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 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:

Section 1. Qualifying district health insurance trusts -- qualifications -- definitions -- rulemaking. (1) The first district health insurance trust that is qualified by the state auditor under this section must be provided the insurance trust incentive payment under [section 4] to stabilize health insurance costs and capitalize an operating reserve for the school district members of the trust. The 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 state auditor under subsection (3) shall apply to the 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 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.

(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) 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);

(i) prohibits any preexisting health benefits trust or district from imposing its liabilities on the trust that were incurred prior to joining the trust; and

(j) 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) 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 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) The state auditor shall adopt rules necessary to implement [sections 1 through 5]. The rules must address minimum reserves and reporting requirements for the trust. The state auditor may order the dissolution of the trust if the trust fails to comply with the provisions of [sections 1 through 5] or the rules adopted by the state auditor.

(6) For the purposes of [sections 1 through 5], the following definitions apply:

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

(i) 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 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 20-7-451 through 20-7-457.

(c) "District health insurance trust" or "trust" means an arrangement, plan, interlocal agreement, or multidistrict agreement complying with the requirements of this section that jointly provides disability insurance

as defined in 33-1-207 to the officers, elected officials, or employees of districts through a member-governed, self-funded program.

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

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

Section 2. District withdrawal -- procedures. (1) Except as provided in subsection (2), a district or an employee group of a district that voluntarily joins the trust must participate in the trust for at least 5 consecutive school fiscal years before becoming eligible to withdraw from the trust. To complete its withdrawal 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 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.

(3) A district that has withdrawn from a district health insurance trust under 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;

(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)] on withdrawal. The portion of the net assets and reserve balance attributable to the distribution of state funds referenced under this subsection (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.

Section 3. Dissolution -- disqualification. (1) If, after being qualified by the 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 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 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 state auditor.

(e) distribute its remaining net assets, if any, proportionately to the 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.

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 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 state auditor on or before June 30, 2026, for initial operation beginning July 1, 2026, the superintendent shall, on July 1, 2026, distribute $40 million to the district health insurance trust. The qualifying district health insurance trust shall use the funds to stabilize health insurance 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, 2026, the account balance must be transferred to the capital developments long-range building program account for uses consistent with 17-7-209.

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 $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.

(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 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)~~ 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."

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

Section 9. Codification instruction. [Sections 1 through 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 5].

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

- END -

I hereby certify that the within bill,

HB 332, originated in the House.

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Chief Clerk of the House

____

Speaker of the House

Signed this ________________________________day

of_____________________________________, 2023.

____

President of the Senate

Signed this ________________________________day
of_____________________________________, 2023.

HOUSE BILL NO. 332

INTRODUCED BY D. BEDEY, D. SALOMON, E. MCCLAFFERTY, L. JONES, W. MCKAMEY, F. ANDERSON, C. KEOGH, M. THANE, S. O'BRIEN, M. BERTOGLIO

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