

HOUSE BILL NO. 953

3/28 Introduced
3/28 Referred to State Administration
3/30 Hearing
Died in Committee

HOUSE BILL NO. 953

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A HEALTH
COVERAGE PROGRAM FOR THE UNEMPLOYED; PROVIDING FOR
DEDUCTIONS FROM UNEMPLOYMENT INSURANCE BENEFITS TO PARTIALLY
PAY FOR SUCH COVERAGE; PROVIDING FOR COVERAGE OF DEPENDENTS,
APPLICATION, ELIGIBILITY, SCOPE OF COVERAGE, PAYMENTS TO
PROVIDERS, COORDINATION OF BENEFITS, AND ADMINISTRATION BY
THE DEPARTMENT OF LABOR AND INDUSTRY OR AN ENTITY UNDER
CONTRACT TO THE DEPARTMENT; PROVIDING A PENALTY; INCREASING
INSURANCE PREMIUM TAXES; AMENDING SECTION 33-2-705, MCA;
PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION.

Section 1. Purpose. It is the purpose of [sections 1 through 15] to provide some degree of security against major illness or injury for unemployed persons and their dependents. [Sections 1 through 15] will provide financial assistance for such major problems as a hedge against the crisis of major medical expenses during the time of unemployment, but it is not intended to be a health insurance program covering all the medical care needs of the unemployed.

NEW SECTION.

Section 2. Definitions. As used in [sections 1 through 15], the following definitions apply:

(1) "Covered person" means the person whose unemployment establishes eligibility for coverage under [section 4] and from whose unemployment insurance benefits contributions are made for coverage under [section 6].

(2) "Department" means the department of labor and industry.

(3) "Dependent" means the spouse, each minor child, including each stepchild, of the covered person, and each adult residing with the covered person who is dependent upon that person for support because of age or infirmity.

NEW SECTION.

Section 3. Duties of department. (1) The department shall administer [sections 1 through 15] in the most efficient and economical manner possible. In order to achieve these ends, the department:

(a) may directly administer any or all of the program; or

(b) may contract with any one or more entities, public or private, for the administration of parts of [sections 1 through 15].

(2) The department shall by rule establish deductible amounts, payment percentages, eligibility criteria, and measures to prevent fraud, but such rules may be subject to administration by any entities with whom the department

1 contracts.

2 NEW SECTION. Section 4. Eligibility. A person and his
3 dependents are eligible for health care coverage under
4 [sections 1 through 15] if the person:

5 (1) is receiving unemployment insurance benefits under
6 the provisions of Title 39, chapter 51, based upon
7 employment in Montana;

8 (2) is not covered or eligible for coverage, at a cost
9 less than or equal to the applicable contribution
10 established in [section 6], by an insurance or other program
11 or plan providing health care coverage that is at least as
12 extensive as the coverage offered under [sections 1 through
13 15]. Such health care coverage may include:

14 (a) coverage under a plan covering the person's spouse
15 or dependents;

16 (b) the continuation or conversion of coverage based
17 upon the person's health care coverage in his prior
18 employment;

19 (c) coverage under federal programs, including
20 veterans' retirement and the federal Social Security Act;
21 and

22 (d) similar programs or coverage as defined by
23 department rule.

24 NEW SECTION. Section 5. Application for coverage. (1)
25 The department must supply to each person applying for

1 unemployment insurance benefits after [the effective date of
2 this act] written information relating to coverage under
3 [sections 1 through 15]. The information must contain
4 eligibility criteria for coverage, the options and extent of
5 coverage available, methods for terminating coverage, length
6 of coverage, and a statement of the penalty for unlawfully
7 receiving coverage.

8 (2) The claimant must complete a form, to be signed by
9 the claimant and a representative of the department, at the
10 time of applying for unemployment insurance. The form must
11 contain:

12 (a) spaces for the claimant to indicate whether he is
13 applying for coverage or does not elect to receive coverage;

14 (b) a statement that the claimant has been given
15 information regarding coverage as required in subsection
16 (1); and

17 (c) spaces for the claimant to indicate the option, if
18 any, for which he is applying and the cost, to be deducted
19 from his benefits, if he elects and is determined eligible
20 to receive coverage.

