

HOUSE BILL NO. 302  
INTRODUCED BY D. LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A STATEWIDE PUBLIC SCHOOL RISK POOL AND HEALTH BENEFIT PLANS; REQUIRING PUBLIC SCHOOL DISTRICTS TO PROVIDE EMPLOYEES WHO WERE ENROLLED IN A SCHOOL DISTRICT'S HEALTH BENEFIT PLAN DURING THE PRIOR SCHOOL FISCAL YEAR WITH ACCESS TO FULL-YEAR GROUP HEALTH, MEDICAL, HOSPITALIZATION, AND SURGICAL INSURANCE BENEFITS PURSUANT TO A LOCALLY SELECTED STANDARD OR BASIC HEALTH BENEFITS PLAN; OFFERING EMPLOYEES AND SCHOOL DISTRICTS DENTAL BENEFITS, VISION BENEFITS, LIFE INSURANCE, EMPLOYEE LONG-TERM DISABILITY OR ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE, AND OTHER RELATED GROUP BENEFITS IN AN EFFICIENT MANNER AND AT AN AFFORDABLE COST; AUTHORIZING TRUSTEES AND RETIREES TO ELECT TO RECEIVE HEALTH INSURANCE COVERAGE AT THEIR OWN EXPENSE; MAINTAINING COLLECTIVE BARGAINING THAT ALLOWS FOR A LOCALLY SELECTED STANDARD OR BASIC HEALTH BENEFITS PLAN AND EMPLOYER CONTRIBUTIONS TOWARD PREMIUMS OR EXTENDED DEPENDENT OR RETIREE COVERAGE AND CONTRIBUTIONS FOR CORE BENEFITS OR OTHER GROUP BENEFITS; CREATING A PUBLIC SCHOOL BENEFITS BOARD; AUTHORIZING THE BOARD TO HIRE AND MANAGE ITS OWN PERSONNEL BY CONTRACT FOR ADMINISTRATIVE SERVICES; AUTHORIZING THE BOARD OF INVESTMENTS TO PROVIDE A LOAN FOR IMPLEMENTATION OF THE STATEWIDE PUBLIC SCHOOL RISK POOL AND HEALTH BENEFIT PLANS AND TO ISSUE LOANS TO FINANCE THE INITIAL RESERVES; REQUIRING LOANS FROM THE BOARD OF INVESTMENTS FOR IMPLEMENTATION COSTS AND RESERVES TO BE REPAID FROM PREMIUMS WITHIN 10 YEARS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-18-103 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 7] is to:

(1) create a uniform statewide public school risk pool and health benefit plans for K-12 public school employees in which employers provide employees who were eligible to be enrolled in the district's health benefit plan in the prior school fiscal year or employees who are determined by a district to be eligible to participate in

the statewide public school risk pool and health benefit plans with access to core benefits consisting of group hospitalization, health, medical, and surgical insurance benefits made available on a statewide basis;

(2) offer vision, dental, disability, life insurance, and other related group benefits for members and their dependents, in an efficient manner, at the employer's and member's election and at an affordable cost;

(3) mitigate and eliminate previously experienced erratic annual health care insurance premium increases for members and employers by spreading health care cost experience over a larger and more stable statewide public school risk group, while reducing administrative expenses associated with small health insurance groups;

(4) provide members with access to health insurance coverage and provide equitable access to affordable health care; and

(5) effectively allow employers and members an opportunity to negotiate medical cost containment, quality assurances, and managed care measures with health care providers, which will partially insulate school district budgets and members' income from escalating health care costs.

**NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) "Basic plan" means a plan adopted by the board that provides core benefits for each member and the member's dependents, that provides lower premiums and higher member cost sharing than under the standard plan, and that provides benefits that are approximately actuarially equivalent to health benefits provided to state employees on July 1, 2002, under the comparable basic plan offered by the state group insurance program authorized pursuant to Title 2, chapter 18, part 8.

(2) "Board" means the public school benefits board established in [section 4].

(3) "Core benefits" means group hospitalization, health, medical, and surgical insurance benefits offered by employers for members and their dependents on a statewide basis pursuant to [sections 1 through 7].

(4) "Department" means the department of administration provided for in 2-15-1001.

(5) "Employee" means:

(a) a person employed by a public elementary or high school district as defined in 20-6-101, a K-12 school district, as defined in 20-6-701, or an education cooperative, as described in 20-7-451, who was eligible to be enrolled in the school district's or cooperative's health benefit plan in the prior school fiscal year; or

(b) a member of an identifiable group of employees who are determined by a district to be eligible to be enrolled in the statewide public school risk pool and a health benefit plan.

(6) "Employer" means the governing board of any public elementary or high school district, as defined in 20-6-101, a K-12 school district, as defined in 20-6-701, or an education cooperative, as described in 20-7-451.

