

HOUSE BILL 36

Introduced by Cobb

7/09	Introduced
7/09	Referred to Taxation
7/09	First Reading
7/10	Fiscal Note Requested
7/13	Fiscal Note Received
7/14	Fiscal Note Printed
7/14	Hearing
7/15	Committee Report--Bill Not Passed
7/16	Adverse Committee Report Adopted

1 reasons, it is appropriate to enact a hospital revenue tax,
 2 exempting hospitals in the most rural counties from the tax
 3 and providing for grants to hospitals in somewhat more urban
 4 counties.

6 STATEMENT OF INTENT

7 A statement of intent is required for this bill because
 8 [section 15] grants the department of revenue authority to
 9 adopt rules necessary to implement and administer [sections
 10 1 through 14].

11 It is the intent of the legislature that, in adopting
 12 rules, the department:

13 (1) provide procedures for reporting revenue that is
 14 subject to payment of the tax imposed by [section 2];

15 (2) establish requirements for the maintenance of
 16 records and other documents required to ensure proper
 17 payment of the tax;

18 (3) provide a process for the estimation and collection
 19 of delinquent or unpaid taxes;

20 (4) provide a process for the reconciliation of
 21 disputes relating to the payment of the tax; and

22 (5) provide other procedures for the efficient
 23 administration of the tax.

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 NEW SECTION. **Section 1.** Definitions. As used in
 2 [sections 1 through 15], unless the context requires
 3 otherwise, the following definitions apply:

4 (1) "Calendar quarter" means the periods of 3
 5 consecutive months ending January 31, 1993, and April 30,
 6 1993, and the period of 2 consecutive months ending June 30,
 7 1993.

8 (2) "Department" means the department of revenue
 9 provided for in 2-15-1301.

10 (3) (a) "Hospital" or "facility" means a health care
 11 facility, other than a rural hospital and other than a
 12 medical assistance facility as defined in 50-5-101, licensed
 13 by the department of health and environmental sciences as a
 14 hospital with some or all facility beds designated as
 15 general acute care hospital beds.

16 (b) The term includes hospitals that are:

17 (i) operated as nonprofit or for-profit facilities;

18 (ii) freestanding or part of another health care
 19 facility; or

20 (iii) publicly or privately operated.

21 (c) In the event the federal government notifies the
 22 state that exemption of licensed hospitals without general
 23 acute care hospital beds prevents the revenue tax from being
 24 considered a qualifying, broad-based, health care-related
 25 tax under the provisions of the Medicaid Voluntary

1 Contribution and Provider-Specific Tax Amendments of 1991,
 2 Public Law 102-234, and any regulations and policies
 3 implementing those amendments, then the term "hospital" or
 4 "facility" includes all facilities licensed as a hospital,
 5 without regard to general acute care bed designation.

6 (4) "Report" means the report of revenue required in
 7 [section 4].

8 (5) (a) "Revenue" means all revenue from any payment
 9 source, including but not limited to individuals, insurance
 10 companies, medicare, medicaid, or other private or
 11 governmental payers, for any health care services or items
 12 provided within the state by a hospital. Except as
 13 specifically provided in this section, the term includes all
 14 revenue, whether in the form of money, credits, or other
 15 valuable consideration, without deduction for the cost of
 16 services or items provided, interest, taxes, losses, or any
 17 other expense.

18 (b) The term does not include cash discounts allowed
 19 and taken on services or items provided, either in cash or
 20 by credit, uncollectible accounts written off from time to
 21 time, uncompensated or charity care, or contractual
 22 allowances for medicare, medicaid, and other governmental
 23 payers. The term does not include revenue accrued with
 24 respect to the provision of items or services by a health
 25 care facility licensed by the department of health and

1 environmental sciences as a long-term care facility that is
 2 associated in any manner with a hospital.

3 (6) "Revenue tax" or "tax" means the tax required to be
 4 paid by hospitals under [section 2].

5 (7) "Rural hospital" means a hospital located in a
 6 county designated by the U.S. department of agriculture
 7 under its rural-urban continuum codes for metro and nonmetro
 8 counties as having less than 2,500 urban residents.

9 NEW SECTION. **Section 2. Revenue tax.** A hospital shall
 10 pay to the department a tax in an amount equal to 1% of the
 11 hospital's revenue accrued on or after November 1, 1992.

12 NEW SECTION. **Section 3. Waiver of federal**
 13 **requirements.** Within 30 days following [the effective date
 14 of this section], the department of social and
 15 rehabilitation services shall seek a waiver from the U.S.
 16 secretary of health and human services, in accordance with
 17 the Medicaid Voluntary Contribution and Provider-Specific
 18 Tax Amendments of 1991, Public Law 102-234, and any
 19 regulations or policies implementing those amendments, to
 20 exempt rural hospitals from the tax imposed by [section 2].

