

*Brainard*

*DeHayne*  
*Calley Emmons*  
*Burnett*  
*Halden*

SENATE BILL NO. 194

*Walters*  
INTRODUCED BY *D. Bauer Gore*  
*Walter Trout* *Trout*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS RELATING TO THE MONTANA  
5 HEALTH CARE AUTHORITY; MAINTAINING THE RESPONSIBILITY FOR THE STATE HEALTH PLAN WITH  
6 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; REVISING THE STATE HEALTH CARE  
7 POLICY; REVISING THE NAME, MEMBERSHIP, ADMINISTRATION, OBJECTIVES, AND REQUIRED STUDIES  
8 OF THE AUTHORITY; ELIMINATING THE COMPULSORY STATEWIDE PLANS; ELIMINATING THE  
9 REGIONAL BOARDS; REMOVING THE ENFORCEMENT AND REQUIREMENT PROVISIONS OF THE HEALTH  
10 CARE DATA BASE; MAKING THE HEALTH INSURER COST MANAGEMENT PLANS DISCRETIONARY;  
11 REPEALING THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT; AMENDING SECTIONS  
12 50-1-201, 50-4-101, 50-4-102, 50-4-201, 50-4-202, 50-4-306, 50-4-308, 50-4-309, 50-4-310, 50-4-502,  
13 AND 50-4-503, MCA; REPEALING SECTIONS 33-22-1801, 33-22-1802, 33-22-1803, 33-22-1804,  
14 33-22-1808, 33-22-1809, 33-22-1810, 33-22-1811, 33-22-1812, 33-22-1813, 33-22-1814, 33-22-1818,  
15 33-22-1819, 33-22-1820, 33-22-1821, 33-22-1822, 50-4-301, 50-4-302, 50-4-303, 50-4-304, 50-4-305,  
16 50-4-307, 50-4-311, 50-4-401, 50-4-402, 50-4-501, 50-4-601, 50-4-602, 50-4-603, 50-4-604, 50-4-609,  
17 50-4-610, 50-4-611, AND 50-4-612, MCA, AND SECTION 21, CHAPTER 606, LAWS OF 1993; AND  
18 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 50-1-201, MCA, is amended to read:  
23 "50-1-201. ~~(Temporary)~~ **Administration of state health plan -- definition.** (1) The department is  
24 ~~hereby established as the sole and official~~ state agency to administer the state program for comprehensive  
25 health planning and ~~is hereby authorized to~~ shall prepare a plan for comprehensive state health planning.  
26 The department ~~is authorized to~~ may confer and cooperate with ~~any and all~~ other persons, organizations,  
27 or governmental agencies that have an interest in public health problems and needs. The department, while  
28 acting in this capacity as the ~~sole and official~~ state agency to administer and supervise the administration  
29 of the ~~official~~ comprehensive state health plan, ~~is designated and authorized as the sole and official state~~  
30 ~~agency to~~ may accept, receive, expend, and administer ~~any and all funds which that~~ are now available or



1 ~~which may be~~ donated, granted, bequeathed, or appropriated to it for the preparation ~~and~~, administration,  
2 and the supervision of the preparation and administration of the comprehensive state health plan.

3 (2) As used in this section, "comprehensive state health plan" means the product of a total study  
4 of health care in Montana, with suggestions of corrective measures to enhance the cost-effectiveness,  
5 availability, overall quality, and efficiency of health care services.

6 ~~50-1-201. (Effective July 1, 1996) Administration of state health plan. The Montana health care~~  
7 ~~authority created in 50-4-201 is the state agency to administer the state program for comprehensive health~~  
8 ~~planning and shall prepare a plan for comprehensive state health planning. The authority may confer and~~  
9 ~~cooperate with other persons, organizations, or governmental agencies that have an interest in public health~~  
10 ~~problems and needs. The authority, while acting in this capacity as the state agency to administer and~~  
11 ~~supervise the administration of the official comprehensive state health plan, is designated and authorized~~  
12 ~~as the state agency to accept, receive, expend, and administer funds donated, granted, bequeathed, or~~  
13 ~~appropriated to it for the preparation, administration, and supervision of the preparation and administration~~  
14 ~~of the comprehensive state health plan."~~

15  
16 **Section 2.** Section 50-4-101, MCA, is amended to read:

17 **"50-4-101. State health care policy.** ~~(1)~~ It is the policy of the state of Montana to ~~ensure~~ endeavor  
18 that all residents have access to quality health services at costs that are affordable. To achieve this policy,  
19 ~~it is necessary to develop a health care system that is integrated and subject to the direction and oversight~~  
20 ~~of a single state agency. Comprehensive health planning through the application of a statewide health care~~  
21 ~~resource management plan that is linked to a unified health care budget for Montana is essential. It is~~  
22 recommended that an advisory committee consisting of private sector members be appointed as provided  
23 in 50-4-201 to study methods of maintaining and improving the quality of health care services while  
24 containing and reducing the costs of delivering the health care services by independent private health care  
25 providers.

26 ~~(2) It is further the policy of the state of Montana that the health care system should:~~

27 ~~(a) maintain and improve the quality of health care services offered to Montanans;~~

28 ~~(b) contain or reduce increases in the cost of delivering services so that health care costs do not~~  
29 ~~consume a disproportionate share of Montanans' income or the money available for other services required~~  
30 ~~to ensure the health, safety, and welfare of Montanans;~~

1 ~~(c) avoid unnecessary duplication in the development and offering of health care facilities and~~  
2 ~~services;~~

3 ~~(d) encourage regional and local participation in decisions about health care delivery, financing, and~~  
4 ~~provider supply;~~

5 ~~(e) facilitate universal access to health sciences information;~~

6 ~~(f) promote rational allocation of health care resources in the state; and~~

7 ~~(g) facilitate universal access to preventive and medically necessary health care.~~

8 ~~(3) It is further the policy of the state of Montana that regardless of whether or what form of a~~  
9 ~~health care access plan is adopted by the legislature, the health care authority, health care providers, and~~  
10 ~~other persons involved in the delivery of health care services need to increase their emphasis on the~~  
11 ~~education of consumers of health care services. Consumers should be educated concerning the health care~~  
12 ~~system, payment for services, ultimate costs of health care services, and the benefit to consumers generally~~  
13 ~~of providing only services to the consumer that are reasonable and necessary."~~

14  
15 **Section 3.** Section 50-4-102, MCA, is amended to read:

16 **"50-4-102. Definitions.** For the purposes of this chapter, the following definitions apply:

17 (1) ~~"Authority"~~ "Advisory" means the Montana health care authority advisory created by 50-4-201.

18 (2) ~~"Board" means one of the regional health care planning boards created pursuant to 50-4-401.~~

19 (3) ~~"Certificate of public advantage" or "certificate" means a written certificate issued by the~~  
20 ~~authority as evidence of the authority's intention that the implementation of a cooperative agreement, when~~  
21 ~~actively supervised by the authority, receive state action immunity from prosecution as a violation of state~~  
22 ~~or federal antitrust laws.~~

23 (4) (2) "Cooperative agreement" or "agreement" means a written agreement between two or more  
24 health care facilities for the sharing, allocation, or referral of patients; personnel; instructional programs;  
25 emergency medical services; support services and facilities; medical, diagnostic, or laboratory facilities or  
26 procedures; or other services customarily offered by health care facilities.

27 (5) (3) "Data base" means the unified health care data base created pursuant to 50-4-502.

28 (6) (4) "Health care" includes both physical health care and mental health care.

29 (7) (5) "Health care facility" means all facilities and institutions, whether public or private,  
30 proprietary or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more

1 unrelated persons. The term includes all facilities and institutions included in 50-5-101(19). The term does  
 2 not apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for  
 3 healing.

4 ~~(8)~~(6) "Health insurer" means any health insurance company, health service corporation, health  
 5 maintenance organization, insurer providing disability insurance as described in 33-1-207, and, to the extent  
 6 permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care  
 7 benefit plan offered by public and private entities.

