situation of the resident and the rights of the resident in the facility."
8

9 **Section 70.** Section 53-20-202, MCA, is amended to read:

10 **"53-20-202. Definitions.** As used in this part, the following definitions apply:

11 (1) "Comprehensive developmental disability system" means a system of services, including but
12 not limited to the following basic services, with the intention of providing alternatives to institutionalization:

- 13 (a) evaluation services;
- 14 (b) diagnostic services;
- 15 (c) treatment services;
- 16 (d) day-care services;
- 17 (e) training services;
- 18 (f) education services;
- 19 (g) employment services;
- 20 (h) recreation services;
- 21 (i) personal-care services;
- 22 (j) domiciliary-care services;
- 23 (k) special living arrangements services;
- 24 (l) counseling services;
- 25 (m) information and referral services;
- 26 (n) follow-along services;
- 27 (o) protective and other social and sociolegal services; and
- 28 (p) transportation services.

29 (2) "Department" means the department of public health and human services.

30 (3) "Developmental disabilities" means disabilities attributable to mental retardation, cerebral palsy,

1 epilepsy, autism, or any other ~~neurological~~ neurologically handicapping ~~disabling~~ condition closely related
 2 to mental retardation and requiring treatment similar to that required by mentally retarded individuals if the
 3 disability originated before the person attained age 18, has continued or can be expected to continue
 4 indefinitely, and ~~constitutes~~ results in the person having a substantial ~~handicap~~ disability of the person.

5 (4) "Developmental disabilities facility" means any service or group of services offering care to
 6 persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other
 7 programmatic basis.

8 (5) "Planning and advisory council" or "council" means the developmental disabilities planning and
 9 advisory council created in 2-15-2204."

10
 11 **Section 71.** Section 53-20-203, MCA, is amended to read:

12 **"53-20-203. Responsibilities of department.** The department shall:

13 (1) take cognizance of matters affecting the citizens of the state who are persons with
 14 developmental disabilities;

15 (2) initiate a preventive developmental disabilities program ~~which shall~~ that must include but not
 16 be limited to the implementation of developmental disabilities care, treatment, prevention, and research as
 17 can best be accomplished by community-centered services. Every means ~~shall~~ must be ~~utilized~~ used to
 18 initiate and operate the service program in cooperation with local agencies under the provisions of
 19 53-20-205 and 53-20-207.

20 (3) collect and disseminate information relating to developmental disabilities;

21 (4) prepare, with the assistance of the planning and advisory council, an annual comprehensive
 22 plan for the initiation and maintenance of developmental disabilities services in the state. The services ~~shall~~
 23 must include but not be limited to community comprehensive developmental disabilities services as referred
 24 to in 53-20-202.

25 (5) provide by rule for the evaluation of persons who apply for services or persons admitted into
 26 a program at a developmental disability facility;

27 (6) provide state personnel to assist regional councils provided for in 53-20-207;

28 (7) receive from agencies of the government of the United States and other agencies, persons or
 29 groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
 30 materials, and contributions to initiate and maintain developmental disabilities services within the state;

1 (8) require that habilitation plans be developed, implemented, and continuously maintained for all
2 persons with developmental disabilities who are served through a community-based program funded by the
3 state; and

4 (9) use funds available for cases in which special medical or material assistance is necessary to
5 rehabilitate children with developmental disabilities or ~~physically handicapped~~ children with physical
6 disabilities if ~~such~~ assistance is not otherwise provided for by law."

