MINORITY REPORT

of the

JOINT STANDING COMMITTEES

ON

BUSINESS LEGISLATION

AND

EDUCATION

A STATE PROGRAM OF FUNDED SELF-INSURANCE

FOR PUBLIC SCHOOLS

(S.P. 627)

Submitted to the
Legislative Council
109th Legislature

February 15, 1980

TABLE OF CONTENTS

SUMMARY

S. P. 627 directed the Committees on Business Legislation and Education to study the subject of a state program of funded self-insurance for public schools. A special subcommittee held several meetings and submitted its findings to the full committees.

The minority found that many school buildings are under-insured and that the cost of adequate coverage is often excessive. The minority's conclusion concerning cost was based upon school insurance data furnished by the Department of Educational and Cultural Services and the insurance experience of the Maine School Building Authority.

The minority found that a state school insurance program would produce substantial savings and that non-financial objections to the program are without merit. The minority concluded, for example, that a small state agency could quite capably manage school insurance needs and that administration of school insurance at the state level would reduce the tax burden without depriving local school officials of any meaningful measure of control.

The minority proposed legislation to establish a state school insurance program. It would be modeled after the very successful state property fund.

BACKGROUND

Revised Statutes, Title 20, section 3476 requires school systems to carry fire and allied insurance coverage "in the amount of the replacement cost" on any state-subsidized school construction project approved after June 30, 1977 (although the Commissioner of Educational and Cultural Services may modify this requirement if such coverage cannot be obtained at a reasonable cost); Title 20, section 3457 imposes a similar requirement with respect to any project approved before July 1, 1977. Though not legally required to do so, school systems generally buy other kinds of coverage as well such as motor vehicle fleet, employee health and accident, liability, and fidelity bonds. School systems normally purchase insurance individually through local agents from conventional commercial carriers. For state educational subsidy purposes, the premiums are treated as a normal operating expense.

L.D. 1525 was introduced in the 1st Regular Session of the 109th Legislature to establish a state program of funded self-insurance for public schools. Under the program proposed in L.D. 1525, each school system would be charged an initial fee proportionate to its current total annual premium; a substantial portion of these start-up monies would be set aside by the State to capitalize a "reserve" fund; the "reserve" fund would be used to self-insure a sizable deductible, also known as the "retained" risk; the balance would then be used to buy "excess" coverage from a conventional carrier to insure the remainder of the risk; thereafter, every school system would be assessed periodically as necessary to maintain an adequate "reserve" and to purchase "excess" insurance.

S.P. 627 (Appendix A) was introduced after the sponsor of L.D. 1525 was granted leave to withdraw; it directs the Joint Standing Committees on Business Legislation and Education to "study the feasibility of establishing a state insurance program for public educational institutions."

A special 8-member legislative subcommittee was appointed to conduct the study. The subcommittee held an organizational meeting, a public hearing and a work session. It heard testimony and received information and assistance from representatives of interested state agencies, school systems, businesses, and educational and insurance groups, as well as from concerned individuals.

This is the minority report.

ISSUES

I

DOES THE CONVENTIONAL INSURANCE MARKET OFFER ADEQUATE COVERAGE TO PUBLIC SCHOOLS AT A REASONABLE COST?

II

WOULD A STATE PROGRAM OF FUNDED SELF-INSURANCE PROVIDE THE SAME OR BETTER COVERAGE TO PUBLIC SCHOOLS AT LESS COST?

FINDINGS

I

THE CONVENTIONAL INSURANCE MARKET OFFERS INADEQUATE COVERAGE TO PUBLIC SCHOOLS AT AN UNREASONABLE COST.

A. Many school buildings are underinsured.

The Department of Educational and Cultural Services administers financial assistance to school systems when losses are underinsured. The Department has warned for years that many school buildings -- particularly older, wooden structures -- are badly underinsured. The reason generally is that adequate coverage is too expensive or conventional carriers refuse to insure the full replacement cost.

The Department's warnings have been confirmed repeatedly by the occurrence of underinsured losses. Some losses are grossly underinsured. In one case, for example, the entire settlement received on a total loss was approximately $80,000. In another case, the settlement received was little more than twice that amount. In both cases, the property was insured for the highest value the carrier would allow.