21 NEW SECTION. Section 6. Deduction for payment of
22 health coverage. The department shall deduct an amount, not
23 to exceed \$10 for a solely covered person or \$25 for a
24 person and his dependents, from the unemployment
25 compensation insurance benefits of the unemployed person for

1 whom coverage is provided under [sections 1 through 15]. The
2 deduction must be made from each weekly check to such
3 person.

4 NEW SECTION. Section 7. Dates of coverage. (1) Any
5 claimant who, upon application for unemployment insurance
6 benefits, elects to have coverage and who has been totally
7 unemployed for less than 3 weeks prior to such application
8 is, for the purposes of coverage under [sections 1 through
9 15], considered not to have any lapse in coverage based upon
10 the time prior employment terminated and coverage under
11 [sections 1 through 15] begins.

12 (2) Any claimant who, upon application for
13 unemployment insurance, elects not to receive coverage may,
14 within 14 days of such election, choose to receive coverage,
15 but such coverage is not effective until 12:00 a.m. 2 days
16 after a request for such coverage is made in writing to the
17 department on forms provided by the department.

18 (3) Coverage under [sections 1 through 15] terminates
19 at 12:00 a.m.:

20 (a) on the 46th day following the last withheld
21 contribution for a person who has found employment or who
22 has exhausted unemployment insurance benefits;

23 (b) on the third day after a claimant who was
24 receiving coverage submits to the department in writing, on
25 forms provided by the department, a request for termination

1 of coverage;

2 (c) on the day coverage begins or could have begun
3 under new employment as provided in [section 10(2)]; or

4 (d) with respect to covered dependents of a covered
5 person who dies while receiving coverage under [sections 1
6 through 15], on the 46th day following the last withheld
7 contribution.

8 NEW SECTION. Section 8. Payments for health care
9 costs. (1) The department shall pay providers of health care
10 services for covered services rendered as provided in this
11 section. The department shall pay for the reasonable cost of
12 health care services, subject to the deductibles, copayment,
13 and maximum payment provisions provided in subsections (2)
14 and (3).

15 (2) The department may not make any payments for
16 health care services under [sections 1 through 15]:

17 (a) until the covered person has incurred,
18 individually if he is solely covered or by the covered
19 person and his dependents if such dependents are covered,
20 charges of \$500 for services otherwise payable under this
21 section as a deductible charge; or

22 (b) for more than 80% of the reasonable charges for
23 such services in excess of such deductible and less than a
24 total of \$2,500 (or greater amount as may be set by
25 department rule) incurred for such individual and

1 dependents, if any.

2 (3) The department may pay all of such reasonable
3 charges in excess of the total amount set forth in
4 subsection (2)(b) or rules adopted thereunder, not to exceed
5 \$100,000.

6 (4) As used in subsection (1), health care services
7 are medically necessary services provided by hospitals or
8 other health care institutions; organizations, associations
9 or groups of doctors of medicine, osteopathy, dentistry,
10 chiropractic, optometry, or podiatry; nursing services;
11 medical appliances, equipment, and supplies; and drugs,
12 medicines, ambulance services, and other therapeutic
13 services and supplies.

14 (5) The department or its agent shall determine the
15 reasonable cost of health care services. Such a
16 determination may be made by an agent of the department or
17 may be made directly by the department by reference to
18 determinations of reasonable health care service costs made
19 by insurance, health service, governmental, or other
20 entities. Such a determination must be in accordance with
21 standards or procedures recognized by insurance and medical
22 associations as a valid determinant of reasonable costs.

23 (6) (a) The department shall determine what medical
24 services constitute medically necessary services subject to
25 coverage under [sections 1 through 15]. In determining what

1 services are covered, the department shall consider:

2 (i) whether the service constitutes elective medical
3 procedures or whether the health problem constitutes a
4 danger to life or is subject to life-endangering
5 complications;

6 (ii) whether the illness or injury has an
7 incapacitating influence on a covered person or dependent
8 over the age of 18 such that employment for such person is
9 precluded without treatment;

10 (iii) the pain and suffering incurred as a result of
11 the illness or injury; and

12 (iv) budgetary restrictions of the department.

