MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 19, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

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

Committee Business Summary:

Hearing: HB 182
HB 183

Executive Action: HB 171 - Do Pass as Amended

{Tape: 1; Side: A.}

HEARING ON 182

Opening Statement by Sponsor:

REP. JOHN COBB, House District 50, said that HB 182 is an act to increase the utilization fee for bed days in nursing facilities. The tax is a way of using federal dollars. Other states have used this because the federal government has mandated costs to the state for nursing homes and so the tax was created and the federal government would pay it back. There was no other way to pay for the mandates. The nursing homes, under the Borne Amendment, can sue the state if it doesn't pay reasonable costs for Medicaid patients, and most likely would win. The law is already on the books and this bill would just increase the tax to pay for the rate increases that are expected. This would bring in approximately $4 million to the general fund, matched with $8 million in federal funds. **REP. COBB** informed the Committee that there are 7,300 nursing home beds in Montana, with 91% occupancy, and 61% are filled with Medicaid patients. This bill will continue what has been done in the past and it was a part of the Governor's budget. However, according to the LFA, it looked like it was a double budget and it was removed. Later it was determined that the budget was $1.5 million short of paying for the rate increase, and there is another $2 million shortage in the foster care budget, and this is the reason the bed tax was brought back in. It is not a bad tax because for every dollar paid in, the federal government pays back $2.

Informational Testimony:

Kelly Williams, Medicaid Services Division, Social and Rehabilitation Services, explained how the bed tax has been used since the law took effect in 1992.

{Tape: 1; Side: 1; Comments: Ms. Williams' comments were difficult to understand on the tape.}

Proponents' Testimony:

None.

Opponents' Testimony:

Peter Blouke, Director, SRS, said he was in opposition to HB 182 because the Governor's budget made provisions for funding the increased costs of nursing home facility programs with additional general funds. He emphasized the constraints the Department is under with the Borne Amendment which is a federal regulation SRS must operate under for the Medicaid program. The state must reimburse nursing homes and hospitals at a reasonable rate that could be incurred by an efficiently and economically operated facility. Several states have gone to court on this issue and lost millions of dollars. Another issue is that the utilization fee must be imposed on all payers, including the private pay residents. He said that private payers have historically born a disproportionate share of the cost of providing nursing home care because Medicaid doesn't pay at the same rate as the private pay individuals. Medicaid rate is currently $84 a day and private pay is approaching $100 a day and it is becoming increasingly more difficult for the private pay individuals to meet these costs. Their assets are spent down rapidly and then they become eligible for Medicaid which increases the Medicaid population which in turn increases the state's Medicaid costs. Another issue is that this might not be the best time to institute a change in the bed tax because the federal government is reviewing all state bed tax utilization to make sure that it is consistent with federal law. HICFA has looked at the way Montana is currently applying the bed fee and have questioned whether the tax is being assessed uniformly across all payers. The state is not in compliance with the uniformity issue because unoccupied beds are not taxed and the state is currently disputing this issue. It should not be complicated by changing the bed fee at this time. On behalf of SRS, Mr. Blouke urged the Committee to vote "no" on this bill.

Rose Hughes, Executive Director, Montana Health Care Association, said she represents 80 of the 95 nursing homes operating throughout the State of Montana who are opposed to HB 182. In summary, Ms. Hughes stated that no matter how well-intentioned this piece of legislation is, people who are old and sick and living in nursing homes are singled out for a substantial tax increase. The entire text of Ms. Hughes testimony is attached as EXHIBIT 1.

Nancy Espy, Powder River County Commissioner, testified in opposition to HB 182. The Powder River County Nursing Home is not self-supporting at this time, but it is very important that there is a place for people who need a nursing care facility. They have many private payers and with additional financial impact, the occupancy goes down. The private payers should not be priced out of a facility for which there is a need.

Bill McCarty said he represents Lantis Enterprises, an organization that manages long term care facilities in Montana. He informed the Committee that Lantis Enterprises opposes this legislation primarily on behalf of its private pay residents. He provided written testimony from nursing home residents and their families. EXHIBIT 2. He indicated that the proposed tax increase would be $1,000 a year for each resident.

Jim Ahrens, President, Montana Hospital Association, advised that 42 of the Association's 52 hospitals run nursing homes and have never supported the bed tax. Reasons for opposition to the tax are that it is a selective tax on the sick and poor, the bill is evidence that once put in place it will continue to increase, and the money will be used for other purposes.

Stephen Sorenson, Administrator/Owner, West Side Rest Home, said he had been involved with corporations that run nursing home and he now has his own facility and is struggling to make ends meet. The bed tax now runs at $1,958 a month and the increase would add $413 per month. He opposes the tax.

Questions From Committee Members and Responses:

REP. ROSE said that Teton County has a home which is run very efficiently. He asked if the fault for increased costs lies with management. **REP. COBB** said he could not answer that question but he does know that nursing homes want a 4% increase and, if it is not given, they will sue the state.

REP. WENNEMAR asked if hospitals have a bed tax and **REP. COBB** replied that some states do but Montana does not.

