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**SENATE BILL 496**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Ben D. Altamirano**

**AN ACT**

**RELATING TO INSURANCE; PROVIDING FOR NONPROFIT REPRESENTATION  
ON THE BOARD OF DIRECTORS OF THE HEALTH INSURANCE ALLIANCE;  
CHANGING THE HEALTH PLAN PREMIUM RATE STRUCTURE; PROVIDING FOR  
OUTREACH ACTIVITIES RELATED TO INSURANCE COVERAGE.**

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

**Section 1. Section 59A-56-4 NMSA 1978 (being Laws 1994,  
Chapter 75, Section 4, as amended) is amended to read:**

**"59A-56-4. ALLIANCE CREATED-- BOARD CREATED. --**

**A. The "New Mexico health insurance alliance" is  
created as a nonprofit public corporation for the purpose of  
providing increased access to health insurance in the state.  
All insurance companies authorized to transact health insurance  
business in this state, nonprofit health care plans, health  
maintenance organizations and self-insurers not subject to**

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1 federal preemption shall organize and be members of the  
2 alliance as a condition of their authority to offer health  
3 insurance in this state, except for an insurance company that  
4 is licensed under the Prepaid Dental Plan Law or a company that  
5 is solely engaged in the sale of dental insurance and is  
6 licensed under a provision of the Insurance Code.

7 B. The alliance shall be governed by a board of  
8 directors constituted pursuant to the provisions of this  
9 section. The board is a governmental entity for purposes of  
10 the Tort Claims Act, but neither the board nor the alliance  
11 shall be considered a governmental entity for any other  
12 purpose.

13 C. ~~[The superintendent shall, within sixty days~~  
14 ~~after March 4, 1994, give notice to all members of the time and~~  
15 ~~place for the initial organizational meeting of the alliance.]~~  
16 Each member shall be entitled to one vote in person or by proxy  
17 at ~~[the organizational]~~ each meeting.

18 D. The alliance shall operate subject to the  
19 supervision and approval of the board. The board shall consist  
20 of:

21 (1) five directors, elected by the members,  
22 who shall be officers or employees of members and shall consist  
23 of ~~[one representative of a nonprofit health care plan]~~ two  
24 representatives of health maintenance organizations and ~~[two]~~  
25 three representatives of other types of members;

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1 (2) five directors, appointed by the governor,  
2 who shall be officers, general partners or proprietors of small  
3 employers, one director of which shall represent nonprofit  
4 corporations;

5 (3) four directors, appointed by the governor,  
6 who shall be employees of small employers; and

7 (4) the superintendent or [~~his~~] the  
8 superintendent's designee, who shall be a nonvoting member,  
9 except when [~~his~~] the superintendent's vote is necessary to  
10 break a tie.

11 E. The superintendent shall serve as chairman of  
12 the board unless [~~he~~] the superintendent declines, in which  
13 event [~~he~~] the superintendent shall appoint the chairman.

14 F. The directors elected by the members shall be  
15 elected for initial terms of three years or less, staggered so  
16 that the term of at least one director expires on June 30 of  
17 each year. The directors appointed by the governor shall be  
18 appointed for initial terms of three years or less, staggered  
19 so that the term of at least one director expires on June 30 of  
20 each year. Following the initial terms, directors shall be  
21 elected or appointed for terms of three years. A director  
22 whose term has expired shall continue to serve until [~~his~~] a  
23 successor is elected or appointed and qualified.

24 G. Whenever a vacancy on the board occurs, the  
25 electing or appointing authority of the position that is vacant

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1 shall fill the vacancy by electing or appointing an individual  
2 to serve the balance of the unexpired term; provided, when a  
3 vacancy occurs in one of the director's positions elected by  
4 the members, the superintendent is authorized to appoint a  
5 temporary replacement director until the next scheduled  
6 election of directors elected by the members is held. The  
7 individual elected or appointed to fill a vacancy shall meet  
8 the requirements for initial election or appointment to that  
9 position.

10 H. Directors may be reimbursed by the alliance as  
11 provided in the Per Diem and Mileage Act for nonsalaried public  
12 officers, but shall receive no other compensation, perquisite  
13 or allowance from the alliance. "

14 Section 2. Section 59A-56-8 NMSA 1978 (being Laws 1994,  
15 Chapter 75, Section 8, as amended) is amended to read:

16 "59A-56-8. APPROVED HEALTH PLAN. --

17 A. An approved health plan shall conform to the  
18 alliance's approved health plan design criteria. The board may  
19 allow more than one plan design for approved health plans. A  
20 member may provide one approved health plan for each plan  
21 design approved by the board.

