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HOUSE BILL 87

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Dani ce Pi craux

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

**RELATING TO HEALTH CARE; PROVIDING FOR THE CONSOLIDATED
PURCHASE OF CERTAIN PUBLIC HEALTH CARE PROGRAMS; CREATING THE
HEALTH CARE PURCHASING AUTHORITY; AMENDING, REPEALING, ENACTING
AND RECOMPILING SECTIONS OF THE NMSA 1978; MAKING AN
APPROPRIATION; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. A new section of the Health Care Purchasing
Act is enacted to read:**

**"[NEW MATERIAL] HEALTH CARE PURCHASING AUTHORITY
CREATED. --**

**A. The "health care purchasing authority" is
created. The authority shall consist of twenty-three members,
as follows:**

(1) the secretary of general services or the

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1 secretary' s designee;

2 (2) the superintendent of insurance or the
3 superintendent' s designee;

4 (3) the executive secretary of the public
5 employees retirement association or the executive secretary' s
6 designee;

7 (4) the chief financial officer of a state
8 agency or institution, appointed by the governor, with the
9 advice and consent of the senate;

10 (5) two teachers who are licensed and teaching
11 in elementary or secondary education, appointed by the
12 governor, with the advice and consent of the senate, from lists
13 provided by at least two statewide organizations of teachers;

14 (6) an eligible retiree of a public school or
15 state educational institution, appointed by the governor, with
16 the advice and consent of the senate, from a list provided by a
17 statewide organization of retired educators;

18 (7) an employee of a public post-secondary
19 educational institution, appointed by the governor, with the
20 advice and consent of the senate, from a list provided by the
21 commission on higher education;

22 (8) a classified state employee from an agency
23 other than the public education department, appointed by the
24 governor, with the advice and consent of the senate, from a
25 list provided by the personnel board;

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1 (9) an elected official or employee of a
2 municipality, appointed by the governor, with the advice and
3 consent of the senate, from a list provided by a statewide
4 organization of municipalities;

5 (10) an elected official or employee of a
6 county, appointed by the governor, with the advice and consent
7 of the senate, from a list provided by a statewide organization
8 of counties;

9 (11) a public school superintendent, appointed
10 by the governor, with the advice and consent of the senate,
11 from a list provided by a statewide organization of public
12 school superintendents;

13 (12) a teacher who is licensed and teaching in
14 elementary or secondary education or a public school
15 administrator, appointed by the governor, with the advice and
16 consent of the senate, from a list provided by the school board
17 of a school district with student enrollment greater than sixty
18 thousand students;

19 (13) a school business official, appointed by
20 the governor, with the advice and consent of the senate, from a
21 list provided by a statewide organization of school
22 administrators;

23 (14) a public school board member, appointed
24 by the governor, with the advice and consent of the senate,
25 from a list provided by a statewide organization of public

1 school boards;

2 (15) a retiree receiving a benefit from the
3 public employees retirement association, appointed by the
4 governor, with the advice and consent of the senate, from a
5 list provided by the public employees retirement board of New
6 Mexico;

7 (16) a person from the private business
8 sector, appointed by the governor, with the advice and consent
9 of the senate;

10 (17) one person, selected by the other
11 authority members, who has at least five years' experience in
12 health care administration or financing;

13 (18) a health care provider, selected by the
14 other members of the authority, who has at least five years'
15 experience in and is currently or was previously licensed or
16 otherwise authorized to provide health care in New Mexico; and

17 (19) the secretary of human services, the
18 secretary of health, the secretary of public education and the
19 executive director of the New Mexico health policy commission
20 as nonvoting, ex-officio members.

21 B. The governor, the senate and the recommending
22 organizations, to the extent practicable, shall take into
23 consideration and give preference to persons who have
24 experience in health care delivery, administration or
25 financing.

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1 C. The members shall be appointed so as to give
2 geographic representation to all parts of the state. The
3 members shall be residents of the state. The initial appointed
4 members shall be appointed to staggered terms of four years or
5 less, so that the terms of at least three members expire on
6 January 1 of each year; thereafter, the terms shall be for four
7 years. A vacancy shall be filled by appointment by the
8 appropriate appointing authority for the remainder of the
9 unexpired term. An appointed member of the authority shall be
10 eligible for reappointment.

11 D. Each member shall provide, within thirty days of
12 appointment and annually thereafter, a conflict-of-interest
13 disclosure statement as developed by the authority.

14 E. The authority shall elect annually one of its
15 members to serve as chair and one of its members to serve as
16 vice chair. The authority may delegate to the director and the
17 secretary of general services such powers and duties as it may
18 deem proper and consistent with the Health Care Purchasing Act.

19 F. Meetings of the authority shall be held at the
20 call of the chair or whenever six members shall so request in
21 writing; provided that the authority shall meet at least four
22 times per year. A majority of voting members constitutes a
23 quorum for the transaction of any business and for the exercise
24 of any power or duty of the authority. The affirmative vote of
25 at least a majority of a quorum present shall be necessary for

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1 any action to be taken by the authority. An ex-officio member
2 may designate in writing another person to attend meetings of
3 the authority and, to the same extent and with the same effect,
4 act in the ex-officio member's stead.

5 G. The authority is not created or organized, and
6 its operations shall not be conducted, for the purpose of
7 making a profit. Revenues or assets of the authority shall not
8 inure to the benefit of its members or officers. The members
9 of the authority shall not receive compensation for their
10 services, but shall be reimbursed for actual and necessary
11 expenses at the same rate and on the same basis as provided for
12 public officers in the Per Diem and Mileage Act.

13 H. The authority is a policy-making body and shall
14 not be subject to the supervision or control of any other
15 authority, bureau, department or agency of the state except as
16 specifically provided in the Health Care Purchasing Act. The
17 use of the term "state agency" or "instrumentality" in any
18 other law of the state shall not be deemed to refer to the
19 authority unless the authority is specifically referenced in
20 that law or in this 2004 act.

21 I. The authority is subject to the provisions of
22 the Open Meetings Act.

23 J. The authority is a governmental instrumentality
24 for purposes of the Tort Claims Act. "

25 Section 2. A new section of the Health Care Purchasing

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1 Act is enacted to read:

2 " [NEW MATERIAL] POWERS OF THE AUTHORITY. --The authority
3 may:

4 A. sue or be sued;

5 B. adopt and alter an official seal;

6 C. adopt rules as are necessary and appropriate to
7 implement the provisions of the Health Care Purchasing Act;

8 D. make and execute contracts, agreements and other
9 instruments necessary and appropriate in the exercise of the
10 authority's powers and functions to carry out the provisions of
11 the Health Care Purchasing Act;

12 E. apply for and accept gifts or grants of
13 property, funds, services or aid in any form from the United
14 States, any unit of government or any person and to comply,
15 subject to the provisions of the Health Care Purchasing Act,
16 with the terms and conditions of the gifts or grants;

17 F. provide for the services of one or more
18 insurance companies or professional claims administrators in
19 accordance with the Procurement Code;

20 G. provide for services that oversee quality of and
21 access to health care; and

22 H. provide, at its discretion, different plans for
23 eligible participants covered by Title 18 of the federal Social
24 Security Act than the plans provided for eligible participants
25 who are not covered by Title 18 of the federal Social Security

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1 Act. "

2 Section 3. A new section of the Health Care Purchasing
3 Act is enacted to read:

4 "[NEW MATERIAL] DUTIES OF THE AUTHORITY. --The authority
5 shall:

6 A. fix, revise from time to time, charge and
7 collect fees and other charges in connection with the
8 procurement of health care benefits and other services rendered
9 by the authority;

10 B. accept, administer, hold and use all funds made
11 available to the authority from any sources;

12 C. collect and disburse funds and provide for the
13 investment of the fund;

14 D. collect all current and historical claims and
15 financial information necessary for effective procurement of
16 health care benefits;

17 E. make claims and financial information available,
18 while protecting proprietary and individually identifiable
19 information, to the New Mexico health policy commission, the
20 insurance division of the public regulation commission, the
21 human services department and the department of health for
22 policy and planning purposes;

23 F. negotiate health care benefit policies covering
24 additional or lesser benefits as determined appropriate by the
25 authority, but the authority shall maintain all coverage as

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1 required by federal or state law for each participant;

2 G. procure health care benefits and other coverages
3 authorized by the Health Care Purchasing Act in accordance with
4 the Procurement Code;

5 H. establish the procedures for contributions and
6 deductions if not already provided;

7 I. in conjunction with the human services
8 department and the department of health, provide for
9 initiatives and outcome measurements that address public health
10 and safety issues and improve the health education and health
11 status of participants;

12 J. in conjunction with the human services
13 department and the department of health, provide for
14 intervention and treatment programs designed to address the
15 state's most prevalent diseases and injuries and improve the
16 health education and health status of participants; and

17 K. do any and all things necessary and appropriate
18 to carry out its purposes and exercise the powers given and
19 granted in the Health Care Purchasing Act. "

20 Section 4. A new section of the Health Care Purchasing
21 Act is enacted to read:

22 "[NEW MATERIAL] PURCHASE OF HEALTH CARE BENEFITS. --

23 A. The general services department is designated
24 the group policyholder for health care benefits plans
25 established pursuant to the Health Care Purchasing Act.

