

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
50TH LEGISLATURE

March 9, 1987

The meeting of the House Taxation Committee was called to order by Chairman Jack Ramirez on March 9, 1987, at 8:00 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members were present. Also present was Dave Boyher, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL NO. 741: Rep. John Harp, House District #7, sponsor of HB 741, said the bill would generally revise the law relating to health service corporations. He explained that the bill provides for consumer protection, financial examination of such corporations, application of the Unfair Practices Act, and treats those corporations the same as any other insurance company. Rep. Harp advised that corporation representatives must pass required exams, and said the purpose of the bill is to ensure protection currently afforded by statute.

PROPOSERS OF HOUSE BILL NO. 741: Robert Throssell, Chief Legal Counsel, Office of the Legislative Auditor, provided a fact sheet and explained that the bill was introduced at the request of the commissioner of Insurance (Exhibit #1). Mr. Throssell also provided a letter from Blue Cross/Blue Shield (Exhibit #2), and said 180,000 people are actually insured instead of the reported 242,000, and that the difference is in administration of 60,000 subscribers of other insurers. He provided a copy of a memo from Jim Borchardt, Chairman of the Boards of Examiners of the Montana Insurance Department to Andrea Bennett, State Auditor (Exhibit #3).

Mr. Throssell said HB 741 would utilize guarantee fund laws and allow freedom of choice in seeking physicians, as well as providing for unfair practices. He stated competitively rated health insurance is available in the market place, and that the GAO prepared a report on Montana and ten other states' comprehensive health care for high-risk individuals, and one on twenty-two other states with health premium corporations (Exhibit #4). Mr. Throssell also read from a prepared statement in support of the bill (Exhibit #5).

PROPOSERS OF HOUSE BILL NO. 741: Larry Daniels, President-elect, Montana Association of Health Underwriter, provided examples of situations experienced by BC/BS subscribers because of current regulations, and read from a prepared statement in support of the bill (Exhibits #6,7,8).

He said the consensus of the Montana Life and Health Underwriters is that BC/BS premiums are high enough and wouldn't warrant an increase.

Mona Jamison, representing Rocky Mountain Treatment Center, Great Falls, stated her support of the bill and said most BC/BS subscribers believe they have the same coverage, when they don't. She provided a copy of a GAL health insurance report wherein the GAO asked if health service corporations continued to offer open enrollment, covered high-risk conditions, and at the same rate as other companies, and offered coverage without regard to age or marital status (Exhibit #9). Ms. Jamison said the bill is an equity issue and that the existing situation is not fair to other licensed health insurers in the state. She urged the Committee to support the bill.

Tom Hopgood, Health Insurance Corporation of America, said he would echo prior statements made in support of the bill.

Roland D. Pratt, Executive Director, Montana Optometric Association, requested that the Committee support the bill.

Randy Bray, Lobbyist, State Association of Insurers, advised that a health service corporation should be subject to the same treatment as other health insurance companies in Montana.

OPPONENTS OF HOUSE BILL NO. 741: John Alke, Helena attorney representing BC/BS provided a copy of statistics and a financial report on health service corporations. He said that about 50% of the health insurance market in the state is covered by BC/BS, insuring many persons commercial insurers will not generally insure, such as small group. He stated that mutual and stock companies are highly profit-oriented and have a difficult time competing with the "Blues", while those companies get tremendous tax exemptions. He advised that with "freedom of choice" there will be no more direct provider contracts.

Rep. Kelly Addy, said he left signatures of residents of Prairie Tower in Billings, as opponents of the bill (Exhibit #11).

Rep. Paul Pistoria told the Committee that, in 1981, he had a problem with BC/BS and introduced HB 385 to audit non-profit health insurance companies, resulting in biennial audits for BC/BS. He asked the committee to kill the bill, and said BC/BS is a good company.

Joe Weggenman, Executive Director, Helena Chamber of Commerce, asked the Committee to look at section 5 of the bill

and at 33-2-705, MCA, and said the bill is anti-economic development.

Lee Wipf, representing Hutterite people in Montana, read from a prepared statement in opposition to the bill. He stated he was unable to get an appropriate health plan from private group insurers, but was able to get coverage with BC/BS (Exhibit #12).

Jerry Richards, independent insurance agent, Billings, told the Committee the advantage of the "Blues" is that a subscriber does not have to have evidence of medical insurability, and that it is his personal opinion that the BC/BS conversion plan is one of the best in the industry. Mr. Richards explained that the Medicare supplement also requires no evidence of insurability, and no waiting period, as well as waiving pre-existing conditions.

Mike Dahlem, Montana Federation of teachers, said he opposed the bill and read from written testimony of Mrs. Mary Doubek, whose husband is a physician-rancher (Exhibit #13).

Dennis Corbett, Aluminum Workers Trade Council, Columbia Falls, told the Committee he represented about 700 workers in opposition to the bill.

Dan Wirak, Helena resident, told the Committee he had been treated well by the Blues, and opposed the bill.

Lloyd Anderson, a retired Montanan, asked the Committee to give the bill a do not pass recommendation.

Carol Walton, Livingston insurance agent, requested that the Committee oppose the bill because it would harm elderly and low income persons.

QUESTIONS ON HOUSE BILL NO 741: Rep. Ellison asked if the "Blues" would give up ASO business in lieu of the bill. John Alke replied he was unsure how to answer the question.

Rep. Sands asked what percentage of BC/BS business is ASO's. Mr. Alke replied it is about 2.5%.

Rep. Patterson asked for an explanation of fee increases. Mr. Throssell replied that the \$300 fee in the bill is a licensing fee.

Rep. Asay asked what is required by statute now. Mr. Throssell replied that no financial investment is currently required of health service corporations.

Rep. Ellison asked how much in general fund dollars is needed to support the bill. Mr. Throssell replied the State Auditor has requested \$40,000 for examinations this year.

Rep. Sands asked what the return on premium dollars is without ASO. Mr. Throssell replied that health service corporations were not required to separate out that information until this year.

Rep. Sands asked what the response has been to "freedom of choice". There was no response.

Chairman Ramirez asked if ASO business were subsidized by its own claims, as is service business. Mr. Alke replied that rather than look at ASO, he preferred to look at Medicare. He advised that about 40 staff members do nothing but Medicare, and that he did not know how many staff members worked on ASO.

Chairman Ramirez commented that the Fair Trade Practices Act for health service corporations, as stated in the bill, appears to be much more limiting than those for insurance companies. Mr. Alke said he had no objection to an amendment, but would like to look at any amendments to make certain that for-profit provisions are not there that don't apply to nonprofit corporations. He added that BC/BS enrollment reps. have already passed the licensing exam.

Chairman Ramirez asked about licensing. Mr. Alke replied he is not certain there is a need to license staff, and said he objects to the first four sections of the bill.

Chairman Ramirez asked how much profit is made in the ASO portion of the business. Mr. Cain, President of BC/BS, stated that the ASO portion is made up of three groups: (1) Medicare, which is just barely meeting costs; (2) state of Montana for nominating changes (cost per claim); and (3) Montana Power.

Rep. Ellison asked about the 50 cent subscriber fee. Mr. Throssell replied that other insurance companies are required to pay fees for examinations conducted, and that all revenue collected goes to the general fund.

Rep. Gilbert asked what the \$5.6 million to the retirement system was for. Mr. Throssell advised it is for firemens' retirement and police in small cities and towns.

Rep. Gilbert asked if it were correct that one-fourth of premiums collected go to firemens' retirement. Mr. Throssell replied he would check that information and report back to the Committee.

CLOSING ON HOUSE BILL NO. 741: Rep. Harp summarized the GAO report, wherein the IRS recognized exemptions in the 1930's for health service corporations. He advised that the GAO report states health service corporations operate the same as health insurance companies do, and the state tax exempt status is no longer appropriate.

CONSIDERATION OF HOUSE BILL NO. 842: Rep. John Harp, House District #7, sponsor of HB 842, said the bill would revise the Montana individual income tax system and the method of calculating the amounts available for foundation program and permissive program support for elementary schools and high schools for the purpose of balancing the fiscal 1988-89 general fund budget. He explained that last September some members of the Committee attended a seminar on Montana taxation and found Montana to be below the national average.

Rep. Harp said the bill would lower the top margin on income tax from 11 percent to 8 percent, and that federal tax reform would remove approximately 30,000 low-income taxpayers from the tax rolls. He advised the plan would continue indexing against inflation and provide a minimum tax to assure all income earners would pay some tax. Rep. Harp said the bill would include all interest received from other states or political subdivisions, and as in the federal plan would exempt all interest rates of U.S. government obligations, railroad retirement benefits, and enrolled members of Indian tribes employed on federal reservations.

Rep. Harp told the Committee the Internal Revenue Code requirements would be the same, that if a federal return is filed, a state return must be filed, and that those filing jointly on a federal tax return would have to do so on a state tax return, in addition to granting extensions of up to six months.

