

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE SMALL  
5 BUSINESS HEALTH INSURANCE POOL TO RETAIN A SMALL BUSINESS PREMIUM INCENTIVE;  
6 REMOVING PRIOR TO 2016 THE PREMIUM ASSISTANCE AND TAX CREDIT PROGRAMS WITHIN THE  
7 SMALL BUSINESS HEALTH INSURANCE POOL; ELIMINATING THE BOARD OF DIRECTORS OF THE  
8 SMALL BUSINESS HEALTH INSURANCE POOL; PROVIDING FOR A TRANSITION TO THE REVISED  
9 PREMIUM INCENTIVE PAYMENT; EXTENDING RULEMAKING AUTHORITY; AUTHORIZING THE  
10 INSURANCE COMMISSIONER TO SEEK A WAIVER IN RELATION TO THE SMALL BUSINESS PREMIUM  
11 INCENTIVE PROGRAM; AMENDING SECTIONS 15-30-2110, 15-30-2618, 15-31-130, 15-31-511, 33-22-1815,  
12 33-22-1816, 33-22-2001, 33-22-2002, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, 33-22-2009, 45-6-301,  
13 53-2-217, AND 53-6-1201, MCA; REPEALING SECTIONS 33-22-2003, 33-22-2004, AND 53-2-216, MCA; AND  
14 PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17  
18 **Section 1.** Section 15-30-2110, MCA, is amended to read:

19 **"15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the  
20 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,  
21 and in addition includes the following:

22 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other  
23 political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana  
24 under federal law;

25 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.  
26 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

27 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a  
28 reduction of Montana income tax liability;

29 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue  
30 Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

- 1 (d) depreciation or amortization taken on a title plant as defined in 33-25-105;
- 2 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the  
3 amount recovered reduced the taxpayer's Montana income tax in the year deducted;
- 4 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of  
5 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution  
6 of the same estate or trust for the same tax period; and
- 7 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after  
8 December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted  
9 gross income.
- 10 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not  
11 include the following, which are exempt from taxation under this chapter:
- 12 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a  
13 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt  
14 from taxation by Montana under federal law;
- 15 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.  
16 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);
- 17 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including  
18 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;
- 19 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
20 received as defined in 15-30-2101;
- 21 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:
- 22 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total  
23 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in  
24 excess of \$30,000 as shown on the taxpayer's return;
- 25 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
26 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in  
27 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000  
28 as shown on their joint return;
- 29 (d) all Montana income tax refunds or tax refund credits;
- 30 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

- 1 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section  
2 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January  
3 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,  
4 or lodging;
- 5 (g) all benefits received under the workers' compensation laws;
- 6 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the  
7 employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;
- 8 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a  
9 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 10 (j) principal and income in a medical care savings account established in accordance with 15-61-201  
11 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a  
12 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 13 (k) principal and income in a first-time home buyer savings account established in accordance with  
14 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase  
15 of a single-family residence;
- 16 (l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition  
17 program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal  
18 Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of  
19 a designated beneficiary;
- 20 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the  
21 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 22 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of  
23 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution  
24 of the same estate or trust for the same tax period;
- 25 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch  
26 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction  
27 is not provided for federal income tax purposes;
- 28 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant  
29 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and  
30 taxpayer meet the filing requirements in 15-30-2602.

1 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or  
2 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303; and  
3 ~~(r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and~~  
4 ~~(s)(r)~~ the amount of the gain recognized from the sale or exchange of a mobile home park as provided  
5 in 15-31-163.

6 (3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall  
7 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as  
8 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election  
9 is effective.

10 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business  
11 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and  
12 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and  
13 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries  
14 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must  
15 be made to determine the amount of income or loss of the partnership or small business corporation.

16 (5) Married taxpayers filing a joint federal return who are required to include part of their social security  
17 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal  
18 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement  
19 benefits when they file separate Montana income tax returns. The federal base must be split equally on the  
20 Montana return.

21 (6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section  
22 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may  
23 claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital  
24 loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss  
25 must be split equally on each return.

26 (7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and  
27 who file separate Montana income tax returns are not required to recompute allowable passive losses according  
28 to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal  
29 Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must  
30 be shown on that spouse's return; otherwise, the loss must be split equally on each return.

1 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a  
2 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.  
3 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is  
4 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

5 (9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a  
6 qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate  
7 Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return.  
8 The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted  
9 gross income.

10 (b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and  
11 related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana  
12 income tax returns may claim the same amount of the deduction that is allowed on the federal return. The  
13 deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross  
14 income.

15 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end  
16 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income  
17 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is  
18 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the  
19 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the  
20 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the  
21 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted  
22 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage  
23 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting  
24 or expected to last at least 12 months.

25 (11) (a) An individual who contributes to one or more accounts established under the Montana family  
26 education savings program or to a qualified tuition program established and maintained by another state as  
27 provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted  
28 gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each  
29 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses  
30 may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The

1 reduction in adjusted gross income under this subsection applies only with respect to contributions to an account  
2 of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the  
3 taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect  
4 to withdrawals of contributions that reduced adjusted gross income.

5 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in  
6 15-62-208.

7 (12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection  
8 (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

9 (i) is a health care professional licensed in Montana as provided in Title 37;

10 (ii) is serving a significant portion of a designated geographic area, special population, or facility  
11 population in a federally designated health professional shortage area, a medically underserved area or  
12 population, or a federal nursing shortage county as determined by the secretary of health and human services  
13 or by the governor;

14 (iii) has had a student loan incurred as a result of health-related education; and

15 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment  
16 program described in subsection (12)(b) as an incentive to practice in Montana.

17 (b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or  
18 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as  
19 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility  
20 as a licensed health care professional.

21 (13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of  
22 capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are  
23 determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

24 (14) By November 1 of each year, the department shall multiply the amount of pension and annuity  
25 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)  
26 by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results  
27 to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the  
28 exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec.  
29 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

30

1           **Section 2.** Section 15-30-2618, MCA, is amended to read:

2           **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,  
3 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided  
4 by law, it is unlawful to divulge or make known in any manner:

5           (a) the amount of income or any particulars set forth or disclosed in any individual report or individual  
6 return required under this chapter or any other information secured in the administration of this chapter; or

7           (b) any federal return or federal return information disclosed on any return or report required by rule of  
8 the department or under this chapter.

