

1 HOUSE BILL NO. 124

2 INTRODUCED BY FACEY

3 BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A K-12 STATEWIDE HEALTH INSURANCE
6 PROGRAM; OFFERING ELIGIBLE EMPLOYEES ACCESS TO GROUP HOSPITALIZATION, HEALTH,
7 MEDICAL, SURGICAL, AND PHARMACEUTICAL INSURANCE BENEFITS THROUGH AN
8 EMPLOYEE-SELECTED BASIC, STANDARD, OR PREFERRED HEALTH BENEFIT PLAN; ALLOWING
9 SCHOOL DISTRICTS AND EDUCATION COOPERATIVES TO VOLUNTARILY PARTICIPATE IN THE
10 PROGRAM; PROVIDING A STATE-FUNDED INCENTIVE CREDIT FOR EACH ELIGIBLE EMPLOYEE AS A
11 CREDIT AGAINST THE MONTHLY HEALTH INSURANCE PREMIUM; OFFERING EMPLOYEES VISION,
12 DENTAL, DISABILITY, LIFE INSURANCE, AND OTHER RELATED GROUP BENEFITS IN AN EFFICIENT AND
13 COST-EFFECTIVE MANNER; AUTHORIZING TRUSTEES AND RETIREES TO ELECT TO RECEIVE HEALTH
14 INSURANCE COVERAGE AT THEIR OWN EXPENSE; MAINTAINING LOCAL AUTHORITY TO SET
15 EMPLOYER CONTRIBUTIONS TO HEALTH BENEFIT PREMIUMS AND TO OFFER OTHER GROUP
16 BENEFITS THROUGH COLLECTIVE BARGAINING OR EMPLOYER POLICY; CREATING A K-12 STATEWIDE
17 HEALTH INSURANCE PROGRAM BOARD; AUTHORIZING THE BOARD TO HIRE AND MANAGE ITS OWN
18 EMPLOYEES; AUTHORIZING THE BOARD OF INVESTMENTS TO PROVIDE A LOAN FOR
19 IMPLEMENTATION OF THE STATEWIDE HEALTH INSURANCE PROGRAM AND A LINE OF CREDIT TO
20 FINANCE THE INITIAL RESERVES; REQUIRING THE LOAN AND LINE OF CREDIT TO BE REPAYED WITHIN
21 10 YEARS; PROHIBITING THE USE OF THE LOAN OR LINE OF CREDIT TO PAY OFF CLAIMS OR
22 LIABILITIES INCURRED PRIOR TO JULY 1, 2006; PROVIDING ADDITIONAL LOAN AUTHORITY TO THE
23 BOARD OF INVESTMENTS; PROVIDING FOR REGULATION OF THE K-12 STATEWIDE HEALTH
24 INSURANCE PROGRAM BY THE STATE INSURANCE COMMISSIONER; PROVIDING STATUTORY
25 APPROPRIATIONS; AMENDING SECTIONS 2-18-103, 17-5-1608, 17-7-502, 33-1-102, 33-1-201, AND
26 33-35-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

27

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

29

30 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 9] is to:

1 (1) create a statewide health insurance program for K-12 public schools and education cooperatives in
2 which employers elect participation in the program and provide employees who are regularly employed for 30
3 or more hours a week during the school year or employed for fewer hours as specified in a collective bargaining
4 agreement or by employer policy in a nonbargaining school district or education cooperative with access to core
5 benefits consisting of group hospitalization, health, medical, surgical, and pharmaceutical insurance benefits
6 made available on a statewide basis;

7 (2) provide a \$200 incentive credit each month for each eligible employee to be used as a credit against
8 the premium charged by the K-12 SHIP for enrollment by the employee in a health benefit plan and generally
9 provide state funding to the K-12 SHIP on behalf of all eligible employees regardless of enrollment;

10 (3) offer vision, dental, disability, life insurance, and other related group benefits for members and their
11 dependents through the K-12 SHIP in an efficient and cost-effective manner, at the employer's voluntary election
12 to participate and the member's selection of a benefit plan in the K-12 SHIP;

13 (4) maintain local authority to set employer contributions to health benefit premiums through tiered or
14 composite rate structures and offer other group benefits through collective bargaining agreement or by employer
15 policy in a nonbargaining school district;

16 (5) mitigate and eliminate previously experienced erratic annual health care insurance premium
17 increases for members and employers in the K-12 SHIP by spreading health care cost experience over a larger
18 and more stable statewide public school risk group, while reducing administrative expenses associated with
19 small health insurance groups;

20 (6) provide members of the K-12 SHIP with access to health insurance coverage and provide equitable
21 access to affordable, quality health care, including preventive care, major case management, and health
22 screening and wellness programs;

23 (7) effectively allow employers and members, through the board, to negotiate medical cost containment,
24 quality assurances, and managed care measures with health care providers that will partially insulate school
25 district budgets and members' income from escalating health care costs; and

26 (8) encourage and facilitate delivery of health care services in rural areas of the state for K-12 SHIP
27 members and for rural communities generally.

28
29 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 9], the following definitions
30 apply:

1 (1) "Basic plan" means a health benefit plan adopted by the board that provides core benefits for each
 2 member and the member's designated dependents and that provides lower premiums and higher member
 3 cost-sharing than under the standard plan or the preferred plan. The basic plan premium for an individual
 4 employee-only member may not exceed the amount of the state incentive credit provided for in [section 3].

5 (2) "Board" means the K-12 SHIP board established in [section 6].

6 (3) "Composite-rate premium" means the average per-enrollee premium cost for local employers and
 7 members who would otherwise be enrolled in the core benefits or core and other supplemental group benefit
 8 plans pursuant to the tiered-rate premium structure established by the board, but when, by collective bargaining
 9 or by local employer policy regarding employees not represented by collective bargaining, the employer has
 10 chosen to select a specified core or core and other group benefit plan for enrollment by local members on a
 11 composite-rate premium structure.

12 (4) "Core benefits" means group hospitalization, health, medical, and surgical insurance benefits, as well
 13 as pharmaceutical benefits offered in all K-12 SHIP benefit plans, other than the basic plan, offered by the K-12
 14 SHIP for members and their designated dependents on a statewide basis pursuant to [sections 1 through 9].

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

16 (6) "Dependent" means:

17 (a) a lawful spouse or declared common-law spouse;

18 (b) a child under the age of ~~26~~ 25 who is unmarried and financially dependent upon the insured; or

19 (c) a child of any age who is disabled and dependent upon the parent as provided in 33-22-506 and
 20 33-30-1003.

