

HOUSE BILL NO. 235

INTRODUCED BY D. FERN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HEALTH INSURANCE TRUST LAWS;
5 PROVIDING OPTIONS AND CONDITIONS FOR A HEALTH INSURANCE TRUST SERVING CERTAIN
6 SCHOOL DISTRICTS TO ALLOW ACCESS TO STATE INCENTIVES AND LOCAL FUNDING INCENTIVES;
7 REQUIRING THE DEPARTMENT OF ADMINISTRATION TO QUALIFY A HEALTH INSURANCE TRUST
8 REPRESENTING PUBLIC SCHOOL EMPLOYEES AND MEETING SPECIFIED REQUIREMENTS;
9 AUTHORIZING A NONVOTED LEVY UNDER CERTAIN CONDITIONS; PROVIDING FOR THE OFFICE OF
10 PUBLIC INSTRUCTION TO INCLUDE IN ITS BIENNIAL BUDGET REQUESTS THE STATE FUNDING FOR A
11 PORTION OF PUBLIC SCHOOL EMPLOYEES' GROUP HEALTH INSURANCE UNDER CERTAIN
12 CONDITIONS; PROVIDING DEFINITIONS; PROVIDING FOR WITHDRAWAL OF MEMBERS FROM A HEALTH
13 INSURANCE TRUST OR DISSOLUTION OR DISQUALIFICATION OF A HEALTH INSURANCE TRUST;
14 PROVIDING FOR A HEALTH INSURANCE TRUST'S PARTICIPATION IN HEALTH CARE PROVIDER AND
15 PHARMACEUTICAL NETWORKS AND PRICING TERMS UNDER CONTRACT WITH THE STATE EMPLOYEE
16 GROUP BENEFIT PLAN; IMPOSING CONDITIONS ON RISK SHARING; AND AMENDING SECTIONS 2-9-212,
17 2-18-711, 2-18-813, 20-3-331, AND 20-9-116, MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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21 NEW SECTION. **Section 1. Conditions for state-school district collaboration on public school**
22 **employee health insurance -- qualification of health insurance trust -- shared risk conditions -- incentives**
23 **-- definitions.** (1) An elementary district or high school district that through a health insurance trust created under
24 26 U.S.C. 501(c)(9) offers group insurance to its public school employees is eligible, along with the health
25 insurance trust, for the incentives and options in subsection (5), subject to the health insurance trust's compliance
26 with the terms of subsections (2) through (4).

27 (2) To be eligible to participate in the options available under subsection (5) a health insurance trust shall
28 affirm to the department of administration that the health insurance trust:

- 29 (a) has an exemption from federal taxes under 26 U.S.C. 501(c)(9);
30 (b) covers a minimum of 10,000 public school employee lives and includes membership of at least 100

1 school districts;

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

3 (d) determines rates and a premium tier structure in consultation with a certified actuary;

4 (e) controls administrative costs, which may not exceed 12% of total costs;

5 (f) maintains full control over claims data for medical and pharmacy benefits;

6 (g) provides estimates of costs for public school employees' anticipated medical treatments and
7 procedures and estimates of required cost sharing by members; and

8 (h) adopts rates as recommended by its contracted actuary to pay all claims and maintain plan reserves
9 at or above minimum levels of risk-based capital.

10 (3) In allocating shared risk among its respective members, including under the option for cooperative
11 purchasing under subsection (5)(c), a health insurance trust may allocate shared risk between members of the
12 qualifying health insurance trust group and members of the state employee group benefit plan only if approved
13 by both the department of administration and the health insurance trust.

14 (4) The department of administration shall annually qualify a health insurance trust that affirms
15 compliance with the requirements in subsections (2) and (3) as eligible for accessing the options under
16 subsection (5).

17 (5) The following provisions are available to a health insurance trust qualified under subsection (4) and
18 its school district members:

19 (a) (i) Beginning in fiscal year 2022 or in the first fiscal year following the year in which a health insurance
20 trust is qualified by the department of administration, whichever occurs later, the state shall, subject to legislative
21 appropriation, contribute toward the group benefit costs of public school employees covered by the qualified
22 health insurance trust at a monthly rate equivalent to 2% of the monthly rate referenced in 2-18-703(2)(a).

