

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 719

H.P. 535

House of Representatives, February 25, 1993

**An Act Regarding Employee Benefits for School Employees.**

(EMERGENCY)

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Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells.

Cosponsored by Representatives: BRUNO of Raymond, CARR of Sanford, Senator: AMERO of Cumberland.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary and desirable to control the increased costs of health care during this period of fiscal crisis; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRS §1001, sub-§5, ¶B-1 is enacted to read:

B-1. Provide direct reimbursement of the costs and expenses incurred by employees and their family members pursuant to a direct reimbursement plan for health, hospitalization and major medical costs and expenses.

(1) Prior to the operation of any direct reimbursement plan or program, a school board shall adopt guidelines containing a funding mechanism adequate to the financial needs of the plan or program and shall provide for the fixed costs of operations of the plan for the first prospective fund year. A reasonable amount sufficient to satisfy immediate claims costs must be held in a segregated account to be used solely for this purpose.

(2) Prior to the operation of any direct reimbursement plan or program, a school board shall obtain excess insurance or reinsurance. The insurance must limit the exposure of the school board to a defined level both as to ultimate claims values and the loss ratio at which recovery from the insurer is realized. The attachment point of continuing excess coverage must provide risk relief to the plan or program adequate in view of its financing needs.

(3) Prior to the operation of any direct reimbursement plan or program, the school board or other legal entity establishing the plan or program shall obtain an independent actuarial advisory opinion report given by a member of the American Academy of Actuaries qualified as a health loss reserve specialist as defined by the National Association of Insurance Commissioners. Two

2 copies of this report must be filed with the  
3 Superintendent of Insurance. The report must address:

4 (a) The financial viability of the plan or  
5 program; and

6 (b) The ultimate risk exposure attendant to each  
7 type of employee benefit provided pursuant to the  
8 plan or program.

10 (4) The school board or other legal entity  
11 establishing a plan or program for the purpose of  
12 direct reimbursement pursuant to this paragraph,  
13 whether or not a body corporate, may with respect to  
14 the plan or program sue or be sued; make contracts;  
15 hold and dispose of real property; borrow money,  
16 contract debts and pledge assets to the name of the  
17 plan; and perform other actions incidental to this  
18 subparagraph as necessary.

20 (5) The plan or program may be established as a  
21 separate legal or administrative entity.

24 (6) The plan or program must be in writing and contain  
25 a financial plan setting forth in general terms:

26 (a) The precise nature of the employee benefit  
27 offered pursuant to the plan together with  
28 applicable deductible levels, if any, and the  
29 maximum level of claims that the plan self-insures;

32 (b) The amount of cash reserves to be set aside  
33 for the payment of claims; and

34 (c) The amount of insurance to be purchased by  
35 the plan to provide coverage above the claims that  
36 are not satisfied directly from the plan's  
37 resources and the terms of the policy referred to  
38 in subparagraph (2).

40 (7) The legal entity that establishes a plan or  
41 program that provides coverage for more than one school  
42 administrative unit with respect to the benefits  
43 authorized in this paragraph shall adopt a plan of  
44 management that, at a minimum, provides the following:

45 (a) The means of establishing and maintaining a  
46 governing authority of the program, including the  
47 selection of a governing authority of a board of  
48 directors or trustees for the plan, a majority of  
49 the members of the governing authority shall be  
50 representatives of the employees of the plan.

- 2 whom must be from the participating school  
3 administrative unit or units;
- 4 (b) The responsibility of the governing authority  
5 to fix contributions to the plan, maintain  
6 reserves, levy and collect assessments for  
7 deficiencies, dispose of surplus and administer  
8 the plan in the event of its termination,  
9 liquidation or insolvency;
- 10 (c) The identification of funds and reserves by  
11 the type of benefit provided and exposure area;
- 12 (d) The basis upon which new members may be  
13 admitted to and existing members may leave the  
14 plan;
- 15 (e) The requirement that any member of a group  
16 plan or pool established for more than one school  
17 administrative unit prepay to the plan  
18 administrator an initial deposit equal to 25% of  
19 the annual contribution before coverage is  
20 effective;
- 21 (f) Other provisions as necessary or desirable  
22 for the operation of the plan; and
- 23 (g) A provision that, if the assets set aside in  
24 any group plan for more than one school  
25 administrative unit are at any time determined to  
26 be insufficient to enable the plan to discharge  
27 its legal liabilities and other obligations and  
28 maintain sound reserves for the provision of the  
29 employee benefits provided by the plan, the  
30 governing authority shall within 90 days satisfy  
31 the deficiency or levy a prorated assessment upon  
32 the participating school administrative unit or  
33 units for the amount needed to satisfy the  
34 deficiency. The agreement among school  
35 administrative units in the group plan must  
36 provide sanctions for failure to comply with a  
37 mandatory assessment under this subparagraph.
- 38 (8) Prior to the operation of any group or pool plan  
39 for more than one school administrative unit, the  
40 governing authority shall adopt underwriting guidelines  
41 that embody rate charges to prospective members at a  
42 level adequate to its financial needs and shall provide  
43 for the fixed costs of operations for the first  
44 prospective fund year. An amount sufficient to  
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reasonably meet immediate claims costs must be held in a segregated account to be used solely for this purpose. Funds determined necessary to fund the program on an ongoing basis must also be held in a segregated account.

(9) Each group plan or pool established for more than one school administrative unit must file with its members, by the last day of the 6th month following the end of the fiscal year, an audited financial statement certified by an independent certified public accountant. The financial statement must include, but is not limited to, information concerning:

- (a) Appropriate reserves for known claims and expenses associated with those claims;
- (b) Claims incurred but not reported and expenses associated with those claims;
- (c) Unearned contributions; and
- (d) Reserves for bad debts.

The audited financial statement must include information concerning the adequacy of the plan. This statement results from a charge by the directors to the plan's actuary and auditor and must address excess insurance, charges for coverage to members, service agents' costs and costs of administration of the program.

Two additional copies of the audited financial statement must be filed with the Superintendent of Insurance.

If a group plan or pool established for more than one school administrative unit fails to provide for the audited financial statement required, the Superintendent of Insurance must perform or cause to be performed the audit. The group plan or pool must reimburse the Superintendent of Insurance for the cost of the audit.

(10) Any reimbursement plan or program for the provision of the employee benefits established and operated pursuant to this paragraph is not an insurance company, reciprocal insurer or insurer under the laws of this State and the development, administration and

2                   provision of such plan or program does not constitute  
3                   an insurance business;

4                   **Emergency clause.** In view of the emergency cited in the  
5 preamble, this Act takes effect when approved.

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### STATEMENT OF FACT

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11                   This bill authorizes school boards, in their discretion, to  
12 provide group health, hospitalization and major medical benefits  
13 to their employees through direct reimbursement plans or programs  
14 by self-insuring such benefits. The bill provides guidelines for  
15 the establishment and operation of individual and group  
16 programs. School boards establishing programs would be required  
17 to set aside sufficient amounts to pay immediate claims before  
18 commencing operation of the programs. School boards also would  
19 be required to obtain excess insurance or reinsurance, that is,  
20 so-called "stop-loss coverage," to limit their exposure under  
21 such programs and to adopt guidelines establishing funding  
22 mechanisms for the programs before commencing operation of the  
23 programs. The legal entity establishing a program to serve a  
24 group of school administrative units would be required to adopt a  
25 plan of management providing for the financial operation of the  
26 program.