HOUSE BILL NO. 612

INTRODUCED BY D. ROBERTS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE HEALTH CARE LAWS TO IMPLEMENT PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; ~~REVISING THE ALLOCATION OF TOBACCO SETTLEMENT PROCEEDS;~~ REVISING HEALTH CARE PREMIUM ASSISTANCE PAYMENTS AND TAX CREDITS; ~~REVISING PRESUMPTIVE ELIGIBILITY CRITERIA FOR THE HEALTHY MONTANA KIDS PLAN;~~ LIMITING COVERAGE FOR ORGAN TRANSPLANT SURGERY FOR THE MONTANA MEDICAID PROGRAM; REVISING DUTIES OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR PRESCRIPTION DRUG BENEFITS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS ~~17-6-606,~~ 33-22-2006, 33-22-2007, ~~53-4-1105,~~ 53-6-101, 53-6-1002, 53-6-1004, 53-6-1005, 53-6-1006, 53-6-1010, AND 53-6-1012, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

~~**Section 1.** Section 17-6-606, MCA, is amended to read:~~

~~**"17-6-606. (Temporary) Tobacco settlement accounts -- purpose -- uses.** (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:~~

~~(a) discourage children from starting use of tobacco;~~

~~(b) assist adults in quitting use of tobacco;~~

~~(c) provide funds for the children's health insurance program;~~

~~(c)~~(d) ~~provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and~~

~~(d)~~(e) ~~provide funds for the comprehensive health association programs.~~

~~(2) An amount equal to 32%~~ 13.9% ~~of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best~~

~~Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.~~

~~(3) An amount equal to 17%~~ 35.1% ~~of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:~~

~~(a) matching funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10;~~

~~(a)~~(b) ~~matching funds to secure the maximum amount of federal funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and~~

~~(b)~~(c) ~~programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.~~

~~(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.~~

~~(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.~~

~~(6) Programs funded under this section that are private in nature may be funded through contracted services. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009.)~~

~~**17-6-606. (Effective July 1, 2011) Tobacco settlement accounts -- purpose -- uses.** (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:~~

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~~(c) provide funds for the children's health insurance program; and~~

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~~(d)~~(e) ~~provide funds for the comprehensive health association programs.~~

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~~public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.~~

~~(3) An amount equal to 17% 35.1% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:~~

~~(a) matching funds to secure the maximum amount of federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and~~

~~(b) matching funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and~~

~~(b)(c) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.~~

~~(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.~~

~~(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.~~

~~(6) Programs funded under this section that are private in nature may be funded through contracted services."~~

Section 1. 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 income tax liability owing to the department of revenue from previous years;

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

(e) do 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.

(2) An owner, partner, or shareholder of a business 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) any premium assistance payment. However, a premium incentive payment may be made for the premium share paid by the business for group health insurance coverage for:

(i) the owner, partner, or shareholder;

(ii) a spouse of those listed in subsection (2)(a)(i) who is also an employee of the business; or

(iii) dependents of those listed in subsection (2)(a)(i).

(b) a tax credit for group health insurance premiums paid by the business or the owner, partner, or shareholder for group health insurance coverage for the individual or the individual's dependents.

(3) An employee with a gross household income, as defined in 15-30-2337, that is at or more than 300% of the poverty level set according to the most current federal poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2) is not eligible under this chapter for any premium assistance payment. The commissioner shall review gross household income information and establish rules that enable an employer to verify that an employee is eligible for a premium assistance payment while not disclosing confidential financial information concerning the employee.

~~(3)~~(4) 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.

~~(4)~~(5) The commissioner shall establish, by rule, the maximum number of employees that may be employed to qualify as a small employer under subsection (1). However, the number may not be less than two employees or more than nine employees. The maximum number may be different for employers seeking premium

incentive payments and premium assistance payments than for 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 employers with respect to the tax year for which the employer has registered.

~~(5)~~(6) Except as provided in subsection ~~(6)~~ (7), 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 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 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 employer is paying for coverage for the dependents, not to exceed two dependents of an employee in addition to the employee's spouse.

~~(6)~~(7) An employer may not claim a tax credit:

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

(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; or

(d) if the employer is eligible for a federal small employer health insurance tax credit pursuant to section 45R of the Internal Revenue Code, 26 U.S.C. 45R.

~~(7)~~(8) An employer may not claim a premium incentive payment in excess of 50% of the total premiums paid by the employer for the qualifying small group."