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1 B. To the extent practicable or as required by law,
2 a health care benefits plan shall cover preexisting conditions.

3 C. Health care benefits plans offered pursuant to
4 the Health Care Purchasing Act shall include effective
5 cost-containment measures, including prevention, intervention
6 and treatment programs, to control the growth of health care
7 costs. The authority shall report annually by October 1 to the
8 governor, the insurance division of the public regulation
9 commission, the legislative finance committee and the
10 legislative health and human services committee on the
11 effectiveness of the cost-containment measures required by this
12 subsection and the initiatives required by Subsections I and J
13 of Section 3 of this 2004 act. "

14 Section 5. A new section of the Health Care Purchasing
15 Act is enacted to read:

16 "[NEW MATERIAL] EXPULSION FROM PROGRAM FOR
17 FALSIFICATION. --

18 A. After written notice to the participant and
19 hearing with a fair opportunity to appear and present the case
20 personally or by counsel, the authority may expel from
21 participation pursuant to the Health Care Purchasing Act a
22 participant who submits a false claim or eligibility request or
23 has falsified or attempted to falsify a claim or eligibility
24 request for health care benefits offered by the authority.

25 B. On its motion or on the receipt of a complaint,

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1 the authority may call and hold a hearing to determine whether
2 a participant has submitted a false claim or eligibility
3 request or has falsified or attempted to falsify a claim or
4 eligibility request for health care benefits offered pursuant
5 to the Health Care Purchasing Act.

6 C. If the authority, at the conclusion of the
7 hearing, issues a decision finding that a participant submitted
8 a false claim or eligibility request or has falsified or
9 attempted to falsify a claim or eligibility request for health
10 care benefits offered pursuant to the Health Care Purchasing
11 Act, the authority shall expel the participant from
12 participation in any coverage plans or impose conditions upon
13 continued or future participation. "

14 Section 6. A new section of the Health Care Purchasing
15 Act is enacted to read:

16 "[NEW MATERIAL] EXEMPTION FROM LEGAL PROCESS. -- All health
17 care benefit payments, participant and employer contributions,
18 optional benefits payments and rights, benefits or payments
19 accruing to a person pursuant to the Health Care Purchasing Act,
20 as well as all money in the fund, are exempt from execution,
21 attachment, garnishment or other legal process and shall not be
22 assigned except as specifically provided by that act; provided
23 that a participant may assign benefit payment to a health care
24 provider. "

25 Section 7. A new section of the Health Care Purchasing

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1 Act is enacted to read:

2 " [NEW MATERIAL] HEALTH CARE BENEFITS PLAN CONTRIBUTIONS. --

3 A. Health care benefits plan contributions by
4 participants eligible pursuant to the Group Benefits Act or the
5 Retiree Health Care Act shall be made pursuant to those acts.

6 B. Health care benefits plan contributions for
7 school districts and charter schools shall be made as follows:

8 (1) seventy-five percent of the cost of the
9 health care benefits of an employee whose annual salary is less
10 than fifteen thousand dollars (\$15,000);

11 (2) seventy percent of the cost of the health
12 care benefits of an employee whose annual salary is fifteen
13 thousand dollars (\$15,000) or more but less than twenty thousand
14 dollars (\$20,000);

15 (3) sixty-five percent of the cost of the
16 health care benefits of an employee whose annual salary is
17 twenty thousand dollars (\$20,000) or more but less than
18 twenty-five thousand dollars (\$25,000); or

19 (4) sixty percent of the cost of the health
20 care benefits of an employee whose annual salary is twenty-five
21 thousand dollars (\$25,000) or more.

22 C. A school district with student enrollment greater
23 than sixty thousand students may continue its contribution
24 requirements and options unless the authority implements new
25 contribution requirements and options for all school districts

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1 and charter schools. "

2 Section 8. A new section of the Health Care Purchasing
3 Act is enacted to read:

4 "[NEW MATERIAL] HEALTH CARE PURCHASING FUND CREATED. --

5 A. The "health care purchasing fund" is created in
6 the state treasury. The fund and income produced by the fund
7 shall be held in trust for the benefit of participating state
8 agencies, participants and political subdivisions and their
9 employees, deposited in a segregated account and invested by the
10 state investment officer in consultation with the authority.
11 Money in the fund shall be used solely for the purposes of the
12 fund and shall not be used to pay general or special obligations
13 or debts of the state. Balances in the fund in excess of
14 amounts needed for the purposes of the fund shall not be used to
15 pay dividends or refunds, however described, to participants but
16 may be used, in the authority's discretion, to reduce future
17 contributions, to provide additional health care benefits or as
18 a reserve to stabilize premiums. Money remaining in the fund at
19 the end of a fiscal year shall not revert to the general fund.

20 B. The fund consists of money appropriated to the
21 fund, income from investment of the fund, employers'
22 contributions, participants' contributions, insurance or
23 reinsurance proceeds and other funds received by gift, grant,
24 bequest or otherwise for deposit in the fund, including refunds
25 of amounts from prior group life, vision, dental, health and

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1 disability insurance plans.

2 C. Money appropriated to the fund from the retiree
3 health care fund, the group self-insurance fund, the public
4 school insurance fund or a school district with student
5 enrollment greater than sixty thousand students shall be
6 maintained in separate subaccounts to provide separate
7 accounting of funding for coverage of participants eligible
8 through the Retiree Health Care Act, the Group Benefits Act, the
9 Public School Insurance Authority Act or a school district with
10 student enrollment greater than sixty thousand students,
11 respectively.

12 D. Disbursements from the fund shall be made by
13 warrant signed by the secretary of finance and administration
14 upon vouchers signed by the director or the director's
15 authorized representative.

16 E. Money in the fund is appropriated to the general
17 services department:

18 (1) to purchase, on behalf of the authority,
19 health care benefits or any combination of these benefits, for
20 participants in the health care benefits plan, from or through
21 one or more insurance companies or professional claims
22 administrators determined to be the best responsible bidder, as
23 defined in the Procurement Code, after requesting sealed
24 proposals in accordance with the provisions of the Procurement
25 Code;

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1 (2) to contract with and pay one or more
2 professional claims administrators or insurance companies;

3 (3) to contract with and pay private attorneys
4 or law firms for advice and for defense of contested claims
5 determinations;

6 (4) to contract with and pay qualified
7 independent actuaries, financial auditors and claims management
8 and procedures auditors;

9 (5) to contract with and pay consultants,
10 financial advisers and investment advisers for independent
11 consulting and advice;

12 (6) to contract with and pay health care
13 providers;

14 (7) to pay reasonable investment commissions
15 and expenses;

16 (8) to pay any other costs and expenses
17 incurred in carrying out the provisions of this section; and

18 (9) as otherwise provided by law.

19 F. The fund shall be maintained in actuarially sound
20 condition as evidenced by written certification of an actuary
21 qualified for such work that as of June 30 of the current year
22 the fund was actuarially sound. The written certification shall
23 be completed by October 1 of the current year.

24 G. Annually on or before January 15, the authority
25 shall submit to the legislature a report on a health care

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1 benefits plan established pursuant to the Health Care Purchasing
2 Act, a financial audit of the fund and a claims management and
3 procedures audit by a qualified claims auditor for the one-year
4 period ending on June 30 immediately preceding the report. With
5 respect to claims files, the claims audit may, in the
6 authority's discretion, be limited to a financial stratified
7 sample. "

8 Section 9. A new section of the Health Care Purchasing
9 Act is enacted to read:

10 "[NEW MATERIAL] HEALTH CARE PURCHASING FUND--INVESTMENT. --

11 A. In making investments of the fund, the state
12 investment officer shall consider the relative safety of the
13 investment and the need for liquidity in the fund, as well as
14 the income to be produced. No investment of the fund shall have
15 a maturity date, or similar date before which it may not be
16 liquidated for cash without penalty, premium, deduction,
17 surcharge or interest rate decrease, later than one year from
18 the date of purchase.

