

Senate Bill 180

In The Senate

January 19, 1981	Introduced and referred to Committee on Finance and Claims.
	Fiscal note requested.
January 23, 1981	Fiscal note returned.
February 9, 1981	Committee recommend bill do not pass.

1 *Sen. Bill No. 180*  
 2 INTRODUCED BY *Van Valkenburg, Bertelsen, Conover*  
 3 BY REQUEST OF THE INTERIM COMMITTEE ON STATE MANDATES  
 4 AND THE EFFECTS OF STATE-OWNED PROPERTY  
 5 ON LOCAL GOVERNMENTS  
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE COUNTY  
 8 MEDICAL AID TO THE INDIGENT PROGRAM; TO CREATE A NEW PROGRAM  
 9 UNDER THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
 10 TO PROVIDE STATE-FUNDED ASSISTANCE TO PERSONS IN TEMPORARY  
 11 NEED OF MEDICAL CARE INCLUDING INDIGENT PRISONERS DETAINED  
 12 UNDER LOCAL OR STATE AUTHORITY; AMENDING SECTIONS 7-32-2222,  
 13 53-2-321, 53-2-323, AND 53-2-610, MCA; RENUMBERING AND  
 14 AMENDING SECTIONS 53-3-103 AND 53-3-104, MCA; AND REPEALING  
 15 SECTIONS 53-2-309, 53-2-310, AND 53-3-307, MCA."  
 16

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

18 Section 1. Section 7-32-2222, MCA, is amended to read:

19 "7-32-2222. Health and safety of prisoners. (1) When a  
 20 county jail or building contiguous to it is on fire and  
 21 there is reason to believe that the prisoners may be injured  
 22 or endangered, the sheriff or jailer must remove them to a  
 23 safe and convenient place and there confine them as long as  
 24 it may be necessary to avoid the danger.

25 (2) When a pestilence or contagious disease breaks out

1 in or near a jail and the physician thereof certifies that  
 2 it is likely to endanger the health of the prisoners, the  
 3 district judge may by a written appointment designate a safe  
 4 and convenient place in the county or the jail in a  
 5 contiguous county as the place of their confinement. The  
 6 appointment must be filed in the office of the clerk and  
 7 authorize the sheriff to remove the prisoners to the  
 8 designated place or jail and there confine them until they  
 9 can be safely returned to the jail from which they were  
 10 taken.

11 (3) If in the opinion of the sheriff any prisoner,  
 12 while detained, requires medication, medical services, or  
 13 hospitalization, the expense of the same shall be borne by  
 14 the state under the provisions of Title 53, chapter 6, part  
 15 4, unless the agency or authority at whose instance the  
 16 prisoner is detained ~~when the agency or authority is not the~~  
 17 ~~county--wherein--the--prisoner--is--being--detained~~ outside the  
 18 jurisdiction of the state of Montana. In which case the  
 19 expense shall be borne by that agency or authority. The  
 20 county attorney shall initiate proceedings to collect any  
 21 charges arising from such medical services or  
 22 hospitalization for the prisoner involved if it is  
 23 determined the prisoner is financially able to pay."

24 Section 2. Section 53-2-321, MCA, is amended to read:

25 "53-2-321. County authorized to care for indigent and

1 levy taxes therefor. The board of county commissioners has  
 2 jurisdiction and power under such limitations and  
 3 restrictions as are prescribed by law to provide for the  
 4 ~~care and maintenance~~ nonmedical needs of the indigent--sick,  
 5 except as otherwise provided in other parts of this title,  
 6 ~~or the otherwise dependent poor of the county; erect and~~  
 7 ~~maintain hospitals therefor or otherwise provide for the~~  
 8 ~~same~~ and for said purposes to levy and collect annually a  
 9 tax on property not exceeding 13 1/2 mills, which levy shall  
 10 be made at the time other tax levies are made on property,  
 11 as provided by law."

