

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON APPROPRIATIONS

Call to Order: By REP. TOM ZOOK, on April 5, 1993, at 10:00 A.M.

ROLL CALL

Members Present:

Rep. Tom Zook, Chair (R)
Rep. Ed Grady, Vice Chair (R)
Rep. Francis Bardanouve (D)
Rep. Ernest Bergsagel (R)
Rep. Roger DeBruycker (R)
Rep. Marj Fisher (R)
Rep. John Johnson (D)
Rep. Royal Johnson (R)
Rep. Mike Kadas (D)
Rep. Betty Lou Kasten (R)
Rep. Red Menahan (D)
Rep. Linda Nelson (D)
Rep. Ray Peck (D)
Rep. Mary Lou Peterson (R)
Rep. Joe Quilici (D)
Rep. Dave Wanzenried (D)
Rep. Bill Wiseman (R)

Members Excused: Rep. John Cobb

Members Absent: None

Staff Present: Jim Haubein, Principal Fiscal Analyst
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HJR 27, SB 378, SB 118
Executive Action: SB 118

HEARING ON SB 378

An Act eliminating certain dedications of revenue; providing for the review and future elimination of special revenue accounts; providing that appropriations from former special revenue accounts are from the general fund.

Opening Statement by Sponsor: SEN. LORENTS GROSFIELD, SD 41 said this is a bill to de-earmark certain state revenue funds and

basically the earmarked funds are "sacred cows", funds that are hard to get at in the appropriation process. There has been a lot of work done in this area over the past six or eight years by a number of different people. The Legislative Fiscal Analyst's office did a report on it in 1986. Some of the comments made in that report are: "earmarking revenues as a wide-spread, if, very controversial practice in government budgeting. There is concern over the proliferation of earmarked revenue with the resulting loss of budgetary flexibility in reviewing and evaluating it earmarked accounts". In 1986 there were 212, and now 264, and has been as high as 313.

Between 1954 and 1979 there was a concerted effort by a number of states to remove existing earmarking and limit new ones. There was a general feeling among legislatures in those years that earmarking limited legislative control over state spending and the state of Alaska went so far as to pass a constitutional provision that prohibited any new earmarking provisions. **EXHIBIT 1**, a chart put together by the National Council of State Legislatures, breaks down earmarking nationwide every five years. Montana is #2 and 72% in the nation in the amount of state revenue that is earmarked. The national average is 23%.

There are some advantages to earmarking. The state has some constitutional provisions that require earmarking of certain funds and this bill, as it was originally introduced, did not try to get at those. There is earmarking where cost goes to the group of persons who are benefiting from it, sort of user fee type earmarking.

The disadvantage of earmarking is that it can seriously impair the budgetary review process, reduce or loosen controls, and undermine state priorities. Setting aside earmarked accounts results in fragmentation of funding policy and frustrates the attention set on optimum levels on a statewide basis. We can get to either a mis-allocation of funds, in a sense you either overfund some programs or underfund some because the earmarking is often not flexible enough to respond to the current base. Earmarking also reduces both legislative and executive scrutiny by effectively removing earmarked programs from periodic review and control. It provides an obstacle that dampens efforts for closer review and earmarked programs tend to become imbedded even after the need ceases or has changed substantially. It contributes to the inflexibility of the revenue structure, making it difficult to adapt to changing conditions.

The original bill had these first few sections which are essentially a review by the legislative finance committee. The rest of the sections de-earmarked a variety of accounts. The only accounts that are left in this bill that are specifically de-earmarked are a few of the School Equalization Accounts. That money just goes to the general fund.

Section 1 explains the philosophy that dedicated revenue

provisions have increased in number, reduce legislative control over state spending, complicate the funding structure, etc. There are some definitions in Section 2. Section 3 states anything that is terminated pursuant to legislative review, the fund balance goes to the general fund. This bill, in its current form or in the original form, did not terminate any programs, just put the funding for those programs in the general fund so they could compete on an equal footing with the rest of the programs. Section 4 explains the effect of termination. Section 5 is the most important one left in the bill and that is essentially a study by the legislative finance committee has, to review each dedicated revenue, based on a number of criteria, pages 4 - 5, (a) through (h). Section 6 is another very important part of the bill, review of legislation. He explained EXHIBIT 2.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: REP. FISHER said she did not understand why user fees would not be de-earmarked because there is no choice, such as different kinds of professional fees. SEN. GROSFIELD said when he first put the bill together, he thought to de-earmark everything but that is a huge task. The user fees, such as Fish and Game license revenue, are also federal match so that is hit twice. On all the user fee types of accounts, such as professional boards, there is a tremendous amount of resistance to de-earmarking those. This bill will require they all be looked at by the Legislative Finance Committee.

REP. QUILICI said this bill constitutionally mandates the Montana Consumer Council Committee and has earmarked funds from regulated accounts. Are these excluded from this Bill? SEN. GROSFIELD said those accounts would be reviewed by the legislative finance committee the first interim. The reason to review is the need to understand which ones are constitutionally earmarked and which ones aren't. The SEA has moneys in it that are protected by the constitution and has other moneys in it that are not, but they all go into the same account.

REP. WISEMAN referred to EXHIBIT 1 and said in looking at the plains states, the trend over the last 40 years has been down. Did those states do a similar thing or have they whittled away at it over the years? SEN. GROSFIELD said he did not know for sure except, according to the study from the LFA's office, from 1954 to 1979 there was a concerted effort to decrease. Montana was only one of five states that showed an increase during that period.

REP. MENAHAN referred to page 10. "(Temporary) Definition or and revenue for state equalization aid", and asked what is meant by (Temporary). SEN. GROSFIELD said page 6 shows the same thing.

It is 15-1-501, a definition section. A portion of the statute is effective until June 30, 1993 and then changes on July 1, 1993. The legislature will say to give an effective date ahead, then the code book will have to be printed to have both the "temporary" section which is only good for a few years and then the new section.

REP. KADAS said it appeared the bill had de-earmarked the SEA to be close to the national average. Do most other states not earmark the equalization account? **SEN. GROSFIELD** said he can't speak for most other states but Oklahoma is one state that has done some significant de-earmarking the last four or five years. The LFA office checked into that and they de-earmarked the school equalization. **SEN. JACOBSON** informed him it was her understanding there are very few states besides Montana that earmark their gas tax. The original bill de-earmarked 64 accounts out of 264. He asked **Clayton Schenck, Legislative Fiscal Analyst**, if his bill passes as introduced what would it do to the 72% and he did some analysis and figured it would bring it down to about 46%. **REP. KADAS** said the bill will require the Fiscal Analyst and Finance Committee to look at the 264 accounts. Has anyone raised the question of whether they would do that in the time required? **REP. GROSFIELD** said he does not have the answer to that. **Mr. Schenck** said this would not be the first time and to get through 264 accounts would be difficult. There was an interim study done in the past by the legislative finance committee and they made quite a few requirements.

