

HOUSE BILL NO. 332

INTRODUCED BY D. BEDEY, D. SALOMON, E. MCCLAFFERTY, L. JONES, W. MCKAMEY, F. ANDERSON,
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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING SCHOOL DISTRICT HEALTH
INSURANCE LAWS; PROVIDING INCENTIVE FUNDING FOR SCHOOL DISTRICTS THAT PARTICIPATE IN
A QUALIFYING DISTRICT HEALTH INSURANCE TRUST; REQUIRING THE ~~SUPERINTENDENT OF~~
~~PUBLIC INSTRUCTION~~ STATE AUDITOR TO QUALIFY A DISTRICT HEALTH INSURANCE TRUST THAT
MEETS SPECIFIED REQUIREMENTS; PROHIBITING SCHOOL DISTRICTS ENTERING THE TRUST FROM
IMPOSING THEIR HEALTH BENEFIT LIABILITIES ON THE TRUST; PROVIDING CONDITIONS FOR AND
RAMIFICATIONS OF DISTRICT WITHDRAWAL; SPECIFYING PROCESSES IN THE CASE OF
DISSOLUTION; PROVIDING CONDITIONS FOR EVENTUAL REPAYMENT OF EXCESS RESERVES TO
THE STATE; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION;
PROVIDING FOR A MONEY TRANSFER; PROVIDING DEFINITIONS; AMENDING SECTIONS 17-7-502 AND
20-3-331, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Qualifying district health insurance trusts -- qualifications --
definitions -- RULEMAKING. (1) The first district health insurance trust that is qualified by the ~~superintendent of~~
~~public instruction~~ STATE AUDITOR under this section must be provided the insurance trust incentive payment
under [section 4] to stabilize health insurance rates through the capitalization of COSTS AND CAPITALIZE an
operating reserve for the school district members of the trust. The ~~superintendent of public instruction~~ STATE
AUDITOR may qualify only the first district health insurance trust meeting the criteria of this section.

(2) A district health insurance trust seeking qualification from the ~~superintendent of public~~
~~instruction~~ STATE AUDITOR under subsection (3) shall apply to the ~~superintendent of public instruction~~ STATE
AUDITOR demonstrating that the district health insurance trust:

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1 except for:

2 (i) ~~benefits paid~~ THE COST OF PROVIDING HEALTH CARE TO MEMBERS, INCLUDING WELLNESS PLANS TO
3 IMPROVE AND PROMOTE HEALTH AND FITNESS;

4 (ii) additions to reserves as recommended by the district health insurance trust's actuary under
5 subsection (2); and

6 (iii) the cost of excess insurance or reinsurance for high-cost claims within the trust with an
7 ~~attachment point at which the excess insurance or reinsurance limits apply of not less than \$200,000~~ PLAN
8 DESIGN AND DEDUCTIBLE LEVELS AS RECOMMENDED BY THE TRUST'S ACTUARY.

9 (b) "District" means a public school district as provided in 20-6-101 and 20-6-701 AND ANY
10 COOPERATIVE FORMED PURSUANT TO 20-7-451 THROUGH 20-7-457.

11 (c) "District health insurance trust" or "trust" means an arrangement, plan, interlocal agreement, or
12 multidistrict agreement COMPLYING WITH THE REQUIREMENTS OF THIS SECTION that jointly provides disability
13 insurance as defined in 33-1-207 to ~~its districts'~~ THE officers, elected officials, or employees OF DISTRICTS
14 through a member-governed, self-funded program.

15 (d) "Employee" means an individual employed by a district in any capacity, including but not limited
16 to an employee meeting the definition in 2-18-601 and a teacher or principal as defined in 20-1-101 who is
17 regularly scheduled to work at least 20 hours or more a week during the academic year.

18 (E) "MEMBER" MEANS ANY EMPLOYEE AND THE EMPLOYEE'S QUALIFIED DEPENDENTS WHO ARE OBTAINING
19 HEALTH INSURANCE COVERAGE UNDER THE TRUST BY VIRTUE OF THEIR STATUS AS A DEPENDENT OF THE EMPLOYEE.