12 Section 3. Section 53-2-323, MCA, is amended to read:  
 13 "53-2-323. Grants from state funds to counties. A  
 14 county may apply to the department for an emergency  
 15 grant-in-aid, and the grant shall be made to the county upon  
 16 the following conditions:

17 (1) The board of county commissioners or a duly  
 18 elected or appointed executive officer of the county shall  
 19 make written application to the department for emergency  
 20 assistance and shall show by written report and sworn  
 21 affidavit of the county clerk and recorder and chairman of  
 22 the board of county commissioners or other duly elected or  
 23 appointed executive officer of the county the following:

24 (a) that the county will not be able to meet its  
 25 obligations under law to provide assistance to the needy of

1 the county or meet its proportionate share of any public  
 2 assistance activity carried on jointly with the department;

3 (b) that all lawful sources of revenue and other  
 4 income to the county poor fund will be exhausted;

5 (c) that all expenditures from the county poor fund  
 6 have been lawfully made; and

7 (d) any other information required by the department.

8 (2) Within 10 days of receipt of the application and  
 9 affidavit, the department shall determine whether the county  
 10 poor fund will be depleted and shall give notice to the  
 11 county of the department's intention to deny or allow the  
 12 grant-in-aid. Before a grant-in-aid for any fiscal year may  
 13 be made to a county under this section, any money credited  
 14 during that fiscal year to the depletion allowance reserve  
 15 fund from the sources provided by 7-34-2402(2) shall be  
 16 transferred to the county poor fund to be used for lawful  
 17 poor fund expenditures. The amount of the grant-in-aid  
 18 shall be determined after all sources of income available to  
 19 the poor fund, including the depletion allowance reserve  
 20 fund transfers, have been exhausted.

21 (3) Within 10 days of receiving notice from the  
 22 department that a grant-in-aid will be made to the county,  
 23 the board of county commissioners or other duly elected or  
 24 appointed executive officer of the county shall adopt an  
 25 emergency budget. There is no requirement of notice and

1 hearing for that emergency budget. The emergency budget  
2 shall state the amount required to meet the obligation of  
3 the county and shall allocate that whole amount among the  
4 various classes of expenditures for which the grant was  
5 made.

6 (4) Upon receipt and approval of the county emergency  
7 budget, the department shall issue a warrant to the county  
8 treasurer of the county for the total amount stated in the  
9 approved emergency budget.

10 (5) The grant-in-aid received by the county shall be  
11 placed in an emergency fund account to be kept separate and  
12 distinct from the poor fund account. All expenditures from  
13 the emergency fund account shall be made by a separate  
14 series of warrants or checks marked as emergency warrants or  
15 checks.

16 (6) The grants-in-aid from the department may be used  
17 only for public assistance activities lawfully conducted by  
18 the county--including--but--not--limited--to--medical--aid,  
19 hospitalization,--and--institutional--care. No part of a  
20 grant-in-aid may be used, directly or indirectly, to pay for  
21 the erection or improvement of any county building or for  
22 furniture, fixtures, appliances, or equipment for a county  
23 building.

24 (7) In the event the county poor fund is replenished  
25 by other lawful sources of revenue, the county shall issue

1 warrants to meet its obligations from the county poor fund  
2 until such time as that fund is again so depleted that  
3 warrants can no longer lawfully be drawn on that account.  
4 Upon depletion of the county poor fund, the county may again  
5 make disbursements from the emergency fund account as  
6 provided in subsection (5). At the close of the county  
7 fiscal year, the county shall return to the department any  
8 amounts remaining in the county poor fund and the emergency  
9 fund account, but the remaining amount to be returned may  
10 not exceed the total amount of the emergency grant-in-aid  
11 for that fiscal year.

12 (8) Any amount which is unlawfully disbursed or  
13 transferred from the emergency fund account or used for a  
14 purpose other than that specified in the grant-in-aid shall  
15 be returned by the county to the department."