21 (7) (a) "Eligible employee" means:

22 (i) a person employed by a public ~~school~~ elementary or high school district, as defined in 20-6-101, a
 23 K-12 school district, as defined in 20-6-701, or an education cooperative, as described in 20-7-451, who is
 24 regularly employed for 30 or more hours a week during the school year or employed for fewer hours, BUT NOT
 25 LESS THAN 18 HOURS A WEEK, as specified in a collective bargaining agreement or by employer policy or education
 26 cooperative policy in a nonbargaining school district or education cooperative; OR

27 (ii) A CLASSROOM TEACHER OR SPECIALIST EMPLOYED BY A PUBLIC ELEMENTARY OR HIGH SCHOOL DISTRICT,
 28 AS DEFINED IN 20-6-101, OR A K-12 SCHOOL DISTRICT, AS DEFINED IN 20-6-701, WHO IS REGULARLY EMPLOYED FOR
 29 30 OR MORE HOURS A WEEK DURING THE SCHOOL YEAR OR EMPLOYED FOR FEWER HOURS, BUT NOT LESS THAN 18
 30 HOURS A WEEK, AS SPECIFIED IN A COLLECTIVE BARGAINING AGREEMENT OR BY EMPLOYER POLICY IN A NONBARGAINING

1 SCHOOL DISTRICT AND IS TEACHING IN A CLASSROOM THAT HAS MORE STUDENTS IN THE CLASSROOM THAN ALLOWED
2 UNDER THE ACCREDITATION STANDARDS ADOPTED BY THE BOARD OF PUBLIC EDUCATION.

3 (b) The term does not include an employee who is enrolled in a health benefit plan provided by a
4 multiple employer welfare arrangement or a retiree or a school board trustee who is a member of the K-12 SHIP.

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

8 (9) "Group benefits" means core benefits and other supplemental group benefits, including but not
9 limited to dental, vision, disability, accidental death and dismemberment, life, and other similar and related
10 benefits offered to members and dependents by the K-12 SHIP pursuant to [sections 1 through 9].

11 (10) "K-12 SHIP" means the K-12 statewide health insurance program established pursuant to [sections
12 1 through 9].

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

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

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

21 (14) "Multiple employer welfare arrangement" means a national health and benefits program, as defined
22 in 29 U.S.C. 1002, that is sponsored by a national union or association and that provides health insurance
23 benefits for local employers and specified employee groups on [the effective date of this act] pursuant to a
24 collective bargaining agreement.

25 (15) "Preferred plan" means a plan adopted by the board that provides core benefits, including
26 pharmaceutical benefits for each member and the member's designated dependents, and that provides a higher
27 premium and lower member cost-sharing than occurring under the standard plan.

28 (16) "Retiree" means:

29 (a) an employee who has terminated employment with an employer and who, at the time of termination,
30 was continuously employed for a period of 10 or more school years, was 55 years of age or older, and was

1 enrolled in the K-12 SHIP and at the time of termination of employment elected continued enrollment in the K-12
2 SHIP;

3 (b) an employee who has terminated employment with an employer and who, at the time of termination,
4 was enrolled in the K-12 SHIP and was eligible for ~~normal~~ retirement pursuant to law or rules of the public
5 employees' retirement system or the teachers' retirement system and, at the time of termination of employment,
6 elected continued enrollment in the K-12 SHIP;

7 (c) an employee or trustee who was enrolled as a retiree under terms of a school district or education
8 cooperative health benefit plan and who enrolls in the K-12 SHIP following the employer's election to participate
9 in the K-12 SHIP; or

10 (d) a trustee who was enrolled as a trustee under the terms of a school district's or education
11 cooperative's health benefit plan or a trustee who terminated board trusteeship with a school district and who,
12 at the time of termination, was continuously enrolled in the local health benefit plan or the K-12 SHIP and, at the
13 time of termination, elected continued enrollment in the K-12 SHIP.

14 (17) "Standard plan" means a plan adopted by the board that provides core benefits, including
15 pharmaceutical benefits for each member and the member's designated dependents, and that provides a higher
16 premium and lower member cost-sharing than occurring under the basic plan and is actuarially equivalent in
17 value to the state of Montana's traditional health benefit plan as it existed on July 1, 2003.

18 (18) "Tiered-rate premium" means the premium cost established by the board that is necessary to:

19 (a) fund claims costs of members enrolled as single, single and dependents, two-party, family, and other
20 enrollment categories, including composite premium structures, established by the board;

21 (b) repay the loan or any draw on the line of credit provided by the board of investments;

22 (c) build reserves of the K-12 SHIP; and

23 (d) pay administrative costs of the K-12 SHIP.

24 (19) "Trustee" means a member of a public school board who, by a board policy, is eligible to participate
25 and has elected to enroll in the K-12 SHIP.

26

27 **NEW SECTION. Section 3. Incentive credit payment -- appropriation.** (1) (a) There is an incentive
28 credit of \$200 a month for each ELIGIBLE employee, AS DEFINED IN [SECTION 2(7)(A)(I)], OR \$200 A MONTH PLUS AN
29 ADDITIONAL AMOUNT BASED ON THE NUMBER OF STUDENTS PER CLASSROOM THAT IS IN EXCESS OF THE MAXIMUM NUMBER
30 OF STUDENTS ALLOWED PER CLASSROOM BY THE ACCREDITATION STANDARDS, FOR EACH ELIGIBLE EMPLOYEE, AS

1 DEFINED IN SECTION 2(7)(A)(II)], WHO IS eligible to enroll in the K-12 SHIP, paid by the state to the K-12 SHIP. The
 2 incentive credit must be applied by the board to the premiums paid by an employer and an employee enrolled
 3 in the K-12 SHIP. The incentive credit must be applied for any month in which:

4 (i) an employee is regularly employed for 30 or more hours a week for a majority of the working days
 5 in the month, exclusive of scheduled school holidays and breaks, and in which the employee was expected to
 6 work at least 1,080 hours or more during the school year; or

7 (ii) the employee is regularly employed for a lesser number of hours as a result of a collective bargaining
 8 agreement or employer policy.

9 (b) In the case of a change in employment by an employee covered by the K-12 SHIP, the incentive
 10 credit must be provided on a monthly basis with a full monthly credit provided for any month in which the
 11 employee worked in a covered position for a majority of the working days.

12 (c) The board shall calculate the incentive credit for each school district and education cooperative.

13 (2) (a) The sum of all school districts' and education cooperatives' incentives credits calculated pursuant
 14 to subsection (1) is the incentive credit share pool.

15 (b) Starting with the school fiscal year beginning July 1, 2007, and in each succeeding fiscal year, the
 16 incentive credit share pool must be increased annually by the ~~rate of medical care cost inflation~~ CONSUMER PRICE
 17 INDEX, U.S. CITY AVERAGE, FOR ALL URBAN CONSUMERS, FOR ALL ITEMS, as published by the bureau of labor statistics
 18 of the United States department of labor for the preceding December.

19 (c) The incentive credit share pool calculated in this subsection (2) is statutorily appropriated, as
 20 provided in 17-7-502, from the general fund to the board.

21

22 **NEW SECTION. Section 4. Voluntary employer participation -- window of eligibility -- impact on**

23 **collective bargaining.** (1) Employer participation in the K-12 SHIP is voluntary. Employers who do not elect to
 24 participate in the K-12 SHIP may not receive the incentive credit for their employees. An employer may elect to
 25 participate in the K-12 SHIP and receive the incentive credit by a simple majority vote. The employer shall file
 26 a written notice of election with the board on or ~~before~~ AFTER January 15, 2006, or any subsequent time as
 27 allowed by the board. The notice must include the number of employees eligible to participate in the K-12 SHIP.