7
8 **Section 72.** Section 61-3-332, MCA, is amended to read:

9 **"61-3-332. Number plates.** (1) A motor vehicle that is driven upon the streets or highways of
10 Montana must display both front and rear number plates, bearing the distinctive number assigned to the
11 vehicle. The number plates are in 10 series: one series for owners of motorcars, one for owners of motor
12 vehicles of the motorcycle or quadricycle type, one for trailers, one for trucks, one for dealers in vehicles
13 of the motorcycle or quadricycle type that bear the distinctive letters "MCD" or the letters "MC" and the
14 word "DEALER", one for franchised dealers in new motorcars (including trucks and trailers) or new and
15 used motorcars (including trucks and trailers) that bear the distinctive letter "D" or the word "DEALER",
16 one for dealers in used motorcars only (including used trucks and trailers) that bear the distinctive letters
17 "UD" or the letter "U" and the word "DEALER", one for dealers in trailers and/or semitrailers (new or used)
18 that bear the distinctive letters "DTR" or the letters "TR" and the word "DEALER", one for dealers in
19 recreational vehicles that bear the distinctive letters "RV" or the letter "R" and the word "DEALER", and
20 one for special license plates. All markings for the various kinds of dealers' plates must be placed on the
21 number plates assigned to the dealer, in the position that the department designates.

22 (2) All number plates for motor vehicles must be issued for a minimum period of 4 years, bear a
23 distinctive marking, and be furnished by the state. In years when number plates are not issued, the
24 department shall provide nonremovable stickers bearing appropriate registration numbers that must be
25 affixed to the license plates in use.

26 (3) Subject to the provisions of this section, the department shall create a new design for number
27 plates as provided in this section.

28 (4) In the case of motorcars and trucks, plates must be of metal 6 inches wide and 12 inches in
29 length. The outline of the state of Montana must be used as a distinctive border on the license plates, and
30 the word "Montana" and the year must be placed across the plates. Registration plates must be treated

1 with a reflectorized background material according to specifications prescribed by the department.

2 (5) The distinctive registration numbers must begin with a number one or with a letter-number
3 combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. The
4 distinctive registration number or letter-number combination assigned to the vehicle must appear on the
5 plate preceded by the number of the county and appearing in horizontal order on the same horizontal
6 baseline. The county number must be separated from the distinctive registration number by a separation
7 mark unless a letter-number combination is used. The dimensions of the numerals and letters must be
8 determined by the department, and all county and registration numbers must be of equal height.

9 (6) For the use of tax-exempt motor vehicles, in addition to the markings provided in this section,
10 number plates must bear the following distinctive markings:

11 (a) For vehicles owned by the state, the department may designate the prefix number for the
12 various state departments. All numbered plates issued to state departments must bear the words "State
13 Owned", and a year number may not be indicated on the plates because these numbered plates are of a
14 permanent nature and will be replaced by the department only when the physical condition of numbered
15 plates requires it.

16 (b) For vehicles that are owned by the counties, municipalities, and special districts, as defined in
17 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and
18 operated by officials and employees in the line of duty and for vehicles on loan from the United States
19 government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials
20 and employees in the line of duty, there must be placed on the number plates assigned, in a position that
21 the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for
22 plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and
23 special districts that obtain plates within each county must begin with number one and be numbered
24 consecutively. Because these number plates are of a permanent nature, they are subject to replacement
25 by the department only when the physical condition of the number plates requires it and a year number may
26 not be displayed on the number plates.

27 (7) On all number plates assigned to motor vehicles of the truck and trailer type, other than
28 tax-exempt trucks and tax-exempt trailers, there must appear the letter "T" or the word "TRUCK" on plates
29 assigned to trucks and the letters "TR" or the word "TRAILER" on plates assigned to trailers and
30 housetrailer. The letters "MC" or the word "CYCLE" must appear on plates assigned to vehicles of the

1 motorcycle or quadricycle type.

2 (8) Number plates issued to a passenger car, truck, trailer, or vehicle of the motorcycle or
3 quadricycle type may be transferred only to a replacement passenger car, truck, trailer, or motorcycle- or
4 quadricycle-type vehicle. A registration or license fee may not be assessed upon a transfer of a number
5 plate under 61-3-317 and 61-3-335.

