

HB 1491 - AS INTRODUCED

2026 SESSION

26-2397

05/08

HOUSE BILL **1491**

AN ACT relative to pooled risk management programs.

SPONSORS: Rep. Hunt, Ches. 14; Rep. Porcelli, Rock. 19; Sen. Innis, Dist 7; Sen. Perkins Kwoka, Dist 21

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill:

I. Provides for regulation of assessment pooled risk management programs by the secretary of state and advance premium pooled risk management programs by the insurance department.

II. Requires advance premium pooled risk management programs to be licensed by the insurance department.

III. Requires advance premium pooled risk management programs to seek to maintain certain amounts in excess or stop loss coverage, unless the insurance commissioner determines that a lesser amount is appropriate.

IV. Allows the insurance commissioner to examine the financials of advance premium pooled risk management programs under certain conditions.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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-Six

AN ACT relative to pooled risk management programs.

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

1 1 Pooled Risk; Title Change. The chapter heading of RSA 5-B is repealed and reenacted to read
2 as follows:

3 ASSESSMENT POOLED RISK MANAGEMENT PROGRAMS

4 2 Assessment Pooled Risk Management Programs. Amend RSA 5-B:1 to read as follows:

5 5-B:1 Purpose. The purpose of this chapter is to provide for the establishment of **assessment**
6 pooled risk management programs and to affirm the status of such programs established for the
7 benefit of political subdivisions of the state. The legislature finds and determines that insurance and
8 risk management is essential to the proper functioning of political subdivisions; that risk
9 management can be achieved through purchase of traditional insurance or by participation in
10 **assessment** pooled risk management programs established for the benefit of political subdivisions;
11 that pooled risk management is an essential governmental function by providing focused public
12 sector loss prevention programs, accrual of interest and dividend earnings which may be returned to
13 the public benefit and establishment of costs predicated solely on the actual experience of political
14 subdivisions within the state; that the resources of political subdivisions are presently burdened by
15 the securing of insurance protection through standard carriers; and that **assessment** pooled risk
16 management programs which meet the standards established by this chapter should not be subject
17 to insurance regulation and taxation by the state.

18 3 New Paragraphs; Pooled Risk Management; Definitions. Amend RSA 5-B:2 by inserting the
19 following new paragraphs after paragraph IV:

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

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

31 VII. "Excess insurance" means reinsurance.

1 VIII. "Assessments" means a provision that, if the assets of the pooled risk management
2 program are at any time actuarially determined to be insufficient to discharge its claim and
3 administrative losses and liabilities and other legal obligations of the plan, the program shall, within
4 30 days of such a determination, draw from the restricted fund balance accounts under RSA 5-B:5,
5 I(g) or, as necessary under RSA 5-B:4-b, II, collect additional contributions from its participating
6 members for the amount needed to make up the deficiency.

7 IX. "Restricted fund balance" means an amount, as specified in RSA 5-B:5, I(g), that may be
8 held by a pooled risk management program for health coverage, permitted that the amount is held in
9 a restricted account and that the amount shall be used only for the specific purpose of funding
10 assessments under RSA 5-B:4-b, II.

11 X. "Assessment pooled risk management program" means a pooled risk management
12 program that issues assessable policies or otherwise retains the right to assess members to address a
13 capital inadequacy.

14 XI. "Assessable policy" means a coverage contract in which the policyholder may be required
15 to pay additional funds beyond premium payments if the policy issuer experiences losses such that
16 its capital is insufficient.

17 XII. "Advance premium pooled risk management program" means a pooled risk
18 management program that does not issue assessable policies or retain the right to impose
19 assessments on members that are in addition to premium payments.

20 4 Limitation to Assessment Pooled Risk Management Programs. Amend RSA 5-B:3 to read as
21 follows:

22 5-B:3 **Assessment** Pooled Risk Management **Programs** Authorized and Affirmed; Membership.

23 I. A political subdivision, by resolution of its governing body, may establish and enter into
24 agreements for obtaining or implementing insurance by self-insurance; for obtaining insurance from
25 any insurer authorized to transact business in this state as an admitted or surplus lines carrier; or
26 for obtaining insurance secured in accordance with any method provided by law; or for obtaining
27 insurance by any combination of the provisions of this paragraph. Agreements made pursuant to
28 this paragraph may provide for pooling of self-insurance reserves, risks, claims and losses, and of
29 administrative services and expenses associated with them among political subdivisions. To
30 accomplish the purposes of this chapter, 2 or more political subdivisions may form an association
31 under the laws of this state or affirm an existing association so formed to develop and administer a
32 risk management program having as its purposes reducing the risk of its members; safety
33 engineering; distributing, sharing, and pooling risks; acquiring insurance, excess loss insurance, or
34 reinsurance; and processing, paying and defending claims against the members of such association.

