MONTANA
ADMINISTRATIVE
REGISTER

COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

NOTICE OF ADOPTION

MAR NOTICE NO. 2026-109.2

Summary

Adoption of NEW RULES 1 through 4 pertaining to Statewide District Health Trusts

Previous Notice(s) and Hearing Information

On May 22, 2026, the Office of the State Auditor (CSI) published MAR Notice No. 2026-109.1 pertaining to the public hearing on the proposed adoption of the above-stated rules in the 2026 Montana Administrative Register, Issue Number 10. CSI held a public hearing on the proposed rulemaking on June 16, 2026.

Final Rulemaking Action – Effective July 25, 2026

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (6.6.9101) DEFINITIONS

ADOPT WITH CHANGES

The agency has adopted the following rules with changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE 2 (6.6.9103) MINIMUM RESERVES

(1) The trust shall maintain reserves in an amount necessary to satisfy the minimum risk-based capital recommended by its actuary.

(2) The trust shall maintain claim reserves using a 90% confidence level and in accordance with the actuary's actuarial memorandum prepared in accordance with actuarial standards of practice as required by NAIC annual statement instructions for health annual statement filings. ~~at the midpoint of the estimate determined by its actuary using a confidence interval of 90%, as specified in 20-3-366(2)(j) and 20-3-370(3)(b), MCA.~~

(3) The state auditor may require the trust to provide additional information reasonably necessary to evaluate claim reserve and plan reserve adequacy, and it may obtain an independent actuarial review of the minimum reserve level established by the trust. The cost of an independent actuarial review will be borne by the trust.

Authorizing statute(s): 20-3-366, MCA

Implementing statute(s): 20-3-366, MCA

NEW RULE 3 (6.6.9102) ANNUAL FINANCIAL REPORTING REQUIREMENT

(1) Beginning the year following the adoption of this rule, on ~~On~~ or before September 1 of each year, the trust shall file with the state auditor an annual financial statement on the National Association of Insurance Commissioners' (NAIC) health blank form, complete with all required schedules, covering the prior fiscal year. The trust shall also file the following integral components of an annual financial statement filing:

(a) A confidential risk-based capital calculation, using NAIC's prescribed risk-based capital form.

(b) A statement of actuarial opinion from the trust's credentialed actuary attesting to the adequacy of the trust's unpaid claims liability and related reserves at year-end, using generally accepted actuarial principles and a 90% confidence level set forth in 20-3-370(3)(b), MCA, and so states in the opinion.

(c) The most recent calculation of minimum reserves calculated in [NEW RULE 2]. Filing of a confidential actuarial opinion summary and reserve report will meet this requirement.

(d) A list of the school districts participating in the trust during the prior year and, for each district, the number of employees contracted to participate in and obtain health insurance through the trust.

(e) A certification signed by the trust stating under oath that the other criteria set forth in 20-3-366, MCA, were satisfied during the prior year, that the criteria are satisfied as of the date of the certification, and that the trust is not aware of any material changes that will affect its ability to satisfy the criteria going forward.

(2) On or before December 1 of each year, the trust shall file with the state auditor audited financial statements certified by an independent certified public accountant. The trust may choose to use either generally accepted accounting principles (GAAP) or statutory accounting principles (SAP) to prepare its financial statements. Once a GAAP or SAP election has been made, any future change in the basis of accounting must be approved by the state auditor.

(3) On or before January 1 of each plan year beginning after the second full year of providing health benefits to the members of the trust, the trust shall provide the state auditor with a copy of the report provided to each participating district and employee group as specified in 20-3-367(2)(a), MCA.

(4) Beginning July 1, 2036, the trust shall, as part of its annual actuarial analysis, indicate any excess reserves existing in the trust and the total amount the trust has repaid to the state.

Authorizing statute(s): 20-3-366, MCA

Implementing statute(s): 20-3-366, 20-3-370, MCA

NEW RULE 4 (6.6.9104) OTHER REPORTING REQUIREMENTS

(1) The trust must notify the state auditor in writing within ~~15~~ 30 days after a school district signs a binding agreement to join the trust. The notification must include the relevant documents signed by the school district and the most recent employee census information for the school district.

(2) The trust must notify the state auditor in writing within 15 days after receiving notice from a school district stating that it intends to withdraw from the trust. The notification must include:

(a) the name of the school district and the number of employees contracted to participate in and obtain health insurance through the trust;

(b) all communications from the school district concerning withdrawing from the trust;

(c) a statement from the trust about whether it agrees that the district may withdraw; and

(d) the amount of reimbursement due to the trust under 20-3-367(3)(c), MCA.