6 (9) For the purpose of this chapter, the several counties of the state are assigned numbers as
7 follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead,
8 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson,
9 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23;
10 Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31;
11 Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon,
12 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46;
13 Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral,
14 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they
15 may be formed, beginning with the number 57.

16 (10) Each type of special license plate approved by the legislature, except collegiate license plates
17 authorized in 61-3-463, must be a separate series of plates, numbered as provided in subsection (5), except
18 that the county number must be replaced by a nonremovable design or decal designating the group or
19 organization to which the applicant belongs. Unless otherwise specifically stated in this section, the special
20 plates are subject to the same rules and laws as govern the issuance of regular license plates, must be
21 placed or mounted on a vehicle owned by the person who is eligible to receive them, and must be removed
22 upon sale or other disposition of the vehicle. The special license plates must be issued to national guard
23 members, former prisoners of war, ~~handicapped~~ persons with disabilities, reservists, disabled veterans,
24 survivors of the Pearl Harbor attack, veterans of the armed services, or veterans of the armed services who
25 were awarded the purple heart medal, who comply with the following provisions:

26 (a) An active member of the Montana national guard may be issued special license plates with a
27 design or decal displaying the letters "NG". The adjutant general shall issue to each active member of the
28 Montana national guard a certificate authorizing the department to issue national guard plates, numbered
29 in sets of two with a different number on each set, and the member shall surrender the plates to the
30 department upon becoming ineligible to use them.

1 (b) An active member of the reserve armed forces of the United States of America who is a
2 resident of this state may be issued special license plates with a design or decal displaying the following:
3 United States army reserve, AR (symbol); United States naval reserve, NR (anchor); United States air force
4 reserve, AFR (symbol); and United States marine corps reserve, MCR (globe and anchor). The commanding
5 officer of each armed forces reserve unit shall issue to each eligible member of the reserve unit a certificate
6 authorizing the issuance of special license plates, numbered in sets of two with a different number on each
7 set. The member shall surrender the plates to the department upon becoming ineligible to use them.

8 (c) (i) A resident of Montana who is a veteran of the armed forces of the United States and who
9 is 100% disabled because of an injury that has been determined by the department of veterans affairs to
10 be service-connected may, upon presentation to the department of proof of the 100% disability, be issued:

11 (A) a special license plate under this section with a design or decal displaying the letters "DV"; or

12 (B) one set of any other military-related plates that the disabled veteran is eligible to receive under
13 this section.

14 (ii) The fee for original or renewal registration by a 100% disabled veteran for a passenger vehicle
15 or a truck with a GVW-rated capacity of 1 ton or less is \$5 and is in lieu of all other fees and taxes for that
16 vehicle under this chapter.

17 (iii) Special license plates issued to a disabled veteran are not transferable to another person.

18 (iv) A disabled veteran is not entitled to a special disabled veteran's license plate for more than one
19 vehicle.

20 (v) A vehicle lawfully displaying a disabled veteran's plate and that is conveying a 100% disabled
21 veteran is entitled to the parking privileges allowed a ~~handicapped person's~~ person with a disability's vehicle
22 under this title.

23 (d) A Montana resident who is a veteran of the armed forces of the United States and was
24 captured and held prisoner by a military force of a foreign nation, documented by the veteran's service
25 record, may upon application and presentation of proof be issued special license plates, numbered in sets
26 of two with a different number on each set, with a design or decal displaying the words "ex-prisoner of
27 war" or an abbreviation that the department considers appropriate.

28 (e) Except as provided in subsection (10)(c), upon payment of all taxes and fees required by parts
29 3 and 5 of this chapter and upon furnishing proof satisfactory to the department that the applicant meets
30 the requirements of this subsection (10)(e), the department shall issue to a Montana resident who is a

1 veteran of the armed services of the United States special license plates, numbered in sets of two with a
2 different number on each set, designed to indicate that the applicant is a survivor of the Pearl Harbor attack
3 if the applicant was a member of the United States armed forces on December 7, 1941, was on station on
4 December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) at Pearl Harbor, the island
5 of Oahu, or offshore at a distance of not more than 3 miles, and received an honorable discharge from the
6 United States armed forces. If special license plates issued under this subsection are lost, stolen, or
7 mutilated, the recipient of the plates is entitled to replacement plates upon request and without charge.

