

May 10, 2006

H 1895. ESTABLISH HIGH-RISK POOL. Filed 5/10/06. *TO ESTABLISH THE NORTH CAROLINA HEALTH INSURANCE RISK POOL AND TO APPROPRIATE FUNDS THEREFOR.* Enacts new Part 7 of Article 50 of GS Chapter 58, establishing the NC Health Insurance Risk Pool, a nonprofit entity subject to oversight of the Board of Directors of the Pool, to consist of the Commissioner of Insurance and seven members appointed as specified in act.

Operation of the Pool. Specifies the content of the Board's Plan of Operation for the Pool and generally authorizes the Pool to perform all functions necessary to establish and administer Pool. Requires that Board submit Plan for approval of the Commissioner, who is authorized to adopt temporary rules if the Board does not submit a timely plan or amendments. Also requires that Board submit an annual report to the Commissioner, the Speaker, and the President Pro Tem. regarding earned premiums, plan enrollment, administrative expenses, and losses. Directs Board to use competitive bidding process, applying criteria set forth in the act and otherwise established by the Board to select one or more insurers or a third-party administrator to administer the Pool.

Pool Rates. Requires the Pool to determine the standard risk rate by considering premium risk rates charged by other insurers offering health insurance coverage to individuals and using reasonable actuarial techniques. Requires that Pool rates be 150% of rates established as applicable for individual standard rates and that rates and rate schedules be approved by the Commissioner of Insurance before Pool may use them. Limits provider reimbursement rates under Pool coverage to rates allowed for providers under the Medicare Program.

Eligibility for Pool coverage. Provides that individuals who are US citizens and NC residents are eligible for Pool coverage if evidence is provided of: (1) a notice of rejection from two insurers to provide substantially similar health insurance because of the individual's health; (2) two offers to issue insurance only with conditional riders; (3) a refusal to issue insurance except at a rate exceeding the Pool rate; (4) the individual's diagnosis of one of the medical or health conditions listed by the Board in accordance with the section; (5) the individual's maintenance of health insurance coverage under federal criteria without a significant break in coverage and the exhaustion of COBRA or state continuation benefits; or (6) the individual's legal domicile in NC and eligibility for health insurance costs under the Trade Adjustment Assistance Reform Act of 2002. Further states that individuals are ineligible for Pool coverage if: (1) they have, obtain, or would be eligible to obtain health insurance coverage substantially similar to that offered by Pool (with the exception of coverage during preexisting condition waiting period); (2) they are eligible for Medicaid; (3) they have terminated Pool coverage within the past 12 months (with limited specified exceptions); (4) they are an inmate or a resident of a public institution; (5) they have their premiums paid by a government-sponsored program or government agency or health care provider (with specified narrow exceptions); or (5) the individual has health insurance coverage from an insurer or insurance arrangement on the date Pool coverage takes effect. Specifies circumstances under which an individual's Pool coverage ceases. Defines as an unfair trade practice certain referrals or other conduct aimed at separating an individual covered by health insurance offered in the individual market.

Provides that Pool will offer at least two types of coverage, both of which must provide benefits outlined in the National Association of Insurance Commissioners' Model Health Plan for Uninsurable Individuals Act and that are consistent with comprehensive health insurance coverage generally available. Provides that lifetime limit may not be less than \$1 million and for sliding scale limits on annual out-of-pocket expenses. Provides that during the first 12 months of coverage, the Pool will not cover health conditions existing within 12 months prior to coverage (except for federally defined eligible individuals). Allows for waiver of exclusion where similar exclusions have been satisfied under another health insurance plan, and coverage lapsed for no more than 63 days and the applicant was ineligible for substantially similar continuation insurance. Pool is exempt from taxation. Provides that the Pool is the payor of last resort when other payment is available.