(7) "Group benefits" means core benefits and dental, vision, disability, accidental death and dismemberment, life, and other similar and related benefits offered to members and dependents on a statewide basis pursuant to [sections 1 through 7].

(8) "Managed care plan" means a plan provided by a health care provider network that is subject to review and regulation as a health maintenance organization pursuant to Title 33, chapter 31, and that provides health care or other benefits on a local, regional, or statewide basis.

(9) "MEA-MFT" means the merged organizations formerly known as the Montana education association and the Montana federation of teachers.

(10) "Medicare supplement plan" means a plan adopted by the board that offers core benefits for members and their dependents who are enrolled in medicare and that supplements benefits provided under the medicare program. The term may include a medicare managed care plan.

(11) "Member" means an employee, retiree, or trustee who is eligible for enrollment in the statewide public school risk pool and health benefit plans.

(12) "Retiree" means:

(a) an employee who has terminated employment with an employer and who, at the time of termination, was continuously employed for a period of 10 or more school years, was 55 years of age or older, and was enrolled in a school district, cooperative, or statewide public school health benefit plan;

(b) an employee who has terminated employment with an employer and who, at the time of termination, was enrolled in a school district, cooperative, or statewide public school health benefit plan and was eligible for normal retirement pursuant to law or rules of the public employees' retirement system or the teachers' retirement system;

(c) an employee or trustee who was enrolled prior to July 1, 2004, as a retiree under terms of the employer's school district, cooperative, or statewide public school health benefit plan; or

(d) a trustee who terminated board trusteeship with a school district and who, at the time of termination, was continuously enrolled in either the school district's or the statewide health benefit plan.

(13) "Standard plan" means a plan adopted by the board that provides core benefits for each member and the member's dependents, that provides a standard premium and lower member cost sharing than occurring under the basic plan, and that provides benefits that are approximately actuarially equivalent to health benefits provided on July 1, 2002, under the comparable traditional plan offered by the state group insurance program

authorized pursuant to Title 2, chapter 18, part 8.

(14) "Trustee" means a member of a public school board who, by a local board policy, is made eligible for participation and who has elected to be enrolled in the statewide public school risk pool and health benefit plans.

**NEW SECTION. Section 3. Mandatory statewide public school risk pool and health benefit plans -- enrollment -- collective bargaining of employer contributions.** (1) On or after [the effective date of this act], the board shall study the statewide public school risk pool and health benefit plans and adopt rules for defining the statewide public school risk pool and establishing provisions of the health benefit plans.

(2) By April 1, 2004, the board shall adopt and maintain:

(a) a basic plan and a standard plan, one or more locally available managed care plans, and one or more medicare supplement plans providing for health insurance benefits for each member and the member's dependents. The plans adopted by the board must be operating and available to all employers and members by no later than July 1, 2004.

(b) an actuarially sound schedule of tiered-rate and composite-rate premiums for each adopted plan that offers the option of selecting a premium payment method to all employers and employees by collective bargaining or to nonbargaining members by board policy. The board shall, by April 15, 2004, and each succeeding April 15, notify each school district and the department of the adoption of the premium structure adopted for each plan.

(3) By June 1, 2004, and by each succeeding June 1, employers shall notify the board of the employer's selection of the standard plan, basic plan, or managed care plan and the premium payment method for all eligible employee, retiree, and trustee members.

(4) By the later of either July 1, 2004, or upon the expiration of a collective bargaining agreement that is in effect prior to [the effective date of this act] and extends through the 2005 contract year and that includes provisions that specifically restrict or are otherwise in conflict with the provisions of [sections 1 through 7], an employer shall:

(a) enroll each eligible employee in the statewide public school risk pool and provide core benefits under the standard plan, basic plan, or managed care plan as elected by the employer; and

(b) enroll each retiree and trustee member who is eligible under [sections 1 through 7] and who elects benefits coverage under the standard plan, basic plan, managed care plan, or medicare supplement plan.

(5) Except as provided in subsection (8) and unless otherwise prohibited by law, an employer shall, by July 1, 2004, and monthly after that date, transfer to the board from any budgeted fund or nonbudgeted fund, as

defined in 10-9-201, the premium amount determined by the board to be necessary to:

(a) insure and provide core benefits on behalf of each employee enrolled under the standard plan, basic plan, or managed care plan selected by the employer;

(b) repay the board of investment loans provided for under [section 7]; and

(c) implement the plan and establish reserves.

(6) (a) For an employee whose employment is covered by a collective bargaining agreement under Title 39, chapter 31, an employer's selection of core benefits and other group benefits pursuant to this section and an employer's and employee's contributions for locally selected core benefits and other group benefits made pursuant to subsection (2) or (3) must be determined by collective bargaining between the employer and the exclusive representative of the bargaining unit.