8 (f) A motor vehicle owner and resident of this state who is a veteran or the surviving spouse of
9 a veteran of the armed services of the United States may be issued license plates inscribed as provided in
10 subsection (10)(f)(i) if the veteran was separated from the armed services under other than dishonorable
11 circumstances or was awarded the purple heart medal:

12 (i) Upon submission of a department of defense form 214(DD-214) or its successor or documents
13 showing an other-than-dishonorable discharge or a reenlistment, proper identification, and other relevant
14 documents to show an applicant's qualification under this subsection, there must be issued to the applicant,
15 in lieu of the regular license plates prescribed by law, special license plates numbered in sets of two with
16 a different number on each set. The plates must display:

17 (A) the word "VETERAN" and a symbol signifying the United States army, United States navy,
18 United States air force, United States marine corps, or United States coast guard, according to the record
19 of service verified in the application; or

20 (B) a symbol representing the purple heart medal.

21 (ii) Plates must be furnished by the department to the county treasurer, who shall issue them to a
22 qualified veteran or to the veteran's surviving spouse. The plates must be placed or mounted on the vehicle
23 owned by the veteran or the veteran's surviving spouse designated in the application and must be removed
24 upon sale or other disposition of the vehicle.

25 (iii) Except as provided in subsection (10)(c), a veteran or surviving spouse who receives special
26 license plates under this subsection (10)(f) is liable for payment of all taxes and fees required under parts
27 3 and 4 of this chapter and a special veteran's or purple heart medal license plate fee of \$10. Upon an
28 original application for a license under this subsection (10)(f), the county treasurer shall:

29 (A) deposit \$3 of the special fee in the county general fund;

30 (B) remit \$1 for deposit in the state general fund; and

1 (C) deposit the remainder of the special fee in the state special revenue account established in
2 10-2-603 for administration, construction, operation, and maintenance of the state veterans' cemetery.

3 (iv) Upon subsequent annual renewal of registration, the county treasurer shall deposit all of the
4 special fee as provided in subsection (10)(f)(iii)(C).

5 (g) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may,
6 upon written application on a form prescribed by the department, be issued a special license plate with a
7 design or decal bearing a representation of a wheelchair as the symbol of ~~the handicapped~~ a person with
8 a disability."

9
10 **Section 73.** Section 61-3-454, MCA, is amended to read:

11 "**61-3-454. Special parking privilege.** A vehicle lawfully displaying specially inscribed license plates
12 issued under 61-3-332(10)(c)(i)(A) or 61-3-426(2) and conveying a 100% disabled veteran is entitled to
13 the parking privileges allowed a ~~handicapped person's~~ person with a disability's vehicle under 49-4-302."

14
15 **Section 74.** Section 61-12-504, MCA, is amended to read:

16 "**61-12-504. Fees for identification cards.** (1) Fees not in excess of \$8 for identification cards
17 issued pursuant to this part must be collected and deposited in the general fund. A ~~handicapped~~
18 with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged
19 from any correctional facility must be furnished a free identification card upon release, discharge, or parole.

20 (2) Each identification card expires on the anniversary of the date of birth of the holder 4 years
21 after the date of issue."