REP. ARNOTT asked if there was any way to figure out which beds are Medicaid beds and charge them and not the private beds. **REP. COBB** said this is what the federal government objects to and it require that everyone must be charged.

REP. WELLS asked if all nursing homes across the state oppose this tax and if there was a threat of a lawsuit. **Ms. Hughes** replied that the tax is opposed and federal law provides that a reasonable rate that covers costs may be charged. She said they are also mandated by federal law to provide services at a certain level. The answer to the question then is, yes, there is a possibility of a lawsuit to the extent that the rates are substantially below costs, and nursing homes are having trouble providing care in accordance with federal and state mandates.

REP. HARPER asked what the percentage was of private pay residents. **Ms. Hughes** stated that 62% are Medicaid and 38% are private pay.

REP. HARPER then asked why this tax was necessary when there was an excess amount of money to be refunded to taxpayers this year. **REP. COBB** said he is on a committee that must weigh priorities -- handicapped kids with no services, mothers who want to work but there is no day care, other facilities coming in asking for rate increases -- yet the nursing homes will sue if they don't get a raise and, since other states are using this tax to pay for rate increases, this was one option. He said that, personally, it would be easier for him to vote for this bill than cut some other priorities.

{Tape: 1; Side: B.}

REP. REAM said this bill imposes a fee and for that reason he assumed it was assigned to the Taxation Committee. He asked why this bill was not being heard in the Appropriations Sub-Committee on Human Services and suggested that perhaps it would be appropriate to re-refer it to that sub-committee. **REP. COBB** said the Taxation Committee has heard this bill before and it doesn't make much difference where it is heard because he felt the result would be the same in either committee.

REP. MURDOCK asked why the Nursing Home Association would oppose this bill and then threaten to sue if they don't get a rate increase. **Ms. Hughes** replied that all they were asking was that this program be funded exactly like all other Medicaid programs with funds from the general fund.

REP. RANEY said he had a bill before the Committee to reduce taxes by $16 million in the biennium by providing that all medical costs would be tax deductible. Would this cover much of the increase that would be put upon the private payers in nursing homes? **REP. COBB** replied that he was not familiar with the bill and could not answer that question at this time.

Closing by Sponsor:

REP. COBB thanked the Committee for a very fair hearing. He cautioned that just because there are surplus funds now, this will not continue and if this bill fails now, it will be brought back in future sessions. He admitted that no one likes the bed tax but there is a shortage of money in the human services budget and this was an option. He also thought the rebate should not be considered until it was determined where the money would come from for the current budget.

HEARING ON 183

Opening Statement by Sponsor:

REP. JOHN COBB, House District 50, explained that HB 183 would provide for indexing the property tax rate for class four property when the next reclassification is accomplished in 1997. This is currently taxed at 3.86% and, if rates go up, the rate would automatically go down so there would be no statewide property tax increase. He said, however, that this would vary by county and it was possible that taxes could go up in some areas. He indicated that the Department of Revenue had told him that there were technical errors in the bill and an amendment is being prepared.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said this type of adjustment has been made in two past reappraisals, although it was not done in the 1993 appraisal. When the first reappraisal was done in 1976, class four property was in a classification of 12% and values statewide were increased by an average of 47% so the classification was lowered by 47% to make it 8.55%. During the reappraisal of 1982, values went up a lot more and it was over 100% so the classification rate was reduced to 3.86%. All this does is insure that the total taxable value of the state has not increased as a result of reappraisal. The rate was not changed in the last reappraisal because the increase statewide, in spite of the problems in some areas, was less than 7% which was insignificant. One way of looking at this is by making the percentage adjustment, every reappraisal since 1972, the property is brought up to market value but essentially is being taxed at its 1972 value on real estate improvements. This has not been done with other types of property so there has been a tax shift. **Mr. Burr** suggested that the Committee should consider that when the reduction is made statewide, it will insure that the State of Montana won't get a property tax windfall. However, there will be a different effect on counties. In the last reappraisal, every county east of the Continental Divide lost value, and west of the Divide all counties went up more than 7% on the average so reducing the rate by 7% would not have taken all the increase in valuation out of that reappraisal. He said that rather then doing this statewide, the Committee might want to consider the adjustment countywide by saying that values go up by a percentage in one county, mill levies will have to go down by the same percentage, and likewise, if there has been a depreciation in the county, it should not have an effect on the levies. This would put the adjustments where they are needed rather than using the statewide 3.86% classification.

Opponents' Testimony:

REP. JIM ELLIOTT, House District 72, Sanders County, said he opposes the bill for the same reasons Mr. Burr brought up in support of the bill. There is a need to keep residential taxes stable, but this bill is not a good way to do it. In an area that has a taxable value increase, if the tax rate is lowered, there will still be a tax increase, but it will be smaller than it might have had if there was no adjustment in the rate; but a county that has had an actual taxable value decrease, and the rate is lowered, that county will have a lower tax rate and the taxing jurisdiction would get less money. These counties are already "running on a shoestring" and the problem with going on a county by county basis is that it would still be a county-wide average, and property values are not any more uniform inside the boundaries of a county than they are inside the boundaries of the state; therefore, a county such as the one he represents where the western end has skyrocketing property values and the eastern end are going down. The effect here, if there is rate manipulation, would be the same as if it were statewide. He concluded that being fair in taxation is a very complex matter and doing a statewide valuation, or countywide as Mr. Burr suggested, may be easy and quick, but it is not fair and accurate.