Section 2. 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) if the eligible small employer did not sponsor a group health plan that provides creditable coverage for employees during the 2 years prior to the first tax year of registration for the premium incentive payments or premium assistance payments or operates a new business that is less than 2 years old and has never sponsored a group health plan that provides creditable coverage, apply to receive monthly premium incentive payments and premium assistance payments to be applied to coverage obtained through the purchasing pool 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 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.

(c) A tax credit is not allowed under this part if an eligible small employer is eligible for a federal small employer health insurance tax credit pursuant to section 45R of the Internal Revenue Code, 26 U.S.C. 45R.

(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 4.** Section 53-4-1105, MCA, is amended to read:~~

~~**"53-4-1105. Rulemaking -- active enrollment -- plan coordination.** (1) The department shall adopt rules necessary to implement this part, including plan administration, plan enrollment, outreach efforts, and standards of performance to allow enrollment partners to assist in enrolling children in the plan or other health coverage plans administered by the department.~~

~~(2) The rules must:~~

~~(a) establish a process for identifying and approving enrollment partners;~~

~~(b) create and define an active enrollment process;~~

~~(c) promote seamless movement between programs described in 53-4-1104(2);~~

~~(d) promote accessible enrollment through enrollment partners;~~

~~(e) provide, to the extent permitted by law, a single point of access in the department for plan members;~~

~~(f) define income for purposes of determining eligibility for children's health coverage programs within the plan; and~~

~~(g) provide for presumptive eligibility; and~~

~~(h)(g) encourage enrollment partners to actively enroll as many eligible, uninsured children as possible in the plan or in an employer-sponsored plan as described in 53-4-1108.~~

~~(3) The rules may provide for presumptive eligibility and include the development of enrollment partner training, technical assistance programs, and performance measures.~~

~~(4) The rules may provide for an exemption from the active enrollment process based upon an individual showing of:~~

~~(a) religious conviction;~~

~~(b) private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), obtained by the parents for the child from a private group or individual health insurance issuer or under a self-funded employer health plan; or~~

~~(c) other compelling circumstances.~~

~~(5) The rules governing eligibility and premium assistance must be consistent with this part. Rules may~~

~~include but are not limited to financial standards and criteria for income, nonfinancial criteria, family responsibility, residency, the application process, termination of eligibility, definition of terms, and confidentiality of applicant and recipient information."~~

Section 3. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department; and

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2).

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(o) services of psychologists licensed under Title 37, chapter 17;

(p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

(q) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as

described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsections (3)(a) through (3)(l) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) Regardless of medical necessity, coverage for organ transplant surgery is limited to transplanting one organ per organ transplant surgery.

~~(12)~~(13) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical

services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2)."

Section 4. Section 53-6-1002, MCA, is amended to read:

"53-6-1002. Prescription drug plus discount program -- rules. (1) ~~The~~ Subject to available funding as provided in 53-6-1020, the department may provide for a prescription drug plus discount program offering prescription drugs at a discounted price to qualified individuals whose income is at a level set by the department at or below 250% of the federal poverty level and who meet the requirements in 53-6-1003.

(2) There is a prescription drug plus discount program rebate account in the state special revenue fund to the credit of the department. All money received by the state as rebates from pharmaceutical manufacturers for the program must be deposited in the account. The money in the account, which is administered by the department, must be used to expand prescription drug benefits to qualified individuals. Interest on account balances accrues to the account. The purpose of the account is to:

(a) reimburse participating retail pharmacies for the secondary discounted price; and

(b) reimburse the department for contracted services, administrative costs, associated computer costs, professional fees paid to participating retail pharmacies, pharmacy benefit administrators, and other reasonable program costs.

(3) The department shall provide for sufficient personnel to ensure efficient administration of the program. The extent and the magnitude of the program must be determined by the department on the basis of the calculated need of the recipient population and available funds. The department may not spend more on this program than is available through appropriations, federal or other grants, and other established and committed funding sources. The department may accept, for the purposes of carrying out this program, federal funds appropriated under any federal law relating to the furnishing of free or low-cost drugs to disadvantaged, elderly, and disabled individuals, may take action that is necessary for the purposes of carrying out that federal law, and may accept from any other agency of government, individual, group, or corporation funds that may be available to carry out this part.

(4) The department may adopt rules relating to the conduct of this program.

(5) The department shall, if the department determines that sufficient funds are available, adopt rules to establish the secondary discounted price to be charged to participants in the program. The department may establish a secondary discounted price to encourage the use of generic drugs over higher-cost brand-name

drugs.

