



AN ACT GENERALLY REVISING LAWS RELATED TO THE SMALL BUSINESS HEALTH INSURANCE POOL TO REMOVE THE PURCHASING POOL; ELIMINATING THE BOARD OF DIRECTORS OF THE SMALL BUSINESS HEALTH INSURANCE POOL; SHIFTING THE AUTHORITY OF THE BOARD OF DIRECTORS OF THE SMALL BUSINESS HEALTH INSURANCE POOL TO THE INSURANCE COMMISSIONER; REMOVING AUTHORITY TO SEEK A FEDERAL WAIVER FOR MEDICAID MATCHING FUNDS; APPROPRIATING 9% OF PREMIUM TAX TO FUND THE INSURE MONTANA PROGRAM; AMENDING SECTIONS 33-2-708, 33-22-1815, 33-22-1816, 33-22-2001, 33-22-2002, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, 33-22-2009, 53-2-217, AND 53-6-1201, MCA; REPEALING SECTIONS 33-22-2003, 33-22-2004, AND 53-2-216, MCA; AND PROVIDING EFFECTIVE DATES.

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

Section 1. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) biennial renewal of license, \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) viatical settlement broker's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vii) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

(viii) an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;

(ix) navigator certification:

(A) application for original certification, including issuance of certificate if issued, \$100;

(B) biennial renewal of certification, \$50;

(C) lapsed certification reinstatement fee, \$100;

(x) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the

charge in subsection (2)(a).

(3) (a) Except as provided in ~~subsection~~ subsection (3)(b), the commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109.

(b) The commissioner shall deposit 33% of the money collected under 33-2-705 in the special revenue account provided for in 53-4-1115.

(c) The commissioner shall deposit 9% of the money collected under 33-2-705 in the state special revenue fund to the credit of the commissioner's office for the sole purpose of operating the insure Montana program provided in Title 33, chapter 22, part 20.

~~(e)(d)~~ All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 2. Section 33-22-1815, MCA, is amended to read:

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

(1) It contains at least 51 eligible employees.

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

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

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

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

(6) (a) Disability insurance policies, certificates, or contracts offered through the voluntary purchasing pool must rate the entire purchasing pool group as a whole and charge each insured person based on a community rate within the common group, adjusted for case characteristics as permitted by the laws governing group disability insurance.

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

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

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

Section 3. Section 33-22-1816, MCA, is amended to read:

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

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

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

- (a) whether the operation of the voluntary purchasing pool is fiscally sound;
- (b) whether the voluntary purchasing pool is bearing any risk; and
- (c) the number of individuals covered.

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

(5) A voluntary purchasing pool may choose to operate on a fiscal year other than on the calendar year.

A voluntary purchasing pool that establishes a fiscal year that is other than the calendar year shall provide the report required in subsection (3) to the commissioner within 60 days of the voluntary purchasing pool's fiscal

yearend.

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

Section 4. Section 33-22-2001, MCA, is amended to read:

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

(2) The ~~members of the previous~~ small business health insurance pool ~~is,~~ created as a voluntary purchasing pool pursuant to the provisions of 33-22-1815 through 33-22-1817, at the time of the creation of the insure Montana program must become members of the insure Montana program without interruption of the benefits provided under this part if they qualify for membership in the insure Montana program.

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

(3) The insure Montana program shall provide assistance to eligible small employers for the purchasing of group health plan coverage issued on or after January 1, 2015, and approved by the commissioner for the purposes of this part.

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

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

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

- (i) is not more than ~~12 months~~ 90 days; and
- (ii) applies to all employees ~~within that small group~~ in the same manner.

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

(5) (a) There is established as of [the effective date of this section] an entity known as the insure

Montana small business premium incentive program, with participating membership consisting of all employer members of the insure Montana program.