21 NEW SECTION. **Section 4. Reporting and collection of**
 22 **tax.** (1) A hospital shall report to the department,
 23 following the end of each calendar quarter, the amount of
 24 revenue in the facility during the quarter. The report must
 25 be in the form prescribed by the department and is due on or

1 before the last day of the month following the end of each
2 calendar quarter. The report must be accompanied by a
3 payment in an amount equal to the tax required to be paid
4 under [section 2].

5 (2) The department of health and environmental sciences
6 shall provide the department with a list of hospitals and at
7 the end of each calendar quarter shall provide the
8 department with a list of any changes to the list initially
9 provided.

10 NEW SECTION. Section 5. Audit -- records. (1) The
11 department may audit the records and other documents of a
12 hospital to ensure that the proper revenue tax has been
13 collected.

14 (2) The department may require the hospital to provide
15 records and other documentation, including books, ledgers,
16 and registers, necessary for the department to verify the
17 proper amount of the tax paid.

18 (3) A hospital shall maintain and make available for
19 inspection by the department sufficient records and other
20 documentation to demonstrate the amount of revenue subject
21 to the tax. The hospital shall maintain records for a period
22 of at least 5 years from the date the report is due.

23 NEW SECTION. Section 6. Periods of limitation. (1)
24 Except as otherwise provided in this section, a deficiency
25 may not be assessed or collected with respect to the

1 calendar quarter for which a report is filed unless the
2 notice of additional tax proposed to be assessed is mailed
3 within 5 years from the date the report was filed. For the
4 purposes of this section, a report filed before the last day
5 prescribed for filing is considered filed on the last day.
6 If, before the expiration of the period prescribed for
7 assessment of the tax, the hospital consents in writing to
8 an assessment after the 5-year period, the tax may be
9 assessed at any time prior to the expiration of the period
10 agreed upon.

11 (2) A refund or credit may not be paid or allowed with
12 respect to the year for which a report is filed after 5
13 years from the last day prescribed for filing the report
14 unless before the expiration of the period, the hospital
15 files a claim or the department has determined the existence
16 of the overpayment and has approved the refund or credit. If
17 the hospital has agreed in writing under subsection (1) to
18 extend the time within which the department may propose an
19 additional assessment, the period within which a claim for
20 refund or credit is filed or a credit or refund allowed in
21 the event no claim is filed is automatically extended.

22 NEW SECTION. Section 7. Penalty and interest for
23 delinquent taxes -- waiver. (1) If the tax for a hospital is
24 not paid on or before the date upon which the report is due
25 under [section 4(1)], a penalty of 10% of the amount of the

1 tax due must be assessed unless it is shown that the failure
2 was due to reasonable cause and not neglect.

3 (2) If the tax due under [section 2] is not paid when
4 due, interest is added to the tax due at the rate of 1% per
5 month or any part of a month from the due date until paid.

6 NEW SECTION. Section 8. Estimated tax on failure to
7 file. (1) If a hospital fails to file the report as required
8 by [section 4], the department may make an estimate of the
9 tax due from the facility from any information in the
10 department's possession.

11 (2) For the purpose of ascertaining the correctness of
12 any report or for the purpose of making an estimate of
13 revenue in a hospital from which information has been
14 obtained, the department may:

15 (a) examine or cause to have examined by any designated
16 agent or representative any books, papers, records, or
17 memoranda relevant to the information required to be
18 included in the report;

19 (b) require the attendance of any officer or employee
20 of the hospital with knowledge of the information required
21 to be included in the report; and

22 (c) take testimony and require production of any other
23 material for its information.

24 NEW SECTION. Section 9. Tax review procedure. Section
25 15-1-211 applies to the tax imposed by [section 2].

1 NEW SECTION. Section 10. Closing agreements. (1) The
2 director of the department or any person authorized in
3 writing by the director may enter into an agreement with any
4 hospital relating to the liability of the hospital with
5 respect to the tax imposed under [sections 1 through 15] for
6 any period.

7 (2) An agreement under this section is final and
8 conclusive, and except upon a showing of fraud or
9 malfeasance or misrepresentation of a material fact:

10 (a) the agreement may not be reopened as to matters
11 agreed upon or be modified by any officer, employee, or
12 agent of this state; and

13 (b) in any suit, action, or proceeding concerning the
14 agreement or any determination, assessment, collection,
15 payment, abatement, refund, or credit made in accordance
16 with the agreement, the agreement may not be annulled,
17 modified, set aside, or disregarded.

18 NEW SECTION. Section 11. Credit for overpayment --
19 interest on overpayment. (1) If the department determines
20 that the amount of taxes, penalty, or interest due for any
21 year is less than the amount paid, the amount of the
22 overpayment must be credited against any taxes, penalty, or
23 interest then due from the hospital and the balance must be
24 refunded to the hospital or its successor through
25 reorganization, merger, or consolidation or to its

1 shareholders upon dissolution.

