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COMPARISON OF HIGH RISK POOL LEGISLATION

Senate Bill 163 vs. Senate Bill 177

Senator Doug Berger (D-Franklin) and 18 co-sponsors (which include one Republican, Sen. Jim Forrester of Stanley) introduced Senate Bill 163 – Establish High Risk Pool on February 14, 2007. Senator Tony Rand also introduced S.B. 177 – Health Insurance Coverage/Risk Pool on February 14, 2007. Both bills are patterned after last session's HB 1895, which passed the House. Set forth below is a brief analysis of how S.B. 163 and S.B. 177 differ.

Senator Rand's bill defines "insurer" to mean, among other things, the State Health Plan. There is no reference to the State Health Plan in the definitional section of Senator Berger's bill.

S.B. 177 would create a trust fund for the handling of risk pool funds. S.B. 163 would create a reserve.

Under S.B. 177, the pool would be established under the Department of Administration for budgetary purposes only. SB 163 makes no budgetary reference to any department of State government.

The composition of the governing board of the risk pool is treated differently in each bill. Under S.B. 177, the board would be 11 in number, with appointments being made by Senator Basnight, Speaker Hackney, Governor Easley and Commissioner Long. The composition of the board under S.B. 163 is the same as it was under last session's H.B. 1895. Specific interest groups would make several recommendations as to whom should be on the board.

Under S.B. 177, all "insurers" would be assessed to provide the pool with operating income. Under S.B. 163, all insurers and the State Health Plan would be assessed. It is important to note that, though they say it differently, each bill would include the State Health Plan in the assessment base.

The risk pool could not borrow money under S.B. 177. The risk pool could borrow money under S.B. 163.

There is no enrollment cap under S.B. 177. S.B. 163 does include an enrollment cap.

S.B. 177 makes no provision for the indemnification of members and employees of the pool. S.B. 163 does provide for indemnification.

The rate structure under these bills differs. Rates under S.B. 177 would be not less than 175% or more than 200% of the rates established as applicable for individual standard rates. Under S.B. 163, the pool rates would be 150% of the standard rates.

Dependent coverage is defined in the eligibility provisions of S.B. 177. Under S.B. 163, dependents are defined in the opening definitional section of the legislation. Note that in each instance the definition is the same.

Each bill addresses unfair referrals to the pool. S.B. 177, however, contains a provision that the unfair referral portion of the legislation shall not prohibit an insurer or insurance producer from informing an individual of other coverage options, including coverage provided by the pool. S.B. 163 contains no such provision.

Note that under S.B. 163 each insurer and the State Health Plan shall not be assessed an amount exceeding \$8 per family policy for each family insured or reinsured per month. S.B. 177 contains no such limitation.

S.B. 177 permits special assessments for “unanticipated circumstances.” S.B. 163 permits special assessments to be made “to cover only the additional losses of the pool that are expected to result from the continuing entry into the pool by federally defined eligible individuals during the time that enrollment is closed to all other individuals eligible” for pool coverage.

Under S.B. 177 the Health Insurance Program for Children (NC Health Choice) shall be subject to assessment or special assessment only if federal law permits the assessment. There is no such provision in S.B. 163.

Lastly, under S.B. 177, the governing board of the pool may adopt rules to implement its duties. Under S.B. 163 the Executive Director of the pool, in collaboration with the board, may adopt rules.