(b) For an employee whose employment is not covered by a collective bargaining agreement pursuant to Title 39, chapter 31, an employer's selection of core benefits and other group benefits pursuant to this section and an employer's and employee's contributions for locally selected core benefits and other group benefits made pursuant to subsection (2) or (3) must be determined by an employer policy.

(7) A trustee or a retiree may, at the time of retirement and at the trustee's or retiree's expense, elect to be enrolled in the statewide public school risk pool and receive health benefits under the standard plan, basic plan, or managed care plan as offered by the district or may, if eligible, enroll in the medicare supplement plan.

(8) If by a collective bargaining agreement, the employer agrees to make payments for health and related insurance benefits for retired school personnel, the employer shall continue to provide benefits and make payments to the board pursuant to the terms of the collective bargaining agreement.

(9) The board shall deposit all reserve funds and premiums paid to a health benefit plan, and the money deposited is statutorily appropriated, as provided in 17-7-502, to the department to be expended for claims under the plan.

(10) A local district with a self-funded health benefit plan is required to use reserves of the health benefit plan to pay claims and other liabilities of the district's health benefit plan. Upon enrollment in a statewide public school health benefit plan, any remaining reserves must be maintained by the district under the provisions of 19-20-414 and must be used to pay for employee benefit costs incurred by the employer under the statewide plan.

(11) The provisions of Title 33 do not apply to the board when exercising the powers and duties provided for in this section.

(12) The provisions of [sections 1 through 7] may not be construed to require a specific contribution by

either an employer or an employee toward the cost of core benefits and other benefits provided in [sections 1 through 7].

**NEW SECTION. Section 4. Public school benefits board -- composition -- appointment.** (1) There is a public school benefits board.

(2) The board consists of nine members appointed to 5-year staggered terms by the governor. The members of the board must be appointed from lists submitted to the governor as follows:

(a) two public school board trustees appointed from one list containing up to four nominees submitted by the Montana school boards association;

(b) two public school administrators appointed from a list containing up to four nominees submitted by the school administrators of Montana;

(c) four members of a labor organization, as defined in 39-31-103, appointed from one list containing up to eight nominees submitted by MEA-MFT. Of the eight nominees, at least two must be classified personnel. As used in this subsection, "classified personnel" means persons not required to be certified under Title 20, chapter 4.

(d) one retiree, appointed from a list containing up to three nominees, jointly submitted to the governor by the organizations listed in subsections (2)(a) through (2)(c).

(3) When a vacancy occurs, the governor shall notify the organization or organizations authorized to submit nominations pursuant to subsection (2). Within 30 days of receiving notification, the authorized organization or organizations shall submit a list of nominees to the governor. If the organization or organizations fail to submit a list within 30 days, the governor may designate any person meeting the requirements of the vacancy to fill the position.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121, except that the provisions of 2-15-121(2)(d) do not apply.

(5) The board is designated as a quasi-judicial board for the purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

**NEW SECTION. Section 5. Public school benefits board -- powers and duties -- exemption.** (1) The board shall:

(a) serve in a fiduciary capacity as the financial and benefits monitor for the statewide public school health benefit plans and contract with plan and claims payment administrators, plan benefit managers and

advisers, and actuaries, as needed;

(b) meet at least quarterly and review monthly enrollment, claims, claims payment, and fund financial status information;

(c) establish, review, and revise provisions of core benefit plans, local managed care plans, and local network provider agreements and establish, review, and revise provisions of other group benefit plans offered by the board;

(d) annually determine benefit provisions and set premiums needed to fund core benefits, repay board of investment loans needed to implement [sections 1 through 7], provide reserves, and set premiums necessary for all other group benefit plans offered by the board;

(e) conduct claims and any financial and operational reviews that are necessary to properly monitor the performance of the group benefit plan vendors; and

(f) adopt rules to implement the provisions of [sections 1 through 7], including but not limited to rules to:

(i) determine timely and automated procedures for monthly enrollment of employee, retiree, and trustee members, bid specifications, claim forms and procedures, claims distribution, appeal procedures, and the general administration and operation of the statewide public school risk pool and health benefit plans;

(ii) authorize the board to establish default selection and rate preference election for circumstances when an employer does not notify the board of locally bargained or otherwise determined choices by June 1 of each year; and

(iii) coordinate benefits with other health plans, participate in cooperative purchasing as provided in 2-18-711, provide for dual enrollment of spouses enrolled in a statewide public school health benefit plan, the state employee group benefits plan, or the Montana university system health plans, and provide for an enrollment waiver based on an eligible employee's proven certification of alternative health insurance coverage.

