AN ACT

RELATING TO HEALTH; ENACTING THE HEALTH CARE ACCESS ACT; CREATING THE HEALTH CARE ACCESS FUND; PROVIDING FOR TRANSFERS AND DISTRIBUTIONS TO THE FUND; PROVIDING FOR DISBURSEMENTS FROM THE FUND; AMENDING CERTAIN SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Health Care Access Act".

Section 2. FINDINGS.--The legislature finds that as a matter of public policy it is necessary to provide health care access to the underserved population in New Mexico. The legislature further finds that it is necessary to provide flexible and shared solutions to address the problems of the underserved.

Section 3. DEFINITIONS.--As used in the Health Care Access Act:

A. "contributing entity" means a unit of local government when making transfers to the fund pursuant to the Indigent Hospital and County Health Care Act or from other sources; the department when making transfers to the fund from appropriations made for the purposes of the Rural Primary Health Care Act; or a state institution that makes transfers to the fund for the purposes of obtaining benefits

pursuant to the Health Care Access Act;

B. "department" means the department of health;

C. "essential community provider" means an entity that serves a qualifying level of indigents as determined by rule of the department, serves a health care underserved area or a health care underserved population, participates in the medicaid and medicare programs and has been designated as an essential community provider by the department. Essential community providers may include sole community provider hospitals as designated by the federal health care financing authority, hospitals qualified to receive disproportionate-share medicaid or medicare payments; primary care providers in federally designated medically underserved or health professional shortage areas; school health programs that are linked to an eligible provider; public health departments; federally qualified health centers and rural health clinics; nonprofit primary care clinics; essential access community hospitals as designated by the federal health care financing authority; home health agencies; behavioral health agencies; and other health care providers determined to be essential to a comprehensive delivery network by the department;

D. "essential community provider network" means two or more essential community providers that, pursuant to an agreement, join together for the purpose of obtaining funds and providing services pursuant to the provisions of

the Health Care Access Act; and

E. "fund" means the essential community provider fund.

Section 4. FUND CREATED--TRANSFERS--MATCH.--

A. The "essential community provider fund" is created in the state treasury. The fund shall consist of money transferred to the fund by contributing entities, money appropriated to the fund and money transferred to the fund by the department or human services department pursuant to law. Earnings of the fund shall be credited to the fund, and unexpended or unencumbered balances in the fund shall not revert. Disbursements from the fund shall be made only by warrants issued by the department of finance and administration upon vouchers signed by the secretary of health. Money in the fund is appropriated to the department for the purposes of complying with the provisions of the Health Care Access Act.

B. Each fiscal year, by a deadline established by rule of the department, a contributing entity may transfer money to the fund for the purposes of obtaining services for underserved populations pursuant to the Health Care Access Act. The department or human services department shall match money transferred to the fund by a contributing entity with any eligible and available federal or state funds or grants. If, within the time frame set by rule of the department, the

department or human services department is unable to match the money transferred by the contributing entity, the amount transferred shall be refunded to the contributing entity. If, within that time frame, the department or the human services department is able to match the money transferred by the contributing entity, distributions shall be made from the fund pursuant to Section 5 of the Health Care Access Act.

Section 5. PAYMENTS TO ESSENTIAL COMMUNITY PROVIDERS.--

A. The department may enter into an agreement with an essential community provider, an essential community provider network or a participating local government to make distributions from the fund for health care services provided to the underserved. In entering into the agreements, the parties shall incorporate provisions that will promote preventative care, improve health status, access, continuity of care, personal responsibility and other principles that promote quality and efficiency in a health care delivery system. Distributions from the fund shall be made pursuant to the agreements; provided that:

(1) a non-department contributing entity shall be benefitted by payments from the fund in the same proportion as its contributions to the total contributions made by all non-department contributing entities to the fund;

(2) the department shall develop a formula

based on the indigency level of a county population as a percentage of the indigency level of the state population, which will be extrapolated from income level, and distribute funds being allocated under the Health Care Access Act based on that percentage. If a county contributes less than its maximum allowable contribution percentage, the department shall proportionately increase the maximum allowable contribution percentage for the other counties;