Alec Hanson, League of Cities and Towns, testified in opposition to the bill because it looks good on paper but it doesn't work in the real world. He used the City of Anaconda, following the closure of the smelter, as an example. Deer Lodge County lost two-thirds of its total tax base and then the tax rate was reduced from 8.55% to 3.86% and forced the County to the verge of bankruptcy. The economy of Montana is too diverse for this to work. He provided a chart showing what has happened to taxable valuation in Montana as a result of the last reappraisal. EXHIBIT 3. It is true that there were tremendous increases in taxable valuation in some areas, but there are 25 counties that actually lost taxable value as a result of the last reappraisal. He said the state is being divided into two areas -- the rich and the poor. This solution to apply a simple formula to a very complex economic and political situation will cause many problems and he asked the Committee to consider these factors in making its decision.

Larry Foster, Cascade County Coalition, representing the county, cities and school districts in Cascade County, said that if this practice continues, local government entities will not be able to keep pace. He suggested that any indexing should be linked to inflation and some increases should be allowed to take place. As values go up, the value should not be adjusted, but the mill levies should go down and if local governments are allowed to exercise what they have authority to do, give them the control and let them be responsible. The adjustments should be made at the local level and not by the state.

Bill Verwolf, City Manager, City of Helena, said he opposes this bill on the same ideas that have already been presented and, in addition, it expands the inequities that are involved in the statewide reappraisal process because each community is different. Also, it does not recognize inflation as a reason for the increases in the values of property.

Jim Kembel, City of Billings, went on record as opposing this legislation because of their concern about providing police and fire protection, as well as other services, when 10% of their base will be impacted heavily by this particular legislation. There is also concern about the impact it would have on the smaller communities in Eastern Montana.

<u>**Questions From Committee Members and Responses**</u>:

REP. BOHLINGER asked if this was a way to prevent windfall as a result of increases in class four property valuation and, if this is an attempt to bring local control on this issue, would the counties have a better way of addressing the concern of windfall. **Mr. Burr** replied that reducing mill levies is a more specific way to go than the way the bill is presently drafted. The way it is now, it does prevent a windfall at the state levy, but it will have varying impacts on each county, city and school. If the decision has to be made locally, the windfall would be taken care of if it is a problem. He said that following the last valuation, many jurisdictions did not take advantage of the windfall and reduced their mill levies, others did not reduce them.

REP. SWANSON asked how many cities and towns are bumping up against I-105. **Mr. Hansen** said that everyone on a line from East Glacier down to Livingston would be pretty close because, during the last eight years since I-105 has been in effect, there has been no increase in valuation in Montana. **REP. SWANSON** then asked what the impact would be on communities in Western Montana where there is growth and they are being adjusted down to control the growth in property taxes. **Mr. Hanson** answered that there is a law on the books for many years which applies to cities which says that mill levies are limited to produce 105% of what was had the previous year. The advantage of this law was that levies could be raised to get to the 105% level. If it wasn't for the gambling taxes, every city in Eastern Montana would be bankrupt. He said this law is still on the books and it might be an option to look at it and make some changes.

{Tape: 2; Side: A.}

Closing by Sponsor:

REP. COBB thanked the Committee for the hearing. He said the Legislature has made this adjustment previously on two occasions and it didn't destroy the State of Montana. The schools and cities need more money but he didn't think you could ever raise enough money for all of them for what they want. The local governments can bring in a bill to allow them to raise their mills to bring them up to where they were before. He said his intent for bringing in the bill was to stop the statewide increase in taxes. One compromise would be to take the statewide 40 mills and reduce it by whatever the taxable increase across the state would be and Rep. Cobb offered to provide an amendment to this effect.

EXECUTIVE ACTION ON HB 171

Lee Heiman explained the technical amendments which are necessary to make the bill workable and also provides a decodification instruction. EXHIBIT 4.

Motion/Vote:

REP. REAM MOVED THAT THE TECHNICAL AMENDMENTS TO HB 171 DO PASS. The motion carried unanimously.

Motion:

REP. REAM MOVED THAT HB 171 DO PASS.

Discussion:

REP. REAM commented that he did have some concerns about this bill and he hoped his comments would sound "bi-partisan." He said this bill is on a "fast track" and it will come out on the floor. He was not afforded the opportunity to sign this bill and, even if he had been, he would not have signed it because he thinks it is bad public policy to return this money and then borrow large sums, putting future taxpayers in debt. Also, Speaker Mercer said the budget established in the last session was a contract with the people and, in a sense, that is true because the spending and estimated revenues were set; however, revenues came in faster than anticipated and much of that came in during tax year 1993. **REP. REAM** said the only letter of support he received on this bill said the writer had major income in 1993 from sales of property and the stockmarket and had done very well. However, he had losses in 1994 and any individual in the state has the same kind of ups and downs in their income. In this bill, one fiscal year of the biennium would fall under this contract, but not the other, and this presents a question of equity and fairness to taxpayers. His final comment on policy would be that the money will be given back in November and December and $300,000 in the budget could be saved by delaying another three months and allowing it as a tax credit the following year.