22 B. The board shall designate plan designs for  
23 approved health plans. The board may designate plan designs  
24 for an approved health plan that provides catastrophic coverage  
25 or other benefit plan designs.

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1 C. Each approved health plan shall offer a premium  
2 that is no greater than [~~fifteen percent over and no less than~~  
3 ~~fifteen percent under~~] the average of the standard rate index  
4 for plans with the same characteristics.

5 [~~D. Each approved health plan offered to an~~  
6 ~~eligible individual shall offer a premium that is no more than~~  
7 ~~twenty-five percent over and no less than twenty-five percent~~  
8 ~~under the average of the standard risk rate index determined~~  
9 ~~pursuant to Section 59A-56-23 NMSA 1978.~~

10 ~~E.]~~ D. Any member that provides or offers to renew  
11 a group health insurance contract providing health insurance  
12 benefits to employees of the state, a county, a municipality or  
13 a school district for which public funds are contributed shall  
14 offer at least one approved health plan to small employers and  
15 eligible individuals; provided, however, if a member does not  
16 offer anywhere in the United States a plan that meets  
17 substantially the design criteria of an approved health plan,  
18 the member shall not be required to offer an approved health  
19 plan.

20 [~~F.]~~ E. If a plan design approved by the board is  
21 not offered by any member already offering an approved health  
22 plan, but a member offers a substantially similar plan design  
23 outside the alliance, the board may require the member to offer  
24 that plan design as an approved health plan through the  
25 alliance.

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1           ~~[G-]~~ F. A member required to offer, and offering,  
2 an approved health plan pursuant to the requirement of  
3 Subsection ~~[E]~~ D of this section shall continue to offer that  
4 plan for five consecutive years after the date the member was  
5 last required to offer the plan. A member offering an approved  
6 health plan but not required to offer it pursuant to the cited  
7 subsection may withdraw the plan but shall continue to offer it  
8 for five consecutive years after the date notice of future  
9 withdrawal is given to the board unless:

10                           (1) the member substitutes another approved  
11 health plan for the plan withdrawn; or

12                           (2) the board allows the plan to be withdrawn  
13 because it imposes a serious hardship upon the member.

14           ~~[H-]~~ G. No member shall be required to offer an  
15 approved health plan if the member notifies the superintendent  
16 in writing that it will no longer offer health insurance, life  
17 insurance or annuities in the state, except for renewal of  
18 existing contracts, provided that:

19                           (1) the member does not offer or provide  
20 health insurance, life insurance or annuities for a period of  
21 five years from the date of notification to the superintendent  
22 to any person in the state who is not covered by the member  
23 through a health insurance policy in effect on the date of the  
24 notification; and

25                           (2) with respect to health or life insurance

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1 policies or annuities in effect on the date of notification to  
2 the superintendent, the member continues to comply with all  
3 applicable laws and regulations governing the provision of  
4 insurance in this state, including the payment of applicable  
5 taxes, fees and assessments. "

6 Section 3. Section 59A-56-23 NMSA 1978 (being Laws 1994,  
7 Chapter 75, Section 23, as amended) is amended to read:

8 "59A-56-23. RATES--STANDARD RISK RATE--EXPERIENCE RATING  
9 PROHIBITED. --

10 A. The alliance shall determine a standard risk  
11 rate index by actuarially calculating the average index rates  
12 that the insurer has filed under the requirements of the Small  
13 Group Rate and Renewability Act with the benefits similar to  
14 the alliance's standard approved health plan. A standard risk  
15 rate based on age and other appropriate demographic  
16 characteristics may be used. [~~No standard risk rate shall be~~  
17 ~~more than fifteen percent higher or fifteen percent lower than~~  
18 ~~the average index rate.~~] In determining the standard risk rate,  
19 the alliance shall consider the benefits provided by the  
20 approved health plan.

21 B. Experience rating is not allowed other than for  
22 reinsurance purposes.

23 C. All rates and rate schedules shall be submitted  
24 to the superintendent for approval prior to use. "

25 Section 4. Section 59A-56-25 NMSA 1978 (being Laws 1994,  
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1 Chapter 75, Section 25) is amended to read:

2 "59A-56-25. EXPANDED SERVICE DEVELOPMENT. -- The  
3 [~~department of~~] insurance division of the commission, in  
4 cooperation with the alliance, shall develop a plan to provide  
5 health insurance coverage for uninsured children, individuals  
6 and other employers, including outreach and technical  
7 assistance activities conducted by the alliance to increase  
8 employer, employee and public awareness of available health  
9 insurance coverage options and to assist employers in securing  
10 or retaining health insurance coverage for employees and their  
11 dependents. "

12 Section 5. EFFECTIVE DATE. -- The effective date of the  
13 provisions of this act is July 1, 2005.

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