REP. QUILICI referred to the motor vehicle license account and that account goes to several different agencies within the state government; Justice, Department of Transportation and Revenue. That will put a lot of work on the LFA and the Legislative Finance Committee. How can this job be handled unless there is added support? **Mr. Schenck** said it will depend on what the Legislative Finance Committee comes up with. They would have to allocate a great number of hours to this particular study. The LFA would be working with resources from the Department of Administration. **REP. QUILICI** said with the existing staff and the existing budget, they would have to prioritize this and something else would not get done.

REP. PECK asked **Mr. Schenck** to explain the effect of taking these dedicated revenues out of the School Equalization Account. What differences will the next session see in terms of budgeting them for public schools? **Mr. Schenck** said, as that account stands now, it is subsidized by the general fund. This was the same circumstance that existed with the motor vehicle account that used to be in the Department of Justice several years ago. That was de-earmarked for that very reason. **REP. PECK** said the actual effect of that is going to be the general fund is appropriating more dollars to SEA. If revenue is taken out of the SEA that this bill is doing, it is going to put a further burden on general fund but that is there already. It will create a greater figure in the general fund. **Mr. Schenck** said that is correct.

REP. GRADY said there is one program now which has some legislation to de-earmark, the Petroleum Tank Release and Clean-up fund. It is a statutory appropriation and why wasn't this included? SEN. GROSFIELD said, in the original bill, it was not included. He thought statutory appropriations would be subject to this study. REP. GRADY asked if he would have any problem if it was amended into this bill? SEN. GROSFIELD said no.

REP. BARDANOUVE said the fiscal note shows Section 4 should be removed from the bill and also effective literature put on. SEN. GROSFIELD said there were some amendments put on this bill on the floor so the Senate could take care of those concerns. He referred to page 16, Section 10, the technical note says the effective date needs to be changed to July 1, 1994 and that is done with respect to the section of the bill that was referenced, Section 7 through 9. The other part of the amendment adopted on the floor is on page 3, line 24, "terminated pursuant to legislative review", which was a concern that came from OPI. If the whole account was terminated then they might get into problems through the entire School Equalization Account, and that was not the intention. The technical notes on the fiscal note take care of those two amendments.

Closing by Sponsor: SEN. GROSFIELD said earmarking is a mechanism that has some merit but also has some disadvantages. The main disadvantage is it can impair budgetary review process, reduce controls, and undermine state priorities. Over a period of time the legislature loses its ability to deal with the big picture. The net effect is prior legislatures have incrementally set priorities that really tie the present legislature's hands. They are priorities that were not looked at with the big picture in mind. The real issue is the ability of the legislature to prioritize and budget in a responsible manner.

CHAIRMAN ZOOK closed the hearing on SB 378.

HEARING ON HJR 27

A Joint Resolution of the Senate and the House of Representatives of the state of Montana requesting interim study of the needs of Montana veterans.

Opening Statement by Sponsor: REP. BEA McCARTHY, HD 66, Anaconda said this is a joint Resolution requesting an interim study of the needs of Montana veterans and requires reporting of important findings to the 54th legislative session. Veterans comprise 1/8 of the total population of the state of Montana and EXHIBIT 1 shows the distribution by counties of the state. As far as nursing homes, the state currently provides 175 beds. She hopes the Glendive facility is going to be built because this is one of the needs that is immediate. The problem is they need to capture the federal funds and only have until September to do this. Even with this facility in place it doesn't adequately address the problem and that is the reason for the Resolution. There have

been some other innovative proposals before this legislative sessions. Not many have been concurred with by the veterans' groups in Montana. What the legislature needs to look at is a permanent fix, not a quick fix. The cost of the study would be about \$40,000. This would insure meetings in all areas of the state with various veterans' groups. If the meetings were coordinated by the groups they would get the maximum value for the money.

Proponents' Testimony: Keith Colbo, representing the Warm Springs-Galen Task Force said the Joint Resolution had its beginnings in work accomplished by the Warm Springs-Galen Task Force. This was the only task force anticipating the actions of this body in its deliberation with regard to the Galen campus. It studied programs that had a need and might provide employment alternatives for those employees that might be impacted by the closure issue. One of the areas was a need for veterans' services in southwest Montana. That need recognized and contemplated construction of the Glendive facility. They backed away from the proposal in southwest Montana and have since been watching the legislative consideration of the various veterans' issues coming up. This Joint Resolution is not intended, in any way, to compete with the Glendive proposal or diminish that proposal.

Joe Brand, Montana Legislative Chairman, VFW said his organization does not expect this Resolution to involve the facility at Glendive. The VFW supports the facility being built as soon as possible.

Willie Day, representing Eastern Montana Coalition said the feeling of that group is basically the same as Mr. Brand expressed and in no way do they want any money taken from the 2 cent cigarette tax to fund this. That money should go to fund the Eastern Montana Veterans' Nursing Home. He noticed all representatives and senators comprise the study committee and suggests a number of Military Affairs and Veterans' organizations on that study.

Dick Baumberger, representing Disabled American Veterans of Montana spoke in support of the Resolution.

Opponents' Testimony: None

Questions From Committee Members and Responses: REP. BARDANOUVE referred to line 25, page 1, Veteran's home at Miles City is an error. CHAIRMAN ZOOK said that is correct. That is a VA Hospital, federally sponsored. However, there are some nursing home beds there and they intend to make more beds available. Maybe in the future if they remove the surgical unit, there will be further beds available. REP. BARDANOUVE said after REP. BERGSAGEL's insurance program was received by the Senate there might be some changes in this bill. CHAIRMAN ZOOK said page 2, lines 20-23 may not be appropriate language as yet.

REP. FISHER referred to the cost and where do the funds come from? REP. McCARTHY said possibly the money could come from the 2 cent cigarette tax and this would be an appropriate use of it. She realizes this would be a diversion of some money. REP. FISHER said she thought they should not take out the insurance part. If this is going to be a Resolution to study, they should study everything and not just pick and choose. CHAIRMAN ZOOK said nobody had suggested that be done. He also clarified what he meant on page 2, lines 20-23, "Whereas, the 1993 Legislature has postponed appropriating money to build a veterans' nursing home in Glendive, which was determined to be necessary by the 1989 Legislature" and that is not a fact, as yet.