Rep. Harp said the foundation program and the general fund are one and the same, and that excluding the \$76 million federal windfall would probably be worse. He commented it was his understanding that the Appropriations Committee may be \$20-40 million above that level by the end of the session. He advised that \$52 million is needed in FY88 and \$42 million in FY89, for the foundation program.

Rep. Harp stated that interest and income and net proceeds have experienced loss, and that there is a question on how to fund the foundation program under current law. He advised that foundation program is \$48 million short now, and needs to be bridged for two and one-half years, to balance the budget as a result of major tax reform. Rep. Harp referred to an exhibit produced by Alec Hansen, Montana

League of Cities and Towns, on March 6, 1987, explaining distribution of these funds.

PROPOSERS OF HOUSE BILL NO. 842: Rep. Mike Kadas told the Committee HB 842 is the only approach to balancing the budget, and said the foundation program is in serious trouble. He commented that the bill moves in a direction to build a base for the foundation program and that the Legislature needs to look at schools and statewide school spending. He urged the Committee to support the bill.

OPPOSERS OF HOUSE BILL NO. 842: Bob Stockton, Office of Public Instruction, said he has been responsible for distribution of dollars to the states' schools for the past 20 years. He told the Committee he applauded Rep. Harp's efforts for state income tax reform, but saw some mechanical problems with the bill. Mr. Stockton cited the method of estimating the deficit on page 62, for which no provision has been made, as well as what are are are not statutorily appropriated funds for education on page 59, line 16. He said he would be obligated to estimate all budgets and would have to meet deficits from school reserves, especially for counties funded at 100%. He advised the Committee that the Senate removed deficit levies from state law in 1981.

Bruce Moen, Montana School Board Association, said he appreciated the revenue to the foundation program but objected to pro-rata funding if revenue is short. He commented it appears to be a 10% cut in the foundation program, and that it would be difficult to run education based upon fluctuating budgets.

Terry Minnow, Montana Federation of Teachers, told the Committee the back page of the fiscal note indicates a \$96 million loss in revenue.

Phil Campbell, Montana Education Association, provided a copy of 20-9-351, MCA, pertaining to funding of deficits in state equalization aid (Exhibit #14). He said that if the state would fund the greater share of education, there would be fewer problems at the local level.

Rep. Dan Harrington, stated that even without HB 842, many school districts in the state are unable to meet their needs and are faced with declining enrollments, as well as declining reserves. He said the bill would create a disaster as far as education is concerned, and that he fears there would be serious problems even if the bill were amended. He commented that the Legislature doesn't seem to be able to address this problem.

Jesse Long, School Administrators of Montana, said he opposes the bill because mid-year schedule changes would be difficult to deal with in the schools, and the pro-rata approach would lead to deficits.

Claudette Morton, Executive Secretary, Board of Public Education, asked the Committee to give the bill a do not pass recommendation.

Elinor Collins, representing the County Superintendents of Schools Association, said she opposed the bill.

QUESTIONS ON HOUSE BILL NO. 842: Chairman Ramirez asked if the bill were a portion of SB 307's income tax proposal. Rep. Harp replied that it was, in addition to the foundation program and surtax proposals.

CLOSING ON HOUSE BILL NO. 842: Rep. Harp explained the bill would do a lot of things that have never been done before, and said no one has really faced the issue of the revenue side of the foundation program and that the Taxation Committee is finally able to look at the big picture of the foundation program, which has always been with the Education Committee.

DISCUSSION OF ACCOMMODATIONS TAX BILLS: Chairman Ramirez advised the Committee he would put the five accommodations tax bills into the Coal Tax Subcommittee for recommendations on Wednesday, March 11.

CONSIDERATION OF HOUSE BILL NO. 782: Rep. Jack Sands, House District #90, sponsor of HB 872, said HB 782 is another version of local option tax, which would allow a 10% income tax surcharge and a sales tax option of .5% only if a general statewide sales tax is in effect, and the electorate of the local government approves.

He said local governments have a litigating point of view when state government says they are overly dependent upon property taxes, and that the bill avoids the problems of HB 56, which proposes different taxing jurisdictions. Rep. Sands added that predatory taxing policies would be averted by providing that the Legislature act as the taxing authority and said he agreed with the technical comments made by DOR.

PROPOSERS OF HOUSE BILL NO. 782: Alec Hansen, Montana League of Cities and Towns, told the Committee a general sales tax should not preempt a local sales tax.

Carla Gray, Montana Power Company, stated her support of HB 782.

Tom Correa, Mountain Bell, said he would support the bill with the proposed amendments.

Gene Pigeon, MDU Resources Group, Inc., also stated he would support the bill with the proposed amendments.

Lorna Frank, Montana Farm Bureau, stated her support of the bill, and read from a prepared statement (Exhibit #14).

OPPONENTS OF HOUSE BILL NO. 782: Sam Ryan, Montana Senior Citizens Association, stated his opposition to the bill.

Terry Carmody, Montana Farmers Union, stated his opposition to HB 782.

TECHNICAL COMMENTS ON HOUSE BILL NO. 782: Ken Morrison, DOR, stated the Department continues to see problems with taxing non-residents. Referring to section 2 (4), on page 3 of the bill, he said it appears the bill gives local governments the authority to set their own rules, procedures, and penalties, which could create conflicts among such governing bodies. Mr. Morrison said the bill doesn't provide for start-up costs, and requires the DOR track taxes to their point of origin, as outlined in section 7 (2). He commented it would be easier to deal with counties as single entities.

CLOSING ON HOUSE BILL NO. 782: Rep. Sands advised that the Billings Chamber of Commerce requested to be shown as proponents of the bill, but made no other closing comments.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 12:00 noon.

  
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Representative Jack Ramirez,  
Chairman

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 9, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

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FACTS ON HOUSE BILL 741

EXHIBIT #1  
DATE 3-9-87  
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A health service corporation is a non-profit corporation providing insurance plans for hospital and medical care. Under current law, health service corporations are exempt from many provisions of the Montana Insurance Code and are allowed to do business differently than other health insurance companies. H.B.741 addresses those differences and seeks to determine if such distinctions should be maintained, or if the same requirements should apply to all businesses providing health insurance in this state.

In equalizing the treatment of health service corporations and health insurance companies, the major provisions of H.B. 741 include:

1. Health service corporations would be regulated under the Insurance Code like all other insurance companies.
2. The bill assures consumer protections for customers of health service corporations such as freedom to choose what kind of doctor will provide treatment, financial examinations to ensure that the corporation will be financially sound and able to pay all claims, and prompt and fair claims settlements.
3. The bill requires health service corporations, and not the State, to pay the cost of financial and market study examinations. Other insurers already pay those same costs, and this change will remove the expense from the general fund and Montana's taxpayers.
4. Under this legislation, the tax treatment of all health insurers in Montana would be equalized by requiring health service corporations to pay the same tax on premium volume that all other insurance companies must pay.
5. H.B. 741 requires that health service corporations obtain a license. Currently, health service corporations are not licensed through the Insurance Department.
6. This legislation requires health service corporation "enrollment representatives" to pass the same examination as agents offering health insurance through other companies.
7. The bill adjusts fees paid by health service corporations to match those paid by health insurance companies.

This legislation WILL NOT:

- \*alter the non-profit status of health service corporations.
- \*change the financial requirements a health service corporation must establish and maintain in order to do business in Montana.
- \*restrict a health service corporation's ability to contract with doctors or hospitals to achieve cost control.

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AMENDMENTS TO HOUSE BILL 741

1. Page 2, line 3.

Following: "corporations"

Insert: "as prescribed in 33-30-102"

2. Page 3, lines 5 through 6.

Strike: "referred to in 33-1-102"

Insert: "in the provisions listed in 33-30-102"

3. Page 4, line 8.

Strike: "title."

Insert: "chapter. In addition to the provisions contained in this chapter, other chapters and provisions of this title apply to health service corporations as follows: 33-2-705, 33-17-212, 33-17-213, and 33-17-214; and chapters 1, 15, 18, 19, and 22."

4. Page 6, line 7.

Strike: "is"

5. Page 6, lines 7 through 8.

Strike: "subject to the premium tax"

Insert: "shall pay on or before March 1 a 2.75% tax upon all dues and fees collected from members in the last calendar year in the manner prescribed"

6. Page 10, line 18.

Strike: "chapter 17"

Insert: "33-17-212, 33-17-213, and 33-17-214"

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#1  
HB 741  
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M E M O R A N D U M

TO: Representative John Harp

FROM: Kathy Irigoin, Staff Attorney  
Montana Insurance Department

SUBJECT: Information on premium tax and freedom of choice  
issues in House Bill 741

DATE: March 13, 1987

I. Premium Tax vs. Corporate Tax

A corporation may not be organized in Montana (or any other state) for banking or insurance. Corporation laws (including a corporate license tax), therefore, do not apply to banks or insurance companies. Historically, insurance companies have paid only a tax upon the net premiums received during the preceding calendar year. An insurance company pays the premium tax in lieu of all other state, county, city, district, municipal, and school taxes, licenses, fees, and excises.