22
23 **Section 75.** Section 69-3-307, MCA, is amended to read:

24 "**69-3-307. Treatment of advertisement costs and contributions.** Costs or expenses incurred by
25 public utilities for advertising, transfers of funds without full and adequate consideration, contributions,
26 donations, and gifts may not be treated as expenses deductible from income or from capital assets or in
27 any other manner by the public service commission in setting or regulating rates ~~which that~~ may be charged
28 by the public utilities pursuant to this chapter. This section ~~shall~~ does not apply to advertising ~~which that~~
29 encourages the conservation of energy or product safety or informs the public of the availability of
30 alternative forms of energy or recommends usage at times of lower rates or lower demand. Furthermore,

1 for communications public utilities, the provisions of this section ~~shall~~ do not apply to advertising ~~which~~
 2 that relates to special equipment that is available to aid ~~the handicapped persons with disabilities~~ or to
 3 special services that are designed to protect the public health, welfare, and safety, to promote more
 4 efficient use of a communications system, or to promote increased use of regulated communications
 5 services."

6

7 **Section 76.** Section 77-2-318, MCA, is amended to read:

8 **"77-2-318. Sale of leased cabin or home sites or city or town lots.** (1) At the request of the lessee
 9 and if consistent with the orderly development and management of state lands, the board may make
 10 available for sale, in the manner provided in this part, any leased cabin or home site or city or town lot that
 11 was under lease on October 1, 1989.

12 (2) The lessee requesting the sale shall have prepared a current certificate of survey for the
 13 property. The cost of preparation of the certificate of survey must be included in the settlement for
 14 improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser.

15 (3) The sale of a lease is exempt from the subdivision laws, except that the development of any
 16 new, replacement, or additional water supply or sewage disposal system on the property must be approved
 17 pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.

18 (4) The sale of a leased cabin or home site or city or town lot under 77-2-318 through 77-2-320
 19 must be completed no later than 10 years after October 1, 1989. A lessee may request a lease sale at any
 20 time during the 10-year period. Upon request, the board may grant a ~~handicapped~~ lessee with a disability
 21 or a lessee 65 years of age or older an additional 10-year period to request a sale of leased land.

22 (5) Upon a sale of leased land, the department shall, upon compliance with 77-2-101 through
 23 77-2-106, grant a permanent easement across state lands to secure access using current routes."

24

25 **Section 77.** Section 87-2-706, MCA, is amended to read:

26 **"87-2-706. Drawing for special antelope licenses.** (1) In the event that the number of valid
 27 applications for special antelope licenses for a hunting district exceeds the quota set by the department for
 28 the district, ~~such the~~ licenses ~~shall~~ must be awarded by a drawing. The department shall provide for those
 29 persons making valid application for special antelope licenses a method of selecting first, second, and third
 30 choice hunting districts for any drawing held pursuant to this section.

1 (2) The department shall reserve for applicants who are ~~permanently physically handicapped and~~
 2 nonambulatory and have a permanent physical disability, as determined by the department, up to 25 of the
 3 total special antelope licenses authorized for sale in the state, for use in the district designated by the
 4 commission. If the number of valid disabled applicants exceeds the number of licenses available, the
 5 department may hold a drawing ~~whereby in which~~ all applicants have an equal chance of being selected.

6 (3) The department may promulgate ~~such rules and regulations as that~~ are necessary to implement
 7 this section."
 8

9 **Section 78.** Section 87-2-803, MCA, is amended to read:

10 "**87-2-803. ~~Disabled persons~~ Persons with disabilities.** (1) ~~Disabled persons~~ Persons with
 11 disabilities are entitled to fish and to hunt game birds with only a conservation license if they are residents
 12 of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule.

13 (2) A resident of Montana who is certified as disabled by the department and who is not residing
 14 in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident
 15 who is 15 years of age or older and who is under 62 years of age.

16 (3) A resident or nonresident ~~disabled person~~ with a disability who is certified as disabled by the
 17 department and who is not residing in an institution may carry a permit on a form prescribed by the
 18 department. A ~~disabled person~~ with a disability who is issued a permit under this subsection is entitled to
 19 have the department stamp the permit with "Permission to Hunt From a Vehicle" if the person establishes
 20 to the satisfaction of the department that the person is ~~permanently physically handicapped and~~
 21 nonambulatory and has a permanent physical disability or that the person's mobility is substantially
 22 impaired.