20
21 NEW SECTION. Section 2. District withdrawal -- procedures. (1) After initially joining a district
22 health insurance trust qualified by the superintendent of public instruction STATE AUDITOR under [section 1], a
23 district OR AN EMPLOYEE GROUP OF A DISTRICT that has participated in the trust for at least 5 consecutive school
24 fiscal years and provides notice to the district health insurance trust of a plan to withdraw from the trust is
25 authorized to withdraw from the trust. EXCEPT AS PROVIDED IN SUBSECTION (2), A DISTRICT OR AN EMPLOYEE GROUP
26 OF A DISTRICT THAT VOLUNTARILY JOINS THE TRUST MUST PARTICIPATE IN THE TRUST FOR AT LEAST 5 CONSECUTIVE
27 SCHOOL FISCAL YEARS BEFORE BECOMING ELIGIBLE TO WITHDRAW FROM THE TRUST. To complete its withdrawal

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EFFECTIVE NOT EARLIER THAN THE COMPLETION OF AT LEAST 5 CONSECUTIVE SCHOOL FISCAL YEARS, the district shall notify the trust prior to withdrawing from participation pursuant to the contractual terms of coverage and membership in the district health insurance trust.

(2) (A) ON OR BEFORE JANUARY 1 OF EACH PLAN YEAR BEGINNING AFTER THE SECOND FULL YEAR OF PROVIDING HEALTH BENEFITS TO THE MEMBERS OF THE TRUST, THE TRUST SHALL PREPARE A REPORT FOR EACH OF ITS PARTICIPATING DISTRICTS AND EMPLOYEE GROUPS THAT INCLUDES THE FOLLOWING:

(i) A PER-MEMBER COST FOR THE IMMEDIATELY PRECEDING PLAN YEAR CALCULATED BY DIVIDING THE TOTAL COST TO THE TRUST OF PROVIDING MEMBER BENEFITS TO THE DISTRICT OR EMPLOYEE GROUP BY THE TOTAL NUMBER OF MEMBERS IN THE DISTRICT OR EMPLOYEE GROUP FOR THE APPLICABLE YEAR. THIS CALCULATION IS REFERRED TO AS THE "COST RATE" IN THIS SECTION.

(ii) A CALCULATION OF WHAT THE PER-MEMBER CONTRIBUTION RATES WOULD BE FOR THE DISTRICT OR EMPLOYEE GROUP FOR THE CURRENT PLAN YEAR USING THE SAME NUMBER OF MEMBERS IN EACH OF THE PLANS OFFERED BY THE TRUST IN THE IMMEDIATELY PRECEDING PLAN YEAR. THIS CALCULATION IS REFERRED TO AS "THE CONTRIBUTION RATE" IN THIS SECTION.

(iii) A PERCENTAGE ROUNDED TO THE NEAREST TENTH, CALCULATED BY DIVIDING THE CONTRIBUTION RATE CALCULATED AS PROVIDED IN SUBSECTION (2)(A)(ii) BY THE COST RATE CALCULATED AS PROVIDED IN SUBSECTION (2)(A)(i), SUBTRACTING 1, AND MULTIPLYING BY 100 TO PRODUCE A PERCENTAGE. THIS CALCULATION IS REFERRED TO AS "THE ADJUSTED CONTRIBUTION INFLATION RATE" IN THIS SECTION.

(iv) THE ANNUAL INFLATION RATE FOR MEDICAL CARE DERIVED FROM THE MEDICAL CARE INDEX OF THE UNITED STATES BUREAU OF LABOR STATISTICS FOR JULY 1 OF THE CURRENT PLAN YEAR, CONVERTED TO A PERCENTAGE. THIS RATE IS REFERRED TO AS "THE MEDICAL CARE INDEX RATE" IN THIS SECTION.

(v) A COMPUTATION AND THE RESULTING NUMBER ROUNDED TO THE NEAREST TENTH THAT IS YIELDED FROM DIVIDING THE ADJUSTED CONTRIBUTION INFLATION RATE OF THE DISTRICT OR EMPLOYEE GROUP BY THE MEDICAL CARE INDEX RATE. THE RESULTING NUMBER IS REFERRED TO AS "THE INFLATION GAP FACTOR" FOR THE DISTRICT OR EMPLOYEE GROUP IN THIS SECTION.

(B) A DISTRICT OR AN EMPLOYEE GROUP WITH AN INFLATION GAP FACTOR EQUAL TO OR GREATER THAN 1.5 MAY WITHDRAW FROM THE TRUST UPON THE CONCLUSION OF THE PLAN YEAR IN WHICH THE TRUST REPORTS AN

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INFLATION GAP FACTOR TO THE DISTRICT OR EMPLOYEE GROUP ABOVE 1.5. TO COMPLETE ITS WITHDRAWAL, THE DISTRICT SHALL NOTIFY THE TRUST PRIOR TO WITHDRAWING FROM PARTICIPATION PURSUANT TO THE CONTRACTUAL TERMS OF COVERAGE AND MEMBERSHIP IN THE DISTRICT HEALTH INSURANCE TRUST.