8 ~~(9)~~(7) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise  
 9 authorized by the laws of this state to provide health care in the ordinary course of business or practice of  
 10 a profession.

11 ~~(10) "Management plan" means the health care resource management plan required by 50-4-304.~~

12 ~~(11) "Region" means one of the health care planning regions created pursuant to 50-4-401.~~

13 ~~(12) "Statewide plan" means one of the statewide universal health care access plans for access to~~  
 14 ~~health care required by 50-4-301."~~

15

16 **Section 4.** Section 50-4-201, MCA, is amended to read:

17 **"50-4-201. Montana health care ~~authority~~ advisory -- allocation -- membership.** (1) There is a  
 18 Montana health care ~~authority~~ advisory.

19 (2) The ~~authority~~ advisory is allocated to the department of health and environmental sciences for  
 20 administrative purposes as provided in 2-15-121.

21 (3) The ~~authority~~ advisory consists of five voting members appointed by the governor. At least one  
 22 member must represent consumer organizations. Members of the ~~authority~~ advisory must be appointed as  
 23 follows:

24 (a) Within 30 days of May 3, ~~1993~~ 1995, the speaker and minority leader of the house of  
 25 representatives shall select an individual with recognized expertise or interest, or both, in health care. The  
 26 speaker and minority leader and the person selected by them shall nominate by majority vote five individuals  
 27 for appointment to the ~~authority~~ advisory.

28 (b) Within 30 days of May 3, ~~1993~~ 1995, the president and minority leader of the senate shall  
 29 select an individual with recognized expertise or interest, or both, in health care. The president and minority  
 30 leader and the person selected by them shall nominate by majority vote five individuals for appointment to

1 the ~~authority~~ advisory.

2 (c) Within 90 days of May 3, ~~1993~~ 1995, the governor shall appoint from those nominated under  
3 subsections (3)(a) and (3)(b) five individuals to the ~~authority~~ advisory.

4 (4) A vacancy must be filled in the same manner as original appointments under subsection (3),  
5 except that one individual must be selected under subsection (3)(a) and one under subsection (3)(b). The  
6 governor shall appoint from those nominated the individual to fill the vacancy.

7 (5) The presiding officer of the ~~authority~~ advisory must be elected by majority vote of the voting  
8 members. The ~~initial~~ presiding officer appointed in 1995 must serve a 4-year term.

9 (6) Members serve terms of 4 years, except that of the members ~~initially~~ appointed in 1995, two  
10 members serve 4-year terms, two members serve 3-year terms, and one member serves a 2-year term, to  
11 be determined by lot.

12 (7) The directors of the department of social and rehabilitation services and the department of  
13 health and environmental sciences and the commissioner of insurance are nonvoting, ex officio members  
14 of the ~~authority~~ advisory.

15 (8) ~~The attorney general is an ex officio, nonvoting member of the authority only for the purpose~~  
16 ~~of the authority's approval or denial of certificates of public advantage, supervision of cooperative~~  
17 ~~agreements, and revocation of certificates of public advantage pursuant to Title 50, chapter 4, part 6. A~~  
18 member of the advisory may not be:

19 (a) a public official, except as provided in subsection (7);

20 (b) a public employee, except as provided in subsection (7);

21 (c) a candidate for public office;

22 (d) a lobbyist or lobbyist's principal; or

23 (e) a member of the immediate family of a person described in subsections (8)(a) through (8)(d).

24 (9) A member shall acknowledge a direct conflict of interest in a proceeding in which the member  
25 has a personal or financial interest.

26 (10) The terms of the members serving prior to May 3, 1995, terminate upon the making of  
27 appointments as provided in subsection (3)."

28

29 **Section 5.** Section 50-4-202, MCA, is amended to read:

30 **"50-4-202. Administration of health care ~~authority~~ advisory -- rules -- reports -- compensation. (4)**

1 ~~The authority shall employ a full-time executive director who shall conduct or direct the daily operation of~~  
 2 ~~the authority. The executive director is exempt from the application of 2-18-204, 2-18-205, 2-18-207, and~~  
 3 ~~2-18-1011 through 2-18-1013 and serves at the pleasure of the authority. The executive director is the~~  
 4 ~~chief administrative officer of the authority. The executive director has the power of a department head~~  
 5 ~~pursuant to 2-15-112, subject to the policies and procedures established by the authority.~~

6 ~~(2) The authority may delegate its powers and assign the duties of the authority to the executive~~  
 7 ~~director as it may consider appropriate and necessary for the proper administration of the authority.~~  
 8 ~~However, the authority may not delegate its rulemaking powers under Title 50, chapter 4, parts 1 through~~  
 9 ~~5.~~

10 ~~(3) The authority may:~~

11 ~~(a) employ professional and support staff necessary to carry out the functions of the authority; and~~

12 ~~(b) employ consultants and contract with individuals and entities for the provision of services.~~

13 ~~(4)(1) The authority advisory may:~~

14 ~~(a) apply for and accept gifts, grants, or contributions from any person for purposes consistent with~~  
 15 ~~the provisions of 50-1-201 and Title 50, chapter 4, parts 1 through 5;~~

16 ~~(b) adopt rules necessary to implement the provisions of Title 50, chapter 4, parts 1 through 5;~~  
 17 ~~and~~

18 ~~(c) enter into contracts necessary to accomplish the purposes of Title 50, chapter 4, parts 1~~  
 19 ~~through 5.~~

20 ~~(5)(2) A rule adopted by the advisory is not effective until May 1 following final adjournment of~~  
 21 ~~the regular session that begins after the notice proposing the rule was published by the secretary of state~~  
 22 ~~in order to allow the legislature to review the adopted rule and have an opportunity to introduce legislation~~  
 23 ~~regarding adoption, repeal, or amendment of the rule.~~

24 ~~(3) The authority advisory shall report to the legislature and the governor at least twice a year on~~  
 25 ~~its progress since the last report in fulfilling the requirements of Title 50, chapter 4, parts 1 through 5.~~  
 26 ~~Reports may be provided in a manner similar to 5-11-210 or in another manner determined by the authority~~  
 27 ~~advisory.~~

28 ~~(6)(4) Members of the authority advisory must be paid and reimbursed as provided in 2-15-124~~  
 29 ~~2-18-501 through 2-18-503.~~

30 ~~(7) The authority shall make grants to the boards for the operation of the boards. The authority~~

1 ~~shall provide for uniform procedures for grant applications and budgets of the boards."~~

2

3 **Section 6.** Section 50-4-306, MCA, is amended to read:

4 **"50-4-306. Other matters to be included in statewide plans studied by the advisory.** (1) ~~The~~  
5 ~~statewide plans recommended by the authority must include:~~

6 ~~(a) stable financing methods, including sharing of the costs of health care by health care~~  
7 ~~consumers on an ability to pay basis through such mechanisms as copayments or payment of premiums;~~

8 ~~(b) a procedure for evaluating the quality of health care services;~~

9 ~~(c) public education concerning the statewide plans recommended by the authority; and~~

10 ~~(d) phase in of the various components of the plans.~~

11 ~~(2)~~ (a) In order to reduce the costs of defensive medicine, the authority advisory shall:

12 (i) conduct a study of a system for reducing the use of defensive medicine by adopting practice  
13 protocols that would give providers guidelines to follow for specific procedures;

14 (ii) conduct a study of tort reform measures, including limitations on the amount of noneconomic  
15 damages, mandated periodic payments of future damages, and reverse sliding scale limits on contingency  
16 fees; and

17 (iii) propose any changes, including legislation, that it considers necessary, including measures for  
18 compensating victims of tortious injuries.

19 (b) As part of its study under subsection ~~(2)(a)(iii)~~ (1)(a)(ii), the authority advisory may consider  
20 changes in the Montana Medical Legal Panel Act.

