

SENATE BILL 469

Introduced by Harding, et al.

3/23	Introduced
3/23	First Reading
3/23	Referred to Public health, Welfare & Safety
3/23	Fiscal Note Requested
3/27	Hearing
3/28	Fiscal Note Printed
4/02	Committee Report--Bill Not Passed
4/02	Adverse Committee Report Adopted

1 *Senate* BILL NO. *469*
 2 INTRODUCED BY *Harding* *esh*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE BASIC
 5 HEALTH INSURANCE FOR SMALL BUSINESSES ACT AND THE HEALTH
 6 CARE ACT FOR THE UNINSURED; ALLOWING INSURERS TO ISSUE A
 7 BASIC HEALTH INSURANCE POLICY FOR SMALL BUSINESSES;
 8 PROVIDING REQUIREMENTS FOR BASIC HEALTH INSURANCE POLICIES;
 9 ESTABLISHING A HEALTH INSURANCE PROGRAM FOR THE UNINSURED;
 10 GRANTING RULEMAKING AUTHORITY TO THE COMMISSIONER OF
 11 INSURANCE FOR ADMINISTRATION OF THE PROGRAM; REQUIRING
 12 EMPLOYERS TO PAY A TAX FOR EACH EMPLOYEE WHO DOES NOT HAVE
 13 HEALTH INSURANCE COVERAGE FOR HIMSELF AND HIS DEPENDENTS;
 14 REQUIRING PROCEEDS OF THE TAX TO BE DEPOSITED IN A TRUST
 15 FUND ACCOUNT TO BE USED FOR THE PURPOSE OF PROVIDING HEALTH
 16 INSURANCE FOR EMPLOYEES WHO DO NOT HAVE HEALTH INSURANCE
 17 COVERAGE; PROVIDING NEW BUSINESSES A 3-YEAR EXEMPTION FROM
 18 PAYMENT OF THE TAX; ALLOWING AN ADDITIONAL EXEMPTION FOR
 19 EMPLOYERS DUE TO FINANCIAL HARDSHIP; AUTHORIZING THE
 20 DEPARTMENT OF REVENUE TO ADOPT RULES TO ADMINISTER THE TAX;
 21 AND PROVIDING EFFECTIVE DATES."

22
 23 WHEREAS, an estimated 141,000 Montana citizens do not
 24 have health insurance; and

25 WHEREAS, many of the uninsured in Montana are employees

1 or dependents of employees who are not provided health
 2 insurance by their employers; and

3 WHEREAS, many small businesses are unable to afford
 4 health insurance for their employees because of the cost of
 5 mandated health insurance benefits; and

6 WHEREAS, the lack of employer-provided health insurance
 7 contributes to the cost of uncompensated health care and
 8 also increases the cost of Medicaid and other government
 9 health care programs; and

10 WHEREAS, it is in the public interest to make health
 11 insurance more affordable for small businesses by reducing
 12 the cost of health insurance coverage purchased for
 13 employees who work for small businesses; and

14 WHEREAS, it is also in the public interest to require
 15 all employers, including small businesses, to pay the cost
 16 of health care for their employees if they do not purchase
 17 health insurance for their employees.

18 THEREFORE, the Legislature finds it appropriate to
 19 authorize affordable, basic health insurance for small
 20 businesses and to require each employer, after July 1, 1995,
 21 either to provide health insurance for his employees if they
 22 do not have insurance or to pay a tax that would be
 23 administered by the state to purchase health insurance for
 24 employees who do not have health insurance coverage.

25



1 STATEMENT OF INTENT

2 A statement of intent is required for this bill because
3 [sections 12 and 20] grant authority to the commissioner of
4 insurance and the department of revenue to adopt rules.

5 (1) It is the intent of the legislature to encourage
6 small businesses to provide health insurance for their
7 employees by allowing private insurers to offer a low-cost,
8 basic health insurance policy for small businesses, as
9 authorized in [section 3]. This basic health insurance
10 policy must provide the minimum benefits provided in
11 [section 3(2)] but need not include the mandated health
12 insurance benefits otherwise required in Title 33. The basic
13 health insurance policy must also meet the requirements
14 stated in [sections 4 through 6].