19 B. Investment of the fund shall be made with the
20 exercise of that degree of judgment and care, under the
21 circumstances then prevailing, that a person of prudence,
22 discretion and intelligence exercises in the management of his
23 own affairs, not for speculation but for investment, considering
24 the probable safety of his capital as well as the probable
25 income to be derived. "

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1 Section 10. A new section of the Health Care Purchasing
2 Act is enacted to read:

3 "[NEW MATERIAL] ADMINISTRATION. --

4 A. The authority is administratively attached to the
5 general services department.

6 B. The general services department shall provide
7 administrative services to the authority, including:

8 (1) keeping all official records of the
9 authority;

10 (2) providing personnel administration,
11 financial management, procurement and budget preparation
12 services;

13 (3) providing clerical, record-keeping and
14 administrative support to the authority; and

15 (4) executing contracts, agreements and other
16 instruments necessary and appropriate to carry out the
17 provisions of the Health Care Purchasing Act.

18 C. The authority shall receive support staff from
19 the general services department. The powers, duties and
20 responsibilities of the authority pursuant to the Health Care
21 Purchasing Act are explicitly exempt from the authority of the
22 secretary of general services under the provisions of Subsection
23 B of Section 9-17-5 NMSA 1978.

24 D. The director, with the prior approval of the
25 authority, may apportion the costs of health care benefits

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1 administration and other participant benefits costs to
2 participating employers and their participants, whether the plan
3 is insured or self-insured."

4 Section 11. Section 7-1-6.30 NMSA 1978 (being Laws 1990,
5 Chapter 6, Section 20, as amended) is amended to read:

6 "7-1-6.30. DISTRIBUTION--RETIREE HEALTH CARE FUND--HEALTH
7 CARE PURCHASING FUND.--For the period ending June 30, 2002, a
8 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
9 to the retiree health care fund in an amount equal to one-
10 twelfth of one hundred six percent of the total amount
11 distributed to the retiree health care fund in the previous
12 fiscal year. For the fiscal [~~year~~] years beginning July 1, 2002
13 and [~~subsequent fiscal years~~] July 1, 2003, a distribution
14 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
15 retiree health care fund in an amount equal to one-twelfth of
16 one hundred twelve percent of the total amount distributed to
17 the retiree health care fund in the previous fiscal year. For
18 the fiscal year beginning July 1, 2004 and subsequent fiscal
19 years, a distribution pursuant to Section 7-1-6.1 NMSA 1978
20 shall be made to the health care purchasing fund in an amount
21 equal to one-twelfth of one hundred twelve percent of the total
22 amount distributed to the retiree health care fund in the
23 previous fiscal year to provide coverage for participants
24 eligible pursuant to the Retiree Health Care Act."

25 Section 12. Section 9-17-6 NMSA 1978 (being Laws 1983,

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1 Chapter 301, Section 6, as amended) is amended to read:

2 "9-17-6. GENERAL SERVICES DEPARTMENT-- ADMINISTRATIVELY
3 ATTACHED AGENCIES. --

4 A. The personnel board and office are
5 administratively attached to the general services department, as
6 provided in Section 10-9-11 NMSA 1978.

7 B. The information [~~systems council~~] technology
8 commission is administratively attached to the general services
9 department as provided in [~~Section 15-1-5 NMSA 1978~~] the
10 Information Technology Management Act.

11 C. The health care purchasing authority is
12 administratively attached to the general services department as
13 provided in the Health Care Purchasing Act. "

14 Section 13. Section 10-7B-1 NMSA 1978 (being Laws 1989,
15 Chapter 231, Section 1) is amended to read:

16 "10-7B-1. SHORT TITLE. -- [~~Sections 1 through 7 of this~~
17 ~~act~~] Chapter 10, Article 7B NMSA 1978 may be cited as the "Group
18 Benefits Act". "

19 Section 14. Section 10-7B-2 NMSA 1978 (being Laws 1989,
20 Chapter 231, Section 2, as amended) is amended to read:

21 "10-7B-2. DEFINITIONS. -- As used in the Group Benefits
22 Act:

23 [A. ~~"committee" means the group benefits committee~~]

24 A. "authority" means the health care purchasing
25 authority created pursuant to the Health Care Purchasing Act;

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1 B. "director" means the director of [~~the risk~~
2 ~~management~~] a division of the general services department
3 designated by the secretary of general services;

4 C. "employee" means a salaried officer, employee or
5 legislator of the state or a salaried officer or employee of a
6 local public body;

7 D. "local public body" means any New Mexico
8 incorporated municipality, county or school district;

9 E. "professional claims administrator" means any
10 person or legal entity that has at least five years of
11 experience handling group benefits claims, as well as such other
12 qualifications as the director may determine from time to time
13 with the [~~committee's~~] authority's advice; and

14 F. "state" or "state agency" means the state of New
15 Mexico or any of its branches, agencies, departments, boards,
16 instrumentalities or institutions. "

17 Section 15. Section 10-7B-5 NMSA 1978 (being Laws 1989,
18 Chapter 231, Section 5) is amended to read:

19 "10-7B-5. ADMINISTRATIVE COSTS. --The director, with the
20 prior approval of the [~~group benefits committee~~] authority, may
21 apportion the costs of employee benefits administration and
22 other employee benefit costs to all participating state agencies
23 and their employees and participating local public bodies and
24 their employees, whether the plan is insured or self-insured. "

25 Section 16. Section 10-7B-6 NMSA 1978 (being Laws 1989,

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1 Chapter 231, Section 6, as amended) is amended to read:

2 "10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE
3 PLAN-- AUTHORIZATION-- LOCAL PUBLIC BODY PARTICIPATION. --

4 A. The [~~risk management division of~~] authority may
5 direct the general services department [~~may, with the prior~~
6 ~~advice of the committee~~] to establish and administer a group
7 benefits self-insurance plan, providing life, vision, health,
8 dental and disability coverages, or any combination of such
9 coverages, for employees of the state and of participating local
10 public bodies. Any such group benefits self-insurance plan
11 shall afford coverage for employees' dependents at each
12 employee's option. Any such group benefits self-insurance plan
13 may consist of self-insurance or a combination of self-insurance
14 and insurance; provided that particular coverages or risks may
15 be fully insured, fully self-insured or partially insured and
16 partially self-insured.

17 B. The [~~director, with the advice of the committee~~]
18 authority shall establish by [~~regulation or letter of~~
19 ~~administration~~] rule the types, extent, nature and description
20 of coverages, the eligibility rules for participation, the
21 [~~deductibles~~] out-of-pocket payments, rates and all other
22 matters reasonably necessary to carry on or administer a group
23 benefits self-insurance plan established pursuant to Subsection
24 A of this section.

25 C. The contribution of each participating state

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1 agency to the cost of any such group benefits self-insurance
2 plan shall not exceed that percentage provided for state group
3 benefits insurance plans as provided by law. The contribution
4 of a participating local public body to the cost of any such
5 group benefits self-insurance plan shall not exceed that
6 percentage provided for local public body group benefits
7 insurance plans as provided by law.

8 D. Except as provided in Subsection E of this
9 section, public employees' contributions to the cost of any
10 group benefits self-insurance plan may be deducted from their
11 salaries and paid directly to the [~~group self-insurance~~] health
12 care purchasing fund; provided that where risks are insured or
13 reinsured, the director may authorize payment of the costs of
14 such insurance or reinsurance directly to the insurer or
15 reinsurer.

16 E. A legislator and the legislator's covered
17 dependents are eligible to participate in and receive benefits
18 from the group benefits self-insurance plan if the legislator
19 pays monthly premiums in amounts that equal one hundred percent
20 of the cost of the insurance. The premiums shall be paid
21 directly to the [~~group self-insurance~~] health care purchasing
22 fund; provided that where risks are insured or reinsured, the
23 director may authorize payment of the premiums directly to the
24 insurer or reinsurer.

25 F. Local public bodies [~~and state agencies~~] that are

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1 not participating in the state group benefits insurance plan or
2 self-insurance plan may elect to participate in any group
3 benefits self-insurance plan established pursuant to Subsection
4 A of this section by giving written notice to the director on a
5 date set by the director, which date shall not be later than
6 ninety days prior to the date participation is to begin. The
7 director shall determine an initial rate for the electing entity
8 in accordance with a letter of administration setting forth
9 written guidelines established by the director with the
10 [~~committee's~~] authority's advice. The initial rate shall be
11 based on the claims experience of the electing entity's group
12 for the three immediately preceding continuous years. If three
13 years of continuous experience is not available, a rate fixed
14 for the entity by the director with the [~~committee's~~]
15 authority's advice shall apply, and the electing entity's group
16 shall be rereated on the first premium anniversary following the
17 date one full year of experience for the group becomes
18 available. Any such election may be terminated effective not
19 earlier than June 30 of the third calendar year succeeding the
20 year in which the election became effective or on any June 30
21 thereafter. Notice of termination shall be made in writing to
22 the director not later than April 1 immediately preceding the
23 June 30 on which participation will terminate. Any accumulated
24 deficit shall be paid upon termination. A reelection to
25 participate in the plan following a termination may not be made

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1 effective for at least three full years following the effective
2 date of termination.

