AN ACT

RELATING TO THE COMPREHENSIVE HEALTH INSURANCE POOL ACT; AUTHORIZING THE BOARD OF DIRECTORS TO IDENTIFY ADDITIONAL UNINSURED POPULATIONS FOR COVERAGE PURSUANT TO THAT ACT; AUTHORIZING THE BOARD TO COVER UNINSURED OR UNDERINSURED INDIVIDUALS IN EXTRAORDINARY CIRCUMSTANCES.

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

Section 1. Section 59A-54-7 NMSA 1978 (being Laws 1987, Chapter 154, Section 7, as amended) is amended to read:

"59A-54-7. BOARD--POWERS AND DUTIES.--The board shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact health insurance business. In addition, the board shall have the specific authority to:

A. enter into contracts as are necessary or proper to carry out the provisions and purposes of the Comprehensive Health Insurance Pool Act, including the authority, with the approval of the superintendent, to enter into contracts with similar pools of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions. The pool shall comply with the Procurement Code except as otherwise provided in the Comprehensive Health Insurance Pool Act;

B. sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

C. identify additional uninsured or underinsured populations of New Mexico residents that cannot obtain coverage for comprehensive major medical or comprehensive physician and hospital services; and, if necessary, develop additional types of pool policies with separate individual eligibility requirements, benefits and rate structures under which individuals within those populations can obtain coverage;

D. establish appropriate rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices;

E. assess members of the pool in accordance with the provisions of the Comprehensive Health Insurance Pool Act and make initial and interim assessments as may be reasonable and necessary for the organizational or interim operating expenses of the pool. Interim expenses shall be credited as offsets against any regular assessments due following the close of the calendar year;

F. issue policies of insurance in accordance with the requirements of the Comprehensive Health Insurance Pool Act;

G. appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the pool, policy and other contract design and any other function within the authority of the pool; and

H. conduct periodic audits to assure the general accuracy of the financial data submitted to the pool. The board shall cause the pool to have an annual audit of its operations by an independent certified public accountant."

Section 2. Section 59A-54-12 NMSA 1978 (being Laws 1987, Chapter 154, Section 12, as amended) is amended to read:

"59A-54-12. ELIGIBILITY--POLICY PROVISIONS.--

A. Except as provided in Subsection B of this section, a person is eligible for a pool policy only if on the effective date of coverage or renewal of coverage the person is a New Mexico resident, and:

(1) is not eligible as an insured or covered dependent for any health plan that provides coverage for comprehensive major medical or comprehensive physician and hospital services;

(2) is only eligible for a health plan that is offered at a rate higher than that available from the pool;

(3) has been rejected for coverage for comprehensive major medical or comprehensive physician and hospital services;

(4) is only eligible for a health plan with a rider, waiver or restrictive provision for that particular individual based on a specific condition;

(5) has as of the date the individual seeks coverage from the pool an aggregate of eighteen or more months of creditable coverage, the most recent of which was under a group health plan, governmental plan or church plan as defined in Subsections P, N and D, respectively, of

Section 59A-23E-2 NMSA 1978, except, for the purposes of aggregating creditable coverage, a period of creditable coverage shall not be counted with respect to enrollment of an individual for coverage under the pool if, after that period and before the enrollment date, there was a sixty-three-day or longer period during all of which the individual was not covered under any creditable coverage; or

(6) is entitled to continuation coverage pursuant to Section 59A-23E-19 NMSA 1978.

B. Notwithstanding the provisions of Subsection A of this section:

(1) a person's eligibility for a policy issued under the Health Insurance Alliance Act shall not preclude a person from remaining on a pool policy; provided that a self-employed person who qualifies for an approved health plan under the Health Insurance Alliance Act by using a dependent as the second employee may choose a pool policy in lieu of the health plan under that act;

(2) a pool policyholder shall be eligible for renewal of pool coverage even though the policyholder became eligible for medicare or medicaid coverage while covered under a pool policy; and

(3) if a pool policyholder becomes eligible for any group health plan, the policyholder's pool coverage shall not be involuntarily terminated until any pre-existing condition period imposed on the policyholder by the plan has been exhausted.