(2) The board shall hire and manage its own personnel, by contract, for all administrative services, including but not limited to:

(a) clerical and plan oversight and supervision services required by the board;

(b) with regard to enrollment of members in public school health benefit plans, coordinating enrollment with school employer staff and payroll systems, and preparing descriptive materials and providing member and employer information concerning plan benefits and enrollment processing procedures;

(c) claims processing and recordkeeping, full financial accounting, and reporting to the board;

(d) actuarial and plan design services, as needed;

(e) preparation of an annual report that describes enrollment trends within the statewide public school

risk pool, benefit provisions and premium structure of the health benefit plans, and administrative experience relating to the plans, that details historical and projected program costs and the status of reserve funds, and that makes recommendations, if any, for changes in the existing public school risk pool, health benefit plans, premium structures, or related matters;

(f) preparation of informational and educational services through local public school employers for members regarding the statewide public school risk pool and health benefit plans; and

(g) providing assistance and training to public school benefits and payroll administrators and to members regarding enrollment and premium payment procedures associated with the statewide public school risk pool and health benefit plans.

(3) The board shall include as part of the costs of the statewide public school risk pool and health benefit plans the costs of the board in administering health benefit plans and claims processing, repayment of board of investment implementation and reserve loans as provided in [section 7], and other benefit consulting, actuarial, and auditing costs.

(4) The board is exempt from the Montana Procurement Act in Title 18, chapter 4.

**NEW SECTION. Section 6. Biennial audit of statewide public school health benefit plans required.**

The statewide public school health benefit plans established under [sections 1 through 7] must be audited every 2 years. The audit must cover the 2-year period since the last audit and be conducted by or at the direction of the legislative auditor.

**NEW SECTION. Section 7. Board of investment loan.** (1) If considered prudent under the provisions of 17-6-201, the board of investments may on July 1, 2003, provide to the public school benefits board a loan in the amount of \$2 million for the biennium beginning July 1, 2003, and ending June 30, 2005, for the purpose of implementing the statewide public school risk pool and health benefit plans.

(2) The board of investments may on July 1, 2003, provide to the public school benefits board a loan in the amount of \$26 million to establish initial reserves for the statewide public school risk pool and health benefit plans.

(3) The loans provided for in subsections (1) and (2) must be issued pursuant to the Municipal Finance Consolidation Act of 1983 authorized in Title 17, chapter 5, part 16, and the repayment term established for a loan may not exceed a period of 10 years.

(4) For any loan provided under this section, the board shall establish and maintain a specific loan



repayment account and shall repay the loans from premiums charged for core benefits.

**Section 8.** Section 2-18-103, MCA, is amended to read:

**"2-18-103. Officers and employees in state government and contracted employees of public school benefits board excepted.** (1) Parts 1 through 3 and 10 do not apply to the following officers and employees in state government:

- ~~(1)~~(a) elected officials;
- ~~(2)~~(b) county assessors and their chief deputies;
- ~~(3)~~(c) employees of the office of consumer counsel;
- ~~(4)~~(d) judges and employees of the judicial branch;
- ~~(5)~~(e) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
- ~~(6)~~(f) officers or members of the militia;
- ~~(7)~~(g) agency heads appointed by the governor;
- ~~(8)~~(h) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
- ~~(9)~~(i) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
- ~~(10)~~(j) investment officer, assistant investment officer, executive director, and five professional staff positions of the board of investments;
- ~~(11)~~(k) four professional staff positions under the board of oil and gas conservation;
- ~~(12)~~(l) assistant director for security of the Montana state lottery;
- ~~(13)~~(m) executive director and employees of the state compensation insurance fund;
- ~~(14)~~(n) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- ~~(15)~~(o) executive director of the Montana wheat and barley committee;
- ~~(16)~~(p) commissioner of banking and financial institutions;
- ~~(17)~~(q) training coordinator for county attorneys;
- ~~(18)~~(r) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- ~~(19)~~(s) chief information officer in the department of administration;
- ~~(20)~~(t) chief business development officer and six professional staff positions in the office of economic

development provided for in 2-15-218,

(2) Parts 1 through 3 and 10 do not apply to contract employees of the public school benefits board established in [section 4]."

**Section 9.** 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: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; [section 3]; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; 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 Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates

June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

**NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1 through 7].

**NEW SECTION. Section 11. Implementation of staggered terms.** (1) To implement the staggered-term system provided for in [section 4], the first terms of the members are as follows:

- (a) three members shall serve 3-year terms;
  - (b) three members shall serve 4-year terms; and
  - (c) three members shall serve 5-year terms.
- (2) Upon expiration of the terms provided for in subsection (1), each member shall serve a 5-year term.

**NEW SECTION. Section 12. Effective date -- applicability.** [This act] is effective on passage and approval and applies to contracts entered into on or after [the effective date of this act].

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