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

Section 5. Section 33-22-2002, MCA, is amended to read:

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

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

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

~~(3)(2) (a) "Eligible small employer" means an employer who is sponsoring or will sponsor a group health plan and who employed at least two 1 but not more than nine 25 employees during the preceding calendar year and who employs at least two 1 but not more than nine 25 employees on the first day of the plan year.~~

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

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

~~(5)(4) "Group health plan" means health insurance coverage offered in connection with a group health plan or health insurance coverage offered to an eligible group as described in 33-22-501, issued on or after January 1, 2015, and approved by the commissioner for purposes of this part.~~

~~(6)(5) "Premium" means the amount of money that a health insurance issuer charges to provide coverage under a group health plan.~~

~~(7)(6) "Premium assistance payment" means a payment provided for in 33-22-2006 on behalf of employees who qualify to be applied on a monthly basis to premiums paid for a group health plan coverage through the purchasing pool or a through qualified association health plans plan.~~

~~(8)(7) "Premium incentive payment" means a payment provided for in 33-22-2007(1)(b) to eligible small~~

employers who qualify under 33-22-2007 to be applied to premiums paid on a monthly basis for a group health plan coverage obtained through the purchasing pool or through or a qualified association health plans plan.

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

~~(10)~~(8) "Qualified association health plan" means a plan established by an association whose members consist of employers who sponsor group health plans for their employees and purchase that coverage through an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided for in administrative rule. A qualified association health plan is subject to applicable employer group health insurance law and must receive approval from the commissioner to operate as a qualified association health plan for the purposes of this part.

~~(11)~~(9) "Related employers" means:

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

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

~~(12)~~(10) "Tax credit" means a refundable tax credit as provided for in 33-22-2008.

~~(13)~~(11) "Tax year" means the taxpayer's tax year for federal income tax purposes."

Section 6. Section 33-22-2005, MCA, is amended to read:

"33-22-2005. Duties of commissioner -- rulemaking authority. ~~Subject to the conditions in 53-6-1201,~~
the (1) The commissioner shall:

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

~~(2)~~(b) supervise the creation of the purchasing pool insure Montana program within the limits described in this part;

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

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

~~(5)~~ with the assistance of the department of public health and human services, approve or disapprove

~~the schedule of premium incentive payment or premium assistance payment amounts adopted by the board as provided in 33-22-2004;~~

- ~~—— (6) approve or disapprove any contracts between a health insurance issuer and the purchasing pool;~~
- ~~—— (7) approve or disapprove all group health plans being offered by insurers through the purchasing pool;~~
- ~~—— (8) conduct periodic audits of the financial transactions conducted by the purchasing pool;~~
- ~~—— (9) allow up to 30%, or more if requested by the board and approved by the commissioner, of the available funding for the premium incentive payments and premium assistance payments to be applied to small group health plan coverage purchased through a qualified association health plan;~~
- ~~—— (10) make applicable premium incentive payments or premium assistance payments for qualified association health plan coverage on behalf of eligible small employers and employees or direct the purchasing pool to make the payments; and~~
- ~~—— (11) approve or disapprove associations as qualified if their members consist of employers who sponsor group health plan coverage for their employees and purchase that coverage through an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided for in administrative rule. A qualified association health plan is subject to applicable employer group health insurance law.~~

(c) establish an operating plan that includes but is not limited to administrative and accounting procedures for the operation of the insure Montana program and a schedule for premium incentive payments and premium assistance payments and that complies with the powers and duties provided for in this section;

(d) require eligible small employers and employees to reapply for premium incentive payments or premium assistance payments on an annual basis;

(e) upon timely reapplication, give priority to eligible small employers and their employees who are already receiving the premium incentive payments and premium assistance payments. If the reapplication is more than 30 days late, the priority will not be given and the eligible small employer will be added to the waiting list provided for in 33-22-2008.

(f) adopt a premium incentive payment schedule that is based on a percentage of the eligible small employer's share of the premium and apply the schedule uniformly to all registered eligible small employers who provide group health plan coverage;

(g) adopt premium assistance payment amounts that, in combination with the premium incentive payments, are consistent with the amounts provided for in 33-22-2006 and 33-22-2008 or adopt a premium

assistance payment schedule that is equitably proportional to the income or wage level for employees;

(h) establish criteria for determining which employees will be eligible for a premium assistance payment and the amount that the employees will receive from among those eligible small employers that have registered with the commissioner pursuant to 33-22-2008 and applied for coverage under a group health plan;

(i) make appropriate changes to eligibility for other elements in the operating plan as needed to reach the goal of expanding 100% of the funding dedicated to premium incentive payments and premium assistance payments during the current biennium; and

(j) limit the total amount of premium incentive payments and premium assistance payments paid to the amount of available state, federal, and private funding.