(3) in no instance shall a county receive a distribution from the fund that is less than its contribution to the fund;

(4) voluntary local government transfers to the fund and the resulting amounts after matching with available funds shall be distributed to the contributing local governments in proportion to the amounts transferred by the local governments to meet the purposes of the Health Care Access Act;

(5) state appropriations and transfers to the fund and the resulting amounts after matching with available funds shall be distributed in proportion to the amounts transferred to meet the purposes of Section 24-1A-3.1 NMSA 1978; and

(6) no distributions shall be made from the fund to supplant any general fund support for the medicaid program.

B. The department shall promulgate such rules as are necessary to carry out the provisions of the Health Care Access Act.

Section 6. Section 24-1A-1 NMSA 1978 (being Laws 1981, Chapter 295, Section 1) is amended to read:

"24-1A-1. SHORT TITLE.--Chapter 24, Article 1A NMSA 1978 may be cited as the "Rural Primary Health Care Act"."

Section 7. Section 24-1A-3.1 NMSA 1978 (being Laws 1983, Chapter 236, Section 3, as amended) is amended to read:

"24-1A-3.1. DEPARTMENT--TECHNICAL AND FINANCIAL ASSISTANCE.--To the extent funds are made available for the purposes of the Rural Primary Health Care Act, the department is authorized to:

A. provide for a program to recruit and retain health care personnel in health care underserved areas;

B. develop plans for and coordinate the efforts of other public and private entities assisting in the provision of primary health care services through eligible programs;

C. provide for technical assistance to eligible programs in the areas of administrative and financial management, clinical services, outreach and planning;

D. provide for distribution of financial assistance to eligible programs that have applied for and demonstrated a need for assistance in order to sustain a

minimum level of delivery of primary health care services;

E. provide a program for enabling the development of new primary care health care services or facilities, and that program:

(1) shall give preference to communities that have few or no community-based primary care services;

(2) may require in-kind support from local communities where primary care health care services or facilities are established;

(3) may require primary care health care services or facilities to assure provision of health care to the medically indigent; and

(4) shall permit the implementation of innovative and creative uses of local or statewide health care resources, or both, other than those listed in Paragraphs (2) and (3) of this subsection; and

F. transfer available appropriations made to fulfill the purposes of the Rural Primary Health Care Act to the essential community provider fund pursuant to the Health Care Access Act for the purpose of matching available federal funds; provided that the resulting distributions from the essential community provider fund are used to meet the purposes of Subsections A through E of this section. The department shall be benefited by distributions from the fund for the purposes of the Rural Primary Health Care Act in the

same proportion as the transfers made by the department to the fund, but in no case shall the department receive a distribution from the fund for the purpose of the Rural Primary Health Care Act that is less than the transfer it makes to the fund, plus any matching funds received as a result of the transfer."

Section 8. Section 27-5-6 NMSA 1978 (being Laws 1965, Chapter 234, Section 6, as amended) is amended to read:

"27-5-6. POWERS AND DUTIES OF THE BOARD.--The board:

A. shall administer claims pursuant to the provisions of the Indigent Hospital and County Health Care Act;

B. shall prepare and submit a budget to the board of county commissioners for the amount needed to defray claims made upon the fund and to pay costs of administration of the Indigent Hospital and County Health Care Act and costs of development of a countywide or multicounty health plan. The combined costs of administration and planning shall in no event exceed the following percentages of revenues based on the previous fiscal year revenues for a fund that has existed for at least one fiscal year or based on projected revenues for the year being budgeted for a fund that has existed for less than one fiscal year. The percentage of the revenues in the fund that may be used for such combined administrative and planning costs is equal to the sum of the following:

(1) ten percent of the amount of the revenues in the fund not over five hundred thousand dollars ($500,000);

(2) eight percent of the amount of the revenues in the fund over five hundred thousand dollars ($500,000) but not over one million dollars ($1,000,000); and

(3) four and one-half percent of the amount of the revenues in the fund over one million dollars ($1,000,000);