9           (2) (a) The officers charged with the custody of the reports and returns may not be required to produce  
10 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or  
11 proceeding:

12           (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

13           (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes  
14 when the reports or facts shown by the reports are directly involved in the action or proceedings.

15           (b) The court may require the production of and may admit in evidence only as much of the reports or  
16 of the facts shown by the reports as are pertinent to the action or proceedings.

17           (3) This section does not prohibit:

18           (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return  
19 or report filed in connection with the taxpayer's tax;

20           (b) the publication of statistics classified to prevent the identification of particular reports or returns and  
21 the items of particular reports or returns; or

22           (c) the inspection by the attorney general or other legal representative of the state of the report or return  
23 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom  
24 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

25           (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to  
26 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing  
27 separately on the same return. The information being provided to the spouse or reported on the return, including  
28 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and  
29 the taxpayer filed the return using a joint filing status for that tax year.

30           (5) Reports and returns must be preserved for at least 3 years and may be preserved until the

1 department orders them to be destroyed.

2 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the  
3 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
4 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
5 case of a former officer or employee, for 1 year after conviction.

6 (7) This section may not be construed to prohibit the department from providing taxpayer return  
7 information and information from employers' payroll withholding reports to:

8 (a) the department of labor and industry to be used for the purpose of investigation and prevention of  
9 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

10 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,  
11 and abuse under the workers' compensation program.

12 (8) The department may permit the commissioner of internal revenue of the United States or the proper  
13 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer  
14 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an  
15 abstract of the return of income of any individual or supply the officer with information concerning an item of  
16 income contained in a return or disclosed by the report of an investigation of the income or return of income of  
17 an individual, but the permission may be granted or information furnished only if the statutes of the United States  
18 or of the other state grant substantially similar privileges to the proper officer of this state charged with the  
19 administration of this chapter.

20 (9) On written request to the director or a designee of the director, the department shall furnish:

21 (a) to the department of justice all information necessary to identify those persons qualifying for the  
22 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of  
23 justice to administer the provisions of 61-5-105;

24 (b) to the department of public health and human services information acquired under 15-30-2616,  
25 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public  
26 assistance fraud and abuse, provided notice to the applicant has been given;

27 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and  
28 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs  
29 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and  
30 industry is an employee, an independent contractor, or self-employed;



1 (d) to the department of fish, wildlife, and parks specific information that is available from income tax  
 2 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and  
 3 fishing licenses;

4 (e) to the board of regents information required under 20-26-1111;

5 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax  
 6 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget  
 7 and program planning must be the same as the information provided to the legislative fiscal analyst.

8 (g) to the department of transportation farm income information based on the most recent income tax  
 9 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the  
 10 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department  
 11 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

12 (h) to the commissioner of insurance's office all information necessary for the administration of the ~~small~~  
 13 ~~business health insurance tax credit~~ insure Montana small business premium incentive program provided for in  
 14 Title 33, chapter 22, part 20."

15

16 **Section 3.** Section 15-31-130, MCA, is amended to read:

17 "**15-31-130. Tax ~~credit~~ deduction for health insurance premiums paid -- eligible small employers**  
 18 **-- corporations.** There is a tax ~~credit~~ deduction for the amount of premium paid for a group health plan that is  
 19 not covered by the premium incentive payment paid under the insure Montana program and that is not otherwise  
 20 covered by a tax credit, as determined under Title 33, chapter 22, part 20, for eligible small employers against  
 21 the taxes imposed in 15-31-101 and 15-31-502 ~~for qualifying premiums paid by the eligible small employer for~~  
 22 ~~coverage of eligible employees and eligible employees' spouses and dependents under a group health plan~~  
 23 ~~subject to Title 33, chapter 22, part 20."~~

24

25 **Section 4.** Section 15-31-511, MCA, is amended to read:

26 "**15-31-511. Confidentiality of tax records.** (1) Except as provided in this section, in accordance with  
 27 a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

28 (a) the amount of income or any particulars set forth or disclosed in any return or report required under  
 29 this chapter or any other information relating to taxation secured in the administration of this chapter; or

30 (b) any federal return or information in or disclosed on a federal return or report required by law or rule

1 of the department under this chapter.

2 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may  
3 not be ordered to produce any of them or evidence of anything contained in them in any administrative  
4 proceeding or action or proceeding in any court, except:

5 (i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

6 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of  
7 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

8 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit  
9 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the  
10 action or proceeding.

11 (3) This section does not prohibit:

12 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer  
13 who filed the return or report or to the taxpayer's authorized representative;

14 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,  
15 reports, or items from returns or reports;

16 (c) the inspection of returns and reports by the attorney general or other legal representative of the state  
17 in the course of an administrative proceeding or litigation under this chapter;

18 (d) access to information under subsection (4);

19 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of  
20 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer  
21 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of  
22 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an  
23 investigation of the income or return of a corporation. The director of revenue may not furnish that information  
24 to a person representing the United States or another state unless the United States or the other state grants  
25 substantially similar privileges to an officer of this state charged with the administration of this chapter.

26 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the  
27 administration of the insure Montana small business ~~health insurance tax credit~~ premium incentive program  
28 provided for in Title 33, chapter 22, part 20.

29 (4) On written request to the director or a designee of the director, the department shall:

30 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to

1 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection  
2 (1); and

3 (b) provide corporate income tax and alternative corporate income tax information, including any  
4 information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided  
5 in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111.  
6 The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject  
7 to the same restrictions on disclosure outside those offices as provided in subsection (1).

8 (5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or  
9 public employee is convicted of violating this section, the person is dismissed from office or employment and may  
10 not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case  
11 of a former officer or employee, for 1 year after conviction."  
12

13 **Section 5.** Section 33-22-1815, MCA, is amended to read:

14 **"33-22-1815. Qualifications for voluntary purchasing pool.** A voluntary purchasing pool of disability  
15 insurance purchasers may be formed solely for the purpose of obtaining disability insurance upon compliance  
16 with the following provisions:

17 (1) It contains at least 51 eligible employees.

