

SB297-FN

Bill Details

Title: relative to pooled risk management programs.

Sponsors: *(Prime)* Carson (R)

LSR Number: **25-1168**

General Status: **SENATE**

Senate:

Committee: Finance

Floor Date: *None*

Status: IN COMMITTEE

SB 297-FN - AS INTRODUCED

2025 SESSION

25-1168

08/05

SENATE BILL ***297-FN***

AN ACT relative to pooled risk management programs.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Finance

ANALYSIS

This bill:

- I. Enables the secretary of state to require abatement of insufficient assets or to seek receivership, if necessary, of a pooled risk management program.
- II. Requires assessment of each participating member of the pooled risk management program on a pro rata basis to satisfy the amount of the deficiency.
- III. Requires the governing board of the pooled risk management program to use a standard of care, diligence, prudence, and skill in the management of the program.
- IV. Provides for the assessment of a pooled risk management program's participating members, if required, after an actuarial calculation.
- V. Provides for contingency reserve standards depending on the pooled risk management programs line of coverage and requiring a contingency reserve replenishment if a program's contingency reserves fall below the minimum level.
- VI. Requires pooled risk management programs to make certain public disclosures to prospective and actual member political subdivisions.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~in brackets and struck through.~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-1168

08/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to pooled risk management programs.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraphs; Pooled Risk Management; Definitions. Amend RSA 5-B:2 by inserting the following new paragraphs after paragraph IV:

V. "Administration", as used in RSA 5-B:5, I(c), means reasonable expenses for administration of the pooled risk management program, including those for processing, evaluation, and settlement services incurred in the payment of claims and other related losses and for auditor, actuarial, and accounting services.

VI. "Reserves" means claims reserves (case reserves and incurred but not reported (IBNR)reserves), contribution deficiency reserves, and contingency reserves. "Contingency reserves" means the amount of surplus to be retained by the pooled risk management program for the upcoming plan year as may be reasonably established and subsequently required to cover expected and unforeseen or extraordinary claim and administrative losses and liabilities.

VII. "Excess insurance" means reinsurance.

VIII. "Assessments" means a provision that, if the assets of the pooled risk management program are at any time actuarially determined to be insufficient to discharge its claim and administrative losses and liabilities and other legal obligations of the plan, the program shall, within 30 days of such a determination, collect additional contributions from its participating members for the amount needed to make up the deficiency.

2 New Section; Insolvency or Financial Impairment. Amend RSA 5-B by inserting after section 4-a the following new section:

5-B:4-b Insolvency or Financial Impairment.

I. If, as a result of the annual audit or annual actuarial evaluation, or upon an examination or investigation of the secretary of state, it appears the assets of a pooled risk management program are insufficient to discharge its claim and administrative losses and liabilities and other legal obligations of the plan, the secretary of state shall notify the program's governing board of the deficiency, and shall have the power to issue to the governing board an order requiring abatement of the deficiency.

II. If the governing board fails to comply with the order within 30 days after the date of the notice, the secretary of state may apply to and seek from the superior court an order requiring the pooled risk management program to abate the deficiency or receivership of the program, as the circumstances may require, and authorizing the secretary of state or any officer designated by the secretary of state to oversee the required abatement or receivership. The pooled risk management program shall reimburse the secretary of state for the cost incurred for such oversight.

III. If a pooled risk management program is determined to be insolvent, financially impaired, or otherwise unable to discharge its claim and administrative losses and liabilities and other legal obligations of the plan, each participating member of the program shall be assessed on a pro rata basis calculated by the amount of its annual contribution to satisfy the amount of the deficiency.

3 Standards of Organization and Operation. Amend RSA 5-B:5 to read as follows:

5-B:5 Standards of Organization and Operation.

I. Each pooled risk management program shall meet the following standards of organization and operation. Each program shall:

(a) Exist as a legal entity organized under New Hampshire law.