3 G. As soon as practicable, the director with the
4 [~~committee's~~] authority's advice shall establish an experience
5 rating plan for state agencies and local public bodies
6 participating in any group benefits self-insurance plan created
7 pursuant to Subsection A of this section. Rates applicable to
8 state agencies and participating local public bodies shall be
9 based on such experience rating plan. Any such experience
10 rating plan may provide separate rates for individual state
11 agencies and individual local public bodies or for such other
12 experience centers as the director may determine. "

13 Section 17. Section 10-7C-1 NMSA 1978 (being Laws 1990,
14 Chapter 6, Section 1) is amended to read:

15 "10-7C-1. SHORT TITLE. -- [~~Sections 1 through 16 of this~~
16 ~~act~~] Chapter 10, Article 7C NMSA 1978 may be cited as the
17 "Retiree Health Care Act". "

18 Section 18. Section 10-7C-2 NMSA 1978 (being Laws 1990,
19 Chapter 6, Section 2) is amended to read:

20 "10-7C-2. PURPOSE OF ACT. --The purpose of the Retiree
21 Health Care Act is to provide comprehensive core group health
22 insurance for persons who have retired from certain public
23 service in New Mexico. The purpose is to provide eligible
24 retirees, their spouses, dependents and surviving spouses and
25 dependents with health insurance consisting of a plan or

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1 optional plans of benefits that can be purchased by funds
2 flowing into the [retiree] health care purchasing fund and by
3 co-payments or out-of-pocket payments of insureds. "

4 Section 19. Section 10-7C-4 NMSA 1978 (being Laws 1990,
5 Chapter 6, Section 4, as amended) is amended to read:

6 "10-7C-4. DEFINITIONS. -- As used in the Retiree Health
7 Care Act:

8 A. "active employee" means an employee of a public
9 institution or any other public employer participating in either
10 the Educational Retirement Act, the Public Employees Retirement
11 Act, the Judicial Retirement Act, the Magistrate Retirement Act
12 or the Public Employees Retirement Reciprocity Act or an
13 employee of an independent public employer;

14 B. "authority" means the [retiree] health care
15 purchasing authority created pursuant to the [Retiree] Health
16 Care Purchasing Act;

17 C. "basic plan of benefits" means only those
18 coverages generally associated with a medical plan of benefits;

19 ~~[D. "board" means the board of the retiree health
20 care authority;~~

21 ~~E.]~~ D. "current retiree" means an eligible retiree
22 who is receiving a disability or normal retirement benefit under
23 the Educational Retirement Act, the Public Employees Retirement
24 Act, the Judicial Retirement Act, the Magistrate Retirement Act,
25 the Public Employees Retirement Reciprocity Act or the

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1 retirement program of an independent public employer on or
2 before July 1, 1990;

3 E. "director" means the director of a division of
4 the general services department designated by the secretary of
5 general services;

6 F. "eligible dependent" means a person obtaining
7 retiree health care coverage based upon that person's
8 relationship to an eligible retiree as follows:

9 (1) a spouse;

10 (2) an unmarried child under the age of

11 [~~nineteen~~] twenty-five who is:

12 (a) a natural child;

13 (b) a legally adopted child;

14 (c) a stepchild living in the same

15 household who is primarily dependent on the eligible retiree for
16 maintenance and support;

17 (d) a child for whom the eligible retiree
18 is the legal guardian and who is primarily dependent on the
19 eligible retiree for maintenance and support, as long as
20 evidence of the guardianship is evidenced in a court order or
21 decree; or

22 (e) a foster child living in the same
23 household;

24 [~~(3) a child described in Subparagraphs (a)~~
25 ~~through (e) of Paragraph (2) of this subsection who is between~~

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1 ~~the ages of nineteen and twenty-five and is a full-time student~~
2 ~~at an accredited educational institution; provided that~~
3 ~~"full-time student" shall be a student enrolled in and taking~~
4 ~~twelve or more semester hours or its equivalent contact hours in~~
5 ~~primary, secondary, undergraduate or vocational school or a~~
6 ~~student enrolled in and taking nine or more semester hours or~~
7 ~~its equivalent contact hours in graduate school;~~

8 (4)] (3) a dependent child over [nineteen]
9 twenty-five who is wholly dependent on the eligible retiree for
10 maintenance and support and who is incapable of self-sustaining
11 employment by reason of mental retardation, [or] physical
12 handicap or serious mental illness; provided that proof of
13 incapacity and dependency shall be provided within thirty-one
14 days after the child reaches the limiting age and at such times
15 thereafter as may be required by the [board] authority;

16 [(5)] (4) a surviving spouse defined as
17 follows:

18 (a) "surviving spouse" means the spouse
19 to whom a retiree was married at the time of death; or

20 (b) "surviving spouse" means the spouse
21 to whom a deceased vested active employee was married at the
22 time of death; or

23 [(6)] (5) a surviving dependent child who is
24 the dependent child of a deceased eligible retiree whose other
25 parent is also deceased;

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1 G. "eligible employer" means either:

2 (1) a "retirement system employer", which
3 means an institution of higher education, a school district or
4 other entity participating [~~in the public school insurance~~
5 ~~authority~~] pursuant to the Health Care Purchasing Act, a state
6 agency, state court, magistrate court, municipality, county or
7 public entity, each of which is affiliated under or covered by
8 the Educational Retirement Act, the Public Employees Retirement
9 Act, the Judicial Retirement Act, the Magistrate Retirement Act
10 or the Public Employees Retirement Reciprocity Act; or

11 (2) an "independent public employer", which
12 means a municipality, county or public entity that is not a
13 retirement system employer;

14 H. "eligible retiree" means:

15 (1) a "nonsalaried eligible participating
16 entity governing [~~authority~~] body member" who is a person who is
17 not a retiree and who:

18 (a) has served without salary as a member
19 of the governing [~~authority~~] body of an employer eligible to
20 participate in the benefits of the Retiree Health Care Act and
21 is certified to be such by the [~~executive director of the public~~
22 ~~school insurance authority~~] superintendent of the respective
23 school district;

24 (b) has maintained group health insurance
25 coverage through that member's governing [~~authority~~] body if

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1 such group health insurance coverage was available and offered
2 to the member during the member's service as a member of the
3 governing ~~[authority]~~ body; and

4 (c) was participating in the group health
5 insurance program under the Retiree Health Care Act prior to
6 July 1, 1993; or

7 (d) notwithstanding the provisions of
8 Subparagraphs (b) and (c) of this paragraph, is eligible under
9 Subparagraph (a) of this paragraph and has applied before August
10 1, 1993 to the retiree health care authority to participate in
11 the program;

12 (2) a "salaried eligible participating entity
13 governing ~~[authority]~~ body member" who is a person who is not a
14 retiree and who:

15 (a) has served with salary as a member of
16 the governing ~~[authority]~~ body of an employer eligible to
17 participate in the benefits of the Retiree Health Care Act;

18 (b) has maintained group health insurance
19 through that member's governing ~~[authority]~~ body, if such group
20 health insurance was available and offered to the member during
21 the member's service as a member of the governing ~~[authority]~~
22 body; and

23 (c) was participating in the group health
24 insurance program under the Retiree Health Care Act prior to
25 July 1, 1993; or

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1 (d) notwithstanding the provisions of
2 Subparagraphs (b) and (c) of this paragraph, is eligible under
3 Subparagraph (a) of this paragraph and has applied before August
4 1, 1993 to the retiree health care authority to participate in
5 the program;

6 (3) an "eligible participating retiree" who is
7 a person who:

8 (a) falls within the definition of a
9 retiree, has made contributions to the fund or the retiree
10 health care fund for at least five years prior to retirement and
11 whose eligible employer during that period of time made
12 contributions as a participant in the Retiree Health Care Act on
13 the person's behalf, unless that person retires on or before
14 July 1, 1995, in which event the time period required for
15 employee and employer contributions shall become the period of
16 time between July 1, 1990 and the date of retirement, and who is
17 certified to be a retiree by the educational retirement
18 director, the executive secretary of the public employees
19 retirement board or the governing [~~authority~~] body of an
20 independent public employer;

21 (b) falls within the definition of a
22 retiree, retired prior to July 1, 1990 and is certified to be a
23 retiree by the educational retirement director, the executive
24 secretary of the public employees retirement association or the
25 governing [~~authority~~] body of an independent public employer;

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1 but this paragraph does not include a retiree who was an
2 employee of an eligible employer who exercised the option not to
3 be a participating employer pursuant to the Retiree Health Care
4 Act and did not after January 1, 1993 elect to become a
5 participating employer; unless the retiree: 1) retired on or
6 before June 30, 1990; and 2) at the time of retirement did not
7 have a retirement health plan or retirement health insurance
8 coverage available from his employer; or