35 II. RSA 53-A shall not apply to an association formed or affirmed under this chapter, nor to
36 the participation in such an association by a political subdivision.

1 III. **Assessment** pooled risk management programs established for the benefit of political
2 subdivisions may provide any or all of the following coverages:

3 (a) Casualty, including general and professional liability; errors and omissions; workers'
4 compensation and employer's liability; medical payments; or unemployment compensation as
5 authorized under federal law.

6 (b) Property, including marine and inland navigation; transportation; boiler and
7 machinery; fire; theft; or natural hazards.

8 (c) Vehicle, including any liability or loss arising from the ownership or operation of
9 vehicles.

10 (d) Surety and fidelity.

11 (e) Environmental impairment.

12 (f) Hospital, medical, surgical or dental benefits for employees and their dependents.

13 (g) Life, income maintenance, accidental death and dismemberment, vision loss or
14 impairment, or legal benefits for employees and their dependents.

15 (h) Unanticipated special education cost recovery.

16 **IV. This chapter shall not apply to advance premium pooled risk management**
17 **programs.**

18 **V. RSA 420-R shall not apply to assessment pooled risk management programs.**

19 5 Limitation to Assessment Pooled Risk Management Programs. Amend RSA 5-B:4 to read as
20 follows:

21 5-B:4 Informational Filing Required; Fee. **Assessment** pooled risk management programs
22 established for the benefit of political subdivisions shall make an informational filing, as defined in
23 RSA 5-B:2, II, with the department and shall pay an annual filing fee of \$150. The department may
24 make requests for additional information necessary to exercise regulatory or enforcement authority
25 pursuant to, but not limited to, the hearings procedures under RSA 421-B:6-613 over any pooled risk
26 management program formed or affirmed in accordance with this chapter. Pooled workers'
27 compensation and unemployment compensation programs which are regulated by and which report
28 to the department of labor and the department of employment security, under RSA 281-A and RSA
29 282-A, respectively, shall be exempt from the requirements of this section as long as their operations
30 and reports conform to the laws and rules adopted by those departments.

31 6 New Section; Insolvency or Financial Impairment. Amend RSA 5-B by inserting after section
32 4-a the following new section:

33 5-B:4-b Insolvency or Financial Impairment.

34 I. If at the end of any fiscal month, the contingency reserve of an assessment pooled risk
35 management program for health coverage is at or below 8 percent of annual paid claims or of an
36 assessment pooled risk management program for workers' compensation and other property and
37 casualty lines is at or below 20 percent of annual contributions as determined by the prior year's

1 audited fiscal year financial statements, the assessment pooled risk management program shall
2 notify its members in writing within 30 days that a potential assessment may be necessary pursuant
3 to RSA 5-B:4-b, II if the pooled risk management program's contingency reserve continues to
4 decrease and shall submit a written proposed course of action to the secretary of state with respect
5 to alleviating the contingency reserve deficiency. Any such notification to an assessment pooled risk
6 management program's members under this section shall include an estimate of the amount of that
7 potential assessment.

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

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

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

26 7 Standards of Organization and Operation. Amend RSA 5-B:5 through 5-B:7 to read as follows:

27 5-B:5 Standards of Organization and Operation.

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

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

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

1 *standard of care, diligence, prudence, and skill in the management of the pooled risk*
2 *management program.*

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

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

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

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

20 (g) *An assessment pooled risk management program for health coverage may*
21 *designate a maximum of 4 percent of the previous fiscal year's contributions that, if*
22 *designated, shall be sourced from that pooled risk management program's annual*
23 *earnings and surplus as defined in RSA 5-B:5, I(c) and shall be kept in a restricted fund*
24 *balance for the specific purpose of funding assessments under RSA 5-B:4-b, II. This*
25 *restricted fund balance shall not exceed 4 percent of a pooled risk management program's*
26 *previous fiscal year's contributions, shall not be considered in the calculation of a*
27 *contingency reserve, and shall be used prior to any member assessments under RSA 5-B:4-b,*
28 *II.*

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

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

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

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

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

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

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

1 I. Any **assessment** pooled risk management program meeting the standards required under
2 this chapter is not an insurance company, reciprocal insurer, or insurer under the laws of this state,
3 and administration of any activities of the plan shall not constitute doing an insurance business for
4 purposes of regulation or taxation.