(b) Be **member-owned, but** governed by a board the majority of which is composed of elected or appointed public officials, officers, or employees. Board members shall not receive compensation but may be reimbursed for mileage and other reasonable expenses. Board members shall comply with the provisions of RSA 15-A. **Board members shall have a fiduciary responsibility to the member political subdivisions, which includes the duties of good faith and loyalty, avoiding conflicts of interest, and managing the pooled risk management program solely for the benefit of the political subdivisions. Board members shall use a standard of care, diligence, prudence, and skill in the management of the pooled risk management program.**

(c) Return all earnings and surplus in excess of any amounts required for administration, claims, reserves, and purchase of excess insurance to the participating political subdivisions.

(d) Provide for an annual audit of financial transactions by an independent certified public accountant. The audit shall be filed with the department and distributed to participants of each pooled risk management program.

(e) Be governed by written bylaws which shall detail the terms of eligibility for participation by political subdivisions, the governance of the program and other matters necessary to the program's operation. Bylaws and any subsequent amendments shall be filed with the department.

(f) Provide for an annual actuarial evaluation of the pooled risk management program. The evaluation shall ~~assess the adequacy of~~ **calculate** contributions **and assessments** required to fund any such program and **shall calculate** the reserves necessary to be maintained to meet expenses of all incurred and incurred but not reported claims and other projected needs of the plan. The annual actuarial evaluation shall be performed by a member of the American Academy of Actuaries qualified in the coverage area being evaluated, shall be filed with the department, and shall be distributed to participants of each pooled risk management program.

(g) **Provide for an assessment of the participating members, if required after an actuarial calculation, by notifying the members of the mandatory assessment due and collecting such assessment within 30 days of the notice.**

(h) Provide notice to all participants of and conduct 2 public hearings for the purpose of advising of potential rate increases, the reasons for projected rate increases, and to solicit comments from members regarding the return of surplus, at least 10 days prior to rate setting for each calendar year.

(i)(1) **For workers' compensation and other property and casualty lines of coverage, pooled risk management programs shall maintain a contingency reserve with a minimum of 30 percent of member contributions for the then current fiscal year and a maximum of 40 percent of member contributions for the then current fiscal year.**

(2) **For a health line of coverage, pooled risk management programs shall maintain a contingency reserve with a minimum of 12 percent of member contributions for the then current fiscal year and a maximum of 16 percent of member contributions for the then current fiscal year.**

(3) **At the end of each fiscal year, if a pooled risk management program's contingency reserves fall below the minimum level as set forth in this section, the program shall add to the next calculation of annual member contributions a "contingency reserve replenishment" equal to that shortfall. This contingency reserve replenishment shall only be collected from members who participated in the fiscal year for which the replenishment is calculated and such replenishment may be made after a member has discontinued membership in the program.**

II. If a pooled risk management program fails to provide for an annual audit or an annual actuarial evaluation, the department shall perform or cause to be performed the required audit or evaluation and shall be reimbursed the cost by the program.

4 New Paragraph; Declaration of Status; Tax Exemption; Liability and Disclaimer Requirement. Amend RSA 5-B:6 by inserting after paragraph III the following new paragraph:

IV. Any such program operating under this chapter shall publicly and conspicuously disclose by including a written disclaimer in any and all member agreements, contracts, bylaws, and contribution quotes and renewals between the program and its prospective and actual member political subdivisions that, at a minimum, notifies the political subdivision of the following:

(a) The pooled risk management program does not function like an insurance company and is not an insurer.

(b) The pooled risk management program, to the extent it is self-insured, does not provide guaranteed cost or fixed cost coverages.

(c) The pooled risk management program may collect from participating members assessments or replenishments whenever required in the event the program's assets are insufficient to discharge its claim and administrative losses and liabilities and other legal obligations of the plan, in the event of insolvency, or in the event contingency reserves fall below the required minimum under this chapter.