9 (c) is a retiree who: 1) was at the time
10 of retirement an employee of an eligible employer who exercised
11 the option not to be a participating employer pursuant to the
12 Retiree Health Care Act, but which eligible employer
13 subsequently elected after January 1, 1993 to become a
14 participating employer; 2) has made contributions to the fund or
15 the retiree health care fund for at least five years prior to
16 retirement and whose eligible employer during that period of
17 time made contributions as a participant in the Retiree Health
18 Care Act on the person's behalf, unless that person retires less
19 than five years after the date participation begins, in which
20 event the time period required for employee and employer
21 contributions shall become the period of time between the date
22 participation begins and the date of retirement; and 3) is
23 certified to be a retiree by the educational retirement
24 director, the executive director of the public employees
25 retirement board or the governing [authority] body of an

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1 independent public employer; or

2 (4) a "legislative member", which means a
3 person who is not a retiree and who served as a member of the
4 New Mexico legislature for at least two years, but is no longer
5 a member of the legislature and is certified to be such by the
6 legislative council service;

7 I. "fund" means the [~~retiree~~] health care purchasing
8 fund;

9 J. "group health insurance" means coverage that
10 includes but is not limited to life insurance, accidental death
11 and dismemberment, hospital care and benefits, surgical care and
12 treatment, medical care and treatment, dental care, eye care,
13 obstetrical benefits, prescribed drugs, medicines and prosthetic
14 devices, medicare supplement, medicare carveout, medicare
15 coordination and other benefits, supplies and services through
16 the vehicles of indemnity coverages, health maintenance
17 organizations, preferred provider organizations and other health
18 care delivery systems as provided by the Retiree Health Care Act
19 and other coverages considered by the [~~board~~] authority to be
20 advisable;

21 K. "ineligible dependents" include:

22 (1) those dependents created by common law
23 relationships;

24 (2) dependents while in active military
25 service;

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1 (3) parents, aunts, uncles, brothers, sisters,
2 grandchildren and other family members left in the care of an
3 eligible retiree without evidence of legal guardianship; and

4 (4) anyone not specifically referred to as an
5 eligible dependent pursuant to the rules and regulations adopted
6 by the ~~[board]~~ authority;

7 L. "participating employee" means an employee of
8 a participating employer, which employee has not been expelled
9 from participation in the Retiree Health Care Act ~~[pursuant to~~
10 ~~Section 10-7C-10 NMSA 1978]~~;

11 M. "participating employer" means an eligible
12 employer who has satisfied the conditions for participating in
13 the benefits of the Retiree Health Care Act, including the
14 requirements of ~~[Subsection M of Section 10-7C-7 NMSA 1978 and]~~
15 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

16 N. "public entity" means a flood control authority,
17 economic development district, council of governments, regional
18 housing authority, conservancy district or other special
19 district or special purpose government; and

20 O. "retiree" means a person who:

21 (1) is receiving:

22 (a) a disability or normal retirement
23 benefit or survivor's benefit pursuant to the Educational
24 Retirement Act;

25 (b) a disability or normal retirement

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1 benefit or survivor's benefit pursuant to the Public Employees
2 Retirement Act, the Judicial Retirement Act, the Magistrate
3 Retirement Act or the Public Employees Retirement Reciprocity
4 Act; or

5 (c) a disability or normal retirement
6 benefit or survivor's benefit pursuant to the retirement program
7 of an independent public employer to which that employer has
8 made periodic contributions; or

9 (2) is not receiving a survivor's benefit but
10 is the eligible dependent of a person who received a disability
11 or normal retirement benefit pursuant to the Educational
12 Retirement Act, the Public Employees Retirement Act, the
13 Judicial Retirement Act, the Magistrate Retirement Act or the
14 Public Employees Retirement Reciprocity Act. "

15 Section 20. Section 10-7C-9 NMSA 1978 (being Laws 1990,
16 Chapter 6, Section 9, as amended) is amended to read:

17 "10-7C-9. PARTICIPATION. --

18 A. All eligible employers shall participate in the
19 Retiree Health Care Act except as provided in Subsection D or
20 [~~Subsection~~] E of this section. Participating employers are
21 required to continue existing group health insurance coverages
22 until such time as similar coverages are offered by the [~~board~~]
23 authority.

24 B. Participation in the basic health insurance
25 coverages provided by the authority shall be conditioned upon

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1 receipt by the [~~board~~] director of a certificate of eligibility
2 from the educational retirement director, the executive
3 secretary of the public employees retirement association, the
4 executive director of the public school insurance authority or
5 the governing body of an independent public employer. Once
6 eligibility is established for each eligible retiree, the
7 [~~board~~] authority shall contribute from money in the fund the
8 authority's portion of the premium for the basic plan of
9 benefits commencing no earlier than January 1, 1991 plus the
10 balance of the premium, which shall be collected from the
11 retiree.

12 C. Each eligible retiree shall accept or reject
13 enrollment in the basic plan of benefits on an enrollment form
14 provided by the [~~board~~] director. An eligible retiree who
15 rejects enrollment or fails to return a properly executed
16 enrollment form within the open enrollment period as established
17 by the [~~board~~] authority forfeits all entitlement and
18 eligibility for benefits under the Retiree Health Care Act until
19 the next open enrollment period as established by the [~~board~~]
20 authority.

21 D. On or before January 1, 1991, municipalities,
22 counties and institutions of higher education that are
23 retirement system employers may at their option determine by
24 ordinance, or for institutions of higher education, by
25 resolution, to be excluded from coverage under the Retiree

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1 Health Care Act; that determination shall be subject to the
2 following conditions:

3 (1) any contributions paid into the fund by a
4 municipality, county or institution of higher education that
5 exercises timely an irrevocable option not to participate in the
6 Retiree Health Care Act under this subsection shall be returned
7 without interest to that municipality, county or institution of
8 higher education for return of the employee contributions to the
9 employees and for crediting of the employer contributions to the
10 appropriate fund of the municipality, county or institution of
11 higher education. If the determination to be excluded from
12 coverage is exercised by a municipality, county or institution
13 of higher education prior to July 1, 1990, then that
14 municipality, county or institution of higher education shall
15 not be required to make the contributions that would otherwise
16 be required by Section 10-7C-15 NMSA 1978; and

17 (2) any municipality, county or institution of
18 higher education, in addition to complying with all other
19 required notice and public hearing or meeting requirements,
20 shall, no less than thirty days prior to the public hearing or
21 public meeting on a proposed ordinance or proposed resolution,
22 notify the authority of the public hearing or public meeting by
23 certified mail. [~~and~~

24 ~~(3) in the event that:~~

25 ~~(a) the number of active employees~~

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1 ~~employed by municipalities contributing to the fund reaches a~~
2 ~~number equaling sixty percent or more of all active employees~~
3 ~~employed by all municipalities that are retirement system~~
4 ~~employers, the municipal position on the board of the authority~~
5 ~~shall be restored within sixty days of the date that percentage~~
6 ~~is reached; provided, however, that if a municipality with a~~
7 ~~population greater than one hundred thousand that is located in~~
8 ~~a class A county exercises this option, then the sixty percent~~
9 ~~requirement shall be applied to the remaining municipalities~~
10 ~~only;~~

11 ~~(b) the number of active employees~~
12 ~~employed by counties contributing to the fund reaches a number~~
13 ~~equaling sixty percent or more of all active employees employed~~
14 ~~by all counties that are retirement system employers, the county~~
15 ~~position on the board of the authority shall be restored within~~
16 ~~sixty days of the date that percentage is reached; provided,~~
17 ~~however, that if a class A county exercises this option, then~~
18 ~~the eighty percent requirement shall be applied to the remaining~~
19 ~~counties only; or~~

20 ~~(c) the number of active employees~~
21 ~~employed by institutions of higher learning contributing to the~~
22 ~~fund reaches a number equaling seventy percent or more of all~~
23 ~~active employees employed by an institution of higher education~~
24 ~~contributing to the educational retirement fund, the institution~~
25 ~~of higher education position on the board shall be restored~~

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1 ~~within sixty days of the date that percentage is reached.]~~

2 E. An independent public employer may become a
3 participating employer if that employer satisfies the
4 requirements ~~[imposed pursuant to Subsection M of Section~~
5 ~~10-7C-7 NMSA 1978 and if that employer also files with the~~
6 ~~authority on or prior to January 1, 1991 or prior to July 1,~~
7 ~~1993 or]~~ of the authority and files with the authority prior to
8 July 1 of any year a written irrevocable election by the
9 governing body of that employer to participate in the Retiree
10 Health Care Act. Any such independent public employer or
11 retirement system employer, as defined in Subsection G of
12 Section 10-7C-4 NMSA 1978 that chooses to become a participating
13 employer after January 1, 1998 shall begin making the
14 appropriate employer and employee contributions to the fund on
15 the July 1 immediately following the adoption of the ordinance
16 or resolution. On the following January 1, eligible retirees of
17 those participating employers and their eligible dependents
18 shall be eligible to receive group health insurance coverage
19 pursuant to the provisions of the Retiree Health Care Act.