REP. KASTEN asked how many veterans are being served in their local nursing homes or local home-based community services now? REP. McCARTHY said they have no figures on that. REP. KASTEN said the figures of 101,544 are people who are in addition to anyone in the home. REP. McCARTHY said no, those are the eligible individuals, the number of veterans currently in Montana according to the 1990 census, who would be eligible for the use of the facility.

REP. GRADY asked Mr. Brand if there was something similar to this done before the decision was made to build the home in Glendive? Mr. Brand said he thinks there was but is not positive. REP. GRADY said on lines 11 through 13, page 3, "review of the extent of access, geographically and otherwise, of veterans to health and nursing home care within Montana". Why then, if we need another study to include this before we build Glendive, has this been done before the decision was made to build the home in Glendive? Mr. Brand said that was disturbing to him with this piece of legislation. REP. GRADY said if the home isn't built in Glendive and the decision is made in this session to not delay it for another two years, should that be included in this Resolution? Mr. Brand said he agreed but if that facility isn't built by September of this year there will never be a facility built in Glendive.

REP. JOHN JOHNSON said there was a study done in 1988 to survey an area in eastern Montana as defined in HB 189. In that study, 86% of those people contacted stated there was a need for that home to be built. The number of veterans in eastern Montana now is about 8,000 who are in that age that could use a nursing home. HB 202 took the cigarette tax to fund it. There were two bills that took care of that particular thing in 1989.

REP. QUILICI said there were studies done in the 1970s too.

REP. KASTEN asked Bob Anderson, Administrator of Special Services, Department of Corrections and Human Services, what would 408 additional nursing beds in the state do to the nursing beds we already have? Mr. Anderson said basically these figures are taken from federal guidelines on construction money. There are formulas developed to determine in their own minds at the

federal level when to say no more nursing beds. If you had less beds than 2.5 veterans per 1,000 population they would allow an application to be studied without any questions. If there are 4 veterans per 1,000 population they will allow up to that. After that they would not allow anymore beds to be built. They need a very complete detailed needs assessment study to be done to allow you to build more than 2.5 beds per 1,000 population. In Montana that is 250 beds. With Glendive the state would have 170 beds. Without Glendive, 90 beds. **REP. KASTEN** said if they would initiate the study, in essence, they could only look at constructing, when Glendive is built, only another 60 beds. **Mr. Anderson** said they can construct another 80 beds. Once they go on beyond 250 beds would have to justify why they need additional beds and would have to submit a complete study to them for their review and approval. They would require that until they reach 400 beds and then would not look at the state for more funding. **REP. KASTEN** asked what the county and private nursing homes' input would be, if any, in this study? **Mr. Anderson** said they would have to be asked about their utilization if they are currently treating veterans. They would have to be part of the study.

REP. BERGSAGEL asked how many beds are in the state of Montana? **Mr. Anderson** said right now there are 90. If they build the Eastern Montana Veterans' home, there will be an additional 80 which will total 170. They can probably build another 80 without any questions asked. **REP. BERGSAGEL** referred a question to the sponsor. On line 14, page 1, there are a total of 175 beds for veterans. Would **REP. McCARTHY** like that corrected to 90? **REP. McCARTHY** said yes. **REP. BERGSAGEL** referred to line 6, page 4. Is that a normal procedure for the selection of senators and representatives for an interim committee? **REP. McCARTHY** said it is her understanding it's similar to the process they should use for the Glendive Nursing Home. **REP. BERGSAGEL** said he believes **REP. JOHN JOHNSON** has the amendment that would take out **REP. BERGSAGEL's** proposal for insurance in HB 46 and enact a proposal to build a Glendive facility. Within that proposal there is a proposal to study that is very similar to this. Would the sponsor object if contingency language was put in this bill that says if that portion of his bill, HB 46, passes that this Resolution is not good so they don't end up with two studies? **REP. McCARTHY** said she certainly doesn't want two studies and hopes the Glendive proposal is going forward. She was not aware that language conflicted and would not want it to conflict.

REP. BERGSAGEL asked **REP. JOHN JOHNSON** if he would prefer this Resolution passing or that portion within the amendment that addresses his study? **REP. JOHNSON** said they are essentially the same. **REP. BERGSAGEL** asked if this passes would **REP. JOHNSON** object to removing that? **REP. JOHNSON** said no. **REP. JOHNSON** said the selection of the senators and representatives, based on this manner, is the new way of selecting. When the state lost a Representative, it could no longer be divided in two, so they set up four commissioned districts. The appointments in this bill

are based on the four sections as seen in **EXHIBIT 1**, based on population. It turns out that the veterans' population is almost identical in each one of those four as is the general population.

REP. MENAHAN said the Columbia Falls Veterans' Nursing Home and those of the general public are not the same. Basically the patients are men who have things in common with their military friends in their own communities.

REP. WISEMAN said the Miles City VA hospital has empty space. What is going on with the VA hospital in Helena? He suspects the trend in hospitals is for opening up space to be converted to a nursing home. **Mr. Brand** said there has been a Resolution already before this body regarding a nursing home at Fort Harrison. That has never been passed through Congress. There is one wing at Fort Harrison that is empty and maybe the federal government will consider doing that but is not sure of the guidelines. **CHAIRMAN ZOOK** said he wondered why the federal guidelines would be a problem because that is certainly the case in the VA hospital in Miles City. Those, basically, are nursing home situations on one floor. **Mr. Brand** said that was done in Miles City but that is a newer facility than at Fort Harrison and its objectives were different at the time it was instituted.

REP. JOHN JOHNSON pointed out that women veterans are entitled to residency in a Veterans' nursing home. He also pointed out the length of the study of the nursing home facility in the Glendive proposal is over 100 years old.

Closing by Sponsor: **REP. McCARTHY** said this came forward from her community as a possible use for Galen. This was one of the alternatives. Because of licensing problems with the Galen facility, she is not sure it would even be an eligible facility. There is a time line for the license to be transferred and if it is not transferred, the state of Montana will lose the license for a nursing home. The four divisions on the map are the new divisions that have gone into effect since we now have one congressional district.

CHAIRMAN ZOOK closed the hearing on HJR 27.

HEARING ON SB 118

An Act changing the licensing categories and conditions for personal-care facilities.

Opening Statement by Sponsor: **SEN. TOM TOWE, SD 46, Billings** said this bill was heard by the Human Services Committee and referred to the floor. He referred to the new fiscal note and said after the amendments are on the bill, fiscal impact, none. The technical note refers to something the House committee took care of.