5 Effective Date.

I. RSA 5-B:5, I(i) as amended by section 3 of this act shall take effect July 1, 2026.

II. The remainder of this act shall take effect upon its passage.

LBA

25-1168

Revised 3/5/25

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

The Office of Legislative Budget Assistant is unable to provide a complete fiscal note for this bill, as introduced, as it is awaiting information from the Department of State. The Department was originally contacted on 2/21/25 for a fiscal note worksheet. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

METHODOLOGY:

This bill allows the Secretary of State to require pooled risk management programs to address financial deficiencies by having assessments on participating members when program's assets are insufficient, and by setting standards for the management of the programs which includes audits, actuarial evaluations, and maintaining minimum contingency reserves.

The New Hampshire Municipal Association (NHMA) indicates that the bill could lead to an unpredictable rise in expenditures for cities, towns, counties, and school districts involved in pooled risk management programs. The potential increase stems from the need to gather additional contributions from members if an annual audit, actuarial determination, or Secretary of State investigation reveals insufficient assets or potential receivership in the pooled risk management. Additionally, the risk management pool must reimburse the Secretary of State for oversight costs, introducing a new administrative expense that may be passed on to pool members.

Moreover, the new contingency reserve requirements might affect the rates members pay, as adhering to the specified reserve percentages could either raise rates or introduce variability in annual contribution rates. Lastly, the NHMA notes that certain terms in the bill are vague or undefined, which could result in legal disputes and increased litigation costs for pool members.

AGENCIES CONTACTED:

Department of State and New Hampshire Municipal Association

Amendment to SB 297-FN

1 Amend RSA 5-B:2, V as inserted by section 1 of the bill by replacing it with the following:

2

3 V. "Administration", as used in RSA 5-B:5, I(c), means reasonable expenses for risk
4 management, including processing, evaluation and settlement services incurred in the payment of
5 claims and other related losses and for auditor, actuarial, and accounting services for administration
6 of the pooled risk program. The reasonability of an expense for administration under this chapter
7 may be determined in an examination or administrative hearing commenced by the secretary of
8 state pursuant to RSA 5-B:4-a.

9

10 Amend RSA 5-B:4-b as inserted by section 2 of the bill by replacing it with the following:

11

12 5-B:4-b Insolvency or Financial Impairment.

13 I. If at the end of any fiscal month, the contingency reserve of a pooled risk management
14 program for health coverage is at or below 8 percent of annual paid claims or of a pooled risk
15 management program for workers compensation and other property and casualty lines is at or below
16 20 percent of annual contributions as determined by the prior year's audited fiscal year financial
17 statements, the pooled risk management program shall notify its members in writing within 30 days
18 that a potential assessment may be necessary pursuant to RSA 5-B:4-b, II if the pooled risk
19 management program's contingency reserve continues to decrease and shall submit a written
20 proposed course of action to the secretary of state with respect to alleviating the contingency reserve
21 deficiency. Any such notification to a pooled risk management program's members under this
22 section shall include an estimate of the amount of that potential assessment.

23 II. If, at the end of any fiscal month, the contingency reserve of a pooled risk management
24 program for health coverage is at or below 4 percent of annual paid claims or if a pooled risk
25 management program for workers compensation and other property casualty lines is at or below 10
26 percent of annual contributions, the pooled risk management program shall notify the secretary of
27 state of the contingency reserve deficiency within 5 business days. The secretary of state shall notify
28 the program's governing board of the deficiency and shall have the power to issue to the governing
29 board an order requiring abatement of the deficiency.

30 III. If the governing board fails to comply with the order within 30 days after the date of the
31 notice, the secretary of state may apply to and seek from the superior court an order requiring the
32 pooled risk management program to abate the deficiency or receivership of the program, as the

1 circumstances may require, and authorizing the secretary of state or any officer designated by the
2 secretary of state to oversee the required abatement or receivership. The pooled risk management
3 program shall reimburse the secretary of state for the cost incurred for such oversight.

4 IV. If a pooled risk management program is determined to be insolvent, financially
5 impaired, or otherwise unable to discharge its claim and administrative losses and liabilities and
6 other legal obligations of the plan, each participating member of the program shall be assessed on a
7 pro rata basis calculated by the amount of its annual contribution to satisfy the amount of the
8 deficiency.