16 Section 4. Section 53-2-610, MCA, is amended to read:  
17 "53-2-610. County to reimburse department. (1) On or  
18 before the 20th of each month, the department of social and  
19 rehabilitation services shall present a claim for  
20 reimbursement to each county department for its  
21 proportionate share of public assistance granted in the  
22 county to recipients during the month--and--for--vendor--medical  
23 payments--made--on--behalf--of--recipients--in--the--previous--month.  
24 The county department shall make the reimbursement to the  
25 department of social and rehabilitation services within 20

1 days after the claim is presented.

2 (2) The counties shall not be required to reimburse  
3 the department of social and rehabilitation services for any  
4 portion of old-age assistance, medical assistance, aid to  
5 needy dependent children, aid to needy blind, or aid to the  
6 totally disabled paid to ward Indians or for any payment on  
7 behalf of any person in a state-operated medical  
8 institution. The federal government may reimburse the state  
9 of Montana in behalf of counties providing general relief to  
10 ward Indians a sum in lieu of taxes which the counties would  
11 collect if the lands of such ward Indians were not in trust  
12 status.

13 (3) (a) From the original date of entrustment or the  
14 original date of state residency, whichever is earlier,  
15 recipients of public assistance who become wards or patients  
16 in a licensed nursing home or hospital, foster home, or  
17 private charitable institution shall be the financial  
18 responsibility of the appropriate county as provided in  
19 subsections (3)(b), (3)(c), and (3)(d) of this section.

20 (b) The county in which commitment of an adult is  
21 initiated is considered the county of financial  
22 responsibility except where court decree declares the  
23 residency to be otherwise. When an adult is transferred from  
24 a facility or institution to one of the above-enumerated  
25 facilities, the county which initiated the original

1 commitment is considered the county of financial  
2 responsibility except in the case of an adult transfer from  
3 an out-of-state institution, in which case the county in  
4 which the facility is located is considered the county of  
5 financial responsibility.

6 (c) In all cases where a minor patient or ward is  
7 involved, the county of financial responsibility is the  
8 county in which the parent or guardian resides. If the  
9 custody of a minor is entrusted to a state agency, the  
10 agency may make a reasonable declaration of the county  
11 residency of its ward using applicable guidelines enumerated  
12 in this section.

13 (d) If a person is or becomes an adult while in an  
14 institution, he may determine his own county of residence  
15 when he is restored to competency and released. Such a  
16 person becomes the financial responsibility of the new  
17 county of residence.\*

18 Section 5. Section 53-3-103, MCA, is renumbered  
19 53-6-401 and is amended to read:

20 ~~"53-3-103~~ 53-6-401. Medical aid and hospitalization  
21 ~~for indigent persons in temporary need of medical care.~~ (1)  
22 Except as provided in other parts of this title, medical aid  
23 and hospitalization for ~~county-residents-and-nonresidents~~  
24 ~~within-the-county persons in temporary need of medical care,~~  
25 ~~including indigent prisoners detained under local or state~~

1 authority, who are unable to provide these necessities for  
 2 themselves are the legal and financial responsibility of the  
 3 ~~county commissioners and are payable from the county poor~~  
 4 fund state. The ~~county commissioners~~ department of social  
 5 and rehabilitation services shall make provisions for  
 6 competent and skilled medical or surgical services ~~as are~~  
 7 ~~approved by the department of health and environmental~~  
 8 ~~sciences or the state medical association or, in the case of~~  
 9 ~~osteopathic practitioners, by the state osteopathic~~  
 10 ~~association, or in the case of chiropractors, by the state~~  
 11 ~~chiropractic association, or in the case of optometrical~~  
 12 ~~services, by the Montana optometric association, or in the~~  
 13 ~~case of dental services, by the dental association.~~ "Medical  
 14 aid" or "medicine" as used in this section refers to the  
 15 healing art as practiced by licensed practitioners.