This is a very important matter. It involves whether we can preserve the ability of older persons staying in a home setting rather than going to a nursing home. The cost is generally the highest denominator. A lady in Billings has a number of homes, a person manages the homes, has a person living in the home who takes care of two or three elderly persons. She can't get an adult foster care license. The adult foster care licenses are for people who are not in need of personal care and are not incontinent. She had some who needed more care. The Department of Health does not have a license for those homes. They recognize a need and there are a lot of people using these kinds of facilities but don't have a license. They have worked together with SEN. TOWE trying to get something put together.

There are also people who need care in nursing homes for just a few days and is it right they should have to be at the high level of nursing care cost?

SEN. TOWE explained Sections 3 and 4, pages 16 and 17, Categories A and B and EXHIBIT 1, Home of One's Own. The concept of the bill is really critical.

Proponents' Testimony: Mike Craig, License and Bureau Chief, Department of Health helped construct this bill and had the updated fiscal note gotten to the committee when it was supposed to this bill probably wouldn't be here. There is no fiscal impact or need for general fund appropriations.

Opponents' Testimony: Rose Hughes, Executive Director, Montana Health Care Association representing Nursing Homes throughout Montana, said this has been a very difficult piece of legislation for them. At first they thought it was a horrible idea, largely because of various safety and health issues. In visiting with the Health Department and SEN. TOWE, they have tried to take a more favorable approach to this piece of legislation. One of their concerns is what kinds of standards will there be for these facilities, will there be inspections, how to make sure people with these kinds of care needs are, in fact, taken care of. She was told there is a ruling in the bill that the Health Department is going to do that, have standards and inspect facilities and adopt extensive ruling for that purpose. However, they have become less at ease as they watch this bill progress through the process, from their standpoint, the Health Department will need to spend money to enforce this, they will need inspectors, will need extensive rule making to come up with a set of rules that allow these kinds of patients to be taken care of. She has watched the fiscal note get smaller and smaller until its nonexistent. The smaller it gets the more it raises the issues.

Skilled care is the most intense level of care that is immediately below acute care in the hospital. These are very sick people. The current personal care homes cannot take skilled patients. They can have nurses come in to take care of people who are ill for a day or two a week.

They have some specific amendments they offered in the Human Services Committee. Some of them are in the bill dealing with the kinds of rule making, deal with staffing and qualifications and training of staff. Some of the amendments they offered that weren't on the bill are still a concern. If the bill is passed the committee might want to consider looking at some of this. She referred to page 2, line 10 to 23, where the legislature is going on record as saying that these particular kinds of facilities are preferable to other facilities. She felt it is not appropriate for the legislature to make that kind of statement without knowing whether or not it's true.

This bill exempts these facilities from the Certificate of Need process. That is another amendment they brought to the Human Services committee. If this kind of facility is allowed unlimited growth, and the time comes for them to deal with the Medicaid issues, there will be more facilities of this type out there than the state wishes they had. So she is suggesting the Certificate of Need provisions be put back in the bill.

The last issue she raised is the liability of the state in licensing facilities to do a certain level of health care and to make sure that is happening.

Questions From Committee Members and Responses: REP. FISHER asked how this might be in conflict with a bill that was in the House last week that said non-related people could not live in the same house.

REP. PECK said if the committee had a current fiscal note the bill would never have been moved here. The Department has testified there is no fiscal impact so what are we doing with it? They have it because they don't have a current fiscal note. CHAIRMAN ZOOK said that is correct but it was posted as a hearing. REP. PECK asked how we should deal with it at this point. If there is no fiscal impact do we then have a responsibility or depend on the appropriate committee that has already acted on it? CHAIRMAN ZOOK said his opinion would be to depend on the appropriate committee that heard the bill.

REP. GRADY said on the House floor there was some fiscal impact and they did not have an up-to-date note. He asked about the dates of the fiscal note; Dave Lewis signed 3/8/93 and the amendments were put on 3/13/93, and he asked if this is the latest fiscal note? He ordered one after it came off the House floor. SEN. TOWE said this fiscal note was signed by Mr. Lewis two days before the hearing in the House. There is a technical note at the bottom "without an administrative rule change, residents of category (B) facilities would be eligible for state supplemental payments. These payments would cost an estimated \$40,575 in general fund during each year of the biennium". The House committee, at SEN. TOWE's request took care of that so now even the technical note has been taken care of. This fiscal note was everything that was in the bill before the bill came before

the House committee.

REP. GRADY said in HB 2 and SB 285, **SEN. FRANKLIN's** health care reform bill is going to do some detailed studies of cost and availability of long term care service in Montana. He asked **SEN. TOWE** if he feels this bill is a little premature before this study is done? He thinks the study will bring out these problems. **SEN. TOWE** said no. If this bill does not pass there will be a lot of people throughout the state of Montana who will be moved out of homes and into nursing homes. He hopes this won't happen and they can't wait for the study.

REP. GRADY asked **SEN. TOWE** to address some of the safety and liability issues brought up by **Ms. Hughes**. **SEN. TOWE** said the first thing he wanted to point out is that this is all done pursuant to a doctor's order. In other words, the person making the decision whether the patient can or cannot be in a home as opposed to a nursing home is where it should be, with a medical doctor. As far as the liability issue is concerned, he does not see it as an issue. On page 15, lines 20 through 23 there is specific rule-making authority granting to the Department of Health and the House committee did adopt **Ms. Hughes'** amendment. He added to that authority some specific things that the Department must address in that ruling.

REP. QUILICI agreed with **REP. PECK** and **REP. MENAHAN** concerning the amendments put in by the House Human Services and Aging committee. This has no fiscal impact. The committee should try to resolve this now.

EXECUTIVE ACTION ON SB 118

Motion: **REP. QUILICI** moved SB 118 DO PASS.

Discussion: **REP. MENAHAN** said this bill has been heard by the Senate, heard by the House committees, and it was sent here because of the finances. If the money situation is cleaned up, send it back.

REP. BARDANOUE asked what source of revenue will pay for these people that do the work. **SEN. TOWE** said there would be some licensing fees that would be charged and that will take care of any of the problems to make sure the Health Department will inspect the facility. Most of the homes are not funded by Medicaid. These are homes that relatives pay for the patients in homes rather than nursing homes. **REP. BARDANOUE** asked if this is federal or SRS funded programs. **SEN. TOWE** said no.

REP. GRADY said he would not vote for this bill because in its original form did have a fiscal note on it. The bill has been amended considerably through the process. His concern is they not only have to address the budget in this session but have to be careful down the road. This piece of legislation will cost more money.

Vote: SB 118 DO PASS. Motion carried 15 - 2 with Reps. Bergsagel and Grady voting no.

EXECUTIVE ACTION ON SB 378

Motion: REP. PECK moved DO PASS SB 378.