28 (2) The election to participate in the K-12 SHIP is solely a decision of the employer. The employer's
 29 elective participation decision MAY BE REVOKED BY AN EMPLOYER UPON WRITTEN NOTICE TO THE BOARD. THE WRITTEN
 30 NOTICE MUST BE FILED WITH THE BOARD ON OR BEFORE JUNE 1 AT LEAST 1 YEAR BEFORE THE EMPLOYER ACTUALLY

1 LEAVES THE K-12 SHIP. DURING THE 1-YEAR NOTICE PERIOD, AN EMPLOYER MAY NOT REVERSE A DECISION TO REVOKE
 2 PARTICIPATION. AN EMPLOYER'S DECISION TO REVOKE ELECTIVE PARTICIPATION IN THE K-12 SHIP is irrevocable, final,
 3 and continuing with respect to all employees eligible to enroll in the K-12 SHIP.

4 (3) (a) The employer's election to participate in the K-12 SHIP is specifically exempt from any claim of
 5 unfair labor practice, maintenance of benefits' clauses of collective bargaining agreements, or other collective
 6 bargaining violations respecting the Montana public employee collective bargaining laws provided for in Title
 7 39, chapter 31. The incentive credit is recognized as an employer contribution toward the premium obligated
 8 under the terms of a collective bargaining agreement.

9 (b) Employer and employee organization bargaining and collective bargaining agreement obligations
 10 under Title 39 with respect to the level of employer contribution toward premium payment, enrollment thresholds,
 11 choice of premium structure based on the tiered-rate premium, composite-rate premium, or other rates provided
 12 for by the board, the impact of the incentive credit, the provision of other group benefits, and other matters not
 13 specifically exempted in this subsection from coverage under Title 39, chapter 31, are maintained.

14
 15 NEW SECTION. Section 5. K-12 SHIP -- enrollment -- collective bargaining of employer
 16 contributions. (1) On or after [the effective date of this act], the board shall adopt rules for:

17 (a) collecting and reporting on a monthly basis employment hours worked, collective bargaining status,
 18 wage level, and other information as required by the board;

19 (b) establishing the provisions of the core benefits and other group benefit plans;

20 (c) providing for employer participation election;

21 (d) providing for member enrollment;

22 (e) establishing electronic data collection and transfer systems that are integrated with the data
 23 collections systems used by the office of public instruction, the teachers' retirement system, the public
 24 employees' retirement system, the department of labor and industry, and school districts; and

25 (f) providing for employer and member educational and information programs and systems.

26 (2) By December 1, 2005, the board shall adopt and maintain:

27 (a) a basic plan, a standard plan, and a preferred plan, two or more locally available managed care
 28 plans, and medicare supplement plans providing for core benefits for each member and the member's
 29 designated dependents;

30 (b) an actuarially sound schedule of tiered-rate premiums and composite-rate premiums for each

1 adopted plan that offers the option of selecting a tiered-rate or composite-rate premium payment method to all
2 employers and members by collective bargaining or to nonbargaining members by local employer policy.

3 (3) The board shall, by December 1, 2005, and annually thereafter by no later than March 1, notify each
4 school district, each education cooperative, and the department of the adoption of the premium rates for each
5 plan for the subsequent fiscal year.

6 (4) By June 1, 2006, and in each succeeding year on a date determined by the board, employers shall
7 notify the board of the employee member's selection of the basic plan, standard plan, preferred plan, or
8 managed care plan and of the employer's selection of the premium payment method for all employee, retiree,
9 and trustee members as determined by a collective bargaining agreement or by employer policy for
10 nonbargaining school districts or education cooperatives.

11 (5) By June 1, 2006, and in each succeeding year on a date determined by the board, retiree and trustee
12 members of the K-12 SHIP shall notify the board of the members' selection of the basic plan, standard plan,
13 preferred plan, managed care plan, or medicare supplement plan.

14 (6) The plans adopted by the board under subsection (2)(a) must be operating and available to all
15 employers and members by no later than July 1, 2006. By the later of either July 1, 2006, or upon the expiration
16 of a collective bargaining agreement that is in effect prior to [the effective date of this act] and that extends
17 through the 2007 contract year and includes provisions that specifically restrict or are otherwise in conflict with
18 the provisions of [sections 1 through 9], an employer shall:

19 (a) enroll each eligible employee in the K-12 SHIP and provide core benefits under the basic plan,
20 standard plan, preferred plan, or managed care plan as elected by the employee; and

21 (b) enroll each retiree and eligible trustee in the K-12 SHIP who elects benefits coverage under the basic
22 plan, standard plan, preferred plan, managed care plan, or medicare supplement plan.

23 (7) An eligible employee may waive enrollment and coverage in the K-12 SHIP by submitting a signed
24 statement declining enrollment in the plan and acknowledging relinquishment of enrollment rights until the
25 second general enrollment period as established by the board following the employee's signed statement
26 declining enrollment.

27 (8) An eligible retiree or eligible trustee may waive enrollment and coverage in the K-12 SHIP by
28 submitting a signed statement declining enrollment in the plan and acknowledging complete, final, and
29 irrevocable relinquishment of enrollment rights in the K-12 SHIP.

30 (9) Except as provided in subsection (13) and unless otherwise prohibited by law, an employer shall,

1 by July 1, 2006, and monthly after that date, transfer to the board from any budgeted fund or nonbudgeted fund,
2 as defined in 20-9-201, the monthly premium amount in excess of the incentive credit determined by the board
3 to be necessary to:

4 (a) fund and provide core benefits on behalf of each eligible employee enrolled under the basic plan,
5 standard plan, preferred plan, or managed care plan selected by the employee;

6 (b) repay the board of investment loans or any draw on the line of credit provided for under [section 9];
7 and

8 (c) implement the plan, pay administration costs, and establish reserves.

9 (10) (a) For an eligible employee whose employment is covered by a collective bargaining agreement
10 under Title 39, chapter 31, an employer's selection of the tiered-rate premium or composite-rate premium
11 structure for core benefits premium payments and other group benefits pursuant to this section and an
12 employer's and employee's contributions for employee-selected core benefits and other group benefits must be
13 determined by collective bargaining between the employer and the exclusive representative of the bargaining
14 unit.

15 (b) For an eligible employee whose employment is not covered by a collective bargaining agreement
16 pursuant to Title 39, chapter 31, an employer's selection of the tiered-rate premium or composite-rate premium
17 structure for core benefits premium payments and other benefits pursuant to this section and an employer's and
18 employee's contributions for employee-selected core benefits and other group benefits must be determined by
19 employer policy.

20 (11) An eligible trustee or an eligible retiree may, at the time of retirement and at the trustee's or retiree's
21 expense, elect to be enrolled in the K-12 SHIP and receive health benefits under the basic plan, standard plan,
22 preferred plan, or managed care plan as offered by the employer or may, if eligible, enroll in the medicare
23 supplement plan.

