

February 13, 2007

**S 163. ESTABLISH HIGH RISK POOL.** Filed 2/13/07. *AN ACT TO ESTABLISH THE NORTH CAROLINA HEALTH INSURANCE RISK POOL.* Enacts new Part 7 of Article 50 of GS Chapter 58, establishing the NC Health Insurance Risk Pool within the Teachers' and State Employees' Comprehensive Major Medical Plan, subject to oversight of the Board of Directors of the Pool, to consist of the Commissioner of Insurance and eleven members appointed as specified in act. ¶

*Operation of the Pool.* The Executive Director must submit a Plan of Operation within 180 days after the appointment of the Board. Specifies the content of the Plan of Operation for the Pool and generally authorizes the Pool to perform all functions necessary to establish and administer the Pool. Requires that the Plan be adopted by a majority of the Pool's Board. Requires that the Board operate the Pool so that the cost of providing health insurance is not anticipated to 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. Requires that the Executive Director submit an annual report to the Speaker, the President Pro Tem., the Joint Legislative Health Care Oversight Committee, and the Committee on Employee Hospital and Medical Benefits regarding earned premiums, plan enrollment, administrative expenses, and losses. Provides for indemnification in performance of duties for the Pool, Executive Director and Director's representatives, as well as the Board and the Commissioner and their representatives. Directs the Board to use a 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 the Pool may use them. 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. Authorizes the Pool to impose premium surcharges for covered individuals who are smokers. 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 NC residents are eligible for Pool coverage if evidence is provided of one or more of the following: (1) a notice of rejection from an insurer to provide substantially similar health insurance because of the individual's health, (2) an offer 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, (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 the Pool (with the exception of coverage during a 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 (6) they have 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. ¶ *Coverage.* Provides that Pool will offer at least two types of coverage, at least two of which must provide benefits outlined in the National Association of Insurance Commissioners' Model Health Pool for Uninsurable Individuals Act and that are consistent with comprehensive health insurance coverage generally available. Provides that the lifetime limit may not be less than \$1 million and that annual out-of-pocket expenses may not exceed \$5,000. 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 this 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. 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. The 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 Pool assess member insurers in the amount considered necessary to fulfill the Board's duties. Provides that each insurer's assessment will not exceed designated amounts per covered individual insured or reinsured by the insurer per month, and sets a maximum assessment. Also directs the Pool to administer special assessments. Establishes a procedure for submission of complaints against the Board. Requires the State Auditor to conduct an annual special audit of the Pool. ¶ *Reserve.* 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 2007-08. These funds may be used for reasonable expenses for personnel to carry out the Board'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. ¶ *Effective Dates.* Appropriation provision becomes effective July 1, 2007. Remainder is effective when it becomes law. Enrollment in the Pool is to commence no later than January 1, 2009.

**Intro. by Berger of Franklin.**

GS 58, 120, 135, STUDY