REP. SWANSON distributed a copy of an amendment she would propose. EXHIBIT 5. She explained that she had done a survey in her district and the response was that the money should be used for the state's needs rather than given back. Her amendment would make this an income tax credit rather than a refund check, thereby saving $250,000 in administrative costs.

Motion: **REP. SWANSON MOVED THAT THE AMENDMENT BE ADOPTED.**

Discussion:

REP. ROSE said he recalled that two years ago when the sales tax was discussed on the floor of the House, that there would be $43 million, and there was a debate on how to spend that money. This money belongs to the people of the State of Montana and he supports the rebate.

REP. RYAN recalled that the amendment would provide the most cost efficient way to return this money. When figuring taxes, a credit would be appreciated more than the refund.

REP. STORY opposed the amendment because it sounds like a money-saving issue but it really is an option of saving the state some money or investing $25 million into the economy.

REP. SWANSON said that having a 7% credit at the bottom of the income tax form would be simple. The way the bill was written, the DOR will have to go back into every 1994 return and calculate the refund which would be much more complicated -- $300,000 worth of work that could be given back to the taxpayers.

REP. MURDOCK said it looked to her like the money should be invested in the economy rather than have the state decide how to spend it.

REP. BOHLINGER said his recollection was that the Governor had commented that a tax credit had been considered but he would prefer to return the money as quickly as possible to the people who paid it and that the people would, through receipt of a cash refund, exercise the decision of how to spend the money. He also said that if more money is put into circulation, the economy will be bolstered, therefore, he would reject the amendment and vote in favor of the bill.

REP. WENNEMAR said he would not support the bill but he would support the amendment to save the $300,000.

REP. ARNOTT said she had great respect for Rep. Ream and Rep. Swanson but she would reject the amendment and support the bill.

REP. SWANSON said she realized that it was necessary to find ways to restore faith in government and her intention in proposing the amendment was not to destroy that purpose.

Vote: On a voice vote, the amendment failed, 14-5.

REP. ELLIOTT said his name, as well as any other Democrats, did not appear on the bill, but in bi-partisan action, he would move the bill forward for debate on the House floor. He said he had been told that these are the people's dollars and he reminded the Committee that legislators are the people's servants. He said he is charged by the people who sent him here to manage the people's money in the most fiscally prudent manner. He pointed out that the money that will be borrowed for a twenty-year period to build buildings in the State of Montana that might not have been borrowed if the rebate is given out is the people's debt. He said that Rep. Cobb's bill, to put this excess into the Workers' Compensation Fund would reduce rates and would create jobs. In his opinion this would be a fiscally prudent use of the people's money. To return the money would be a grand gesture, and it might be the right gesture, but he questioned whether it was the most fiscally prudent thing to do.

REP. WENNEMAR said that, being a member of the under-thirty caucus, he spoke to the bill for the future, for the people who are not yet able to vote or speak for themselves. This bill is irresponsible. He said he was raised believing that politicians and the political process was skewed. People would do things because they knew they would get re-elected. Popularity does not do much for the state. He continued that maintenance of buildings has been neglected for too long and he does not want to be saddled with a debt put on by people ten or twenty years ago for buildings that they did not want to pay for. It's easier to cut building maintenance today than worry about what our kids will have to pay for tomorrow. The people who put off maintenance are long gone and future generations will now have to pay. He emphatically stated that he opposes this reprehensible bill.

REP. ORR said there has been a lot of talk about the railroad and the greased skids and the fact is, it's the people's railroad. The people's vote put a huge Republican majority in office and the message is they want change. This bill represents the idea that it's time to stop thinking of what is best for government and think instead of what's best for the people. This is not the government's money. They paid too much and we are going to give it back and let them have the choice on how to spend it. He encouraged the Committee to look at the positive aspects of the bill.

REP. RYAN indicated that he was in favor of giving the money back but he did think it should be given back in the most responsible way.

REP. HARPER agreed with Rep. Ryan. He said he was encouraged when the Governor began the listening process and he was especially delighted with the interplay the rebate had with Initiatives 66 and 67. He said he wanted both parties to be able to respond as one because there is a great need to show that government does respond. He said he would also like government to be consistent but on one hand a rebate will be given and on the other hand, we will give them an $85 million debt. It would be possible to save $21 on long term debt service and give taxpayers twice as much money back and he didn't think this was the way to change government. **REP. HARPER** said he would like to vote for the bill because the message is important and it would be more important if everyone agreed on the process. He would like to see the administrative costs of returning this money reduced.