5 II. Any such program operating under this chapter, whether or not a body corporate, may
6 sue or be sued; make contracts; hold and dispose of real property; and borrow money, contract debts,
7 and pledge assets in its name.

8 III. Participation by a political subdivision in [a] **an assessment** pooled risk management
9 program formed and affirmed under this chapter shall not subject any such political subdivision to
10 any liability to any third party for the acts or omissions of the pooled risk management program or
11 any other political subdivision participating in the program.

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

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

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

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

26 5-B:7 Confidentiality of Certain Claims Information. Notwithstanding any provision of law to
27 the contrary, any information of any **assessment** pooled risk management program formed or
28 affirmed under this chapter pertaining to claims analysis or claims management shall be privileged
29 and confidential and not subject to disclosure to any third party.

30 8 New Subparagraphs; Insurance; Third Party Administrators; Definitions. Amend RSA 402-
31 H:1, I by inserting after subparagraph (m) the following new subparagraphs:

32 (n) A pooled risk management program licensed pursuant to RSA 420-R:4.

33 (o) An assessment pooled risk management program licensed pursuant to RSA 5-B.

34 9 Insurance; Licensure of Medical Utilization Review Entities; Licensure or Registration
35 Required. Amend RSA 420-E:2, I to read as follows:

36 I. Any person, partnership or corporation, other than an insurer, nonprofit service
37 organization, health maintenance organization, **assessment or advance premium pooled risk**

1 *management program*, or an employee of those exempt organizations, that performs medical
2 utilization review services on behalf of commercial insurers, nonprofit service organizations, health
3 maintenance organizations, *assessment or advance premium pooled risk management*
4 *programs*, third-party administrators or employers, shall apply for a license to be issued by the
5 department and shall pay an application fee and an annual license fee. No person, partnership or
6 corporation, other than an insurer, nonprofit service organization, health maintenance organization,
7 or the employees of exempt organizations shall perform utilization review services or medical
8 utilization review services unless the person, partnership, or corporation has received a license in
9 accordance with this chapter.

10 10 Insurance; Portability, Availability, and Renewability of Health Coverage; Disclosure.
11 Amend RSA 420-G:11, IV to read as follows:

12 IV. The data submission requirements of paragraphs II and II-a shall apply with respect to
13 claims data for all lives covered by a fully-insured health plan in any market in the state, by any
14 self-funded plan for state or municipal employees, including any plan maintained under RSA 5-B *or*
15 *RSA 420-R*, to any self-funded plan maintained by the university system of the state with respect to
16 its employees or its students, and to any self-funded student health benefit plan maintained by an
17 institution of higher education which provides 4-year bachelor's degree programs and graduate or
18 professional degree programs.

19 11 New Chapter; Advanced Premium Pooled Risk Management Program. Amend RSA by
20 inserting after chapter 420-Q the following new chapter:

21 CHAPTER 420-R

22 ADVANCE PREMIUM POOLED RISK MANAGEMENT PROGRAMS

23 420-R:1 Purpose. The purpose of this chapter is to provide for the establishment of advance
24 premium pooled risk management programs and to affirm the status of such programs established
25 for the benefit of political subdivisions of the state. The legislature finds and determines that
26 insurance and risk management is essential to the proper functioning of political subdivisions; that
27 risk management can be achieved through the purchase of traditional insurance or by participation
28 in pooled risk management programs established for the benefit of political subdivisions; that pooled
29 risk management is an essential governmental function by providing focused public sector loss
30 prevention programs, accrual of interest and dividend earnings which may be returned to the public
31 benefit and establishment of costs predicated solely on the actual experience of political subdivisions
32 within the state; that the resources of political subdivisions are presently burdened by the securing
33 of insurance protection through standard carriers; and that pooled risk management programs
34 which meet the standards established by this chapter should not be subject to taxation by the state
35 and, except as specifically set forth in this chapter, should not be subject to insurance regulation.

36 420-R:2 Definitions; Scope of Chapter.

37 I. In this chapter:

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1 (a) "Advance premium pooled risk management program" means a pooled risk
2 management program that does not issue assessable policies or retain the right to impose
3 assessments on members that are in addition to premium payments.

4 (b) "Assessable policy" means a coverage contract in which the policyholder may be
5 required to pay additional funds beyond premium payments if the policy issuer experiences losses
6 such that its capital is insufficient,

7 (c) "Assessment pooled risk management program" means a pooled risk management
8 program that issues assessable policies or otherwise retains the right to assess members to address a
9 capital inadequacy.

10 (d) "Commissioner" means the insurance commissioner.

11 (e) "Department" means the insurance department.