20 F. A municipality or county that enacted an
21 ordinance or an institution of higher education that enacted a
22 resolution prior to January 1, 1991 pursuant to Subsection D of
23 this section to be excluded from coverage under the Retiree
24 Health Care Act may become a participating employer if that
25 employer satisfies the requirements ~~[imposed pursuant to~~

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1 ~~Subsection M of Section 10-7C-7 NMSA 1978~~ of the authority and
2 if that employer also enacts an ordinance or resolution, as
3 applicable, after a public hearing and published notice of the
4 hearing, prior to July 1, 1993 or July 1 of any year to choose
5 to become a participating employer under the Retiree Health Care
6 Act. Any such municipality, county or institution of higher
7 education that chooses to become a participating employer after
8 January 1, 1998 shall begin making the appropriate employer and
9 employee contributions determined by the ~~[board]~~ authority to
10 the fund on the July 1 immediately following the adoption of the
11 ordinance or resolution. On the following January 1, eligible
12 retirees of those participating employers and their eligible
13 dependents shall be eligible to receive group health insurance
14 coverage pursuant to the provisions of the Retiree Health Care
15 Act. "

16 Section 21. Section 13-7-2 NMSA 1978 (being Laws 1997,
17 Chapter 74, Section 2) is amended to read:

18 "13-7-2. PURPOSE OF ACT. --

19 A. The purpose of the Health Care Purchasing Act is
20 to ensure public employees, public school employees and retirees
21 of public employment and the public schools access to more
22 affordable and enhanced quality of health insurance through cost
23 containment and savings effected by procedures for consolidating
24 the purchasing of publicly financed health insurance.

25 B. Further, the purpose of the Health Care

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1 Purchasing Act is to positively affect efforts to:

2 (1) improve the health status of all
3 participants;

4 (2) contain or minimize the rise in health
5 care costs;

6 (3) lower the number of uninsured New
7 Mexicans; and

8 (4) promote cost containment through consumer
9 choice and selective contracting with insurance companies and
10 professional claims administrators."

11 Section 22. Section 13-7-3 NMSA 1978 (being Laws 1997,
12 Chapter 74, Section 3) is amended to read:

13 "13-7-3. DEFINITIONS. --As used in the Health Care
14 Purchasing Act:

15 ~~[A. "consolidated purchasing" means a single process~~
16 ~~for the procurement of all health care benefits by the publicly~~
17 ~~funded insurance agencies in compliance with the Procurement~~
18 ~~Code and includes associated activities related to the~~
19 ~~procurement such as actuarial, cost containment, benefits~~
20 ~~consultation and analysis; and~~

21 ~~B. "publicly funded health care agency" means the:~~

22 ~~(1) risk management division and the group~~
23 ~~benefits committee of the general services department;~~

24 ~~(2) retiree health care authority;~~

25 ~~(3) public school insurance authority; and~~

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1 ~~(4) publicly funded health care program of any~~
2 ~~public school district with a student enrollment in excess of~~
3 ~~sixty thousand students]~~

4 A. "authority" means the health care purchasing
5 authority created pursuant to the Health Care Purchasing Act;

6 B. "director" means the director of a division of
7 the general services department designated by the secretary of
8 general services;

9 C. "fund" means the health care purchasing fund;

10 D. "health care benefits" means:

11 (1) benefits consisting of medical and
12 behavioral health care provided through insurance or other
13 reimbursement, including items and services paid for as medical
14 or behavioral health care;

15 (2) group benefits as provided in the Group
16 Benefits Act; or

17 (3) group health insurance as provided in the
18 Retiree Health Care Act;

19 E. "participant" means a person eligible and covered
20 pursuant to the Group Benefits Act or the Retiree Health Care
21 Act, an employee of a school district or charter school, a
22 person eligible and covered pursuant to the Health Care
23 Purchasing Act or a dependent as permitted by those acts or
24 other governing bodies;

25 F. "political subdivision" means:

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1 (1) a county, municipality, school district,
2 charter school, state educational institution or other public
3 body;

4 (2) a local public body as defined in the
5 Group Benefits Act; or

6 (3) a public entity as defined in the Retiree
7 Health Care Act; and

8 G. "professional claims administrator" means a
9 person or legal entity that has at least five years of
10 experience handling group benefits claims, as well as such other
11 qualifications as the director may determine from time to time
12 with the authority's advice. "

13 Section 23. Section 13-7-4 NMSA 1978 (being Laws 1997,
14 Chapter 74, Section 4) is amended to read:

15 "13-7-4. MANDATORY CONSOLIDATED PURCHASING. --

16 A. The ~~[agencies shall enter into a cooperative~~
17 ~~consolidated purchasing effort to provide]~~ authority shall
18 provide for the purchase of plans of health care benefits for
19 the benefit of eligible participants ~~[of the respective~~
20 ~~agencies]~~. The request for ~~[proposal]~~ proposals shall set forth
21 one or more plans of health care benefits ~~[and shall include~~
22 ~~accommodation of fully funded arrangements as well as varying~~
23 ~~degrees of self-funded pool options.~~

24 ~~B. A consolidated purchasing request for proposals~~
25 ~~for all health care benefits by the publicly funded health care~~

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1 ~~agencies shall be issued on or before July 1, 1999 and any~~
2 ~~contracts for health care benefits renewed or issued on or after~~
3 ~~July 1, 2000 shall be the result of consolidated purchasing.~~

4 ~~C. All requests for proposals issued as part of the~~
5 ~~consolidated purchasing shall include at least one distinct~~
6 ~~service area consisting of the Albuquerque metropolitan area.~~
7 ~~Proposals on a distinct service area shall be evaluated~~
8 ~~separately.] and contracts may be awarded to one or more~~
9 ~~insurance companies or professional claims administrators.~~

10 B. Plans of health care benefits may consist of
11 self-insurance and insurance; provided that particular coverages
12 or risks may be fully insured, fully self-insured or partially
13 insured and partially self-insured.

14 C. Contracts for the consolidated purchase of health
15 care benefits renewed or issued on or after July 1, 2004 shall
16 be the result of a consolidated purchase."

17 Section 24. Section 13-7-5 NMSA 1978 (being Laws 2001,
18 Chapter 351, Section 1) is amended to read:

19 "13-7-5. CONSOLIDATED PURCHASING FOR OTHER PERSONS. --

20 A. Counties, municipalities, state educational
21 institutions and other political subdivisions that wish to use
22 [the] a consolidated [purchasing single process for the
23 procurement] purchase of health care benefits shall create or
24 enter into an existing association, cooperative or other mutual
25 alliance to create larger pools of eligible participants.

underscored material = new
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1 B. Counties, municipalities, state educational
2 institutions and other political subdivisions that wish to use
3 the consolidated [~~purchasing single process~~] purchase of health
4 care benefits shall, through their respective association,
5 cooperative or mutual alliance, participate in the subsequent
6 consolidated [~~purchasing single process with the publicly funded~~
7 ~~health care agencies~~] purchase. "

8 Section 25. Section 13-7-6 NMSA 1978 (being Laws 2001,
9 Chapter 351, Section 2) is amended to read:

10 "13-7-6. USE OF SOCIAL SECURITY NUMBERS. -- The [~~publicly~~
11 ~~funded health care agencies~~] authority, political subdivisions
12 and other persons providing health care benefits through [~~the~~] a
13 consolidated [~~purchasing single process~~] purchase of health care
14 benefits, in compliance with state and federal law, shall not
15 require the use of participants' social security numbers as
16 health care benefit plan identification numbers. "

17 Section 26. Section 22-29-1 NMSA 1978 (being Laws 1986,
18 Chapter 94, Section 1) is amended to read:

19 "22-29-1. SHORT TITLE. -- [~~This act~~] Chapter 22, Article 29
20 NMSA 1978 may be cited as the "Public School Insurance Authority
21 Act". "

22 Section 27. Section 22-29-2 NMSA 1978 (being Laws 1986,
23 Chapter 94, Section 2) is amended to read:

24 "22-29-2. PURPOSE OF ACT. -- The purpose of the Public
25 School Insurance Authority Act is to provide [~~comprehensive core~~

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1 ~~insurance]~~ risk-related coverage programs for all participating
2 public schools, school board members, school board retirees and
3 public school employees and retirees by expanding the pool of
4 subscribers to maximize cost containment opportunities for
5 required insurance coverage. "

6 Section 28. Section 22-29-3 NMSA 1978 (being Laws 1986,
7 Chapter 94, Section 3, as amended) is amended to read:

8 "22-29-3. DEFINITIONS. -- As used in the Public School
9 Insurance Authority Act:

10 A. "authority" means the public school insurance
11 authority;

12 B. "board" means the board of directors of the
13 public school insurance authority;

14 C. "charter school" means a school organized as a
15 charter school pursuant to the provisions of the 1999 Charter
16 Schools Act;

17 D. "director" means the director of the public
18 school insurance authority;

19 E. "educational entities" means state educational
20 institutions as enumerated in Article 12, Section 11 of the
21 constitution of New Mexico and other state diploma, degree-
22 granting and certificate-granting post-secondary educational
23 institutions and regional education cooperatives;

24 F. "fund" means the public school insurance fund;

25 [~~G. "group health insurance" means coverage that~~

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1 ~~includes life insurance, accidental death and dismemberment,~~
2 ~~medical care and treatment, dental care, eye care and other~~
3 ~~coverages as determined by the authority;~~

4 H.] G. "risk-related coverage" means coverage that
5 includes property and casualty, general liability, auto and
6 fleet, workers' compensation and other casualty insurance; and

7 [I.] H. "school district" means a school district as
8 defined in Subsection K of Section 22-1-2 NMSA 1978, excluding
9 any school district with a student enrollment in excess of sixty
10 thousand students. "

11 Section 29. Section 22-29-4 NMSA 1978 (being Laws 1986,
12 Chapter 94, Section 4) is amended to read:

13 "22-29-4. AUTHORITY CREATED. --

14 A. There is created the "public school insurance
15 authority" which is established to provide for [~~group health~~
16 ~~insurance and other~~] risk-related coverage with the exception of
17 the mandatory coverage provided by the risk management division
18 on the effective date of the Public School Insurance Authority
19 Act.

20 B. Health care benefits coverage shall be purchased
21 for all school districts, regardless of student enrollment,
22 pursuant to the Health Care Purchasing Act. "

23 Section 30. Section 22-29-5 NMSA 1978 (being Laws 1986,
24 Chapter 94, Section 5, as amended) is amended to read:

25 "22-29-5. BOARD CREATED-- MEMBERSHIP-- DUTIES. --

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1 A. There is created the "board of directors of the
2 public school insurance authority". The board shall be composed
3 of ~~[nine]~~ eleven members, consisting of the following:

4 (1) one member to be selected by the ~~[state~~
5 ~~board of]~~ public education department;

6 (2) one school business official to be
7 selected by the New Mexico school administrators;

8 (3) one board member of the New Mexico school
9 boards association to be selected by the association;

10 (4) one superintendent to be selected by the
11 New Mexico superintendents' association;

12 (5) three members to be selected by the New
13 Mexico national education association and the New Mexico
14 federation of teachers with the intent that representation be
15 proportional to their respective membership; provided that each
16 of these three members be currently employed as public school
17 teachers employed by participating entities;

18 (6) one member to be selected by the board
19 from lists submitted by the participating educational entities;
20 and

21 (7) three members to be appointed by and serve
22 at the pleasure of the governor. Such members shall not be
23 employed by or on behalf of or be contracting with an employer
24 participating in or eligible to participate in the public school
25 insurance authority.

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1 B. Each member of the board shall serve at the
2 pleasure of the party by which he has been appointed for a term
3 not to exceed three years. Any board member who has been
4 appointed and who misses four meetings of the board during a
5 fiscal year shall be replaced and shall forfeit his position on
6 the board, and his replacement shall be made by the organization
7 affected. The board shall set minimum terms of appointment and
8 shall elect from its membership a president, vice president and
9 secretary.

10 C. The board has the authority to hire a director
11 and appoint such other officers and employees as it may deem
12 necessary and has the authority to contract with consultants or
13 other professional persons or firms as may be necessary to carry
14 out the provisions of the Public School Insurance Authority Act.
15 ~~[The board has the authority to provide for its full- and part-~~
16 ~~time employees, as it deems necessary, employee benefits~~
17 ~~insurance on the same basis as a member public school district~~
18 ~~may provide such employee benefits. In addition]~~ The board has
19 the authority to provide to members of the board and the
20 employees risk coverages of the same scope and limitations as
21 are allowed its member school districts to be provided to their
22 local school boards. The board has the authority to provide
23 employees an irrevocable option of qualifying for coverage under
24 either the Educational Retirement Act or the Public Employees
25 Retirement Act.

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1 D. The members of the board shall receive per diem
2 and mileage as provided in the Per Diem and Mileage Act, but
3 shall receive no other compensation, perquisite or allowance."

4 Section 31. Section 22-29-6 NMSA 1978 (being Laws 1986,
5 Chapter 94, Section 6, as amended) is amended to read:

6 "22-29-6. FUND CREATED-- BUDGET REVIEW- - PREMIUMS. --

7 A. There is created the "public school insurance
8 fund". All income earned on the fund shall be credited to the
9 fund. The fund is appropriated to the authority to carry out
10 the provisions of the Public School Insurance Authority Act.
11 Any money remaining in the fund at the end of each fiscal year
12 shall not revert to the general fund.

13 B. The board shall determine which money in the fund
14 constitutes the long-term reserves of the authority. The state
15 investment officer shall invest the long-term reserves of the
16 authority in accordance with the provisions of Sections 6-8-1
17 through 6-8-16 NMSA 1978. The state treasurer shall invest the
18 money in the fund that does not constitute the long-term
19 reserves of the fund in accordance with the applicable
20 provisions of Chapter 6, Article 10 NMSA 1978.

21 C. All appropriations shall be subject to budget
22 review through the [~~department of~~] public education department,
23 the state budget division of the department of finance and
24 administration and the legislative finance committee.

25 D. The authority shall provide that premiums are

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1 collected from school districts and charter schools
2 participating in the authority sufficient to provide the
3 required ~~[insurance]~~ risk-related coverage and to pay the
4 expenses of the authority. All premiums shall be credited to
5 the fund.

6 E. Any reserves remaining at the termination of ~~[an~~
7 ~~insurance]~~ a contract for risk-related coverage shall be
8 disbursed to the individual school districts, charter schools
9 and other participating entities on a pro rata basis.

10 F. Disbursements from the fund for purposes other
11 than procuring and paying for ~~[insurance or insurance-related]~~
12 risk-related coverage services, including ~~[but not limited to]~~
13 third-party administration, premiums, claims and cost
14 containment activities, shall be made only upon warrant drawn by
15 the secretary of finance and administration pursuant to vouchers
16 signed by the director or his designee; provided that the
17 chairman of the board may sign vouchers if the position of
18 director is vacant. "

19 Section 32. Section 22-29-7 NMSA 1978 (being Laws 1986,
20 Chapter 94, Section 7, as amended) is amended to read:

21 "22-29-7. AUTHORITY--DUTIES.--In order to effectuate the
22 purposes of the Public School Insurance Authority Act, the
23 authority has the power to:

24 A. enter into professional services and consulting
25 contracts or agreements as necessary;

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1 B. collect money and provide for the investment of
2 the fund;

3 C. collect all current and historical claims and
4 financial information necessary for effective procurement of
5 lines of [~~insurance~~] risk-related coverage;

6 D. promulgate necessary rules, regulations and
7 procedures for implementation of the Public School Insurance
8 Authority Act;

9 E. negotiate new insurance policies covering
10 additional or lesser benefits as determined appropriate by the
11 authority, but the authority shall maintain all coverage levels
12 required by federal and state law for each participating member.
13 In the event it is practical to wholly self-insure a particular
14 line of coverage, the authority may do so;

15 F. procure lines of [~~insurance~~] risk-related
16 coverage in compliance with the [~~provisions of the Health Care~~
17 ~~Purchasing Act and the~~] competitive sealed proposal process of
18 the Procurement Code provided that any [~~group medical insurance~~]
19 risk-related coverage plan offered pursuant to this section
20 shall include effective cost-containment measures to control the
21 growth of health care costs. The board shall report annually by
22 September 1 to appropriate interim legislative committees on the
23 effectiveness of the cost-containment measures required by this
24 subsection; and

25 G. purchase, renovate, equip and furnish a building

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1 for the board. "

2 Section 33. Section 22-29-9 NMSA 1978 (being Laws 1986,
3 Chapter 94, Section 9, as amended) is amended to read:

4 "22-29-9. PARTICIPATION-- WAIVERS. --

5 A. School districts and charter schools shall
6 participate in the authority, unless the school district or
7 charter school is granted a waiver by the board.

