

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0677

SENATE BILL NO. 200

Introduced by: The Committee on Commerce at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to authorize the risk pool board to allow additional
2 enrollees into the risk pool under certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17-121 be amended to read as follows:

5 58-17-121. The board has the general powers and authority enumerated by §§ 58-17-68, 58-
6 17-70, 58-17-85, and 58-17-113 to 58-17-142, inclusive, and, in addition to the responsibilities
7 in § 58-17-119, may:

- 8 (1) Enter into any contract as necessary or proper to carry out §§ 58-17-68, 58-17-70, 58-
9 17-85, and 58-17-113 to 58-17-142, inclusive;
- 10 (2) Take any legal action necessary or proper for recovery of any assessments for, on
11 behalf of, or against participating carriers;
- 12 (3) Take any legal action necessary to avoid the payment of improper claims against the
13 risk pool or the coverage provided by or through the risk pool;
- 14 (4) Use medical review to determine that care is clinically appropriate and cost effective
15 for the risk pool;
- 16 (5) Establish appropriate rates, scales of rates, rate classifications, and rating



1 adjustments, none of which may be unreasonable in relation to the coverage provided
2 and the reasonable operational expenses of the risk pool;

3 (6) Issue risk pool plans on an indemnity, network, or provision of service basis and may
4 design, utilize, contract, or otherwise arrange for the delivery of cost effective health
5 care services, including establishing or contracting with preferred provider
6 organizations, health maintenance organizations, and other limited network provider
7 arrangements in providing the coverage required by §§ 58-17-68, 58-17-70, 58-17-
8 85, and 58-17-113 to 58-17-142, inclusive;

9 (7) Create appropriate legal, actuarial, and other committees necessary to provide
10 technical assistance in the operation of the risk pool, plan and other contract design,
11 and any other functions within the authority of the risk pool;

12 (8) Provide, by including a provision in its plans, for subrogation rights by the risk pool
13 for situations in which the risk pool pays expenses on behalf of an individual who is
14 injured or suffers a disease under circumstances creating a liability upon another
15 person to pay damages to the extent of the expenses paid by the risk pool, but only
16 to the extent the damages exceed the plan deductible and coinsurance amounts paid
17 by the enrollee; and

18 (9) Allow an applicant who is not otherwise eligible for coverage pursuant to § 58-17-85
19 to enroll in the risk pool if all of the following are met:

20 (a) The applicant is covered by an individual health benefit plan that is no longer
21 being marketed in this state and has a premium rate that exceeds two hundred
22 percent of the applicable rate, based upon that person's rating characteristics,
23 charged to risk pool enrollees;

24 (b) The risk pool's financial solvency would not be impaired by enrolling the

1 applicants under this subdivision; and

2 (c) Sufficient federal funding exists to cover expected losses for those enrolled

3 pursuant to this subdivision.

4 Nothing in §§ 58-17-68, 58-17-70, 58-17-85, and 58-17-113 to 58-17-142, inclusive,

5 constitutes a waiver of immunity.