{Tape: 2; Side: B; Comments: This side of the tape is blank. {Discussion continued on Tape: 3; Side: A.}

REP. WELLS referred to the comments he had heard during the meeting about the large bills to be faced because of the actions of politicians in the past. He said that over the past 40 years, the majority of the legislators had been Democrats and now the voters have turned this around and given a mandate to change things. The debt we have incurred over the past years was incurred because policies haven't been responsive to fixing problems as they came up. Now people think we should use the excess money to fix the problem generated over the past years. He said he was not elected to fix the problem, just because it came up at this time. The people do deserve to get their money back and he does recognize that there is a problem. From here on there is a need to manage government and institute measures that would give people an incentive to continue to boost the economy in Montana. He would hope that over the next few years, through

a boost in the economy and increased revenues, the problems can be fixed without raising taxes.

REP. RANEY said he wasn't going to do anything because he was a Democrat or because someone else was a Republican but what he was going to do was represent the people of his district. He said it didn't make any difference who was in the majority and he believed giving the money back was a good idea and he would vote for it. However, he did not believe it was the best idea and giving it to Workers' Comp to reduce that debt was probably a better idea. Rates could be reduced by 11% in some cases and 30% in others. It would provide an unemployment reduction of .9%. This would certainly bolster the economy of Montana. He said he didn't know why the decision was made so quickly on what should be done with this money because there hasn't been an opportunity to debate any other option. He also objected to the fact that because there is a cap on the rebate, the people who paid the most money will not get it back, and he did not feel this was fair and equitable taxation. He said that during the special session it was anticipated that the ending fund balance would be larger than was projected and if this did in fact take place, $10 million should be put into deferred maintenance. This bill says that the action of the previous legislature who anticipated the $10 million surplus does not count. **REP. RANEY** went on to state that the voters have said they want less government and this bill will spend $300,000 on additional bureaucracy to send the money back. The citizens were not given a chance to get involved in this and the reason is that the citizens don't want the money back. They expected him to encourage a wise use for it. A $50 check will not increase people's faith in government. Faith in government will be increased by good ideas and making effective changes in the way we run government. Effective change is not a bill like this that becomes a political issue and it has been made a political issue just by the way it was introduced. This issue should not be partisan, yet has become that. **REP. RANEY** concluded by stating that he hoped the Senate would hold this bill and wait for other bills so that a real statesperson debate could take place on what the proper thing to do with this money should be.

REP. ROSE commented that it was much better to be arguing over a surplus than a deficit. He said that two years ago they had talked about fiscal responsibility and when there was a $200 million debt. In an attempt to balance the budget in the special session, school funding was delayed, millions were taken out of the secondary road funds, and every available department in the State of Montana was robbed, and the citizens certainly weren't involved in that. This money has been generated by the people of the state and to leave it in the political arena would be a mistake.

REP. ARNOTT said she, too, thought the best thing to do was put this money into Workers' Comp, and then she began to look at it. 30% of the Workers Comp' has been picked off by private companies and the state is left with 70% of the companies, yet they have not reduced their staff or increased their efficiency. She felt that, as was the case with the Old Fund, taxpayer dollars should not be dumped into a black hole.

CHAIRMAN HIBBARD stated that the debate could continue but he was hearing reoccurring themes and comments that were somewhat off the track. He asked for any new comments that might shed light on the bill; there were none.

REP. ELLIOTT called for the previous question.

<u>Vote</u>: **On a voice vote, the do pass motion on HB 171 passed, 18-2.**

ADJOURNMENT

Adjournment: 11:15 a.m.

Chase Hibbard

CHASE HIBBARD, Chairman

Donna Grace

DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE Jan. 19, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

HOUSE STANDING COMMITTEE REPORT

January 19, 1995

Mr. Speaker: We, the committee on **Taxation** report that **House Bill 171** (first reading copy -- white) **do pass as amended**.

Signed: ______________________
Chase Hibbard, Chair

And, that such amendments read:

Technical Amendments

Corrects reference to incorrect line
1. Page 2, line 15.
Strike: "26"
Insert: "27"

Deletes the codification instruction for short title

2. Page 4, line 30.
Strike: "Sections 1 and"
Insert: "Section"
Strike: "are"
Insert: "is"

3. Page 5, line 2.
Strike: "sections 1 and"
Insert: "section"

-END-

Mn
1-19

Committee Vote:
Yes 18, No 2.

161052SC.Hdh

EXHIBIT 1
DATE 1/19/95
HB 182

MONTANA HEALTH CARE ASSOCIATION
36 S. Last Chance Gulch, Suite A · Helena, Montana 59601
Telephone (406) 443-2876 · FAX (406) 443-4614

HOUSE TAXATION COMMITTEE

January 19, 1995

HOUSE BILL 182

NURSING HOME BED TAX

For the record, I am Rose Hughes of Helena. I am the Executive Director of the Montana Health Care Association, an association representing approximately 80 nursing homes throughout the state of Montana. Our membership includes freestanding for-profit facilities, freestanding non-profit facilities such as those run by counties and religious-affiliated organizations, and hospital-based facilities.

We strenuously oppose HB 182. This bill proposes to raise the nursing home bed tax from the current \$2.80 per patient day to \$3.39 per patient day for fiscal year 1996 and to \$3.93 per patient day for fiscal year 1997. This is a 40% tax increase over the biennium imposed on Montana's sick, elderly citizens who reside in our nursing homes. This bill is proposed as a way to fund a Medicaid increase for nursing homes but it will also raise the cost of care for those paying for their own care. There are a number of reasons for our strong opposition.