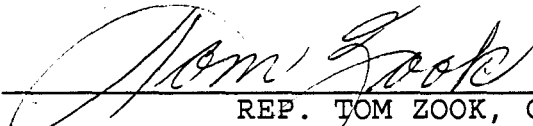
Motion/Vote: REP. GRADY moved amendments to SB 378, EXHIBIT 3. Motion carried unanimously.

Discussion: REP. KADAS asked if Section 4 is necessary. Jim Haubein, Legislative Fiscal Analyst, said he is not sure. It says "if you change the effective date that Section 4 is unnecessary" but also goes on to say "and the legislature appropriates general fund to replace reverted tax revenue". He will have to look at that. REP. KADAS said the fiscal note says that "a literal interpretation of the language would say the entire cost of the foundation program had to be appropriated". He does not read that in Section 4 because Section 4 is limited to Sections 7 and 9 which is just the income tax part of the foundation program. Mr. Haubein said he agreed with REP. KADAS and would like more time to study the bill.

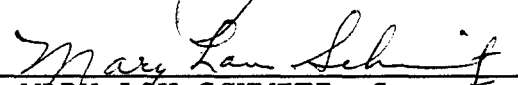
REP. PECK withdrew his motion.

ADJOURNMENT

Adjournment: 11:55 A.M.



REP. TOM ZOOK, Chair



MARY LOU SCHMITZ, Secretary

TZ/mls

HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE

ROLL CALL

DATE

4-5-93

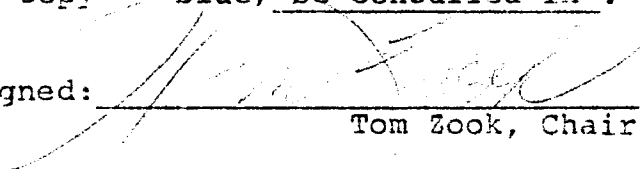
NAME	PRESENT	ABSENT	EXCUSED
REP. ED GRADY, V. CHAIR	✓		
REP. FRANCIS BARDANOUE	✓		
REP. ERNEST BERGSAGEL	✓		
REP. JOHN COBB			✓
REP. ROGER DEBRUYKER	✓		
REP. MARJ. FISHER	✓		
REP. JOHN JOHNSON	✓		
REP. ROYAL JOHNSON	✓		
REP. MIKE KADAS	✓		
REP. BETTY LOU KASTEN	✓		
REP. WM. "RED" MENEHAN	✓		
REP. LINDA NELSON	✓		
REP. RAY PECK	✓		
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI	✓		
REP. DAVE WANZENREID	✓		
REP. BILL WISEMAN	✓		
REP. TOM ZOOK, CHAIR	✓		

HOUSE STANDING COMMITTEE REPORT

April 5, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that Senate Bill 118 (third reading copy -- blue) be concurred in .

Signed: 

Tom Zook, Chair

Carried by: Rep. Hansen

DISTRIBUTION REQUESTED BY:

Sen. Grosfield

Proportion of Tax Revenue Earmarked by State
Fiscal Years 1954, 1963, 1979, 1984, and 1988

EXHIBIT 1
DATE 4/5/93
SB 378
1984 1988

re: SB 378

State	1954	1963	1979	1984	1988
New England					
Connecticut	26%	23%	0%	1%	12%
Maine	46	39	19	20	17
Massachusetts	56	54	41	40	N/A
New Hampshire	53	54	31	24	24
Rhode Island	6	4	0	1	5
Vermont	42	39	23	23	12
Mid-Atlantic					
Delaware	0	3	0	5	7
Maryland	47	40	34	24	20
New Jersey	7	2	23	39	36
New York	13	10	0	6	N/A
Pennsylvania	41	63	15	15	14
Great Lakes					
Illinois	39	43	14	18	21
Indiana	49	39	43	33	30
Michigan	67	57	38	39	35
Ohio	48	48	21	18	19
Wisconsin	63	61	N/A	12	12
Plains					
Iowa	51	44	19	13	21
Kansas	77	66	29	25	21
Minnesota	73	74	12	13	14
Missouri	57	40	20	29	30
Nebraska	55	53	41	29	22
North Dakota	73	43	29	21	22
South Dakota	59	54	33	32	27
Southeast					
Alabama	89	87	88	89	89
Arkansas	41	36	21	18	17
Florida	40	39	23	28	26
Georgia	29	22	11	9	8
Kentucky	46	29	N/A	16	N/A
Louisiana	83	87	5	4	9
Mississippi	40	37	N/A	30	26
North Carolina	38	30	20	8	14
South Carolina	69	62	56	55	44
Tennessee	72	77	60	61	66
Virginia	39	32	27	24	25
West Virginia	57	39	21	21	20
Southwest					
Arizona	47	51	31	29	32
New Mexico	80	31	36	44	47
Oklahoma	62	59	N/A	43	24
Texas	81	66	54	20	24
Rocky Mountain					
Colorado	75	51	17	25	18
Idaho	51	44	38	32	25
Montana	61	53	53	60	72
Utah	74	62	52	48	N/A
Wyoming	61	64	54	69	N/A
Far West					
Alaska	N/A	6	1	2	9
California	42	28	12	13	12
Hawaii	N/A	7	5	5	6
Nevada	55	35	34	52	49
Oregon	47	36	23	19	23
Washington	35	30	29	26	29
Average	51%	41%	23%	21%	23%

Note: N/A - Not available.

Source: 1954 and 1963, Tax Foundation, *Earmarked State Taxes*; 1979, Montana, Office of the Legislative Fiscal Analyst, memo (March 19, 1980); 1984, NCSL surveys conducted in 1985, 1986; and 1988, NCSL survey conducted in 1989.

15th only
18th only
National Conference of State Legislatures
5th
7 other states over 1/3 earmarked
2 other states over 1/2 earmarked
3rd
2nd



MONTANA STATE SENATE

SENATOR LORENTS GROSFIELD
SENATE DISTRICT 13
PARK & SWEET GRASS COUNTIES
HOME ADDRESS:
HC 87, BOX 2145
BIG TIMBER, MONTANA 59011

COMMITTEES:
JUDICIARY
NATURAL RESOURCES
TAXATION

DATE 4/5/93
SB 378
CAPITOL STATION
HELENA, MONTANA 59620
PHONE (406) 444-4800
HOME PHONE (406) 537-4489

March 3, 1993

MEMO

FROM: Senator Lorents Grosfield

RE: SB 378 - a bill to de-earmark certain accounts

In putting this bill together, I asked the Legislative Council to de-earmark all accounts with the exception of several categories. These excepted categories are:

- 1.) constitutionally required earmarked accounts
- 2.) pass through funds to local government
- 3.) accounts that match federal money
- 4.) bond protection accounts
- 5.) emergency accounts (fire, environmental contingency fund, etc.)
- 6.) the Lottery (essentially because it is an enterprise fund from which the agency has to be able to make pay-outs)
- 7.) the user fee category - user fees such as:
 - donation accounts
 - Fish and Game license fees
 - brand inspection fees
 - business regulation fees (professional and occupational boards, etc.)
- 8.) retirement fund accounts

All earmarked accounts (not de-earmarked in this bill) are required to be periodically reviewed for their earmarking validity (see Section 5-7). (This includes those listed in 1-8 above.)