A nonprofit corporation organized as a health service corporation does not pay a premium tax or a corporate license tax. A health service corporation is exempt from the corporate license tax in Montana as a "civic league or organization not organized for profit but operated exclusively for the promotion of social welfare".

The Federal Government determined, in 1986, that health service corporations should no longer be exempt from federal income tax because they are not "operated exclusively for the promotion of social welfare". Instead, they act and operate much like all other insurance companies. Health service corporations in Montana do not operate exclusively for the promotion of social welfare either and, therefore, should not be exempt from state taxation. (Twenty-two states already require health service corporations to pay a premium tax.)

II. Problems With Taxing Administrative Services Only (ASO)

A health service corporation collects a fee for administering ASO business like the State Employees' Health Plan. ASO business generates income to the health service corporation, separate from any premium income. Historically, neither insurance companies or health service corporations have paid an income tax. Presently, health service corporations do not

report their ASO business separately, making it difficult to determine how their ASO business relates to their regular "at-risk" business. Beginning in 1987, health service corporations will be required to report ASO business separately from their "at-risk" business.

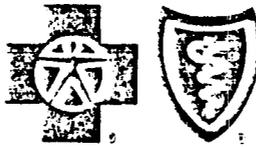
### III. Freedom of Choice

Section 12 of House Bill 741 (page 13, line 2 through line 4, page 14) requires health service corporation membership contracts to provide for freedom of choice of practitioners. Basically, this allows a member may choose any licensed physician, dentist, osteopath, chiropractor, optometrist, chiropodist, psychologist, licensed social worker, or nurse specialist to treat any illness or injury. All insurance companies are already required to let their policyholders choose anyone from that list to treat them. Presently, health service corporations exclude coverage of services provided by chiropractors or optometrists, neither of whom is a medical doctor, unless coverage of chiropractors or optometrists is specifically requested by a group in negotiating a group policy or an individual in purchasing an individual policy.

House Bill 741 does not interfere with health service corporation provider agreements through which providers agree not to charge more for a service than the health service corporation has established to be a reasonable charge, e.g., \$500 for an appendectomy. If a member goes to a participating provider, he or she can be assured that the provider will not charge more than \$500 for an appendectomy. The member will pay 20% of the \$500 charge, and the health service corporation will pay the remaining 80%. If, however, a member goes to a non-participating provider, the non-participating provider may charge \$600 for the appendectomy. The member then pays \$100 (the difference between the amount the non-participating provider charged and the health service corporation thinks is a reasonable charge) PLUS 20% of the \$500 that the health service corporation thinks is a reasonable charge. In any event, the health service corporation pays only 80% of \$500 for a appendectomy. If provider agreements achieve cost containment for anyone, it's the health service corporation, not the member. (Please note that I made up the charges. I don't know what Blue Cross/Blue Shield thinks is a reasonable charge for an appendectomy).

Section 12 does not prevent a health service corporation from contracting with health care providers to achieve health care cost containment. It simply says that, if I choose a chiropractor to treat my back, the health service corporation cannot refuse to pay whether or not the chiropractor has a provider agreement with the health service corporation.

Blue Cross  
and  
Blue Shield  
of Montana



741

**Helena Division**  
404 Fuller Avenue • P.O. Box 4309  
Helena, Montana 59704  
(406) 444-8200

**Great Falls Division**  
3360 10th Ave. South • P.O. Box 5004  
Great Falls, Montana 59403  
(406) 761-7310

February 14, 1987

Reply to Helena Division

Dear Blue Cross and Blue Shield Member:

We need your help!

State Auditor Andrea Bennett has just introduced legislation that will drive up the cost of your Blue Cross and Blue Shield health care coverage.

Mrs. Bennett thinks Blue Cross and Blue Shield should be just like any other health insurance company doing business in Montana. As you know, we aren't like commercial for-profit companies, mainly because we are non-profit. We don't have stockholders and we don't pay anyone dividends. We provide jobs for 450 people and our Board of Directors consists of 15 Montanans. Because we are non-profit and have contractual agreements with doctors and hospitals to save you money when you need their services, 88 cents of every dollar collected over our 40-plus years of business has been returned in benefits paid for the 242,000 Montanans we cover.

Mrs. Bennett has proposed a law that will add a tax of 2.75% to your Blue Cross and Blue Shield dues. We think the people of Montana deserve a choice. Mrs. Bennett's bill to tax your health care, as a Blue Cross and Blue Shield member, should be defeated.

We will oppose House Bill 741 on your behalf. You can help defeat this health care coverage tax by writing a member of the House Taxation Committee which will discuss the bill shortly and let them know of your opposition. A list of Committee Members is on the reverse side.

We appreciate your business and will do everything possible to see that this tax on your Blue Cross and Blue Shield coverage is defeated.

Thank you for your help.

Sincerely,

Alan F. Cain  
President and  
Chief Executive Officer

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M E M O R A N D U M

TO: Andy Bennett, Commissioner of Insurance

FROM: Jim Borchardt, Chief Examiner  
Montana Insurance Department

SUBJECT: Explanation of 88¢ that Blue Cross/Blue Shield claims  
it pays to its subscribers from every dollar collected

DATE: March 6, 1987

In his February 14, 1987, letter to Blue Cross/Blue Shield (BC/BS) members, Alan Cain, the president of that health service corporation, notes that 88¢ of every dollar collected from members was returned to them in the form of benefits paid. Mr. Cain also mentions that BC/BS covers 242,000 Montanans. Both of these statements appear to be misleading and/or misrepresentative of the facts. The following discussion will explain why I believe this to be so.

The business of BC/BS falls primarily into two types. One type is the "at-risk" business. The corporation receives a stipulated premium for its "at-risk" business and hopes that the claims it pays, together with its administrative expenses, will not exceed the premium charged, so that it does not lose money.

The other type of business is the so-called "administrative services only" (ASO) business. In this segment of its business, BC/BS merely acts as an administrator in paying the health claims of an employer who is self-insuring the health care of his employees. In this scenario, BC/BS charges back to the employer the total of the health care claims it has paid after adding a charge to cover its administrative expenses and to provide a modest "profit." BC/BS cannot lose money on ASO business unless it underestimates its administrative expenses in the charge-back to the employer.

When BC/BS reported these two types of business in its annual statement, it was required to combine them on the income statement. This combination of items results in a distortion of benefit payment per dollar. By its very nature, ASO business will have a very high benefit payout per dollar (90¢ to 95¢ is certainly possible), since administrative expenses are typically low. Thus, when ASO business is combined with "at-risk" business, the benefit payout per dollar appears higher than it would be for "at-risk" business alone. Therefore, the statement that 88¢ of every dollar is paid out

in benefits appears questionable, if it intends to convey the impression that this is what has happened on the "at-risk" business.

Per new nationwide reporting regulations, the annual statement of BC/BS for calendar year 1986 will reflect, for the first time, the ASO and "at-risk" business separately. However, our office has not yet received BC/BS's annual statement so that we can see the separate business segments.

Mr. Cain says BC/BS covers 242,000 Montanans. Yet, on the Genetics Program Charge form that BC/BS filed with the Montana Insurance Department in late February, 1987, BC/BS indicates that it insures 179,482 Montanans. It is possible that the roughly 60,000-person discrepancy reflects the number of Montanans covered under ASO plans. If true, then ASO business represents about one-fourth of the total number of Montanans that BC/BS covers. The benefit payout per dollar for BC/BS's "at-risk" business is most likely much lower than 88¢.

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EXHIBIT #4  
DATE 2-7-87  
HB 741

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Summary of Report by United States General Accounting Office  
to the Chairman, Subcommittee on Health,  
Committee on Ways and Means  
United States House of Representatives  
"Comparing Blue Cross and Blue Shield Plans  
With Commercial Insurers"

I. Introduction

Until 1986, the IRS exempted Blue Cross and Blue Shield plans (the plans) from federal income tax. Before Congress removed the tax-exempt status of the plans, the United States General Accounting Office (GAO), in July, 1986, published a report examining the potential impact on the availability of health insurance if the plans were taxed.

II. GAO's Conclusions

When the plans' tax-exempt status was initially recognized, they offered one community rate whereby all subscribers--group and individual--paid a uniform rate regardless of individual health status. Higher risk individuals benefited because their premiums were subsidized by lower risk individuals. Today, the plans, like commercial insurers, experience-rate their large groups, which constitute the majority of their business. Experience-rating means the plans base their premiums wholly or partially on the group's health experience. Also, the plans' pricing methods for individuals resemble the experience-rating methods used by commercial insurers because the plans set separate rates for high-risk individuals. The plans' subsidy for high-risk individuals is reduced because large groups are experience-rated.

The GAO concluded that taxing the plans should not affect the availability of health insurance for most Americans, who are insured as members of large, employer-paid groups. Adverse effects, if any, would be limited to high-risk individuals and small groups because commercial insurers would cover most individuals and small groups. The significant differences between nonprofit and for-profit insurers that justified the tax exemptions have been eroded by competitive developments.