1. History. During the 1991 legislative session this tax was proposed by SRS and the Stephens administration as a way to provide "catch-up" funding for nursing homes. At that time, nursing homes were being paid based on their 1980 costs. The shortfall between the actual cost of caring for a Medicaid patient and the rate Medicaid paid was over \$10 per patient day at that time. The state was not meeting federal Medicaid program requirements to pay rates that cover the cost of care and a lawsuit was imminent. Because the state was going through a severe budgetary crisis, SRS believed that state general funds to match with federal funds to provide "catch up" funding and avoid a lawsuit simply were not available. This tax was designed to provide the state match so federal funds could be generated and rate increases could be made that would bring the state closer into compliance with federal law and to bring the rates closer to the costs of care.

During the 1993 legislative session, again with the state projecting a severe budget shortfall, SRS and the Racicot administration proposed to increase the fee to generate sufficient funding for a nursing home rate increase.

During both sessions, our association supported the levying of the bed tax. Neither we, nor SRS, nor the Governors involved liked this tax. We did all agree, I think, that levying the tax was a better alternative than the under funding, the cost shifting, and the legal activities that would otherwise take place.

The history of the tax increases is:

July 1, 1991	$1.00 per patient day - on Medicaid patients only
July 1, 1992	$2.00 per patient day - on Medicaid patients only
July 1, 1993	$2.00 per patient day - on **all** patient days
July 1, 1994	$2.80 per patient day - on **all** patient days

This tax has increased 180% since July of 1991. If this bill passes by the end of the 1997 biennium we will have seen it increase 280% in its short life.

2. Affect on those who pay for their own care. Although this increase is aimed at providing additional Medicaid funds to pay the costs associated with caring for Medicaid patients, those who are paying for their own care will also pay the tax. This tax, while assessed against the nursing home, is just one more cost of doing business. As such, it will be passed along to those who pay for their own care. These people are already paying costs that are shifted from the Medicaid program to them, are paying this tax to help fund Medicaid and now will be asked to pay a substantial increase in the tax.

This is also coming at a time when you will be asked to pass legislation aimed at Medicaid estate planning. The legislation, proposed by SRS, will seek to increase the number of individuals paying for their own care by closing eligibility loopholes. We applaud these efforts and will support that legislation. However, at a time when the state is asking individuals to do their part by paying for their own care, it should not be asking these people to pay an ever-increasing tax to fund those still on Medicaid.

3. There is not a legitimate need to increase this tax at this time. At a time when there is a budget surplus and we are talking about ways to refund taxes previously paid, there does not seem to be a legitimate reason to single out our frail elderly in nursing homes for a tax increase. This tax was never intended to be the sole funding source for Medicaid rate increases. No other Medicaid provider is taxed to pay for rate increases--not hospitals or physicians or physical therapists or dentists or home health agencies or any other Medicaid provider. All Medicaid providers receive their rate increases through state general fund matched with federal funds.

4. **Tax is not being applied equitably. Other long term care providers receive Medicaid funds but are not taxed.** The 1993 legislature authorized SRS to expand the range of long term care services that Medicaid pays for to include such things as personal care, assisted living, adult foster care and the like. SRS is in the process of expanding coverage for these services through the waiver. Although these service providers are in direct competition with nursing homes and are allowed to provide similar services, our services are taxed and theirs are not.

5. **Operation of the tax has not been equitable to all nursing homes.** Because of SRS's application of a "private pay limitation", all funds appropriated to nursing facilities are not distributed. The effect is that facilities are not receiving the full benefit of the nursing home tax as originally promised. Also, because of differences in Medicaid population and the operation of various caps in the reimbursement system, facilities that are paying the tax are not necessarily receiving the benefit of the increased funding--as was originally envisioned.

6. **The federal government has disapproved our bed tax.** Because of the obvious affect on federal funds of these types of taxes, and because so many states developed them around the same time Montana did, the federal government has been closely scrutinizing the use of these taxes by the states. Montana has been notified by the federal government that our tax does not comply with federal law. Potentially, Montana could lose its federal matching funds. While we believe that Montana will ultimately win this argument with the federal government, this seems like a really bad time to increase Montana's dependence on this tax or to do anything that would draw additional attention to it. Also, the federal government imposes limits on just how much a state can depend on these types of taxes. Again, while we believe that Montana is within those limits, the increases proposed in this bill will bring us much closer to the limit. Once the limit is reached, increasing this tax to fund Medicaid rate increases will not be an option. We believe this option should be kept open for a time when it might be more necessary and appropriate, rather than pushing the limit now when other funds are available.

SUMMARY

No matter how well-intentioned, this piece of legislation is asking you to single out people who are old and sick and living in nursing homes for a substantial tax increase. We don't believe this is a good idea, and we hope you agree. We urge you to vote no on HB 182.

EXHIBIT 2
DATE 1/19/95
HB 182

January 17, 1994

To: The House Taxation Committee

We, the residents of Mountain View Care Center, in Bozeman Montana, are opposed to HB 182. This tax will be a financial burden we cannot afford. This added tax will only deplete our resources faster, forcing us to turn to the medicaid system to pay for our stay.

