

SENATE BILL NO. 294

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA END OF WATCH TRUST AND PROVIDING RELATED SUPPORTS; CREATING A STATE SPECIAL REVENUE ACCOUNT; CREATING AN OVERSIGHT BOARD THAT IS ATTACHED TO THE DEPARTMENT OF JUSTICE FOR ADMINISTRATIVE PURPOSES; PROVIDING FOR LOCAL GOVERNMENT AND STATE GOVERNMENT PAYMENTS FOR HEALTH INSURANCE BENEFITS WHEN AN OFFICER IS CATASTROPHICALLY INJURED OR DIES; PROVIDING THAT A BENEFIT RECEIVED FROM THE TRUST IS NOT TAXABLE INCOME; PROVIDING FOR RETROACTIVE PAYMENTS FROM THE TRUST; PROVIDING DEFINITIONS; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 2-18-704, 15-30-2110, AND 15-30-2120, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, Montana law enforcement officers are charged with the enforcement of the laws of the State of Montana as determined by the Montana State Legislature; and

WHEREAS, law enforcement officers put their lives on the line each day to protect the people of Montana; and

WHEREAS, line of duty deaths and catastrophic injuries often leave behind dependent family members who are struggling to cope mentally, emotionally, and financially with the trauma of a line of duty death or to provide care to a catastrophically injured spouse; and

WHEREAS, the State of Montana does not currently provide a line of duty death or catastrophic injury benefit to officers or their families when one of these tragedies occurs.

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

1

2            NEW SECTION. Section 1. Definitions. For the purposes of [sections 1 through 45], the following  
3 definitions apply:

4            (1) "Board" means the Montana end of watch trust board established in [section 34].

5            (2) "Catastrophic injury" means an injury directly related to an individual's required employment  
6 duties with direct or proximate consequences that renders the individual in need of 24-hour care, permanently  
7 incapacitates the individual, and permanently prevents the individual from performing any gainful work.

8            (3) "Department" means the department of justice.

9            (4) "Immediate family" means a law enforcement officer's spouse and dependent children under  
10 age 18, including children to whom the law enforcement officer is a legal guardian.

11           (5) "In the line of duty" means an action taken by a law enforcement officer or an activity in which a  
12 law enforcement officer participated:

13           (a) as required or authorized by law, rule, regulation, condition of employment, or professional  
14 ethics; and

15           (b) for which compensation is provided by the officer's employer or would have been provided by  
16 the officer's employer if the officer had been on duty at the time the action in question was taken.

17           (6) "Law enforcement officer" ~~has the same meaning as provided in 7-32-201~~ means:

18           (a) a police officer, deputy sheriff, undersheriff, highway patrol officer, investigator appointed by  
19 the department of justice, fish and game warden, park ranger, or other public safety officer certified by the  
20 public safety officer standards and training council; or

21           (b) an elected sheriff.

22

23           NEW SECTION. Section 2. Montana end of watch trust ~~benefits -- responsibilities of board of~~

24 ~~investments -- responsibilities of department of justice.~~ (1) ~~(a)~~ There is a Montana end of watch trust within  
25 the permanent fund type for the purpose of supporting eligible law enforcement officers and their surviving  
26 immediate family in the event of an officer's death or catastrophic injury in the line of duty.

27           ~~(b)~~(2) The department may accept contributions and gifts for the trust in money or other forms. When  
28 accepted, the contributions and gifts must be deposited in the trust.

~~(e)(3)~~ The legislature may transfer money to the trust.

~~(d)(4)~~ Interest and income earned on money in the trust must be retained within the trust. The state treasurer shall each month transfer from the trust to the account established in [section 3] the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account. Earnings not transferred to the account established in [section 3] must be retained in the trust account.

~~(e)(5)~~ The trust is overseen by the board as provided in [section 3]. Money deposited in the fund established under this section must be invested by the board of investments as provided by law.

~~(2)~~ The board of investments shall:

~~(a)~~ manage the trust;

~~(b)~~ report the annual available balance, changes in the trust's earnings, and any other pertinent financial information to the end of watch trust board established in [section 3] and the department by June 30 of each year;

~~(c)~~ reinvest into the trust all interest generated by the trust when there are no eligible recipients during a fiscal year; and

~~(d)~~ allow the department to administer benefits from the interest generated by the trust when there are eligible recipients during a fiscal year.

~~(3)~~ The department shall disburse payments to an officer's designated beneficiary, as indicated by the officer on a form provided by the department.

~~(4)~~ (a) Loss payments for a catastrophic injury or death in the line of duty must be made monthly for 5 calendar years from the date of the injury or death.

~~(b)~~ The minimum monthly payment is \$8,000 and must be increased in accordance with the consumer price index.

~~(5)~~ The money in the account is subject to legislative appropriation.