21 ~~(e) The recommendations of the authority must be included in its report containing the statewide~~  
22 ~~plans.~~

23 ~~(3) The authority shall conduct a study of the impacts of federal and state antitrust laws on health~~  
24 ~~care services in the state and make recommendations, including legislation, to address those laws and~~  
25 ~~impacts. The authority may include in its plans legislation in addition to Title 50, chapter 4, part 6, that will~~  
26 ~~enable health care providers and payors, including health insurers and consumers, to negotiate and enter~~  
27 ~~into agreements when the agreements are likely to result in lower costs or in greater access or quality than~~  
28 ~~would otherwise occur in the competitive marketplace. In proposing appropriate legislation concerning~~  
29 ~~antitrust laws, the authority shall provide appropriate conditions, supervision, and regulation to protect~~  
30 ~~against private abuse of economic power.~~

1           ~~(4) The authority shall apply for waivers from federal laws necessary to implement~~  
2 ~~recommendations of the authority enacted by the legislature and to implement those recommendations not~~  
3 ~~requiring legislation.~~

4           (2) The advisory shall encourage and record all oral comments on the studies and submit the  
5 comments in written form, along with the advisory's recommendations, to the legislature."

6  
7           **Section 7.** Section 50-4-308, MCA, is amended to read:

8           "**50-4-308. State purchasing pool -- reports report required.** ~~(1) On or before December 15, 1994,~~  
9 ~~and December 15, 1996, the authority advisory shall report to the legislature on establishment of a proposal~~  
10 ~~for a state purchasing pool, including the number and types of groups and group members participating in~~  
11 ~~the pool, the costs of administering the pool, the savings attributable to participating groups from the~~  
12 ~~operation of the pool, and any changes in legislation considered necessary by the authority.~~

13           ~~(2) On or before December 15, 1996, the authority shall report to the legislature its~~  
14 ~~recommendations concerning the feasibility and merits of authorizing the authority to act as an insurer in~~  
15 ~~pooling risks and providing benefits, including a common benefits plan, to participants of the purchasing~~  
16 ~~pool."~~

17  
18           **Section 8.** Section 50-4-309, MCA, is amended to read:

19           "**50-4-309. Study of prescription drug cost and distribution.** The authority advisory shall conduct  
20 a study of the cost and distribution of prescription drugs in this state. The study must consider the  
21 feasibility of various methods of reducing the cost of purchasing and distributing prescription drugs to  
22 Montana residents. The study must include the feasibility of establishing a prescription drug purchasing pool  
23 for distribution of drugs through pharmacists in this state. The results of the study, including the authority's  
24 advisory's recommendations for any necessary legislation, must be reported to the legislature by December  
25 1, 1996. ~~If the authority determines that feasible methods are available without need for legislation or~~  
26 ~~appropriations, the authority shall implement that part or those parts of its recommendations."~~

27  
28           **Section 9.** Section 50-4-310, MCA, is amended to read:

29           "**50-4-310. Long-term care study and recommendations.** (1) The authority advisory shall conduct  
30 a study of the long-term care needs of state residents and report to the public and the legislature the



1 ~~authority's~~ advisory's recommendations, including any necessary legislation, for meeting those long-term  
 2 care needs. The report must be available to the public on or before September 1, 1996, after which the  
 3 authority advisory shall conduct public hearings on its report ~~in each region established under 50-4-404.~~  
 4 The authority advisory shall present its report to the legislature on or before January 1, 1997.

5 (2) ~~This section does not preclude the authority from recommending cost sharing arrangements~~  
 6 ~~for long term care services or from recommending that the services be phased in over time.~~ The authority's  
 7 advisory's recommendations must support and may not supplant informal care giving by family and friends  
 8 and must include cost containment recommendations for any long-term care service suggested for inclusion.

9 (3) The ~~authority's~~ advisory's report must estimate costs associated with each of the long-term  
 10 care services recommended and may suggest independent financing mechanisms for those services. The  
 11 report must also set forth the projected cost to Montana and its citizens over the next 20 years if there is  
 12 no change in the present accessibility, affordability, or financing of long-term care services in this state.

13 (4) The authority advisory shall consult with the department of social and rehabilitation services  
 14 in developing its recommendations under this section."  
 15

16 **Section 10.** Section 50-4-502, MCA, is amended to read:

17 "**50-4-502. Health care data base -- information submitted** ~~—enforcement.~~ (1) The authority  
 18 advisory shall develop and maintain a unified health care data base that enables the authority advisory, on  
 19 a statewide basis, to:

20 (a) determine the distribution and capacity of health care resources, including health care facilities,  
 21 providers, and health care services;

22 (b) identify health care needs and direct ~~statewide and regional~~ health care policy to ensure  
 23 high-quality and cost-effective health care;

24 (c) conduct evaluations of health care procedures and health care protocols;

25 (d) compare costs of commonly performed health care procedures between providers and health  
 26 care facilities within a region and make the data readily available to the public; and

27 (e) compare costs of various health care procedures in one location of providers and health care  
 28 facilities with the costs of the same procedures in other locations of providers and health care facilities.

29 (2) The authority advisory shall ~~by rule require request~~ health care providers, health insurers, health  
 30 care facilities, private entities, and entities of state and local governments to file with the authority advisory

1 the reports, data, schedules, statistics, and other information determined by the ~~authority~~ advisory to be  
 2 necessary to fulfill the purposes of the data base provided for in subsection (1). Material to be filed with  
 3 the ~~authority~~ advisory may include health insurance claims and enrollment information used by health  
 4 insurers.

5 ~~(3) The authority may issue subpoenas for the production of information required under this section~~  
 6 ~~and may issue subpoenas for and administer oaths to any person. Noncompliance with a subpoena issued~~  
 7 ~~by the authority is, upon application by the authority, punishable by a district court as contempt pursuant~~  
 8 ~~to Title 3, chapter 1, part 5.~~

9 (4) The data base ~~must~~ should:

10 (a) use unique patient and provider identifiers and a uniform coding system identifying health care  
 11 services; and

12 (b) reflect all health care utilization, costs, and resources in the state and the health care utilization  
 13 and costs of services provided to Montana residents in another state.

14 ~~(5)(4)~~ Information in the data base required by law to be kept confidential must be maintained in  
 15 a manner that does not disclose the identity of the person to whom the information applies. Information  
 16 in the data base not required by law to be kept confidential must be made available by the ~~authority~~  
 17 advisory upon request of any person.

18 ~~(6)(5)~~ The ~~authority~~ advisory shall adopt by rule a confidentiality code to ensure that information  
 19 in the data base is maintained and used according to state law governing confidential health care  
 20 information."

21  
 22 **Section 11.** Section 50-4-503, MCA, is amended to read:

23 "50-4-503. **Health insurer cost management plans.** (1) (a) ~~Except as provided in subsection (3),~~  
 24 ~~each~~ Each health insurer ~~shall~~ should:

25 (i) prepare a cost management plan that includes integrated systems for health care delivery; and

26 (ii) file the plan with the ~~authority~~ advisory no later than January 1, 1994.

27 (b) The ~~authority~~ advisory may use plans filed under this section in the development of a suggested  
 28 unified health care budget.

29 (2) The plans ~~required~~ requested by this section ~~must~~ should be developed in accordance with  
 30 standards and procedures established by the ~~authority~~ advisory.