15 (2) The legislature intends that the commissioner of
16 insurance establish a health insurance program for the
17 uninsured, as provided in [section 11]. Under the program,
18 the commissioner shall provide health insurance for
19 employees who do not have health insurance coverage for
20 themselves and their dependents. However, the commissioner
21 may not operate the program as an insurance company or
22 direct insurer, but instead shall make health insurance
23 available to employees of this state through the purchase of
24 health insurance from private health insurance companies,
25 health service corporations, or health maintenance

1 organizations. The commissioner shall endeavor to purchase
2 health insurance in an economical manner for the benefit of
3 employees enrolled in the program.

4 (3) It is intended that the commissioner have authority
5 to adopt rules for administration of the health insurance
6 program for the uninsured. Rules adopted by the commissioner
7 may include rules regarding:

8 (a) a schedule of health care coverage or services that
9 persons are entitled to receive under policies of insurance
10 purchased under the program;

11 (b) a schedule of premium contributions, copayments,
12 deductibles, or coinsurance amounts to be paid by employees
13 for health insurance coverage purchased by the commissioner
14 on their behalf; and

15 (c) employer eligibility and other requirements
16 relating to establishment of a small business health
17 insurance pool as authorized in [section 12(2)(f)]. The
18 purpose of the insurance pool is to combine the risks and
19 purchasing power of small businesses to enable them to
20 achieve the advantages currently available only to large
21 employers.

22 (4) The legislature also intends that, after July 1,
23 1995, each employer shall provide health insurance for
24 employees who do not have health insurance coverage for
25 themselves and their dependents or else the employer shall

1 pay a tax as required in [section 14]. Proceeds from the tax
2 would be administered by the commissioner to purchase
3 insurance under the program provided for in [section 11].

4 (5) It is intended that the department of revenue
5 collect and enforce payment of the tax required under
6 [section 14]. The department may adopt rules necessary to
7 administer [sections 14, 15, and 17 through 19] relating to
8 the tax. Rules adopted by the department may include:

9 (a) requirements for determining the amount of taxes
10 that must be paid by each employer pursuant to [section 14];

11 (b) procedures for payment and collection of the tax;
12 and

13 (c) criteria and other procedures for allowing
14 exemptions under [sections 17 and 18] from payment of the
15 tax.

16 In adopting rules, the commissioner and the department
17 should examine the policies and procedures for
18 administration of "play or pay" legislation adopted in other
19 states, such as Massachusetts and Oregon.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 NEW SECTION. **Section 1.** Short title. [Sections 1
23 through 8] may be cited as the "Basic Health Insurance for
24 Small Businesses Act".

25 NEW SECTION. **Section 2.** Definitions. As used in

1 [sections 1 through 8], unless the context requires
2 otherwise, the following definitions apply:

3 (1) "Basic health insurance policy" means a policy or
4 contract of insurance authorized under [section 3] that
5 meets the requirements of [sections 1 through 8].

6 (2) "Dependents" means the spouse and children of an
7 employee if they:

8 (a) would qualify for dependent status under the
9 Internal Revenue Code; or

10 (b) are persons for whom a child support order has been
11 issued by a court of proper jurisdiction.

12 (3) "Employee" means a person who is employed to
13 provide services for hire to an employer for an average of
14 at least 20 hours a week.

15 (4) "Employer" means a firm, corporation, organization,
16 or individual who employs the services of another for hire.

17 (5) "Insurer" means:

18 (a) a person, company, or firm that operates pursuant
19 to Title 33, chapter 2 or 3, and that offers or sells
20 policies or contracts of disability insurance as provided in
21 Title 33, chapter 22;

22 (b) a health service corporation as defined in
23 33-30-101; or

24 (c) a health maintenance organization as defined in
25 33-31-102.

1 **NEW SECTION. Section 3. Basic health insurance policy**
 2 for **small businesses.** (1) An insurer may issue a basic
 3 health insurance policy for small businesses.

4 (2) Each basic health insurance policy must provide
 5 coverage for:

6 (a) basic hospital expenses and services rendered by a
 7 physician licensed under Title 37, chapter 3, subject to the
 8 terms and conditions contained in the policy or contract of
 9 insurance;

10 (b) obstetrical care, including prenatal care,
 11 delivery, and postpartum services; and

12 (c) medical care for each newborn infant of an insured,
 13 commencing at the moment of birth and continuing for a
 14 period of 31 days after the date of birth.

