

**MINUTES**

**MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FINANCE & CLAIMS**

**Call to Order:** By **SENATOR GARY AKLESTAD, CHAIRMAN**, on Thursday,  
March 2, 1995, at 8:00 a.m.

**ROLL CALL**

**Members Present:**

Sen. Gary C. Aklestad, Chairman (R)  
Sen. Thomas F. Keating, Vice Chairman (R)  
Sen. Thomas A. "Tom" Beck (R)  
Sen. James H. "Jim" Burnett (R)  
Sen. Loren Jenkins (R)  
Sen. Ethel M. Harding (R)  
Sen. Arnie A. Mohl (R)  
Sen. Charles "Chuck" Swysgood (R)  
Sen. Daryl Toews (R)  
Sen. Larry J. Tveit (R)  
Sen. B.F. "Chris" Christiaens (D)  
Sen. Judy H. Jacobson (D)  
Sen. John "J.D." Lynch (D)  
Sen. Mignon Waterman (D)

**Members Excused:** Senator Jergeson, Senator Franklin

**Members Absent:** None

**Staff Present:** Taryn Purdy, Legislative Fiscal Analyst  
Lynn Staley, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 416, HB 420  
Executive Action: HB 142 - AS AMENDED BE CONCURRED IN

**HEARING ON HOUSE BILL 420**

**Opening Statement by Sponsor:**

**REPRESENTATIVE DAVID EWER, House District 53, Helena, sponsor,**  
said HB 420, a clean up bill, revises the bonding statutes in  
Titles 7 and 20, with changes for counties, cities and school  
districts. Some of the changes will save local governments  
thousands of dollars. He commented that some statutes have been  
on the books since the 1930's.

REPRESENTATIVE EWER presented the bill section by section.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR JENKINS questioned why notification was left in for New York, Chicago and San Francisco, Section 37, page 19 of the bill.

REPRESENTATIVE EWER said they left the notification in as permissive rather than mandatory. It is still customary for large bond issuers to notice if they are going to sell, redeem, and so on.

SENATOR JENKINS questioned the change from 98 percent to 97 percent on urban renewal bonds.

REPRESENTATIVE EWER said this is more current than the statutes in the books. At the time of the bill draft, it was understood that selling bonds at a discount was more favorable and would be consistent throughout the codes. He maintained this would just pertain to urban renewal bonds.

When questioned by SENATOR HARDING if this standardizes bonds for schools, cities and counties, REPRESENTATIVE EWER said a high priority of HB 420 was to make it uniform so that underwriters and bond counsel can understand them for issuing bonds.

SENATOR AKLESTAD questioned if there was still a premium with the 97 percent although it isn't visible.

REPRESENTATIVE EWER said it translates in a slightly different way than a premium. Under a premium, the bond buyer gets to pay for it. With a discount, the local government doesn't get the full par amount. For example, on a \$1 million bond issue, they might get \$960,000 in cash, but the local government pays the full \$1 million back.

In questioning from SENATOR AKLESTAD regarding the same statute applying to individuals buying bonds, such as the Montana Tax free bonds, REPRESENTATIVE EWER said it does not affect bonds that are currently outstanding, only bonds issued after the effective date of this bill.

SENATOR AKLESTAD commented that in buying an individual bond, he would like to know the administrative, or premium cost, rather than it being hidden.

**REPRESENTATIVE EWER** said HB 420 has no effect on the administrative costs.

**SENATOR AKLESTAD** indicated that he would call the premium an administrative cost. There is a cost for purchasing the bond and as he understands HB 420, that cost would not be visible, but would be worked in between the 97 percent and 100 percent.

**REPRESENTATIVE EWER** said the premium he is used to paying would no longer be paid. The local government who ends up paying for it anyway will take it up front in the discount. The full cost will be borne by local government; the purchaser will never bear any of that cost.

**SENATOR AKLESTAD** asked if there was anything in HB 420 that would allow municipalities or any governing bodies the latitude that West Yellowstone has at this time, being able to pledge the amount of money that would be taken in from the bed tax for a bonding issue, and that bed tax is statutory, a resort tax, to back up a bond.

