

# SENATE BILL No. 896

November 10, 2005, Introduced by Senator JOHNSON and referred to the Committee on Education.

A bill to provide for catastrophic stop loss benefit plans; to provide for a catastrophic stop loss fund; to create a board of directors of the catastrophic stop loss benefit plan and catastrophic stop loss fund; to prescribe the conditions upon which school employers may provide certain benefits; to require the compilation and release of certain information and data; and to provide certain powers and duties to certain state officials, departments, agencies, and authorities.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2       "school employees health benefit act".

3       Sec. 3. As used in this act:

4       (a) "Board" means the board of directors created under section

1 5.

2 (b) "Carrier" means a health insurance company authorized to  
3 do business in this state under, and a health maintenance  
4 organization operating under, the insurance code of 1956, 1956 PA  
5 218, MCL 500.100 to 500.8302; and a nonprofit health care  
6 corporation operating under the nonprofit health care corporation  
7 reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

8 (c) "Commissioner" means the commissioner of the office of  
9 financial and insurance services.

10 (d) "Consumer price index" means the percentage of change in  
11 the consumer price index for all urban consumers in the United  
12 States city average for all items for the calendar year ending  
13 prior to the June 1 effective date of the adjustment under section  
14 7 as reported by the United States department of labor, bureau of  
15 labor statistics, and as certified by the commissioner.

16 (e) "Public university" means a public university described in  
17 section 4, 5, or 6 of article VIII of the state constitution of  
18 1963.

19 (f) "School employee" means an employee of a school employer.

20 (g) "School employer" means a school district, a public school  
21 academy, or an intermediate school district, as those terms are  
22 defined in the revised school code, 1976 PA 451, MCL 380.1 to  
23 380.1852, and a community college or junior college described in  
24 section 7 of article VIII of the state constitution of 1963.

25 (h) "School medical benefit plan" means a plan established and  
26 maintained by 1 or more school employers that provides for the  
27 payment of medical benefits, including, but not limited to,

1 hospital and physician services, prescription drugs, and related  
2 benefits, to school employees.

3 Sec. 5. (1) There is created a board of directors to  
4 administer the catastrophic stop loss benefit plan and catastrophic  
5 stop loss fund. The board shall consist of 9 directors as follows:

6 (a) The following 8 directors appointed by the governor with  
7 the advice and consent of the senate:

8 (i) Until July 1, 2007, 2 directors with some background in  
9 insurance issues representing school employers, and, effective July  
10 1, 2007, 2 directors with some background in insurance issues  
11 representing school employers participating in a catastrophic stop  
12 loss benefit plan and catastrophic stop loss fund.

13 (ii) Until July 1, 2007, 2 directors with some background in  
14 insurance issues representing collective bargaining organizations  
15 that represent school employees, at least 1 of whom is recommended  
16 by the Michigan state AFL-CIO, and, effective July 1, 2007, 2  
17 directors representing collective bargaining organizations that  
18 represent school employees of school employers as defined under  
19 subdivision (a), at least 1 of whom is recommended by the Michigan  
20 state AFL-CIO.

21 (iii) One director representing the general public.

22 (iv) One director representing the house of representatives  
23 with some background in insurance issues as recommended by the  
24 speaker of the house of representatives.

25 (v) One director with some background in insurance issues  
26 representing the senate as recommended by the senate majority  
27 leader.

1           (vi) One director who is an actuary in good standing with the  
2 American academy of actuaries or the society of actuaries, who  
3 shall serve ex officio and without vote.

4           (b) The commissioner or his or her designee, who shall serve  
5 ex officio and without vote.

6           (2) The directors first appointed to the board shall be  
7 appointed within 60 days after the effective date of this act.

8           (3) The board shall adopt rules providing for the composition  
9 and term of successor boards to the initial board, consistent with  
10 subsection (1). Terms of the board directors shall be staggered so  
11 that the terms of all directors do not expire at the same time. The  
12 appointment of a successor director or to fill a vacancy shall be  
13 made in the same manner as the original appointment.