15 (3) Nothing in this section prohibits an insurer from
 16 offering or an employer from seeking a basic health
 17 insurance policy that provides benefits in excess of the
 18 basic coverage required in subsection (2).

19 (4) Nothing in this section prohibits an insurer from
 20 including copayments or deductibles in its policy for basic
 21 health insurance.

22 **NEW SECTION. Section 4. Employer eligibility.** An
 23 employer is eligible to purchase a basic health insurance
 24 policy if the employer:

25 (1) employs not more than 20 employees;

1 (2) has not contributed within the preceding 12 months
 2 to payment of any insurance premiums on behalf of an
 3 employee; and

4 (3) contributes to payment of at least:

5 (a) 75% of the cost of premiums paid on behalf of an
 6 employee for a basic health insurance policy; and

7 (b) 50% of the cost of premiums for an employee's
 8 dependents covered under the policy.

9 **NEW SECTION. Section 5. Disclosure requirements for**
 10 **basic health insurance policies.** (1) An insurer issuing a
 11 basic health insurance policy shall provide the insured with
 12 a written disclosure statement, separate from the insurance
 13 policy, certificate, or evidence of insurance, that contains
 14 in clear and understandable language and format an
 15 explanation of those benefits otherwise required by law that
 16 are not provided by the basic health insurance policy.

17 (2) Before an insurer issues a basic health insurance
 18 policy, it shall obtain from the prospective policyholder a
 19 signed written statement in which the prospective
 20 policyholder:

21 (a) certifies that he is eligible for coverage under
 22 the basic health insurance policy; and

23 (b) acknowledges the limited nature of the coverage
 24 provided under the basic health insurance policy.

25 **NEW SECTION. Section 6. Forms and rates for insurance.**

1 (1) A copy of all forms of the basic health insurance
2 policy, including any certificates, riders, evidences of
3 coverage, amendments, endorsements, and disclosure forms,
4 must be submitted to and approved by the commissioner in the
5 same manner as provided in 33-1-501 and 33-1-502.

6 (2) A basic health insurance policy may not be
7 delivered or issued for delivery in this state unless the
8 rates for insurance coverage have been filed with and
9 approved by the commissioner.

10 NEW SECTION. Section 7. Inapplicability of other state
11 laws. A basic health insurance policy issued pursuant to
12 [sections 1 through 8] is not subject to the requirements of
13 33-22-111, 33-22-112, 33-22-114, 33-22-131, 33-22-229,
14 33-22-301, 33-22-302, 33-22-304, 33-22-504, 33-22-506,
15 33-22-509, 33-22-701, 33-22-703, 33-22-704, 33-22-1002,
16 33-30-1001, 33-30-1003, 33-30-1004, 33-30-1008, 33-30-1011,
17 33-30-1013, or any other provision of state law inconsistent
18 with the purposes of [sections 1 through 8].

19 NEW SECTION. Section 8. Premium tax exemption. The
20 premium tax provided for in 33-2-705(2) does not apply to
21 premiums paid for policies issued under [section 3].

22 NEW SECTION. Section 9. Short title. [Sections 9
23 through 20] may be cited as the "Health Care Act for the
24 Uninsured".

25 NEW SECTION. Section 10. Definitions. As used in

1 [sections 9 through 20], unless the context requires
2 otherwise, the following definitions apply:

3 (1) "Calendar quarter" has the meaning provided in
4 39-51-201.

5 (2) "Dependents" means the spouse and children of an
6 employee if they:

7 (a) would qualify for dependent status under the
8 Internal Revenue Code; or

9 (b) are persons for whom a child support order has been
10 issued by a court of proper jurisdiction.

11 (3) "Employee" means a person who is employed to
12 provide services for hire to an employer for an average of
13 at least 20 hours a week. The term does not include a person
14 who is:

15 (a) engaged in work as an independent contractor;

16 (b) hired to perform temporary or seasonal employment
17 for a period of less than 4 months;

18 (c) employed for fewer than 90 days by the employer; or

19 (d) covered by health insurance that is financed from
20 another source without participation of the employer.

