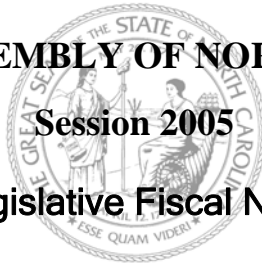


**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2005**

**Legislative Fiscal Note**

**BILL NUMBER:** House Bill 1895 (First Edition)

**SHORT TITLE:** Establish High-Risk Pool

**SPONSOR(S):** Representatives Insko, Nye, Wright, and England

	<b>FISCAL IMPACT</b>				
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2006-07</u></b>	<b><u>FY 2007-08</u></b>	<b><u>FY 2008-09</u></b>	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>
<b>REVENUES:</b>					
<b>General Fund Receipts</b>	\$46,375	\$43,775	\$43,775	\$43,775	\$43,775
<b>EXPENDITURES:</b>					
<b>Department of Insurance</b>	\$278,919	\$272,919	\$272,919	\$272,919	\$272,919
<b>Office of State Auditor</b>	\$46,375	\$43,775	\$43,775	\$43,775	\$43,775
<b>POSITIONS (cumulative):</b>	1.5	1.5	1.5	1.5	1.5
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Insurance, Office of State Auditor					
<b>EFFECTIVE DATE:</b> Sections 3.1, 3.2, and 3.3 of this act become effective July 1, 2006. The remainder of this act is effective when it becomes law. Enrollment in the North Carolina Health Insurance Risk Pool shall commence no earlier than January 1, 2007.					

**BILL SUMMARY:**

Legislation 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. This legislation 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 the Pool. This legislation requires that the Board submit a Plan for Approval to the Commissioner, who is authorized to adopt temporary rules if the Board does not submit a timely plan or amendments. This bill also requires that the Board submit an annual report to the Commissioner, the Speaker, and the President Pro Tem regarding earned premiums, plan

enrollment, administrative expenses, and losses and 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.** This legislation requires that the Pool 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. This legislation 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. This legislation limits provider reimbursement rates under the Pool coverage to rates allowed for providers under the Medicare Program.

**Eligibility for Pool Coverage.** This legislation 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. This legislation 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 preexisting condition waiting periods); (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) the individual has health insurance coverage from an insurer or insurance arrangement on the date the Pool coverage takes effect. This legislation specifies circumstances under which an individual's Pool coverage ceases and 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.

This legislation provides that the 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. This legislation provides that the lifetime limit may not be less than \$1 million and for sliding scale limits on annual out-of-pocket expenses. This legislation 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). This legislation allows for a 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. The Pool is exempt from taxation. This legislation provides that the Pool is the payor of last resort when other payment is available.

Pool Financing/Complaint Procedures/Misc. This legislation requires that the Board assess member insurers in the amount deemed necessary to fulfill the Board's duties and provides that each insurer's assessment will not exceed \$2 per covered individual insured or reinsured by the insurer per month. This legislation 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. This legislation prohibits the Pool's offering or providing coverage until the General Assembly establishes or approves a method or methods for financing the Pool. This legislation establishes a procedure for submission of complaints against the Board and requires that the State Auditor conduct an annual special audit of the Pool.

*Source: Bill Digest H.B. 1895 (05/10/0200)*

#### **ASSUMPTIONS AND METHODOLOGY:**

##### *Staffing for the Department of Insurance:*

This bill requires the Department of Insurance to be involved in a variety of aspects from the formation of the Pool to its annual reporting requirements. The additional workload justifies an additional Insurance Regulatory Analyst II at pay grade 74 to assist the nonprofit entity in the Pool's administration. The Department will be responsible for assisting the Board of Directors in approving contracts and in developing the standard risk rate from which the premium rates are set, and reviewing and approving policy forms and rates that are charged for each plan option. The Department is responsible for establishing the requirements for developing the Annual Report and for reviewing the Annual Report and reviewing and approving the Plan of Operation. Additional responsibilities include developing a reporting mechanism for data collection and assisting the Pool Administrator in establishing the annual assessment for insurers, reinsurers, and third party administrators to report the number of persons covered by the health plans. The Department is also responsible for conducting the external review of applicant grievances that are not resolved by the Pool's internal grievance procedure, verifying the annual General Fund appropriation to the Special Reserve account, and overseeing the reimbursement of costs incurred by the Board of Directors. The cost for this position, including salary (\$50,113), benefits (\$11,106), and supplies (\$17,700), totals \$78,919. Of the \$17,700 for supplies, \$6,000 of the appropriation is in nonrecurring funds for furniture and computer equipment.