**REPRESENTATIVE EWER** said the resort tax language does permit it to be pledged for bonding.

**SENATOR AKLESTAD** asked if there was anything in this bill that gives more latitude.

**REPRESENTATIVE EWER** said the statute proposed discusses property taxes already issued or currently authorized for refunding issues. The only one he thought it would pertain to is county hospitals who can already impose 3 mills under 105. They would like to see the 3 mills be a part of the revenue stream of the county hospital because even though it is usually not very significant, it can help the financial viability of the hospital. In response to **SENATOR AKLESTAD'S** question, he said the resort tax can be leveraged with this bill.

**SENATOR AKLESTAD** asked if there was anyplace in HB 420 except on page 1 giving preferential treatment where the interest paid and collected on deposits or investments of a local board of health would go into a separate fund rather than a general fund of any municipality or governing board.

**REPRESENTATIVE EWER** said no, it is the only place where investment earnings go elsewhere.

**SENATOR JENKINS** questioned if premiums were shifted from the bond buyers to local government.

**REPRESENTATIVE EWER** said local government pays for it regardless. He noted that Montana has been selling bonds at a discount for a long time. The bonds have to be sold at competitive sale and if they want to win the bid, they have to keep the discount as minimal as possible.

Closing by Sponsor:

REPRESENTATIVE EWER closed on HB 420.

HEARING ON SENATE BILL 416Opening Statement by Sponsor:

SENATOR CHUCK SWYSGOOD, Senate District 17, Dillon, sponsor, said SB 416 would revise laws governing the Certificate of Need (CON) for health care facilities. The purpose of the CON when enacted was to eliminate the duplication of services and facilities and curb the spiraling health care costs. He said there was a motion made and passed during the Human Services subcommittee hearings to do away with the Certificate of Need program because it has not been funded properly and wasn't doing anything. Because of concern expressed with elimination of the program, the subcommittee came up with SB 416.

The bill revises the current Certificate of Need rules and regulations to make them more workable. It also contains an amount of money that is necessary in HB 2 to properly fund the CON process to meet the requirements of the bill. He explained that there is a provision on page 24 indicating that if the program is not funded, it is repealed.

SENATOR SWYSGOOD presented amendments to SB 416 **EXHIBIT 1** which he thought would satisfy the concerns of everyone involved in the process and reflect compromises that were reached. He concluded that he did not agree with the fiscal note and therefore did not sign it.

Proponents' Testimony:

Bob Olsen, Montana Hospital Association, presented written testimony in support of SB 416. **EXHIBIT 2** He also detailed a section by section analysis of the amendments to SB 416. **EXHIBIT 3** He concluded that the Montana Hospital Association supports SB 416 with the proposed amendments because they believe the bill provides a more streamlined review process and a fair opportunity for bona fide appeals.

Tom Ebzery, St. Vincent's Hospital and Health Center, Billings, testifying in support of SB 416 and the CON as outlined in the bill, said a contingent repealer is a good faith effort they think is necessary. He noted there would be a coordinating amendment offered to HB 2 that would ensure that any fees collected will revert to the general fund.

Rose Hughes, Executive Director, Montana Health Care Association, testified in support of the bill and the technical amendments as a way of streamlining the process and resolving the issue of swing beds in a reasonable manner. She voiced concern with the

contingent repealer, but agreed that with **SENATOR SWYSGOOD'S** assurance that he will work to get the funding and monitor the program's progress, they will be comfortable with it.

**Peter Blouke, Director of Department of Social and Rehabilitation Services (SRS)**, said although the Certificate of Need process is located in the Department of Health and Environmental Sciences (DHES), it has a dramatic effect on programs operated through SRS, and specifically the nursing homes. Even though the fiscal note has not been signed and is not 100 percent accurate, there was a tremendous fiscal impact on the medicaid budget without a Certificate of Need process. He concluded that they have worked with DHES and the industry to clean up the CON issue and they will work to assure appropriate funding.