~~(2)(3)~~ A district that has withdrawn from a district health insurance trust under ~~subsection (1)~~ SUBSECTIONS (1) OR (2):

(a) is ineligible to rejoin the trust for at least 5 full school fiscal years following the year in which the district withdraws; ~~and~~

(b) is ineligible for receipt of any portion of the net assets or reserve balance of the trust attributable to the distribution of funds under [section 4(3)~~(b) and (5)~~] on withdrawal. The portion of the net assets and reserve balance attributable to the distribution of state funds referenced under this subsection ~~(2)~~ (3) must be determined by an actuarial reserve balance analysis conducted by the trust's contracted actuary;

AND

(C) SHALL REIMBURSE THE TRUST FOR THE RUN-OFF LIABILITY OF THE WITHDRAWING DISTRICT OR EMPLOYEE GROUP, CONSISTING OF ALL CLAIMS OF THE WITHDRAWING DISTRICT OR EMPLOYEE GROUP THAT WERE INCURRED BY THE MEMBERS OF THE DISTRICT OR EMPLOYEE GROUP PRIOR TO THE EFFECTIVE DATE OF THE DISTRICT'S OR EMPLOYEE GROUP'S WITHDRAWAL.

NEW SECTION. Section 3. Dissolution -- disqualification. (1) If, after being qualified by the ~~superintendent of public instruction~~ STATE AUDITOR, a district health insurance trust ceases to comply with the conditions under [section 1(2)] for more than 3 consecutive years, the trust shall immediately notify the ~~superintendent of public instruction~~ STATE AUDITOR and dissolve the trust no later than the end of the next full fiscal year after the date of notification. A district health insurance trust may also voluntarily dissolve.

(2) When dissolving pursuant to this section, the district health insurance trust shall wind up the affairs of the trust in the following order:

(a) impose any assessments on the ~~members~~ DISTRICTS of the trust that are calculated by the trust's retained actuary as necessary to pay all liabilities of the trust;

(b) pay all remaining claims, including incurred but not reported claims;

(c) pay all remaining liabilities of the trust;

(d) return any reserve balance remaining from the distribution of state funds to the trust under [section 4(3)(b) and (5)] to the state of Montana, after adjustments under subsections (2)(a) through (2)(c), for deposit in the state general fund. The portion of the reserve balance attributable to the distribution of state funds referenced under this subsection (2)(d) must be determined by an actuarial reserve balance analysis conducted by an actuary chosen by the ~~superintendent of public instruction~~ STATE AUDITOR.

(e) distribute its remaining net assets, if any, proportionately to the ~~member~~ districts of the trust pursuant to the contractual terms of coverage and membership in the trust. A district shall deposit funds distributed under this subsection (2)(e) in an internal service account and spend the funds in accordance with 20-3-330 or 20-3-331.

NEW SECTION. Section 4. State school health trust operating reserve account -- distribution and uses. (1) There is a state school health trust operating reserve account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide a one-time-only distribution of incentive funding to the first self-funded district health insurance trust that is qualified by the ~~superintendent of public instruction~~ STATE AUDITOR pursuant to [section 1] ~~AND THE DISTRICTS PARTICIPATING IN THE TRUST.~~

(2) The state school health trust operating reserve account is statutorily appropriated, as provided in 17-7-502, to the office of public instruction for distribution as provided in this section.

(3) If a trust has been qualified by the ~~superintendent of public instruction~~ STATE AUDITOR on or before June 30, 2025 2026, for initial operation beginning July 1, 2025 2026, the superintendent shall, on July 1, 2025 2026, distribute ~~funds in the account as follows:~~

~~(a) — one-third of the money in the account \$5 MILLION to member districts of the trust divided equally by the total number of employees of qualifying districts in the last completed school fiscal year THAT ARE CONTRACTED TO PARTICIPATE IN THE TRUST. A district receiving funds shall deposit the funds in its miscellaneous programs fund THE INTERNAL SERVICE FUND REFERENCED IN 20-3-331 and use the funds to pay premiums for health insurance coverage of its employees.~~

~~(b) — two-thirds of the money in the account \$40 MILLION to the district health insurance trust. The~~

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qualifying district health insurance trust shall use the funds to stabilize health insurance rates ~~COSTS~~ through capitalization of an operating reserve for the district members of the trust.

