

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (S) Education and Cultural Resources

68th Legislature

Drafter: Pad McCracken, 406-444-3595

HB0332.003.001

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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HB0332.003.001

(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);

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (S) Education and Cultural Resources

68th Legislature

Drafter: Pad McCracken, 406-444-3595

HB0332.003.001

(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

~~(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 4.5]. 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 ~~4.5~~], the following definitions apply:

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

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (S) Education and Cultural Resources

68th Legislature

Drafter: Pad McCracken, 406-444-3595

HB0332.003.001

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

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (S) Education and Cultural Resources

68th Legislature

Drafter: Pad McCracken, 406-444-3595

HB0332.003.001

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 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

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (S) Education and Cultural Resources

68th Legislature

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HB0332.003.001

1 and employees with liability insurance pursuant to 2-9-211 and group health and life insurance pursuant to 2-
2 18-702, the trustees of a district may:

3 (a) _____ purchase insurance coverage;

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

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

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

12 (2)(3) Whenever the trustees of a district establish a self-insurance plan OR PARTICIPATE IN A DISTRICT
13 HEALTH INSURANCE TRUST AS DEFINED IN [SECTION 1], the trustees shall establish an internal service fund to
14 account for the activities of the self-insurance plan."

15
16 NEW SECTION. Section 8. Transfer of funds. No later than August 15, 2023, there is transferred
17 \$60-~~\$45~~ million from the general fund to the state school health trust operating reserve account established in
18 [section 4].

19
20 NEW SECTION. Section 9. Codification instruction. [Sections 1 through ~~4~~ 5] are intended to be
21 codified as an integral part of Title 20, chapter 3, part 3, and the provisions of Title 20, chapter 3, part 3, apply
22 to [sections 1 through ~~4~~ 5].

23
24 NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 2023.

25 - END -