**Dale Taliaferro, Department of Health and Environmental Sciences**, testified in support of SB 416 with the proposed amendments.

**Pat Melby, Rimrock Foundation**, said they support the bill with the amendments and are hopeful that through the budget process, the Certificate of Need program will be adequately funded.

**Steve Brown, Lantis Enterprises, Inc.**, testified in support of the bill with the amendments and said he agreed with **SENATOR SWYSGOOD'S** efforts to obtain adequate funding for the Certificate of Need program.

#### Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

When asked by **SENATOR WATERMAN** if the money currently was in the budget, **SENATOR SWYSGOOD** said it was not there. **SENATOR WATERMAN** voiced concern that the Legislature may not fund it. Although she may disagree with the fiscal note, she thinks it is low. She questioned if there was another way to fund it since it would drastically affect the Medicaid budget if the Certificate of Need is lost.

**Peter Blouke** said although there is not an alternative funding source, they are exploring the feasibility of using Medicaid match funds for that portion of the CON directly impacting Medicaid. They are making significant changes in the direction the state is going in long term care and he noted that Certificate of Need is not only a regulatory process but also involved in the health planning process. He concluded they strongly support adequate funding.

**SENATOR LYNCH** commented that the fiscal note is extremely liberal. Under the present law, hospitals are excluded from the Certificate of Need but hospital costs are leveling off because workers have been laid off.

Closing by Sponsor:

**SENATOR SWYSGOOD** closed on SB 416. He said he had similar concerns as **SENATOR LYNCH** when it was discussed in subcommittee. He said the program is not being funded to the area it is effective. The fiscal note shows there is the potential that if this is not funded, it would have a \$12 million to \$14 million impact on Medicaid, and he commented there is a potential for that to happen. He is not sure the figures on the fiscal note are right; they could be higher or they could be lower. Looking at the rising costs associated with Medicaid and the strain it is putting on everything, including the state revenue sources, he is not sure he is willing to risk that happening. He was told it would take \$240,000 to do the job right which he would argue for, but if the Legislature feels they don't want to do that, then the results could be what **Dr. Blouke** says. The budget is driving Montana and other states to the brink of not being able to afford the costs associated with it. He concluded that SB 416 is another tool to help contain costs associated with long term care; it is a workable plan, and the money is necessary to assure it.

EXECUTIVE ACTION ON HOUSE BILL 142

Discussion: **SENATOR LYNCH** said he was looking for a way to reduce the impact that will occur in Great Falls as a result of the Malmstrom Air Base closure. Cascade County is going to experience a devastating effect with the loss of many jobs. He wondered if executive action on HB 142 could be delayed until they could consider an attempt to get some type of emergency funding from this bill to help Cascade County.

**SENATOR MOHL** said he didn't think HB 142 was the bill to do that. Since the closure hasn't happened yet, our congress people should be contacted in an attempt to prevent it from happening.

**SENATOR WATERMAN** wondered if it could be done through the budget process for retraining workers.

Motion: **SENATOR WATERMAN MOVED TO AMEND HB 142. EXHIBIT 4**

Discussion: **Taryn Purdy** explained the amendment would clean up the language on when the money can be requested and who could request it.

**SENATOR AKLESTAD** explained that local communities are authorized to request \$10,000 and there is a \$100,000 cap. Those dollars would come from the first \$2 million that is allocated to the Governor for emergency efforts, and would reduce the \$2 million by \$100,000.

Vote: **SENATOR WATERMAN'S** amendment motion **CARRIED UNANIMOUSLY.**

Motion/Vote: SENATOR MOHL MOVED HB 142 AS AMENDED BE CONCURRED IN. Motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HOUSE BILL 420

Motion: SENATOR WATERMAN MOVED HB 420 BE CONCURRED IN.

Discussion: SENATOR AKLESTAD voiced his concern on page 1 where a special deposit was given to a local health board rather than the money going into the general fund.