1 (3) The provisions of this section do not apply to dental insurance."  
2

3 **NEW SECTION. Section 12. Objectives of the advisory.** (1) The major objectives of the advisory  
4 are:

5 (a) maximum access for all residents of Montana to quality health care;

6 (b) containment and reduction of quality health care costs through examination of current  
7 administrative procedures, production methods, tort reform, billing and clerical requirements, and other  
8 cost-related factors in health care;

9 (c) study and recommendation of alternative, cost-effective, private health care funding through  
10 medical savings accounts, health maintenance organizations, group purchasing pools, and other innovative  
11 concepts;

12 (d) portability of coverage regardless of employment status;

13 (e) study of incentives that encourage health care providers to contain costs and conserve  
14 resources;

15 (f) encouragement of training, qualification, and implementation of mid-level practitioners, such as  
16 physician's assistants and nurse practitioners;

17 (g) development of mechanisms for reducing the costs of prescription drugs and medical supplies;

18 (h) facilitation of positive integration of benefits provided in the private sector with federal and  
19 state programs, such as the Indian health service programs, programs of the department of veterans affairs,  
20 and the medicare and medicaid programs, without restriction of choice of private health services and plans;

21 (i) positive interactions with the insurance industry to create incentives for more cost-effective  
22 coverage, reduce waste and inefficiency by providers, stimulate cost prudence in care delivery, and  
23 eliminate duplication and other unnecessary and inappropriate services and procedures;

24 (j) encouragement of cost competition among providers and promotion of efficiency without loss  
25 of quality;

26 (k) promotion of public education on the prevention of health care problems through efficient use  
27 of primary care, preventive care, and encouragement of healthy lifestyles;

28 (l) development of incentives to improve health care in underserved areas, such as tax credits and  
29 other financial incentives to attract and retain quality health care professionals;

30 (m) identification and encouragement of potential health care professionals through the provision

1 or assistance of educational programs leading to qualification; and

2 (n) provision for and encouragement of open public meetings that maximize public participation and  
3 create incentives for productive public input.

4 (2) Nothing in this section may be interpreted to prevent Montana residents from seeking health  
5 care services or plans that are available to them.

6  
7 **NEW SECTION. Section 13. Health care billing study.** The advisory shall investigate and prepare  
8 a proposal to reduce the cost and complication of billing procedures by health care providers and insurers  
9 by simplifying the system and encouraging cost prudence.

10  
11 **NEW SECTION. Section 14. Repealer.** Sections 33-22-1801, 33-22-1802, 33-22-1803,  
12 33-22-1804, 33-22-1808, 33-22-1809, 33-22-1810, 33-22-1811, 33-22-1812, 33-22-1813, 33-22-1814,  
13 33-22-1818, 33-22-1819, 33-22-1820, 33-22-1821, 33-22-1822, 50-4-301, 50-4-302, 50-4-303,  
14 50-4-304, 50-4-305, 50-4-307, 50-4-311, 50-4-401, 50-4-402, 50-4-501, 50-4-601, 50-4-602, 50-4-603,  
15 50-4-604, 50-4-609, 50-4-610, 50-4-611, and 50-4-612, MCA, and section 21, Chapter 606, Laws of  
16 1993, are repealed.

17  
18 **NEW SECTION. Section 15. Name change -- directions to code commissioner.** Wherever the name  
19 "Montana health care authority", as established in 50-4-201, or "authority", used in reference to the  
20 Montana health care authority, appears in the Montana Code Annotated or in legislation enacted by the  
21 1995 legislature, the code commissioner is directed to change the name to "Montana health care advisory"  
22 or "advisory".

23  
24 **NEW SECTION. Section 16. Codification instruction.** [Sections 12 and 13] are intended to be  
25 codified as an integral part of Title 50, chapter 4, part 3, and the provisions of Title 50, chapter 4, part 3,  
26 apply to [sections 12 and 13].

27  
28 **NEW SECTION. Section 17. Effective date.** [This act] is effective on passage and approval.

29 -END-

STATE OF MONTANA - FISCAL NOTE

Revised Fiscal Note for SB0194, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the provisions relating to the Montana Health Care Authority Act and repealing the Small Employer Health Insurance Availability Act.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point from which to calculate any fiscal impact due to this proposed legislation.
2. Where sections of Title 50, Chapter 4, MCA, the Montana Health Care Authority Act, are not repealed, the tasks and responsibilities as defined under SB194 will be carried out by the Montana health care advisory. The advisory will replace the current Montana health care authority, and will retain the same staffing and funding to carry out the advisory duties, as currently recommended in the present law budget for the authority. The present law base recommendation contains 3.00 FTE and total funding of \$418,291 in FY96 (where \$168,291 is general fund and \$250,000 is state special revenue authority) and \$344,242 in FY97 (where \$94,242 is general fund and \$250,000 is state special revenue authority) for the authority, not including Certificate of Need (CON) funding. (Please see Technical Notes regarding the state special revenue authority.)
3. Under Section 1, the Department of Health and Environmental Sciences (DHES) is directed to prepare and maintain a comprehensive state health plan. DHES will expand the current Health Planning Program within the department to satisfy the requirements for a comprehensive state health plan. The department estimates this will require 3.00 additional FTE (grade 15), at a cost of \$101,760 for personal services and \$60,873 in operating expenses during FY96 and \$102,117 in personal services and \$60,873 in operating expenses during FY97. Total funding for both years will be general fund.
4. The Health Planning Program will be given the responsibility for the CON program, which is currently contained in the Montana health care authority budget, as recommended in the Executive Budget. The budget recommended is \$182,620 in FY96 and \$364,585 in FY97 (all general fund) for the CON program.
5. The new requirements for a comprehensive state health plan will require DHES to revise existing Administrative Rules of Montana (ARM). The costs to do this task are contained in the \$60,873 requested during FY96 (assumption 3) for operating expenses in the department to implement the statewide comprehensive health plan.
6. SB194 eliminates the requirement to complete statewide universal access plans, the requirement to prepare an annual health care resource management plan, the requirement for health care billing simplification, the CON study, regional planning boards, regional health care resource management plans, the requirement for development and adoption of uniform insurance claims forms, the certificate of public advantage process, and the Small Employer Health Insurance Availability Act. The recommended Executive Budget already reduces funding for some of these tasks, anticipating that the authority would not need to perform them during the 1997 biennium (e.g. statewide universal access plans).
7. Tasks to be performed by the advisory will be accomplished by staff and with contractors under the management and supervision of the advisory.

(continued)

 2-13-95  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2-14-95  
LARRY BAER, PRIMARY SPONSOR      DATE

Revised Fiscal Note for SB0194, as introduced

**SB 194**

(continued)

8. The Executive Budget contains 2.00 FTE in the State Auditor's Office for present law workload under the Small Employer Health Insurance Availability Act. New proposals in the State Auditor's Office eliminate 1.00 of these FTE (a health care actuary position), reduce board member travel, and offset general fund support for staff time involved with the Small Employer Carrier Reinsurance Board.
9. The reinsurance program will need to pay the reinsurance carrier \$34,000 during FY96 for expenses and termination fees, thereby adjusting the FY96 reduction in operating to \$30,600.

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Department of Health and Environmental Sciences</u>		
<u>Expenditures:</u>		
FTE	3.00	3.00
Personal Services	101,760	102,117
Operating	<u>60,873</u>	<u>60,873</u>
Total Increased Expenditures	162,633	162,990
<u>Funding of Expenditures:</u>		
General Fund	162,633	162,990
<u>State Auditor</u>		
<u>Expenditures:</u>		
FTE	(1.00)	(1.00)
Personal Services	(41,615)	(41,728)
Operating	<u>(30,600)</u>	<u>(64,834)</u>
Total Reduced Expenditures	(72,215)	(106,562)
<u>Funding of Expenditures:</u>		
General Fund	(42,215)	(76,562)
State Special	<u>(30,000)</u>	<u>(30,000)</u>
Total Funding	(72,215)	(106,562)
<u>Net Impact on General Fund Balance:</u>		
General Fund (Cost) (01)	(120,418)	(86,428)

Technical Notes:

The Executive Budget contains \$250,000 of state special revenue during each year of the biennium to fund the ongoing activities of the authority. At the time the Executive Budget was prepared, the authority had applied to the Robert Wood Johnson Foundation for a long-term care study grant and an initiatives in state reform grant. Subsequently, both grant requests were denied. The \$250,000 will not be received by the authority, and is currently in the Executive Budget as empty spending authority.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0194, third reading

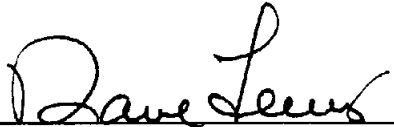
DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the provisions relating to the Montana Health Care Authority Act.