##### *Staffing for the Office of State Auditor:*

This bill requires the Office of the State Auditor to conduct annually financial, economic, and efficiency audits of the Pool. The additional workload justifies half of a full-time Assistant State Auditor at a pay grade 80. The Office of State Auditor reports the audit costs to the Board and the Comptroller and the Board remits payment for the audit costs to the Comptroller. The anticipated cost for half a position, including salary (\$34,494), benefits (\$6,707), and supplies (\$5,174), totals \$46,376. Of the \$5,174 for supplies, \$2,600 of the appropriation is in nonrecurring funds for computer equipment. This amount is included in the Fiscal Impact as a General Fund receipt and as an expense to the State Auditor. However, the legislation stipulates that the Board remit the payment for audit costs to the Comptroller, not to the State Auditor.

##### *Special Reserve for Board Expenses:*

Section 3.2 appropriates \$200,000 in a Special Reserve for reasonable expenses incurred by the Board of Directors.

*Special Reserve for Premium Subsidies:*

Section 3.3 creates a General Fund appropriation to the Special Reserve for the North Carolina Health Insurance Risk Pool to pay a portion of the subsidy on a sliding scale for individuals in poverty. The Cost to fully fund the subsidy is determined by the premium amount that is charged, which is dependent upon the health insurance plans that will be offered through the Pool. Therefore, an estimate of the appropriation needed to fully fund the subsidy cannot be made until the health insurance plans are selected and premium rates are approved by the Pool's Board of Directors.

**SOURCES OF DATA:** Department of Insurance, Office of State Auditor

**TECHNICAL CONSIDERATIONS:**

1. Section 2 (d) stipulates money credited to the Insurance Regulatory Fund shall be used to reimburse the General Fund for additional staffing appropriations and to the Special Reserve for the North Carolina Health Insurance Risk Pool for premium subsidies and for Board expenses. The Regulatory Surcharge, which funds the Insurance Regulatory Fund, is set annually by the North Carolina General Assembly to reimburse the General Fund quarterly for operating costs incurred by the Department of Insurance each fiscal year. The 5.5% fee recommended by the Department of Insurance for FY 2006-07 but not yet authorized by the General Assembly in the 2006 Legislative Session may not be sufficient to fund the Special Reserve for FY 2006-07 assuming there is a substantial appropriation to cover the subsidies. The Department of Insurance estimates that for each \$4 million that is paid out of the Insurance Regulatory Fund, the Regulatory Surcharge would need to increase by one percent.
2. G.S. 58-50-300 requires that the State Auditor report the cost of the audit and the Board remit the audit costs to the Comptroller, however, it should be considered to change the reporting requirements to submit the audit costs to the Commissioner of Insurance. The Office of State Auditor recommends that the language be changed to enable the Board to remit payment for the audit costs directly to the agency. The Office of State Auditor also recommends changing the annual requirement for the economic and efficiency audits to every two years. These audits are not normally conducted on an annual basis.
3. Section 3.3 establishes an appropriation to the Special Reserve for the North Carolina Health Insurance Risk Pool for premium subsidies. The legislation does not specify whether the premium subsidies are to be paid for all eligible participants or if participants may receive premium subsidies until the amount allocated to the Special Reserve is spent.
4. Section 3.3 appears to present a conflict in regards to the reduction of State assistance when federal grant monies are used to pay for premium subsidies. It is unclear whether any portion of the *initial* General Fund appropriation can be reverted back to the General Fund if federal grant monies are used to pay premium subsidies received during the Pool's first year in operation.

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**DATE:** May 24, 2006



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