13 (b) (i) Broken bones and services for childbirth and
14 any life-endangering situations or conditions of the mother
15 or child are covered health services under this section.

16 (ii) The following may not be covered health services
17 under this section:

18 (A) dental work, except when determined by a physician
19 to be medically necessary;

20 (B) eyeglasses and hearing aids; or

21 (C) treatment for mental conditions, drug or alcohol
22 abuse or addiction, or nervous disorders.

23 NEW SECTION. Section 9. Preexisting conditions.
24 Payment may not be made under [sections 1 through 15] for
25 the treatment of any condition existing at the time of

1 election to participate in coverage. A preexisting condition
2 does not include:

3 (1) any condition that existed during the time the
4 covered person was employed if such condition was covered
5 under the health care plan of the former employer, and the
6 covered person participated in such coverage. It is the
7 responsibility of the claimant to satisfactorily prove to
8 the department or its agent that a condition was so covered.

9 (2) conditions relating to pregnancy and childbirth
10 and conditions affecting a newborn child.

11 NEW SECTION. Section 10. Coordination of coverage.

12 (1) If a person elects to receive coverage under [sections 1
13 through 15] and at the time of such coverage is also covered
14 under health care insurance, group insurance, or disability
15 insurance from his previous employment which will lapse
16 during the period of unemployment, such coverage while in
17 effect is liable for the person's claims and he may receive
18 no coverage under [sections 1 through 15] until such prior
19 coverage lapses.

20 (2) No benefits may be paid under [sections 1 through
21 15] on behalf of a person who, upon becoming employed, is
22 covered, or would be covered if the person had so elected,
23 under health care insurance, group insurance, or disability
24 insurance in the new employment.

25 NEW SECTION. Section 11. Coordination of benefits.

1 Coverage may not be provided under [sections 1 through 15]
2 except when no other method of payment for services, except
3 state general assistance or medical relief, is available for
4 such coverage or payment. [Sections 1 through 15] may not be
5 considered coverage or payment, by a government or another
6 insurer, which must be coordinated or otherwise taken into
7 consideration under any other method of paying health costs
8 under the laws of this state. If any other such coverage is
9 available, liability under such a plan may not be diminished
10 because the person for whom benefits may be provided is
11 covered under [sections 1 through 15].

12 NEW SECTION. Section 12. Administrative appeals. (1)
13 Any person who is aggrieved by a decision of an agent of the
14 department in the administration of [sections 1 through 15]
15 may, in writing, on forms provided by the department,
16 request the department to reverse or modify the decision of
17 the agent.

18 (2) Any person aggrieved by a decision of the
19 department in the administration of [sections 1 through 15],
20 including the denial of a request to reverse or modify an
21 agent's decision as provided in subsection (1), may proceed
22 as provided in Title 2, chapter 4, parts 6 and 7.

23 NEW SECTION. Section 13. Recovery from third parties.
24 The department, upon the payment of any claim under the
25 provisions of [sections 1 through 15], is subrogated to any

1 claim the covered person may have against third parties who
 2 may be liable for the payment of claims are under any legal
 3 liability for the illness or injury. The department may
 4 bring suit in the name of the state for the recovery from
 5 such third parties of amounts paid on behalf of the covered
 6 person. After recovery of such amounts paid and recovery of
 7 associated legal expenses and costs, any money so recovered
 8 must be paid to the covered person or the estate of such
 9 person.

10 NEW SECTION. Section 14. Prevention of fraud --
 11 recovery of falsely paid claims. (1) The department shall by
 12 rule provide methods for determining whether persons
 13 applying for coverage under [sections 1 through 15] and
 14 health care providers claiming payments under [sections 1
 15 through 15] are entitled to such coverage or payments under
 16 the terms of [sections 1 through 15].

17 (2) Each agent of the department or a health care
 18 provider involved in the implementation of [sections 1
 19 through 15] is subject to all audit requirements to which
 20 other agents of and providers of services to the state are
 21 subject.