It is unfair and irresponsible to dismiss these cases out of hand merely because a few details were unknown. The point in each case is clear -- under no conceivable circumstance was the insurance settlement remotely sufficient to replace the loss with a comparable building.

B. The cost of adequate coverage is often excessive.

For nearly a decade, school insurance data has been available showing loss ratios (which express the relationship between premiums and claims paid) that are inordinately favorable to the insurance industry. The data has been drawn from comprehensive financial reports filed annually with the Department by every school system in the State. The data was updated and refined especially for the study (Appendix B). Specifically, it shows -- by type of coverage -- the aggregate total of premiums and claims paid in each of the last 8 fiscal years. For example, over this period the State's school systems have paid well in excess of $11,000,000 in premiums for property insurance alone, while recovering less than $3,000,000 in property insurance settlements -- in other words, more than four dollars have been spent for premiums for every dollar received in claims.

This data does not answer every question about school insurance. It may also contain some minor errors. However, its overall meaning is not easily misunderstood or discounted. For example, demonstrably excessive property insurance premiums cannot be glossed over or explained away by suggesting that the figures mix data on property insurance with, say, liability or motor vehicle fleet coverage. The data cannot be misinterpreted this way because it is distinctly segregated by type of coverage (which is defined according to the handbook local school officials use to complete their annual financial reports).

The Maine School Building Authority (MSBA) has financed the construction of many school buildings and insures them under a "blanket" policy. Its insurance experience (Appendix C) is instructive on this point. In FY 1978, for example, the MSBA paid just under $40,000 in premiums for property insurance on 23 buildings with a total insured value of over $28,000,000 -- a premium rate of about .1429 per one hundred dollars of coverage. In contrast, the State's 250 or so school systems paid a total of more than $2,000,000 in premiums for property insurance. It is an undisputed fact that replacement cost of all school buildings is at least $750,000,000. If it is assumed for comparison's sake that all were insured for their full replacement cost (as the law requires), then the average premium rate paid by Maine school systems for property insurance in FY 1978 was approximately .2667 -- nearly twice that paid by the MSBA.

The Department corroborates this finding. It has often noted that the cost of coverage increases substantially when title to MSBA property is reconveyed to a local school system.

It is true that no school system has ever formally requested a modification of the law's requirement that school buildings be insured for their replacement cost. However, it is naive and mere conjecture to infer that all school buildings are fully insured or that premiums are reasonable. No actual survey of school systems has ever been conducted. And the Department has often been advised informally that many school systems are unable to comply with the law. Most important, the data contradicts this inference.

II

A STATE PROGRAM OF FUNDED SELF-INSURANCE WOULD PROVIDE BETTER COVERAGE TO PUBLIC SCHOOLS AT LESS COST.

A. A state program would produce substantial savings.

The available data does not permit a firm projection of the precise amount of savings that would result under the state program we propose. However, the savings would undoubtedly be considerable.

The concept of a state program is based upon one of the most fundamental axioms in insurance -- namely, the greater the dispersion of risk and the greater the size of the self-insured deductible, the less the total cost of insurance.

Under a funded self-insurance program, the dispersion of risk would far exceed that which is now possible. In fact, under the state program we propose, risk dispersion would be optimal and, therefore, savings would be maximized (i.e., the largest single risk would be as comparatively small as it could possibly be because <u>all</u> school property would be insured under one plan). The savings would result largely because the "excess" coverage bought in the conventional market would qualify for very substantial discounts in premium rates that are not currently available to individual school systems.

A state program would produce considerable savings for several other reasons as well. The enormous amount of "excess" business offered to the conventional market would stimulate highly competitive bidding among carriers. The "excess" coverage would be entitled to additional premium discounts because risk management and loss control would be centralized. Agent commissions and acquisition costs would be dramatically reduced because the "excess" coverage for all school systems would be purchased by a single entity, not 250. Finally, the State would maintain the "reserve" fund (for self-insuring a large deductible) on a non-profit basis: the fund's investment earnings would accrue to the fund itself rather than to shareholders or policyholders of a conventional carrier.