(2) The commissioner may:

(a) assess members for costs associated with administration of the insure Montana program and transfer funds or request that the department of public health and human services transfer funds from the health and medicaid initiatives special revenue account, as provided in 53-6-1201, for that purpose;

(b) set contribution levels for eligible small employers;

(c) at least 30 days before the end of the current fiscal year, transfer funds from the funds appropriated for premium incentive payments and premium assistance payments to the department of revenue for reimbursement of the general fund to offset tax credits if the number of eligible small employers seeking premium incentive payments and employees receiving premium assistance payments is insufficient to exhaust the appropriated funds for the premium incentive payments and premium assistance payments during a fiscal year;

(d) at least 90 days before the end of the current fiscal year, transfer funds from the funds allocated for tax credits to the funds appropriated for premium incentive payments and premium assistance payments if the number of eligible small employers seeking tax credits is insufficient to exhaust the funds allocated for tax credits during a fiscal year; and

(e) make premium payments to insurers on behalf of the eligible small employers and employees."

Section 7. Section 33-22-2006, MCA, is amended to read:

"33-22-2006. Premium incentive payments, premium assistance payments, and tax credits for small employer health insurance premiums paid --~~eligibility for small group coverage~~-- amounts. (1) An employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit

under this part if the employer and any related employers:

(a) did not have more than the number of employees established for eligibility by the commissioner at the time of registering for premium incentive payments or premium assistance payments or a tax credit under 33-22-2008;

(b) provide or will provide a group health plan that meets the requirements of creditable coverage for the employer's and any related employer's employees;

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

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

(2) In addition to the requirements in subsection (1), a small employer is eligible to apply for a tax credit or a premium incentive payment under this part if the small employer and any related employers ~~do~~ did not have any employees, not including an owner, partner, or shareholder of the business, who received more than \$75,000 in wages, as defined in 39-71-123, from the small employer or related employer in the prior tax year.

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

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

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

(a) the owner or employee of the eligible small employer and related employers;

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

(c) dependents of the owner or employee provided for in subsection (5)(a).

(6) An employee, including an owner, partner, or shareholder or any dependent of an employee, who is also eligible for the children's health insurance program provided for under Title 53, chapter 4, part 10, or

medicaid under Title XIX of the Social Security Act may become ineligible to receive a premium assistance payment.

(7) The commissioner shall establish, by rule, the maximum number of employees that an employer may employ to be qualified as an eligible small employer under subsection (1). The maximum number may be different for eligible small employers seeking premium incentive payments and premium assistance payments than for eligible small employers seeking a tax credit. The number must be set to maximize the number of employees receiving coverage under this part. The commissioner may not change the maximum employee number more often than every 6 months. If the maximum number of allowable employees is changed, the change does not disqualify registered eligible small employers with respect to the tax year for which the eligible small employer has registered.

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

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

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

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

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

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

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

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

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

Section 8. Section 33-22-2007, MCA, is amended to read:

"33-22-2007. Filing for tax credit -- filing for premium incentive payments and premium assistance payments. (1) An eligible small employer may:

(a) apply the tax credit against taxes due for the current tax year on a return filed pursuant to Title 15, chapter 30 or 31; or

(b) apply to receive monthly premium incentive payments and premium assistance payments to be applied to ~~coverage obtained through the purchasing pool~~ group health plan or qualified association health plan coverage approved by the commissioner.

(2) An eligible small employer may not, in the same tax year, apply the tax credit against taxes due for the current tax year as provided for in subsection (1)(a) and receive premium incentive payments as provided for in subsection (1)(b).

