

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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

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

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

12 VII. "Excess insurance" means reinsurance.

13 VIII. "Assessments" means a provision that, if the assets of the pooled risk management
14 program are at any time actuarially determined to be insufficient to discharge its claim and
15 administrative losses and liabilities and other legal obligations of the plan, the program shall, within
16 30 days of such a determination, collect additional contributions from its participating members for
17 the amount needed to make up the deficiency.

18 2 New Section; Insolvency or Financial Impairment. Amend RSA 5-B by inserting after section
19 4-a the following new section:

20 5-B:4-b Insolvency or Financial Impairment.

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

27 II. If the governing board fails to comply with the order within 30 days after the date of the
28 notice, the secretary of state may apply to and seek from the superior court an order requiring the
29 pooled risk management program to abate the deficiency or receivership of the program, as the
30 circumstances may require, and authorizing the secretary of state or any officer designated by the

1 secretary of state to oversee the required abatement or receivership. The pooled risk management
2 program shall reimburse the secretary of state for the cost incurred for such oversight.

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

8 3 Standards of Organization and Operation. Amend RSA 5-B:5 to read as follows:

9 5-B:5 Standards of Organization and Operation.

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

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

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

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

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

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

32 (f) Provide for an annual actuarial evaluation of the pooled risk management program.
33 The evaluation shall [~~assess the adequacy of~~] ***calculate*** contributions ***and assessments*** required to
34 fund any such program and ***shall calculate*** the reserves necessary to be maintained to meet
35 expenses of all incurred and incurred but not reported claims and other projected needs of the plan.
36 The annual actuarial evaluation shall be performed by a member of the American Academy of

1 Actuarial qualified in the coverage area being evaluated, shall be filed with the department, and
2 shall be distributed to participants of each pooled risk management program.

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

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

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

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

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

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

28 4 New Paragraph; Declaration of Status; Tax Exemption; Liability and Disclaimer Requirement.
29 Amend RSA 5-B:6 by inserting after paragraph III the following new paragraph:

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

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

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

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

6 5 Effective Date.

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

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

SB 297-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to pooled risk management programs.

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	Unknown - still awaiting response from Department of State		
<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	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

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.

The New Hampshire Association on Counties (NHAC) states that this bill could lead to an indeterminable increase in expenditures for counties 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. Additionally, there could be administrative costs that would be taken on by pool members also increasing expenditures.

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, New Hampshire Association of Counties, and New Hampshire Municipal Association