8 B. In determining whether a waiver should be
9 granted, the board shall establish ~~minimum~~ benefit and financial
10 standards for the desired line of risk-related coverage. These
11 ~~minimum~~ benefit and financial standards and the proposed time
12 schedule for responsive offers shall be sent to all school
13 districts and charter schools at the time the request for
14 proposals for the desired line of coverage is issued. Any
15 school district or charter school seeking a waiver of risk-
16 related coverage shall ~~match~~ the ~~minimum~~ benefit and financial
17 standards set forth in the request for proposals for the desired
18 line of risk-related coverage. School districts and charter
19 schools shall submit documentation of their proposals ~~matching~~
20 the board's ~~minimum~~ benefit and financial requirements prior to
21 the deadline established by the board. The authority has the
22 power to approve or disapprove a waiver of participation based
23 on the documentation submitted by the school district or charter
24 school regarding the benefit and financial standards established
25 by the board. The board shall grant a waiver to a school

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1 district or charter school that requests a waiver and that has
2 met the minimum benefit and financial standards within the time
3 schedule established by the board. Once the board awards the
4 ~~[insurance]~~ contract for risk-related coverage, no school
5 district or charter school shall be granted a waiver for the
6 entire term of the contract.

7 C. ~~[Any school district or charter school granted a~~
8 ~~waiver of participation for health insurance shall be required~~
9 ~~to petition for participation in other kinds of group insurance~~
10 ~~coverage and shall be required to meet the requirements~~
11 ~~established by the authority prior to participation in other~~
12 ~~kinds of group insurance coverage.]~~ A school district or charter
13 school ~~[which has been]~~ that was granted a waiver prior to July
14 1, 2004 shall be prohibited from participating in the risk-
15 related coverage for which a waiver was granted for the entire
16 term of the authority's ~~[insurance]~~ contract for risk-related
17 coverage. If the authority contracts for a line or lines of
18 risk-related coverage for a period of eight years, the board may
19 establish procedures and preconditions for authorizing a school
20 district or charter school ~~[which has been]~~ that was granted a
21 waiver prior to July 1, 2004 to again participate in the risk-
22 related coverage after the expiration of the first four years of
23 risk-related coverage.

24 D. Any school district or charter school granted a
25 waiver of participation for workers' compensation shall be

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1 required to petition for participation in other risk-related
2 coverages and shall be required to meet the requirements
3 established by the authority prior to participation in other
4 kinds of risk-related coverages. A school district or charter
5 school [~~which~~] that has been granted a waiver shall be
6 prohibited from participating in the risk-related coverage for
7 which a waiver was granted for the entire term of the
8 authority's [~~insurance~~] contract for risk-related coverage.

9 E. Educational entities may petition the authority
10 for permission to participate in the [~~insurance~~] risk-related
11 coverage provided by the authority. To protect the stability of
12 the fund, the authority shall establish reasonable terms and
13 conditions for participation by educational entities.

14 F. A participating school district or charter school
15 may separately provide for coverage additional to that offered
16 by the authority.

17 G. The local school districts, charter schools or
18 the authority, as appropriate, may provide for marketing and
19 servicing to be done by licensed insurance agents or brokers who
20 should receive reasonable compensation for their services. "

21 Section 34. TEMPORARY PROVISION--TRANSFER OF PROPERTY,
22 CONTRACTS AND REFERENCES IN LAW. --

23 A. On the effective date of this 2004 act, all
24 appropriations, money, records, equipment, supplies and other
25 property of the retiree health care authority and its board

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1 shall be transferred to the general services department.

2 B. On the effective date of this 2004 act, all
3 appropriations, money, records, equipment, supplies and other
4 property of the public school insurance authority relating to
5 group insurance shall be transferred to the general services
6 department.

7 C. On the effective date of this 2004 act, all
8 appropriations, money, records, equipment, supplies and other
9 property of a school district with enrollment greater than sixty
10 thousand students relating to health care benefits as defined in
11 the Health Care Purchasing Act shall be transferred to the
12 general services department.

13 D. On the effective date of this 2004 act, all
14 appropriations, money, records, equipment, supplies and other
15 property of the group benefits committee shall be transferred to
16 the general services department.

17 E. On the effective date of this 2004 act, the
18 following personnel shall be transferred to the general services
19 department:

20 (1) classified personnel of the retiree health
21 care authority;

22 (2) classified personnel of the public school
23 insurance authority, relating to group insurance; and

24 (3) classified personnel of the group benefits
25 committee, as needed for transition and ongoing operation and

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1 administration.

2 F. On the effective date of this 2004 act, the
3 general services department and a school district with
4 enrollment greater than sixty thousand students shall enter into
5 a joint powers agreement to transfer the classified personnel of
6 the affected school district to the general services department.

7 G. The state personnel office shall work with state
8 agencies to assist those public employees displaced by the
9 consolidation provisions of the Health Care Purchasing Act in
10 obtaining comparable employment.

11 H. On the effective date of this 2004 act, all
12 contracts of the retiree health care authority, the group
13 benefits committee, the public school insurance authority as
14 they pertain to group insurance and any school district with
15 enrollment greater than sixty thousand students as they pertain
16 to health care benefits as defined in the Health Care Purchasing
17 Act shall be binding and effective on the general services
18 department.

19 I. On the effective date of this 2004 act, all
20 references in law to the retiree health care authority, the
21 group benefits committee, the public school insurance authority
22 as they pertain to group insurance and any school district with
23 enrollment greater than sixty thousand students as they pertain
24 to health care benefits as defined in the Health Care Purchasing
25 Act shall be deemed to be references to the general services

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1 department or the health care purchasing authority, as
2 appropriate.

3 Section 35. TEMPORARY PROVISION--TRANSITION PERIOD.--On
4 the effective date of this 2004 act, appropriate steps shall be
5 taken to ensure a transition that provides uninterrupted health
6 care access, delivery, financing and customer service,
7 including:

8 A. joint powers agreements between the general
9 services department and the public body affected by the
10 consolidation pursuant to the Health Care Purchasing Act;

11 B. continued applicability of existing rules until
12 the health care purchasing authority has adopted new,
13 replacement or revised rules;

14 C. transition and planning meetings between and
15 among the general services department, the group benefits
16 committee, the board of the retiree health care authority, the
17 retiree health care authority, the board of directors of the
18 public school insurance authority, the public school insurance
19 authority and the governing body and the administrative
20 organization relating to health care benefits of a school
21 district with student enrollment greater than sixty thousand
22 students to ensure the appropriate transfer of property,
23 personnel, contracts and other items or services to be
24 consolidated pursuant to the Health Care Purchasing Act;

25 D. allowing the general services department to

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1 assess and assume responsibility for the information technology
2 systems and resources of the retiree health care authority, the
3 public school insurance authority, the group benefits committee
4 and a school district with enrollment greater than sixty
5 thousand students; provided that, notwithstanding the provisions
6 of Section 15-1C-7 NMSA 1978, the general services department
7 may proceed with implementation of information technology
8 systems and resources without the approval of but in
9 consultation with the office of the chief information officer;
10 and

11 E. ensuring that the level of customer service for
12 public employees, retirees and dependents is maintained or
13 exceeded during the transition period.

14 Section 36. TEMPORARY PROVISION. -- The health care
15 purchasing authority shall determine, by December 31, 2005,
16 methods to permit private employers or individuals to
17 voluntarily purchase health care benefits coverage afforded by
18 the authority, taking into consideration the results of studies
19 and recommendations of the legislative health and human services
20 committee and the study conducted by the human services
21 department and the New Mexico health policy commission, with the
22 cooperation of the insurance division of the public regulation
23 commission and the general services department, to assess the
24 potential effects and methods of authorizing businesses and
25 individuals to join a public health insurance purchasing

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1 collaborative. The methods shall address the impact on the
2 number of uninsured New Mexicans, the growth in health insurance
3 costs, the effects on the business community and the effects on
4 the private group and individual insurance markets in the state.

5 Section 37. TEMPORARY PROVISION--RECOMPILATION
6 INSTRUCTIONS.--Sections 10-7C-17 through 10-7C-19 NMSA 1978
7 (being Laws 2002, Chapter 75, Sections 2 through 4 and Laws
8 2002, Chapter 80, Sections 2 through 4, as amended) are
9 recompiled as part of the Health Care Purchasing Act.

10 Section 38. REPEAL.--Sections 10-7B-3, 10-7B-4, 10-7B-7,
11 10-7B-8, 10-7C-5 through 10-7C-8, 10-7C-10, 10-7C-11, 10-7C-14,
12 10-7C-16, 13-7-7 and 22-29-10 NMSA 1978 (being Laws 1989,
13 Chapter 231, Sections 3, 4, 7 and 8, Laws 1990, Chapter 6,
14 Sections 5, 6 and 7, Laws 2000, Chapter 79, Sections 1 and 2,
15 Laws 1990, Chapter 6, Sections 8, 10, 11, 14 and 16, Laws 2001,
16 Chapter 351, Section 3 and Laws 1989, Chapter 373, Section 5, as
17 amended) are repealed.

18 Section 39. SEVERABILITY.--If any part or application of
19 this act is held invalid, the remainder or its application to
20 other situations or persons shall not be affected.

21 Section 40. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect immediately.