9
10 Amend RSA 5-B:5, I(g) as inserted by section 3 of the bill by replacing it with the following:

11
12 *(g)(1) To ensure funds are available should an assessment become necessary,*
13 *political subdivision members of a pooled risk management program providing health line*
14 *of coverage shall establish a risk management program health care stabilization fund of*
15 *at least 4 percent of their annual contributions, to be held and managed by the member in*
16 *a designated, distinct capital reserve fund under RSA 34 et seq. and RSA 35 et seq. as*
17 *applicable to each political subdivision. The fund's purpose shall be for payment of any*
18 *assessments of the member by the pooled risk management program and obligations of the*
19 *member related to health care or health benefits. Any excess earnings and surplus*
20 *returned by the program to the member may also be deposited into the fund.*

21 *(2) If a pooled risk management program's contingency reserve is above 4*
22 *percent of annual payments as of the effective date of this chapter, each participating*
23 *member shall build its fund at a rate of at least 1 percent of the member's annual*
24 *contributions per year up to 4 percent, beginning no later than its next setting of fiscal*
25 *year budgets.*

26 *(3) If a pooled risk management program's contingency reserve is below 4*
27 *percent of annual payments as of the effective date of this chapter, each participating*
28 *member shall in the first year build its fund at a rate of at least 1 percent of the member's*
29 *annual contributions plus the amount of a pro rata share of the contingency reserve's*
30 *shortfall. The pro rata share provided to the pooled risk management program member*
31 *shall be calculated by the risk pool and approved by the secretary of state, beginning no*
32 *later than the member's next setting of fiscal year budgets. After the first year, each of*
33 *those members shall build its fund at a rate of at least 1 percent of the member's annual*
34 *contributions per year up to 4 percent.*

35 *(4) Once a member has built up its fund to hold at least 4 percent of the*
36 *member's annual contributions, if the fund is below the 4 percent threshold at the end of a*
37 *fiscal year, the member shall rebuild the fund at a rate of at least 1 percent of its annual*

1 *contributions per year up to 4 percent, beginning no later than its next setting of fiscal*
2 *year budgets.*

3 *(5) The risk management program health care stabilization funds may be*
4 *invested, and any earnings on fund monies shall be added to the fund. A participating*
5 *political subdivision member may close its fund if that member's participation in a pooled*
6 *risk management program's health line of coverage ends, and the member does not begin*
7 *participating in another pooled risk management program's health line of coverage.*

8
9 Amend RSA 5-B:5, I(i) as inserted by section 3 of the bill by inserting after subparagraph (3) the
10 following new subparagraphs:

11
12 (4) By July 1, 2027, and for every 4 years thereafter, the secretary of state or their
13 designee shall hold a hearing with all pooled risk management programs and any affected party to
14 receive input and data regarding the contingency reserve rate ranges outlined in subparagraphs
15 (i)(1) and (i)(2) above. A report of the findings of the hearing, which shall include all written
16 testimony and reports submitted during the hearing, and include any recommendations made by the
17 secretary of state or their designee, shall be delivered to the governor, senate president, speaker of
18 the house, and the chair of any committee with jurisdiction over pooled risk management programs
19 by October 1, 2027.

20 (5) The board of directors of a pooled risk management program may, after vote of
21 the board of directors and written notification to the governing bodies of its members, submit a
22 written request to the secretary of state for a one-year increase to the maximums stated in RSA 5-
23 B:5, I(i)(1) of an additional 5 percent for workers' compensation and other property casualty coverage
24 and RSA 5-B:5, I(i)(2) of an additional 2 percent for health coverage. Any written request pursuant
25 to this section with respect to any increase of the maximum percentage shall include a resolution of
26 the board of directors, copies of the written notifications made by the pooled risk management
27 program to its members governing bodies, a report by a certified auditor of the current financial
28 position of the program, a detailed analysis explaining the purpose of the temporary increase, and an
29 actuarial analysis conducted by an actuary with qualifications as detailed in RSA 5-B:5, I(f) of the
30 impact to the contribution and finances of the program. The secretary of state shall approve or deny
31 the request within 30 days of receipt of any such request.