(3) The premium incentive payments and premium assistance payments provided for in subsection (1)(b) must be paid pursuant to a plan of operation implemented by the ~~board~~ commissioner and any applicable administrative rules.

(4) (a) If an eligible small employer's tax credit as provided in subsection (1)(a) exceeds the employer's liability under 15-30-2103 or 15-31-121, the amount of the excess must be refunded to the eligible small employer. The tax credit may be claimed even if the eligible small employer has no tax liability under 15-30-2103 or 15-31-121.

(b) A tax credit is not allowed under 15-30-2367, 15-31-132, or any other provision of Title 15, chapter 30 or 31, with respect to any amount for which a tax credit is allowed under this part.

(5) The department of revenue or the commissioner may grant a reasonable extension for filing a claim for premium incentive payments or premium assistance payments or a tax credit whenever, in the department's or the commissioner's judgment, good cause exists. The department of revenue and the commissioner shall keep a record of each extension and the reason for granting the extension.

(6) (a) If an employer that would have a claim under this part ceases doing business before filing the claim, the representative of the employer who files the tax return or pays the premium may file the claim.

(b) If a corporation that would have a claim under this part merges with or is acquired by another corporation and the merger or acquisition makes the previously eligible corporation ineligible for the premium incentive payments, premium assistance payments, or tax credit in the future, the surviving or acquired

corporation may file for the premium incentive payments, premium assistance payments, or tax credit for any claim period during which the former eligible corporation remained eligible.

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

Section 9. Section 33-22-2008, MCA, is amended to read:

"33-22-2008. Registration -- funding limitations -- transfers -- maximum number -- waiting list -- information transfer for tax credits. (1) (a) Each eligible small employer that proposes to apply for premium incentive payments and premium assistance payments or a tax credit under this part must be registered each year with the commissioner.

(b) An eligible small employer may submit a new application for the premium incentive payments and premium assistance payments or the tax credit anytime during the year, but in order to maintain the employer's registration for the next year, the registration application must be renewed each year.

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

(d) A small employer is not eligible to apply for premium incentive payments and premium assistance payments or a tax credit for a number of employees, or the employees' spouses or dependents, over the number that has been established in 33-22-2006 as the maximum number of employees a small employer may have in order to qualify for registration for the time period in question.

(e) A small employer's registration for premium incentive payments and premium assistance payments or a tax credit is irrevocable for 12 months or until the ~~purchasing pool~~ group health plan or qualified association health plan renews its registration, whichever time period is less. An eligible small employer may choose to discontinue receiving any premium incentive payments and premium assistance payments or tax credits at any time.

(2) The commissioner shall register qualifying eligible small employers in the order in which applications are received and according to whether the application is for premium incentive payments and premium assistance payments or a tax credit. Initially, 60% of the available funding must be dedicated to provide and maintain premium incentive payments and premium assistance payments for eligible small employers who ~~chose to join the purchasing pool~~ offer a group health plan or a qualified association health plan and 40% of the available funding must be dedicated to tax credits for eligible small employers who currently sponsor a ~~small~~ group health plan that provides creditable coverage. Funding may be transferred from the allocated fund for premium incentive payments and premium assistance payments to the general fund for tax credits or from the funds allocated for tax credits to the allocated fund for premium incentive payments and premium assistance payments ~~if the board requests the transfer as provided in 33-22-2004 and the commissioner approves the request~~ 33-22-2005.

(3) (a) The maximum number of eligible small employers is reached when the anticipated amount of claims for premium incentive payments and premium assistance payments and tax credits has reached 100% of the amount of money allocated for premium incentive payments and premium assistance payments and tax credits.