24 (12) If, by a collective bargaining agreement, the employer agrees to make payments for health and
25 related insurance benefits for retirees, the employer shall continue to provide benefits and make payments to
26 the board pursuant to the terms of the collective bargaining agreement.

27 (13) The board shall deposit in an account all reserve funds, premiums paid to the K-12 SHIP, and
28 state-funded incentive credits for eligible employees, and the money deposited is statutorily appropriated, as
29 provided in 17-7-502, to the department to be expended for claims; AND payment of administrative costs; ~~and~~
30 ~~loan repayments under the K-12 SHIP and to maintain actuarially sound reserves considered necessary for the~~

1 K-12 SHIP.

2 (14) A school district with a self-funded health benefit plan or employee group health plan holding rate
3 stabilization or other local health benefit reserve funds is required to use these funds of the health benefit plan
4 to pay claims and other liabilities of the district's health benefit plan. Upon enrollment in the K-12 SHIP, the
5 remaining reserves must be maintained by the district under the provisions of 20-3-331 and must be used to pay
6 for employee benefit costs as determined by a collective bargaining agreement or an employer policy or as
7 required by applicable state or federal law.

8 (15) The provisions of [sections 1 through 9] may not be construed to require a specific contribution
9 exclusive of the incentive credit by either an employer or an eligible employee toward the cost of core benefits
10 and other group benefits provided in [sections 1 through 9].

11 (16) Complying with the requirements of [sections 1 through 9] may not be interpreted as a refusal to
12 bargain in good faith with an exclusive representative in violation of 39-31-401(5).

13

14 **NEW SECTION. Section 6. K-12 SHIP board -- composition -- appointment -- compensation.** (1)

15 There is a K-12 SHIP board.

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

18 ~~(a)(I) four~~ THREE members who are enrolled in the K-12 SHIP, ~~including at least three members from a~~
19 ~~first-class district, as described in 20-6-201 and 20-6-301, and at least one classified employee, APPOINTED from~~
20 ~~a list of at least eight~~ SIX nominees, WHICH INCLUDES AT LEAST ONE RETIREE, AT LEAST ONE CLASSIFIED EMPLOYEE,
21 AND AT LEAST TWO NOMINEES FROM A FIRST-CLASS DISTRICT, AS DEFINED IN 20-6-201 AND 20-6-301, submitted by
22 MEA-MFT;

23 ~~(b)(II) two~~ THREE representatives of public school administrators, ~~including at least one from a first-class~~
24 ~~district, as defined in 20-6-201 and 20-6-301,~~ appointed from a list of at least ~~four~~ SIX nominees, WHICH INCLUDES
25 AT LEAST ONE RETIREE AND AT LEAST TWO NOMINEES FROM A FIRST-CLASS DISTRICT, AS DEFINED IN 20-6-201 AND
26 20-6-301, submitted jointly by the school administrators of Montana and the Montana association of county
27 superintendents of schools; AND

28 ~~(c)(III) two~~ THREE representatives of public school board trustees, ~~including at least one representative~~
29 ~~from a first-class district, as defined in 20-6-201 and 20-6-301,~~ appointed from a list of at least ~~four~~ SIX nominees,
30 WHICH INCLUDES AT LEAST TWO NOMINEES FROM A FIRST-CLASS DISTRICT, AS DEFINED IN 20-6-201 AND 20-6-301,

1 submitted jointly by the Montana school boards association, the Montana rural education association, and the
 2 Montana association of school business officials; ~~and~~
 3 ~~—— (d) one retiree who is a member of the K-12 SHIP.~~

4 (B) OF THE NINE MEMBERS ON THE BOARD, AT LEAST ONE MUST BE A CLASSIFIED EMPLOYEE AND AT LEAST ONE
 5 MUST BE A RETIREE.

6 (3) ~~(a) Except as provided in subsection (3)(b), when~~ WHEN a vacancy occurs, the governor shall notify
 7 the organization or organizations authorized to submit nominations pursuant to subsection (2). Within 30 days
 8 of receiving notification, the authorized organization or organizations shall submit a list of nominees to the
 9 governor. The governor shall fill the vacancy by appointing an individual nominated by the designated
 10 organization or organizations. If the organization or organizations fail to submit a list within 30 days, the governor
 11 may appoint any person meeting the requirements of the position.

12 ~~(b) When a vacancy occurs in the retiree position, the governor shall appoint any person meeting the~~
 13 ~~requirements of the vacancy to fill the position.~~

14 (4) Nominating organizations, when preparing nomination lists, and the governor, when making
 15 appointments, shall give consideration to those nominees with demonstrated experience in the operation,
 16 supervision, and administration of school health benefit plans.

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

19 (6) Members of the board must be compensated and must receive travel expenses in the same manner
 20 as members of quasi-judicial boards under 2-15-124(7).

21
 22 NEW SECTION. Section 7. Powers and duties of board -- rules. (1) The board shall:

23 (a) act as fiduciary for the K-12 SHIP and beneficiaries of the program;
 24 (b) prepare requests for proposals and contract for claims payment, actuarial, and other specialized
 25 professional services;

26 (c) meet at least six times annually and review monthly enrollment, claims, claims payment, and fund
 27 financial status information and conduct financial status reviews;

28 (d) comply with the provisions of [sections 1 through 9] and [sections 10 through 26];

29 (e) determine the preferred methods for providing K-12 SHIP educational and information services to
 30 members and employers, provide effective and cost-efficient administration of the K-12 SHIP, and establish

1 procedures for payroll office assistance, enrollment and data transfer processing, claims processing, and
2 member claims assistance;

3 (f) pursuant to the applicable provisions of Title 33 and its fiduciary duty, determine whether the K-12
4 SHIP requires reinsurance or stop-loss protections and, if so, determine the most appropriate specific or
5 aggregate reinsurance levels;

6 (g) file annual financial statements and undergo compliance and financial audits as required by
7 applicable provisions of law and regulation pursuant to [section 8], Title 33, [section 13], and [section 18];

8 (h) establish the basic, standard, and preferred plans, a network of managed health care plans, and
9 medicare health supplement plans;

10 (i) closely monitor the performance of each health benefit plan and annually adjust plan benefits as
11 determined prudent and necessary;

12 (j) establish supplemental or rider dental, vision, life, long-term disability, and other statewide insurance
13 plans to be made available to districts for voluntary participation;

14 (k) annually set tiered-rate premiums and composite-rate premiums for eligible member enrollment in
15 the health benefit plans;

16 (l) ensure that the individual premium for the basic plan does not exceed the amount of the incentive
17 credit provided for in [section 3] and continue to offer access to the basic plan;

18 (m) repay the startup loan and any draw on the line of credit provided for in [section 9] from ~~the incentive~~
19 ~~credit provided for in [section 3] and~~ health benefit plan premiums;

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

23 (o) annually determine benefit provisions and set premiums needed to fund core benefits, pay
24 administrative costs, provide reserves, and set premiums necessary for all other group benefit plans offered by
25 the board;

26 (p) ensure that the administrative costs of the K-12 SHIP do not exceed 7% of the premium charged for
27 tiered-rate or composite-rate plan coverages;

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

30 (r) work with the office of public instruction, the teachers' retirement system, and the public employees'

1 retirement system to develop a database of school personnel employment and collective bargaining unit
2 information;

3 (s) calculate the incentive credit amount as provided in [section 3]; and

4 (t) adopt rules to implement the provisions of [sections 1 through 9], including but not limited to rules to:

5 (i) determine timely and automated procedures for monthly enrollment of employee, retiree, and trustee
6 members, bid specifications, claim forms and procedures, claims distribution, appeal procedures, and the
7 general administration and operation of the K-12 SHIP;

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

11 (iii) coordinate benefits with other health plans, participate in cooperative purchasing as provided in
12 2-18-711, and provide for dual enrollment of spouses enrolled in a K-12 SHIP health benefit plan, the state
13 employee group benefit plan, local government-sponsored health plans, or the Montana university system health
14 plan; and

15 (iv) provide for the reenrollment of an employee who waived coverage during the initial enrollment
16 period.