23 (ii) Exercising this subsection (5)(a) requires the qualified health insurance trust to notify the department
24 of administration quarterly as to the number of public school employees eligible for the state contribution under
25 subsection (5)(a)(i) and to notify the office of public instruction prior to preparation and submission of the agency's
26 budget pursuant to 17-7-111 and 17-7-112 of the number of public school employee lives for which the office of
27 public instruction is to request a general fund appropriation to fund the contributions under subsection (5)(a)(i).

28 (b) An elementary district or a high school district offering group insurance through a health insurance
29 trust under this section may levy an annual property tax as provided in [section 3].

30 (c) A health insurance trust under this section may participate through cooperative purchasing pursuant

1 to 2-18-711 or 2-18-813 in any of the state's reference-based pricing contracts with a third-party administrator
 2 that contracts with health care providers, as defined in 33-38-102, or pharmacy benefit managers. The
 3 participation must provide the same pricing and access to medical care and pharmaceuticals for a member of
 4 a health insurance trust qualified under this section as the state receives for its state employee group benefit plan
 5 under its contract with a third-party administrator.

6 (6) For the purposes of [sections 2 and 3] and this section, the following definitions apply:

7 (a) "Administrative costs" means the overall costs of operating a health insurance trust except for
 8 benefits paid and additions to reserves as recommended by the health insurance trust's actuary under subsection
 9 (2)(h).

10 (b) "Elementary district" has the meaning provided in 20-6-101.

11 (c) "Health insurance trust" means an arrangement, plan, interlocal agreement, or multidistrict agreement
 12 that jointly provides to its officers, elected officials, or employees disability insurance as defined in 33-1-207
 13 through a self-funded, member-governed program.

14 (d) "High school district" has the meaning provided in 20-6-101.

15 (e) "Public school employee" means an individual employed by an elementary district or a high school
 16 district in any capacity, including but not limited to an employee meeting the definition in 2-18-601 and a teacher
 17 or principal as defined in 20-1-101.

18
 19 **NEW SECTION. Section 2. Withdrawal -- dissolution -- disqualification -- false swearing.** (1) An
 20 elementary district or a high school district that provides notice to the health insurance trust of a plan to withdraw
 21 from the health insurance trust:

22 (a) must notify the health insurance trust prior to withdrawing from participation, pursuant to the
 23 contractual terms of coverage and membership in the health insurance trust;

24 (b) is eligible for the portion of the unused funds contributed by that elementary district or high school
 25 district, subject to contractual terms of coverage and membership in the health insurance trust, which may include
 26 deductions for administrative expenses and the funds obligated for claims filed during the period of participation
 27 and claims incurred but not reported at the time of withdrawal and any assessment due pursuant to the
 28 contractual terms of coverage and membership in the health insurance trust;

29 (c) shall deposit the returned funds in an internal service account; and

30 (d) is ineligible for participation in any of the options available to a health insurance trust's members

1 under [section 1(5)] and [section 3].

2 (2) The funds returned under subsection (1)(c) must be used in accordance with 20-3-330 or 20-3-331.

3 (3) If a health insurance trust qualified under [section 1] is dissolved, the trustees of the health insurance
4 trust shall:

5 (a) apportion its revenues proportionately to the elementary district or high school district members of
6 the health insurance trust pursuant to the contractual terms of coverage and membership in the health insurance
7 trust; and

8 (b) notify the department of administration.

9 (4) If, after being qualified by the department of administration, a health insurance trust ceases to comply
10 with the conditions under [section 1(2)], the health insurance trust shall immediately notify the department of
11 administration, and the department of administration shall withdraw its qualification of the health insurance trust
12 effective the next fiscal year after the date of notification.

13 (5) Falsely affirming compliance with the provisions of [section 1(2)] is subject to a charge of false
14 swearing under 45-7-202 and disqualification.

15

16 **NEW SECTION. Section 3. Nonvoted levy for certain health insurance coverage -- uses.** (1) An
17 elementary district or a high school district participating in a health insurance trust, qualified under [section 1],
18 may levy an annual property tax for use in providing employee benefits pursuant to the terms of the health
19 insurance trust's benefit plan. A levy under this section is limited as provided in 2-9-212(1) and this section and
20 is not subject to the mill levy calculation limitation provided for in 15-10-420.