ASSUMPTIONS:

1. The Executive Budget present law base serves as the starting point from which to calculate any fiscal impact due to this proposed legislation.
2. Where sections of Title 50, Chapter 4, MCA, the Montana Health Care Authority Act, are not repealed, the tasks and responsibilities as defined under SB194 will be carried out by the Montana health care advisory. The advisory will replace the current Montana health care authority, and will retain the same staffing and funding to carry out the advisory duties, as currently recommended in the present law budget for the authority. The present law base recommendation contains 3.00 FTE and total funding of \$418,291 in FY96 (where \$168,291 is general fund and \$250,000 is state special revenue authority) and \$344,242 in FY97 (where \$94,242 is general fund and \$250,000 is state special revenue authority) for the authority, not including Certificate of Need (CON) funding. (Please see Technical Notes regarding the state special revenue authority.)
3. The bill as amended strikes Section 1, where the Department of Health and Environmental Sciences (DHES) is directed to prepare and maintain a comprehensive state health plan. DHES will no longer need to expand the current Health Planning Program within the department to satisfy the requirements for a comprehensive state health plan.
4. The Health Planning Program will be given the responsibility for the CON program, which is currently contained in the Montana health care authority budget, as recommended in the Executive Budget. The budget recommended is \$182,620 in FY96 and \$364,585 in FY97 (all general fund) for the CON program.
5. The bill, as amended, eliminates new requirements for a comprehensive state health plan that would have required DHES to revise existing Administrative Rules of Montana (ARM).
6. SB194 eliminates the requirement to complete statewide universal access plans, the requirement to prepare an annual health care resource management plan, the requirement for health care billing simplification, the CON study, regional planning boards, regional health care resource management plans, the requirement for development and adoption of uniform insurance claims forms, the certificate of public advantage process, and the Small Employer Health Insurance Availability Act. The recommended Executive Budget already reduces funding for some of these tasks, anticipating that the authority would not need to perform them during the 1997 biennium (e.g. statewide universal access plans).
7. Tasks to be performed by the advisory will be accomplished by staff and with contractors under the management and supervision of the advisory.

(continued)

 2-22-95  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2-28-95  
LARRY BAER, PRIMARY SPONSOR      DATE

Fiscal Note for SB0194, third reading

SB 194-#2

(continued)

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>State Auditor</u>		
<u>Expenditures:</u>		
FTE	(1.00)	(1.00)
Personal Services	(41,615)	(41,728)
Operating	<u>(30,600)</u>	<u>(64,834)</u>
Total Increased Expenditures	(72,215)	(106,562)
<u>Funding of Expenditures:</u>		
General Fund	(42,615)	(76,562)
State Special	<u>(30,000)</u>	<u>(30,000)</u>
Total Funding	(72,615)	(106,562)
<u>Net Impact on General Fund Balance:</u>		
General Fund Savings (01)	42,615	76,562

Technical Notes:

The Executive Budget contains \$250,000 of state special revenue each year of the 1997 biennium to fund the ongoing activities of the authority. At the time the Executive Budget was prepared, the authority had applied to the Robert Wood Johnson Foundation for a long-term care study grant and an initiatives in state reform grant. Subsequently, both grant requests were denied. The \$250,000 will not be received by the authority, and is currently in the Executive Budget as empty spending authority.



## SENATE BILL NO. 194

INTRODUCED BY BAER, JORE, ESTRADA, DEVLIN, TVEIT, MILLER, HARGROVE, EMERSON,  
BURNETT, HOLDEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS RELATING TO THE MONTANA HEALTH CARE AUTHORITY; ~~MAINTAINING THE RESPONSIBILITY FOR THE STATE HEALTH PLAN WITH THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;~~ REVISING THE STATE HEALTH CARE POLICY; REVISING THE NAME, MEMBERSHIP, ADMINISTRATION, OBJECTIVES, AND REQUIRED STUDIES OF THE AUTHORITY; ELIMINATING THE COMPULSORY STATEWIDE PLANS; ELIMINATING THE REGIONAL BOARDS; REMOVING THE ENFORCEMENT AND REQUIREMENT PROVISIONS OF THE HEALTH CARE DATA BASE; MAKING THE HEALTH INSURER COST MANAGEMENT PLANS DISCRETIONARY; REPEALING THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT; AMENDING SECTIONS ~~50-1-201~~, 50-4-101, 50-4-102, 50-4-201, 50-4-202, 50-4-306, 50-4-308, 50-4-309, 50-4-310, 50-4-502, AND 50-4-503, MCA; REPEALING SECTIONS 33-22-1801, 33-22-1802, 33-22-1803, 33-22-1804, 33-22-1808, 33-22-1809, 33-22-1810, 33-22-1811, 33-22-1812, 33-22-1813, 33-22-1814, 33-22-1818, 33-22-1819, 33-22-1820, 33-22-1821, 33-22-1822, 50-4-301, 50-4-302, 50-4-303, 50-4-304, 50-4-305, 50-4-307, 50-4-311, 50-4-401, 50-4-402, 50-4-501, 50-4-601, 50-4-602, 50-4-603, 50-4-604, 50-4-609, 50-4-610, 50-4-611, AND 50-4-612, MCA, AND SECTION 21, CHAPTER 606, LAWS OF 1993; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~Section 1. Section 50-1-201, MCA, is amended to read:~~

~~"50-1-201. (Temporary) Administration of state health plan definition. (1) The department is hereby established as the sole and official state agency to administer the state program for comprehensive health planning and is hereby authorized to shall prepare a plan for comprehensive state health planning. The department is authorized to may confer and cooperate with any and all other persons, organizations, or governmental agencies that have an interest in public health problems and needs. The department, while acting in this capacity as the sole and official state agency to administer and supervise the administration of the official comprehensive state health plan, is designated and authorized as the sole and official state~~

1 agency to ~~may~~ accept, receive, expend, and administer any and all funds which ~~that~~ are now available or  
 2 which may be donated, granted, bequeathed, or appropriated to it for the preparation and ~~administration,~~  
 3 and the supervision of the preparation and administration of the comprehensive state health plan.

4 ~~(2) As used in this section, "comprehensive state health plan" means the product of a total study~~  
 5 ~~of health care in Montana, with suggestions of corrective measures to enhance the cost effectiveness,~~  
 6 ~~availability, overall quality, and efficiency of health care services.~~

7 ~~50-1-201. (Effective July 1, 1996) Administration of state health plan.~~ The Montana health care  
 8 authority created in 50-4-201 is the state agency to administer the state program for comprehensive health  
 9 planning and shall prepare a plan for comprehensive state health planning. The authority may confer and  
 10 cooperate with other persons, organizations, or governmental agencies that have an interest in public health  
 11 problems and needs. The authority, while acting in this capacity as the state agency to administer and  
 12 supervise the administration of the official comprehensive state health plan, is designated and authorized  
 13 as the state agency to accept, receive, expend, and administer funds donated, granted, bequeathed, or  
 14 appropriated to it for the preparation, administration, and supervision of the preparation and administration  
 15 of the comprehensive state health plan."

16

17 Section 1. Section 50-4-101, MCA, is amended to read:

18 "50-4-101. State health care policy. ~~(1)~~ It is the policy of the state of Montana to ensure endeavor  
 19 that all residents have access to quality health services at costs that are affordable. To achieve this policy,  
 20 it is necessary to develop a health care system that is integrated and subject to the direction and oversight  
 21 of a single state agency. Comprehensive health planning through the application of a statewide health care  
 22 resource management plan that is linked to a unified health care budget for Montana is essential. It is  
 23 recommended that an advisory committee consisting of private sector members be appointed as provided  
 24 in 50-4-201 to study methods of maintaining and improving the quality of health care services while  
 25 containing and reducing the costs of delivering the health care services by independent private health care  
 26 providers.