The state program we propose is modeled after the State's own property fund. Its experience (Appendix D) confirms that the State can expect substantial savings. Under the state property fund, the size of the deductible, or "retained" risk, insured by the "reserve" has increased steadily since the program's inception. Loss prevention has been so effective that investment earnings on the "reserve" now entirely pay self-insured losses. As a result, the "reserve" itself has not been depleted at all and need not be maintained with any further contributions. Meanwhile, the cost of "excess" coverage has decreased by 21%. The total amount of insurance in force under the program has increased 300%, from about $160,000,000 to about $660,000,000.

The significance of these achievements cannot be diminished by suggesting that school insurance needs are somehow essentially different from or more difficult to satisfy than those of state agencies. There is no important, material difference between school property and state property as far as insurance is concerned. If anything, school property is generally a more attractive risk from an insurance point-of-view and less difficult to underwrite because there are seldom any extremely large, less attractive risks such as correctional facilities or waterfront piers.

B. Non-financial objections to a state program are without merit.

Much has been made of the services of local agents, and the State's ability to render equivalent services has been questioned. The fact is, however, that a staff of only 3 state employees very capably manages nearly as much insurable property under the state property fund as all the public schools in the State. And it is also a fact that the property fund covers an enormous variety of dissimilar property owned by many different agencies, from a state garage in Kittery to a warden's camp in Fort Kent, from a dormitory or chemistry laboratory in Orono to the State House in Augusta.

"Local control" has been touted as the best way to ensure adequate coverage at a reasonable cost. Local school officials are undoubtedly very concerned about excessive premium rates. However, perpetuating the present system in the name of "local control" will not enable local school officials to translate their concern into adequate coverage at a reasonable cost. On the contrary, every indication -- the performance of the industry, the experience of the State's property fund, the nature of insurance and the economics of purchasing -- is that maintaining the status quo will merely guarantee that underinsurance and excessive cost remain serious, pervasive problems.

"Local control" is actually a red herring and largely an illusion in the context of school insurance. In fact, it usually means little more than the "privilege" of choosing which local agent from whom to buy over-priced coverage that either the law or practical necessity requires a school system to carry. There is no apparent value in this brand of "local control." It does not justify the additional tax burden created under the current method of school insurance in any event.

Appendix A

STATE OF MAINE

In Senate June 13, 1979

Whereas, educational institutions are one of the most valuable assets of any state; and

Whereas, the loss of benefit to society that would result from the inability of an educational institution to function is unmeasurable; and

Whereas, many public educational institutions in this State are vulnerable to such an eventuality because of inadequate insurance protection; now, therefore, be it

Ordered, the House concurring, subject to the Legislative Council's review and determinations hereinafter provided, that the Joint Standing Committee on Business Legislation and the Joint Standing Committee on Education, shall jointly study the feasibility of establishing a state insurance program for public educational institutions; and be it further

Ordered, that the committees report their findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislative Council for submission in final form at the Second Regular Session of the 109th Legislature; and be it further

Ordered, that the Legislative Council, before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further

Ordered, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committees.

IN SENATE CHAMBER
TABLED BY SEN. SEN. ___
OF KENNEBEC
JUN 13 1979
PENDING Passage
MAY M. ROSS, Secretary

IN SENATE
TAKEN FROM TABLE
BY ___
JUN 15 1979
SEN. KATZ
OF KENNEBEC
SPEC. ASSIGN'D FOR ___

IN SENATE
TAKEN FROM TABLE
BY SEN. PIERCE
OF KENNEBEC
JUN 15 1979
INDEFINITELY POSTPONED

NAME: (Tarbell Hall)

COUNTY: Kennebec

Cosponsor: (Chapman)

COUNTY: Sagadahoc

627

Appendix B

School Insurance Data

FY	PREMIUMS			PROCEEDS [4]
	PROPERTY [1]	OTHER [2]	MOTOR VEHICLE [3]	
1971	873,424	991,271	206,968	265,790
1972	1,061,202	1,267,376	236,443	379,631
1973	1,131,632	1,835,437	242,880	412,359
1974	1,386,598	2,072,227	300,035	131,772
1975	1,534,887	3,042,947	305,609	185,037
1976	1,414,960	3,981,403	393,228	457,109
1977	1,794,499	4,645,388	432,622	730,116