18 (2) It establishes requirements for membership. The voluntary purchasing pool shall accept for  
19 membership any small employers and may accept for membership any employers with at least 51 eligible  
20 employees that otherwise meet the requirements for membership. However, the voluntary purchasing pool may  
21 not exclude any small employers that otherwise meet the requirements for membership on the basis of claim  
22 experience, occupation, or health status.

23 (3) It holds an open enrollment period at least once a year during which new members can join the  
24 voluntary purchasing pool.

25 (4) It offers coverage to eligible employees of member employers and to the employees' dependents.  
26 Coverage may not be limited to certain employees of member small employers except as provided in  
27 33-22-1811(3)(c).

28 (5) It does not assume any risk or form self-insurance plans among its members.

29 (6) (a) Disability insurance policies, certificates, or contracts offered through the voluntary purchasing  
30 pool must rate the entire purchasing pool group as a whole and charge each insured person based on a

1 community rate within the common group, adjusted for case characteristics as permitted by the laws governing  
2 group disability insurance.

3 (b) ~~Except for the rates for the small business health insurance pool established in 33-22-2001, rates~~  
4 Rates for voluntary purchasing pool groups must be set pursuant to the provisions of 33-22-1809.

5 (c) At its discretion, premiums may be paid to the disability insurance policies, certificates, or contracts  
6 by the voluntary purchasing pool or by member employers.

7 (7) A person marketing disability insurance policies, certificates, or contracts for a voluntary purchasing  
8 pool must be licensed as an insurance producer."  
9

10 **Section 6.** Section 33-22-1816, MCA, is amended to read:

11 **"33-22-1816. Commissioner powers and duties -- application for registration -- reporting**  
12 **insolvency.** (1) The commissioner shall develop forms for registration of an organization as a voluntary  
13 purchasing pool.

14 (2) An organization seeking to be registered as a voluntary purchasing pool shall make application to  
15 the commissioner. The commissioner shall register an organization as a voluntary purchasing pool upon proof  
16 of fulfillment of the qualifications provided in 33-22-1815.

17 (3) Except as provided in subsection (5), on March 1 of each year, the voluntary purchasing pool shall  
18 provide a report and financial statement for the previous calendar year to the commissioner so that the  
19 commissioner may determine:

20 (a) whether the operation of the voluntary purchasing pool is fiscally sound;

21 (b) whether the voluntary purchasing pool is bearing any risk; and

22 (c) the number of individuals covered.

23 (4) The annual report of the voluntary purchasing pool must disclose its total administrative cost.

24 (5) A voluntary purchasing pool may choose to operate on a fiscal year other than on the calendar year.  
25 A voluntary purchasing pool that establishes a fiscal year that is other than the calendar year shall provide the  
26 report required in subsection (3) to the commissioner within 60 days of the voluntary purchasing pool's fiscal  
27 yearend.

28 ~~(6) The commissioner may exempt the small business health insurance purchasing pool established in~~  
29 ~~33-22-2001 from the reporting requirements under subsection (3)."~~  
30

1           **Section 7.** Section 33-22-2001, MCA, is amended to read:

2           **"33-22-2001. Establishment of small business health insurance pool -- intent.** (1) There is  
3 established an entity known as the small business health insurance pool, with participating membership  
4 consisting of all employer members of the purchasing pool.

5           (2) The small business health insurance pool is created as a voluntary purchasing pool pursuant to the  
6 provisions of 33-22-1815 through 33-22-1817.

7           (3) Subject to the conditions in 53-6-1201, the purchasing pool shall make group health plan coverage  
8 available effective January 1, 2006.

9           (4) It is the intent of the legislature that the board:

10           (a) establish criteria that will allow the greatest number of employees possible to be eligible for premium  
11 assistance payments by not permitting eligibility for premium assistance payments under this part to employees  
12 who continue other comprehensive health insurance coverage through a spouse, parent, or other person; and

13           (b) allow eligible small employers to determine the length of the waiting period that will apply to their  
14 employees as long as the waiting period:

15           (i) is not more than 12 months; and

16           (ii) applies to all employees within that small group in the same manner.

17           (5) The legislative auditor shall conduct or have conducted, at least once each biennium covering the  
18 prior 2 fiscal years, a financial compliance audit of the board and the purchasing pool. The cost of the audit must  
19 be paid for by the purchasing pool as a direct cost not subject to the cap on administrative expenses.

20           (6) (a) There is established as of [the effective date of this section] an entity known as the insure Montana  
21 small business premium incentive program, with participating membership consisting of all employer members  
22 of the insure Montana program.

23           (b) The commissioner shall, prior to January 1, 2016, provide for a phasing out of the small business  
24 health insurance pool and a transition to the January 1, 2016, implementation of the insure Montana small  
25 business premium incentive program. The commissioner shall implement and oversee the insure Montana small  
26 business premium incentive program, including accepting applications prior to January 1, 2016, for premium  
27 incentive payments starting in 2016."

28

29           **Section 8.** Section 33-22-2001, MCA, is amended to read:

30           **"33-22-2001. Establishment of insure Montana small business ~~health insurance pool -- intent~~**

1 **premium incentive program.** (1) There is established an entity known as the ~~small business health insurance~~  
 2 ~~pool insure Montana small business premium incentive program~~, with participating membership consisting of all  
 3 employer members of the ~~purchasing pool insure Montana program~~.