23 (4) A ~~disabled person~~ with a disability carrying a permit as required in subsection (3), upon which
 24 is stamped "Permission to Hunt From a Vehicle", may hunt by shooting a firearm from the shoulder, berm,
 25 or barrow pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway,
 26 or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a
 27 shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists
 28 or that is parked in an area, not a public highway, where hunting is permitted. ~~Nothing in this~~ This
 29 subsection ~~allows~~ does not allow a ~~disabled person~~ with a disability to shoot across the roadway of any
 30 public highway or to hunt on private property without permission of the landowner. A ~~disabled person~~ with

1 a disability who hunts as authorized in this subsection must have a companion to assist in immediately
 2 dressing any killed game animal. The companion may also assist the ~~disabled~~ hunter with a disability by
 3 hunting a game animal that has been wounded by the ~~disabled~~ hunter with a disability when the ~~disabled~~
 4 hunter with a disability is unable to pursue and kill the wounded game animal. Any vehicle from which a
 5 ~~disabled~~ person with a disability is hunting must be conspicuously marked with an orange-colored
 6 international symbol of ~~the handicapped~~ persons with disabilities on the front, rear, and each side of the
 7 vehicle.

8 (5) A resident of Montana who is certified by the department as a blind individual, as defined in
 9 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
 10 license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by
 11 department rule. An applicant for a license under this subsection need not obtain a wildlife conservation
 12 license as a prerequisite to licensure."
 13

14 **Section 79.** Section 90-6-103, MCA, is amended to read:

15 **"90-6-103. Definitions.** As used in this part, unless the context requires otherwise, the following
 16 definitions apply:

17 (1) "Board" means the board of housing created in 2-15-1814.

18 (2) "Bond" means any bonds, notes, debentures, interim certificates, or other evidences of financial
 19 indebtedness issued by the board pursuant to this part, including those on which interest payments are
 20 taxable and those on which interest payments are tax exempt.

21 (3) "Capital reserve account" means the capital reserve account provided for in 90-6-107.

22 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

23 (5) "Federally insured mortgage" means a mortgage loan for land development or residential
 24 housing insured or guaranteed by the United States or a governmental agency or instrumentality ~~thereof~~
 25 of the United States or a commitment by the United States or a governmental agency or instrumentalities
 26 ~~thereof~~ of the United States to insure ~~such~~ a mortgage.

27 (6) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to
 28 repayment of principal and interest by the United States or an instrumentality ~~thereof~~ of the United States.

29 (7) "Governmental agency" means any department, division, public corporation, public agency,
 30 political subdivision, or other public instrumentality of the state, the federal government, any other state

1 or public agency, or any two or more ~~thereof~~ of the entities listed in this subsection.

2 (8) "Housing development" means single-family homes, multifamily projects, housing for the elderly
3 projects, nursing home projects, ~~personal-care~~ personal-care projects, and any work or undertaking financed
4 in whole or in part under this part for the primary purpose of acquiring, constructing, or rehabilitating ~~such~~
5 accommodations for persons or families of lower income in need of housing. An undertaking may include
6 any buildings, land, equipment, facilities, or other real or personal properties ~~which~~ that are necessary,
7 convenient, or desirable in connection ~~therewith~~ with a development, including but not limited to streets,
8 sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities ~~as~~ that the board
9 determines to be necessary, convenient, or desirable.