**NEW SECTION. Section 3. Montana end of watch account.** (1) There is a Montana end of watch state special revenue account within the state special revenue fund established in 17-2-102 administered by the department of justice. Pursuant to [section 2], all interest and earnings from the trust fund established in

[section 2] must be deposited into this fund.

(2) The department of justice shall disburse payments to an officer's designated beneficiary, as indicated by the officer on a form provided by the department.

(3) (a) Loss payments for a catastrophic injury or death in the line of duty must be made monthly for 5 calendar years from the date of the injury or death.

(b) The minimum monthly payment is \$8,000 and must be increased in accordance with the consumer price index on an annual basis.

(4) The money in the account is subject to legislative appropriation.

**NEW SECTION. Section 4. Montana end of watch trust board.** (1) There is a volunteer board to oversee the administration of the Montana end of watch trust provided for in [section 2]. The board is attached to the department of justice for administrative purposes only, as provided in 2-15-121.

(2) The board consists of five members appointed by the attorney general, including:

(a) a representative of the Montana sheriffs and peace officers association;

(b) a representative of the Montana police protective association;

(c) a representative of the association of Montana troopers;

(d) a representative of the Montana association of chiefs of police; and

(e) a representative from the department of justice.

(3) The board shall:

(a) meet at least once each fiscal year;

(b) act as an advocate for officers catastrophically injured in the line of duty and the surviving immediate family members of officers who died in the line of duty; and

(c) settle disputes and concerns regarding trust benefits; ~~and~~

~~(d) —communicate with the board of investments regarding the money in the trust, including reporting needs.~~

(4) The representatives in subsection (2) must be sworn officers-actors of a participating agency.

**NEW SECTION. Section 5. End of watch health insurance support.** (1) (a) Local governments that

employ a law enforcement officer as defined in ~~7-32-204~~ [section 1] and provide health insurance benefits to an officer, an officer's spouse, or an officer's dependents shall:

(i) ~~renew the coverage of enroll~~ the officer and the officer's spouse ~~or~~ and dependents in COBRA continuation coverage if the officer is catastrophically injured, as that term is defined in [section 1]; and

(ii) ~~enroll the officer's spouse and dependents in COBRA coverage or if the officer~~ dies in the line of duty as ~~those terms are that term is~~ defined in [section 1].

(b) ~~Renewals of Continuation~~ coverage under this section must provide for the same level of continuation coverage benefits as is available to other members of the group. Premiums charged to an officer, spouse, or dependent under this section must be the same as premiums charged to other similarly situated members of the group.

(c) Dependent special enrollment must be allowed under the terms of the insurance contract or plan.

(d) The provisions of this section are applicable to an officer, spouse, or dependent who is already insured under a COBRA continuation provision.

(2) The law enforcement officer's employing agency shall pay the premium for ~~4-month~~ 4 months after the catastrophic injury or death in the line of duty, after which the officer, spouse, or dependent shall pay the premium.

(3) The benefit plans may discontinue or not renew the coverage of an officer, spouse, or dependent only if:

(a) the officer, spouse, or dependent has failed to pay premiums or contributions for which the individual is responsible;

(b) the officer, spouse, or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(c) the state employee group benefit plans cease to offer coverage in accordance with applicable state law.

**Section 6.** Section 2-18-704, MCA, is amended to read:

**"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must

1 contain provisions that permit:

2 (a) the member of a group who retires from active service under the appropriate retirement  
3 provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in  
4 Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in  
5 covered employment to remain a member of the group until the member becomes eligible for medicare under  
6 the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another  
7 group plan with substantially the same or greater benefits at an equivalent cost or unless the member is  
8 employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the  
9 same or greater benefits at an equivalent cost;

10 (b) the surviving spouse of a member to remain a member of the group as long as the spouse is  
11 eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is  
12 eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible  
13 for equivalent insurance coverage as provided in subsection (1)(a);

14 (c) the surviving children of a member to remain members of the group as long as they are eligible  
15 for retirement benefits accrued by the deceased member as provided by law unless they have equivalent  
16 coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of  
17 a surviving parent or legal guardian.

18 (2) An insurance contract or plan issued under this part must contain the provisions of subsection  
19 (1) for remaining a member of the group and also must permit:

20 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

21 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

22 (c) continued membership in the group by anyone eligible under the provisions of this section,  
23 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

24 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain  
25 a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health  
26 Insurance for the Aged Act if the legislator:

27 (i) terminates service in the legislature and is a vested member of a state retirement system  
28 provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for:

(a) treatment of inborn errors of metabolism, as provided for in 33-22-131;

(b) therapies for Down syndrome, as provided in 33-22-139;

(c) treatment for children with hearing loss as provided in 33-22-128(1) and (2);

(d) the care and treatment of mental illness in accordance with the provisions of Title 33, chapter 22, part 7; and

(e) telehealth services, as provided for in 33-22-138.