III. Reasons to Remove Tax Exemption

The GAO considered the following reasons presented by commercial insurers for removing the plans' tax-exempt status:

1. The plans sell the same health insurance products in the same markets as for-profit insurers who pay federal income tax.
2. The plans' pricing methods and underwriting practices are almost indistinguishable from those of commercial health insurers.

3. The plans are not unique in insuring high-risk insurers as evidenced by the fact that 11 states have mandated licensed health insurers to share in the financial burden associated with insuring medically uninsurable individuals (please note that Montana is one of those 11 states).
4. The tax exemption creates an unfair competitive advantage for the plans.

#### IV. The Plans' Reasons to Continue Tax Exemption

The plans presented the following reasons to support the continuation of their tax-exempt status:

1. The plans are nonprofit community service organizations that finance health care for individuals and small groups who could not obtain health insurance elsewhere.
2. For-profit insurers have an obligation to their stockholders to be selective in the risks they underwrite, while the plans have an obligation as social welfare organizations to offer coverage to the widest possible segments of the population.
3. If taxed, the plans may no longer be as willing to insure high-risk individuals, transferring to the public sector the burden of caring for the medically uninsurable.

In rejecting the plans' reasons, the GAO noted that at least 11 states have established pools for the medically uninsurable, which indicates both that the plans are not financing health care for the medically uninsurable and that the burden of caring for the medically uninsurable has already been transferred to the public sector. The GAO noted further that commercial insurers, like the plans, accept substandard health risks, which means that for-profit insurers, while selective in the risks they underwrite, do offer coverage to a wide segment of the population. Although not mentioned in the GAO report, Montana (in 1985) transferred the burden of caring for the medically uninsurable to the Comprehensive Health Association and Plan, a plan that mandates each licensed insurer, insurance arrangement, society and health service corporation to participate in covering individuals who cannot obtain health insurance.

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ROBERT THROSSSELL, Attorney Written testimony on behalf  
STATE AUDITOR & COMMISSIONER OF INSURANCE

#5

EXHIBIT  
DATE 3-9-87

HOUSE BILL NO. 741

HB \_\_\_\_\_

General Revision of Health Service Corporation Laws.

A health service corporation is a non-profit corporation created to provide plans of hospital and medical care. Because of its non-profit status, the Legislature has granted health service corporations the right to conduct their business in a different fashion than insurance companies. This bill highlights the differences between health service corporations and insurance companies. In doing do, the bill addresses the issue of whether the distinctions between health service corporations and insurance companies should be maintained.

Section 1 of the bill amends 33-1-102, MCA. This section exempts health service corporations from the provisions of the Insurance Code to the extent that their existence and operation is authorized as a non-profit corporation in by Title 35, Chapter 2, MCA. Under Montana law, an insurance company is not incorporated under Title 35, dealing with business corporations. Insurance companies are incorporated under the applicable insurance laws.

Health service corporations by statute must be non-profit. Their existence is governed by the provisions of the Non-Profit Corporations Act. This bill clarifies that while a health service corporation's existence is authorized under Title 35, Chapter 2, its operation falls under the provisions of Title 33, the Insurance Code.

Section 2 of the bill amends Section 33-1-201, MCA. This section is the general definition section of the Insurance Code. The definition of "Insurer" is amended to include health service corporations. By this change, when the term insurer is used in the Insurance Code, health service corporations will be included. Other portions of the bill clarify the applicability of the Insurance Code to health service corporations.

Section 3 of the bill carries the clarification one step farther by specifying in Section 33-30-102, MCA, the appropriate regulatory statutes for health service corporations. By substituting the word code for chapter, it clarifies that health service corporations fall under the insurance laws in Title 33. No change has been suggested to the second subsection of 33-30-102, MCA, which is a direction on how conflicting laws are interpreted. The specific terms of Chapter 30 governing health service corporations will control if there is a question between conflicting statutes. The effect of the changes in the first three Sections of the bill is to place health service corporations under the entire Insurance Code unless specifically excluded.

Section 4 of the bill allocates the expenses for the examinations that the Commissioner is directed to conduct on

health service corporations. Under existing law, insurance companies are charged for any examination. (See Section 33-1-413, MCA.) The Commissioner may conduct a general financial examination only if a health service corporation is unable to fulfill its contractual obligations. ( See Section 33-30-105, MCA.) Further the Commissioner is directed to, at least once every four years, conduct an examination of a health service corporation to determine whether it is meeting its contractual obligations, satisfying claims and generally operating with appropriate fiscal controls for the efficient and economic administration of its programs.

Section 4 of the bill, as amended, will subject health service corporations to routine general financial examinations at least ever three years. This will be identical to the schedule of financial examinations faced by insurance companies. It is senseless to conduct an examination after the company is experiencing problems. A primary purpose of a general examination is to prevent problems. As with the general financial examinations of insurance companies, the health service corporation will be charged for the cost of the examination. There is no basis to treat health service corporations any differently than insurance companies.

The second type of examination, known as a market study examination, is for the purpose of determining whether a health service corporation is living up to its service obligations to its members. To fund the market conduct examination in previous years, the Insurance Commissioner has had to ask for a special appropriation. Section 4 of this bill provides that health service corporations pay the cost of the market conduct examination.

Section 5 of the bill imposes the premium tax in Section 33-2-705, MCA, on the premiums or dues charged by a health service corporations. Currently under Section 33-30-203, MCA, health service corporations are exempt from paying premium tax. Instead they pay a charge of 50 cents per individual or family unit covered. The premium tax statute levies a 2 3/4% tax on the net direct premium written in the state of Montana.

All insurance companies selling in the state of Montana pay the premium tax. Insurance companies build into their rate structure an additional 2 3/4% to cover the premium tax. This places health insurance companies at a disadvantage when competing against health service corporations.

Section 6 amends Section 33-30-204, MCA, to set the fees charged for various licenses and filings of a health service corporation on par with those charged insurance companies doing business in this state. The fees are similar to those found in House Bill 372 which is a general revision of the fee structure applicable to insurance companies. New fees are instituted for a health service corporation license and the continuation of that license. Section 10 of the bill addresses the requirement

for licensure of health service corporations doing business in this state.

The other change proposed in Section 6 is in subsection 2 of the statute which now has the various fees charged health service corporations deposited in the general fund. The bill designates that the fees be deposited in the Insurance Regulatory Trust Account. Any balance in the account reverts to the General Fund. This will treat the fees collected from health service corporations like the fees collected from insurance companies. It will have no effect on general fund revenues.

Section 7 of the bill amends the current form filing laws applicable to health service corporations to conform with the existing law for insurance companies. This amendment is submitted because there is no valid reason why health service corporations should be treated differently than insurance companies. Part 5, Chapter 1, of the Insurance Code sets forth the filing requirements, the responsibilities of the Insurance Commissioner, and the right of the company filing the forms to a hearing and an appeal if it disagrees with the decision of the Insurance Commissioner. The changes proposed by Section 7 will provide for one uniform form filing procedure.

Section 8 of the bill amends Section 33-30-307, MCA, which requires that when a health service corporation increases its rate, in addition to a written 45 day notice to members, it must also provide the mailing address of the Commissioner of Insurance. Under current law, the Commissioner of Insurance is prohibited from reviewing the rates charged by health service corporations. (See Section 33-30-306(4), MCA). The notice provision creates a deluge of mail to the Insurance Commissioner every time a health service corporation raises its rates. Because the Insurance Commissioner is not given the power to make any changes to those rates, it is a useless exercise. Section 8 deletes the meaningless step of having the Insurance Commissioner's mailing address attached to the rate increase notice.

Section 9 amends Section 33-30-312, MCA, allowing health service corporations to use enrollment representatives to sell their product. An enrollment representative solicits memberships in a health service corporations' plans. The changes proposed by Section 8 provide that enrollment representatives pass the same examination given to applicants for a disability insurance agent's license.

A person who has passed the examination to sell disability insurance should be familiar with the various products available in the market place. When an enrollment representative solicits a person to become a member of a health service corporation plan, he should be able to explain to the consumer the differences between a disability program offered by an insurer and a health service corporation. He will be

better able to assist the consumer in determining which type of coverage suits the person's needs.

Section 10 amends Section 33-30-1007, MCA. This change is also being requested in Section 33-22-504 of the Code under group disability insurance. The change allows for the right of conversion when an employer discontinues a group policy. If an employer decides to discontinue coverage, this change would allow an employee to convert to another plan offered by a health service corporation. The conversion right is limited to the situation when the employer does not provide any other group disability insurance or plan. This is to prevent the employer from dropping coverage to force people in the group that may be incurring high medical costs off onto the health service corporation and then turning around and purchasing group insurance at a lower rate from another carrier.

Section 11 establishes a license requirement for health service corporations. An insurance company doing business in this state must have a certificate of authority or license. The same requirement does not exist for a health service corporation. In addition, if an insurance company violates the terms of Montana law it is subject to losing its license. No such similar requirement exists for health service corporations. This licensing requirement gives the Insurance Commissioner the necessary control to ensure that a health service corporation is complying with Montana law. The other sections of this bill, which bring the health service corporation under the general insurance laws, provide that before any action can be taken to revoke or suspend a company's license, it is entitled to a hearing and an appeal from any decision made by the Insurance Commissioner.