10 (9) "Housing development costs" means the sum total of all costs incurred in a housing
11 development approved by the board as reasonable and necessary, including but not limited to:

12 (a) cost of land acquisition and any buildings ~~thereon~~ on the land, including payments for options,
13 deposits, or contracts to purchase properties on the proposed housing development site or payments for
14 the purchase of properties;

15 (b) cost of site preparation, demolition, and clearing;

16 (c) architectural, engineering, legal, accounting, corporation, and other fees paid or payable in
17 connection with the planning, execution, and financing of the housing development and the finding of an
18 eligible mortgagee or mortgagees for the housing development;

19 (d) cost of necessary studies, surveys, plans, and permits;

20 (e) insurance, interest, financing, tax and assessment costs, and other operating and carrying costs
21 during construction;

22 (f) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery,
23 apparatus, and similar facilities related to the real property;

24 (g) cost of land improvements, including landscaping and offsite improvements, whether or not the
25 costs have been paid in cash or in a form other than cash;

26 (h) necessary expenses in connection with initial occupancy of the housing development;

27 (i) a reasonable profit and risk fee in addition to job overhead to the general contractor and, if
28 applicable, a limited-profit housing sponsor;

29 (j) an allowance established by the board for working capital and contingency reserves and reserves
30 for any anticipated operating deficits during construction and initial occupancy;

1 (k) ~~costs~~ cost of other items, including tenant relocation, ~~as that~~ as the board determines to be
2 reasonable and necessary for the housing development, less any ~~and all~~ net rents and other net ~~revenues~~
3 revenue received from the operation of the real and personal property on the development site during the
4 construction.

5 (10) "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, trusts,
6 firms, associations, corporations, governmental agencies, limited-profit housing sponsors, nonprofit
7 corporations, or other legal entities or any combination ~~thereof~~ of the entities listed in this subsection that
8 are:

9 (a) approved by the board;

10 (b) qualified ~~either~~ to either own, construct, acquire, rehabilitate, operate, manage, or maintain a
11 housing development;

12 (c) subject to the rules of the board and other terms and conditions set forth in this part.

13 (11) "Lending institution" means any public or private entity or governmental agency approved by
14 the board maintaining an office in this state and authorized by law to make or participate in making
15 residential mortgages in the state.

16 (12) "Limited-profit housing sponsor" means a corporation, trust, partnership, association, other
17 entity, or an individual restricted as to distribution of income and regulated as to rents, charges, rate of
18 return, and methods of operation as the board determines necessary to carry out this part.

19 (13) "Mortgage" means a mortgage deed, deed of trust, or other instrument ~~which shall constitute~~
20 that constitutes a valid lien on real property in fee simple or on a leasehold under a lease having a remaining
21 term at the time that the mortgage is acquired, ~~which that~~ does not expire for at least that number of years
22 beyond the maturity date of the obligation secured by the mortgage established by the board as necessary
23 to protect its interest as mortgagee.

24 (14) "Mortgage loan" means an interest-bearing obligation secured by a mortgage on land and
25 improvements in the state.

26 (15) "Nonprofit housing sponsor" means a housing cooperative formed under Title 35, chapter 15,
27 or a nonprofit corporation formed under Title 35, chapter 2, restricted as to distribution of income and
28 regulated as to rents, charges, rate of return, and methods of operation as the board determines necessary,
29 and whose articles of incorporation provide in addition that:

30 (a) the organization has been organized exclusively to provide housing developments for persons

1 and families of lower income;

2 (b) all the income and earnings of the organization ~~shall~~ must be used exclusively for housing
3 development purposes and ~~no~~ part of the net income or net earnings of the organization ~~shall~~ may not inure
4 to the benefit or profit of any private individual, firm, corporation, partnership, or association;

5 (c) the organization is in no manner controlled or under the direction or acting in the substantial
6 interest of any private individual, firm, partnership, or association seeking to derive profit or gain ~~therefrom~~
7 from the organization or seeking to eliminate or minimize losses in any transactions ~~therewith~~ with the
8 organization, except that the limitations ~~shall~~ apply to members of a cooperative only to the extent provided
9 by rules of the board;

10 (d) the operations of the organization may be supervised by the board and the organization will
11 enter into agreements with the board to regulate planning, development, and management of any housing
12 development undertaken by the organization and the disposition of the property or other interests of the
13 organization.