4 ~~(2) The commissioner shall implement the provisions of this part and oversee the insure Montana small~~  
 5 ~~business premium incentive program, also known as the insure Montana program.~~

6 ~~(2) The small business health insurance pool is created as a voluntary purchasing pool pursuant to the~~  
 7 ~~provisions of 33-22-1815 through 33-22-1817.~~

8 ~~————(3) Subject to the conditions in 53-6-1201, the purchasing pool shall make group health plan coverage~~  
 9 ~~available effective January 1, 2006.~~

10 ~~————(4) It is the intent of the legislature that the board:~~

11 ~~————(a) establish criteria that will allow the greatest number of employees possible to be eligible for premium~~  
 12 ~~assistance payments by not permitting eligibility for premium assistance payments under this part to employees~~  
 13 ~~who continue other comprehensive health insurance coverage through a spouse, parent, or other person; and~~

14 ~~————(b) allow eligible small employers to determine the length of the waiting period that will apply to their~~  
 15 ~~employees as long as the waiting period:~~

16 ~~————(i) is not more than 12 months; and~~

17 ~~————(ii) applies to all employees within that small group in the same manner.~~

18 ~~————(5) The legislative auditor shall conduct or have conducted, at least once each biennium covering the~~  
 19 ~~prior 2 fiscal years, a financial compliance audit of the board and the purchasing pool. The cost of the audit must~~  
 20 ~~be paid for by the purchasing pool as a direct cost not subject to the cap on administrative expenses."~~

21

22 **Section 9.** Section 33-22-2002, MCA, is amended to read:

23 **"33-22-2002. Small business health insurance pool Insure Montana program -- definitions.** As used  
 24 in this part, the following definitions apply:

25 ~~(1) "Board" means the board of directors of the small business health insurance pool as provided for in~~  
 26 ~~33-22-2003.~~

27 ~~(2)(1) "Dependent" has the meaning provided in 33-22-1803.~~

28 ~~(3)(2) (a) "Eligible small employer" means an employer who is sponsoring or will sponsor a group health~~  
 29 ~~plan and who:~~

30 ~~(a) employed at least two 1 but not more than nine 25 employees during the preceding calendar year;~~

1 and who

2 (b) employs at least two 1 but not more than nine 25 employees on the first day of the plan year; and

3 (c) employs at least one nonrelated employee.

4 ~~(b) The term includes small employers who obtain group health plan coverage through a qualified~~  
5 ~~association health plan.~~

6 ~~(4)(3) "Employee" means an eligible employee as defined in 33-22-1803.~~

7 ~~(5)(4) "Group health plan" means health insurance coverage offered in connection with a group health~~  
8 ~~plan or health insurance coverage offered to an eligible group as described in 33-22-504 as described in~~  
9 ~~33-22-140, except that:~~

10 (a) a self-funded multiple employer welfare arrangement as described in 33-35-103 does not qualify as  
11 a group health plan under this part; and

12 (b) the group health plan is offered only to owners and employees and not to dependents or spouses.

13 (5) "Nonrelated employee" means an employee who is not related by blood, marriage, or adoption to the  
14 employer or to any owner, in whole or in part, of the eligible small employer.

15 (6) "Premium" means the amount of money that a health insurance issuer charges to provide coverage  
16 under a group health plan.

17 ~~(7) "Premium assistance payment" means a payment provided for in 33-22-2006 on behalf of employees~~  
18 ~~who qualify to be applied on a monthly basis to premiums paid for group health plan coverage through the~~  
19 ~~purchasing pool or through qualified association health plans.~~

20 ~~(8)(7) "Premium incentive payment" means a payment provided for in 33-22-2007(4)(b) to an eligible~~  
21 ~~small employers employer who qualify qualifies under 33-22-2007 33-22-2006 to be applied to premiums paid~~  
22 ~~on a monthly basis for group health plan coverage for all eligible employees of the eligible small employer and,~~  
23 ~~if applicable, any owners of the eligible small employer. obtained through the purchasing pool or through qualified~~  
24 ~~association health plans.~~

25 ~~————(9) "Purchasing pool" means the small business health insurance pool.~~

26 ~~————(10) "Qualified association health plan" means a plan established by an association whose members~~  
27 ~~consist of employers who sponsor group health plans for their employees and purchase that coverage through~~  
28 ~~an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided~~  
29 ~~for in administrative rule. A qualified association health plan is subject to applicable employer group health~~  
30 ~~insurance law and must receive approval from the commissioner to operate as a qualified association health plan~~

1 for the purposes of this part.

2 ~~(11)~~(8) "Related employers" means:

3 (a) affiliates or affiliated entities or persons who directly or indirectly, through one or more intermediaries,  
4 control, are controlled by, or are under common control with a specified entity or person; or

5 (b) entities or persons that are eligible to file a combined or joint tax return for purposes of state taxation.

6 ~~(12) "Tax credit" means a refundable tax credit as provided for in 33-22-2008.~~

7 ~~————(13) "Tax year" means the taxpayer's tax year for federal income tax purposes."~~

8

9 **Section 10.** Section 33-22-2005, MCA, is amended to read:

10 **"33-22-2005. Duties of commissioner -- rulemaking authority -- premium incentive formula.** Subject  
11 to the conditions in 53-6-1201, the The commissioner shall:

12 (1) adopt rules regarding the implementation of this part, including rules regarding the administration of  
13 the premium incentive payments, ~~premium assistance payments, and tax credits, the approval of qualified~~  
14 ~~association health plans, and the registration process;~~ The rules regarding tax credits may not relate to the filing  
15 of tax returns and claiming the tax credit on the tax returns.

16 ~~————(2) supervise the creation of the purchasing pool within the limits described in this part;~~

17 ~~————(3) approve or disapprove the operating plan for the purchasing pool;~~

18 ~~————(4) if the board chooses to hire one, approve or disapprove the selection of a third-party administrator~~  
19 ~~to handle the administration of the purchasing pool;~~

20 ~~————(5) with the assistance of the department of public health and human services, approve or disapprove~~  
21 ~~the schedule of premium incentive payment or premium assistance payment amounts adopted by the board as~~  
22 ~~provided in 33-22-2004;~~

23 ~~————(6) approve or disapprove any contracts between a health insurance issuer and the purchasing pool;~~

24 ~~————(7) approve or disapprove all group health plans being offered by insurers through the purchasing pool;~~

25 ~~————(8) conduct periodic audits of the financial transactions conducted by the purchasing pool;~~

26 ~~————(9) allow up to 30%, or more if requested by the board and approved by the commissioner, of the~~  
27 ~~available funding for the premium incentive payments and premium assistance payments to be applied to small~~  
28 ~~group health plan coverage purchased through a qualified association health plan;~~

29 ~~————(10) make applicable premium incentive payments or premium assistance payments for qualified~~  
30 ~~association health plan coverage on behalf of eligible small employers and employees or direct the purchasing~~