SENATOR SWYSGOOD said he didn't know the kind of money they are taking about as to how it would impact the general fund of the local government. He felt it was a policy decision the legislature would have to make.

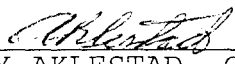
SENATOR AKLESTAD said it sounded like one individual would be directly effected with this positively and he questioned if the legislature should statutorily go along with it when it could affect other governing bodies in a negative way and also if the legislature should set a precedent.

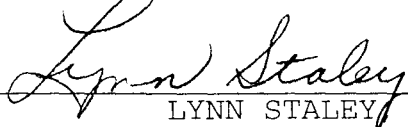
Vote: SENATOR WATERMAN'S Motion FAILED on a tie roll call vote.

CHAIRMAN AKLESTAD explained that HB 420 currently is in a failed position, and they would have a motion to reconsider action at a later meeting.

ADJOURNMENT

Adjournment: 9:25 a.m.

  
SENATOR GARY AKLESTAD, Chairman

  
LYNN STALEY, Secretary

GA/ljs

MONTANA SENATE  
1995 LEGISLATURE  
FINANCE AND CLAIMS COMMITTEE

ROLL CALL

DATE

3/2/95

NAME	PRESENT	ABSENT	EXCUSED
SWYSGOOD, CHUCK	✓		
BURNETT, JIM	✓		
MOHL, ARNIE	✓		
JERGESON, GREG			✓
FRANKLIN, EVE			✓
TVEIT, LARRY	✓		
JENKINS, LOREN	✓		
JACOBSON, JUDY	✓		
LYNCH, J.D.	✓		
HARDING, ETHEL	✓		
TOEWS, DARYL	✓		
CHRISTIAENS, B.F. "CHRIS"	✓		
WATERMAN, MIGNON	✓		
KEATING, TOM - VICE CHAIRMAN	✓		
BECK, TOM	✓		
AKLESTAD, GARY - CHAIRMAN	✓		



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 2, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 142 (third reading copy -- blue), respectfully report that HB 142 be amended as follows and as so amended be concurred in.

Signed:   
Senator Gary Aklestad, Chair

That such amendments read:

1. Page 2, lines 4 and 5.

Following: "phenomena,"

Strike: the remainder of line 4 through "THUS" on line 5

2. Page 6, line 27.

Following: "order"


Insert: "upon request of the local governing body or its  
authorized agent"

3. Page 6, lines 29 and 30.

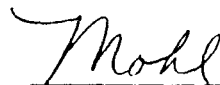
Following: "." on line 29

Strike: the remainder of line 29 and line 30 in its entirety

-END-

  
Amd. Coord.

Sec. of Senate

  
Senator Carrying Bill

491344SC.SPV

MONTANA SENATE  
1995 LEGISLATURE  
FINANCE AND CLAIMS COMMITTEE  
ROLL CALL VOTE

DATE 3/2/95 BILL NO. HB 420 NUMBER \_\_\_\_\_

MOTION: Be Concurred In

*Failed*

NAME	AYE	NO
SWYSGOOD, CHUCK		✓
BURNETT, JIM	✓	
MOHL, ARNIE		✓
JERGESON, GREG		
FRANKLIN, EVE		
TVEIT, LARRY		
JENKINS, LOREN	✓	
JACOBSON, JUDY	✓	
LYNCH, J.D.		✓
HARDING, ETHEL	✓	
TOEWS, DARYL		✓
CHRISTIAENS, B.F. "CHRIS"		
WATERMAN, MIGNON	✓	
KEATING, TOM - VICE CHAIRMAN		
BECK, TOM		
AKLESTAD, GARY - CHAIRMAN		✓

Amendments to Senate Bill No. 416  
First Reading Copy

Requested by Senator Swysgood  
For the Committee on Finance and Claims

Prepared by Taryn Purdy  
March 1, 1995

1. Page 8, line 26.

Strike: "or"

2. Page 8, line 29.

Following: "~~or~~"

Insert: "the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101; or (i)"

Renumber: subsequent subsection

3. Page 9, line 11.

Strike: "(1)(h)"

