

HOUSE BILL NO. 609

INTRODUCED BY G. MACLAREN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE STATE FROM REQUIRING INDIVIDUALS TO PURCHASE HEALTH INSURANCE COVERAGE; PROHIBITING PENALTIES RELATED TO THE DECISION TO PURCHASE HEALTH INSURANCE COVERAGE; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 and 2], the following definitions apply:

(1) "Direct payment" means payment for a lawful health care service without a public or private third party, other than an employer, paying for any portion of the service.

(2) "Health care facility" has the meaning provided in 50-5-101.

(3) "Health care system" means a public or private entity whose function is:

(a) the enrollment of participants for payment, in full or in part, of health care services; or

(b) the management of, processing of, or payment for, in full or in part, health care services, health care data, and health care information for its participants.

(4) "Lawful health care service" means a health-related service or treatment to the extent that the service or treatment is not prohibited by law or regulation and is provided by persons or businesses licensed to provide or otherwise allowed to offer the service.

(5) "Penalty" or "fine" means:

(a) a civil or criminal sanction;

(b) a tax;

(c) a salary or wage withholding;

(d) a surcharge; or

(e) any fee with a similar effect that is established by statute or rule by a state or federal agency or an entity created or controlled by a state or federal agency if the fee is used to encourage or require an individual or employer to purchase health insurance coverage.

1 NEW SECTION. **Section 2. Requiring purchase of health insurance coverage prohibited --**
2 **exceptions.** (1) The state may not by statute or rule directly or indirectly impose a penalty or fine to require an
3 individual, employer, or health care provider to participate in a health care system.

4 (2) An individual or employer may pay directly for lawful health care services and may not be required
5 to pay a penalty or fine for making a direct payment for a lawful health care service.

6 (3) A health care provider may accept direct payment for a lawful health care service. The provider may
7 not be required to pay a penalty or fine for accepting direct payment from an individual or employer for a lawful
8 health care service.

9 (4) The purchase or sale of health insurance in a private health care system is not prohibited by law or
10 rule if the purchase or sale is subject to reasonable and necessary rules that do not substantially limit the options
11 available to an individual or employer.

12 (5) This section does not:

13 (a) affect a health care service that a health care provider or a health care facility is required to perform
14 or provide;

15 (b) determine the health care services that are permitted by law;

16 (c) prohibit workers' compensation coverage as provided for in Title 39, chapter 71;

17 (d) affect laws or rules in effect as of January 1, 2010; or

18 (e) affect the terms or conditions of a health care system to the extent that those terms and conditions
19 do not have the effect of establishing a penalty or fine for:

20 (i) an individual or employer who makes a direct payment for a lawful health care service; or

21 (ii) a health care provider or health care facility that accepts direct payment from a person or employer
22 for a lawful health care service.

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24 NEW SECTION. **Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
25 as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 and 2].

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27 NEW SECTION. **Section 4. Effective date.** If approved by the electorate, [this act] is effective January
28 1, 2013.

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30 NEW SECTION. **Section 5. Submission to the electorate.** [This act] shall be submitted to the qualified