21 (2) The amount levied must be limited to the annual increased cost of the district's single rate premium
22 above the premium charged for coverage in the immediately preceding fiscal year multiplied times the number
23 of employees provided coverage under the district's group insurance in the current fiscal year.

24 (3) (a) The levy under this section is further limited to no more than 4% multiplied times the district's total
25 cost of providing health insurance in the preceding fiscal year through the health insurance trust.

26 (b) For the first year in which health insurance is offered through a health insurance trust, the elementary
27 district or high school district may impose a levy no greater than 4% of the actual cost in the prior fiscal year of
28 providing health insurance to employees.

29 (4) The levy must be deposited in an internal service fund as provided in 20-3-331.

30

1 **Section 4.** Section 2-9-212, MCA, is amended to read:

2 **"2-9-212. Political subdivision tax levy to pay contributions.** (1) Subject to 15-10-420 and subsection
3 (2) of this section and except as specifically limited and addressed in [section 3] for an elementary district or high
4 school district participating in a health insurance trust qualified under [section 1], a political subdivision, ~~except~~
5 for a school district, may levy an annual property tax in the amount necessary to fund the contribution for
6 insurance, deductible reserve fund, and self-insurance reserve fund as authorized in this section and to pay the
7 principal and interest on bonds or notes issued pursuant to 2-9-211(5).

8 (2) (a) If a political subdivision makes contributions for group benefits under 2-18-703, the amount in
9 excess of the base contribution as determined under 2-18-703(4)(c) for group benefits under 2-18-703 is not
10 subject to the mill levy calculation limitation provided for in 15-10-420. Levies implemented under this section
11 must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation
12 factor described in 15-10-420(1)(a).

13 (i) Contributions for group benefits paid wholly or in part from user charges generated by proprietary
14 funds, as defined by generally accepted accounting principles, are not included in the amount exempted from the
15 mill levy calculation limitation provided for in 15-10-420.

16 (ii) If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or
17 dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The amount must also be reported
18 to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive
19 medical levy.

20 (b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under
21 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

22 (c) A levy under this section in the previous year may not be included in the amount of property taxes
23 that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental
24 entity may assess under the provisions of 15-10-420(1)(a). When a levy under this section decreases or is no
25 longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).

26 (3) (a) For the purposes of this section, "group benefits" means group hospitalization, health, medical,
27 surgical, life, and other similar and related group benefits provided to officers and employees of political
28 subdivisions, including flexible spending account benefits and payments in lieu of group benefits.

29 (b) The term does not include casualty insurance as defined in 33-1-206, marine insurance as authorized
30 in 33-1-209 and 33-1-221 through 33-1-229, property insurance as defined in 33-1-210, surety insurance as

1 defined in 33-1-211, and title insurance as defined in 33-1-212."

2

3 **Section 5.** Section 2-18-711, MCA, is amended to read:

4 **"2-18-711. Cooperative purchasing of employee benefit services and insurance products --**
 5 **procedures.** (1) To provide employee group benefits, an agency, as defined in 2-18-601, and the state
 6 compensation insurance fund may participate with other agencies, nonprofit organizations, or business entities
 7 and in voluntary disability insurance purchasing pools provided for under 33-22-1815 if the agency or the state
 8 fund determines that cooperative purchasing is in the agency's or the state fund's best interest.

9 (2) Cooperative purchases under this section may be conducted according to purchasing procedures
 10 developed by the participating parties if, for contracts valued at \$20,000 a year or more, purchasing procedures,
 11 at a minimum, include:

12 (a) public notice in three major Montana newspapers of requirements for submitting bids or offers; and

13 (b) consideration of all submitted bids or offers.

14 (3) The department shall:

15 (a) allow a health insurance trust that meets the requirements of [section 1] an annual opportunity from
 16 October 1 to December 1 to opt in and cooperatively purchase health insurance and pharmacy coverage under
 17 any of the state's cooperative purchasing agreements or negotiated contracts for networks of health care
 18 providers or pharmacy benefits;

19 (b) include within a contract with a third-party administrator a provision that:

20 (i) recognizes that a health insurance trust has the same access to and pricing of health care provider
 21 or pharmacy benefits as received by the state employee group benefit plan; and

22 (ii) allows a health insurance trust to enter into or withdraw from participation in the contract on an annual
 23 basis; and

24 (c) collaborate with a qualifying health insurance trust in conformance with state contracting agreements
 25 on terms and time frames.