12 (f) "Employee representative" means an employee of a member, who shall not be in a
13 position to make participation decisions for a member.

14 (g) "Excess insurance" means stop loss insurance.

15 (h) "Member" means any political subdivision that participates or may participate in a
16 pooled risk management program under this chapter.

17 (i) "Member representative" means a representative of a member who is in a position to
18 make participation decisions for a member and serving in either an elected or appointed position.

19 (j) "Political subdivision" means any city, town, county, school district, chartered public
20 school, village district, school administrative unit, or any district or entity created for a special
21 purpose administered or funded by any of the above-named governmental units.

22 (k) "Pooled risk management program" or "program" means an association formed under
23 the laws of this state that operates a program in which 2 or more political subdivisions of the state
24 enter into agreements to:

25 (1) Obtain or implement insurance by self-insurance, or to obtain insurance from
26 any insurer authorized to transact business in this state as an admitted or surplus lines carrier, or
27 to obtain insurance secured in accordance with any method provided by law, or to obtain insurance
28 by any combination of these methods;

29 (2) Provide for pooling of self-insurance reserves, risks, claims and losses, and of
30 administrative services and expenses associated with them among political subdivisions; or

31 (3) Develop and administer a risk management program having as its purposes
32 reducing the risk of its members; safety engineering; distributing, sharing, and pooling risks;
33 acquiring insurance, excess loss insurance, or reinsurance; and processing, paying and defending
34 claims against the members of such entity or association.

35 (l) "Program covered person" means a person who is covered under pooled risk
36 management program coverage.

1 (m) "Public representative" means a representative of the general public who shall not
2 be:

3 (1) An employee of a member;

4 (2) In a position to make participation decisions for a member; or

5 (3) Connected with the management or be the holder of a material number of shares
6 of any insurer, insurance holding company, insurance agency or broker. Family members of
7 employees, persons in a position to make membership decisions and family members of persons
8 connected with management or holders of a material number of shares of any insurer, insurance
9 holding company, insurance agency or broker may not serve as public members.

10 (n) "Risk management" means the defense of claims and indemnification for losses
11 arising out of the ownership, maintenance, and operation of real or personal property and the acts or
12 omissions of officials, employees, and agents; the provision of loss prevention services including, but
13 not limited to, inspections of property and the training of personnel; and the investigation,
14 evaluation, and settlement of claims by and against political subdivisions.

15 420-R:3 Advance Premium Pooled Risk Management Programs Authorized; Permissible
16 Coverages.

17 I. To accomplish the purposes of this chapter, any 2 or more political subdivisions of this
18 state may, by resolution of its governing body, form an association under the laws of this state and
19 establish and enter into agreements constituting an advance premium pooled risk management
20 program.

21 II. RSA 53-A shall not apply to an association formed or affirmed under this chapter, nor to
22 the participation in such an association by a political subdivision.

23 III. Advance premium pooled risk management programs established for the benefit of
24 political subdivisions may provide any or all of the following coverages:

25 (a) Casualty, including general and professional liability; errors and omissions; workers'
26 compensation and employer's liability; medical payments; or unemployment compensation as
27 authorized under federal law.

28 (b) Property, including marine and inland navigation; transportation; boiler and
29 machinery; fire; theft; or natural hazards.

30 (c) Vehicle, including any liability or loss arising from the ownership or operation of
31 vehicles.

32 (d) Surety and fidelity.

33 (e) Environmental impairment.

34 (f) Hospital, medical, surgical or dental benefits for employees and retirees, and their
35 dependents.

36 (g) Life, income maintenance, accidental death and dismemberment, vision loss or
37 impairment, or legal benefits for employees and their dependents.

1 (h) Unanticipated special education cost recovery.

2 420-R:4 Licensure Required.

3 I. Any person or legal entity that is organized and functions as an advance premium pooled
4 risk management program shall apply to the department for a license and shall pay an application
5 fee and annual license fee of \$150. No person, entity or association shall, after July 1, 2026, operate
6 an advance premium pooled risk management program unless such program has been reviewed for
7 licensure by the department and been determined to be in compliance with the provisions of this
8 chapter, including organizational, operational, financial, and reporting requirements. License
9 renewal applications shall be filed annually on or before September 1.

10 II. Pooled risk management programs that have been established and affirmed prior to July
11 1, 2026, in accordance with RSA 5-B, and that meet the definition of an advance premium pooled
12 risk management program under this chapter shall apply to be licensed under this chapter rather
13 than under RSA 5-B. The programs existing prior to July 1, 2026, shall file a license application
14 containing the information as set forth in RSA 420-R:4, III, on or before September 1, 2026.