Insert: "(1)(i)"

4. Page 10, line 1.

Following: "would"

Insert: "not"

5. Page 10, line 15.

Strike: "and"

6. Page 10, line 21.

Following: "~~care~~"

Insert: "; and

(f) the circumstances under which a certificate of need may be approved for the use of hospital beds in excess of five to provide skilled nursing care, intermediate nursing care, or intermediate developmental disability care to patients or residents needing only that level of care"

7. Page 10, line 27.

Following: "(4)"

Strike: "If the proposal is for new beds or major medical equipment, the"

Insert: "The"

8. Page 10, line 28.

Following: "reviewed"

Insert: "with similar proposals"

9. Page 10, line 30.

Following: "(5)"

Strike: "Any"

Insert: "On the 10th day of each month, the department shall publish in a newspaper of general circulation in the area to be served by the proposal

a description of each letter of intent received by the department during the preceding calendar month. Within 30 days of the publication, any"  
Following: "baten"  
Insert: "described in the publication"

10. Page 13, lines 16 through 20.

Following: "request"

Strike: the remainder of subsection (1) in its entirety.

Insert: "a contested case hearing before the department under the provisions of Title 2, chapter 4, by filing a written request with the department within 30 days after receipt of the notification required in 50-5-302(13). The written request for a hearing must include:

(a) a statement describing each finding and conclusion in the department's initial decision that will be contested at the hearing and why each finding and conclusion is objectionable or in error; and

(b) a summary of the evidence that will be submitted to contest the findings and conclusion identified in subsection (1)(a).

(2) The hearing must be limited to the issues identified under subsection (1) and any other issues identified through discovery."

Renumber: subsequent subsections

11. Page 13, lines 22 through 24.

Following: "unless"

Strike: the remainder of subsection (2).

Insert: "the hearings examiner extends the time limit for good cause."

12. Page 13, lines 25 and 26.

Strike: subsection (3) in its entirety.

13. Page 24, line 18.

Strike: "personal services"

14. Page 24, line 20.

Strike: "personal services"

**TESTIMONY OF THE  
MONTANA HOSPITAL ASSOCIATION**

**SENATE BILL 416, REVISE/REPEAL CERTIFICATE OF NEED**

The Montana Hospital Association, on behalf of its 57 member health care facilities, appreciates the opportunity to testify in support of Senate Bill 416. Montana's hospitals are currently exempt from certificate of need requirements for general acute care services, but remain subject to the statute for a variety of specialty services, including mental health services, nursing facility care, home health and personal care services. Because hospitals remain subject to CON in certain circumstances, hospitals believe the CON program and its processes are important to hospitals.

The Montana Health Care Authority performed an assessment of the Montana CON program as required by the 1993 legislative session's package of health care reforms. This study concluded on page 13 that CON has not been demonstrated to be an effective way of decreasing or containing hospital costs. Studies show that CON has probably slightly increased costs. MHA believes that regardless of one's faith in CON as a cost containment measure, the process by which applications are handled by the Department should be reasonable.

During the deliberations of the Human Services Appropriations Subcommittee, committee members heard public criticism of the CON process, and learned that the state does not adequately staff, and thus adequately address the CON statutory provisions. Bob Robinson, Director of the Department of Health and Environmental Sciences summed it all up when asked about the Department's attitude toward the CON. Mr. Robinson said, "The CON program is an embarrassment to the State of Montana". MHA agrees with Mr. Robinson's statement to the Subcommittee.

**STREAMLINED REVIEW PROCESS**

Senate Bill 416 has several key features MHA believes make substantial improvements in the CON process, and other changes reduce unnecessary bureaucracy regarding medical services. Senate Bill 416 terminates the so-called "batching" process currently used by the Department to review applications. When the Department receives an application for a CON, all of the applicants competitors are notified, and anyone interested in competing for the CON is given time to craft a competing proposal. Meanwhile, the original application is delayed while the Department waits for some response, and perhaps for a competing proposal to be submitted. If there is a competitive proposal, the applications are "batched" together, and the Department then completes their review. SB 416 amends the process to shorten the time frame for competing applications to be submitted, but protects applicants with similar proposals so that comparative review is still possible.

