

MONTANA STATE AUDITOR

JOHN MORRISON
STATE AUDITOR



COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

April 26, 2006

The Honorable Michael Enzi
United States Senator
Committee on Health, Education, Labor and Pensions
428 Dirksen Office Building
Washington, D.C. 20510

Dear Chairman Enzi:

Today, I join the growing number of state insurance commissioners who have expressed serious concerns regarding S. 1955, The Health Insurance Modernization and Affordability Act of 2006. I believe that my goals and yours are similar: to make the purchase of health insurance possible for small business owners and their employees. S. 1955, in its current form, will not provide affordable health insurance; instead it will actually drive up rates for many small businesses across the country. In addition, other unintended consequences are likely to result from the measures in this bill.

Delivering affordable health insurance to small businesses in Montana has been a top priority of my office. I am pleased to report that **Insure Montana**, an initiative that Governor Schweitzer and I proposed and that garnered bipartisan and industry support, is doing just that. In its first four months of operation, **Insure Montana** has proven to be a successful vehicle to make the purchase of insurance a reality for hundreds of previously uninsured citizens. Montana's model is one that I believe should be duplicated across the nation, and is the kind of real solution that Congress should consider.

State insurance regulators impact public health and the stability of the health insurance market, which thereby impacts the vitality of the small business community. States have acted aggressively over the past fifteen years to stabilize and improve the small group market. Many states have created purchasing pools like **Insure Montana** that show tremendous promise.

S. 1955, if passed, will undermine the success of the states' innovative efforts with regard to small business pooling and other programs. Voluntary purchasing pools can help a broad spectrum of small businesses achieve economies of scale, but such pools do not fit into the small business health plan model proposed in S.1955. **Insure Montana's** current mission requires it to offer comprehensive coverage to businesses; competition from "bare bones" plans may result in adverse risk selection for the pool.

S. 1955 allows insurers to offer "mandate free" plans, creating additional difficulties for high-risk patients and their employers in the purchase of health insurance. For example, if diabetes coverage is excluded, employees whose employers choose the "mandate free" plan will be left without necessary coverage for their condition. These are the consumers who are in the most desperate need of access to health care and are also the consumers who will cause the highest levels of cost-shifting if they are priced out of the small group market. They will become uninsured and will be forced to go without preventative healthcare.

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Some studies show that eliminating mandates from a health plan reduces the premium by only 5%. Other studies show even less savings. Taking mandates out of the plans does not make insurance affordable enough to attract previously uninsured businesses into the market. However, the lack of these protections has a very significant impact on the individuals who have specific healthcare needs provided by mandated benefits.

Currently, Montana has a small group rating law that is similar to the 1993 NAIC model rating law proposed in S. 1955. Montana also has many fully insured small employer associations, which are like the "small business health plans" proposed in S. 1955, marketing group health insurance to small employers across the state. Even so, a large percentage of small employers in Montana cannot afford health insurance for their employees. This fact leads me to believe that S. 1955 does not provide solutions that will help Montanans afford health insurance.

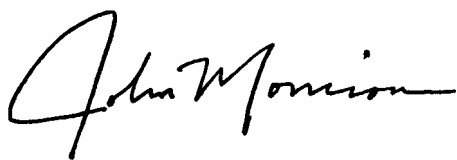
Another unintended consequence is the opportunity for additional fraudulent activities. S. 1955 allows small business health plan applications to be "deemed certified" if the Secretary does not approve an application within 90 days, and therefore this bill may inadvertently create some of the same opportunities for fraud that currently exist within S. 406, the Association Health Plan bill. If the Secretary is not able to act within 90 days on all applications, an unscrupulous small business health plan could be "deemed certified" and considerable damage may occur before the Secretary could "deny for cause" a certification application.

In addition, I am concerned about the "regulatory void" that this bill creates. If a state legislature does not adopt the federal body of law engendered by S. 1955, that state will be deprived of the authority to regulate most of the health insurance activities in their state. A state insurance department cannot enforce a federal law. Consumers will be left without an advocate, and their only resource may be to seek help from a private attorney. In 2005, the Montana insurance department closed 1,733 requests for assistance and recovered \$4,038,632 for consumers. [These numbers include all types of insurance.]

It is critical that the federal government and the states work closely with healthcare providers, insurers and consumers to implement true reforms that will curb spending and make insurance more affordable for small businesses. To do this, the underlying problems in our healthcare system must be addressed. These include runaway inflation in healthcare costs. S. 1955, in its current form, does not address this critical issue, as well as many other significant issues, such as affordability, health care cost shifting and the needs of the self-employed. It is time to move on to find effective solutions that will address the core of the healthcare crisis.

Thank you for considering these thoughts as you move forward in finding effective solutions to address the crisis of the uninsured.

Sincerely,

A handwritten signature in black ink that reads "John Morrison". The signature is written in a cursive, flowing style.

JOHN MORRISON
Montana State Auditor
Commissioner of Insurance and Securities