Pool Financing/Complaint Procedures/Misc. Requires that the Board assess member insurers in the amount deemed necessary to fulfill Board's duties. Provides that each insurer's assessment will not exceed \$2 per covered individual insured or reinsured by the insurer per month. Appropriates \$200,000 from the General Fund to Department of Insurance for 2006-07 to

be placed in a Special Reserve for the Board's expenses. Prohibits Pool's offering or providing coverage until the General Assembly establishes or approves a method or methods for financing the Pool. Establishes a procedure for submission of complaints against the Board. Requires that State Auditor conduct an annual special audit of the Pool.

Provisions relating to appropriations are effective July 1, 2006; otherwise effective when act becomes law.

Intro. by Inkso, England, Nye, Wright.

GS 58, APPROP

June 12, 2006

H 1895. ESTABLISH HIGH-RISK POOL. Filed 5/10/06. House committee substitute makes the following changes to 1st edition.

(1) Modifies GS 58-50-245 definitions of "creditable coverage," "federally defined eligible individual," "governmental plan," and "health insurance coverage." (2) Deletes the representative of the general public appointed by the Governor from the Board of Directors (Board) of the NC Health Insurance Risk Pool. Revises GS 58-50-250(d)(4) to also require that the Board establish procedures for disbursing assets of the Pool and GS 58-50-250(f) to require that the Board operate the Pool so that the cost of providing health insurance is not anticipated to (was, will not) exceed the Pool's total income. Also authorizes the Board to impose an enrollment cap or suspend enrollment if estimated costs are anticipated to exceed income. Deletes reference to adjustment of financing mechanisms approved by the General Assembly. (3) Modifies GS 58-50-250(h) to release the Pool or its agents or employees (was, current or former members or employees of the Board) from liability for actions taken in good faith in the performance of their powers and duties under act (was, liability only for willful or wanton misconduct). (4) Revises GS 58-50-260(e) to also require that the Pool submit all rate schedule amendments to the Commissioner of Insurance for approval. Requires that the pool provide individuals enrolled in the Pool with at least 45 days notice of any change to the Pool rates or rate schedules.

(5) Deletes requirement in GS 58-50-265 that individual be a citizen of the United States in order to be eligible for Pool coverage and reduces from two to one the number of coverage rejections by a health insurer that are required in order to become eligible. Also provides that an individual is eligible for Pool coverage if considered eligible under federal law (was, if individual is eligible for coverage under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)) and meets other specified coverage criteria. (6) Modifies GS 58-50-280(a) to clarify that pre-existing condition exclusion is applicable except as otherwise provided by law. (7) Revises GS 58-50-295 to also require that external review of eligibility determinations be conducted in accordance with Part 4 of Article 50 of GS Chapter 58 (health benefit plan external review). (8) Deletes GS 58-50-300 requirement that the State Auditor's report include a financial audit and an economic and efficiency audit and requires that the cost of the audit be reimbursed to the State Auditor from the Special Reserve for the NC Health Insurance Risk Pool (was, required that Board reimburse General Fund for cost of audit). (9) Deletes provision in GS 58-50-315 that provided that an insurer's participation in the Pool may not be the basis of any legal action or criminal or civil liability or penalty against the Pool or any insurer. (10) Adds provision to require that by January 1, 2007, the Department of Insurance (DOI) notify the Centers for Medicare and Medicaid Services that State has established Pool and to require that Pool be approved as and acceptable "alternative mechanism" under HIPAA. (11) Also requires that the Board monitor whether assessments provide the amount necessary for coverage and the cost of Board operations and the status of the Pool's request to be classified as an "alternative mechanism" under HIPAA.

(12) Appropriates \$78,919 for 2006-07 for one additional full-time position in DOI to administer Pool and expresses the General Assembly's intent that position's funding will be included in the DOI continuation budget. (13) Appropriates \$1 million (was, \$200,000) for 2006-07 from the General Fund to DOI, funds to be allocated to the Special Reserve for the NC Health Insurance Risk Pool for reasonable expenses incurred by the Board on or before July 1, 2008 (was, no time limit), in conducting its responsibilities under the act. (14) Provides that all individuals enrolling in the Pool within the first six months of operation will be subject to a six-

month preexisting condition waiting period. Requires that Pool operations commence no later than January 1, 2008 (was, no earlier than January 1, 2007).