Senate Bill 416 also amends the review process, making the Department and applicant more responsive to providing complete information, in a time limited factor. Too often, requests for additional information cycles through several iterations, creating needless delays. The bill now requires the state to make specific, limited requests for added information, and requires applicants to provide responses in a timely fashion. Failure to respond is tantamount to withdrawal of the application. Current law merely delays the project indefinitely.

## **APPEALS PROCESS**

Finally, Senate Bill 416 amends the appeals process, making it possible for bona fide appeals to be heard, and eliminating nuisance appeals and footdragging tactics. The amended statute tightens up the process, and ends fishing expeditions.

## **LIMITED EXEMPTION FOR SWING BED SERVICES**

SB 416 also provides a limited exemption for hospital swing bed services from CON review. "Swing beds" were created over a decade ago, and are common services in many rural hospitals today. A swing bed is a hospital bed that can be used for either acute care or nursing facility care. The idea is to allow a provider to "swing" the bed from one use to another, rather than develop additional physical capacity for long term care. The program serves two purposes. First, markets with marginally higher nursing facility services can utilize empty or seldom used hospital beds. Second, in individual cases where nursing facilities are not available to hospital patients, the swing bed offers a cost effective alternative to the hospital bed.

The limited exemption from CON is reasonable for two reasons. First, the swing bed program is a very small, but important part of health care. But a hospital cannot serve a patient in a swing bed if there is a nursing facility bed available to the patient. That is, nursing facilities have first option to admit patients, so there is little competition to nursing homes offered by swing beds. Second, swing beds get paid similar amounts as nursing homes by Medicaid and Medicare. Therefore, there is no budget impact to the state for these services. In 1993, hospitals provided 24,500 days of swing bed care, or about 1 percent of the 2.2 million days of care provided in nursing homes.

Exempting swing beds makes sense from the standpoint of controlling medical costs. In hospitals who offer swing bed care today, patients who need lower levels of care but for whom there is no vacant nursing home bed can obtain nursing services for a much lower cost. Imagine being in a hospital bed, paying \$1000 per day, but needing only skilled nursing care. The local nursing home is temporarily full, so the patient is stuck in a high cost setting. With swing beds, a hospital can offer the patient care for around \$100 per day, without moving outside the community, until the local nursing home bed becomes available, or until the patient can be discharged entirely.

Imagine now that the hospital is barred from offering that lower cost care because someone in Helena determines that bed need is sufficient in the area, even though you cannot find a vacant bed.

MHA has agreed to a 5 bed limit for the CON exemption. Hospitals who desire to certify greater numbers of beds can still obtain a CON if the bed is warranted. The 5 bed limit also prevents hospitals from creating de facto long term care units under the guise of the swing bed designation.

## **CONTINGENT REPEALER**

SB 416 provides a contingent repealer whereby the CON statute is repealed if the legislature decides not to fund the program. MHA has been critical of the CON process, and does not share in the enthusiasm others may have for the program. But MHA

EXHIBIT 2  
DATE 3-2-95  
SB 416

strongly believes the state should adequately fund the program, enabling the Department to perform an adequate and credible review of proposals. If the state does not consider the program worthy of funding, hospitals and other providers should not be required to submit applications for state review. MHA strongly supports the contingent repealer language.

In summary, MHA supports Senate Bill 416, with the proposed amendments. MHA believes the bill provides a more streamlined review process and a fair opportunity for bona fide appeals. MHA asks your support for SB 416.