1 pool to make the payments; and  
 2 ~~———(11) approve or disapprove associations as qualified if their members consist of employers who sponsor~~  
 3 ~~group health plan coverage for their employees and purchase that coverage through an association that qualifies~~  
 4 ~~as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided for in administrative rule. A~~  
 5 ~~qualified association health plan is subject to applicable employer group health insurance law.~~

6 (2) establish by rule the amount of premium incentive payment available to an eligible small employer,  
 7 subject to the following:

8 (a) the premium incentive payments may not exceed 50% of the total premiums paid by the eligible small  
 9 employer;

10 (b) the premium incentive payments must be at least 10% of the total premium paid by the eligible small  
 11 employer;

12 (c) the premium incentive payment formula should balance the goal of having as many eligible small  
 13 employers in the insure Montana program as possible with the goal of providing meaningful assistance to each  
 14 eligible small employer; and

15 (d) the total amount of the premium incentive payments provided to all eligible small employers through  
 16 the insure Montana program may not exceed the amount of available state, federal, and private funding for the  
 17 insure Montana program;

18 (3) approve or disapprove an applicant as an eligible small employer for the insure Montana program;  
 19 and

20 (4) seek a waiver under 42 U.S.C. 18052 for flexibility and relief from certain requirements of the Patient  
 21 Protection and Affordable Care Act, enacted as Public Law 111-148 and Public Law 111-152."

22

23 **Section 11.** Section 33-22-2006, MCA, is amended to read:

24 **~~"33-22-2006. Premium incentive payments, premium assistance payments, and tax credits for~~**  
 25 **~~small employer health insurance premiums paid -- eligibility for small group coverage -- amounts~~**  
 26 **Eligibility for insure Montana program -- maximum amount of premium incentive payment.** (1) An employer  
 27 is eligible to apply for premium incentive payments ~~and premium assistance payments or a tax credit~~ under this  
 28 part if the employer and any related employers:

29 (a) did not have more than the number of employees established for eligibility by the commissioner at  
 30 the time of registering for premium incentive payments ~~or premium assistance payments or a tax credit~~ under

1 33-22-2008;

2 (b) ~~provide pay or will provide a pay 100% of the premium for a group health plan that meets the~~  
 3 ~~requirements of creditable coverage issued on or after January 1, 2016, and approved by the commissioner. The~~  
 4 ~~group health plan must provide coverage for all of the employer's and any related employer's employees who are~~  
 5 ~~eligible for the group health plan;~~

6 (c) do not have delinquent state tax liability owing to the department of revenue from previous years; ~~and~~

7 (d) have been registered as eligible small employer participants by the commissioner as provided in  
 8 33-22-2008-

9 ~~————(2) In addition to the requirements in subsection (1), a small employer is eligible to apply for a tax credit~~  
 10 ~~under this part if the small employer and any related employers; and~~

11 (e) do not have any employees, not including an owner, partner, or shareholder of the business, who  
 12 received more than \$75,000 in wages, as defined in 39-71-123, from the small employer or related employer in  
 13 the prior tax year.

14 ~~(3) In addition to the requirements of subsections (1) and (2), an owner, partner, or shareholder of an~~  
 15 ~~eligible small employer who received more than \$75,000 in wages, as defined in 39-71-123, and those individuals'~~  
 16 ~~spouses who are employees are not eligible under this chapter for a tax credit for group health plan premiums~~  
 17 ~~paid by the eligible small employer for group health plan coverage for the individual or the individual's~~  
 18 ~~dependents.~~

19 ~~————(4) In addition to the requirements in subsection (1), an owner or employee is not eligible to apply for a~~  
 20 ~~premium assistance payment under this part if the owner or employee has a household income greater than~~  
 21 ~~400% of the federal poverty level for the year in which an application or application renewal is made.~~

22 ~~(5)(2) Subject to the requirements of subsection (4), the small business health insurance pool~~  
 23 ~~commissioner may authorize a premium incentive payment for the premium share paid by an eligible small~~  
 24 ~~employer and related employers for a group health plan for:~~

25 (a) ~~the owner or employee~~ all employees of the eligible small employer and related employers eligible  
 26 for the group health plan;

27 (b) ~~a spouse of an~~ any owner or employee provided for in subsection (5)(a); or

28 ~~————(c) dependents of the owner or employee provided for in subsection (5)(a) of the eligible small employer~~  
 29 ~~and related employers if they are also members of the same group health plan.~~

30 ~~(6) An employee, including an owner, partner, or shareholder or any dependent of an employee, who~~

1 is also eligible for the children's health insurance program provided for under Title 53, chapter 4, part 10, or  
 2 medicaid under Title XIX of the Social Security Act may become ineligible to receive a premium assistance  
 3 payment.

4 ~~(7)~~(3) The commissioner shall may establish, by rule, the maximum number of employees that an  
 5 employer may employ to be qualified as an eligible small employer under subsection (1). The maximum number  
 6 may be ~~different for eligible small employers seeking premium incentive payments and premium assistance~~  
 7 ~~payments than for eligible small employers seeking a tax credit. The number must be set to maximize the number~~  
 8 ~~of employees receiving coverage under this part less than or equal to 25 but not more than 25.~~ The commissioner  
 9 may not change the maximum employee number more often than every 6 12 months. If the maximum number  
 10 of allowable employees is changed, the change does not disqualify a registered eligible small employers with  
 11 ~~respect to the tax year for which the eligible small employer has registered~~ employer until the eligible small  
 12 employer reapplies for the insure Montana program.