22 (3) The department may use any method provided by law
 23 for the recovery of money from persons owing money to the
 24 state, including setoffs from subsequent payments by the
 25 department or any entity of state government, for recovery

1 of money improperly paid on behalf of a claimant through an
 2 action or inaction by the claimant, and for recovery of
 3 money improperly paid to a health care provider in violation
 4 of [sections 1 through 15] or rules adopted thereunder.

5 NEW SECTION. Section 15. Criminal penalty. (1) It is
 6 unlawful for a person to receive health care coverage or
 7 cause payment for health care services under the provisions
 8 of [sections 1 through 15] if the person purposely or
 9 knowingly obtains such benefits by means of a knowingly
 10 false statement or representation, by means of
 11 impersonation, or by means of a fraudulent scheme or device.

12 (2) A person convicted of violating this section shall
 13 be fined not to exceed \$1,000 or be imprisoned in the county
 14 jail for a term not to exceed 6 months.

15 Section 16. Section 33-2-705, MCA, is amended to read:

16 "33-2-705. Report on premiums and other consideration
 17 -- tax. (1) Each authorized insurer and each formerly
 18 authorized insurer with respect to premiums so received
 19 while an authorized insurer in this state shall file with
 20 the commissioner, on or before March 1 each year, a report
 21 (except as to wet marine and transportation insurance taxed
 22 under subsection (4) below) in form as prescribed by the
 23 commissioner showing total direct premium income, including
 24 policy, membership, and other fees, premiums paid by
 25 application of dividends, refunds, savings, savings coupons,

1 and similar returns or credits to payment of premiums for
 2 new or additional or extended or renewed insurance, charges
 3 for payment of premium in installments, and all other
 4 consideration for insurance from all kinds and classes of
 5 insurance, whether designated as a premium or otherwise,
 6 received by it during the preceding calendar year on account
 7 of policies covering property, subjects, or risks located,
 8 resident, or to be performed in Montana, with proper
 9 proportionate allocation of premium as to such property,
 10 subjects, or risks in Montana insured under policies or
 11 contracts covering property, subjects, or risks located or
 12 resident in more than one state, after deducting from such
 13 total direct premium income applicable cancellations,
 14 returned premiums, the unabsorbed portion of any deposit
 15 premium, the amount of reduction in or refund of premiums
 16 allowed to industrial life policyholders for payment of
 17 premiums direct to an office of the insurer, all policy
 18 dividends, refunds, savings, savings coupons, and other
 19 similar returns paid or credited to policyholders with
 20 respect to such policies. As to title insurance, "premium"
 21 includes the total charge for such insurance. No deduction
 22 shall be made of the cash surrender values of policies.
 23 Considerations received on annuity contracts shall not be
 24 included in total direct premium income and shall not be
 25 subject to tax.

1 (2) Coincident with the filing of the tax report
 2 referred to in subsection (1) above, each such insurer shall
 3 pay to the commissioner a tax upon such net premiums. This
 4 tax may be computed in either of the following ways:
 5 (a) (i) A domestic insurer may choose to compute its
 6 tax based on the percentage of its admitted assets invested
 7 in Montana securities according to the following schedule:
 8 (A) $2\frac{3}{4}\%$ 3% of net premiums if the insurer has 0% of
 9 its admitted assets invested in Montana securities;
 10 (B) $2\frac{1}{4}\%$ 2.43% of net premiums if the insurer has at
 11 least 25% of its admitted assets invested in Montana
 12 securities;
 13 (C) $1\frac{3}{4}\%$ 1.89% of net premiums if the insurer has at
 14 least 50% of its admitted assets invested in Montana
 15 securities;
 16 (D) $1\frac{1}{4}\%$ 1.35% of net premiums if the insurer has at
 17 least 75% of its admitted assets invested in Montana
 18 securities; and
 19 (E) $3/4\%$.81% of net premiums if the insurer has 100%
 20 of its admitted assets invested in Montana securities.
 21 (ii) "Admitted assets" are those assets allowed in
 22 33-2-501.
 23 (iii) An insurer choosing this method of computation
 24 must itemize its Montana securities on a detailed schedule
 25 attached to its annual tax report.

1 (b) (i) If the method provided for in subsection
2 (2)(a) is not used, the insurer shall compute its tax at the
3 rate of ~~2-3/4%~~ 3% of the net premiums.