27 ~~(2) It is further the policy of the state of Montana that the health care system should:~~

28 ~~(a) maintain and improve the quality of health care services offered to Montanans;~~

29 ~~(b) contain or reduce increases in the cost of delivering services so that health care costs do not~~  
 30 ~~consume a disproportionate share of Montanans' income or the money available for other services required~~

1 ~~to ensure the health, safety, and welfare of Montanans;~~

2 ~~(c) avoid unnecessary duplication in the development and offering of health care facilities and~~  
 3 ~~services;~~

4 ~~(d) encourage regional and local participation in decisions about health care delivery, financing, and~~  
 5 ~~provider supply;~~

6 ~~(e) facilitate universal access to health sciences information;~~

7 ~~(f) promote rational allocation of health care resources in the state; and~~

8 ~~(g) facilitate universal access to preventive and medically necessary health care.~~

9 ~~(3) It is further the policy of the state of Montana that regardless of whether or what form of a~~  
 10 ~~health care access plan is adopted by the legislature, the health care authority, health care providers, and~~  
 11 ~~other persons involved in the delivery of health care services need to increase their emphasis on the~~  
 12 ~~education of consumers of health care services. Consumers should be educated concerning the health care~~  
 13 ~~system, payment for services, ultimate costs of health care services, and the benefit to consumers generally~~  
 14 ~~of providing only services to the consumer that are reasonable and necessary."~~

15  
 16 **Section 2.** Section 50-4-102, MCA, is amended to read:

17 **"50-4-102. Definitions.** For the purposes of this chapter, the following definitions apply:

18 (1) ~~"Authority"~~ "Advisory" means the Montana health care ~~authority~~ advisory created by 50-4-201.

19 (2) ~~"Board"~~ means ~~one of the regional health care planning boards created pursuant to 50-4-401.~~

20 (3) ~~"Certificate of public advantage" or "certificate" means a written certificate issued by the~~  
 21 ~~authority as evidence of the authority's intention that the implementation of a cooperative agreement, when~~  
 22 ~~actively supervised by the authority, receive state action immunity from prosecution as a violation of state~~  
 23 ~~or federal antitrust laws.~~

24 (4)(2) "Cooperative agreement" or "agreement" means a written agreement between two or more  
 25 health care facilities for the sharing, allocation, or referral of patients; personnel; instructional programs;  
 26 emergency medical services; support services and facilities; medical, diagnostic, or laboratory facilities or  
 27 procedures; or other services customarily offered by health care facilities.

28 (5)(3) "Data base" means the unified health care data base created pursuant to 50-4-502.

29 (6)(4) "Health care" includes both physical health care and mental health care.

30 (7)(5) "Health care facility" means all facilities and institutions, whether public or private,

1 proprietary or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more  
 2 unrelated persons. The term includes all facilities and institutions included in 50-5-101(19). The term does  
 3 not apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for  
 4 healing.

5 ~~(8)~~(6) "Health insurer" means any health insurance company, health service corporation, health  
 6 maintenance organization, insurer providing disability insurance as described in 33-1-207, and, to the extent  
 7 permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care  
 8 benefit plan offered by public and private entities.

9 ~~(9)~~(7) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise  
 10 authorized by the laws of this state to provide health care in the ordinary course of business or practice of  
 11 a profession.

12 ~~(10) "Management plan" means the health care resource management plan required by 50-4-304.~~

13 ~~(11) "Region" means one of the health care planning regions created pursuant to 50-4-401.~~

14 ~~(12) "Statewide plan" means one of the statewide universal health care access plans for access to  
 15 health care required by 50-4-301."~~

16

17 **Section 3.** Section 50-4-201, MCA, is amended to read:

18 **"50-4-201. Montana health care ~~authority~~ advisory -- allocation -- membership.** (1) There is a  
 19 Montana health care ~~authority~~ advisory.

20 (2) The ~~authority advisory~~ is allocated to the department of health and environmental sciences ~~for~~  
 21 SHALL PROVIDE STAFF SUPPORT TO THE ADVISORY, WHICH SHALL ACT IN AN ADVISORY CAPACITY  
 22 AS DEFINED IN 2-15-102. administrative purposes as provided in 2-15-121.

23 (3) The ~~authority~~ advisory consists of five voting members appointed by the governor. At least one  
 24 member must represent consumer organizations. Members of the ~~authority~~ advisory must be appointed as  
 25 follows:

26 (a) Within 30 days of May 3, ~~1993~~ 1995, the speaker and minority leader of the house of  
 27 representatives shall select an individual with recognized expertise or interest, or both, in health care. The  
 28 speaker and minority leader and the person selected by them shall nominate by majority vote five individuals  
 29 for appointment to the ~~authority~~ advisory.

30 (b) Within 30 days of May 3, ~~1993~~ 1995, the president and minority leader of the senate shall

1 select an individual with recognized expertise or interest, or both, in health care. The president and minority  
 2 leader and the person selected by them shall nominate by majority vote five individuals for appointment to  
 3 the ~~authority~~ advisory.

4 (c) Within 90 days of May 3, ~~1993~~ 1995, the governor shall appoint from those nominated under  
 5 subsections (3)(a) and (3)(b) five individuals to the ~~authority~~ advisory.

6 (4) A vacancy must be filled in the same manner as original appointments under subsection (3),  
 7 except that one individual must be selected under subsection (3)(a) and one under subsection (3)(b). The  
 8 governor shall appoint from those nominated the individual to fill the vacancy.

9 (5) The presiding officer of the ~~authority~~ advisory must be elected by majority vote of the voting  
 10 members. The ~~initial~~ presiding officer appointed in 1995 must serve a 4-year term.

11 (6) Members serve terms of 4 years, except that of the members ~~initially~~ appointed in 1995, two  
 12 members serve 4-year terms, two members serve 3-year terms, and one member serves a 2-year term, to  
 13 be determined by lot.

14 (7) The directors of the department of social and rehabilitation services and the department of  
 15 health and environmental sciences and the commissioner of insurance are nonvoting, ex officio members  
 16 of the ~~authority~~ advisory.

17 ~~The attorney general is an ex officio, nonvoting member of the authority only for the purpose~~  
 18 ~~of the authority's approval or denial of certificates of public advantage, supervision of cooperative~~  
 19 ~~agreements, and revocation of certificates of public advantage pursuant to Title 50, chapter 4, part 6. A~~  
 20 member of the advisory may not be:

21 (a) a public official, except as provided in subsection (7);

22 (b) a public employee, except as provided in subsection (7);

23 (c) a candidate for public office;

24 (d) a lobbyist or lobbyist's principal; or

25 (e) a member of the immediate family of a person described in subsections (8)(a) through (8)(d).

26 (9) A member shall acknowledge a direct conflict of interest in a proceeding in which the member  
 27 has a personal or financial interest.

28 (10) The terms of the members serving prior to May 3, 1995, terminate upon the making of  
 29 appointments as provided in subsection (3)."

1           **Section 4.** Section 50-4-202, MCA, is amended to read:

2           "**50-4-202. Administration of health care authority advisory ~~rule~~ -- reports -- compensation.** ~~(1)~~

3           ~~The authority shall employ a full time executive director who shall conduct or direct the daily operation of~~  
4           ~~the authority. The executive director is exempt from the application of 2-18-204, 2-18-205, 2-18-207, and~~  
5           ~~2-18-1011 through 2-18-1013 and serves at the pleasure of the authority. The executive director is the~~  
6           ~~chief administrative officer of the authority. The executive director has the power of a department head~~  
7           ~~pursuant to 2-15-112, subject to the policies and procedures established by the authority.~~

8           ~~(2) The authority may delegate its powers and assign the duties of the authority to the executive~~  
9           ~~director as it may consider appropriate and necessary for the proper administration of the authority.~~  
10          ~~However, the authority may not delegate its rulemaking powers under Title 50, chapter 4, parts 1 through~~  
11          ~~5.~~

12          ~~(3) The authority may:~~

13          ~~(a) employ professional and support staff necessary to carry out the functions of the authority; and~~

14          ~~(b) employ consultants and contract with individuals and entities for the provision of services.~~

15          ~~(4)(1) The authority advisory may:~~

16          ~~(a) apply for and accept gifts, grants, or contributions from any person for purposes consistent with~~  
17          ~~the provisions of 50-1-201 and Title 50, chapter 4, parts 1 through 5;~~

18          ~~(b) adopt rules necessary to implement the provisions of Title 50, chapter 4, parts 1 through 5;~~

19          ~~and~~

20          ~~(c) enter into contracts necessary to accomplish the purposes of Title 50, chapter 4, parts 1~~  
21          ~~through 5.~~

22          ~~(5)(2) A rule adopted by the advisory is not effective until May 1 following final adjournment of~~  
23          ~~the regular session that begins after the notice proposing the rule was published by the secretary of state~~  
24          ~~in order to allow the legislature to review the adopted rule and have an opportunity to introduce legislation~~  
25          ~~regarding adoption, repeal, or amendment of the rule.~~

26          ~~(3)(2) The authority advisory shall report to the legislature and the governor at least twice a year~~  
27          ~~on its progress since the last report in fulfilling the requirements of Title 50, chapter 4, parts 1 through 5.~~  
28          ~~Reports may be provided in a manner similar to 5-11-210 or in another manner determined by the authority~~  
29          ~~advisory.~~

30          ~~(6)(4)(3) Members of the authority advisory must be ~~paid and~~ reimbursed as provided in 2-15-124~~

1 2-18-501 through 2-18-503.