1 All real and personal property (except motor vehicles)

2 Employee health and accident, fidelity bonds, liability (except motor vehicle-related), workers' compensation, and, presumably, unemployment

3 Collision, fire, and theft, liability, medical care, and property damage

4 All real and personal property losses (including, presumably, motor vehicles)

FY	PREMIUMS				PROCEEDS	
	PROPERTY	OTHER [5]	MOTOR VEHICLE	UNEMPLOYMENT	FIRE/LIGHTENING [6]	OTHER [7]
1978	2,162,852	5,292,398	515,886	752,727	86,100	156,303

5 Same as 2 above excluding unemployment

6 All real and personal property losses caused by fire and lightening, etc.

7 Extended coverage (vandalism, smoke and water damage) and, presumably, motor vehicle losses

III. Insurance on Buildings Returned to LEA's.

Unit	MSBA Coverage	MSBA Premium Includes Boiler	LEA Coverage	LEA Premium 1979
A	$ 222,059 (1977)	$ 294.00	$ 250,000 B: 15,000 C	$ 560.00
B	637,114 (1977)	554.00	1,036,326 B; 116,765 C	Blanket
C	2,544,955 (1977)	2,439.00	2,743,200 B; 175,000 C	Blanket
D	685,429 (1978) 27,443	881.93	957,000 B	848 (8 mo.-no boiler or contents)
E	622,450 (1976)	441.00	1,134,000 B & C boiler excluded	2,302 (1978)
F	54,880 (1976)	213.00	----	----
G	100,580 (1976)	323.00	165,996 B; 9,222 C	452 (fire only exclude boiler)

IV. Total MSBA Insurance Premiums and Claims for Years 1975-'78.

Year	Package Policy Premium	Total Amount Claimed	Total Insured Value	
1975	$48,558.00	$ 2,912.12	$32,075,912	53 bldgs.
1976	47,003.00	3,407.02	33,130,380	47 bldgs.
1977	45,893.00	17,335.00	33,168,507	37 bldgs.
1978	39,402.00	4,603.25	28,185,759	23 bldgs.

STATE OF MAINE

PROPERTY INSURANCE EXHIBIT

YEAR (1)	INSURANCE IN FORCE (2)	COMPANY (3)	PREMIUM FUND (4)	TOTAL (5)	DEDUCTIBLE AMOUNT (6)	COMPANY (7)	LOSSES PD. FUND (8)	TOTAL (9)	FUND BALANCE (10)
966-67	$163,121,500	$196,729	$ 15,000	$211,729	$ 1,000	$ 62,752	$ 2,944	$ 65,666	$ 13,50
967-68	180,697,370	138,760	17,648	156,408	1,000	102,847	3,382	106,229	109,27
968-69	202,234,482	109,433	29,126	138,559	1,000	27,654	6,901	44,555	139,46
969-70	235,597,365	132,068	22,206	154,274	1,000	66,444	5,670	72,114	168,401
970-71	258,931,810	409,178	86,143	495,321	25,000	144,590	36,161	180,751	1,233,02
971-72	286,203,000	199,795	246,026	445,821	250,000	163,612	349,625	513,237	1,524,051
972-73	309,219,000	214,069	259,267	473,336	250,000	0	48,203	48,203	1,512,56
973-74	328,189,000	170,301	338,938	509,239	500,000	0	12,742	12,742	1,957,86
974-75	369,209,710	101,665	264,115	365,780	500,000	0	33,848	33,848	2,399,40
975-76	442,049,900	128,114	201,045	329,159	500,000	0	63,477	63,477	2,683,711
976-77	470,331,090	132,693	0	132,693	500,000	0	85,367	85,367	2,838,584
977-78	490,860,630	123,697	0	123,697	500,000	0	[1] 224,486	224,486	2,874,184
978-79	542,714,220	136,764	0	136,764	500,000	0	[2] 72,568	72,568	[3] 3,076,89

Appendix D

1 One Claim Open

2 Paid & Incurred 4/30/79

3 Balance of Fund 3/30/79

Proposed Legislation

AN ACT to Establish a Program of Funded Self-insurance for Public Schools.