2 (2) Except as provided in subsections (2)(a) and
3 (2)(b), interest is allowed on overpayments at the same rate
4 as is charged on delinquent taxes due from the due date of
5 the report or from the date of overpayment, whichever date
6 is later, to the date the department approves refunding or
7 crediting of the overpayment. Interest does not accrue
8 during any period during which the processing of a claim for
9 refund is delayed more than 30 days by reason of failure of
10 the hospital to furnish information requested by the
11 department for the purpose of verifying the amount of the
12 overpayment. Interest is not allowed if:

13 (a) the overpayment is refunded within 6 months from
14 the date the report is due or from the date the return is
15 filed, whichever is later; or

16 (b) the amount of interest is less than \$1.

17 (3) A payment not made incident to a discharge of
18 actual tax liability or a payment reasonably assumed to be
19 imposed by [sections 1 through 15] is not considered an
20 overpayment with respect to which interest is allowable.

21 NEW SECTION. Section 12. Warrant for distraint. If the
22 tax, interest, or penalty is not paid when due, the
23 department may issue a warrant for distraint, as provided in
24 Title 15, chapter 1, part 7.

25 NEW SECTION. Section 13. Disposition of tax proceeds.

1 All proceeds from the collection of the revenue tax imposed
2 by [section 2], including penalties and interest on the tax,
3 must be deposited in the general fund.

4 NEW SECTION. Section 14. Relation to other taxes and
5 fees. The tax imposed by [section 2] is in addition to any
6 other tax or fee required by law to be paid by a hospital.

7 NEW SECTION. Section 15. Rulemaking authority. The
8 department may adopt rules necessary to implement and
9 administer [sections 1 through 14].

10 NEW SECTION. Section 16. Grants to hospitals. The
11 department of social and rehabilitation services may make
12 grants of up to \$5,000 to hospitals located in counties
13 designated by the U.S. department of agriculture under its
14 urban-rural continuum codes for metro and nonmetro counties
15 as having at least 2,500 but less than 20,000 urban
16 residents and that are not contiguous to a standard
17 metropolitan statistical area. A hospital may receive only
18 one grant pursuant to this section. Grants must be made by
19 the department on or before the date of expiration of the
20 tax imposed by [section 2].

21 NEW SECTION. Section 17. Appropriations. (1) The
22 following amounts are appropriated to the department of
23 social and rehabilitation services to fund increases in
24 medicaid rates for inpatient hospital services during the
25 period November 1, 1992, through June 30, 1993:

1 Fiscal Year 1993
 2 (November 1, 1992 - June 30, 1993)
 3 Medicaid
 4 State General Fund \$1,194,650
 5 Federal Funds 2,941,950
 6 Total Funds 4,136,600

7 (2) The amount of \$115,000 is appropriated from the
 8 general fund to the department of social and rehabilitation
 9 services for the period November 1, 1992, through June 30,
 10 1993, to provide grants to hospitals as authorized by
 11 [section 16].

12 (3) The amount of \$9,232 is appropriated from the
 13 general fund to the department of revenue for the period
 14 November 1, 1992, through June 30, 1993, to collect and
 15 administer the tax provided in [sections 1 through 15].

16 NEW SECTION. Section 18. Codification instruction. (1)
 17 [Sections 1 through 15] are intended to be codified as an
 18 integral part of Title 15, and the provisions of Title 15
 19 apply to [sections 1 through 15].

20 (2) [Section 16] is intended to be codified as an
 21 integral part of Title 53, chapter 6, and the provisions of
 22 Title 53, chapter 6, apply to [section 16].

23 NEW SECTION. Section 19. Contingent voidness. (1) If
 24 the federal government notifies the state that the hospital
 25 revenue tax imposed by [section 2] fails to meet the

1 requirements of the Medicaid Voluntary Contribution and
 2 Provider-Specific Tax Amendments of 1991 (the act), Public
 3 Law 102-234, and any regulations or policies promulgated
 4 under the act or that the federal government will reduce the
 5 total amount of funds expended as medical assistance under
 6 the medicaid state plan by the amount of revenue received by
 7 the state under the hospital revenue tax, then [sections 1
 8 through 18 and 20 through 22] are void as of the date of
 9 notification.

10 (2) If [sections 1 through 18 and 20 through 22] become
 11 void under the provisions of this section:

12 (a) all rate increases funded under [section 17]
 13 terminate immediately and all unaccrued funds appropriated
 14 under [section 17] revert to the general fund; and

15 (b) all taxes received or collected by the department
 16 of revenue prior to the date upon which [sections 1 through
 17 18 and 20 through 22] became void must be deposited in the
 18 general fund and a hospital may not receive a refund of
 19 taxes received or collected by the department prior to the
 20 date upon which [sections 1 through 18 and 20 through 22]
 21 became void.