(3) The trust must notify the state auditor in writing at least 120 days before the trust intends to hold a vote to voluntarily dissolve pursuant to 20-3-368(1), MCA.

Authorizing statute(s): 20-3-366, MCA

Implementing statute(s): 20-3-366, 20-3-367, 20-3-368, 20-3-370, MCA

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: A commenter suggests that the definitions in proposed NEW RULE 1(2), which states, "'Plan reserves,' 'reserves,' or 'reserve' means total assets minus total liabilities," should be revised. The commenter suggests that the end of this definition should state that such terms mean "total assets minus total claim liabilities." The commenter suggests that by specifying total claim liabilities, the definition would provide greater clarity as to the meaning of the liabilities to be included in the reserve calculation; it would align with the language of 20-3-366, MCA; and would be consistent with the information included on the National Association of Insurance Commissioners' (NAIC) health blank form.

Response 1: As used on the NAIC health blank form, reserves typically refer to claims reserves or claims incurred but not reported. They may also refer to premium deficiency reserves. As used in 20-3-366(1), (2)(j), and (5), MCA, "reserve" means "capital & surplus" as used on the NAIC health blank form. Capital and surplus is equal to total assets minus total liabilities. In particular, operating reserve used in 20-3-366(1), MCA, and plans reserves used in 20-3-366(2)(j), MCA, are clearly not equivalent to claim reserves or premium deficiency reserves. The risk-based capital calculation uses an entity's capital and surplus balance and does not use a calculation of total assets minus claim liabilities.

Comment 2: A commenter suggests that the annual financial reporting requirement in proposed NEW RULE 3(1), which requires the use of the NAIC health blank form, complete with all required schedules, covering the prior fiscal year, as well as the NAIC's prescribed risk-based capital form, should be revised. The commenter suggests that CSI should modify the forms to focus on information appropriate to the district health insurance trust without requiring overly burdensome reporting. The commenter also states the trust is not a major insurance carrier; thus, completing the NAIC forms could be burdensome for the trust and its actuary.

Response 2: CSI appreciates the comment, but believes that specifying the NAIC health blank form, complete with all required schedules, is appropriate. To the extent some of the forms do not apply to the trust in a given year, it may indicate that the form is not applicable. The public benefits of robust financial analysis and disclosure required by the NAIC forms outweighs the burden to the trust.

Comment 3: A commenter suggests that proposed NEW RULE 2(2), which states that the trust "shall maintain claim reserves at the midpoint of the estimate determined by its actuary using a confidence interval of 90%," should be revised to either state that the trust "shall maintain claim reserves established within a reasonable range determined by the actuary using a 90% confidence interval" or "shall maintain claims reserves established using applicable Actuarial Standards of Practice." The commenter suggested that because confidence intervals provide a range of possible results, the midpoint of the results would remain the same, regardless of the confidence interval.

Response 3: NEW RULE 2(2) has been updated to refer to NAIC health statement instructions and requirements as follows, "The trust shall maintain claim reserves using a 90% confidence level and in accordance with the actuary's actuarial memorandum prepared in accordance with actuarial standards of practice as required by NAIC annual statement instructions for health annual statement filings."

Comment 4: A commenter suggests that proposed NEW RULE 2(3), which states "[t]he state auditor may require the trust to provide additional information reasonably necessary to evaluate claim reserve and plan reserve adequacy, and it may obtain an independent actuarial review of the minimum reserve level established by the trust. The cost of an independent actuarial review will be borne by the trust," should be revised. The commenter is concerned that the trust would not have control over the cost of such services, and suggests either eliminating this language or specifying that the independent actuarial review would be limited only to areas of concern identified by the state auditor.

Response 4: CSI appreciates the comment, but believes the proposed language is appropriate to ensure adequate oversight of the trust.

Comment 5: A commenter suggests that proposed NEW RULE 4(1) and (2), which requires the trust to notify the state auditor within 15 days of a school district signing a binding agreement to join the trust and 15 days after it receives notice that a school district intends to withdraw from the trust, should be revised. The commenter recommends extending this period to 30 days in both instances based on its belief that this would provide helpful flexibility while still ensuring that the state auditor receives this important information in a timely manner.

Response 5: CSI agrees that allowing the trust to notify CSI within 30 days after a new member signs a binding agreement is reasonable. However, it is appropriate to keep the 15-day notice requirement for when a member plans to withdraw from the trust.

Contact

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Approval

James Brown, State Auditor