(6) The department shall establish by rule eligibility based upon the applicant's family income as provided in 53-6-1003. The total income may not exceed 250% of the federal poverty level. The department may adopt rules defining income. In establishing eligibility based upon income, the department shall take into account the amount of funding available for the program. The department shall issue enrollment materials to eligible individuals.

(7) Establishment of the program is contingent upon compliance with all applicable federal laws. The department may adopt rules necessary to implement conditions required by federal law.

(8) If program costs are expected to exceed the legislative authorization for the program, the department shall adjust discounted prices or eligibility standards to maintain the program within the available funding.

(9) Participation in the program by a pharmacy or a pharmaceutical manufacturer is voluntary.

(10) (a) The department may not contract with either an in-state or out-of-state mail service pharmacy, as defined in 37-7-702, for the purposes of the program for at least 1 year after persons eligible for the program have begun to purchase drugs through the program. At that time, the department shall evaluate the number of pharmacies within the state providing prescription drugs as part of the program.

(b) If the department determines that there are insufficient pharmacies participating in the program to allow reasonable access to persons qualified to purchase prescription drugs through the program, it may, after the evaluation provided for in subsection (10)(a), use one or more in-state or out-of-state mail service pharmacies, or both, for the purposes of the program."

Section 5. Section 53-6-1004, MCA, is amended to read:

"53-6-1004. State pharmacy access program. (1) ~~The~~ Subject to available funding as provided in 53-6-1020, the department shall administer a pharmacy access prescription drug benefit program that contributes to the cost of the premium and, optionally, to the cost of the deductible for the Part D medicare prescription drug benefit as established in Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

(2) An individual is eligible for the pharmacy access program if the individual:

(a) has a family income, as adopted by rule, of up to 200% of the federal poverty guidelines set annually by the U.S. department of health and human services and is not eligible for federal low-income assistance under Part D;

(b) submits proof of enrollment in a prescription drug plan for the Part D medicare benefit.

(3) The department shall establish by rule eligibility based upon the applicant's family income within the range provided in subsection (2). The department may adopt rules defining income. In establishing eligibility based upon income, the department shall take into account the amount of funding available for the program.

(4) The department shall set an amount of benefit for the premium and may optionally set a portion of the deductible by rule based on the numbers enrolled and the appropriation.

(5) The department shall open the enrollment of the pharmacy access program at the same time as enrollment commences for the medicare Part D program.

(6) If the department determines that there are excess funds for the pharmacy access program, it may use the funds for the program provided for in 53-6-1002."

Section 6. Section 53-6-1005, MCA, is amended to read:

"53-6-1005. Department administration -- pharmacy access. ~~(1)~~ The department shall administer the pharmacy access program within the limits of available funding for the program. The department ~~shall~~ may provide for outreach and enrollment in the pharmacy access program. The department ~~shall~~ may integrate the enrollment and outreach procedures with other services provided to individuals and families eligible for other related programs.

~~(2) The department shall report on Montana's prescription drug use, needs, and trends and submit a report with recommendations to the governor and to the legislature by September 15, 2006 of the year prior to the convening of the legislature.~~"

Section 7. Section 53-6-1006, MCA, is amended to read:

"53-6-1006. Prescription drug consumer information and technical assistance program -- education outreach for consumers and professionals. (1) There is a prescription drug consumer information and technical assistance program in the department to provide Montana residents with advice on the prudent use of prescription drugs and how to access government and private prescription drug programs and discounts. The program ~~must~~ may include consultation by licensed pharmacists with individuals on how to avoid dangerous drug interactions and provide for substitution of more cost-effective drugs with approval by the prescribing health care professional.

(2) The department ~~shall~~ may create educational resources, including a website, concerning the costs and benefits of various drugs to inform consumers and medical practitioners on clinically effective and

cost-conscious prescription drugs."

Section 8. Section 53-6-1010, MCA, is amended to read:

"53-6-1010. Specifications for administration of program. (1) ~~The~~ Subject to available funding as provided in 53-6-1020, the department shall adopt specifications for the administration and management of the program. Specifications may include but are not limited to program objectives, accounting and handling practices, supervisory authority, and an evaluation methodology.

(2) Information disclosed by manufacturers during negotiations and all terms and conditions negotiated between the director and manufacturers and all information requested or required under the program are public information, except for information that the department determines is proprietary information.