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(b) Coverage for well-child care under subsection (8)(a) must include:

(i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment services program provided for in 53-6-101; and

(ii) routine immunizations according to the schedule for immunization recommended by the advisory committee on immunization practices of the U.S. department of health and human services.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit as provided for in this subsection (8).

(d) For purposes of this subsection (8):

(i) "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics; and



(ii) "well-child care" means the services described in subsection (8)(b) and delivered by a physician or a health care professional supervised by a physician.

(9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance contract or plan, may be required to be paid by the insured and not by the employer.

(10) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract's or plan's cancer screening coverages must be provided to a prospective group or plan member.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(12) (a) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for outpatient self-management training and education for the treatment of diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes.

(b) Coverage must include a \$250 benefit for a person each year for medically necessary and prescribed outpatient self-management training and education for the treatment of diabetes.

(c) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug administration, and glucagon emergency kits.

(d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in

1 which case subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

2 (e) Annual copayment and deductible provisions are subject to the same terms and conditions  
3 applicable to all other covered benefits within a given policy.

4 (f) This subsection (12) does not apply to disability income, hospital indemnity, medicare  
5 supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the  
6 Montana university system as benefits to employees, retirees, and their dependents.

7 (13) (a) The Except as provided in subsection (16), the state employee group benefit plans and the  
8 Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace  
9 officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a  
10 volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace  
11 officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment.  
12 Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or  
13 dependents. Renewals of coverage under this section must provide for the same level of benefits as is  
14 available to other members of the group. Premiums charged to a spouse or dependent under this section must  
15 be the same as premiums charged to other similarly situated members of the group. Dependent special  
16 enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection  
17 (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

18 (b) The state employee group benefit plans and the Montana university system group benefits  
19 plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or  
20 dependent only if:

21 (i) the spouse or dependent has failed to pay premiums or contributions in accordance with the  
22 terms of the state employee group benefit plans and the Montana university system group benefits plans or if  
23 the plans have not received timely premium payments;

24 (ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made  
25 an intentional misrepresentation of a material fact under the terms of the coverage; or

26 (iii) the state employee group benefit plans and the Montana university system group benefits  
27 plans are ceasing to offer coverage in accordance with applicable state law.

28 (14) The state employee group benefit plans and the Montana university system group benefits

1 plans must comply with the provisions of 33-22-153.

2 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the  
3 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter  
4 22, part 7. (See compiler's comments for contingent termination of certain text.)

5 (16) (a) The state employee group benefit plans that provide coverage to a law enforcement officer  
6 as defined in ~~7-32-201 [section 1]~~ or the spouse or dependents of a law enforcement officer shall:

7 (i) ~~renew the coverage of enroll~~ the officer and the officer's spouse or dependents in COBRA  
8 continuation coverage if the officer is catastrophically injured ~~or dies~~ in the line of duty as ~~those terms are that~~  
9 term is defined in [section 1], unless the officer is eligible for benefits as provided in 44-1-511; or

10 (ii) enroll the officer's spouse or dependents in COBRA continuation coverage if the officer dies in  
11 the line of duty as that term is defined in [section 1].

12 (b) Renewals of coverage under this section must provide for the same level of benefits as is  
13 available to other members of the group. Premiums charged to an officer, spouse, or dependent under this  
14 subsection (16) must be the same as premiums charged to other similarly situated members of the group.  
15 Dependent special enrollment must be allowed under the terms of the insurance contract or plan. The  
16 provisions of this subsection (16) are applicable to an officer, spouse, or dependent who is insured under a  
17 COBRA continuation provision.

18 (b)(c) The state shall pay the premium for ~~1 month~~ 4 months of COBRA coverage after the  
19 catastrophic injury or death in the line of duty, after which the officer, spouse, or dependent shall pay the  
20 premium.

21 (e)(d) The state employee group benefit plans may discontinue or not renew the coverage of an  
22 officer, spouse, or dependent only if:

23 (i) the officer, spouse, or dependent has failed to pay premiums or contributions for which the  
24 individual is responsible;

25 (ii) the officer, spouse, or dependent has performed an act or practice that constitutes fraud or has  
26 made an intentional misrepresentation of a material fact under the terms of the coverage; or

27 (iii) the state employee group benefit plans cease to offer coverage in accordance with applicable  
28 state law."

(6) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

(b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in 53-25-118.

(7) By November 1 of each year, the department shall multiply the subtraction from federal taxable income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g)."

**NEW SECTION. Section 9. Unfunded mandate laws superseded.** The provisions of [this act] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

**NEW SECTION. Section 10. Effective date.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2023.

(2) [Section 78] is effective January 1, 2024.

**NEW SECTION. Section 11. Codification instruction.** [Sections 1 through 45] are intended to be codified as an integral part of Title 2, chapter 15, section 20, and the provisions of Title 2, chapter 15, section 20, apply to [sections 1 through 45].

**NEW SECTION. Section 12. Retroactive applicability.** (1) [This act] applies retroactively, within the