14           (4) Except as otherwise provided, each board director shall  
15 have 1 vote on any matter coming before the board.

16           (5) The first meeting of the board shall be called by the  
17 commissioner. At the first meeting, the board shall elect from  
18 among the directors a chairperson and other officers as it  
19 considers necessary or appropriate. After the first meeting, the  
20 board shall meet at least quarterly, or more frequently at the call  
21 of the chairperson or if requested by 3 or more directors.

22           (6) A majority of the directors of the board constitute a  
23 quorum for the transaction of business at a meeting of the board. A  
24 majority of the directors present and serving are required for  
25 official action of the board.

26           (7) Directors of the board shall serve without compensation.  
27 However, board directors may be reimbursed for their actual and

1 necessary expenses incurred in the performance of their official  
2 duties as board directors.

3 (8) The board is not a state board or agency and the  
4 catastrophic stop loss fund administered by the board is not a  
5 state fund.

6 Sec. 7. (1) Beginning July 1, 2006, the board shall implement  
7 and administer a catastrophic stop loss fund that provides 1 or  
8 more catastrophic stop loss benefit plans. The catastrophic stop  
9 loss fund shall reimburse a participating school medical benefit  
10 plan for a claim that exceeds the dollar threshold of the  
11 catastrophic stop loss benefit plan chosen by the participating  
12 school medical benefit plan. The board shall adopt a plan of  
13 operation for the catastrophic stop loss fund and each catastrophic  
14 stop loss benefit plan that shall provide for the management and  
15 nonprofit operation of the catastrophic stop loss fund and each  
16 catastrophic stop loss benefit plan consistent with this act.

17 (2) The board shall establish 1 or more catastrophic stop loss  
18 benefit plans. In establishing the catastrophic stop loss fund and  
19 each catastrophic stop loss benefit plan, the board shall do all of  
20 the following:

21 (a) Provide for reimbursement to a participating school  
22 medical benefit plan for the portion of a covered medical benefit  
23 claim that exceeds a dollar threshold established by the board in  
24 the catastrophic stop loss benefit plan selected by the school  
25 medical benefit plan. The minimum dollar threshold to be provided  
26 under a catastrophic stop loss benefit plan shall not be less than  
27 \$50,000.00 per individual claim. The board may provide for

1 additional catastrophic stop loss benefit plans that provide dollar  
2 threshold levels above \$50,000.00 per individual claim. A dollar  
3 threshold level established under this subdivision in a  
4 catastrophic stop loss benefit plan shall be adjusted to reflect  
5 changes in the consumer price index by June 1 of each year.

6 (b) Provide that each catastrophic stop loss benefit plan is  
7 subject to the following:

8 (i) Does not require any changes in the participating school  
9 medical benefit plan for payment from the catastrophic stop loss  
10 fund.

11 (ii) Provides for continuity of health care treatment and  
12 providers for individuals covered under the participating school  
13 medical benefit plan.

14 (c) Maintain a relevant and accurate loss and expense data  
15 relative to all liabilities of each catastrophic stop loss benefit  
16 plan.

17 (d) Require each school medical benefit plan to furnish claims  
18 data at the times and in the form and detail as may be required by  
19 the catastrophic stop loss benefit plan selected by that school  
20 medical benefit plan.

21 (e) Determine a premium for each catastrophic stop loss  
22 benefit plan that is sufficient to cover expected losses and  
23 expenses that the catastrophic stop loss fund will likely incur  
24 during the period for which the premium is applicable. The premium  
25 shall include an amount to cover incurred but not reported losses  
26 for the period and may be adjusted for any excess or deficient  
27 premiums from previous periods. Excesses or deficiencies from

1 previous periods may be fully adjusted in a single period or may be  
2 adjusted over several periods.

3 (f) Receive and distribute all sums required by the operation  
4 of the catastrophic stop loss benefit plan.