(3) The department may use a formulary or other committee to determine preferred drug lists for department programs. The department ~~shall~~ may include a representative of consumers on any formulary committee or committee to determine preferred drug lists for purchase by the department or reimbursement of costs. Any formulary or preferred drug list must be based on objective clinical data on safety and effectiveness. If two or more drugs are found to be equally effective and safe for the treatment of the same medical condition, the drug available at the lowest net price, inclusive of discounts and rebates, must be placed on the list. Other drugs for treating the same medical condition may be added to the list if they are therapeutically equivalent and the department determines them to be cost-effective.

(4) The department may negotiate rebates from the prescription drug manufacturers for drugs that will be on any preferred drug list. The department may negotiate price discounts with prescription drug manufacturers for any state-purchased health care programs, including medicaid, the state children's health insurance program, and the program provided for in 53-6-1002.

(5) The department may use the access restrictions and a preferred drug list to negotiate for the most favorable discount prices and rebates for the program.

(6) The department may participate in multistate purchasing pool initiatives for the benefit of the program."

Section 9. Section 53-6-1012, MCA, is amended to read:

"53-6-1012. Obligations of department. The department shall establish simplified procedures for determining eligibility and issuing Montana prescription enrollment cards to qualified individuals under 53-6-1002

and ~~shall~~ may undertake outreach efforts to build public awareness of the program and maximize enrollment of qualified individuals. The department may adjust the requirements and terms of the program to accommodate any new federally funded prescription drug programs or lack of available funding as provided in 53-6-1020."

~~COORDINATION SECTION.~~ **Section 12. Coordination instruction.** ~~If both House Bill No. 34 and [this act] are passed and approved and if both contain a section that amends 17-6-606, then the sections amending 17-6-606 are void and 17-6-606 must be amended as follows:~~

~~**"17-6-606. (Temporary) Tobacco settlement accounts -- purpose -- uses.** (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:~~

~~(a) discourage children from starting use of tobacco;~~

~~(b) assist adults in quitting use of tobacco;~~

~~(c) provide funds for the children's health insurance program;~~

~~(c)~~(d) ~~provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and~~

~~(d)~~(e) ~~provide funds for the comprehensive health association programs.~~

~~(2) An amount equal to 32%~~ 13.9% ~~of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5)~~ (6), ~~the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.~~

~~(3) An amount equal to 17%~~ 32.16% ~~of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5)~~ (6), ~~the funds referred to in this subsection may be used only for:~~

~~(a) matching funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10;~~

~~(a)~~(b) ~~matching funds to secure the maximum amount of federal funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and.~~

(b)(4) An amount equal to 2.94% of the total yearly tobacco settlement proceeds must be deposited in a state special revenue account. Subject to subsection (6), the funds referred to in this subsection may be used only for programs of the Montana comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4)(5) Funds deposited in a state special revenue account, as provided in subsection (2), or (3), or (4) that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5)(6) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6)(7) Programs funded under this section that are private in nature may be funded through contracted services. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009.)

17-6-606. (Effective July 1, 2011) Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco;

(c) provide funds for the children's health insurance program; and

(d) provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and

(d)(e) provide funds for the comprehensive health association programs.

(2) An amount equal to 32% 13.9% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5) (6), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to 17% 32.6% of the total yearly tobacco settlement proceeds received after June 30, 2003, must be deposited in a state special revenue account. Subject to subsection (5) (6), the funds referred to in this subsection may be used only for:

~~(a) matching funds to secure the maximum amount of federal funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and~~

~~(b) matching funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11.~~

~~(4) An amount equal to 2.94% of the total yearly tobacco settlement proceeds must be deposited in a state special revenue account. Subject to subsection (6), the funds referred to in this subsection may be used only for programs of the Montana comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.~~

~~(4)~~(5) ~~Funds deposited in a state special revenue account, as provided in subsection (2), or (3), or (4) that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.~~

~~(5)~~(6) ~~The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.~~

~~(6)~~(7) ~~Programs funded under this section that are private in nature may be funded through contracted services."~~

COORDINATION SECTION. **SECTION 10. COORDINATION INSTRUCTION.** IF HOUSE BILL NO. 2 IS NOT PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

NEW SECTION. **Section 11. Effective date.** [This act] is effective July 1, 2011.

NEW SECTION. **Section 12. Applicability.** ~~[Sections 2 and 3]~~ [SECTIONS 1 AND 2] apply to tax years beginning after December 31, 2011.

- END -