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

Sec. 1. 5 MRSA §1725, 2nd ¶, 1st sentence, as enacted by PL 1971, c. 239, §2, is amended to read:

The board shall be composed of 5 members, residents of the State, who shall be appointed by the Governor, as follows: ~~2~~ 1 member~~s~~ familiar with risk management shall be selected from the public and ~~3~~ 2 members shall be selected from representatives of the insurance industry, 1 member shall be a superintendent of a school administrative unit and 1 member shall represent the Department of Educational and Cultural Services.

Sec. 2. 5 MRSA §1726, 2nd ¶, as amended by PL 1971, c. 622, §17, is further amended to read:

The members of the board, except the representative of the Department of Educational and Cultural Services, shall receive as compensation for their services ~~$30~~ $40 a day for the time actually spent in the discharge of their duties, and shall be reimbursed for necessary expenses incurred in the discharge of their duties at the same rates as would apply to employees of the State of Maine subject to appropriations made.

Sec. 3. 5 MRSA §1727, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1727. Personnel; selection; duties

The board shall employ a director who has a comprehensive knowledge of insurance practices and principles and who shall administer the duties imposed by this chapter, with the advice of the board. The director shall assist the board in the discharge of its duties and assist in the preparation of the invitations for bids as authorized by section 1728.

The board shall employ an assistant director for school insurance who has a comprehensive knowledge of school insurance practices and principles and who shall assist the director to administer the duties imposed by this chapter with respect to school insurance.

The board shall employ clerical assistants as necessary.

The board shall employ 2 assistants for terms up to 2 years who are qualified to determine the insurable value of school property and perform other duties essential to implement this chapter with respect to school insurance.

All employees shall be employees of the State and shall be subject to the Personnel Law.

Sec. 4. 5 MRSA §1727-A, is enacted to read:

§1727-A. Administrative expenses

Salaries and capital costs of the assistant director for school insurance, the 2 assistants employed under section 1727, and any clerical assistants employed with respect to school insurance shall be paid from the school fund established by section 1731, subsection 2.

Sec. 5. 5 MRSA §1728, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1728. Powers and duties of the board

The board shall provide insurance advice and services for the State Government and any department or agency thereof, and for all public schools, for all forms of insurance, except for those departments or agencies or public schools and those types of insurance otherwise provided for by law. In this regard the board shall have the following duties:

1. Annual reports. Review annually the entire subject of insurance as it applies to all state property and activities, and to all public schools, and report to the Governor and the Commissioner of Finance and Administration, and to the Commissioner of Educational and Cultural Services in the case of school insurance, a statement of its activities during the year ended the preceding June 30th. This report shall include:

A. An evaluation of the state and school insurance programs;

B. A complete statement of all types and costs of insurance in effect;

C. Names of agents and companies of record;

D. Valuation of school property, meaning buildings, vehicles and such other property in the custody of superintendents under Title 30, section 473, and limits of liability coverage; and

E. Such other matters as the board determines to be appropriate and necessary or as the Governor may request.

2. Recommendations. Recommend to the Governor such insurance protection as the board may deem to be necessary or desirable for the protection of the State and all public schools.

3. Purchase of Insurance. Pursuant to programs approved by the Governor, provide necessary insurance and bonding protection and services of all types, including insurance service contracts, by funded self-insurance programs or by the purchase of insurance from companies or agents licensed to do business in the State of Maine, or by a combination of both, in order to give the State and all public schools the best possible service, coverage and cost. The purchase of insurance under this section normally shall be made upon competitive bidding, except that the board may in appropriate circumstances purchase insurance

In the event of the purchase of insurance upon competitive bidding, the chairman of the board shall announce the low bid at a meeting advertised for the opening of bids, which, when approved by the Governor, shall constitute an award of a contract of insurance.

4. Schedules of state and school property. Determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection for such property and establish by appraisal the insurable value for such property.

For the purposes of this chapter, the State shall have an insurable interest in all public school property notwithstanding any other interest held by the State or any other governmental entities.

For the first year of the school fund, as established by section 1731, subsection 2, the value presently insured by a school administrative unit shall serve as the insurable value until appraised by the board and approved by the school administrative unit.

5. Loss prevention practices. Recommend sound safety engineering and loss prevention practices.

6. Appraisal. In case of an agreement as to the amount of loss sustained to any building or property insured under this chapter cannot be arrived at between the state agency or public school claimant and the board, such loss shall be referred to appraisal as provided for in Title 24-A, section 3002.