15 III. Prior to providing coverage, a license application shall be filed with the commissioner for
16 approval of the advance premium pooled risk management program in a form and manner as
17 established by the commissioner. The application materials shall include at least the following:

18 (a) A copy of the constitution or bylaws of association, trust instrument, or articles of
19 incorporation.

20 (b) The names and addresses of the trustees, directors, or incorporators.

21 (c) A copy of the bylaws or trust agreement which governs the operation of the pooled
22 risk management program.

23 (d) A copy of the policy, contract, certificate, summary plan description, or other
24 evidence of the benefits and coverages provided.

25 (e) A copy of the fidelity bond in an amount equal to not less than 10 percent of the funds
26 handled annually and issued in the name of the pooled risk management program covering its
27 trustees, directors, employees, administrator, or other individuals managing or handling the funds
28 or assets of the pooled risk management program. In no case may such bond be less than \$1,000 or
29 more than \$500,000, except that the commissioner, after due notice to all interested parties and
30 opportunity for hearing, and after consideration of the record, may prescribe an amount in excess of
31 \$500,000 subject to the 10 percent limitation.

32 (f) A copy of the pooled risk management program's excess insurance agreement, if any.

33 (g) A business plan setting out the lines of coverage the program intends to write, the
34 projected membership amount, a plan of capitalization, and such other plan information as the
35 commissioner may require.

36 (h) Evidence satisfactory to the commissioner showing that the arrangement will be
37 operated in accordance with sound actuarial principles. The commissioner shall not approve the

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1 arrangement unless the commissioner determines that the plan is designed to provide sufficient
2 revenues, reserves, and surplus to pay current and future liabilities, as determined in accordance
3 with sound actuarial principles and risk based capital standards as set out in RSA 404-F.

4 (i) Such additional information as the commissioner may require.

5 IV. A license renewal applications with such form and content as shall be established by the
6 commissioner and the license renewal fee shall be filed with the commissioner by September 1 of
7 each year.

8 V. A person, other than a pooled risk management program, shall not sell, solicit, or
9 negotiate pooled risk management program coverage in this state for any line of coverage permitted
10 under this chapter unless the person is licensed for that line of coverage in accordance with this RSA
11 402-J.

12 420-R:5 Applicable Regulatory Standards.

13 I. Any advance premium pooled risk management program meeting the standards required
14 under this chapter is not an insurance company, reciprocal insurer, or insurer under the laws of this
15 state, and administration of any activities of the plan shall not constitute doing an insurance
16 business for purposes of regulation or taxation. Pooled risk management programs shall not be
17 subject to the premium tax under RSA 400-A:32 and shall not be subject to assessment with respect
18 to the administration fund under RSA 400-A:39.

19 II. Advance premium pooled risk management programs shall be governed by this chapter
20 and shall be exempt from this title, except for the provisions of: RSA 400-A:16, relative to
21 investigations; RSA 400-A:17 through 24, relative to hearings and appeals; RSA 400-A:37, relative to
22 examinations; RSA 401-B, relative to insurance holding companies; RSA 402:28, relative to the
23 regulation of investments of insurance companies other than life insurance companies; RSA 402-C,
24 relative to receivership; RSA 402-J, relative to producer licensing, RSA 402-M, relative to
25 administrative supervision; RSA 404-F, relative to RBC; RSA 420-G:11, II, II-a, and IV, relative to
26 the submission of claims data to the department; RSA 401-B:3, 4, and 5 relative to insurance holding
27 companies; and RSA 411-A, relative to the regulation of investments of life insurance companies.

28 III. RSA 5-B shall not apply to advance premium pooled risk management programs.

29 IV. This chapter shall not apply to assessment pooled risk management programs.

30 420-R:6 Requirements of Organization and Operation.

31 I. To meet charter requirements for licensure and to maintain an advance premium pooled
32 risk management program, a program shall be:

33 (a) A nonprofit;

34 (b) Member-owned;

35 (c) Established as a legal entity organized under New Hampshire law; and

1 (d) Governed by written bylaws which shall detail the terms of eligibility for
2 participation by political subdivisions, the governance of the program and other matters necessary to
3 the program's operation.

4 II. The board of directors, who shall manage the business and affairs of the program, shall
5 be comprised of:

6 (a) For programs offering employee health and welfare benefits under RSA 420-R:43, III
7 (f) and (g), 6 member representatives, 6 employee representatives and up to 3 public representatives;
8 and

9 (b) For all other programs, 12 member representative and 3 public representatives.