C. shall make rules and regulations necessary to carry out the provisions of the Indigent Hospital and County Health Care Act; provided that the standards for eligibility and allowable costs for county indigent patients shall be no more restrictive than the standards for eligibility and allowable costs prior to December 31, 1992;

D. shall set criteria and cost limitations for medical care in licensed out-of-state hospitals, ambulance services or health care providers;

E. shall cooperate with appropriate state agencies to use available funds efficiently and to make health care more available;

F. shall cooperate with the department in making any investigation to determine the validity of claims made upon the fund for any indigent patient;

G. may accept contributions or other county

revenues, which shall be deposited in the fund;

H. may hire personnel to carry out the provisions of the Indigent Hospital and County Health Care Act;

I. shall review all claims presented by a hospital, ambulance service or health care provider to determine compliance with the rules and regulations adopted by the board or with the provisions of the Indigent Hospital and County Health Care Act, determine whether the patient for whom the claim is made is an indigent patient and determine the allowable medical, ambulance service or health care services costs; provided that the burden of proof of any claim shall be upon the hospital, ambulance service or health care provider;

J. shall state in writing the reason for rejecting or disapproving any claim and shall notify the submitting hospital, ambulance service or health care provider of the decision within sixty days after eligibility for claim payment has been determined;

K. shall pay all claims that are not matched with federal funds under the state medicaid program and that have been approved by the board from the fund and shall make payment within sixty days after approval of a claim by the board;

L. shall determine by county ordinance the types of health care providers that will be eligible to submit

claims under the Indigent Hospital and County Health Care Act;

M. shall review, verify and approve all medicaid sole community provider hospital payment requests in accordance with rules and regulations adopted by the board prior to their submittal by the hospital to the department for payment but no later than January 1 of each year;

N. shall transfer to the state treasurer by the last day of March, June, September and December of each year an amount equal to one-fourth of the county's payment for support of sole community provider payments as calculated by the department for that county for the current fiscal year. This money shall be deposited in the sole community provider fund;

O. may provide for the transfer of money from the county indigent hospital claims fund to the county-supported medicaid fund to meet the requirements of the Statewide Health Care Act;

P. may contract with ambulance providers, hospitals or health care providers for the provision of health care services; and

Q. may make transfers to the essential community provider fund for the purposes of obtaining benefits pursuant to the Health Care Access Act; provided that transfers made pursuant to this subsection are in addition to, and not in

lieu of, the transfers made and required pursuant to Subsections N and O of this section."

Section 9. Section 27-10-3 NMSA 1978 (being Laws 1991, Chapter 212, Section 3, as amended) is amended to read:

"27-10-3. COUNTY-SUPPORTED MEDICAID FUND CREATED--USE--APPROPRIATION BY THE LEGISLATURE.--

A. There is created in the state treasury the "county-supported medicaid fund". The fund shall be invested by the state treasurer as other state funds are invested. Income earned from investment of the fund shall be credited to the county-supported medicaid fund. The fund shall not revert in any fiscal year.

B. Money in the county-supported medicaid fund is subject to appropriation by the legislature to support the state medicaid program and the program for essential community providers pursuant to the Health Care Access Act and to institute or support primary care health care services and essential community provider programs pursuant to Subsections D and E of Section 24-1A-3.1 NMSA 1978 and the provisions of the Health Care Access Act. Of the amount appropriated each year, nine percent shall be appropriated to the department of health to institute or support primary care health care services pursuant to Subsections D and E of Section 24-1A-3.1 NMSA 1978.

C. Up to three percent of the county-supported

medicaid fund each year may be expended for administrative costs related to medicaid or developing new primary care health care centers or facilities.

D. In the event federal funds for medicaid are not received by New Mexico for any eighteen-month period, the unencumbered balance remaining in the county-supported medicaid fund and the sole community provider fund at the end of the fiscal year following the end of any eighteen-month period shall be paid within a reasonable time to each county for deposit in the county indigent hospital claims fund in proportion to the payments made by each county through tax revenues or transfers in the previous fiscal year as certified by the local government division of the department of finance and administration. The department will provide for budgeting and accounting of payments to the fund."