7. Rejection of state risk. In the event that the board, by unanimous vote, determines that a risk may be prejudicial to the state insurance program, it may refuse to include such risk in said program until such time as hazards of the risk have been

removed or ameliorated to a satisfactory degree.

When coverage is declined by the board, the department or agency in charge of the risk may request that the board procure separate insurance thereon from any authorized insurance company, and the premium therefor shall be a proper charge against the department or agency responsible for such property.

8. Rules and regulations. The board shall, in accordance with the spirit and intent of the law, make such rules and regulations as may be desirable or necessary for the performance of its duties, and for carrying out the purpose of this chapter.

Sec. 6. 6 MRSA §1731, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1731. Reserve funds for self-insured retention losses

1. State fund. A reserve fund, hereinafter in this chapter called "the state fund," is created to indemnify the State for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program, as recommended by the board and approved by the Governor. The fund shall be a continuing fund and shall not lapse.

2, School fund. A reserve fund, hereinafter in this chapter called "the school fund" is created to indemnify school administrative units for self-insured retention losses and related loss adjustment expenses from those perils insured against under a deductible or funded self-insured program, as recommended by the board and approved by the Governor. The fund shall be a continuing fund and shall not lapse.

Sec. 7. 5 MRSA §1731-A, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1731-A. Limitation and provision for stop-loss insurance

The board may recommend to the Governor such reinsurance of the deductible or self-insured amounts hereunder as the board may deem necessary or desirable; and pursuant to programs approved by the Governor, the board may purchase the reinsurance protection from companies or agents licensed to do business in the State of Maine.

Deductible or self-insured retention provisions under the state fund shall not exceed $500,000 per occurrence with respect to any risk of loss.

Deductible or funded self-insured provisions under the school fund shall not exceed $1,000,000 per occurrence with respect to any risk of loss.

Sec. 8. 5 MRSA §1731-B, is enacted to read:

§1731-B. Additional insurance purchased by school administrative units

In the event that a school administrative unit desires to purchase property insurance coverage in excess of the coverage provided,or to purchase insurance for their protection against other losses or claims expected and not provided, nothing in this chapter shall limit that right.

Sec. 9. 5 MRSA §1732, as enacted by PL 1971, c. 239, §2, is amended to read:

§1732. Administration

The state and school funds shall be administered by the

Commissioner of Finance and Administration. Subject to the approval of the board, the Commissioner of Finance and Administration shall deposit the funds with the Treasurer of State for investment. All proceeds of such investment shall accrue to the funds.

Sec. 10. 5 MRSA §1733, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1733. Capitalization of the funds

1. State fund. The state fund shall be capitalized by legislative appropriations, payments from state departments and agencies, and by such other means as the Legislature may approve.

Appropriations and payments to the state fund in respect to general fund departments and agencies shall not exceed an amount equal to the difference between the premium for insurance proposed to be purchased and the premium for mandatory deductible or full insurance coverage plus a pro-rata share of the cost of the stop-loss insurance. In any instance in which the State has a 100% self-insured retention, the premium shall be that for full insurance coverage adjusted for any mandatory deductible.

All other state departments and agencies, except those specifically excluded by statute, shall pay to the state fund premiums as determined by the board, not to exceed in each case an amount equal to the difference between the premium for insurance proposed to be purchased and the premium for mandatory deductible or full insurance coverage plus a pro-rata share of the cost of the stop-loss insurance. In any instance in which the State has a 100% self-insured retention, the premium shall be that for full insurance coverage adjusted for any mandatory deductible.

All premiums referred to in this section shall be computed on the basis of rates promulgated by a recognized rating authority.

2. School fund. The school fund shall be capitalized by payments from the school administrative units in an amount equal to 75% of the premium payments made by the unit in the preceding school year for the coverage to be provided by the school fund. The payment shall be made each year by September 1.

At the board's discretion, the funded self-insured amount shall be adjusted in accordance with the capitalization of the fund. Payment to the fund may be reduced or eliminated subject to the ability of the fund to assume anticipated insured claims.