16 ~~(2) The board, in arranging for medical care for those~~  
 17 ~~unable to provide it for themselves, may have the care~~  
 18 ~~provided by physicians appointed by the board who shall be~~  
 19 ~~known as county physicians or deputy county physicians and~~  
 20 ~~may fix a rate of compensation for the furnishing of the~~  
 21 ~~medical attendances.~~

22 ~~(3)(2)~~ The department may promulgate rules to  
 23 determine under what circumstances persons ~~in the county~~ are  
 24 unable to provide medical aid and hospitalization for  
 25 themselves, including the power to define the term

1 "medically needy". However ~~the definition may not allow~~  
 2 ~~payment by a county for general assistance medical for~~  
 3 ~~persons whose income exceeds 300% of the limitation for~~  
 4 ~~obtaining regular county general relief assistance or for~~  
 5 ~~persons who are eligible for medicaid in accordance with~~  
 6 ~~Title 53, Chapter 6, part 1, or for persons who have the~~  
 7 ~~right or are entitled to medical aid and hospitalization~~  
 8 ~~from the federal government or any agency thereof.~~

9 ~~(4)(3)~~ In any case where the county or state pays  
 10 medical expenses or hospitalization for an individual, the  
 11 county or state is subrogated to the claims of the physician  
 12 or hospital to the extent of payment. To the extent  
 13 necessary for reimbursement of medical benefits paid to or  
 14 on behalf of an individual, the county or state is  
 15 subrogated to the rights of the individual to recover from a  
 16 third party who may be liable to pay the medical expenses.  
 17 The provisions of 53-2-612 which relate to medical benefits  
 18 provided under Title XIX or XX of the Social Security Act  
 19 apply to medical benefits provided for in this section."

20 Section 6. Section 53-3-104, MCA, is renumbered  
 21 53-6-402 and is amended to read:

22 "~~53-3-104~~ 53-6-402. Institutionalization, medical aid,  
 23 and hospitalization for indigent persons in temporary need  
 24 of medical care -- county state to levy taxes and establish  
 25 budgets in support of. Except as otherwise provided in other

1 parts of this title, it is hereby declared to be the primary  
 2 legal duty and financial obligation of the ~~board-of-county~~  
 3 ~~commissioners-to-make-such-tax-revies-and~~ state to establish  
 4 such budgets in the ~~county-poor-fund-as-provided-by-law--and~~  
 5 ~~department\_of\_social\_and\_rehabilitation\_services~~ as are  
 6 necessary to provide adequate institutional care for all  
 7 ~~such-indigent-residents-as~~ persons who are in temporary need  
 8 of institutional care and to ~~make--such--tax-revies-and~~  
 9 establish such budgets ~~in--the--county--poor--fund~~ as are  
 10 necessary to make provisions for medical aid and services  
 11 and hospitalization for all ~~indigent--county--residents~~  
 12 ~~persons\_in\_temporary\_need\_of\_medical\_care\_including~~  
 13 ~~indigent\_prisoners\_detained\_under\_local\_or\_state\_authority.~~  
 14 All such public assistance and services shall be charges  
 15 against and payable from the ~~county-poor--fund~~ ~~department's~~  
 16 ~~budget."~~

17 NEW SECTION. Section 7. There is a new MCA section  
 18 numbered 53-6-403 that reads:

19 53-6-403. Services provided to persons in temporary  
 20 need of medical care. (1) Medical services that shall be  
 21 provided to persons in temporary need of medical care  
 22 include:

- 23 (a) Inpatient hospital services;
- 24 (b) outpatient hospital services;
- 25 (c) other laboratory and x-ray services;

- 1 (d) physicians' services;
- 2 (e) prescribed drugs and medical supplies;
- 3 (f) dental services;
- 4 (g) eyeglasses prescribed by a physician skilled in  
 5 diseases of the eye or by an optometrist, whichever the  
 6 individual may select.