2 ~~(7) The authority shall make grants to the boards for the operation of the boards. The authority~~  
 3 ~~shall provide for uniform procedures for grant applications and budgets of the boards."~~

4

5 **Section 5.** Section 50-4-306, MCA, is amended to read:

6 **"50-4-306. Other matters to be included in statewide plans studied by the advisory.** (1) The  
 7 ~~statewide plans recommended by the authority must include:~~

8 ~~(a) stable financing methods, including sharing of the costs of health care by health care~~  
 9 ~~consumers on an ability to pay basis through such mechanisms as copayments or payment of premiums;~~

10 ~~(b) a procedure for evaluating the quality of health care services;~~

11 ~~(c) public education concerning the statewide plans recommended by the authority; and~~

12 ~~(d) phase in of the various components of the plans.~~

13 ~~(2)~~ (a) In order to reduce the costs of defensive medicine, the ~~authority~~ advisory shall:

14 (i) conduct a study of a system for reducing the use of defensive medicine by adopting practice  
 15 protocols that would give providers guidelines to follow for specific procedures;

16 (ii) conduct a study of tort reform measures, including limitations on the amount of noneconomic  
 17 damages, mandated periodic payments of future damages, and reverse sliding scale limits on contingency  
 18 fees; and

19 (iii) propose any changes, including legislation, that it considers necessary, including measures for  
 20 compensating victims of tortious injuries.

21 (b) As part of its study under subsection ~~(2)(a)(iii)~~ (1)(a)(ii), the ~~authority~~ advisory may consider  
 22 changes in the Montana Medical Legal Panel Act.

23 ~~(c) The recommendations of the authority must be included in its report containing the statewide~~  
 24 ~~plans.~~

25 ~~(3) The authority shall conduct a study of the impacts of federal and state antitrust laws on health~~  
 26 ~~care services in the state and make recommendations, including legislation, to address these laws and~~  
 27 ~~impacts. The authority may include in its plans legislation in addition to Title 50, chapter 4, part 6, that will~~  
 28 ~~enable health care providers and payors, including health insurers and consumers, to negotiate and enter~~  
 29 ~~into agreements when the agreements are likely to result in lower costs or in greater access or quality than~~  
 30 ~~would otherwise occur in the competitive marketplace. In proposing appropriate legislation concerning~~

1 antitrust laws, the authority shall provide appropriate conditions, supervision, and regulation to protect  
2 against private abuse of economic power.

3 (4) The authority shall apply for waivers from federal laws necessary to implement  
4 recommendations of the authority enacted by the legislature and to implement those recommendations not  
5 requiring legislation.

6 (2) The advisory shall encourage and record all oral comments on the studies and submit the  
7 comments in written form, along with the advisory's recommendations, to the legislature."

8

9 **Section 6.** Section 50-4-308, MCA, is amended to read:

10 **"50-4-308. State purchasing pool -- reports report required.** (1) On or before ~~December 15, 1994,~~  
11 ~~and~~ December 15, 1996, the authority advisory shall report to the legislature on establishment of a proposal  
12 for a state purchasing pool, including the number and types of groups and group members participating in  
13 the pool, the costs of administering the pool, the savings attributable to participating groups from the  
14 operation of the pool, and any changes in legislation considered necessary by the authority.

15 (2) ~~On or before December 15, 1996, the authority shall report to the legislature its~~  
16 ~~recommendations concerning the feasibility and merits of authorizing the authority to act as an insurer in~~  
17 ~~pooling risks and providing benefits, including a common benefits plan, to participants of the purchasing~~  
18 ~~pool."~~

19

20 **Section 7.** Section 50-4-309, MCA, is amended to read:

21 **"50-4-309. Study of prescription drug cost and distribution.** The authority advisory shall conduct  
22 a study of the cost and distribution of prescription drugs in this state. The study must consider the  
23 feasibility of various methods of reducing the cost of purchasing and distributing prescription drugs to  
24 Montana residents. The study must include the feasibility of establishing a prescription drug purchasing pool  
25 for distribution of drugs through pharmacists in this state. The results of the study, including the authority's  
26 advisory's recommendations for any necessary legislation, must be reported to the legislature by December  
27 1, 1996. ~~If the authority determines that feasible methods are available without need for legislation or~~  
28 ~~appropriations, the authority shall implement that part or those parts of its recommendations."~~

29

30 **Section 8.** Section 50-4-310, MCA, is amended to read:



1           **"50-4-310. Long-term care study and recommendations.** (1) The authority advisory shall conduct  
 2 a study of the long-term care needs of state residents and report to the public and the legislature the  
 3 authority's advisory's recommendations, including any necessary legislation, for meeting those long-term  
 4 care needs. The report must be available to the public on or before September 1, 1996, after which the  
 5 authority advisory shall conduct public hearings on its report ~~in each region established under 50-4-401.~~  
 6 The authority advisory shall present its report to the legislature on or before January 1, 1997.

7           (2) ~~This section does not preclude the authority from recommending cost sharing arrangements~~  
 8 ~~for long-term care services or from recommending that the services be phased in over time.~~ The authority's  
 9 advisory's recommendations must support and may not supplant informal care giving by family and friends  
 10 and must include cost containment recommendations for any long-term care service suggested for inclusion.

11           (3) The authority's advisory's report must estimate costs associated with each of the long-term  
 12 care services recommended and may suggest independent financing mechanisms for those services. The  
 13 report must also set forth the projected cost to Montana and its citizens over the next 20 years if there is  
 14 no change in the present accessibility, affordability, or financing of long-term care services in this state.

15           (4) The authority advisory shall consult with the department of social and rehabilitation services  
 16 in developing its recommendations under this section."  
 17

18           **Section 9.** Section 50-4-502, MCA, is amended to read:

19           **"50-4-502. Health care data base -- information submitted --enforcement.** (1) The authority  
 20 advisory shall develop and maintain a unified health care data base that enables the authority advisory, on  
 21 a statewide basis, to:

22           (a) determine the distribution and capacity of health care resources, including health care facilities,  
 23 providers, and health care services;

24           (b) identify health care needs and direct statewide ~~and regional~~ health care policy to ensure  
 25 high-quality and cost-effective health care;

26           (c) conduct evaluations of health care procedures and health care protocols;

27           (d) compare costs of commonly performed health care procedures between providers and health  
 28 care facilities within a region and make the data readily available to the public; and

29           (e) compare costs of various health care procedures in one location of providers and health care  
 30 facilities with the costs of the same procedures in other locations of providers and health care facilities.

1           (2) The ~~authority advisory~~ shall ~~by rule require~~ request health care providers, health insurers, health  
2 care facilities, private entities, and entities of state and local governments to file with the ~~authority advisory~~  
3 the reports, data, schedules, statistics, and other information determined by the ~~authority advisory~~ to be  
4 necessary to fulfill the purposes of the data base provided for in subsection (1). Material to be filed with  
5 the ~~authority advisory~~ may include health insurance claims and enrollment information used by health  
6 insurers.