Sec. 11. 5 MRSA §1733-A is enacted to read:

§1733-A. Working capital advance for school fund

The State Controller is authorized to advance the sum of $50,000 from Unappropriated Surplus to the school fund for the purpose of producing start up and operating funds for the school fund on January 1, 1981. This advance shall be repaid from the school fund on October 1, 1981.

Sec. 12. 5 MRSA §1734, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1734. Fund limitation

1. State fund. The state fund shall not exceed 2% of the then current value of all state-insured or self-insured retention property protected by the fund as determined by the board.

If the state fund reaches or exceeds the maximum amount specified in this subsection, payments to the fund, as specified in section 1733, subsection 1, shall cease and any excess shall be transferred into the General Fund not later than the end of the first quarter of the next fiscal year.

Payments to the state fund shall not begin again until such time as the amount in the fund drops below the maximum amount specified in this subsection.

2. School fund. School fund shall not exceed 2% of the then current value of all school insured or self-insured property protected by the fund as determined by the board.

If this fund reaches or exceeds the maximum amount specified in this subsection, payments to this fund, as specified in section 1733, subsection 2, shall cease.

Payments to this fund shall not begin again until such time as the amount in the fund drops below the maximum amount specified in this subsection.

Sec. 13. 5 MRSA §1735, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1735. Depletion of state and school funds

1. State fund. In the event that payments from the fund should reduce it below $1,000,000, the board shall recommend to the Legislature that funds be appropriated to restore the fund up to the maximum amount it had previously attained.

2. School fund. In the event that payments from this fund should reduce it below $1,000,000, the board shall require school administrative units to contribute the amount necessary prorated on the insured value of the school administrative unit school property.

Sec. 14. 5 MRSA §1736, as enacted by PL 1971, c. 239, §2, is repealed and replaced with the following:

§1736. Payment of losses

1. State fund. Pursuant to the recommendation of the board,

the Commissioner of Finance and Administration shall cause payments from the fund or proceeds of insurance purchased in accordance with this chapter, or both, to be made available for repair or replacement of insured state property and payment of loss adjustment expenses.

No payment shall be made from the state fund for any loss not exceeding $250 and the fund shall pay only that portion of any loss in excess of $250.

2. School fund. Pursuant to the recommendations of the board, the Commissioner of Finance and Administration shall cause payments from the school fund or proceeds of insurance purchased in accordance with this chapter, or both, to be made available for repair or replacement of insured school property and payment of loss adjustment expenses.

No payment shall be made from the school fund for any loss not exceeding $500 and the fund shall pay only that portion of any loss in excess of $500.

Sec. 15. Effective date. This chapter shall take effect on July 1, 1981, except that section 1733-A shall take effect on January 1, 1981.

STATEMENT OF FACT

The purpose of this bill is to establish a program of funded self-insurance for public schools.

Most school systems currently purchase insurance through local agents from conventional commercial carriers. Purchasing insurance in this manner is generally uneconomical and often results in underinsured school property. By contrast, a funded self-insurance program would be considerably less expensive and would also assure adequate, uniform coverage for public schools.

The bill contemplates a school insurance program in which all school systems would participate, thereby maximizing savings. The program would cover all the usual property and liability risks. Initially, each school system would be assessed an amount equal to 75% of its current total annual premium. Some of these start-up monies would be set aside to capitalize a special "reserve" fund. The "reserve" fund would be used to self-insure a large deductible. The balance of these monies would then be used to purchase "excess" coverage in the open market. Thereafter, every school system would be assessed periodically to maintain an adequate "reserve" fund and to buy "excess" coverage.

Substantial savings would result under this program for several reasons: (1) there would be optimal dispersion of risk; (2) the large deductible made practicable under the program would greatly lessen the cost of "excess" coverage; (3) the enormous amount of "excess" business would stimulate highly competitive bidding among commercial carriers; (4) centralized risk management and loss control would qualify for premium discounts; and (5) investment earnings on the "reserve" fund would accrue to the fund itself rather than to stockholders.

The bill gives the responsibility for operating the school insurance program to the Maine Insurance Advisory Board, which manages a very similar and highly successful program of funded self-insurance for state property. The salaries and other expenses of the 4 persons required to administer the school insurance program would be paid from the "reserve" fund.