Veterans in Montana

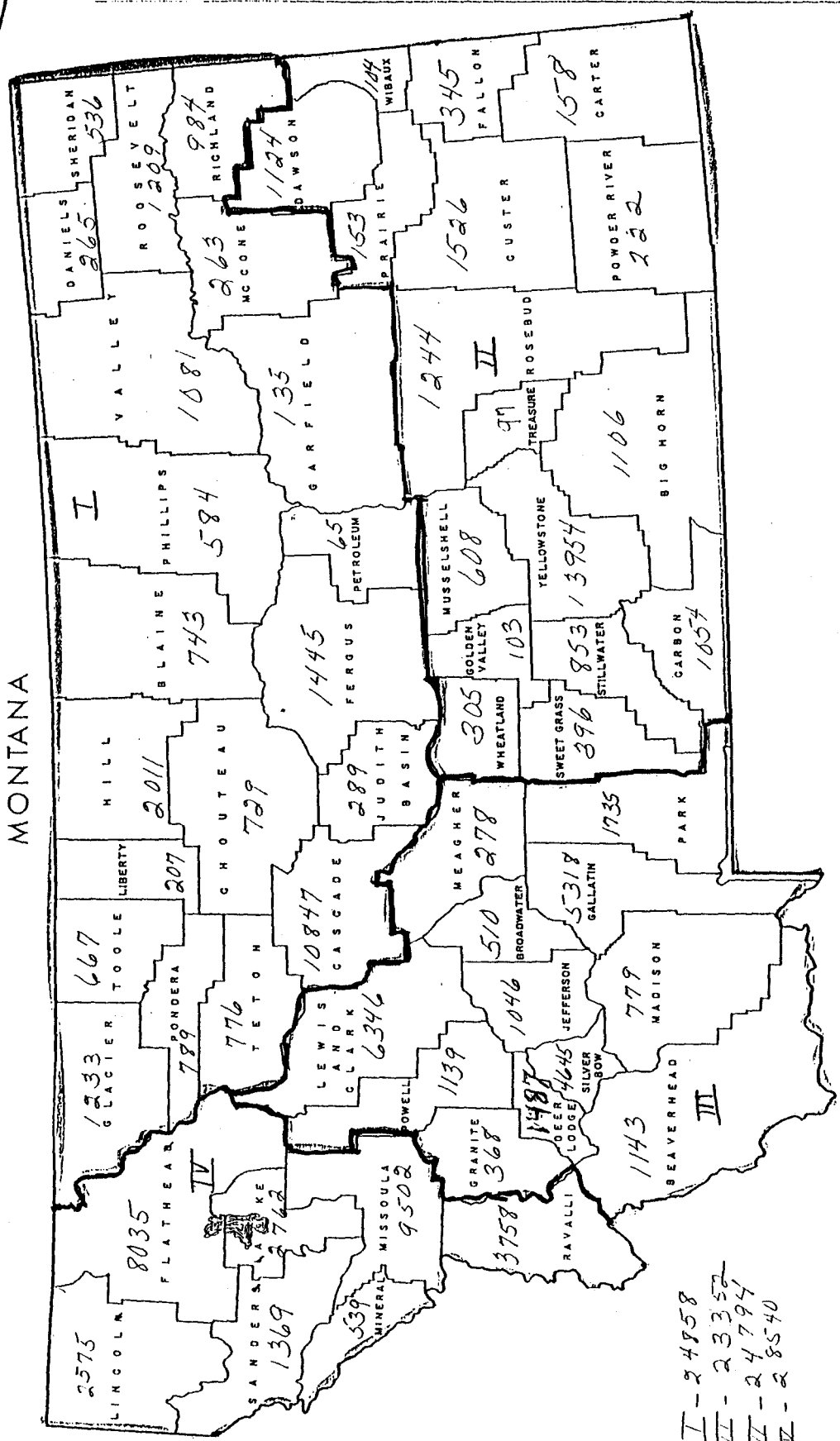
1990 101,544

EXHIBIT 1
DATE 3/8/93
HR 27

Map to be used in standard binder

No. 1035 - County Outline Map (89 to a page)
First Printing by Nelson Aes

MONTANA



- I - 24858
- II - 23352
- III - 24794
- IV - 28540

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C

Home of One's Own

Search for Alternatives To the Nursing Home Yields 'Assisted Living'

Facilities Let Elderly Keep Independence, Privacy And, if They Like, a Pet

Perking Up at Rackleff House

By MICHAEL J. MCCARTHY
Staff Reporter of THE WALL STREET JOURNAL
CANBY, Ore. — Marie Morgan, 73 years old, lost nearly a year of living.

She was withdrawn and lay curled up in a nursing-home bed. She hated Helen, her 80-year-old roommate, who she says pawed through her dresser drawers, stealing slacks and underwear. She was lonely without her little dog. Her days were punctuated by nurses filling in with medications. "There was nothing to do but lay around," Mrs. Morgan recalls. "When a social worker found her just lying there in a fetal position, he had her

Second of two articles

removed—to Rackleff House, a new kind of nursing home that doesn't look and feel like a hospital.

Despite incontinence and a heart condition, Mrs. Morgan was awakened by the move to her own apartment, where she could keep her dog, Pixie, a shaggy brown Lhasa apso. A nurse explained her drug regimen to her: when she would be needing to take various capsules and why.

New Mobility

She began to get out and about. With her walker, she and Pixie strolled the grounds. She washed her own clothes, rolling her basket and a box of Ultra Purex in a wheelchair to the laundry room. And she subscribed to the large-print edition of Reader's Digest.

"Boy, did I feel good moving into my own place. I didn't belong there in the nursing home," she says, with Pixie in her lap. "I am free here."

Rackleff is in the vanguard of a movement called "assisted living," a new style of housing for frail elderly people who don't have serious medical problems. Shunning linoleum floors and antiseptic smells, Rackleff encourages the elderly to age gracefully in private apartments. It offers housekeeping, meals, laundry, transportation and social activities, along with regular visits from nurses. At \$1,763 a month, the private, for-profit facility costs about 35% less than the average nursing home, so it also holds out the promise of restraining the costs of long-term care.