10 III. Any bylaw developed by the board of directors shall require approval of 2/3 of the
11 directors. Bylaws and any subsequent amendments shall be filed with the commissioner.

12 IV. Directors shall not receive compensation but may be reimbursed for mileage and other
13 reasonable expenses. Directors shall comply with the provisions of RSA 15-A. Directors shall have a
14 fiduciary responsibility to act in the best interest of the advance premium pooled risk management
15 program, which shall include a duty of care to ensure prudent investment and use of assets, a duty of
16 loyalty to act to further the purposes and mission of the program, and a duty of obedience to comply
17 with organizational bylaws and applicable law.

18 V. Any coverages issued by the program shall be on an advance premium basis, and the
19 bylaws shall not permit the issuance of assessable coverages.

20 420-R:7 Approval of Rates. Each advance premium pooled risk management program shall file
21 with the insurance commissioner a full schedule of the rates to be paid by participating members
22 and shall obtain the commissioner's approval prior to implementing any rate changes. The
23 commissioner may refuse such approval if he or she finds the rates are excessive, inadequate, or
24 unfairly discriminatory. At least 10 days prior to filing rates with the commissioner, each advance
25 premium pooled risk management program shall provide notice to all members and conduct 2 public
26 hearings for the purpose of advising of potential rate changes, the reasons for projected rate changes,
27 and to solicit comments from members and program covered persons regarding the relative
28 advantages and disadvantages of pursuing goals of rate stabilization, strengthening capitalization,
29 or returning surplus.

30 420-R:8 Financial Reporting.

31 I. Each advance premium pooled risk management program shall file with the commissioner
32 on March 1 a report verified by an appropriate official of the program which shall include:

33 (a) The program's financial statements, including its balance sheet and statement of
34 income and expenditures for the preceding year, certified by an independent certified public
35 accountant;

36 (b) Such other financial information relating to the program's performance as the
37 commissioner may require.

1 II. The commissioner may prescribe a uniform reporting format for the preparation of the
2 audited financial statements and may also prescribe a uniform accounting system to be used by
3 advance premium pooled risk management programs.

4 III. Each advance premium pooled risk management program shall, in accordance with RSA
5 404-F, file with the commissioner on March 1st, a report verified by an appropriate official of the
6 program, showing its RBC levels as of the end of the calendar year just ended, in a form and
7 containing such information as is required by the RBC instructions. The commissioner shall provide
8 written guidance on how to apply the RBC instructions to advance premium pooled risk
9 management programs.

10 420-R:9 Minimum Capital.

11 I. Each advance premium pooled risk management program shall seek to maintain capital
12 above the RBC levels required for insurers under RSA 404-F.

13 II. To protect the interest of participating members, creditors and the public in the event
14 that an advance premium pooled risk management program is financially impaired, the
15 commissioner shall apply the corrective measures and take such other actions as deemed
16 appropriate under RSA 402-C, RSA 402-M, and RSA 404-F in the same manner as may be taken
17 against insurers under those provisions.

18 420-R:10 Guaranty Funds Authorized. With prior approval from the commissioner, a program
19 may voluntarily implement the following guaranty measures to protect from financial impairment.
20 In addition, the commissioner may require any of the following guaranty measures if a program's
21 RBC is above company action level but less than the product of its authorized control level RBC and
22 3.0 with a negative trend.

23 I. Any advance premium pooled risk management program may establish a guaranty fund
24 out of surplus in any amount not to exceed 1/2 its net surplus by appropriation from its net assets.
25 Such guaranty fund shall be considered as paid up capital and be available to meet the obligations of
26 the program, but not to pay dividends or to be otherwise distributed except to meet the obligations of
27 the program when all other assets of the program shall become exhausted.

28 II. Any advance premium pooled risk management program may create not more than one
29 guaranty fund by borrowing a sum of money not exceeding \$1,000,000 by the issue of certificates of
30 indebtedness upon such terms as the members shall determine, provided that such certificates shall
31 not be divided into classes in any way and that the holders of such certificates shall not be entitled to
32 vote in the direction of the affairs of the program and shall not receive a greater return on their
33 investment than 10 percent per annum. The commissioner, upon notice to the program and after
34 hearing its objections, if any, may require any guaranty fund established under this section to be
35 retired when he or she shall find it is no longer needed for protection of covered persons, creditors, or
36 the general public.

1 III. Any advance premium pooled risk management program that has created a guaranty
2 fund under either of the 2 preceding sections may, with the approval of the insurance commissioner,
3 reduce or retire such fund in whole or in part, but it may not be otherwise distributed except to pay
4 the obligations of the program.