We also oppose this legislation as it will not benefit us in any way. We feel this is an unfair tax on people who are unable to attend these hearings. This is another example of being punished for preparing for our care needs in our declining years by being asked to support those who did not.

We encourage any committee member to visit us in <u>our home</u>, Mountain View Care Center, and we will give you our objections personally.

Sincerely,

Vera Hoadley
George E. Hoadley
Dorothy E. Patterson
Gertrude C. Tunnicliff

Mary M. Meeks
J. Roy Bridges, Sr.

This letter was dictated to our Resident Advocate, Sue Crawford.

EXHIBIT

DATE

HB

As taxpayers in the State of Montana, we are strongly opposed to House Bill 182, sponsored by Rep. John Cobb (R-Augusta) which proposes to raise the nursing home bed tax for the next biennium.

Families have a very limited choice or no choice at all when a member is admitted to nursing home care. There are no options.

My mother has her right leg amputated just below the knee. She has been at Big Sky Care Center for two years.

The current cost is $35,222 PER YEAR. Physician charges and prescriptions charges ARE IN ADDITION to $35,222. THE STATE OF MONTANA DOES NOT NEED TO ASSESS A TAX ON THOSE PEOPLE WHO HAVE A LIMITED ABILITY TO PAY.

This family is AGAINST HOUSE BILL 182.

Thank you.

Sandra Holtet
John A. Holtet

Sandra and John Holtet

449-4955

EXHIBIT 3
DATE 1/19/95
HB 183

Estimated Impact of Reappraisal - FY 94

This analysis measures the impact of reappraisal on tax year 1992 taxable values.

	Estimated Percent Change Due to Reappraisal		Estimated Impact to Property Subject to Reappraisal (Classes 4 and 11)			
County	Residential Property	Commercial Property	Current	After Reappraisal	Change	Percent Change
Beaverhead	16.5%	3.2%	5,869,902	6,641,752	771,850	13.1%
Big Horn	-2.6%	26.8%	6,207,626	6,947,518	739,892	11.9%
Blaine	0.2%	-4.9%	2,872,609	2,845,314	(27,295)	-1.0%
Broadwater	-12.7%	-9.8%	2,735,640	2,405,242	(330,398)	-12.1%
Carbon	1.7%	15.4%	8,435,614	8,743,518	307,904	3.7%
Carter	-11.2%	-2.2%	724,547	648,646	(75,901)	-10.5%
Cascade	7.2%	12.6%	64,783,921	70,419,361	5,635,440	8.7%
Chouteau	-16.5%	6.8%	4,478,780	3,895,422	(583,358)	-13.0%
Custer	13.3%	-3.1%	6,606,102	7,182,397	576,295	8.7%
Daniels	-15.8%	-14.9%	1,639,808	1,383,316	(256,492)	-15.6%
Dawson	-11.0%	-19.3%	6,366,359	5,531,869	(834,490)	-13.1%
Deer Lodge	5.3%	-7.7%	5,734,939	5,860,015	125,076	2.2%
Fallon	1.4%	3.0%	1,915,108	1,949,583	34,475	1.8%
Fergus	-4.4%	6.0%	7,118,844	6,967,236	(151,608)	-2.1%
Flathead	16.0%	14.1%	74,533,483	86,144,052	11,610,569	15.6%
Gallatin	11.7%	5.7%	55,188,172	60,804,283	5,616,111	10.2%
Garfield	-7.0%	5.2%	762,730	717,320	(45,410)	-6.0%
Glacier	-7.7%	9.7%	5,173,550	5,055,829	(117,721)	-2.3%
Golden Valley	-10.1%	13.5%	651,034	596,667	(54,367)	-8.4%
Granite	19.0%	3.1%	2,017,411	2,352,476	335,065	16.6%
Hill	2.1%	0.9%	12,136,538	12,355,152	218,614	1.8%
Jefferson	8.7%	10.1%	6,668,004	7,267,270	599,266	9.0%
Judith Basin	-14.0%	12.1%	1,644,755	1,468,610	(176,145)	-10.7%
Lake	27.4%	10.9%	22,462,496	28,126,696	5,664,200	25.2%
Lewis And Clark	9.4%	1.7%	44,855,811	48,104,576	3,248,765	7.2%
Liberty	-25.5%	14.6%	2,024,755	1,616,605	(408,150)	-20.2%
Lincoln	7.0%	-10.1%	13,935,519	14,311,362	375,843	2.7%
Madison	5.2%	-4.5%	8,553,273	8,837,513	284,240	3.3%
Mccone	-12.1%	-9.1%	1,667,003	1,471,812	(195,191)	-11.7%
Meagher	7.1%	-1.6%	1,424,166	1,506,393	82,227	5.8%
Mineral	26.4%	7.9%	2,157,608	2,611,356	453,748	21.0%
Missoula	5.0%	9.1%	83,386,470	88,695,304	5,308,834	6.4%
Musselshell	-15.6%	9.3%	2,584,266	2,271,359	(312,907)	-12.1%
Park	2.1%	11.0%	13,051,965	13,564,621	512,656	3.9%
Petroleum	-0.7%	56.5%	259,878	270,952	11,074	4.3%
Phillips	-1.1%	7.3%	3,153,919	3,177,332	23,413	0.7%
Pondera	-14.0%	-2.7%	4,424,563	3,927,506	(497,057)	-11.2%
Powder River	-8.3%	-14.6%	1,230,336	1,117,308	(113,028)	-9.2%
Powell	11.2%	0.8%	3,667,906	4,004,878	336,972	9.2%
Prairie	-18.9%	7.7%	755,571	637,503	(118,068)	-15.6%
Ravalli	9.4%	16.1%	23,244,375	25,670,806	2,426,431	10.4%
Richland	7.8%	0.6%	7,147,771	7,535,259	387,488	5.4%
Roosevelt	-7.0%	2.7%	3,974,391	3,784,646	(189,745)	-4.8%
Rosebud	-15.2%	27.4%	5,498,468	5,460,327	(38,141)	-0.7%
Sanders	14.6%	12.1%	5,555,380	6,341,282	785,902	14.1%
Sheridan	-11.2%	-7.3%	3,183,605	2,854,534	(329,071)	-10.3%
Silver Bow	14.7%	11.2%	26,332,620	29,888,106	3,555,486	13.5%
Stillwater	7.8%	15.8%	5,527,614	6,020,851	493,237	8.9%
Sweet Grass	-20.8%	0.2%	3,000,939	2,480,196	(520,743)	-17.4%
Teton	-17.4%	6.8%	4,625,397	4,010,415	(614,982)	-13.3%
Toole	-9.8%	10.9%	3,953,033	3,758,767	(194,266)	-4.9%
Treasure	-16.6%	26.3%	440,700	390,375	(50,325)	-11.4%
Valley	1.4%	30.2%	5,448,390	5,908,297	459,907	8.4%
Wheatland	-10.2%	-3.7%	1,179,937	1,071,212	(108,725)	-9.2%
Wibaux	3.2%	26.6%	613,702	657,015	43,313	7.1%
Yellowstone	8.2%	3.7%	120,138,973	128,252,529	8,113,556	6.8%
Total	7.3%	7.3%	713,726,276	766,520,545	52,794,269	7.4%