17 (2) The board shall hire and manage its own personnel, including an administrative accountant
18 responsible for direct entry and access to the state budgeting and accounting database, and may, by contract,
19 hire personnel for all administrative services, including but not limited to:

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

21 (b) with regard to enrollment of members in the health benefit plans, coordinating enrollment with
22 employer staff and payroll systems, preparing descriptive materials, providing member and employer information
23 concerning plan benefits and enrollment and claims processing procedures, and providing members with
24 assistance as needed for claims submission and processing;

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

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

27 (e) preparation of an annual report that:

28 (i) describes enrollment trends within the K-12 SHIP, benefit provisions and premium structure of the
29 health benefit plans, and administrative experience relating to the plans;

30 (ii) ~~details~~ CONTAINS DETAILED historical and projected program costs and the status of reserve funds; and

1 (iii) makes recommendations, if any, for changes in the existing K-12 SHIP, health benefit plans,
2 premium structures, or related matters;

3 (f) preparation of educational and information services through local employers for members regarding
4 the K-12 SHIP and health benefit plans;

5 (g) providing assistance and training to public school benefits and payroll administrators and to members
6 regarding enrollment and premium payment procedures associated with the K-12 SHIP and health benefit plans;
7 and

8 (h) providing assistance for members and employers to develop or implement and maintain locally
9 available, effective wellness, health screening, and healthy living programs.

10 (3) The annual report and the financial statements required under [section 13] and [section 18] must be
11 submitted to the board of public education.

12 (4) The board shall include as part of the costs of the K-12 SHIP the costs of the board in administering
13 health benefit plans and claims processing, costs of repayment of the board of investment implementation loan
14 and line of credit draws for building reserves, as provided in [section 9], and other benefit consulting, actuarial,
15 and auditing costs.

16 (5) The board is subject to the Montana Procurement Act in Title 18, chapter 4.
17

18 **NEW SECTION. Section 8. Biennial audit of K-12 SHIP required.** The K-12 SHIP health benefit
19 plans established under [sections 1 through 9] must be audited every 2 years. The audit must cover the 2-year
20 period since the last audit and be conducted by or at the direction of the legislative auditor. The examination
21 required in [section 12] OR THE REPORT REQUIRED IN [SECTION 18] may be used by the legislative auditor to satisfy
22 the requirement under this section.
23

24 **NEW SECTION. Section 9. Board of investment loan and line of credit -- limitations on use.** (1)
25 If considered prudent under the provisions of 17-6-201, the board of investments may prior to July 1, 2005,
26 provide to the board a loan in the amount of \$2 million for the purpose of implementing the K-12 SHIP and health
27 benefit plans.

28 (2) The board of investments may before July 1, 2006, authorize and provide to the board a letter or line
29 of credit in the amount of \$24 million to be available on July 1, 2006, to establish initial reserves for the K-12
30 SHIP.

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

4 (4) For any loan or line of credit provided under this section, the board shall establish and maintain a
5 specific loan repayment account and shall repay the loan or line of credit from premiums charged for core
6 benefits and other group benefits ~~and from the state-funded incentive credits not used as a credit against~~
7 ~~premiums.~~

8 (5) The loan authorized under subsection (1) and the line of credit authorized under subsection (2) may
9 not be used to pay any claims incurred, but not paid, prior to July 1, 2006, or for any other liabilities incurred prior
10 to July 1, 2006.

11
12 **NEW SECTION. Section 10. Definitions.** As used in [sections 10 through 26], the following definitions
13 apply:

14 (1) "Board" means the K-12 SHIP board established in [section 6].

15 (2) "Health services" has the meaning provided in 33-30-101.

16 (3) "K-12 SHIP" means the K-12 statewide health insurance program established pursuant to [sections
17 1 through 9].

18 (4) "Membership contract" means any agreement, contract, or certificate by which the K-12 SHIP
19 describes the health services or benefits provided to its members or beneficiaries.

20
21 **NEW SECTION. Section 11. Application of [sections 10 through 26] -- construction of other**
22 **related laws.** (1) The K-12 SHIP is subject to the provisions of [sections 10 through 26]. In addition to the
23 provisions contained in [sections 10 through 26], other chapters and provisions of Title 33 apply to the K-12 SHIP
24 as follows: Title 33, chapters 1, 15, 18, and 19; Title 33, chapter 2, part 13; 33-3-307; 33-3-308; 33-3-431;
25 33-3-701 through 33-3-704; 33-22-114; 33-22-129; 33-22-130; 33-22-133 through 33-22-135; 33-22-140 through
26 33-22-143; 33-22-243; Title 33, chapter 22, part 5, except 33-22-512 and 33-22-522; 33-22-706; and Title 33,
27 chapter 22, parts 15, 16, and 19. These other statutes are applicable to the K-12 SHIP in the same manner that
28 they are applicable to a domestic health service corporation.

29 (2) A law of this state other than the provisions of [sections 10 through 26] applicable to the K-12 SHIP
30 must be construed in accordance with the fundamental nature of the K-12 SHIP, and in the event of a conflict,

1 the provisions of [sections 10 through 26] prevail.

2

3 **NEW SECTION. Section 12. Examination of K-12 SHIP.** (1) If the commissioner believes that the
4 K-12 SHIP is unable or potentially unable to fulfill its contractual obligations to its members, the commissioner
5 may conduct an examination of the K-12 SHIP.

6 (2) In addition to the examination authorized in subsection (1), at least once every 4 years, the
7 commissioner shall conduct an examination of the K-12 SHIP to determine if the program is fulfilling its
8 contractual obligations by prompt satisfaction of claims at the highest monetary level consistent with reasonable
9 premiums and if the program's management exercises appropriate fiscal controls, operations, and personnel
10 policies to ensure that efficient and economic administration restrains overhead costs for the benefit of its
11 members.

12 (3) When the K-12 SHIP is examined, its officers and employees shall produce and make available to
13 the commissioner or the commissioner's examiners the accounts, records, documents, files, information, assets,
14 and matters in its possession or control relating to the subject of the examination.

15 (4) The commissioner or the commissioner's examiner shall make a verified report of the examination.