5 420-R:11 Excess Insurance. Each advance premium pooled risk management program shall
6 seek to maintain aggregate excess insurance or a deposit with the commissioner of unimpaired
7 surplus which excess insurance or deposit shall be used in the event that the program's resources
8 are exhausted in a given fiscal period. The excess insurance or deposit, or combination of excess
9 insurance and deposit shall be, at a minimum, in the amount of \$5,000,000 unless the commissioner
10 determines a lesser amount would be adequate.

11 420-R:12 Return of Capital.

12 I. If, on the last day of the calendar year, a program's RBC, as measured under the
13 provisions of RSA 404-F, is more than the product of its authorized control level and 6.0, then the
14 board of directors shall vote, by April 1 of the succeeding year, on the question whether to make a
15 return of excess surplus to members through the declaration of a dividend, return of capital, or
16 return of premium.

17 II. Regardless of its RBC level, any dividend, return of capital, or return of premium
18 proposed by the board of a program shall be reviewed and approved prior to distribution by the
19 commissioner under such terms of RSA 401-B:5, II, as are applicable to advance premium pooled
20 risk management programs as determined by the commissioner.

21 420-R:13 Examination.

22 I. The commissioner shall make an examination of each advance premium pooled risk
23 management program under the terms of RSA 400-A:37 as often as he or she deems necessary, but
24 not less frequently than once in every 5 years. All examinations shall be conducted at the expense of
25 the program.

26 II. Each program shall submit its books and records relating to its operations to such
27 examinations and in every way facilitate them. For the purpose of examinations, the commissioner
28 may issue subpoenas, administer oaths to, and examine the officers and agents of the program.

29 420-R:14 Investments. The assets of any advance premium pooled risk management program
30 shall be invested in those securities and investments permitted for insurers in this state under RSA
31 402:28 and RSA 411-A as applicable.

32 420-R:15 Acquisition of Control or Merger.

33 I. An advance premium pooled risk management program may acquire control of or merge
34 with any other advance premium pooled risk management program licensed in this state by
35 complying with the provisions of this section and with such terms of RSA 401-B:3 as are applicable
36 to advance premium pooled risk management programs as determined by the commissioner. It shall
37 file with the commissioner:

1 (a) A certified copy of the written contract containing in full the terms and conditions of
2 the consolidation or merger;

3 (b) A sworn statement by the president and secretary or corresponding officers of each
4 program showing the financial condition thereof on a date fixed by the commissioner but not earlier
5 than December 31, next preceding the date of the contract;

6 (c) A certificate of such officers, duly verified by their respective oaths, that the
7 consolidation or merger has been approved by a 2/3 vote of the board of each program, such vote
8 being conducted at a regular or special meeting of each board, or, if the program's laws so permit, by
9 mail;

10 (d) Evidence that at least 60 days prior to the action of the board of each program, the
11 text of the contract has been furnished to all members of each program either by mail or by
12 publication in full in an official publication of each program; and

13 (e) Any information that a domestic insurer is required to file with the commissioner
14 under RSA 401-B:3, I through V, that the commissioner deems to be applicable to advance premium
15 pooled risk management programs.

16 II. If the commissioner finds that the contract is in conformity with the provisions of this
17 section, that the financial statements are correct, that the standards set out in RSA 401-B:3, VI(a)
18 are met, and that the acquisition or merger is just and equitable to the members of each program,
19 the commissioner shall approve the contract and issue a certificate to such effect. Upon such
20 approval, the contract shall be in full force and effect. In case such contract is not approved it shall
21 be inoperative, and the fact of submission and its contents shall not be disclosed by the
22 commissioner.

23 III. Upon a merger becoming effective as provided under this section, all the rights,
24 franchises and interests of the merged programs in and to every species of property, real, personal or
25 mixed, and things in action thereunto belonging shall be vested in the program resulting from or
26 remaining after the merger without any other instrument, except that conveyances of real property
27 may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under
28 the laws of this state in any of the programs merged, shall not revert or be in any way impaired by
29 reason of the merger, but shall vest absolutely in the program resulting from or remaining after such
30 merger.

31 420-R:16 Standards and Management of a Program Within a Holding Company System.

32 I. An advance premium pooled risk management program may be part of a holding company
33 system only if all affiliates in the system are advance premium pooled risk management programs
34 licensed under this chapter.

35 II. Any advance premium pooled risk management program that is a part of an advance
36 premium pooled risk management program holding company system shall register with the

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1 commissioner under such terms of RSA 401-B:4 as are applicable to advance premium pooled risk
2 management programs as determined by the commissioner.