Section 14 of the bill provides the codification instruction for the new section on licensing health service corporations.

Section 12 of the bill enacts a freedom of choice provision for health service corporations placing them on an equal footing with insurance companies. Insurance companies offering disability insurance are required by the freedom of choice of practitioner law, Section 33-22-111, MCA, to allow an insured to seek treatment from a variety of licensed health care professionals. This same right does not exist for people covered by a health service corporation plan.

Section 12 also addresses the issue of the compensation that must be paid to the practitioners selected. Health service corporations are structured so that they obtain working agreements with physicians to provide service at a fixed rate. Physicians who enter into these agreements are guaranteed prompt payment at that rate. Physicians who do not enter into agreements are not precluded from treating members of health service corporation plans. They are, however, only compensated at the contract rate.

Subsection 3 in Section 12 preserves the right of a health service corporation to limit its payment to the amount that is paid to contracting practitioners for similar services. This way a health service corporation can still contain cost by contracting with practitioners at an agreed upon rate. The right of the consumer is expanded in that they will have the option of seeking treatment from any of the practitioners listed in the bill. The fixed rate would apply to any listed practitioner a member elected to visit.

Section 13 is an extension of authority allowing the commissioner to adopt rules on the provisions of the act if she finds them necessary.

Section 14 provides the codification instruction for Section 12.

Section 15 establishes an applicability date for the provisions Section 12. The freedom of choice of practitioner provisions would apply to any contract entered into or renewed after June 30, 1988. This will allow time for health service corporations to adjust rates and forms to comply with the changes.

In summary, House Bill No. 741 eliminates many of differences between health service corporations and insurance companies. There is no basis for distinguishing many of the activities of health service corporations from those of insurance companies. Both compete to provide health insurance coverage to consumers of the state of Montana. The freedom of choice of practitioners law, unfair trade practices protections and financial examination are examples of requirements which all other insurers must meet. If the people of Montana are to enjoy the protections the Legislature envisioned by enacting laws regulating insurance companies, these same laws need to be extended to health service corporations.

#6

3-1-57

## SCHEDULE G

741  
13

showing (1) all payments in excess of \$1,000 to each Trade Association, Service Organization, Statistical, Actuarial or Rating Bureau or Organization during the year; and (2) all salaries, compensation and emoluments, except for certain bonafide commissions paid for or retained by agents, received in the current year by: (a) each director or trustee regardless of the amount thereof, (b) each of the ten officers or employees receiving the largest amounts in excess of \$50,000. (Include in this schedule the aggregate amount received by the officer or employee attributable to services to the reporting insurer whether paid directly by the insurer or by related or affiliated companies.), and (c) any other person, firm or corporation if the amount received was in excess of \$100,000 except for amounts included in Schedules J and K. (Any other amounts to be shown where required by statute.)

## LIST ITEMS UNDER (1) AND (2) IN SEPARATE GROUPINGS

1.	Name of Payee	Location of Payee	Amount Paid
1	American Hospital Assn.	Chicago, Illinois	1,000
1	Montana Hospital Assn.	Helena, Montana	1,400
1	William Nightingale	Lynwood, Washington	23,270
1	Milliman & Robertson, Inc.	Atlanta, Georgia	31,899
1	Blue Cross Association	Chicago, Illinois	171,672
2(a)	Members of the Board of Trustees receive travel and lodging expenses for Board and Committee meetings only.		
2(b)	Terry Screnar Carl J. Tanberg Ronald C. King Clyde M. Bigelow Robert McCann Lawrence L. Shannon William N. Jensen James O. Carlson Michael A. Wagner Robert B. Morton	Great Falls, Montana Great Falls, Montana Great Falls, Montana Great Falls, Montana Great Falls, Montana Kalispell, Montana Great Falls, Montana Billings, Montana Great Falls, Montana Great Falls, Montana	78,960 60,591 57,630 56,931 50,061 49,712 44,862 39,366 39,048 38,704

## SCHEDULE G

Showing (1) all payments in excess of \$1,000 to each Trade Association, Service Organization, Statistical, Actuarial or Rating Bureau or Organization during the year; and (2) all salaries, compensation and emoluments, except for certain bonafide commissions paid to or retained by agents, received in the current year by: (a) each director or trustee regardless of the amount thereof, (b) each of the ten officers or employees receiving the largest amounts in excess of \$50,000, (include in this schedule the aggregate amount received by the officer or employee attributable to services to the reporting insurer whether paid directly by the insurer or by related or affiliated companies.), and (c) any other person, firm or corporation if the amount received was in excess of \$100,000 except for amounts included in Schedules J and K. (Any other amounts to be shown where required by statute.)

## LIST ITEMS UNDER (1) AND (2) IN SEPARATE GROUPINGS

1 Title	2 Name of Payee	3 Location of Payee	4 Amount Paid
Association	Nat'l Assn. of Blue Cross & Blue Shield	Chicago, Illinois	88,326
Electronic Data Systems	E.D.S.	Dallas, Texas	1,018,204
Wendt Advertising	Wendt Advertising	Great Falls, Montana	175,679
I.B.M.	I.B.M.	Helena, Montana	754,554
Mountain Bell	Mountain Bell	Salt Lake City, Utah	172,880
Chairman Board	M.E. Donovan	Helena, Montana	77,844
President	A.F. Cain	Helena, Montana	100,780
Vice President	T.F. Mullaney	Helena, Montana	66,760
Vice President	T.P. Cladouhos	Helena, Montana	59,025
Vice President	H.L. Rawson	Helena, Montana	52,841
Vice President	D.D. Jones	Helena, Montana	52,657
District Manager	R.W. McPhail	Helena, Montana	72,837

FORM #7  
DATE 3-7-87

MEDICARE COMPARISON - BASIC COVERAGE: PART A DEDUCTIBLES COVERED, PART B PAYS 20% OF APPROVED CHARGES 4/1

BLUE CROSS	BLUE SHIELD	FIRST FARWEST	RESERVE	UNTON BANKERS	BANKERS LIFE THE PRINCIPLE
\$43.70 4th Low	\$33.74 3rd Low	\$28.67 1st Low	\$47.79 5th Low	\$56.42 6th Low	\$31.44 2nd Low

ABOVE RATES REFLECT AGE 65 only, rates could be higher for older age.

NOTE: ALL PLANS QUOTED EXCEPT BLUE SHIELD ARE MEDICALLY UNDERWRITTEN AND ARE AVAILABLE TO THOSE OVER AGE 65 WHO QUALIFY MEDICALLY. BLUE SHIELD IS ONLY AVAILABLE AT AGE 65 OR DURING PERIODS OF OPEN ENROLLMENT, THE LAST BEING SPRING 1986, PRIOR OPEN ENROLLMENT WAS 2 YEARS PRIOR TO THAT OPEN ENROLLMENT DATE; DURING THIS OPEN ENROLLMENT PERIOD, THERE ARE NO MEDICAL QUESTIONS AND NO PRE-EXISTING WAITING PERIOD.

PRE-EXISTING PERIOD ON ALL PLAN OTHER THAN BLUE SHIELD IS UP TO 6 MONTHS, RANGING FROM 1 to 6 months.

ALL RATES REFLECT CURRENT 1987 RATES.

1/1/87

Policy Premium Comparison

*Individual Policy*

<u>Family Monthly Premium</u>	<u>M30 F27 1child</u>	<u>M35 F32 2child</u>	<u>M40 F38 4child</u>	<u>Average</u>
1st Health	120.33	↳ 140.33	147.33	136.00 ↳
1st Provider	135.33	↳ 162.33	207.33	168.33 ↳
Principle	159.05	↳ 159.05	166.21	161.44 ↳
Blue Cross	141.00	↳ 186.00	203.00	177.00 ↳
Blue Shield	120.56	↳ 156.58	219.48	165.54 ↳

Rate Table  
 Non-Smoker

Mon Y <u>Unisex            Premium</u>	Age <u>25</u>	Age <u>35</u>	Age <u>45</u>	Age <u>55</u>	Column <u>Average</u>
First Health	\$34	\$41	\$55	\$73	\$51
1st Provider	\$43	\$52	\$70	\$94	\$65
Principle	\$52.95	\$57.21	\$69.38	\$100.74	\$70.07
Blue Cross	\$50	\$67	\$84	\$101	\$75
Blue Shield	\$41.56	56.06	68.04	73.66	59.82

Policy Premium Comparison - Standards

	First Health	First Provider	Bankers Life	Blue Cross	Blue Shield
Maximum	1,000,000	1,000,000	No Limit	1,000,000	No Limit
Deductible	200/100	250	250	300	250
Family Max	No Limit	Limit 2	2 x Deduct	Limit 2	500
Accident	Waived Ded.*	\$300 Sup Acc	NA	\$500 Sup Acc	
Room & Board	80%/250	80% Semi	80%	80% Semi	80% Semi
ICU	80%/750	80% Full	80%	80% UCR	80%
Extras	80%	80%	80%	80% UCR	80%
Surgery	80% 74 CRVS	80% UCR	80%	100% UCR	80%
O.O.P.	12,500	5,000	5,000	7,500	5,000
Prescription	None	None	80% after Ded	80% / Ded	80% /Ded
Maternity	Comp. Only	Comp. Only	Included	100% UCR	Included
All Pract	Yes	Yes	Yes	No	No

