

HOUSE BILL NO. 332

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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; SPECIFYING PROCESSES IN THE CASE OF DISSOLUTION; 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:

(a) has been created on or after July 1, 2023, by a multidistrict agreement pursuant to 20-3-363 or by an interlocal cooperative agreement among participating school districts pursuant to the provisions of Title 20, chapter 9, part 7; The terms of the agreement must include the state auditor or the auditor's designee as an ex officio nonvoting member of the trust's governing board.

(b) has a binding contractual agreement among at least 150 districts employing a minimum of 12,000 employees to participate in and obtain health insurance for its employees through the trust. The calculation of these thresholds may include:

(i) only the number of employees that are contracted to participate in and obtain health insurance through the trust by each participating district; and

(ii) school districts and their employees with current renewal cycles other than a school fiscal year provided that the districts and employees are purchasing insurance through the trust not later than the earlier of the day after the date of the expiration of their previous policy or January 1 in the first year of the trust's operation.

(c) equally allocates the shared risk of assessments among all members of the trust;

(d) determines plan design, contribution rates, and a premium-contribution tier structure in consultation with a certified actuary;

(e) has adopted a required limit on administrative costs of not more than 12% of total costs in the formative documents of the trust. An initial commitment included in the application for qualification is legally binding on the trust in its operations ~~and is subject to the provisions of subsection (5).~~

(f) maintains full control over claims data for medical and pharmacy benefits and makes the data available to member districts on request in compliance with the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d, et seq.;

(g) provides, either directly or through a third-party administrator, estimates of costs for employees' anticipated medical treatments and procedures and estimates of required cost sharing by members;

(h) ~~is a "self-funded program" within the meaning of that term in~~ has formed as an agreement between school districts undertaken to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan as described in and subject to 33-1-102(9); and

(i) adopts contribution rates as recommended by its contracted actuary to pay all claims and maintain plan reserves at or above minimum levels of risk-based capital recommended by its actuary. The trust shall prepare and submit to the state auditor a report of its financials in a form and containing information as required by the state auditor by rule.

(3) ~~The superintendent of public instruction shall initially approve and afterward annually qualify~~

~~the first district health insurance trust that complies with the requirements in subsection (2) for funding under [section 4]. Nothing in this section may be construed to require a district to obtain insurance through the trust in whole or in part. A district may provide insurance through the trust for some groups and through other means for other groups, provided that at least 12,000 employees must be covered under the trust to qualify for the incentives under [section 4]. Any group of a district obtaining insurance through the trust is subject to the same requirements applicable to districts regarding the minimum duration of participation, conditions for withdrawal, and delay of return to the trust under [section 2].~~

(4) A district health insurance trust qualified by the ~~superintendent of public instruction~~ state auditor may, at its option, contract services with a third-party administrator for services needed by the trust, including but not limited to enrollment, claims processing, wellness plans, and access to financial arrangements with providers through provider network agreements via a contract.

~~(5) Falsely affirming compliance with the provisions of subsection (2) of this section is subject to a charge of false swearing under 45-7-202 and disqualification of the district health insurance trust.~~

(5) The state auditor shall adopt rules necessary to implement [sections 1 through 4]. The rules must address minimum reserves and reporting requirements for the trust.

(6) For the purposes of [sections 1 through 4], the following definitions apply:

(a) "Administrative costs" means the overall costs of operating a district health insurance trust except for:

(i) ~~benefits paid the cost of providing health care to members, including wellness plans to improve and promote health and fitness;~~

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

(iii) the cost of excess insurance or reinsurance for high-cost claims within the trust with ~~an attachment point at which the excess insurance or reinsurance limits apply of not less than \$200,000 plan design and deductible levels as recommended by the trust's actuary.~~

(b) "District" means a public school district as provided in 20-6-101 and 20-6-701 and any cooperative formed pursuant to sections 20-7-451 through 20-7-457.

(c) "District health insurance trust" or "trust" means an arrangement, plan, interlocal agreement, or

1 multidistrict agreement complying with the requirements of this section that jointly provides disability insurance
2 as defined in 33-1-207 to ~~its districts'~~ the officers, elected officials, or employees of districts through a member-
3 governed, self-funded program.

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

7 (e) "Member" means any employee and the employee's qualified dependents who are obtaining
8 health insurance coverage under the trust by virtue of their status as a dependent of the employee.

9
10 **NEW SECTION. Section 2. District withdrawal -- procedures.** (1) After initially joining a district
11 health insurance trust qualified by the ~~superintendent of public instruction state auditor~~ under [section 1], a
12 district or an employee group of a district that has participated in the trust for at least 5 consecutive school fiscal
13 years and provides notice to the district health insurance trust of a plan to withdraw from the trust is authorized
14 to withdraw from the trust. To complete its withdrawal, the district shall notify the trust prior to withdrawing from
15 participation pursuant to the contractual terms of coverage and membership in the district health insurance
16 trust.

17 (2) A district that has withdrawn from a district health insurance trust under subsection (1):
18 (a) is ineligible to rejoin the trust for at least 5 full school fiscal years following the year in which the
19 district withdraws; and

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

24
25 **NEW SECTION. Section 3. Dissolution -- disqualification.** (1) If, after being qualified by the
26 ~~superintendent of public instruction state auditor~~, a district health insurance trust ceases to comply with the
27 conditions under [section 1(2)] for more than 3 consecutive years, the trust shall immediately notify the
28 ~~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].

(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, for initial operation beginning July 1, 2025, the superintendent shall, on July 1, 2025, distribute funds in the account as follows:

(a) one-third of the money in the account 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 to the district health insurance trust. 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.

(4) If a trust has not been qualified by June 30, 2025, \$20 million of the account balance must be transferred to the state general fund.

(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.

Section 5. 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.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,

the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

Section 6. 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."

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1 NEW SECTION. **Section 7. Transfer of funds.** No later than August 15, 2023, there is transferred
2 \$60 million from the general fund to the state school health trust operating reserve account established in
3 [section 4].

5 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 4] are intended to be
6 codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3, apply
7 to [sections 1 through 4].

9 NEW SECTION. **Section 9.** **Effective date.** [This act] is effective July 1, 2023.

- END -