16 (5) The report must comprise only facts appearing from the books, papers, records, or documents of
17 the K-12 SHIP examined or ascertained from the testimony, under oath, of individuals concerning the K-12
18 SHIP's affairs and conclusions and recommendations as warranted by those facts.

19 (6) The commissioner shall furnish a copy of the proposed report to the K-12 SHIP not less than 20 days
20 prior to its filing in the commissioner's office. If the K-12 SHIP requests a hearing, in writing, the commissioner
21 shall grant one with respect to the report and may not file the report until after the hearing and after
22 modifications, if any, that the commissioner considers proper.

23 (7) The K-12 SHIP shall pay for each examination conducted pursuant to subsections (1) and (2) in
24 accordance with 33-1-413.

25

26 **NEW SECTION. Section 13. Annual statement.** (1) On or before September 1 of each year, the K-12
27 SHIP shall file an annual financial statement for the preceding year in a form approved by the commissioner.
28 The statement must be completed in accordance with accounting practices and procedures designated by the
29 commissioner. The statement must be accompanied by an actuarial opinion attesting to the K-12 SHIP's unpaid
30 claims liability.

1 (2) The K-12 SHIP shall file a statement containing any other information concerning its financial affairs
2 that may be reasonably requested by the commissioner.

3 (3) The commissioner may, after notice and hearing, impose a fine not to exceed \$100 a day and not
4 to exceed \$1,000 if the K-12 SHIP fails to file an annual statement as required by this section.

5
6 **NEW SECTION. Section 14. Notice of violation -- conference.** If the commissioner for any reason
7 believes that a violation of [sections 10 through 26] has occurred or is threatened, the commissioner may give
8 written notice to the K-12 SHIP and to the representative or other persons who appear to be involved in the
9 suspected violation to arrange a conference with the alleged violators or their authorized representative. The
10 purpose of the conference is to attempt to ascertain the facts relating to the suspected violation and, in the event
11 that it appears that a violation has occurred or is threatened, to arrive at an adequate and effective means of
12 correcting or preventing the violation.

13
14 **NEW SECTION. Section 15. Cease and desist order.** (1) The commissioner, acting in the name of
15 the state, may issue an order directing the K-12 SHIP or its representative to cease and desist from engaging
16 in any act or practice in violation of the provisions of [sections 10 through 26].

17 (2) Within 15 days after service of the order to cease and desist, the respondent may request a hearing
18 on the questions of whether acts or practices in violation of [sections 10 through 26] have occurred. These
19 hearings must be conducted under the contested case provisions of the Montana Administrative Procedure Act.

20
21 **NEW SECTION. Section 16. Injunctive relief.** In the case of any violation of the provisions of [sections
22 10 through 26], if the commissioner elects not to issue a cease and desist order or in the event of noncompliance
23 with a cease and desist order issued under [sections 10 through 26], the commissioner may institute a
24 proceeding to obtain injunctive relief, receivership, or other appropriate relief in the district court of the county
25 in which the violation occurred or in which the principal place of business of the K-12 SHIP is located. A
26 proceeding under this section must conform to the requirements of Title 27, chapter 19 or 20, except that the
27 commissioner may not be required to allege facts tending to show the lack of an adequate remedy at law or
28 tending to show irreparable damage or loss.

29
30 **NEW SECTION. Section 17. Reserves -- requirements suspended.** (1) The K-12 SHIP shall

1 maintain at all times unobligated funds adequate to:

2 (a) provide the hospital, medical-surgical, and other health services made available to its members and
3 beneficiaries; and

4 (b) meet all costs and expenses.

5 (2) In addition, reserves of the K-12 SHIP in cash, certificates of deposit, obligations issued or
6 guaranteed by the government of the United States, or other assets approved by the commissioner must be
7 maintained in the lesser amount of either:

8 (a) \$750,000; or

9 (b) an amount equal to one month's average income from premiums paid to the K-12 SHIP by its
10 members or beneficiaries, based on an average of the preceding 12 months.

11 (3) The determination of minimum reserves is subject, as to amounts payable to participating providers
12 of the health services, to any right of the K-12 SHIP to prorate the amounts under the terms of its health services
13 contracts with providers.

14 (4) The commissioner may decrease or suspend the requirements of this section if the commissioner
15 finds that the action is in the best interest of the members of the K-12 SHIP.

16 (5) The K-12 SHIP may satisfy the reserve requirements of this section by obtaining a line of credit from
17 the board of investments as provided in [section 9].

18
19 **NEW SECTION. Section 18. Annual report by certified public accountant.** (1) The board shall file
20 annually with the commissioner, on or before December 1, a financial statement audited by a certified public
21 accountant pursuant to rules promulgated by the commissioner.

22 (2) The commissioner may establish rules governing the content and preparation of the report required
23 by subsection (1). The report must include:

24 (a) the K-12 SHIP's financial statements for the most recent fiscal year;

25 (b) an opinion by the certified public accountant concerning the accuracy and fairness of the K-12 SHIP's
26 representation of its financial statements; and

27 (c) other information that the commissioner specifies by rule.

28
29 **NEW SECTION. Section 19. Fees.** (1) The K-12 SHIP shall pay the following fees to the commissioner
30 for enforcement of the provisions of [sections 10 through 26]:

- 1 (a) for a certified copy of any document or other paper filed in the office of the commissioner, each page,
2 50 cents;
- 3 (b) filing a membership contract, \$25;
- 4 (c) filing a membership contract package, \$100; and
- 5 (d) filing an annual statement, \$25.
- 6 (2) The commissioner shall promptly deposit with the state treasurer, to the credit of the state special
7 revenue fund of the state auditor's office, all fees received under this section.

8

9 **NEW SECTION. Section 20. Forms -- filing -- approval.** A copy of all forms of the membership
10 contract or any type of endorsement or rider must be filed with and approved by the commissioner in accordance
11 with Title 33, chapter 1, part 5.

12

13 **NEW SECTION. Section 21. Allowed contracts.** (1) The K-12 SHIP may enter into contracts for the
14 provision of health services on behalf of its members or beneficiaries with:

- 15 (a) hospitals maintained by a governmental body or agency;
- 16 (b) hospitals maintained by a nonprofit corporation organized for hospital purposes; or
- 17 (c) other corporations, organizations, associations, partnerships, or individuals furnishing health services.

18 (2) The K-12 SHIP may enter into agreements or contracts with other corporations or organizations
19 licensed to do business in this state or in any other state for:

- 20 (a) the transfer of members or beneficiaries;
- 21 (b) the reciprocal joint provisions of benefits to the members or beneficiaries of the K-12 SHIP and of
22 those other corporations or organizations; or
- 23 (c) other joint undertakings that the board approves.

24

25 **NEW SECTION. Section 22. Grievance procedure for members.** An individual member of the K-12
26 SHIP who believes the member to be aggrieved by any act or omission of the K-12 SHIP or its officers, directors,
27 or employees may file a statement in writing of the grievance in the office of the commissioner, and the
28 commissioner may investigate the grievance. An investigation by the commissioner may not act as a bar to any
29 suit in a court of competent jurisdiction instituted by an aggrieved member or as a bar to any defense by the K-12
30 SHIP.