\* Not available on \$5,000 Deductible Plan

Wm Daniels  
Ex #8  
3-9-87  
FB 741

#8  
DATE 3-9-87  
HB 741

Group Premium Comparison #1

<u>Company</u>	<u>Group A</u>	<u>Group B*</u>	<u>Group C</u>
Central Life Assurance Co.	\$2837.35	\$1279.99	\$350.39
Principal Mutual Life Ins. Co.	\$2812.76	\$1477.19	\$431.33
Blue Cross/Blue Shield	\$2087.60	\$1220.92	\$418.20
Transamerica Occidental	\$1573.08	\$868.53	\$346.88

Group Premium Comparison #2

<u>Company</u>	<u>Group D</u>
Transamerica Occidental Life	\$967.13
Blue Cross/Blue Shield	\$978.56

\* Includes dental benefits with \$500 Maximum

Group Composition

	<u>Age</u>	<u>Spouse (Y/N)</u>	<u># Children</u>
<i>Group A is a law firm with 18 employees</i>	35	Y	2
	40	Y	2
	45	Y	2
	45	Y	2
	50	Y	1
	55	Y	
	65	Y	
	25	Y	1
	30	Y	1
	35	Y	2
	25	N	
	26	N	
	27	Y	2
	29	N	
	30	Y	2
	32	N	
	33	N	
	35	N	
<i>Group B is a light manufacturer with 10 employees</i>	45	Y	2
	45	Y	
	40	Y	2
	38	Y	3
	25	N	
	26	N	
	48	N	2
	24	Y	1
	25	N	
	23	N	
<i>Group C is a family ranching operation with 3 employees</i>	66	Y	
	40	Y	2
	38	Y	2
<i>Group D is a small retail firm with 8 employees</i>	45	N	
	45	N	
	40	Y	2
	55	Y	8
	65	N	
	35	Y	1
	55	N	
64	Y	2	

Group Policy Comparison Standards

	<u>Central Life</u>	<u>Principal*</u>	<u>BC/BS</u>	<u>Transamerica</u>
Maximum	\$1,000,000	Unlimited	Unlimited	\$10,000,000
Deductible	\$300	\$250	\$300	\$300
Coinsurance	80/20	80/20	80/20	80/20
Family Max out of pocket	\$3400	\$2500	\$1000 per person--no family limit	\$5000
Accident	Ded. Waived	Ded. Waived	100% UOC**	Ded. Waived
Room and board	Semi-private	Semi-private	Semi-private	Semi-private
ICU	UOC**	UOC	UOC	UOC
Maternity	As any other illness	As any other illness	As any other illness	As any other illness
All Practitioners	Yes	Yes	No	Yes

\* Covers Wellness--all routine examinations and innoculations for children and adults are covered with the same benefits as any illness.

\*\* UOC refers to usual and customary charges.

Mona Jamison

3-9  
KOB 741

GAO

United States General Accounting Office

Report to the Chairman, Subcommittee on  
Health, Committee on Ways and Means  
House of Representatives

EXHIBIT #9  
DATE 3-9-87  
HB 741

July 1986

# HEALTH INSURANCE

## Comparing Blue Cross and Blue Shield Plans With Commercial Insurers



EX 9  
INSURANCE COMPANIES 1112  
39 HB 741  
ve a bond may, whenever such person or  
ety company as surety upon such bond,  
unt a reasonable sum for the expense of

re-en. Sec. 6228, R.C.M. 1921; re-en. Sec. 6228.

**in bank for safekeeping by execu-  
ement with surety.** It shall be lawful  
rdian, receiver, trustee, or other party of  
obligation is required to agree with hi-  
any or all moneys and assets for which  
r may be held responsible with a bank  
ompany, authorized by law to do business  
approved by the court or a judge thereof,  
for the safekeeping thereof, and in such  
al of such money or assets or any part  
of such surety or sureties or an order of  
uch notice to such surety or sureties as  
ch agreement shall not in any manner  
of the principal or sureties as established

VI. 1947, 40-1703.

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**neral Provisions**

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Act applicable.

— Finance

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**Part 3 — Operations**

- 33-301. Forms — filing, approval, hearing on disapproval, appeal.
- 33-302. Allowed contracts.
- 33-303. Grievance procedure for members.
- 33-304. Nonliability for injuries caused by contractees.
- 33-305. Prohibited trade practices.
- 33-306. Discrimination between individuals — restrictions — ratesetting by commissioner prohibited.
- 33-307. Notice of rate increases — comment to commissioner.
- 33-308 through 33-30-310 reserved.
- 33-311. Enrollment representative.
- 33-312. Enrollment representative — filing with and approval by commissioner — license.
- 33-313. Licenses — refusal to issue — suspension — revocation — hearing.

**Parts 4 through 9 reserved**

**Part 10 — Health Service Corporation Plans**

- 33-1001. Newborn infants covered by insurance by health service corporation.
- 33-1002. Disability coverage of services received in state institutions — coverage of persons eligible for public medical assistance.
- 33-1003. Continuation of coverage for handicapped — individual contracts.
- 33-1004. Continuation of coverage for handicapped — group contracts.
- 33-1005. Right of rescission.
- 33-1006. Continuing group coverage after termination.
- 33-1007. Conversion on termination of eligibility.
- 33-1008. Preexisting conditions.
- 33-1009. Insured's family — conversion entitlement.
- 33-1010. Renumbered 33-30-1021 by Code Commissioner, 1983.
- 33-1011. Dentists performing services common to both medicine and dentistry.
- 33-1012. Coverage for services provided by professional counselors.
- 33-1013 through 33-30-1020 reserved.
- 33-1021. Applicability.

**Chapter Cross-References**

Jurisdiction of providers of health care bene- Comprehensive health association and plan.  
Title 33, ch. 1, part 11. Title 33, ch. 22, part 15.

**Part 1  
General Provisions**

**33-30-101. Definitions.** As used in this chapter, the following defini-  
tions apply:

(1) "Health service corporation" means a nonprofit corporation organized  
or operating for the purposes of establishing and operating a nonprofit plan  
or plans under which prepaid hospital care, medical-surgical care, and other  
health care and services, or reimbursement therefor, may be furnished to a  
member or beneficiary.

(2) "Health services" means the health care and services provided by  
hospitals or other health care institutions, organizations, associations, or  
groups and by doctors of medicine, osteopathy, dentistry, chiropractic, optom-  
etry, and podiatry; nursing services; licensed social worker or psychologist;  
medical appliances, equipment, and supplies; drugs, medicines, ambulance ser-  
vices, and other therapeutic services and supplies.

#9  
DATE 3 9-87  
HB 741

**33-30-304. Nonliability for injuries caused by contractees.** A health service corporation is not liable for injuries resulting from neglect, misfeasance, malfeasance, or malpractice on the part of any person, organization, agency, or corporation rendering health services to the health service corporation's members and beneficiaries.

History: En. 40-5914 by Sec. 14, Ch. 319, L. 1975; R.C.M. 1947, 40-5914.

**33-30-305. Prohibited trade practices.** In order to regulate trade practices of health service corporations the following practices are prohibited:

(1) No person may make, issue, circulate, or cause to be made, issued, or circulated any estimate, circular, or statement misrepresenting:

(a) the terms of any health service corporation membership contract issued or to be issued; or

(b) the benefits or advantages promised thereby.

(2) No person may make any misleading representation or any misrepresentation as to the financial condition of any health service corporation.

(3) No person may make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication or in the form of a notice, circular, pamphlet, letter, or poster or over any radio or television station or in any other way an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of a health service corporation which is untrue, deceptive, or misleading.

(4) No person may make or issue or cause to be made or issued any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any health service corporation membership contract for the purpose of inducing or attempting or tending to induce a member to cancel or convert any membership contract.

(5) No person may file with any public official or make, publish, disseminate, circulate, or deliver to any person or place before the public or cause directly or indirectly to be made, published, disseminated, circulated, delivered to any person, or placed before the public any false statement of financial condition of a health service corporation with intent to deceive.

(6) No person may make any false entry in any book, report, or statement of any health service corporation with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs or any public official to whom that health service corporation is required by law to report or who has authority by law to examine into its condition or into any of its affairs or, with like intent, willfully omit to make a true entry of any material fact pertaining to the business of that health service corporation in any book, report, or statement of the health service corporation.

(7) No person may make, publish, disseminate, or circulate, directly or indirectly, or aid, abet, or encourage the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false or maliciously critical of or derogatory to the financial condition of a health service corporation or of an organization proposing to become a health service corporation and which is calculated to injure any person engaged or proposing to engage in the business of operating a health service corporation.

