

**Unofficial Draft Copy**

As of: February 12, 2019 (2:50pm)

LC2080

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act generally revising school district health insurance laws; providing options and conditions for a district health insurance trust serving certain districts to allow access to limited local funding; requiring the superintendent of public instruction to qualify a district health insurance trust meeting specified requirements; authorizing the superintendent of public instruction to charge a fee for qualification of a district health insurance trust; authorizing a limited, transparent nonvoted levy under certain conditions; providing definitions; providing for withdrawal of members of a district health insurance trust and dissolution or disqualification of a district health insurance trust; amending sections 2-9-212, 20-3-331, and 20-9-116, MCA;; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Conditions for district employee health insurance through a qualifying district health insurance trust -- qualification of district health insurance trust -- definitions.** (1) A district, as defined in 20-6-101 that offers group insurance to its employees through a district health insurance trust qualified by the superintendent of public

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instruction under subsection (3) of this section may impose a limited levy under [section 3].

(2) A district health insurance trust seeking qualification from the superintendent of public instruction under (3) shall annually submit an application to the superintendent of public instruction demonstrating that the district health insurance trust:

(a) has an exemption from federal taxes under 26 U.S.C. 501(c) (9);

(b) covers a minimum of 12,000 employee lives and includes membership of at least 150 districts;

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

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

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

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

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

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

(3) The superintendent of public instruction shall annually qualify a district health insurance trust for compliance with the

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requirements in subsection (2) and may charge an annual processing fee, not to exceed \$1,000, for the qualification of a district health insurance trust under subsection (2). A district offering group insurance through a district health insurance trust qualified under this section may, in all years the district health insurance trust remains qualified, levy an annual property tax as provided in [section 3].

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

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

(b) "District health insurance trust" means an arrangement, plan, interlocal agreement, or multidistrict agreement that jointly provides disability insurance as defined in 33-1-207 to its districts' officers, elected officials, or employees through a self-funded, member-governed program.

(c) "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.

NEW SECTION. **Section 2. Withdrawal -- dissolution -- disqualification -- false swearing.** (1) A district that has participated in a district health insurance trust for at least five consecutive school fiscal years and provides notice to the

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district health insurance trust of a plan to withdraw from the district health insurance trust is authorized to withdraw from the district health insurance trust and:

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

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

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

(d) shall immediately lose all authority to levy any funds under [section 3]; and

(e) is ineligible to rejoin the trust for at least five full school fiscal years following the year in which the district withdraws from the health insurance trust, after which it may rejoin with a levy authority under [section 3] in the first year that the district rejoins the district health insurance trust not to exceed the amount referenced in [section 3(2)(b)].

(2) The funds returned under subsection (1)(c) must be used

in accordance with 20-3-330 or 20-3-331.

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

(a) apportion its revenues proportionately to the member districts of the district health insurance trust pursuant to the contractual terms of coverage and membership in the health insurance trust; and

(b) notify the superintendent of public instruction.

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

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

NEW SECTION. **Section 3. Nonvoted levy for certain health insurance coverage -- uses.** (1) A district participating in a district health insurance trust that is qualified under [section 1], may levy an annual property tax for use in providing employee benefits pursuant to the terms of the health insurance trust's benefit plan. A levy under this section is limited as provided in

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2-9-212(1) and this section and is not subject to the mill levy calculation limitation provided for in 15-10-420.

(2) The amount levied must be limited to any amount levied in the prior fiscal year plus the lesser of:

(a) the annual increased cost of the district's single rate premium above the premium charged for coverage in the immediately preceding fiscal year multiplied times the number of employees provided coverage under the district's group insurance in the current fiscal year; and

(b) 3% of the district's total cost of providing health insurance in the preceding fiscal year through the district health insurance trust.

(3) For the first year in which health insurance is offered through a district health insurance trust, the district may impose a levy no greater than 3% of the actual cost in the prior fiscal year of providing health insurance to employees.

(4) The levy must be set during the district's final budget meeting pursuant to 20-9-131 and amounts raised by such levy must be deposited in an internal service fund as provided in 20-3-331.

(5) The superintendent of public instruction shall track levies imposed by districts pursuant to this section to ensure compliance with the limitations of this section through the annual data collection.

(6) The levy under this section must be decreased from year to year to the extent of any annual decreased cost to the district of providing employee benefits.

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

**"2-9-212. Political subdivision tax levy to pay**

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

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

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

(ii) If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under

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15-16-101(2). The amount must also be reported to the department of administration pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

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

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

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

(b) The term does not include casualty insurance as defined in 33-1-206, marine insurance as authorized in 33-1-209 and 33-1-221 through 33-1-229, property insurance as defined in 33-1-210, surety insurance as defined in 33-1-211, and title insurance as defined in 33-1-212."

{*Internal References to 2-9-212:*

2-9-211 2-18-703 2-18-703 2-18-703  
2-18-703 2-18-703 2-18-703 2-18-703  
2-18-703 15-10-420 20-15-310 ALL OK}



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**Section 5.** 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 or 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~~ Except as provided in subsection (3) (b), 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).

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

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

{Internal References to 20-3-331:  
20-3-330 OK}

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**Section 6.** Section 20-9-116, MCA, is amended to read:

**"20-9-116. Resolution of intent to increase nonvoted levy**

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

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

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

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

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

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

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

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

(a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under (1) (a) through ~~(1) (e)~~ (1) (f) imposed in the current school fiscal year and, based on the district's taxable

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valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on a home valued at \$100,000 and a home valued at \$200,000; and

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

{Internal References to 20-9-116:  
20-9-502 OK}

NEW SECTION. **Section 7. {standard} Codification**

**instruction.** [Sections 1 through 3] 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 3].

NEW SECTION. **Section 8. {standard} Effective date.** [This act] is effective July 1, 2019.

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