1
2 **NEW SECTION. Section 23. Nonliability for injuries caused by contractees.** The K-12 SHIP is not
3 liable for injuries resulting from neglect, misfeasance, malfeasance, or malpractice on the part of any person,
4 corporation, agency, or organization providing health services to the K-12 SHIP's members and beneficiaries.

5
6 **NEW SECTION. Section 24. Prohibited trade practices.** In order to regulate trade practices of the
7 K-12 SHIP, the following practices are prohibited:

8 (1) A person may not directly or indirectly make, issue, or circulate any estimate, circular, or statement
9 misrepresenting:

10 (a) the terms of any K-12 SHIP membership contract issued or to be issued; or

11 (b) the benefits or advantages promised by any membership contract.

12 (2) A person may not make any misleading representation or any misrepresentation as to the financial
13 condition of the K-12 SHIP.

14 (3) A person may not directly or indirectly make, publish, disseminate, circulate, or place before the
15 public in a newspaper, magazine, or other publication, in the form of a notice, circular, pamphlet, letter, or poster,
16 over any radio or television station, or in any other way an advertisement, announcement, or statement
17 containing any assertion, representation, or statement with respect to the business of the K-12 SHIP that is
18 untrue, deceptive, or misleading.

19 (4) A person may not directly or indirectly make or issue any written or oral statement misrepresenting
20 or making incomplete comparisons as to the terms, conditions, or benefits contained in any K-12 SHIP
21 membership contract for the purpose of inducing or attempting to induce a member to cancel or convert any
22 membership contract.

23 (5) A person may not file with any public official or directly or indirectly make, publish, disseminate,
24 circulate, or deliver to any person or place before the public any false statement of financial condition of the K-12
25 SHIP with the intent to deceive.

26 (6) A person may not make any false entry in any book, report, or statement of the K-12 SHIP with the
27 intent to deceive any agent or examiner lawfully appointed to examine its condition or any of its affairs or to
28 deceive any public official to whom the K-12 SHIP is required by law to report or who has authority by law to
29 examine its condition or any of its affairs or, with like intent, may not willfully omit to make a true entry of any
30 material fact pertaining to the business of the K-12 SHIP in any book, report, or statement of the K-12 SHIP.

1 (7) A person may not directly or indirectly make, publish, disseminate, or circulate any oral or written
 2 statement or any circular, pamphlet, article, or literature that is false or maliciously critical of or derogatory to the
 3 financial condition of the K-12 SHIP and that is calculated to injure any person engaged or proposing to engage
 4 in the business of operating the K-12 SHIP.

5 (8) A person may not enter into an agreement to commit or by any concerted action commit any act of
 6 boycott, coercion, or intimidation resulting in unreasonable restraint of the operation of the K-12 SHIP.

7
 8 **NEW SECTION. Section 25. Discrimination between individuals -- restrictions -- ratesetting by**
 9 **commissioner prohibited.** (1) A person may not knowingly discriminate or permit any unreasonable
 10 discrimination between individuals of essentially the same condition of health in any classification that may be
 11 established by the K-12 SHIP in the amount of premiums charged for any membership contract, in the benefits
 12 payable under any membership contract, or in any of the terms and conditions of the K-12 SHIP.

13 (2) [Sections 10 through 26] do not give the commissioner the power to fix and determine a rate level
 14 by classification or otherwise.

15
 16 **NEW SECTION. Section 26. Coverage required for services provided by advanced practice**
 17 **registered nurse.** The K-12 SHIP shall provide coverage for health services provided by an advanced practice
 18 registered nurse, as specifically listed in 37-8-202(5), if the health care services that advanced practice
 19 registered nurses are licensed to perform are covered by the contract.

20
 21 **Section 27.** Section 2-18-103, MCA, is amended to read:

22 **"2-18-103. Officers and employees excepted.** Parts 1 through 3 and 10 do not apply to the following
 23 officers and employees in state government:

24 (1) elected officials;

25 (2) county assessors and their chief deputies;

26 (3) employees of the office of consumer counsel;

27 (4) judges and employees of the judicial branch;

28 (5) members of boards and commissions appointed by the governor, the legislature, or other elected
 29 state officials;

30 (6) officers or members of the militia;

- 1 (7) agency heads appointed by the governor;
- 2 (8) academic and professional administrative personnel with individual contracts under the authority
3 of the board of regents of higher education;
- 4 (9) academic and professional administrative personnel and live-in houseparents who have entered
5 into individual contracts with the state school for the deaf and blind under the authority of the state board of
6 public education;
- 7 (10) investment officer, assistant investment officer, executive director, and five professional staff
8 positions of the board of investments;
- 9 (11) four professional staff positions under the board of oil and gas conservation;
- 10 (12) assistant director for security of the Montana state lottery;
- 11 (13) executive director and employees of the state compensation insurance fund;
- 12 (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- 13 (15) executive director of the Montana wheat and barley committee;
- 14 (16) commissioner of banking and financial institutions;
- 15 (17) training coordinator for county attorneys;
- 16 (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- 17 (19) chief information officer in the department of administration;
- 18 (20) chief business development officer and six professional staff positions in the office of economic
19 development provided for in 2-15-218;
- 20 (21) employees of the K-12 statewide health insurance program board established in [section 6].

21

22 **Section 28.** Section 17-5-1608, MCA, is amended to read:

23 **"17-5-1608. Limitations on amounts.** The board may not issue any bonds or notes that cause the total
24 outstanding indebtedness of the board under this part, except for bonds or notes issued to fund or refund other
25 outstanding bonds or notes or to purchase registered warrants or tax or revenue anticipation notes of a local
26 government as defined in 7-6-1101, to exceed ~~\$120~~ \$144 million."

27

28 **Section 29.** Section 17-7-502, MCA, is amended to read:

29 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
30 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without

1 the need for a biennial legislative appropriation or budget amendment.

2 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
3 of the following provisions:

4 (a) The law containing the statutory authority must be listed in subsection (3).

5 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
6 appropriation is made as provided in this section.

7 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
8 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;
9 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222;
10 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;
11 19-19-506; 19-20-604; 20-8-107; [section 3]; [section 5]; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306;
12 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;
13 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108;
14 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003;
15 90-6-710; and 90-9-306.

16 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
17 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
18 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
19 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
20 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
21 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
22 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
23 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
24 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
25 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
26 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
27 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
28 the inclusion of 2-15-151 terminates June 30, 2005.)"

29

30 **Section 30.** Section 33-1-102, MCA, is amended to read:

1 **"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance**
2 **organizations -- governmental insurance programs -- service contracts.** (1) A person may not transact a
3 business of insurance in Montana or a business relative to a subject resident, located, or to be performed in
4 Montana without complying with the applicable provisions of this code.

5 (2) The provisions of this code do not apply with respect to:

6 (a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

7 (b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

8 (c) fraternal benefit societies, except as stated in chapter 7.

9 (3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the
10 corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

11 (4) This code applies to the K-12 statewide health insurance program as prescribed in [section 11]. The
12 existence of the K-12 statewide health insurance program is governed by [sections 10 through 26] and related
13 sections of the Montana Code Annotated.