14 (16) "Persons and families of lower income" means persons and families with insufficient personal
15 or family income or other financial resources who require assistance under this part, as determined by the
16 board, taking into consideration:

17 (a) the amount of the total personal and family income, assets, and other financial resources
18 available for housing needs;

19 (b) the size of the family;

20 (c) the eligibility of persons and families under federal housing assistance of any type based on
21 lower income or a functional or physical disability;

22 (d) the ability of persons and families to compete successfully in the normal housing market and
23 to pay the amount at which private enterprise is providing decent, safe, and sanitary housing;

24 (e) the availability and cost of housing in particular areas; and

25 (f) needs of particular persons or families ~~due to~~ because of age or physical ~~handicaps~~ disabilities.

26 (17) "Rehabilitation" means the repair, reconstruction, or improvement of an existing structure to
27 provide decent, safe, and sanitary housing or to conform housing with state or local health, building, fire
28 prevention, and safety codes as determined by the board."

29

30 **Section 80.** Section 90-7-104, MCA, is amended to read:

1 **"90-7-104. Eligible health facility.** (1) Eligible health facility means any structure or building used
2 as a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101; ~~center~~ facilities for
3 persons with ~~developmental~~ disabilities; ~~center for the handicapped~~; chemical dependency treatment ~~center~~
4 facilities; nursing school; medical teaching facility; laboratory; dental care facility; or other structure or
5 facility related to any of the foregoing or required or useful for the operation of a health facility. These
6 related facilities include supporting service structures and all necessary, useful, and related equipment,
7 furnishings, and appurtenances and include without limitation the acquisition, preparation, and development
8 of all lands and real and personal property necessary or convenient as a site for any of the foregoing.

9 (2) An eligible health facility does not include such items as food, fuel, supplies, or other items that
10 are customarily considered as current operating expenses; and eligible health facility does not include a
11 structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities
12 or religious worship."

13

-END-

1 HOUSE BILL NO. 53

2 INTRODUCED BY BOHLINGER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING DISABILITIES;
5 SUBSTITUTING REFERENCES TO A PERSON WITH A DISABILITY FOR REFERENCES TO A HANDICAPPED
6 PERSON; AND AMENDING SECTIONS 2-15-2205, 2-15-2212, 7-14-111, 7-15-4207, 7-15-4431,
7 13-3-201, 13-3-202, 13-3-203, 13-3-205, 13-3-207, 13-3-213, 13-13-211, 15-6-201, 15-30-114,
8 15-30-115, 18-5-101, 18-5-102, 18-5-103, 20-7-401, 20-25-707, 22-1-103, 33-22-304, 33-22-506,
9 33-30-1003, 33-30-1004, 37-15-101, 37-30-307, 37-31-301, 37-31-308, 39-2-912, 39-3-406,
10 39-30-101, 39-30-102, 39-30-103, 39-30-106, 39-30-107, 39-30-201, 39-30-202, 39-30-203,
11 39-71-901, 39-71-903, 39-71-904, 39-71-905, 39-71-906, 39-71-907, 50-1-202, 50-5-105, 50-60-201,
12 52-1-103, 52-2-113, 53-2-201, 53-4-607, 53-7-101, 53-7-102, 53-7-105, 53-7-301, 53-7-306,
13 53-18-101, 53-18-103, 53-18-105, 53-19-102, 53-19-301, 53-19-302, 53-19-306, 53-19-307,
14 53-19-310, 53-20-102, 53-20-142, 53-20-148, 53-20-202, 53-20-203, 61-3-332, 61-3-454, 61-12-504,
15 69-3-307, 77-2-318, 87-2-706, 87-2-803, 90-6-103, AND 90-7-104, MCA."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED.
PLEASE REFER TO 2ND RD--2ND HOUSE COPY (TAN) FOR COMPLETE TEXT.