7 (2) Medical services that may be provided include but  
 8 are not necessarily limited to the following:

- 9 (a) medical care or any type of remedial care  
 10 recognized under state law, furnished by licensed  
 11 practitioners within the scope of their practice as defined  
 12 by state law;
- 13 (b) skilled nursing home services;
- 14 (c) home health care services;
- 15 (d) physical therapy and other related services;
- 16 (e) clinic services.

17 NEW SECTION. Section 8. There is a new MCA section  
 18 numbered 53-6-404 that reads:

19 53-6-404. Eligibility requirements. (1) Temporary  
 20 medical assistance shall be granted in behalf of any person  
 21 who:

- 22 (a) resides in the state of Montana, including a  
 23 resident temporarily absent from the state; and
- 24 (b) meets any of the following requirements:
- 25 (i) has income and resources not in excess of 100% of

1 the monthly state standard of payment for aid to families  
 2 with dependent children or, for families or individuals  
 3 without children, has income or resources not in excess of  
 4 100% of the monthly federal supplemental security income  
 5 payment level, but is not eligible for those programs;

6 (ii) has annual income in excess of the standards in  
 7 subsection (1)(b)(i) but has incurred medical bills within  
 8 the past year that are not the liability of any third party  
 9 and are an amount equal to or greater than 100% of his last  
 10 12 months' income less the amount allowable for the  
 11 medically needy as defined by the department of social and  
 12 rehabilitation services in its medical assistance rules.

13 (2) Any person who qualifies under subsection (1) must  
 14 allocate toward payment of incurred medical bills:

15 (a) all income in excess of monthly medically needy  
 16 standards as defined by the department in its medical  
 17 assistance rules;

18 (b) all resources that are not exempt under medically  
 19 needy standards as defined by the department in its medical  
 20 assistance rules.

21 NEW SECTION. Section 9. There is a new MCA section  
 22 numbered 53-6-405 that reads:

23 53-6-405. Amount, scope, and duration of assistance.  
 24 The amount, scope, and duration of medical assistance  
 25 granted eligible persons under this part shall be determined

1 by the department of social and rehabilitation services. If  
 2 available funds are not sufficient to provide medical care  
 3 for all eligible persons, the department may set priorities  
 4 to limit, reduce, or otherwise curtail the amount, scope, or  
 5 duration of the medical care and services made available.

6 NEW SECTION. Section 10. There is a new MCA section  
 7 numbered 53-6-406 that reads:

8 53-6-406. Administration. The department of social and  
 9 rehabilitation services may administer this part according  
 10 to the provisions of Title 53, chapter 6, part 1, and the  
 11 rules adopted thereunder.

12 Section 11. Repealer. Sections 53-2-309, 53-2-310, and  
 13 53-3-307, MCA, are repealed.

-End-



STATE OF MONTANA

REQUEST NO. 153-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 180 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

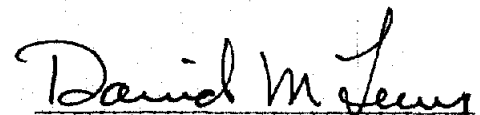
This proposal would eliminate the county medical aid to the indigent program and create a new program under the Department of Social and Rehabilitation Services to provide state funded assistance to persons in temporary need of medical assistance.

Fiscal Impact

It is estimated the proposal would increase state expenditures as follows:

	<u>FY 1982</u>	<u>FY 1983</u>
Personal Services	\$ 46,336	\$ 50,871
Operating Expenses	174,819	189,143
Benefits and Claims	<u>5,522,030</u>	<u>6,131,243</u>
Total	\$5,743,185	\$6,371,257
General Fund	\$5,404,654	\$5,995,029
Federal Funds	<u>338,531</u>	<u>376,228</u>
Total	\$5,743,185	\$6,371,257

It is estimated the proposal would reduce county expenditures by \$5,522,030 in FY 1982 and \$6,131,463 in FY 1983. These figures do not include court ordered psychiatric evaluations.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-23-81