21 (4) (a) "Employer" means any firm, corporation,
22 organization, or individual who:

23 (i) employs the services of another for hire; and

24 (ii) is subject to the payment of social security taxes
25 under the Federal Insurance Contributions Act.

1 (b) The term does not include the state of Montana, a
2 political subdivision of the state, or the United States.

3 (5) "Health care coverage or services" means the
4 provision of care, products, or services for the diagnosis,
5 prevention, treatment, or cure of human illness, disease,
6 injury, or disability.

7 (6) "Health insurance" means a policy or contract
8 providing health care coverage or services for the insured.
9 As used in [section 14], the term includes an employee
10 welfare benefit plan approved under the federal Employee
11 Retirement Income Security Act of 1974 (29 U.S.C. 1001, et
12 seq.) that provides health care coverage or services to
13 persons enrolled in the plan.

14 (7) "New employer" means an employer who has not
15 previously engaged in business as an employer in this state.

16 (8) "Program" means the program established in [section
17 11].

18 (9) "Tax" means the tax required to be paid by
19 employers as provided in [section 14].

20 (10) "Wages" means money or remuneration paid to an
21 individual by reason of employment, including but not
22 limited to commissions, bonuses, and other payments made by
23 an employer to an employee by reason of employment.

24 NEW SECTION. Section 11. Health insurance program for
25 the uninsured. (1) There is a health insurance program for

1 the uninsured.

2 (2) The purpose of the program is to provide health
3 insurance for employees who do not have health insurance for
4 themselves and their dependents.

5 NEW SECTION. Section 12. Powers and duties of the
6 commissioner. (1) The commissioner shall administer the
7 program provided for in [section 11].

8 (2) For the purposes of administering the program, the
9 commissioner may:

10 (a) receive and disburse money deposited in the account
11 provided for in [section 16];

12 (b) retain consultants and employ staff;

13 (c) provide health insurance for employees and their
14 dependents through the purchase of health insurance from
15 private insurers;

16 (d) develop a basic schedule of health care coverage or
17 services that persons are entitled to receive under policies
18 of insurance purchased on their behalf;

19 (e) establish a schedule of premium contributions,
20 copayments, deductibles, or coinsurance amounts to be paid
21 by employees for health insurance coverage purchased by the
22 commissioner;

23 (f) establish a small business health insurance pool
24 for businesses consisting of 20 or fewer employees for the
25 purpose of purchasing health insurance for employees and

1 their dependents of businesses in the pool;

2 (g) enter into contracts for administration of the
3 program, including contracts with insurers for health
4 insurance purchased under the program;

5 (h) perform all functions and exercise all powers
6 necessary and appropriate to carry out the purposes of
7 [sections 9 through 20]; and

8 (i) adopt rules for administration of the program.

9 NEW SECTION. Section 13. Employee contributions. (1)
10 Each employee who receives health insurance under the
11 program provided for in [section 11] shall pay a
12 contribution for the cost of premiums in an amount equal to
13 25% of the cost of insurance for himself and 50% of the cost
14 for dependent coverage.

15 (2) Each employer shall deduct from the wages of his
16 employees the contribution required to be paid under
17 subsection (1). The employer shall pay the contributions of
18 each employee directly to the insurer selected to provide
19 health insurance for the employee.

20 NEW SECTION. Section 14. Employer tax. (1) Each
21 employer shall pay a tax for each employee who does not have
22 health insurance for himself and his dependents.

23 (2) The amount of the tax to be paid by each employer
24 must be an amount equal to:

25 (a) 75% of the cost of health insurance provided under

1 [sections 9 through 20] for each employee; and

2 (b) 50% of the cost of health insurance coverage for
3 the employee's dependents.

4 NEW SECTION. Section 15. Payment and collection of
5 employer taxes -- interest -- penalty. (1) Employer taxes
6 are due and payable following the end of each calendar
7 quarter, commencing with the quarter ending September 30,
8 1995.

9 (2) Taxes must be paid to the department of revenue.
10 The department of revenue shall prepare appropriate forms to
11 be filed by each employer with payment of the tax.