**CON BILL: EXPLANATION OF AMENDMENTS**

<u>Page</u>	<u>SEC</u>	<u>REFERENCE</u>	<u>EXPLANATION</u>
2	1	50-4-102(7)	Conforming change to definition of health care facility to 50-5-101.
2	2	50-5-101(3)	"Affected person" is amended to delete reference to member of public and an agency that plans or assists in planning for facilities. Affected persons may request hearings and make appeals of CON decisions.
2	2	50-5-101(4)	Deletes "not part of a hospital from definition of ambulatory surgical facility.
3	2	50-5-101(5)	Deletes "Batch" and "Batching period" to reflect changes in CON process.
3	2	50-5-101(10)	Deletes "Challenge period" to reflect changes in CON process.
6	2	50-5-101(29)	Deletes 6 hour limit from definition of an "observation bed". Such beds are used for periods greater than 6 hours, commonly up to 24 hours.
*8	3	50-5-301(1)(h)	AMENDMENT 2 EXEMPTS HOSPITALS FROM CON REVIEW FOR SWING BED SERVICES FOR UP TO 5 BEDS. BEYOND 5 BEDS, HOSPITALS WOULD HAVE TO OBTAIN CON FOR ADDITIONAL SWING BEDS. AMENDMENT 3 RENUMBERS SECTIONS FOLLOWING AMENDMENT 2.
9	3	50-5-301(5)	Adds language to clarify that health care facilities are not required to obtain CON if CON is not required of persons other than a facility.
*9	3	50-5-301(5)	AMENDMENT 4 CORRECTS TYPOGRAPHICAL ERROR, THE WORD "NOT" IS INSERTED IN SENTENCE.
10	4	50-5-302(e)	Deletes (e), batching and comparative review process is deleted/amended. Comparative review process is also amended.
*10	4	50-5-302(f)	AMENDMENT 6 REFLECTS THE EXEMPTION OF THE USE OF 5 HOSPITAL SWING BEDS FROM CON REVIEW, DEPARTMENT RETAINS AUTHORITY FOR CON FOR SWING BEDS GREATER THAN 5 BEDS.
*10	4	50-5-302(4)	Deletes reference to batching, allows Dep't to determine if comparative review is appropriate. AMENDMENT 7 DELETES THE REFERENCE TO "NEW BEDS OR MAJOR MEDICAL EQUIPMENT".



<u>PAGE</u>	<u>SEC</u>	<u>REFERENCE</u>	<u>EXPLANATION</u>
			COMPARATIVE REVIEW PROCESS APPLIES TO ALL CON REVIEWABLE PROJECTS. AMENDMENT 8 ADDS LANGUAGE TO CLARIFY THAT COMPARATIVE REVIEW IS FOR SIMILAR PROPOSALS.
*10	4	50-5-302(5)	Provides process for person to request comparative review with another proposal. AMENDMENT 9 REQUIRES THE DEPARTMENT TO PUBLISH NOTICE OF A CON IN THE SERVICE AREA DESCRIBED IN THE APPLICATION, AND PROVIDES 30 DAYS FOR PERSON TO REQUEST COMPARATIVE REVIEW OF A SIMILAR PROPOSAL.
11	4	50-5-302(7)	Amendment limits Dep't. requests for additional information.
11	4	50-5-302(8)	Deletes reference to batch process, provides that failure to provide requested data timely is considered withdrawal of proposal by applicant.
11	4	50-5-302(10)	Amends CON review process, deletes notice of affected person requirements, provides time frame for comparative review process. This section deletes the notice requirement which prompts competing CON proposals and challenge periods.
12	4	50-5-302(14)	Amends process to allow court petition for writ of mandamus to secure issuance of CON instead of forcing Dep't decision regarding CON when Dep't fails to act timely.
12	5	50-5-304(1)(a&b)	Amends review process to allow consideration of data supplied by applicant in addition to, or instead of, the state health plan as justification of the proposal.
13	5	50-5-304(11)	New language provides alternative criteria for long term care proposals, including current and projected bed needs, current and projected population changes, especially for population of persons over 65, as evidence of need. State health plan currently relies on historical use model, which can distort bed needs.
*13	6	50-5-306(1)	Amends the appeals process by allowing appeal to Dep't to reconsider its decision or hold a public hearing. Current law requires both. Requires the appellant to specify all issues to be addressed by the Dep't.. This change should serve to block non-specific or frivolous appeals. AMENDMENT 10 CLARIFIES THE APPEAL PROCESS, PROVIDING FOR A CONTESTED CASE HEARING, REQUIRING A WRITTEN REQUEST IN A