5 (g) Adopt an investment policy for investing and reinvesting  
6 the assets of the catastrophic stop loss fund.

7 (h) Provide a comprehensive program of case management  
8 services that shall be offered to a participating school medical  
9 benefit plan for a covered individual whose claim is covered under,  
10 or is likely to become covered under, the catastrophic stop loss  
11 fund.

12 (i) Provide 1 or more incentives to participating school  
13 medical benefit plans, through a premium rate structure or other  
14 means, to provide health promotion and chronic care management  
15 programs to covered individuals of a participating school medical  
16 benefit plan for the purpose of improving or maintaining the health  
17 of covered individuals and reducing unnecessary or excessive  
18 medical expenses. Health promotion and chronic care management  
19 programs shall meet, if applicable, nationally recognized  
20 accreditation standards. If nationally recognized accreditation  
21 standards are not applicable, health promotion and chronic care  
22 management programs shall meet standards established by the board  
23 which shall include, at a minimum, complete health risk  
24 assessments.

25 (3) All school medical benefit plans in this state shall be  
26 offered the opportunity to participate in a catastrophic stop loss  
27 benefit plan. A public university shall be offered the opportunity

1 to participate in a catastrophic stop loss benefit plan.

2 (4) The catastrophic stop loss fund shall do all of the  
3 following:

4 (a) Assume 100% of all liability for any covered claim  
5 exceeding the dollar threshold under the applicable catastrophic  
6 stop loss benefit plan.

7 (b) Maintain relevant and accurate loss and expense data  
8 relative to all liabilities of the catastrophic stop loss fund.

9 (c) Maintain reserves as are required by the commissioner as  
10 being necessary in the exercise of sound and prudent actuarial  
11 judgment for the preservation, maintenance, and operation of the  
12 catastrophic stop loss fund.

13 Sec. 9. The board may do any of the following:

14 (a) Sue and be sued in the name of the catastrophic stop loss  
15 benefit plan or catastrophic stop loss fund. A judgment against the  
16 board shall not create any direct liability against the  
17 participating school medical benefit plans or school employers.

18 (b) Reinsure all or any portion of its potential liability  
19 with reinsurers licensed to transact insurance in this state or  
20 approved by the commissioner.

21 (c) Provide for appropriate housing, equipment, and personnel  
22 as may be necessary to assure the efficient operation of the  
23 catastrophic stop loss benefit plan and catastrophic stop loss  
24 fund.

25 (d) Adopt reasonable rules for the administration of the  
26 catastrophic stop loss benefit plan and catastrophic stop loss  
27 fund, enforce those rules, and delegate authority, as the board



1 considers necessary to assure proper administration and operation.

2 (e) Contract for goods and services, including independent  
3 claims management and actuarial, investment, and legal services to  
4 assure the efficient operation of the catastrophic stop loss  
5 benefit plan and catastrophic stop loss fund.

6 (f) Hear and determine complaints of a school employer, school  
7 medical benefit plan, or school employee or covered dependent  
8 concerning the operation of the catastrophic stop loss benefit plan  
9 or catastrophic stop loss fund.

10 (g) Perform other acts that are necessary or proper to  
11 accomplish the purposes of the catastrophic stop loss benefit plan  
12 and catastrophic stop loss fund.

13 Sec. 11. (1) Subject to collective bargaining requirements  
14 under 1947 PA 336, MCL 15.201 to 15.217, a school employer may  
15 provide medical, optical, and dental benefits to school employees  
16 and their dependents by any of the following methods:

17 (a) By establishing and maintaining a plan on a self-insured  
18 basis as provided in this act. A plan under this subdivision does  
19 not constitute doing the business of insurance in this state and is  
20 not subject to the insurance laws of this state.

21 (b) By joining with other school employers and establishing  
22 and maintaining a plan on a self-insured basis as provided in this  
23 act. A plan under this subdivision does not constitute doing the  
24 business of insurance in this state and is not subject to the  
25 insurance laws of this state.