Compiled by the Office of Research and Information, MDOR.

04-Jun-93

EXHIBIT 4
DATE 1/19/95
HB 183

Amendments to House Bill No. 171
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 19, 1995

Technical Amendments

Corrects reference to incorrect line
1. Page 2, line 15.
Strike: "26"
Insert: "27"

Deletes the codification instruction for short title

2. Page 4, line 30.
Strike: "Sections 1 and"
Insert: "Section"
Strike: "are"
Insert: "is"

3. Page 5, line 2.
Strike: "sections 1 and"
Insert: "section"

②

EXHIBIT #5
DATE 1/19/95
HB 183

Amendments to House Bill No. 171
First Reading Copy

Requested by Rep. Swanson
For the Committee on Taxation

Prepared by Lee Heiman
January 18, 1995

1. Title, line 5.
Strike: "REFUND"
Insert: "CREDIT"
Strike: "(EXTRA)"

2. Title, line 6.
Strike: "EXCESS"
Strike: "REFUND AGREEMENT"
Insert: "CREDIT"

3. Title, lines 6 through 8.
Strike: "STATUTORILY" on line 6 through "MCA;" on line 8
Following: "PROVIDING" on line 8
Insert: "AN"
Strike: "DATES"
Insert: "DATE"

4. Page 1, lines 12 and 13.
Strike: section 1 in its entirety
Renumber: subsequent sections

5. Page 1, line 15.
Strike: "Refund of"
Insert: "Credit for"

6. Page 1, line 22.
Strike: "refund"
Insert: "credits"

7. Page 1, lines 23 and 24.
Strike: "to be" on line 23
Insert: "is"
Strike: "refund" on line 23 through "basis" on line 24
Insert: "income tax credits"
Strike: "filed" on line 24
Insert: "files"

8. Page 1, line 25.
Strike: "1994"
Insert: "1995"

9. Page 1, line 28.
   Page 2, line 2, in both places
   Page 2, line 3, in both places
   Page 2, line 4, in both places
Strike: "1994"

hb017102.alh

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. 182

DATE ____________ SPONSOR(S) Rep. Cobb

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bob Olsen	Montana Hospital Assoc		✓	
Peter S. Blouke	Peter S. Blouke		✓	
Greg Braaten	Lantis Enterprises		✓	
Nancy Espy P.R. Co. Comm	Powder River Co. Comm.		✓	
Bill McCarty	Lantis Ent.	182	✓	
Rose Hughes	Mt Health Care Assoc		✓	
Stephen L. Howe	Westside Rest Home		✓	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. 183

DATE 1/19/95 SPONSOR(S) Rep. Cobb

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bill Verwolf	City of Helena	183	✓	
Jim Kembel	City of Billings	183	✓	
Dennis Burr	MONTAX	183		✓

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