§ 3233. Stabilization of health insurance markets and premium rates. (a) Notwithstanding any provision of this chapter or any other chapter, on or before October first, nineteen hundred ninety-two the superintendent shall promulgate regulations to assure an orderly implementation and ongoing operation of the open enrollment and community rating required by sections thirty-two hundred thirty-one and forty-three hundred seventeen of this chapter, including provisions designed to encourage insurers to remain in or enter the small group or individual health insurance markets. The regulations shall apply to all insurers and health maintenance organizations subject to community rating. The regulations shall be designed to promote an insurance marketplace where premiums do not unduly fluctuate, insurers and health maintenance organizations are reasonably protected against unexpected significant shifts in the number of persons insured, and other market stability features deemed appropriate by the superintendent. Such regulations shall not require any insurer or health maintenance organization subject to this section, or any subsidiary or controlled person of a holding company of such insurer or health maintenance organization, to enter, continue to conduct, or withdraw from any line of business as a condition of entering, continuing in, or withdrawing from any other line of business.

(b) Prior to adopting such regulations the superintendent shall convene a technical advisory committee to provide advice and recommendations to the superintendent on issues including, but not limited to, voluntary reinsurance, pooling, risk sharing, the moderation of initial community rates as compared to prior rates, or premium stabilization methods. The technical advisory committee shall be comprised of nine members, one of whom shall be the superintendent or his or her designee. The superintendent or his or her designee shall chair the committee and shall appoint two other members to the committee. The temporary president of the senate and the speaker of the assembly shall each appoint three members to the committee. The appointees shall be representatives of commercial health insurers, not-for-profit health insurers, health maintenance organizations and purchasers of insurance and shall be named no later than July fifteenth, nineteen hundred ninety-two. In addition, the superintendent may obtain the services of an actuary with experience relating to premium rates and

market stabilization for small group health insurance.

(c) (1) Such regulations shall include reinsurance or a pooling process involving insurer contributions to, or receipts from, a fund which shall be designed to share the risk of or equalize high cost claims, claims of high cost persons, cost variations among insurers and health maintenance organizations based upon demographic factors of the persons insured which correlate with such cost variations designed to protect insurers from disproportionate adverse risks of offering coverage to all applicants; provided that such regulations shall relate only to risk sharing among insurers and health maintenance organizations and shall not create differences in community rates charged by a single insurer because an individual's or small group's coverage has been reinsured or pooled, and neither the small employer nor the employee shall have reason to know that their coverage has been reinsured or pooled pursuant to such regulations. Such regulations may also include other mechanisms designed to share risks or prevent undue variations in insurer claim costs which are not related to expected differences in insurer costs based upon competition, innovation and efficiency of operation. The regulations may segregate any reinsurance, pooling or other process among various geographic regions of the state.

(2) Effective on and after January first, nineteen hundred ninety-six, health maintenance organizations and insurers shall be required to contribute only ninety percent of the amounts calculated pursuant to regulations based upon demographic factors. The required contribution will be further reduced by an additional twenty-two and one-half percent on each succeeding January first. The aggregate total contributions by health maintenance organizations and insurers required pursuant to regulations based upon specified medical conditions shall be increased by the aggregate total amount of savings resulting from decreased contributions calculated pursuant to regulations based upon demographic factors, provided, however, that the funds received by an insurer or health maintenance organization pursuant to such regulations be applied to reduce the premiums of the particular class of contracts issued pursuant to sections four thousand three hundred twenty-one and four thousand three hundred twenty-two of this chapter whose subscribers caused the payments to be received.

(3) On and after January first, two thousand, such regulations shall

include only reinsurance or a pooling process involving insurer and health maintenance organization contributions to, or receipts from, a fund which shall be designed to share the risk of or equalize high cost claims or the claims of high cost persons; provided that such regulations shall relate only to risk sharing among insurers and health maintenance organizations and shall not create differences in community rates charged by a single insurer or health maintenance organization because an individual's or small group's coverage has been reinsured or pooled, and neither the small employer nor the employee shall have reason to know that their coverage has been reinsured or pooled pursuant to such regulations. Such regulations may also include other mechanisms designed to share risks or prevent undue variations in insurer and health maintenance organization claim costs which are not related to expected differences in insurer and health maintenance organization costs based upon competition, innovation and efficiency of operation. The regulations may segregate any reinsurance, pooling or other process among various geographic regions of the state. Prior to adopting such regulations the superintendent shall convene a technical advisory committee to provide advice and recommendations to the superintendent on issues including, but not limited to, voluntary reinsurance, pooling, risk sharing, the moderation of initial community rates as compared to prior rates, or premium stabilization methods. The technical advisory committee shall be comprised of nine members, one of whom shall be the superintendent or his or her designee. The superintendent or his or her designee shall chair the committee and shall appoint two other members to the committee. The temporary president of the senate and the speaker of the assembly shall each appoint three members to the committee. The appointees shall be representatives of not-for-profit and commercial health insurers, health maintenance organizations, consumers and other purchasers of insurance and shall be named no later than September first, nineteen hundred ninety-five.

The superintendent shall also convene the technical advisory committee periodically to evaluate the impact of the standardized direct payment enrollee contracts offered pursuant to sections four thousand three hundred twenty-one and four thousand three hundred twenty-two of this chapter on the individual health insurance market. In the course of such

evaluation, the superintendent and the technical advisory committee shall consider: the adequacy of the benefits provided under the contracts and their effect on the affordability of the contracts; enrollment levels in the contracts in various regions of the state; utilization and claims experience of the contract holders; the impact of non-standardized direct payment enrollee contracts on the individual market; whether there is a need for an additional standardized direct payment enrollee contract and recommendations on whether other or different standardized benefit packages should be offered in the individual market; other options to enhance the affordability of the contracts; and such other areas as the technical advisory committee deems appropriate. After completing such evaluation, but in no event later than October first, nineteen hundred ninety-six, the technical advisory committee shall deliver a report to the governor, the speaker of the assembly and the temporary president of the senate which contains the results of its evaluation and any findings or recommendations on enhancing access to and affordability of individual health insurance products.

(d) Notwithstanding any provision of this chapter or any other chapter, the superintendent may suspend or terminate, by regulation, the operation, in whole or in part, of any mechanism established and operating pursuant to the authority of this section provided that the superintendent determines that the objectives stated in subsection (a) of this section are met by the operation of a mechanism or mechanisms established by the federal government pursuant to section 1343 of the affordable care act, 42 U.S.C. § 18063. Notwithstanding subsection (b) of this section, the superintendent may exercise this authority without convening a technical advisory committee.