(4) If a trust has not been qualified by June 30, 2025, ~~\$20 million of 2026~~, the account balance must be transferred to the ~~state general fund~~ CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT FOR USES CONSISTENT WITH 17-7-209.

~~(5) If a trust is qualified between July 1, 2025, and June 30, 2027, the superintendent of public instruction shall distribute all of the money in the account to the district health insurance trust on July 1 of the fiscal year immediately following the qualification. The qualifying district health insurance trust shall use the funds to stabilize health insurance rates COSTS through capitalization of an operating reserve for the district members of the trust.~~

~~(6) If a trust has not been qualified by June 30, 2027, the account balance must be transferred to the state general fund.~~

NEW SECTION. SECTION 5. REPAYMENT OF INITIAL RESERVE FROM STATE FROM EXCESS RESERVES. (1)
BEGINNING JULY 1, 2036, A TRUST CREATED UNDER [SECTION 1], SHALL, AS PART OF ITS ANNUAL ACTUARIAL ANALYSIS, IDENTIFY AND REPORT TO THE STATE AUDITOR NO LATER THAN 90 DAYS FOLLOWING THE COMPLETION OF ITS ANNUAL AUDIT, ANY EXCESS RESERVES EXISTING IN THE TRUST.

(2) THE TRUST SHALL REMIT TO THE STATE ANY EXCESS RESERVES IDENTIFIED PURSUANT TO SUBSECTION (1) UNTIL THE CUMULATIVE AMOUNTS REMITTED REACHES ~~\$45~~ \$40 MILLION. THE STATE SHALL DEPOSIT ANY AMOUNTS REMITTED FROM YEAR TO YEAR IN THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT FOR USES CONSISTENT WITH 17-7-209.

(3) FOR THE PURPOSES OF [SECTIONS 1 THROUGH 5], "EXCESS RESERVES" MEANS RESERVES IN EXCESS OF THE GREATER OF:

(A) RESERVE LEVELS REQUIRED UNDER RULES ADOPTED BY THE STATE AUDITOR;

(B) MINIMUM RISK-BASED CAPITAL RECOMMENDED BY THE TRUST'S ACTUARY, USING A CONFIDENCE INTERVAL OF 90%; OR

(C) MINIMUM CAPITAL CALCULATED BY THE TRUST'S ACTUARY FOLLOWING THE RISK-BASED CAPITAL

REQUIREMENTS APPLICABLE TO A HEALTH ORGANIZATION THAT ARE SPECIFIED IN TITLE 33, CHAPTER 2, PART 19, AT LEVELS ABOVE THE LEVELS THAT WOULD TRIGGER A COMPANY ACTION LEVEL EVENT FOR A HEALTH ORGANIZATION UNDER 33-2-1904.

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; [section 4]; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

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Section 7. Section 20-3-331, MCA, is amended to read:

"20-3-331. Purchase of insurance -- self-insurance plan. (1) ~~The~~ To provide the district, trustees, and employees with liability insurance pursuant to 2-9-211 and group health and life insurance pursuant to 2-18-702, the trustees of a district may:

(a) purchase insurance coverage;

(b) participate in a district health insurance trust as defined in [section 1] for group health insurance; or

(c) establish a self-insurance plan for the district, trustees, and employees for liability as provided in 2-9-211 and for group health and life insurance as provided in 2-18-702.

(2) The trustees shall include the cost of coverage in the general fund budget of the district and as authorized for the district transportation program in 20-10-143(1)(d) applicable budget for the fund from which the employee's salary is paid DISTRICT'S GENERAL FUND OR IN ANY OTHER LEGALLY AVAILABLE FUND, INCLUDING THE INTERNAL SERVICE FUND REFERENCED IN SUBSECTION (3).

(2)(3) Whenever the trustees of a district establish a self-insurance plan OR PARTICIPATE IN A DISTRICT HEALTH INSURANCE TRUST AS DEFINED IN [SECTION 1], the trustees shall establish an internal service fund to account for the activities of the self-insurance plan."

NEW SECTION. Section 8. Transfer of funds. No later than August 15, 2023, there is transferred ~~\$60~~ \$45 \$40 million from the general fund to the state school health trust operating reserve account established in [section 4].

NEW SECTION. Section 9. Codification instruction. [Sections 1 through 4-5] are intended to be codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3, apply to [sections 1 through 4-5].

NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 2023.

- END -