July 10, 2006

H 1895. ESTABLISH HIGH-RISK POOL. Filed 5/10/06. House committee substitute makes the following major changes to 2nd edition. Provides that High-Risk Pool (Pool) is to be established within the Teachers' and State Employees' Comprehensive Major Medical Plan (Plan) (prior version, Pool was a nonprofit entity operating under the Pool's Board of Directors, or Board). Amends various parts of new GS 58-50-250 to assign many of the tasks that were given by former version of bill to Commissioner of Insurance, to Executive Director of Plan. Amends GS 58-50-310 to give rules adoption authority to Executive Director and to amend adoption authority of Commissioner.

Amends new GS 58-50-250(d) to provide that the Plan of Operation for the Pool is to be adopted by the majority of the Pool's Board (prior version, Commissioner of Insurance). Amends GS 58-50-255 to specify that Plan Administrator's contract is with Executive Director rather than with Pool or Pool's Board. Deletes Commissioner as a recipient of Administrator's annual financial report under GS 58-50-255(e). Provides in GS 58-50-250(h) for indemnification in performance of duties for Executive Director and Director's representatives, as well as Board and Commissioner and their representatives (prior version). Authorizes Plan as well as Board (prior version) to provide in their bylaws or rules for indemnification of, or legal representation for, members and employees.

Deletes provision in GS 58-50-255(a) that apparently authorized Board members to submit a bid as Pool Administrator under certain conditions. Keeps provision in GS 58-50-250(i) requiring Board members to comply with the provisions of GS 14-234 prohibiting conflicts of interest.

Amends GS 58-50-290(b) to establish a system of special assessments (in addition to regular assessments already called for) when Pool enrollment has been capped or suspended. Amends GS 58-50-250(f) to specify that enrollment caps and suspensions of enrollment do not apply to federal defined eligible individuals who are eligible to enroll in the Pool pursuant to GS 58-50-265(5). Places specified limitations on regular assessments.

Makes clarifying and conforming changes, including changes in definitions section (GS 58-50-245).

Changes appropriation provisions as follows. Establishes in the Plan the Reserve for the Pool. Transfers \$1 million from the Public Employee Health Benefit Fund (Fund) to the Reserve for fiscal 2006-07. These funds may be used to support one additional full-time position to carry out the Executive Director's responsibilities under the Pool, and are to be allocated for the Board's reasonable expenses in conducting its duties that are incurred by July 1, 2008. Reserve is subject to the Executive Budget Act except for GS Chapter 143C, Article 3C. Makes transfer contingent on successful application for award of federal grant funds to implement the Pool (this provision was moved from elsewhere in bill). Federal funds are to be deposited in Pool, and Board is to reimburse the Fund from the Pool's Reserve for the funds. If the State is not awarded expected federal funds, the General Assembly intends to hold Fund harmless.

Appropriation provision becomes effective July 1, 2006. Remainder is effective when it becomes law. Repeals regular assessments provision effective January 1, 2003. Enrollment in Pool is to commence no later than January 1, 2008.

July 13, 2006

H 1895. ESTABLISH HIGH-RISK POOL. Filed 5/10/06. House committee substitute makes the following changes to 3rd edition. Revises proposed Part 7 of Article 50 of GS Chapter 58 as follows. (1) Deletes the NC Teachers' and State Employees' Comprehensive Major Medical Plan (the SHP) from the definition of insurer in proposed GS 58-50-245(17). (2) Modifies GS 58-50-250(b) to increase the membership of the Board of the NC Health Insurance Risk Pool (Board) from nine to eleven members, to also include a member who represents an insurer, to be appointed by the Governor, and a member who represents small business as recommended by the National Federation of Independent Business, to be appointed by the Commissioner of Insurance (Commissioner). Requires that the Commissioner (was, the Executive Administrator of