13 ~~(8)~~ Except as provided in subsection (3), an eligible small employer may claim a tax credit in the following  
 14 amounts:

15 ~~—— (a) (i) not more than \$100 each month for each employee and \$100 each month for each employee's~~  
 16 ~~spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is under 45~~  
 17 ~~years of age; or~~

18 ~~—— (ii) not more than \$125 each month for each employee and \$100 each month for each employee's~~  
 19 ~~spouse, if the eligible small employer covers the employee's spouse, if the average age of the group is 45 years~~  
 20 ~~of age or older; and~~

21 ~~—— (b) not more than \$40 each month for each dependent, other than the employee's spouse, if the eligible~~  
 22 ~~small employer is paying for coverage for the dependents, not to exceed two dependents of an employee in~~  
 23 ~~addition to the employee's spouse.~~

24 ~~—— (9) An eligible small employer may not claim a tax credit:~~

25 ~~—— (a) in excess of 50% of the total premiums paid by the eligible small employer for the qualifying small~~  
 26 ~~group;~~

27 ~~—— (b) for premiums paid from a medical care savings account provided for in Title 15, chapter 61; or~~

28 ~~—— (c) for premiums for which a deduction is claimed under 15-30-2131 or 15-31-114.~~

29 ~~(10)~~(4) An eligible small employer may not claim a premium incentive payment in excess of 50% of the  
 30 total premiums paid by the eligible small employer for the qualifying small group."

1

2           **Section 12.** Section 33-22-2007, MCA, is amended to read:

3           "**33-22-2007. Filing for tax credit—filing for premium incentive payments and premium assistance**

4 **payments.** (1) An eligible small employer may:

5           ~~\_\_\_\_\_ (a) apply the tax credit against taxes due for the current tax year on a return filed pursuant to Title 15,~~

6 ~~chapter 30 or 31; or~~

7           ~~\_\_\_\_\_ (b) apply to receive monthly premium incentive payments and premium assistance payments to be~~

8 ~~applied to premiums for group health plans coverage obtained through the purchasing pool or qualified~~

9 ~~association health plan coverage approved by the commissioner.~~

10          ~~\_\_\_\_\_ (2) An eligible small employer may not, in the same tax year, apply the tax credit against taxes due for~~

11 ~~the current tax year as provided for in subsection (1)(a) and receive premium incentive payments as provided~~

12 ~~for in subsection (1)(b).~~

13          ~~\_\_\_\_\_ (3) The premium incentive payments and premium assistance payments provided for in subsection (1)(b)~~

14 ~~must be paid pursuant to a plan of operation implemented by the board and any applicable administrative rules.~~

15          ~~\_\_\_\_\_ (4) (a) If an eligible small employer's tax credit as provided in subsection (1)(a) exceeds the employer's~~

16 ~~liability under 15-30-2103 or 15-31-121, the amount of the excess must be refunded to the eligible small~~

17 ~~employer. The tax credit may be claimed even if the eligible small employer has no tax liability under 15-30-2103~~

18 ~~or 15-31-121.~~

19          ~~\_\_\_\_\_ (b) A tax credit is not allowed under 15-30-2367, 15-31-132, or any other provision of Title 15, chapter~~

20 ~~30 or 31, with respect to any amount for which a tax credit is allowed under this part.~~

21          ~~(5)(2)~~ The department of revenue or the commissioner may grant a reasonable extension for filing a

22 claim for premium incentive payments or premium assistance payments or a tax credit whenever, in the

23 department's or the commissioner's judgment, good cause exists. The department of revenue and the

24 commissioner shall keep a record of each extension and the reason for granting the extension.

25          ~~(6)(3)~~ (a) If an employer that would have a claim under this part ceases doing business before filing the

26 claim, the representative of the employer who files the tax return or pays the premium may file the claim.

27          (b) If a corporation that would have a claim under this part merges with or is acquired by another

28 corporation and the merger or acquisition makes the previously eligible corporation ineligible for the premium

29 incentive payments, premium assistance payments, or tax credit in the future, the surviving or acquired

30 corporation may file for the premium incentive payments, premium assistance payments, or tax credit for any

1 claim period during which the former eligible corporation remained eligible.

2 (c) If an employer that would have a claim under this part files for bankruptcy protection, the receiver may  
3 file for the premium incentive payments, ~~premium assistance payments, or tax credit~~ for any claim period during  
4 which the employer was eligible."

5

6 **Section 13.** Section 33-22-2008, MCA, is amended to read:

7 **"33-22-2008. Registration -- funding limitations -- ~~transfers -- maximum number -- waiting list --~~**

8 **~~information transfer for tax credits.~~** (1) (a) Each A prospective participating small employer and any previously  
9 eligible small employer that proposes to apply for premium incentive payments ~~and premium assistance~~  
10 ~~payments or a tax credit~~ under this part must be registered each year with the commissioner.

11 (b) An eligible small employer may submit a new application for the premium incentive payments ~~and~~  
12 ~~premium assistance payments or the tax credit~~ anytime during the year, but in order to maintain the employer's  
13 registration for the next year, the registration application must be renewed each year according to a procedure  
14 established by the commissioner by rule.

15 (c) The registration application must include the number of ~~individuals~~ employees covered, as of the date  
16 ~~of the registration application, under the small group health plan for which~~ whom the employer is seeking premium  
17 incentive payments ~~and premium assistance payments or a tax credit~~. If, after the initial registration, the number  
18 of ~~individuals~~ employees increases, the employer may apply to register the additional ~~individuals~~ employees, but  
19 those additional ~~individuals~~ employees may be added only at the discretion of the commissioner, who shall limit  
20 enrollment based on available funds.

21 (d) A small employer is not eligible to apply for premium incentive payments ~~and premium assistance~~  
22 ~~payments or a tax credit~~ for a number of employees, ~~or the employees' spouses or dependents,~~ over the number  
23 that has been established in 33-22-2006 as the maximum number of employees a small employer may have in  
24 order to qualify for registration for the time period in question, except that a small employer applying for a  
25 premium incentive payment under the insure Montana program may apply prior to January 1, 2016, for the  
26 number of employees determined by the commissioner by rule to be eligible for the insure Montana program. The  
27 premium incentive payments may not be received prior to January 1, 2016.

28 (e) A small employer's registration for premium incentive payments ~~and premium assistance payments~~  
29 ~~or a tax credit~~ is irrevocable for 12 months or until the ~~purchasing pool group health plan or qualified association~~  
30 ~~health plan renews its registration~~ eligible small employer renews the group health plan, whichever time period

1 is less. An eligible small employer may choose to discontinue receiving any premium incentive payments and  
2 ~~premium assistance payments or tax credits~~ at any time.