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

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

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

(4) A prospective participant shall apply for registration on a form provided by the commissioner. The prospective participant shall:

- (a) provide the number of employees and whether the employer qualifies under 33-22-2006;
- (b) provide information that is necessary to estimate the amount of the premium incentive payments and premium assistance payments payable to the applicant or the amount of the tax credit available to the applicant,

such as the ages of employees or dependents, relationships of employees' dependents, and information required by the department of public health and human services for determination of eligibility for premium assistance payments matched by federal funds;

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

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

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

(a) for ~~purchasing pool~~ premium incentive and premium assistance participants at any time within 12 months of the initial registration approval or within the time period for renewal of the group health plan coverage ~~under this part~~, whichever is longer;

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

(6) The commissioner shall transmit to the department of revenue, at least annually, a list of eligible small employers that are taxpayers entitled to the tax credit and shall specify the taxpayer's name and tax identification number, the tax year to which the credit applies, the amount of the credit, and whether the credit is to be applied against taxes due on the taxpayer's return or paid as premium incentive payments or premium assistance payments. Unless there has been a finding of fraud or misrepresentation on the part of the taxpayer regarding issues relating to eligibility for the tax credit, the department of revenue may not redetermine or change the commissioner's determination regarding the taxpayer's entitlement to and amount of the tax credit.

~~(7) If the department of public health and human services receives approval for a section 1115 waiver as provided in 53-2-216, the commissioner shall work with the department of public health and human services with regard to eligibility determinations as required by federal law or waiver conditions."~~

Section 10. Section 33-22-2009, MCA, is amended to read:

"33-22-2009. Penalties. (1) The commissioner may, after providing an opportunity for a hearing pursuant

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 this section results in a lien upon the assets and property of that person in this state and may be recovered by suit by the commissioner and deposited in the special revenue account described in 53-6-1201.

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

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

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

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

Section 11. Section 53-2-217, MCA, is amended to read:

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

Section 12. Section 53-6-1201, MCA, is amended to read:

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

(2) There must be deposited in the account:

- (a) money from cigarette taxes deposited under 16-11-119(1)(d);
 - (b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and
 - (c) any interest and income earned on the account.
- (3) This account may be used only to provide funding for:

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

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

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

(d) an offset to loss of revenue to the general fund as a result of ~~new tax credits~~ new tax credits;

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

(f) the cost of administering the tax credit, the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments ~~tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments~~ payments, and the premium assistance payments as provided in Title 33, chapter 22, part 20; and

~~— (g) providing a state match for the medicaid program for premium incentive payments or premium assistance payments to the extent that a waiver is granted by federal law as provided in 53-2-216.~~

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

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

(5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the

appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

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

Section 13. Repealer. The following sections of the Montana Code Annotated are repealed:

- 33-22-2003. Board of directors -- composition -- appointment -- compensation.
- 33-22-2004. Powers and duties of board.
- 53-2-216. Health insurance premium assistance -- legislative intent -- application for section 1115 waiver -- duties of board of directors of small business health insurance pool, commissioner of insurance, and department of public health and human services.

Section 14. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 15. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 16. Effective dates. (1) Except as provided in subsection (2), [this act] is effective January 1, 2016.

(2) [Sections 1, 14, and 15] and this section are effective July 1, 2015.

- END -

I hereby certify that the within bill,
SB 0099, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 99
INTRODUCED BY J. COHENOUR
BY REQUEST OF THE STATE AUDITOR

AN ACT GENERALLY REVISING LAWS RELATED TO THE SMALL BUSINESS HEALTH INSURANCE POOL TO REMOVE THE PURCHASING POOL; ELIMINATING THE BOARD OF DIRECTORS OF THE SMALL BUSINESS HEALTH INSURANCE POOL; SHIFTING THE AUTHORITY OF THE BOARD OF DIRECTORS OF THE SMALL BUSINESS HEALTH INSURANCE POOL TO THE INSURANCE COMMISSIONER; REMOVING AUTHORITY TO SEEK A FEDERAL WAIVER FOR MEDICAID MATCHING FUNDS; APPROPRIATING 9% OF PREMIUM TAX TO FUND THE INSURE MONTANA PROGRAM; AMENDING SECTIONS 33-2-708, 33-22-1815, 33-22-1816, 33-22-2001, 33-22-2002, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, 33-22-2009, 53-2-217, AND 53-6-1201, MCA; REPEALING SECTIONS 33-22-2003, 33-22-2004, AND 53-2-216, MCA; AND PROVIDING EFFECTIVE DATES.