14 ~~(4)~~(5) This code does not apply to health maintenance organizations or to managed care community
15 networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are
16 governed by chapter 31 or to the extent that the existence and operations of those networks are governed by
17 Title 53, chapter 6, part 7. The department of public health and human services is responsible to protect the
18 interests of consumers by providing complaint, appeal, and grievance procedures relating to managed care
19 community networks and health maintenance organizations under contract to provide services under Title 53,
20 chapter 6.

21 ~~(5)~~(6) This code does not apply to workers' compensation insurance programs provided for in Title 39,
22 chapter 71, parts 21 and 23, and related sections.

23 ~~(6)~~(7) The department of public health and human services may limit the amount, scope, and duration
24 of services for programs established under Title 53 that are provided under contract by entities subject to this
25 title. The department of public health and human services may establish more restrictive eligibility requirements
26 and fewer services than may be required by this title.

27 ~~(7)~~(8) This code does not apply to the state employee group insurance program established in Title 2,
28 chapter 18, part 8.

29 ~~(8)~~(9) This code does not apply to insurance funded through the state self-insurance reserve fund
30 provided for in 2-9-202.

1 ~~(9)~~(10) (a) This Except for the K-12 statewide health insurance program, this code does not apply to
 2 any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political
 3 subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention,
 4 deductible, or self-insurance plan.

5 (b) ~~This~~ Except for the K-12 statewide health insurance program, this code does not apply to any
 6 arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan,
 7 or program of a single political subdivision of this state in which the political subdivision provides to its officers,
 8 elected officials, or employees disability insurance or life insurance through a self-funded program.

9 ~~(10)~~(11) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of,
 10 making of, proposal to make, and administration of a service contract.

11 (b) A "service contract" means a contract or agreement for a separately stated consideration for a
 12 specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair,
 13 replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or
 14 manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or
 15 indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service.
 16 A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from
 17 power surges or accidental damage from handling. A service contract does not include motor club service as
 18 defined in 61-12-301.

19 ~~(11)~~(12) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance
 20 services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable
 21 for the financial risk under the contract with the third party as provided in 7-34-103.

22 (b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or
 23 town, the entity is subject to the provisions of this code."
 24

25 **Section 31.** Section 33-1-201, MCA, is amended to read:

26 **"33-1-201. Definitions -- insurance in general.** For the purposes of this code, the following definitions
 27 apply unless the context requires otherwise:

28 (1) An "alien insurer" is one formed under the laws of any country other than the United States; and its
 29 states, districts, territories, and commonwealths.

30 (2) An "authorized insurer" is one ~~duy~~ authorized by subsisting certificate of authority issued by the

1 commissioner to transact insurance in this state.

2 (3) A "domestic insurer" is one incorporated under the laws of this state.

3 (4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except
4 ~~where~~ when distinguished by context, foreign insurer includes also an alien insurer.

5 (5) (a) "Insurance" is a contract ~~whereby~~ by which one undertakes to indemnify another or pay or
6 provide a specified or determinable amount or benefit upon determinable contingencies.

7 (b) Insurance does not include contracts for the installation, maintenance, and provision of inside
8 telecommunications wiring to residential or business premises.

9 (6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of
10 entering into contracts of insurance. The term also includes:

11 (a) a health service corporation in the provisions listed in 33-30-102; and

12 (b) the K-12 statewide health insurance program but only in the applicable provisions of [section 11].

13 (7) A "resident domestic insurer" is an insurer incorporated under the laws of this state and:

14 (a) if a mutual company, not less than one-half of the policyholders are natural persons who are
15 residents of this state; or

16 (b) if a stock insurer, not less than one-half of the shares are owned by natural persons who are
17 residents of this state and all of the directors and officers of the insurer are residents of this state.

18 (8) "State", when used relating to jurisdiction, means a state, the District of Columbia, or a territory,
19 commonwealth, or possession of the United States.

20 (9) "Transact", with respect to insurance, includes any of the following:

21 (a) solicitation and inducement;

22 (b) preliminary negotiations;

23 (c) effectuation of a contract of insurance;

24 (d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

25 (10) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the
26 commissioner to transact insurance in this state."

27

28 **Section 32.** Section 33-35-103, MCA, is amended to read:

29 **"33-35-103. Definitions.** As used in this chapter, unless a contrary intent appears, the following
30 definitions apply:

1 (1) "Allowable benefit" means a benefit relating to medical, surgical, or hospital care in the event of
2 sickness, accident, disability, or any combination of sickness, accident, or disability.

3 (2) (a) "Bona fide association" means an association of employers that has been in existence for a
4 period of not less than 5 years prior to sponsoring a self-funded multiple employer welfare arrangement, during
5 which time the association has engaged in substantial activities relating to the common interests of member
6 employers, and that continues to engage in substantial activities in addition to sponsoring an arrangement.

7 (b) Notwithstanding subsection (2)(a), an association that was formed and began sponsoring an
8 arrangement prior to October 1, 1995, is not subject to the requirement that the association be in existence for
9 5 years prior to sponsoring an arrangement.

10 (3) "Claims liability" means the total of all incurred and unpaid claims for allowable benefits under a
11 self-funded multiple employer welfare arrangement that are not reimbursed or reimbursable by excess of loss
12 insurance, subrogation, or other sources.

13 (4) "Multiple employer welfare arrangement" means a multiple employer welfare arrangement as
14 defined by 29 U.S.C. 1002. ~~The~~ Except as provided in [section 2(7)], the term does not include an arrangement,
15 plan, program, or interlocal agreement of or between political subdivisions of this state, including school districts,
16 as provided in 33-1-102.

17 (5) "Reserves" means the excess of the assets of a self-funded multiple employer welfare arrangement
18 minus the liabilities of the arrangement. The liabilities of a self-funded multiple employer welfare arrangement
19 include the claims liability of the arrangement.

20 (6) "Self-funded multiple employer welfare arrangement" or "arrangement" means a multiple employer
21 welfare arrangement that does not provide for payment of benefits under the arrangement solely through a policy
22 or policies of insurance issued by one or more insurance companies licensed under this title."
23

24 NEW SECTION. **Section 33. Codification instruction.** (1) [Sections 1 through 9] are intended to be
25 codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [sections 1
26 through 9].

27 (2) [Sections 10 through 26] are intended to be codified as an integral part of Title 33, and the provisions
28 of Title 33 apply to [sections 10 through 26].
29

30 NEW SECTION. **Section 34. Implementation of staggered terms.** (1) To implement the

1 staggered-term system provided for in [section 6], the first terms of the members are as follows:

2 (a) three members shall serve 3-year terms;

3 (b) three members shall serve 4-year terms; and

4 (c) three members shall serve 5-year terms.

5 (2) Upon expiration of the terms provided for in subsection (1), each member shall serve a 5-year term.

6

7 NEW SECTION. **Section 35. Effective date -- applicability.** [This act] is effective on passage and
8 approval and applies to contracts entered into on or after [the effective date of this act].

9

- END -