the SHP) appoint a total of eight Board members. Also requires that one of the insurers appointed to the Board by the Commissioner must sell individual health insurance policies. Makes conforming changes to provision establishing Board member terms. (3) Revises GS 58-50-250(d) to require that the Executive Administrator of the SHP (Executive Director) submit a Plan of Operation within 180 days after the appointment of the Board (was, Board required to submit Plan, and if Plan not submitted within 180 days, Executive Director must adopt temporary rules). (4) Requires that the Executive Director consult with the Board when entering into contracts with similar plans or other persons for the performance of common administrative functions.

(5) Enacts new GS 58-50-250(e)(16) to also give the Pool the authority to assess all insurers and the SHP in accordance with GS 58-50-290. Further revises GS 58-50-250(f) and (g) to direct the Executive Director (was, the Board) to fulfill the administrative responsibilities listed. Also modifies subsection GS 58-50-250(h) to provide that the employees of the Pool (was, of the Board) are not liable for Pool obligations and to authorize the Pool (was, the Board) and the SHP to provide for indemnification of members and employees). (6) Revises GS 58-50-255 to require that the Executive Director, in collaboration with the Board (was, the Board) select the Pool Administrator. Provides that the Pool (was, the Executive Director) contract with the Administrator. Requires that the Administrator submit regular reports and report financial information to the Executive Director and the Board (was, the Board). (7) Deletes proposed GS 58-50-260(c) (requiring that the Pool provide premium discounts for nonsmokers or individuals in a smoking cessation program) and replaces it with a provision giving the Executive Director (with Board approval) the authority to develop incentive programs with premium discounts. (8) Requires that the Board obtain the approval of the Executive Director before adopting a list of medical or health conditions which make a person eligible for Pool coverage without the need to apply for that insurance. (9) Revises GS 58-50-275(b) to require that the Pool offer health insurance products that include an annual limit of up to \$5,000 on out-of-pocket expenses (was, a sliding scale annual limit of \$2,000–\$5,000). Makes conforming change.

(10) Modifies proposed GS 58-50-290 to provide that assessments apply to the SHP as well as to insurers and to establish a maximum per family policy assessment against the SHP and other insurers of \$8.00 per family policy for each family insured. Also revises GS 58-50-290(c) and (d) to direct the Pool (was, the Board) to administer assessments. Makes conforming changes. (11) Modifies GS 58-50-295 to require that the grievance committee charged with hearing applicant and participant complaints be appointed by the Executive Director (was, the Board) and to also require that the Executive Director (was, the Board) retain written complaints). (12) Requires that the Executive Director consult with the Board regarding the adopting of rules to implement Part. (13) Requires that the Executive Director (was, the Department of Insurance) notify the Centers for Medicare and Medicaid Services of the establishment of the Pool. (14) Revises GS 58-50-250(g) to also require that the Executive Director make an annual report to the Joint Legislative Health Care Oversight Committee and the Committee on Employee Hospital and Medical Benefits. Enacts new GS 135-38(e) to require that the Executive Administrator also routinely report to the Committee on Employee Hospital and Medical Benefits regarding the Pool. Amends GS 120-70.111(a) to direct the Joint Legislative Health Care Oversight Committee to review the implementation of the Pool on a continuing basis. (15) Authorizes the use of funds appropriated in act for reasonable expenses for personnel (was, to support one additional full-time position) to carry out Executive Director's responsibilities under Pool.

July 13, 2006

H 1895. ESTABLISH HIGH-RISK POOL. Filed 5/10/06. House amendment makes the following changes to 4th edition. Modifies proposed GS 58-50-260(c) to authorize the NC High Risk Pool to impose premium surcharges for covered individuals who are smokers. Requires that the surcharge rate be established by the Executive Director, in collaboration with the Board of Directors of the Pool, and that the surcharge be subject to the approval of the Commissioner of Insurance.