EXHIBIT 3  
DATE 3-2-95  
SB 416

PAGESEC    REFERENCE

EXPLANATION

TIMELY FASHION WHICH IS SPECIFIC AS TO THE ISSUES RAISED BY THE APPELLANT, THE EVIDENCE THAT WILL BE SUBMITTED TO CONTEST THE FINDINGS, AND PROVIDES THAT THE HEARING IS LIMITED TO THE ISSUES RAISED IN THE REQUEST FOR APPEAL, AND THOSE IDENTIFIED THROUGH DISCOVERY.

AMENDMENTS 11 PROVIDES THAT A HEARINGS EXAMINER MAY EXTEND THE TIME LIMIT FOR A HEARING FOR GOOD CAUSE.

AMENDMENT 12 STRIKES THE REFERENCE TO THE MONTANA ADMINISTRATIVE PROCEDURES ACT WHICH IS NOW REFERENCED IN SECTION 1 ABOVE.

13      6      50-5-306(2)      Provides that only the holder of the approved CON can waive time limits for public hearing and appeals.

13      6      50-5-306(3)      Amends the appeals process to require contested case hearings process pursuant to Montana Administrative Procedures Act.

13      6      50-5-306(5)      Limits appeal rights to adversely affected persons who were party to the hearing process.

14      6      50-5-306(6)      New language provides for payment of costs and attorney fees if the district court determines that the reasons for appeal were frivolous.

14-24      Pages 14-24, Sections 7 through 15, are included in this bill because of thee statutory references to certificate of need. Should the contingent repealer occur, these references will be repealed.

\*24      15      New      New Section: Contingent Repealer. If legislature, in House Bill 2, does not appropriate a sum not less than \$240,000 (adequate for 2 FTEs) for the ensuing biennium, the CON program is repealed. There is no justification to maintain statutory CON process without personnel to administer it.  
AMENDMENT 13 AND 14 STRIKE "PERSONAL SERVICES". THE INTENT IS FOR THE \$240,000 TO BE THE TOTAL APPROPRIATION, NOT JUST THE PERSONAL SERVICES AMOUNT.

Amendments to House Bill No. 142  
Third Reading Copy

SENATE FINANCE AND CLAIMS  
EXHIBIT NO. 4  
DATE 3/2/95  
BILL NO. HB 142

For the Committee on Senate Finance and Claims

Prepared by Clayton Schenck  
February 8, 1995

1. Page 2, lines 4 and 5.

Following: "phenomena,"

Strike: the remainder of line 4 through THUS on line 5.

2. Page 6, line 27.

Following: "order"

Insert: "upon request of the local governing body or its authorized agent"

3. Page 6, lines 29 and 30.

Following: "."

Strike: the remainder of line 29 through line 30 in its entirety.

{Office of Legislative Fiscal Analyst

444-2986}

DATE March 2, 1995

SENATE COMMITTEE ON Finance + Claims

BILLS BEING HEARD TODAY: SB 416 Senator Surpgood  
SB 420 Rep. Ewer

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Pat Melby	Lincoln Foundation	SB 416	✓	
Lynn Robson	Commerce	HB 354	✓	
Norma Jean Boles	DCHS	SB 416		
John Thumiller	BSCC			
John Wadsworth	Nelson's			
John Bush	Big Sky Car Co	SB 414		
Roberta Carreira	Big Sky Car			
Steve Brown	Lantis Enterprises	SB 416	✓ w/armed.	
Tom Ebery	St Vincent Hosp + Health Care	SB 416	✓	
Bob Olsen	MHA	SB 416	✓	
Charles Cagney	DHES	SB 416		
DALE TALIAFERRO	MDHES	SB 416	✓	
Keith Colbo	Deaconess - Billings		✓	

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