3 (2) The commissioner shall register qualifying eligible small employers in the order in which applications  
4 are received ~~and according to whether the application is for premium incentive payments and premium assistance~~  
5 ~~payments or a tax credit. Initially, 60% of the available funding must be dedicated to provide and maintain~~  
6 ~~premium incentive payments and premium assistance payments for eligible small employers who chose to join~~  
7 ~~the purchasing pool or a qualified association health plan and 40% of the available funding must be dedicated~~  
8 ~~to tax credits for eligible small employers who currently sponsor a small group health plan that provides creditable~~  
9 ~~coverage. Funding may be transferred from the allocated fund for premium incentive payments and premium~~  
10 ~~assistance payments to the general fund for tax credits or from the funds allocated for tax credits to the allocated~~  
11 ~~fund for premium incentive payments and premium assistance payments if the board requests the transfer as~~  
12 ~~provided in 33-22-2004 and the commissioner approves the request.~~

13 (3) In determining which small employers may participate in the program, the commissioner shall give  
14 priority to eligible small employers who are already members of the insure Montana program and who have timely  
15 reapplied.

16 ~~(3)(4) (a)~~ The maximum number of eligible small employers is reached when the anticipated amount of  
17 claims for premium incentive payments ~~and premium assistance payments and tax credits~~ has reached 100%  
18 of the ~~amount of money allocated for premium incentive payments and premium assistance payments and tax~~  
19 ~~credits~~ funding available for the insure Montana program.

20 ~~(b)(5)~~ The commissioner may establish a waiting list for applicants that are otherwise qualified for  
21 registration but cannot be registered because of a lack of ~~money~~ funding or because the maximum number of  
22 eligible small employers has been reached.

23 ~~(c)(6)~~ The commissioner shall mail to each employer registered under this section a notice of registration  
24 containing a unique registration number ~~and indicating eligibility for either premium incentive payments and~~  
25 ~~premium assistance payments or a tax credit.~~ The commissioner shall also issue to each employer that is eligible  
26 for premium incentive payments ~~and premium assistance payments or the tax credit~~ a certificate, placard, sticker,  
27 or other evidence of participation that may be publicly posted.

28 ~~(d)(7)~~ The commissioner shall notify all persons who applied for registration and who were not accepted  
29 that they were not registered and the reason that they were not registered.

30 ~~(4)(8)~~ A prospective participant shall apply for registration on a form and within the timeframe provided

1 by the commissioner by rule. The prospective participant shall:

2 (a) provide the number of employees and whether the employer qualifies under 33-22-2006;

3 (b) provide information that is necessary to estimate the amount of the premium incentive payments and  
4 premium assistance payments payable to the applicant or the amount of the tax credit available to the applicant,  
5 such as the ages of employees or dependents, relationships of employees' dependents, and information required  
6 by the department of public health and human services for determination of eligibility for premium assistance  
7 payments matched by federal funds;

8 ~~\_\_\_\_\_ (c) indicate whether the prospective employer intends to pursue the claim as a tax credit through the  
9 income tax process or through premium incentive payments and premium assistance payments to be applied  
10 toward purchasing pool or eligible qualified association health plan coverage; and~~

11 ~~(d)~~(c) provide any additional information determined by the commissioner to be necessary to support  
12 an application.

13 ~~(5) Each year, an eligible small employer shall timely reregister with the commissioner in order to  
14 determine the participant's continued eligibility. The commissioner shall accept applications for continued  
15 registration:~~

16 ~~\_\_\_\_\_ (a) for purchasing pool participants at any time within 12 months of the initial registration approval or  
17 within the time period for renewal of the coverage under this part, whichever is longer;~~

18 ~~\_\_\_\_\_ (b) for tax credit participants on December 1 of each year. The commissioner shall stop accepting  
19 renewal applications for tax credit participants 60 calendar days later.~~

20 ~~(6)~~(9) The commissioner shall transmit to the department of revenue, at least annually, a list of eligible  
21 small employers that are taxpayers entitled to the tax credit deduct the premium incentive payment as provided  
22 in 15-31-130 and shall specify the taxpayer's name and tax identification number, the tax year to which the credit  
23 applies, and the amount of the credit premium incentive provided, and whether the credit is to be applied against  
24 taxes due on the taxpayer's return or paid as premium incentive payments or premium assistance payments.  
25 Unless there has been a finding of fraud or misrepresentation on the part of the taxpayer regarding issues relating  
26 to eligibility for the tax credit premium incentive payment, the department of revenue may not redetermine or  
27 change the commissioner's determination regarding the taxpayer's entitlement to and amount of the tax credit  
28 premium incentive deduction.

29 ~~(7) If the department of public health and human services receives approval for a section 1115 waiver  
30 as provided in 53-2-216, the commissioner shall work with the department of public health and human services~~

1 ~~with regard to eligibility determinations as required by federal law or waiver conditions."~~

2

3 **Section 14.** Section 33-22-2009, MCA, is amended to read:

4 **"33-22-2009. Penalties.** (1) The commissioner may, after providing an opportunity for a hearing pursuant  
5 to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of this part. Failure to pay a fine under  
6 this section results in a lien upon the assets and property of that person in this state and may be recovered by  
7 suit by the commissioner and deposited in the special revenue account described in 53-6-1201.

8 (2) In addition to any penalty provided for in 33-1-317, the commissioner may require a person violating  
9 this part to make full restitution to the state, including interest of 10% a year from the date of loss, if a violation  
10 of this part caused a ~~premium incentive payment or premium assistance payment to be paid or a tax credit to be~~  
11 issued to a person who was not entitled to it.

12 (3) A person who purposely or knowingly violates this part and receives a premium incentive payment  
13 ~~or premium assistance payment or tax credit~~ that the person is not entitled to receive commits the offense of theft,  
14 which is punishable as provided in 45-6-301.

15 (4) A person who purposely or knowingly violates this part and makes false statements, knowing those  
16 statements are not true, commits the offense of unsworn falsification to authorities, which is punishable as  
17 provided in 45-7-203.

18 (5) Any fines or restitution collected pursuant to this section must be deposited in the special revenue  
19 account in 53-6-1201 and dedicated to the payment of premium incentive payments ~~and premium assistance~~  
20 ~~payments or tax credits~~ or funding new programs to assist eligible small employers with the cost of providing  
21 health insurance benefits."