Medicaid-Fostered Homes

For three decades, the U.S. has essentially defined aging as a medical problem, for which nursing homes have been the answer. If older people couldn't turn to family for help in getting around or in taking medicine, they often were trundled off to a nursing home. The trend was accelerated by the advent of Medicaid in the mid-1960s, when nursing homes were designated as the institutions through which government would funnel billions of dollars of medical benefits to the elderly. Today, the U.S. has 22,000 nursing homes.

But increasingly, states and critics of nursing homes are questioning whether they are overused, and whether the country's system of long-term care has got off on the wrong foot. In part because of the tangle of regulation, nursing homes too often provide dehumanized environments

that ignore the emotional needs of residents and give short shrift to personal privacy and independence.

Staffed up for the needs of their sickest patients, they are expensive to operate. Nursing-home costs are expected to nearly double, to \$61 billion, in this decade. Roughly half of that total will be billed to federal and state governments. Many people are people quickly impoverished by nursing-home bills.

Scandinavian Models

In the search for more humane alternatives, assisted living is coming to the fore. The system is modeled after facilities like one in Denmark, where residents participate in hiring staff (interviewing the candidates), and another in Sweden, where a home for Alzheimer's disease sufferers, many of whom had been fishermen, organizes fishing trips. Rackleff House accommodates residents like 76-year-old Georglann Morris, an Alzheimer's patient who loves to loiter by the Canon copy machine in the office. She had been a bookkeeper most of her working life, and, in her mental confusion, finds the office bustle comforting. Rackleff staffers work around her.

Assisted-living homes are less costly to run. A Coopers & Lybrand study shows that at nursing homes, operating expenses run about 80% of revenue, whereas such expenses are only 55% to 60% of revenue at assisted-living homes. The new facilities are beginning to attract companies like Marriott Corp., which has opened four 100-unit assisted-living residences called Brighton Gardens. It plans a national chain of them. Aetna Life & Casualty now allows long-term care policyholders to choose assisted living. Boston-based Standish Care Co. this year became the first assisted-living business to go public.

In Oregon, where state regulators are committed to finding alternatives to nursing homes, assisted-living has taken off. The state has managed to reduce the number of nursing-home beds by about 4% over the past eight years, even as its over-65 population rose 18%. Its mix of alternatives includes foster homes, group homes for the healthy, and 22 assisted-living homes that house 1,300 people.

At assisted-living homes there is still the potential for abuse, of course. Without a uniform definition of assisted living and without specific regulation, people in great need of medical care could risk their health, says the American Bar Association's Nancy Coleman, who studies elder-law issues. "You might end up in an unlicensed nursing home."

But in Oregon, state regulators say problems have been minimal. To date, no lawsuits have been filed against assisted-living homes. "We had one lady who fell down some stairs and died," says Janet Sehon, Oregon's assisted-living program coordinator. "But the family didn't sue because they felt it could have happened if she were at home." At Rackleff, she says, owner Keren Brown Wilson "has a real good handle on her facility, and her people are good."

Nursing-home operators themselves, who stand to lose in this de-institutionalizing trend, have raised concerns. Last spring, nursing homes across the country branched a challenge to an assisted-living program Florida had proposed. By raising safety questions, the nursing homes delayed the inception of the program for about eight months.

The Rackleff Alternative

Rackleff House opened in April 1990. Dr. Wilson, its creator, teaches at Portland State University's Institute on Aging. She found inspiration from her mother's decade-long experience in a nursing home following a stroke. "It came from listening to 10 years of complaints about doors, pets and laundry," Dr. Wilson says. "There just had to be a better way."

She wanted Rackleff to be a model. Most other similar homes had catered mostly to affluent older people. But, with revenue of \$416,710, Rackleff was able to

show a profit of \$80,783 last year even while offering relatively affordable rent (averaging \$58 a day) to people without great means. The average age of the 25 tenants is 89. Nearly half are on Medicaid. Most are frail, and some are confused. States including Florida and Kansas have hired on the 43-year-old Dr. Wilson as a consultant to help develop assisted-living programs. And she has won over Oregon regulators who had been skeptical about allowing frail old people to live in apartments with locks on their doors and kitchen stoves.

Rackleff works at encouraging residents to establish their own daily routines. When Bonnie Haines, 92, came to Rackleff, she missed playing the organ she had at home. (She used to play the instrument at silent movies when she was a teenager.) Rackleff paid \$100 for a used organ that now sits in the dining room. Every day at 11:45, Mrs. Haines, who has a brain aneurysm and a bad heart, puts on her blond wig and arrives to give a recital before lunch.

"So many older people have to give up almost everything in their lives to go to a nursing home," says Neil Maloney, a county case manager who has moved 14 people to Rackleff, some from nursing homes. "Here, they don't have to." Residents can furnish their rooms from home.

A Honey Fire

Rackleff is a 17,000-square-foot building that looks like a big yellow farmhouse, with a cathedral ceiling in the dining room and a secure enclosed courtyard (with flowers, trees and a park bench). A fireplace flickers in the front parlor.

Rackleff apartments radiate off a central, circular walkway. The floor plan encourages people to leave their quarters and stroll, and it prevents a common situation where older people arrive at the end of a long corridor, cornered and confused. "You can't get lost," says Dr. Wilson. Nice as Rackleff is, it isn't lavish, and that helps it stay affordable.

Nursing homes often impersonally treat people as medical conditions. One is known by his diagnosis. But Rackleff paints personality portraits. For instance, the sheet on Elizabeth Chamberlain, 76, says she likes a 6:30 wake-up call with hot tea. That helps her get to breakfast. She loves crossword puzzles. She answers questions slowly. Don't rush her, be warned, because that can upset her. Staff needs to help keep Houdini (Rackleff's cat) out of her room. He likes to chew on her oxygen tubing.

The line on Mrs. Morgan, who lives with her little dog, Pixie, is that she showers without help but needs raw vegetables chopped finely. Time of day and the mail confuse her. She needs to bring Pixie to the courtyard at mealtime so she can watch her from the dining room. The plan also notes: "Dog is overweight — no one should be feeding it extras."

To Each His Own

Regimentation, a standard feature of nursing-home life, crumbles at Rackleff's dining tables. Vida Hamblet, who won't eat onions, garlic, rice, pizza, cabbage or cherries, likes white bread, milk and Special K. Bernice Versteeg can't have dairy products and doesn't like corn, tomatoes, peas or tomato soup.