C. Coverage under a pool policy is in excess of and shall not duplicate coverage under any other form of health insurance.

D. A pool policy shall provide that coverage of a dependent unmarried person terminates when the person becomes nineteen years of age or, if the person is enrolled full time in an accredited educational institution, when he becomes twenty-five years of age. The policy shall also provide in substance that attainment of the limiting age does not operate to terminate coverage when the person is and continues to be:

(1) incapable of self-sustaining employment by reason of developmental disability or physical handicap; and

(2) primarily dependent for support and maintenance upon the person in whose name the contract is issued.

Proof of incapacity and dependency shall be furnished to the insurer within one hundred twenty days of attainment of the limiting age and subsequently as required by the insurer but not more frequently than annually after the two-year period following attainment of the limiting age.

E. A pool policy that provides coverage for a family member of the person in whose name the contract is issued shall, as to the coverage of the family member or the individual in whose name the contract was issued, provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the family member or the person in whose name the contract is issued from the moment of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the

child, the contract may require that notification of the birth of a child and payment of the required premium shall be furnished to the carrier within thirty-one days after the date of birth in order to have the coverage continued beyond the thirty-one day period.

F. Except for a person eligible as provided in Paragraph (5) of Subsection A of this section, a pool policy may contain provisions under which coverage is excluded during a six-month period following the effective date of coverage as to a given individual for preexisting conditions, as long as either of the following exists:

(1) the condition has manifested itself within a period of six months before the effective date of coverage in such a manner as would cause an ordinarily prudent person to seek diagnoses or treatment; or

(2) medical advice or treatment was recommended or received within a period of six months before the effective date of coverage.

G. The preexisting condition exclusions described in Subsection F of this section shall be waived to the extent to which similar exclusions have been satisfied under any prior health insurance coverage that was involuntarily terminated, if the application for pool coverage is made not later than thirty-one days following the involuntary termination. In that case, coverage in the pool shall be effective from the date on which the prior coverage was terminated. This subsection does not prohibit preexisting conditions coverage in a pool policy that is more favorable to the insured than that specified in this subsection.

H. Except for those individuals in populations

identified pursuant to Subsection C of Section 59A-54-7 NMSA 1978 and except as provided in Subsection J of this section, an individual is not eligible for coverage by the pool if:

(1) he is, at the time of application, eligible for medicare or medicaid which would provide coverage for amounts in excess of limited policies such as dread disease, cancer policies or hospital indemnity policies;

(2) he has terminated coverage by the pool within the past twelve months;

(3) he is an inmate of a public institution or is eligible for public programs for which medical care is provided;

(4) he is eligible for coverage under a group health plan;

(5) he has health insurance coverage as defined in Subsection R of Section 59A-23E-2 NMSA 1978;

(6) the most recent coverages within the coverage period described in Paragraph (5) of Subsection A of this section were terminated as a result of nonpayment of premium or fraud; or

(7) he has been offered the option of continuation coverage under a federal COBRA continuation provision as defined in Subsection F of Section 59A-23E-2 NMSA 1978 or under a similar state program and he has elected the coverage and did not exhaust the continuation coverage under the provision or program.

I. Any person whose health insurance coverage from a qualified state health policy with similar coverage is terminated because of nonresidency in another state may

apply for coverage under the pool. If the coverage is applied for within thirty-one days after that termination and if premiums are paid for the entire coverage period, the effective date of the coverage shall be the date of termination of the previous coverage.

J. Nothing in the Comprehensive Health Insurance Pool Act prohibits the board from issuing a pool policy to an uninsured or underinsured individual, who otherwise would not be eligible, if the board finds that extraordinary circumstances exist that prohibit the individual from obtaining coverage for comprehensive major medical or comprehensive physician and hospital services from any other source; provided that inability to pay for or afford premiums shall not, by itself, constitute extraordinary circumstances."