22

23 **Section 15.** Section 45-6-301, MCA, is amended to read:

24 **"45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly  
25 obtains or exerts unauthorized control over property of the owner and:

26 (a) has the purpose of depriving the owner of the property;

27 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the  
28 owner of the property; or

29 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment  
30 probably will deprive the owner of the property.



1 (2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or  
2 deception control over property of the owner and:

3 (a) has the purpose of depriving the owner of the property;

4 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the  
5 owner of the property; or

6 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment  
7 probably will deprive the owner of the property.

8 (3) A person commits the offense of theft when the person purposely or knowingly obtains control over  
9 stolen property knowing the property to have been stolen by another and:

10 (a) has the purpose of depriving the owner of the property;

11 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the  
12 owner of the property; or

13 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment  
14 probably will deprive the owner of the property.

15 (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts  
16 unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county  
17 agency, regardless of the original source of assistance, by means of:

18 (a) a knowingly false statement, representation, or impersonation; or

19 (b) a fraudulent scheme or device.

20 (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or  
21 helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter  
22 71, by means of:

23 (a) a knowingly false statement, representation, or impersonation; or

24 (b) deception or other fraudulent action.

25 (6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance  
26 fraud as provided in 33-1-1202 or 33-1-1302;

27 (b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102;  
28 or

29 (c) purposely or knowingly receives small business ~~health insurance~~ premium incentive payments or  
30 ~~premium assistance payments or tax credits~~ under Title 33, chapter 22, part 20, to which the person is not

1 entitled.

2 (7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive  
3 the owner of the property, the person:

4 (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer  
5 or over property entrusted to the person; or

6 (b) purposely or knowingly obtains by deception control over property of the person's employer or over  
7 property entrusted to the person.

8 (8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property not  
9 exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for  
10 a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,500 or be  
11 imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or  
12 subsequent offense shall be fined \$1,500 and be imprisoned in the county jail for a term of not less than 30 days  
13 or more than 6 months.

14 (b) (i) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property  
15 exceeding \$1,500 in value or theft of any amount of anhydrous ammonia for the purpose of manufacturing  
16 dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term  
17 not to exceed 10 years, or both.

18 (ii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount  
19 of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years,  
20 or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service  
21 during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the  
22 offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

23 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement  
24 shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined  
25 an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the  
26 requirement that restitution be made under terms set by the court. If the terms are not met, the required prison  
27 term may be ordered.

28 (9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,  
29 whether from the same person or several persons, may be aggregated in determining the value of the property."

30

1           **Section 16.** Section 53-2-217, MCA, is amended to read:

2           **"53-2-217. Contingency on expenditure.** Title 33, chapter 22, part 20, may not be construed to require  
3 implementation or ongoing operation of the programs in 53-6-1201(3)(d) through ~~(3)(g)~~ (3)(f) without a line item  
4 appropriation in the general appropriations bill included for that purpose."

5

6           **Section 17.** Section 53-6-1201, MCA, is amended to read:

7           **"53-6-1201. Special revenue fund -- health and medicaid initiatives.** (1) There is a health and  
8 medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be  
9 administered by the department of public health and human services.

10           (2) There must be deposited in the account:

11           (a) money from cigarette taxes deposited under 16-11-119(1)(d);

12           (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and

13           (c) any interest and income earned on the account.

14           (3) This account may be used only to provide funding for:

15           (a) the state funds necessary to take full advantage of available federal matching funds in order to  
16 administer the plan and maximize enrollment of eligible children under the healthy Montana kids plan, provided  
17 for under Title 53, chapter 4, part 11, and to provide outreach to the eligible children;

18           (b) a new need-based prescription drug program established by the legislature for children, seniors,  
19 chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

20           (c) increased medicaid services and medicaid provider rates. The increased revenue is intended to  
21 increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended  
22 traditional level of appropriation for medicaid services and medicaid provider rates.

23           (d) an offset to loss of revenue to the general fund as a result of ~~new tax credits~~ premium incentive  
24 payments to eligible small employers;

25           (e) funding new programs to assist eligible small employers with the costs of providing health insurance  
26 benefits to eligible employees; and

27           (f) the cost of administering the insure Montana small business ~~tax credit, the purchasing pool, and the~~  
28 ~~premium incentive payments and premium assistance payments~~ program as provided in Title 33, chapter 22, part  
29 20; and

30           ~~(g) providing a state match for the medicaid program for premium incentive payments or premium~~

1 ~~assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.~~

2 (4) (a) On or before July 1, the budget director shall calculate a balance required to sustain each  
3 program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve  
4 balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the  
5 budget director determines that the reserve balance of the revenue will not support the level of appropriation, the  
6 budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating  
7 budget for the program to reflect the available revenue as determined by the budget director.

8 ~~(b) Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established,~~  
9 ~~the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c):~~

10 (5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the  
11 appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility  
12 standards, services authorized, and payment amount during the past five biennial budgets.

13 (6) The department of public health and human services may adopt rules to implement this section."  
14

15 **NEW SECTION. Section 18. Repealer.** The following sections of the Montana Code Annotated are  
16 repealed:

17 33-22-2003. Board of directors -- composition -- appointment -- compensation.

18 33-22-2004. Powers and duties of board.

19 53-2-216. Health insurance premium assistance -- legislative intent -- application for section 1115 waiver  
20 -- duties of board of directors of small business health insurance pool, commissioner of  
21 insurance, and department of public health and human services.

22  
23 **NEW SECTION. Section 19. Saving clause.** [This act] does not affect rights and duties that matured,  
24 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

25  
26 **NEW SECTION. Section 20. Severability.** If a part of [this act] is invalid, all valid parts that are  
27 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
28 the part remains in effect in all valid applications that are severable from the invalid applications.

29  
30 **NEW SECTION. Section 21. Effective dates -- applicability.** (1) Except as provided in subsection (2),

1 [this act] is effective January 1, 2016.

2 (2) [Sections 7, 13, 19, and 20] and this section are effective July 1, 2015, and apply to the premium  
3 incentive payments for group health plans that begin on or after January 1, 2016.

4 - END -