Rather than deprive Mrs. Versteeg of creamed potatoes because of her problem digesting milk, lead cook Norma Wolf simply adds a little nondairy creamer instead. "It only takes a minute," says Mrs. Wolf, who cooked in a nursing home for seven years. "In the nursing home you couldn't substitute, you just couldn't make food any different."

A Place to Live and Be Yourself



Bonnie Haines, 92, missed playing the organ, so Rackleff House bought a used one for the dining room. She puts on her wig and gives recitals.



Marie Morgan, 73, missed Pixie, her Lhasa apso, when she was in a nursing home. Rackleff House lets her keep her little companion.



Illustrations by Hal Knafo

The personal touches make all the difference in the world to people like Mrs. Haines, the organist. One morning, she just didn't feel like eating scrambled eggs. "I told them I wanted applesauce, toast and peanut butter," she says. "They got it for me, but wanted to know if I was pregnant," she says, laughing.

Everyone is smartly dressed. They all feed themselves. "You tell me anywhere else where people 90 are up and around," says Maryanne Redding, Rackleff's nurse. She visits two hours daily but is on call 24 hours a day. Oregon law allows Mrs.

Redding to train aides to give medication, teaching them about dosages and side effects. The latitude Rackleff enjoys saves thousands of dollars in nursing costs.

There are other staff savings. Rackleff helps residents do as much as possible for themselves, bathing themselves for instance. While traditional nursing homes typically have a staff/patient ratio of about one to one, Rackleff's is one worker per three residents. Rackleff pays aides about \$6 an hour.

Rackleff isn't perfect, and it isn't for everyone. It evicted two people for nonpayment of rent, and a third who was acting psychotic. A confused resident put a dog in a washing machine (the animal survived). But Rackleff is tolerant. It has never put anyone in restraints, not even Sam Morris, who died in October. At the age of 102, he would affectionately pinch young aides, and he once threw a walker at someone. "We would just let him walk outside to let off steam," says Amy Perrett, a former nursing-home manager who is Rackleff's program director. "In a nursing home, they would have just raised his bed rail, so he couldn't get out," she figures.

No Rackleff residents are more appreciative for what they have there than those

who have spent time in conventional nursing homes. Jack Jones, for example, recalls that he could never seem to find an orderly when he needed to use the bedpan. But they were always there at 10 p.m. sharp to switch his lights off, he says. Mr. Jones, who used to own flower stands in Portland, is a night owl. At 83, he now stays up as late as 2, falling asleep watching movies on TV. For late-night snacks, he raids his refrigerator, which has in it a bottle of Seagram's Canadian Whiskey, Sutter Home white wine, apples, chocolate chip cookies, a six-pack of Coke and a Hershey bar. He brews tea on his own stove.

A lifelong bachelor, Mr. Jones keeps his room slightly messy, which Rackleff House respects. At his nursing home, he could go no farther than down the hall to a viewing room, where he stared longingly from a huge window overlooking fir trees. "I wished I could go out, but they wouldn't let you," he says. Nowadays, he ventures out onto the sidewalks of Canby, a 99-year-old farm town 20 miles south of Portland.

With his walker and in the company of Phyllis Rice, his friend from across the hall, he does "laps" around Rackleff's curved walkway—five in the morning, five at night.

HOUSE OF REPRESENTATIVES

APPROPRIATIONS COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 118 NUMBER _____

MOTION: Rep. Quilici moved SB 118 DO PASS

Motion carried 15 - 3

NAME	AYE	NO
REP. ED GRADY, V, CHAIR		X
REP. FRANCIS BARDANOUVE	X	
REP. ERNEST BERGSAGER		X
REP. JOHN COBB		
REP. ROGER DEBRUYKER	X	
REP. MARJ. FISHER	X	
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. RED MENAHAN	X	
REP. LINDA NELSON	X	
REP. RAY PECK	X	
REP. MARY LOU PETERSON	X	
REP. JOE QUILICI	X	
REP. DAVE WANZENREID	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIR	X	
	15	2

Amendments to Senate Bill No. 378
Third Reading Copy

Requested by Representative Grady
For the Committee on Appropriations

Prepared by Greg Petesch
April 2, 1993

EXHIBIT _____
DATE 4/5/93
SB 378

1. Title, line 10.

Following: "ACCOUNTS"

Insert: "AND STATUTORY APPROPRIATIONS"

2. Page 4, line 11.

Following: "(3)"

Insert: "and review statutory appropriations assigned by the
legislature"

3. Page 6, line 4.

Following: line 3

Insert: "(5) The committee shall review statutory appropriations
to determine if the appropriation should be made by a
legislative appropriation. During the 1995 biennium, the
committee shall review the statutory appropriation of
administrative costs in 75-11-313."

HOUSE OF REPRESENTATIVES

ADDITIONAL COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 378 NUMBER _____

MOTION: Rep. Grady moved to adopt the amendment, Exhibit 3

Motion carried unanimously.

NAME	AYE	NO
REP. ED GRADY, V, CHAIR	X	
REP. FRANCIS BARDANOUVE	X	
REP. ERNEST BERGSAGEL	X	
REP. JOHN COBB		
REP. ROGER DEBRUYKER	X	
REP. MARJ. FISHER	X	
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. RED MENAHAN	X	
REP. LINDA NELSON	X	
REP. RAY PECK	X	
REP. MARY LOU PETERSON	X	
REP. JOE QUILLICI	X	
REP. DAVE WANZENREID	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIR	X	
	17	0

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

COMMITTEE

ROLL CALL VOTE

DATE 4/5/93 BILL NO. SB 378 NUMBER _____

MOTION: Rep. Peck moved SB 378 DO PASS

Rep. Peck withdrew the motion

NAME	AYE	NO
REP. ED GRADY, V. CHAIR		
REP. FRANCIS BARDANOUVE		
REP. ERNEST BERGSAGEI		
REP. JOHN COBB		
REP. ROGER DEBRUYKER		
REP. MARJ. FISHER		
REP. JOHN JOHNSON		
REP. ROYAL JOHNSON		
REP. MIKE KADAS		
REP. BETTY LOUI KASTEN		
REP. WM. RED MENAHAN		
REP. LINDA NELSON		
REP. RAY PECK		
REP. MARY LOUI PETERSON		
REP. JOE QUILICI		
REP. DAVE WANZENREID		
REP. BILL WISEMAN		
REP. TOM ZOOK, CHAIR		

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Appropriations COMMITTEE BILL NO. HJR 27
DATE 4/5/93 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Joe Brand	VFW	X	
Larry Longfellow	UFCW	X	
Wille Day	EMC	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.