26 (c) By entering into an agreement under which contributions  
27 are made to a trust fund for the purpose of providing medical,

1 dental, or optical benefits to school employees and their  
2 dependents under a plan agreed to by the school employer. A trust  
3 fund under this subdivision may receive contributions from 1 or  
4 more school employers and may provide medical, dental, and optical  
5 benefits to school employees of 1 or more school employers. A plan  
6 under this subdivision does not constitute doing the business of  
7 insurance in this state and is not subject to the insurance laws of  
8 this state.

9 (d) By procuring coverage from 1 or more carriers, either on  
10 an individual basis or with 1 or more other school employers.

11 (e) By forming a multiple employer welfare arrangement under  
12 chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001  
13 to 500.7090.

14 (2) This act does not prohibit a school employer from  
15 participating, for the payment of medical benefits and claims, in a  
16 purchasing pool or coalition to procure insurance or coverage,  
17 health care plan services, or administrative services.

18 (3) A school medical benefit plan participating in a  
19 catastrophic stop loss benefit plan that elects not to participate  
20 in a program of case management under section 7(2)(h) shall provide  
21 to covered individuals case management services that meet the case  
22 management accreditation standards established by the national  
23 committee on quality assurance, the joint commission on health care  
24 organizations, or the utilization review accreditation commission.

25 Sec. 13. (1) In addition to other requirements as provided in  
26 this act, a self-insured school medical benefit plan shall do all  
27 of the following:

1 (a) Maintain such reserves as are necessary, in the exercise  
2 of sound and prudent actuarial judgment, to cover the projected  
3 cost of medical benefits for covered school employees and  
4 dependents. A report of amounts so reserved and disbursements made  
5 from such funds, together with a written report of a member of the  
6 American academy of actuaries or the society of actuaries  
7 certifying whether the amounts reserved conform to the requirements  
8 of this subsection, are computed in accordance with accepted loss  
9 reserving standards, and are fairly stated in accordance with sound  
10 loss reserving principles, shall be prepared and filed with the  
11 commissioner, within 90 days after the last day of the fiscal year  
12 of the school employer. This report shall be made available for  
13 inspection by any person at all reasonable times during regular  
14 business hours, and, upon request, copies of the report shall be  
15 provided at cost within a reasonable period of time of the request.

16 (b) Provide for administration of the plan using personnel of  
17 the school employer or employers, personnel of an organization  
18 representing employees of the school employer, or by awarding a  
19 contract, without the necessity of competitive bidding, to any  
20 person, political subdivision, or corporation. No such contract  
21 shall be entered into without full, prior, and public disclosure of  
22 all terms and conditions. The disclosure shall include, at a  
23 minimum, a statement listing all representations made in connection  
24 with any possible savings and losses resulting from the contract,  
25 and potential liability of the school employer or school employee.

26 (c) Enter into a contract with a member of the American  
27 academy of actuaries or the society of actuaries for the

1 preparation of the written actuarial evaluation of a plan as  
2 required under subdivision (a). The actuarial evaluation shall be  
3 based on all of the following information:

4 (i) Access fees to a facility and provider discount network or  
5 other contracted provider network.

6 (ii) Paid claims for the immediately preceding 3 years,  
7 including pharmacy.

8 (iii) Estimated incurred claims for the immediately preceding 3  
9 years.

10 (iv) Plan administrative costs.

11 (v) Chronic case management fees.

12 (vi) Disease case management fees.

13 (vii) Preventive and wellness plan fees.

14 (d) Enter into agreements with providers of services to the  
15 school medical benefit plan, subject to the requirements of this  
16 act and as established by the commissioner.

17 (2) A school employer may, to the extent permitted under the  
18 written agreement, assume the risks of any other school employers.

19 Sec. 15. (1) Beginning on the effective date of this act, a  
20 school employer shall not enter into or renew a school medical  
21 benefit plan or an administrative services agreement for a school  
22 medical benefit plan unless the school employer will be furnished  
23 with complete and accurate claims utilization and cost information  
24 as provided in subsection (2)(a) to (j) with respect to the school  
25 employer's claims and benefits under the school medical benefit  
26 plan.