22 (3) If the U.S. secretary of health and human services
 23 does not notify the state prior to November 1, 1992, that
 24 the secretary has approved the state's waiver request
 25 submitted pursuant to [section 3], then [this act] is void

1 effective November 1, 1992.

2 NEW SECTION. Section 20. Coordination instruction. If
 3 __ Bill No. __ [LC 36] is not passed and approved containing
 4 provisions deleting state payments of general relief medical
 5 assistance, then [section 17 of this act] reads as follows:

6 "NEW SECTION. Section 17. Appropriations. (1) The
 7 following amounts are appropriated to the department of
 8 social and rehabilitation services to fund increases in
 9 medicaid and general relief medical rates for inpatient
 10 hospital services during the period November 1, 1992,
 11 through June 30, 1993:

12 Fiscal Year 1993
 13 (November 1, 1992 - June 30, 1993)

	<u>Medicaid</u>	<u>General Relief</u>	<u>Total</u>
17 State General Fund	\$1,194,650	\$163,400	\$1,358,050
18 Federal Funds	2,941,950	0	2,941,950
19 Total Funds	4,136,600	163,400	4,300,000

20 (2) The amount of \$115,000 is appropriated from the
 21 general fund to the department of social and rehabilitation
 22 services for the period November 1, 1992, through June 30,
 23 1993, to provide grants to hospitals as authorized by
 24 [section 16].

25 (3) The amount of \$9,232 is appropriated from the

1 general fund to the department of revenue for the period
 2 November 1, 1992, through June 30, 1993, to collect and
 3 administer the tax provided in [sections 1 through 15]."

4 NEW SECTION. Section 21. Severability. If a part of
 5 [this act] is invalid, all valid parts that are severable
 6 from the invalid part remain in effect. If a part of [this
 7 act] is invalid in one or more of its applications, the part
 8 remains in effect in all valid applications that are
 9 severable from the invalid applications.

10 NEW SECTION. Section 22. Effective dates --
 11 applicability -- termination. (1) [Sections 3, 15, 18
 12 through 21, and this section] are effective on passage and
 13 approval.

14 (2) [Sections 1, 2, and 4 through 14, 16, and 17] are
 15 effective November 1, 1992, and apply to all revenue accrued
 16 on or after November 1, 1992.

17 (3) [This act] terminates July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0036, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a revenue tax on hospitals; authorizing the Department of Revenue to collect the tax; providing for the assessment, collection, and refund of the tax; requiring proceeds from the tax to be deposited in the general fund; directing the Department of Social and Rehabilitation Services to implement increased funding for medicaid reimbursement of inpatient hospital services; authorizing the Department of Social and Rehabilitation Services to make grants to certain hospitals; providing appropriations for administration of the tax, for grants to certain hospitals, and for increases in medicaid rates; providing a contingent appropriation for increases in general relief medical rates; and providing effective dates, an applicability date, and a termination date.

FISCAL IMPACT:

Revenue:


Hospital Tax \$4,300,000

Expenditures:

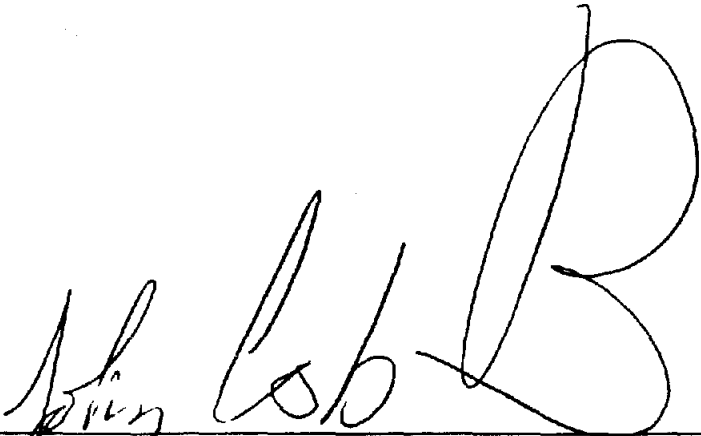
Medicaid 1,200,000

Net Impact to the General Fund 3,100,000

The bill also appropriates \$9,232 from the general fund to the Department of Revenue for collecting the tax. DOR's ongoing costs would be \$3,400 in FY94 and future years.



STEVE YEAKEL, BUDGET DIRECTOR 7/13/92
Office of Budget and Program Planning DATE



JOHN COBB, PRIMARY SPONSOR 7-14-92
DATE
Fiscal Note for HB0036, as introduced

HB 36