4 (ii) An insurer choosing this method and having not
5 less than 50% of its paid-in capital stock invested in
6 Montana securities is allowed to deduct whatever tax it may
7 have already paid to the state of Montana and its political
8 subdivisions, during the same calendar year as to which
9 premium tax is being paid, from the amount otherwise due
10 under this section.

11 (3) For the purpose of subsection (2):

12 (a) "paid-in capital stock" as to a mutual or
13 reciprocal insurer shall be deemed to be an amount equal to
14 10% of the insurer's assets; and

15 (b) "Montana securities" shall be deemed to include
16 only general obligations of the state of Montana or of its
17 political subdivisions, mortgage loans secured by a first
18 lien upon real estate located in Montana, funds invested in
19 certificates of deposit in a bank or building and loan
20 association located in Montana and whose deposits are
21 insured by an agency of the United States or an insurer
22 approved by the department of commerce, and real estate
23 located in Montana owned by the insurer, all if otherwise
24 lawful investments of the insurer under this code.

25 (4) (a) On or before March 1 of each year each insurer

1 shall file with the commissioner, on forms as prescribed and
2 furnished or accepted by him, a report of its gross
3 underwriting profit on wet marine and transportation
4 insurance, authorized in 33-1-209, written in this state
5 during the calendar year next preceding and shall at the
6 same time pay to the commissioner a tax of 3/4 of 1% of such
7 gross underwriting profit.

8 (b) Such gross underwriting profit shall be
9 ascertained by deducting from the net premiums (i.e., gross
10 premiums less all return premiums and premiums for
11 reinsurance) on such wet marine and transportation insurance
12 contracts the net losses paid (i.e., gross losses paid less
13 salvage and recoveries on reinsurance ceded) during such
14 calendar year under such contracts. In the case of insurers
15 issuing participating contracts, such gross underwriting
16 profit shall not include for computation of the tax
17 prescribed by this subsection (4) the amounts refunded,
18 credited, or paid as participation dividends or savings by
19 such insurers to the holders of such contracts.

20 (5) That portion of the tax paid hereunder by an
21 insurer on account of premiums received for fire insurance
22 shall be separately specified in the report as required by
23 the commissioner, for apportionment as provided by law.
24 Where insurance against fire is included with insurance of
25 property against other perils at an undivided premium, the

1 insurer shall make such reasonable allocation from such
 2 entire premium to the fire portion of the coverage as shall
 3 be stated in such report and as may be approved or accepted
 4 by the commissioner.

5 (6) With respect to authorized insurers the premium
 6 tax provided by this section shall be payment in full and in
 7 lieu of all other demands for any and all state, county,
 8 city, district, municipal, and school taxes, licenses, fees,
 9 and excises of whatever kind or character, excepting only
 10 those prescribed by this code, taxes on real and tangible
 11 personal property located in this state, and taxes payable
 12 under 50-3-109.

13 (7) The commissioner may suspend or revoke the
 14 certificate of authority of any insurer which fails to pay
 15 its taxes as required under this section."

16 NEW SECTION. Section 17. Appropriation. (1) There is
 17 appropriated to the Department of Labor and Industry for the
 18 purposes of this act:

19 (a) \$2,000,000 from the general fund for each fiscal
 20 year of the biennium; and

21 (b) all money collected from deductions from
 22 unemployment benefits pursuant to this act.

23 (2) An amount not to exceed 5% of the appropriations
 24 in subsection (1) may be used by the Department for
 25 administrative costs.

1 NEW SECTION. Section 18. Effective date --
 2 applicability. (1) This act is effective on passage and
 3 approval, but provision of coverage and payment of benefits
 4 under this act may be made only as provided in subsection
 5 (2).
 6 (2) The provisions of this act providing health
 7 services coverage to unemployed persons apply only to
 8 persons applying for benefits after 90 days have elapsed
 9 from the time the United States department of labor has
 10 approved the provisions of this act, and rules adopted
 11 pursuant to it, as an approved program for deduction from
 12 unemployment compensation as provided in section 523, Public
 13 Law 98-21.

-End-