12 (3) Taxes not paid when due must bear interest at a
13 rate of 1% for each month or part thereof in which the tax
14 is unpaid. The employer shall pay a penalty of 10% of the
15 amount of delinquent taxes.

16 NEW SECTION. Section 16. Trust fund account. (1) There
17 is an account of the expendable trust fund type in the state
18 treasury.

19 (2) All collections of taxes required to be paid
20 pursuant to [section 14], including interest and penalties,
21 must be deposited in the trust account.

22 (3) The money in the account must be administered by
23 the commissioner for the purpose of providing health
24 insurance for employees described in [section 14(1)] and
25 their dependents.

1 NEW SECTION. **Section 17.** New business exemption.
2 [Sections 9 through 16] do not apply to a new employer until
3 after 3 years following the date of commencement of business
4 as an employer in this state.

5 NEW SECTION. **Section 18.** Exemption for employer
6 hardship. An employer who is otherwise subject to the tax
7 imposed by [section 14] may apply to the department of
8 revenue for an exemption due to financial hardship. The
9 department of revenue shall establish:

10 (1) procedures for reviewing applications for
11 exemption; and

12 (2) criteria for granting an exemption under this
13 section.

14 NEW SECTION. **Section 19.** Notice to employers of effect
15 and operation of law. The department of revenue shall
16 provide notice to all employers concerning the current and
17 anticipated effect and operation of [sections 9 through 20].
18 The notice must be provided to employers no later than
19 October 1, 1991.

20 NEW SECTION. **Section 20.** Rulemaking. The department of
21 revenue may adopt rules necessary to implement the
22 provisions of [sections 14, 15, and 17 through 19].

23 NEW SECTION. **Section 21.** Codification instruction.
24 [Sections 1 through 20] are intended to be codified as an
25 integral part of Title 33, and the provisions of Title 33

1 apply to [sections 1 through 20].

2 NEW SECTION. **Section 22.** Severability. If a part of
3 [this act] is invalid, all valid parts that are severable
4 from the invalid part remain in effect. If a part of [this
5 act] is invalid in one or more of its applications, the part
6 remains in effect in all valid applications that are
7 severable from the invalid applications.

8 NEW SECTION. **Section 23.** Effective dates. (1)
9 [Sections 1 through 8, 12, 19 through 22, and this section]
10 are effective July 1, 1991, except that rules adopted under
11 [sections 12 and 20] may not be implemented until July 1,
12 1995.

13 (2) [Sections 9 through 11 and 13 through 18] are
14 effective July 1, 1995.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0469, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating the Basic Health Insurance for Small Businesses Act and the Health Care Act for the Uninsured; allowing insurers to issue a basic health insurance policy for small businesses; providing requirements for basic health insurance policies; establishing a health insurance program for the uninsured; granting rulemaking authority to the Commissioner of Insurance for administration of the program; requiring employers to pay a tax for each employee who does not have health insurance coverage for himself and his dependents; requiring proceeds of the tax to be deposited in a trust fund account to be used for the purpose of providing health insurance for employees who do not have health insurance coverage; providing new businesses a 3-year exemption from payment of the tax; allowing an additional exemption for employers due to financial hardship; authorizing the Department of Revenue to adopt rules to administer the tax; and providing effective dates.

ASSUMPTIONS:


1. The proposed tax will not become effective until July 1, 1995.
2. The Commissioner of Insurance would not begin to implement her duties under the bill until approximately January 1, 1995.

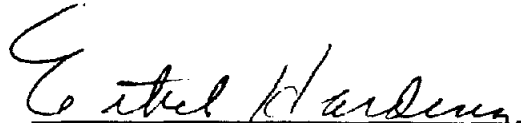
FISCAL IMPACT:

None during the 1993 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Once the tax does become effective, the amount of revenue raised will be dependent upon the number of employers who opt to pay the tax instead of providing insurance for their employees. The proposed legislation will require development of a tax processing computer system; however, the expenditure impact will not occur until the fiscal 1995 biennium.


ROD SUNDSTED, BUDGET DIRECTOR DATE 3-28-91
Office of Budget and Program Planning


ETHEL HARDING, PRIMARY SPONSOR DATE
Fiscal Note for SB0469, as introduced. **SB 469-1**