27 (2) Beginning on the effective date of this act, all school

1 medical benefit plans in this state shall compile and make  
2 available upon request to the school employer complete and accurate  
3 claims utilization and cost information for the school medical  
4 benefit plan in the aggregate and for each school employer as  
5 follows:

6 (a) The number of persons covered under the school medical  
7 benefit plan.

8 (b) If applicable, the number of persons covered under a  
9 policy, certificate, or contract issued by a carrier.

10 (c) The number of claims paid.

11 (d) The dollar amount of claims paid and the dollar amount of  
12 claims incurred but not reported.

13 (e) The claims experience, by coverage component and by  
14 provider.

15 (f) The dollar amount of premiums or fees paid, if any.

16 (g) The dollar amount of administrative expenses or retentions  
17 incurred or paid.

18 (h) The dollar amount of provider, network, case management,  
19 precertification, or other service fees paid, as applicable.

20 (i) The dollar amount of any fees or commissions paid to  
21 agents or brokers by the school medical benefit plan or by any  
22 school employer or carrier participating in or providing services  
23 to the school medical benefit plan.

24 (j) Other information as may be required by the commissioner.

25 (3) The claims utilization and cost information required to be  
26 compiled under this section shall be compiled on an annual basis  
27 and shall cover a relevant period. For purposes of this subsection,

1 the term "relevant period" means the 24-month period ending no more  
2 than 120 days prior to the effective date or renewal date of the  
3 school medical benefit plan under consideration. However, if the  
4 school medical benefit plan has been in effect for a period of less  
5 than 24 months, the relevant period shall be that shorter period.

6 (4) A school employer or combination of school employers shall  
7 make public the claims utilization and cost information required  
8 under this section no later than 60 days before the effective date  
9 or renewal date of the school medical benefit plan or the  
10 administrative services agreement under consideration. The school  
11 employer shall make the claims utilization and cost information  
12 required under this section available for inspection by any person  
13 at all reasonable times during regular business hours, and, upon  
14 the request of such person, copies of documents containing the  
15 information shall be provided at cost within a reasonable period of  
16 time.

17 (5) The claims utilization and cost information required under  
18 this section shall not include any protected health information as  
19 defined in the health insurance portability and accountability act  
20 of 1996, Public Law 104-191, or regulations promulgated under that  
21 act, 45 CFR parts 160 and 164.

22 Sec. 17. To encourage and facilitate informed decisions  
23 concerning school medical benefit plan design, the administration  
24 of school medical benefit plans, the selection of medical service  
25 providers, and the planning of medical care, the commissioner shall  
26 do all of the following:

27 (a) Gather data that evaluate and compare the cost,

1 efficiency, and performance of administrative services provided to  
2 school medical benefit plans, including claims payment timeliness  
3 and accuracy, and make available easily accessible comparative  
4 ratings and descriptions of those plan administrators on a regular  
5 basis.

6 (b) Working with other state departments and agencies, ensure  
7 access on a regular basis for school employers, school medical  
8 benefit plans, and covered school employees to all of the following  
9 information:

10 (i) Information concerning cost and performance of Michigan  
11 hospitals, medical clinics, and other health care facilities,  
12 including, but not limited to, licensure, accreditation, and  
13 performance measures for those facilities as recommended by  
14 national organizations such as the national quality forum.

15 (ii) Information concerning cost and performance of Michigan  
16 physicians and other health care providers, including, but not  
17 limited to, medical training, years in practice, board  
18 certification, verified licensure information, patient experience,  
19 and the results of at least 2 clinical performance measures of  
20 physicians and other health care providers recommended by national  
21 organizations such as the national quality forum.

22 Enacting section 1. This act does not take effect unless  
23 Senate Bill No. 897 of  
24 the 93rd Legislature is enacted into law.