7           (3) ~~The authority may issue subpoenas for the production of information required under this section~~  
8 ~~and may issue subpoenas for and administer oaths to any person. Noncompliance with a subpoena issued~~  
9 ~~by the authority is, upon application by the authority, punishable by a district court as contempt pursuant~~  
10 ~~to Title 3, chapter 1, part 5.~~

11           (4) The data base ~~must~~ should:

12           (a) use unique patient and provider identifiers and a uniform coding system identifying health care  
13 services; and

14           (b) reflect all health care utilization, costs, and resources in the state and the health care utilization  
15 and costs of services provided to Montana residents in another state.

16           ~~(5)(4)~~ Information in the data base required by law to be kept confidential must be maintained in  
17 a manner that does not disclose the identity of the person to whom the information applies. Information  
18 in the data base not required by law to be kept confidential must be made available by the ~~authority~~  
19 ~~advisory~~ upon request of any person.

20           ~~(6)(5) The authority advisory shall adopt by rule a confidentiality code to ensure that information~~  
21 ~~in the data base is maintained and used according to state law governing confidential health care~~  
22 ~~information."~~

23  
24           **Section 10.** Section 50-4-503, MCA, is amended to read:

25           "**50-4-503. Health insurer cost management plans.** ~~(1) (a) Except as provided in subsection (3),~~  
26 ~~each~~ Each health insurer shall should:

27           ~~(i) prepare a cost management plan that includes integrated systems for health care delivery; and~~  
28           ~~(ii) file the plan with the authority advisory no later than January 1, 1994.~~

29           ~~(b) The authority advisory may use HEALTH INSURER COST MANAGEMENT plans filed under this~~  
30 ~~section~~ in the development of a suggested unified health care budget.

1           ~~(2) The plans required requested by this section must should be developed in accordance with~~  
2 ~~standards and procedures established by the authority advisory.~~

3           ~~(3) The provisions of this section do not apply to dental insurance."~~

4  
5           **NEW SECTION. Section 11. Objectives of the advisory.** (1) The major objectives of the advisory  
6 are:

7           (a) maximum access for all residents of Montana to quality health care;

8           (b) containment and reduction of quality health care costs through examination of current  
9 administrative procedures, production methods, tort reform, billing and clerical requirements, and other  
10 cost-related factors in health care;

11           (c) study and recommendation of alternative, cost-effective, private health care funding through  
12 medical savings accounts, health maintenance organizations, group purchasing pools, and other innovative  
13 concepts;

14           (d) portability of coverage regardless of employment status;

15           (e) study of incentives that encourage health care providers to contain costs and conserve  
16 resources;

17           (f) encouragement of training, qualification, and implementation of mid-level practitioners, such as  
18 physician's assistants and nurse practitioners;

19           (g) development of mechanisms for reducing the costs of prescription drugs and medical supplies;

20           (h) facilitation of positive integration of benefits provided in the private sector with federal and  
21 state programs, such as the Indian health service programs, programs of the department of veterans affairs,  
22 and the medicare and medicaid programs, without restriction of choice of private health services and plans;

23           (i) positive interactions with the insurance industry to create incentives for more cost-effective  
24 coverage, reduce waste and inefficiency by providers, stimulate cost prudence in care delivery, and  
25 eliminate duplication and other unnecessary and inappropriate services and procedures;

26           (j) encouragement of cost competition among providers and promotion of efficiency without loss  
27 of quality;

28           (k) promotion of public education on the prevention of health care problems through efficient use  
29 of primary care, preventive care, and encouragement of healthy lifestyles;

30           (l) development of incentives to improve health care in underserved areas, such as tax credits and

1 other financial incentives to attract and retain quality health care professionals;

2 (m) identification and encouragement of potential health care professionals through the provision  
3 or assistance of educational programs leading to qualification; and

4 (n) provision for and encouragement of open public meetings that maximize public participation and  
5 create incentives for productive public input.

6 (2) Nothing in this section may be interpreted to prevent Montana residents from seeking health  
7 care services or plans that are available to them.

8

9 **NEW SECTION. Section 12. Health care billing study.** The advisory shall investigate and prepare  
10 a proposal to reduce the cost and complication of billing procedures by health care providers and insurers  
11 by simplifying the system and encouraging cost prudence.

12

13 **NEW SECTION. Section 13. Repealer.** Sections 33-22-1801, 33-22-1802, 33-22-1803,  
14 33-22-1804, 33-22-1808, 33-22-1809, 33-22-1810, 33-22-1811, 33-22-1812, 33-22-1813, 33-22-1814,  
15 33-22-1818, 33-22-1819, 33-22-1820, 33-22-1821, 33-22-1822, 50-4-301, 50-4-302, 50-4-303,  
16 50-4-304, 50-4-305, 50-4-307, 50-4-311, 50-4-401, 50-4-402, 50-4-501, 50-4-601, 50-4-602, 50-4-603,  
17 50-4-604, 50-4-609, 50-4-610, 50-4-611, and 50-4-612, MCA, and section 21, Chapter 606, Laws of  
18 1993, are repealed.

19

20 **NEW SECTION. Section 14. Name change -- directions to code commissioner.** Wherever the name  
21 "Montana health care authority", as established in 50-4-201, or "authority", used in reference to the  
22 Montana health care authority, appears in the Montana Code Annotated or in legislation enacted by the  
23 1995 legislature, the code commissioner is directed to change the name to "Montana health care advisory"  
24 or "advisory".

25

26 **NEW SECTION. Section 15. Codification instruction.** [Sections ~~12 and 13~~ 11 AND 12] are  
27 intended to be codified as an integral part of Title 50, chapter 4, part 3, and the provisions of Title 50,  
28 chapter 4, part 3, apply to [sections ~~12 and 13~~ 11 AND 12].

29

30 **NEW SECTION. Section 16. Effective date.** [This act] is effective on passage and approval.

-END-

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

## SENATE BILL NO. 194

INTRODUCED BY BAER, JORE, ESTRADA, DEVLIN, TVEIT, MILLER, HARGROVE, EMERSON,  
BURNETT, HOLDEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROVISIONS RELATING TO THE MONTANA  
HEALTH CARE AUTHORITY; ~~MAINTAINING THE RESPONSIBILITY FOR THE STATE HEALTH PLAN WITH~~  
~~THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;~~ REVISING THE STATE HEALTH CARE  
POLICY; REVISING THE NAME, MEMBERSHIP, ADMINISTRATION, OBJECTIVES, AND REQUIRED STUDIES  
OF THE AUTHORITY; ELIMINATING THE COMPULSORY STATEWIDE PLANS; ELIMINATING THE  
REGIONAL BOARDS; REMOVING THE ENFORCEMENT AND REQUIREMENT PROVISIONS OF THE HEALTH  
CARE DATA BASE; MAKING THE HEALTH INSURER COST MANAGEMENT PLANS DISCRETIONARY;  
REPEALING THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT; AMENDING SECTIONS  
~~50-1-201, 50-4-101, 50-4-102, 50-4-201, 50-4-202, 50-4-306, 50-4-308, 50-4-309, 50-4-310, 50-4-502,~~  
AND 50-4-503, MCA; REPEALING SECTIONS 33-22-1801, 33-22-1802, 33-22-1803, 33-22-1804,  
33-22-1808, 33-22-1809, 33-22-1810, 33-22-1811, 33-22-1812, 33-22-1813, 33-22-1814, 33-22-1818,  
33-22-1819, 33-22-1820, 33-22-1821, 33-22-1822, 50-4-301, 50-4-302, 50-4-303, 50-4-304, 50-4-305,  
50-4-307, 50-4-311, 50-4-401, 50-4-402, 50-4-501, 50-4-601, 50-4-602, 50-4-603, 50-4-604, 50-4-609,  
50-4-610, 50-4-611, AND 50-4-612, MCA, AND SECTION 21, CHAPTER 606, LAWS OF 1993; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.