3 III. All transactions within an advance premium pooled risk management program holding
4 company system shall be approved by the commissioner under such terms of RSA 401-B:5, I, as are
5 applicable to advance premium pooled risk management programs as determined by the
6 commissioner.

7 420-R:17 Commissioner's Additional Enforcement Authority.

8 I. In addition to the solvency enforcement measures authorized in 420-R:9, II, when the
9 commissioner, upon investigation, finds that: an advance premium pooled risk management
10 program has failed to comply with any provision of this chapter; or is not fulfilling its contracts in
11 good faith; or is conducting business fraudulently or in a manner hazardous to its covered persons,
12 members, creditors, the public, or the business; or is acting outside its authority; or is operating as
13 an advance premium pooled risk management program without a license, then the commissioner
14 shall notify the program of such deficiency or deficiencies and state in writing the reasons for his or
15 her dissatisfaction and requiring that the deficiency or deficiencies which exist be corrected.

16 II. After such notice, the program shall have a 30-day period in which to comply with the
17 commissioner's request for correction or the submission of a corrective action plan. If the program
18 fails to comply, the commissioner shall notify the program of such findings of noncompliance and
19 require the program to show cause, on a date named, why: its license should not be suspended,
20 revoked, or limited to servicing existing business only; or it should not be subject to a cease and
21 desist order; or it should not be fined in an amount up to \$2,500 per violation; or it should not be
22 ordered to make restitution or refund to an aggrieved person.

23 III. Upon hearing, the commissioner shall issue such prohibitory and mandatory orders
24 as are reasonably necessary to secure compliance with the terms of this chapter and are within his
25 or her enforcement powers as specified in RSA 420-R:17, II.

26 420-R:18 Appeals. All orders and decisions of the commissioner concerning matters within his
27 or her jurisdiction under this chapter shall be subject to hearing and appeal as provided in RSA 400-
28 A:17 through 24 and RSA 541. RSA 541:18 shall apply to orders and decisions of the commissioner
29 affecting the rates of the program.

30 420-R:19 Rulemaking Authority. The commissioner may adopt rules in accordance with RSA
31 541-A, which are reasonable and necessary to administer and enforce the provisions of this chapter.

32 420-R:20 Powers; Liability.

33 I. Any program operating under this chapter, whether or not body corporate, may sue or be
34 sued; make contracts; hold and dispose of real property; and borrow money, contract debts, and
35 pledge assets in its name.

36 II. Participation by a political subdivision in an advance premium pooled risk management
37 program formed and affirmed under this chapter shall not subject any such political subdivision to

1 any liability to any third party for the acts or omissions of the pooled risk management program or
2 any other political subdivision participating in the program.

3 420-R:21 Confidentiality.

4 I. Notwithstanding any provision of the law to the contrary, any information of any pooled
5 risk management program formed or affirmed under this chapter pertaining to claims analysis or
6 claims management shall be privileged and confidential and not subject to disclosure to any third
7 party.

8 II. All reports and schedule of rates, to the extent the information therein is not otherwise
9 required to be publicly available, which are filed with the commissioner constitute information that
10 might be damaging to the risk pool management program if made available to competitors, and
11 therefore shall be kept confidential by the commissioner. This information shall not be made public
12 or be subject to subpoena, other than by the commissioner and then only for the purpose of
13 enforcement actions taken by the commissioner pursuant to this chapter or the applicable provisions
14 of Title XXXVII as provided in RSA 420-R:5, II.

15 420-R:22 Severability. If any provision of this chapter, or the application thereof to any person
16 or circumstance, is held invalid, such determination shall not affect the provisions or applications of
17 this chapter which can be given effect without the invalid provision or application, and to that end
18 the provisions of this chapter are severable.

19 12 Third Party Administrators; Exemption. Amend RSA 402-H:11-b to read as follows:

20 402-H:11-b Exemption. An association administering [a] **an assessment** pooled risk
21 management program operated pursuant to RSA 5-B [~~or conducting business that is exempt from~~
22 ~~taxation under the Internal Revenue Code, section 115]~~ shall not be required to obtain a certificate of
23 authority or to meet the other requirements of this chapter for services provided in connection with
24 the administration of its pooled risk management plans [~~or its section 115 business~~], but shall be
25 required to register with the commissioner pursuant to RSA 402-H:11-a. **Assessment** pooled risk
26 management program registration may be accomplished by providing the commissioner a copy of the
27 informational filing required to be filed with the department of state pursuant to RSA 5-B:4.

28 13 Effective Date.

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

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