EX #10  
3987  
HB 741

#10  
39-87  
HB 741

Elsie Kaufman  
Prairie Tower  
725 North 25th Street  
Apartment 304  
Billings, Montana 59101

Representative Kelly Addy:  
Capital Station  
Helena, Montana 59602

Dear Mr. Addy:

We the residents of Prairie Tower are writing in opposition to HB 741.  
This bill would raise our Blue Cross and Blue Shield dues by 2.75% for taxes.  
This is an increase we cannot afford.

Ruth Travis  
Vera Anderson  
Helena Wise  
Ruth Thompson  
Anna Barodow  
Elsie Kaufman  
Eldosta Richards  
Maxine Calloway  
Emily P. ...  
Elaine G. Maxwell  
Grace Halberg  
Emil Wolf  
Alberta S. Foltz  
Ruth Kellogg  
Esther Wehnert  
Margaret ...  
Knut ...  
Vera Prill  
Julia Walter

John G. ...  
Alice Foltz  
Loutta M. Kaika  
Harriet Simmoch  
Lilla Smallack  
Catherine ...  
Jessie Boyer  
Ann Grossman  
Eleanor Smith  
Rose Schaff  
Willie Allison  
Anna Snell  
Alice ...  
Mary ...  
Eleanor ...  
Baria ...  
Zoolam ...  
Hellen ...

cc: Pat Reagan

Caroline Wittmu  
Oles Taylor  
Essie McCoy  
Margaret Hermsen  
Clara Dean Hart  
Helen Gusterson  
Marie Mohr  
Bertha Booth  
Mabel Drees  
B. Lorraine Nichols  
Agnes Repley  
Mable Lee  
Adam Kuntz  
Johna  
Johna Lutzoff  
Ada Lind  
Jean Honer  
Nola Jilly  
Bill Jilly  
Dorothy Scranton  
~~Johna~~

Myra Green  
Earl Langston  
Hattie Crushaw  
Evelyn Knapp  
Paula  
Vera Bartell  
Roy J. Gussinger  
Nute Dean Hamilton  
Betty Foster  
Edna McWay  
Lillian Hanes  
Annie Peterson  
Pearl Jeffriding  
Louise Anderson  
Evelyn  
Evelyn Bomar  
J. L. Galt  
Irene Mae Galt  
Armanda H. Wachs  
Bertha Harper  
Sarah Harnay  
Everett T. Benson  
Beatrice A. Murray

March 9, 1987

#12  
3-9-87  
HB 741

Chairman Jack Ramirez and  
Members of the House Taxation Committee  
Capitol Station  
Helena, Montana 59620

Submitted By: Rev. Daniel Wipf, Trustee  
Lehreleut Hutterite Group Insurance Trust  
Big Sky Colony  
Cut Bank, MT 59427

Chairman Ramirez and Members of the House Taxation Committee:

I am here to represent approximately 1,200 Hutterite people who live in Montana. We are insured under the Lehreleut Hutterite Group Insurance Trust which is governed by a five member Board of Hutterite Trustees. Our group utilizes the services of Blue Cross and Blue Shield of Montana, and have utilized these services since 1982.

We have several matters to state in regard to House Bill #741, but prior to discussing these matters, our Board feels it necessary to let you ladies and gentlemen know of the Hutterite position in relation to Governments. This is best summed up by a paragraph taken from a letter presented to President Harry S. Truman in 1951. The petition was presented to him by the Heads of Our Church at that time.

"We keep ourselves free from all participation in political activities, but we recognize the Government as ordained of God. We respect our Government and in our evening prayer meetings attended by all members, and also in our Sunday Worship Services, we pray for our Government. We have always willingly paid our real estate and personal property taxes, even though we have been told that our property is legally exempt from taxation since it belongs to a religious body. We do not allow our widows and orphans, our sick and our feebleminded to become a charge of the County or the State".

Prior to the formation of the Lehreleut Hutterite Group Insurance Trust, the Hutterite people had to accept health insurance which did not conform to the Hutterite way of life and principles. Many attempts were made over the years to try and obtain adequate protection, but not one of the private carriers would offer a plan which met our needs.

Most of the private carriers were not even interested in talking to us because of our life style. They were not interested for reasons such as:

1. We are a religious organization.
2. We are a corporation with no direct employer-employee relationship.
3. Our elderly people are not eligible for Medicare.

We were not interested in the few private carriers that offered to insure us because:

1. They forced us to purchase group life insurance which is in violation of our religious teachings because we do not believe that a man's soul can have a dollar amount placed upon it.
2. They would not insure our old people with anything but a Medicare Supplement and with our elderly not eligible for Medicare, this coverage was of no value.
3. They would not insure us except on a medically underwritten basis for each member of our colony. In a Hutterite Colony, everthing and everyone is equal, so we could not accept insurance for some and not insure those who were medically unacceptable.

There were many other problems which are well documented, but it is not necessary to list them. In 1982, our Group Manager and our Board of Trustees met with representatives of Blue Cross of Montana and as a result of this meeting, our health care program today is a program designed by our Hutterite Trustee Board to meet the needs of our colonies and our people.

Members of the House Taxation Committee, the above statements are made to demonstrate to you why we feel so strongly in supporting a Montana based corporation - Blue Cross and Blue Shield of Montana. They have repeatedly demonstrated not only an interest in obtaining our business, but have been of significant benefit in helping us control the cost of medical care.

As you are aware, the cost of medical care is one of the most rapidly escalating factors in our economy. Just a few short years ago, for example, a lady from our colonies could have a baby in a hospital and the daily room rate was \$85.00 and the physician charged \$300.00. Today, we are paying \$200.00 per day and the physicians are charging in excess of \$1,000.00. Our own Senator Baucus brought speakers from all over the country to Great Falls to discuss the health care catastrophe and how to attempt to control the ever-escalating cost of quality medical care.

Our colonies have worked exceedingly hard to try and control this cost. We have gone to higher and higher deductibles, we have eliminated items such as prescription drugs from our health care program, we have placed cost containment incentives into the program and we have taken a strong position on preventative medicine and accident prevention. We are doing everything in our power to at least try to stabilize this major expense to our colonies, and yet the costs keep escalating.

The monetary impact that the Hutterite people have in Montana is very significant. It takes just about \$100,000.00/month to keep a Hutterite Colony running. The money we spend for medical care is equally significant. Our group alone (Lehreleut Hutterite Group Insurance Trust) in 1987, will spend an estimated \$1,000,000.00 for medical care.

For the Period July, 1982 through December, 1986:

We have paid \$1,651,786 in health care dues.

We have paid \$281,000 in administrative fees.

There are many Federal and State welfare programs that our people legally qualify for. An example of these are:

1. State of Montana Maternal and Child Welfare Program.
2. Medicaid for the elderly.

From time to time, our Elders, our Tax Board and our Insurance Trustees will hear of a case where a member of a colony has enrolled in or a physician has enrolled one of our members in one of the "Welfare" programs. We have always taken a position of reversing this and followed the principals set down by the Elders of the Church that the Hutterite people take care of themselves. We still follow the principals that were stated to President Truman in 1951, that "We do not allow our widows and orphans, our sick and our feebleminded to become a charge of the County or the State".

Our opposition to the taxation of Blue Cross and Blue Shield of Montana is as follows. The cost of medical care is escalating almost to the point of being uncontrollable. The State should not add to this inflationary process by levying a tax on the dues we pay to Blue Cross and Blue Shield of Montana.

Had this tax been in force since our union with Blue Cross of Montana in 1982, it would have added an estimated \$45,425.00 to the cost of our medical care. The proposal in House Bill #741 based upon our current health care dues will add an estimated \$12,000.00 this year alone to our colonies.

Our group has a very significant impact on the economy of the State of Montana. We prefer to do business with people in our own state. We prefer to keep 100% of our health care dues within the state. We spend over 95% of all our health care dollars with physicians and hospitals in the state, and we do not feel that we should be taxed for this loyalty to our local economies.

We are Montana people. We like to do business with Montana people and organizations. Please do not levy a premium tax on Blue Cross and Blue Shield of Montana because a true cost containment for medical care can be damaged.

Ladies and Gentlemen of the Tax Committee, we need the services of Blue Cross and Blue Shield of Montana. We need to keep them viable and strong through competitive health care dues. We need a corporation which still treats people like neighbors, that continues to return almost 90% of our health care dollars back into the communities in which we live, and a major corporation which keeps our fellow Montanans employed. We urge you to continue to treat Blue Cross and Blue Shield of Montana as a Montana business - doing business with Montana people and defeat House Bill #741.

Thank you for allowing us to visit with you today.