26 ~~(3)~~(4) For purposes of this section, "employee" also means a schoolteacher or any public school
 27 employee, as defined in [section 1], who participates in a health plan offered by a health insurance trust qualified
 28 under [section 1] or a member of the instructional or scientific staff of a community college."

29

30 **Section 6.** Section 2-18-813, MCA, is amended to read:

1 **"2-18-813. Combining existing employee groups authorized.** (1) The department may combine
 2 existing state employee groups into larger groups for the purpose of establishing state employee group benefit
 3 plans on behalf of the combined groups. The department may also combine state employees into a single group
 4 for purposes of state employee group benefits under this part.

5 (2) The department shall treat a health insurance trust qualified under [section 1] as a state employee
 6 group for the purposes of this section, subject to the provisions of 2-18-711, and the health insurance trust's
 7 cost-basis payment as provided in subsection (4).

8 (3) Inclusion of a health insurance trust qualified under [section 1] as a state employee group for the
 9 purposes of this section does not permit any allocation of shared risk between members of the state employee
 10 group benefit plan and the qualifying health insurance trust's members without approval of both the department
 11 and the health insurance trust.

12 (4) The cost-basis participation as a state employee group under this section enables access by the
 13 health insurance trust on behalf of its members to:

14 (a) claims processing by the third-party administrator under contract with the state employee group
 15 benefit plan;

16 (b) wellness programs and the state's health clinics;

17 (c) pharmacy benefit management in the manner provided for by the state employee group benefit plan;

18 and

19 (d) any other product, program, or benefit provided according to the terms of a contract with the state
 20 employee group benefit plan's vendor."

21

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

23 **"20-3-331. Purchase of insurance -- self-insurance plan.** (1) ~~The~~ To provide the district, trustees, and
 24 employees with liability insurance pursuant to 2-9-211 or group health and life insurance pursuant to 2-18-702,
 25 the trustees of a district may:

26 (a) purchase insurance coverage;

27 (b) participate in a health insurance trust qualified under [section 1] for group health insurance; or

28 (c) establish a self-insurance plan for the district, trustees, and employees for liability as provided in
 29 2-9-211 and for group health and life insurance as provided in 2-18-702.

30 (2) ~~The~~ Except as provided in subsection (3)(b), the trustees shall include the cost of coverage in the

1 general fund budget of the district and as authorized for the district transportation program in 20-10-143(1)(d).

2 ~~(2)(3)~~ (a) Whenever the trustees of a district establish a self-insurance plan, the trustees shall establish
3 an internal service fund to account for the activities of the self-insurance plan.

4 (b) A levy authorized under [section 1] and collected pursuant to [section 3] must be deposited into an
5 internal service fund for use by the trustees to provide employee benefits pursuant to the terms of the district's
6 health benefit plan."

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8 **Section 8.** Section 20-9-116, MCA, is amended to read:

9 **"20-9-116. Resolution of intent to increase nonvoted levy -- notice.** (1) The trustees of a school
10 district shall adopt a resolution ~~no later than June 1 in fiscal year 2017 only and~~ no later than March 31 in fiscal
11 year 2018 and subsequent fiscal years and provide notice pursuant to subsection (2) whenever the trustees
12 intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any
13 of the funds listed below:

14 (a) an internal service fund for a health insurance trust benefit plan under [section 3];

15 ~~(a)~~(b) the tuition fund under 20-5-324;

16 ~~(b)~~(c) the adult education fund under 20-7-705;

17 ~~(c)~~(d) the building reserve fund under 20-9-502 and 20-9-503;

18 ~~(d)~~(e) the transportation fund under 20-10-143 and 20-10-144; and

19 ~~(e)~~(f) the bus depreciation reserve fund under 20-10-147.

20 (2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing
21 school fiscal year by:

22 (a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum,
23 the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased
24 revenue to be raised compared to nonvoted levies under (1)(a) through ~~(1)(e)~~ (1)(f) imposed in the current school
25 fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue
26 under 15-10-202, the estimated impacts of the increase or decrease on a home valued at \$100,000 and a home
27 valued at \$200,000; and

28 (b) publishing a copy of the resolution in a newspaper that will give notice to the largest number of people
29 of the district as determined by the trustees and posting a copy of the resolution to the school district's website."

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