Respectfully yours,

*Joseph H. Harper*  
*David E. Wynn*  
*David E. Wynn*  
*Daniel E. Wynn*  
*Wm. J. Kleinhammer*

Trustees of the Lehreleut Hutterite Group Insurance Trust

Representing:

Milford Colony - Wolfcreek, Montana  
Rockport Colony - Pendroy, Montana  
Miller Colony - Choteau, Montana  
Rimrock Colony - Sunburst, Montana  
Glendale Colony - Cutbank, Montana  
Kingsbury Colony - Valier, Montana  
Bigsky Colony - Cutbank, Montana  
Springdale Colony - White Sulphur Springs, Montana  
Hillside Colony - Sweetgrass, Montana  
Eaglecreek Colony - Galata, Montana  
Seville Colony - Cutbank, Montana  
Sagecreek Colony - Chester, Montana

X#13  
9-87  
HB  
file  
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EXHIBIT 13  
DATE 3-9-87  
HB 741 

# MONTANA FEDERATION OF TEACHERS

AMERICAN FEDERATION OF TEACHERS, AFL-CIO

Box 1246 Helena, Montana 59624 (406) 442-2123  
TESTIMONY OF JIM MCGARVEY, EXECUTIVE DIRECTOR, MONTANA FEDERATION OF  
TEACHERS/MONTANA FEDERATION OF STATE EMPLOYEES, AFT, AFL-CIO PRESENTED TO  
THE HOUSE TAXATION COMMITTEE ON MARCH 9, 1987.

Jim McGarvey  
Executive Director

The Montana Federation of Teachers and State Employees stands in opposition to House Bill 741. It places what is essentially a sales tax on the purchase of health insurance coverage. We have state employees and many teacher and university locals who are covered by this insurance program. This tax would be passed directly on to them through additional premiums at a time when legislators are already considering taxing them with pay freezes, layoffs, and increased workloads.

This tax falls most heavily upon Montana's working people. Retired persons on fixed incomes who buy Blue Cross and Blue Shield Medicaid suppliments would also be hit.

Blue Cross and Blue Shield is not like any other health insurance company. It is a non-profit organization--a service provided for Montanans by Montanans. Therefore it makes no sense to tax this organization like a commerical company.

Commerical insurance companies are diversified, making profits in the areas of casualty and life insurance and sometimes in diversified securities and trusts as well. Blue Cross and Blue Shield does none of these things.

If Blue Cross and Blue Shield is taxed and treated as a commerical profit making insurance company, as HB 741 suggests, it may be forced to act like a commerical company making judgements about who it will and will not cover and for what diseases and injuries. Profit motives would be the modus operandi rather than the desire to provide adequate health coverage to Montanans. This would hurt our members and all Montanans.

We oppose HB 741. This bill is not good for Montana's working people.  
**Democracy in Education — Education for Democracy**

HB 741  
3-9

EXHIBIT \_\_\_\_\_  
DATE 3-9-87  
HB 741

HI

HELENA INDUSTRIES, INC.

SUB-CONTRACTING AND MANUFACTURING

1325 HELENA AVENUE, HELENA, MONTANA 59601  
TELEPHONE (406) 442-8632

W. MICHAEL BULLOCK  
PRESIDENT

Mr. Chairman, and members of the Committee, my name is Mike Bullock and I am President of Helena Industries, a production based rehabilitation organization which trains adults with severe disabilities.

I am here today to speak in opposition to House Bill 741. Since 1970 Blue Cross and Blue Shield has provided excellent service and health insurance coverage to the staff of Helena Industries. Health insurance coverage is the one fringe benefit that we don't want to decrease or do without.

As with all other businesses, we have been faced with difficult economic times and the prospects for the future are less than bright. It is my concern that a tax of 2.75% on our Blue Cross and Blue Shield dues would leave us with no choice but to reduce our health care coverage. Reducing coverage is something we don't want to do, given the fact health care costs continue to rise.

I urge you to defeat House Bill 741.

W. Michael Bullock

W. Michael Bullock, President

3/9/87

Date

X  
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B741



3-9-87  
HB 741

## MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730

HELENA, MONTANA 59624

(406) 442-2405

March 9, 1987

MEMO TO: Members of the House Taxation Committee

FROM: Stuart Doggett, Public Affairs Manager

RE: HB 741

For the record, the Montana Chamber of Commerce would like to go on record in opposition to HB 741. We were unable to attend the hearing on March 9 but felt it was necessary to relate to you our concerns about HB 741.

As a statewide business organization we represent many employers who provide health insurance for their employees. These same employers are also paying for some of the highest workers compensation rates in the nation while trying to keep their heads above water. With this in mind we oppose HB 741 as it would add to the cost for employers who provide health insurance. We feel employers are already paying for all the employee benefits they can afford at this time.

The Montana Chamber of Commerce urges a do not pass recommendation on HB 741.

SD/ssg

EX# 13  
3-9-87  
Ph Campbell  
HB 842

EXHIBIT # 14  
DATE 3-9-87  
HB 842

20-9-351. Funding of deficiency in state equalization aid. If the level made under the provisions of section 20-9-348 is less than one hundred per cent (100%), it shall be the duty of the director of the department of revenue to levy, separately for the elementary districts and the high school districts, additional taxes in such number of mills on the taxable value of all taxable property within the state as shall be required to complete the financing of the foundation programs of all elementary districts or all high school districts of the state.

The state treasurer shall keep a separate accounting of the proceeds realized from these mill levies. The superintendent of public instruction shall apportion the proceeds of the mill levies to the elementary districts of the state or the high school districts of the state, whichever the case may be, on the following basis:

- (1) Determine the total amount required from this source of revenue by the several elementary or high school districts of the state.
- (2) Determine the total amount of moneys available for this source of revenue.
- (3) Calculate the percentage the amount determined in subsection (2) is of the amounts determined separately in subsection (1) for all elementary or all high school districts.
- (4) Multiply each elementary district or each high school district requirement for this source of revenue by the percentage calculated in subsection (3).

When the total amount of the proceeds realized from these mill levies is greater than the requirements of all the elementary districts or high school districts of the state, whichever the case may be, the excess amount of moneys shall be retained by the state for reduction of the ensuing year's additional state levy for elementary schools or high schools or, if there is no additional state levy under this section the excess may be transferred to the state equalization aid account for the reduction of the legislative appropriation.

The apportionment of state moneys under this section shall be the last source of revenue in calculating the financing of the elementary district foundation program and the high school district foundation program.

The superintendent of public instruction shall compute the budgeted requirement for this source of revenue for each district and shall supply the total state requirements for the elementary district foundation programs and the high school district foundation programs to the director of the department of revenue on the second Monday of August.

#14  
3782  
4-87



P.O. Box 6400  
~~502 South 1st~~

Bozeman, Montana 59716

Phone (406) 587-3153

EXHIBIT #14

TESTIMONY BY: Lorna Frank DATE 3-9-87

BILL # HR-782 DATE March 9, 1987

SUPPORT XXX OPPOSE \_\_\_\_\_

Mr. Chairman, members of the committee, for the record my name is Lorna Frank, representing approximately 3500 Montana Farm Bureau members throughout the state.

We support the option tax and the right of voter approval of all Montana tax levy issues on a local level to replace in part a portion of the present property tax system. We also favor replacement of the property tax as the principal source of funding for primary and secondary education with a broader based alternate tax such as a personal income tax or state sales tax. We also support legislation which would allow county and city governments to levy a system of user fees on all legal age residents within the governmental unit involved, this fee system to replace in part a portion of the present property tax system, such as road and bridge funds, law enforcement, operation of county courthouses, city hall or any part of the present budget system items.

SIGNED: Lorna Frank

EX  
3-9-87  
~~New Power~~  
Mt. Power Co.

EXHIBIT \_\_\_\_\_  
DATE 3-9-87  
HB 782

3/9/87

House Bill No. 782 - Introduced Bill

1. Page 9.

Following: line 4

Insert: "NEW SECTION". Section 8. Exemption for public utilities. No public utility subject to rate regulation by the Montana public service commission or owned by a governmental entity, including a rural cooperative utility organized under Title 35, chapter 18, is subject to a tax levied under [this act]."

Renumber: subsequent sections





43  
182

DATE 3-9-87  
HB 782

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. HB 782

DATE March 9, 1987

SPONSOR Sands

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Jean Ryan	M.S.C.A.		X
J. Lynn Morris	M.A.C.O.		
Ferry (unclear)	Mt. Farmers Union		X
Bera Caborn	Mesa Co. Fruitdiers		X
Juli Hackler	Mesa Co. Fruitdiers		X
GENE PHILLIPS	PP&L and NTS	X with Amend.	<del>X</del>
Karla Gray	MPC	X with Amend.	
GENE PIGEON	M.D.U. Resources Group	X WITH Amends	
Lorna Frank	MT. FARM Bureau	X	
Ken Morrison	DOR		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HB  
842

VISITORS' REGISTER

EXHIBIT \_\_\_\_\_  
DATE 3-9-81  
HB 842

House Taxation COMMITTEE

BILL NO. HB842

DATE March 9, 1981

SPONSOR Harp

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Mike Darden	MFT		X
Eleanor Collins	Mont Assoc Co. Supts		X
Bruce W. Moerer	MSBA		X
Jim W. Long	S. A. M.		X
Clauette Morton	Board of Public Education		X
Jay McKow	MT Fed Teachers		X
Bern Cahoon	Mont Co. Truckholders	?	
John Hacker	Mont Co. Truckholders		X
Phil Campbell	MEA		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.