

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 6

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Dede Feldman

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING THE NEW MEXICO HEALTH
INSURANCE EXCHANGE ACT; CREATING THE NEW MEXICO HEALTH
INSURANCE EXCHANGE; PROVIDING FOR THE APPOINTMENT, POWERS AND
DUTIES OF A BOARD OF DIRECTORS FOR THE EXCHANGE; PROVIDING THE
SUPERINTENDENT OF INSURANCE OF THE PUBLIC REGULATION COMMISSION
WITH RULEMAKING POWERS RELATING TO THE EXCHANGE; PROVIDING FOR
POWERS AND DUTIES OF THE EXCHANGE; PROVIDING FOR TRANSPARENCY
OF EXCHANGE FUNDING AND OPERATIONS; ESTABLISHING A NEW MEXICO
HEALTH INSURANCE EXCHANGE FUND; REPEALING THE HEALTH INSURANCE
ALLIANCE ACT AND TRANSFERRING PROPERTY, PERSONNEL, CONTRACTS
AND REFERENCES IN LAW TO THE NEW MEXICO HEALTH INSURANCE
EXCHANGE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF
LAW IN LAWS 2009; MAKING AN APPROPRIATION; DECLARING AN
EMERGENCY.

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "New Mexico Health Insurance Exchange Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the New Mexico Health Insurance Exchange Act:

- A. "board" means the board of directors of the exchange;
- B. "carrier" means a person that is subject to licensure by the superintendent or subject to the provisions of the New Mexico Insurance Code and that provides one or more health benefits or insurance plans in the state;
- C. "dependent" means "dependent" as defined in Section 152 of the federal Internal Revenue Code of 1986;
- D. "employee" means an individual hired by another individual or entity for a wage or fixed payment in exchange for personal services and who does not provide the services as part of an independent business;
- E. "exchange" means the New Mexico health insurance exchange;
- F. "health care provider" means an individual who is licensed, certified or otherwise authorized or permitted by law pursuant to Chapter 61 NMSA 1978 to provide health care in the ordinary course of business or practice of a profession;

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 G. "health care services finance or coverage
2 sector" includes carriers and other health insurance issuers;
3 health maintenance or managed care organizations; nonprofit
4 health plans; self-insured group health plans; trade
5 associations of carriers; producers; and health care
6 facilities;

7 H. "member" means a person appointed to the board
8 of directors of the exchange;

9 I. "Native American" means:

10 (1) an individual who is a member of any
11 federally recognized Indian nation, tribe or pueblo; or

12 (2) an individual who has been deemed eligible
13 for services and programs provided to Native Americans by the
14 United States public health service or the bureau of Indian
15 affairs;

16 J. "qualified employer" means a small employer that
17 elects to make its full-time employees, and, at the option of
18 the employer, some or all of its part-time employees, eligible
19 for one or more qualified health plans offered in the small
20 group market through the exchange; provided that the employer:

21 (1) has its principal place of business in the
22 state and elects to provide coverage through the exchange to
23 all of its eligible employees, wherever employed; or

24 (2) elects to provide coverage through the
25 exchange to all of its eligible employees who are principally

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 employed in the state;

2 K. "qualified health plan" means health insurance
3 coverage or a group health plan that the board has determined
4 as meeting the requirements in federal law for coverage to be
5 offered through the exchange;

6 L. "qualified individual" means an individual who:

7 (1) seeks to enroll or who participates in a
8 qualified health plan offered through the exchange and who
9 meets one of the following residency requirements:

10 (a) the individual is a resident of the
11 state and is, and continues to be, legally domiciled and
12 physically residing on a full-time basis in a place of
13 habitation in the state that remains the person's principal
14 residence and from which the person is absent only for a
15 temporary or transitory purpose;

16 (b) the individual is a full-time
17 student attending an educational institution outside of the
18 state but, prior to attending the educational institution, met
19 the requirements of Subparagraph (a) of this paragraph;

20 (c) the individual is a full-time
21 student attending an institution of higher education located in
22 the state;

23 (d) the individual, whether a resident
24 or not, is a dependent; or

25 (e) the individual, whether a resident

.187843.4

1 or not, is an employee of a qualified employer;

2 (2) is not incarcerated at the time of
3 enrollment, other than incarceration pending the disposition of
4 charges; and

5 (3) is a citizen or national of the United
6 States or an alien lawfully present in the United States, or
7 who is reasonably expected to be a citizen or national of the
8 United States or an alien lawfully present in the United States
9 during the entire period for which enrollment in the exchange
10 is sought;

11 M. "small employer" means a person that is actively
12 engaged in business, that employed an average of at least one
13 but not more than fifty full-time-equivalent employees on
14 business days during the preceding calendar year and that
15 employs at least one employee in the first day of the plan
16 year; provided that:

17 (1) the small employer elects to make all
18 full-time employees eligible for one or more qualified health
19 plans offered in the small group market through the exchange;

20 (2) persons that are affiliated with the small
21 employer or that are eligible to file a combined tax return for
22 purposes of state income taxation shall be considered one small
23 employer;

24 (3) in the case of an employer that was not in
25 existence throughout a preceding calendar year, the

underscoring material = new
~~[bracketed material] = delete~~

1 determination of whether the employer is a small employer shall
2 be based on the average number of employees that the employer
3 is reasonably expected to employ on working days in the current
4 calendar year; and

5 (4) the person is not a self-insured entity;
6 and

7 N. "superintendent" means the superintendent of
8 insurance of the insurance division of the public regulation
9 commission.

10 SECTION 3. [NEW MATERIAL] NEW MEXICO HEALTH INSURANCE
11 EXCHANGE CREATED--BOARD CREATED.--

12 A. The "New Mexico health insurance exchange" is
13 created as a nonprofit public corporation to provide qualified
14 individuals and qualified employers with increased access to
15 health insurance in the state and shall be governed by a board
16 of directors constituted pursuant to the provisions of the New
17 Mexico Health Insurance Exchange Act. The exchange is a
18 governmental entity for purposes of the Tort Claims Act, and
19 neither the exchange nor the board shall be considered a
20 governmental entity for any other purpose.

21 B. The "board of directors of the New Mexico health
22 insurance exchange" is created. The board consists of thirteen
23 voting members. One voting ex-officio member is the secretary
24 of human services or the secretary's designee. One nonvoting
25 ex-officio member is the superintendent or the superintendent's

.187843.4

underscored material = new
[bracketed material] = delete

1 designee.

2 C. Except as otherwise provided in Subsection D of
3 this section, selection of the twelve appointed voting members
4 shall be as follows:

5 (1) the governor shall appoint four members
6 who represent carriers;

7 (2) the superintendent shall appoint four
8 members selected from among the following, each of whom shall
9 be a resident of the state:

10 (a) individuals who are not
11 professionally affiliated with a carrier; and

12 (b) individuals who have purchased
13 coverage in the exchange;

14 (3) the president pro tempore of the senate
15 shall appoint one member who is an individual consumer in the
16 individual plan health insurance market;

17 (4) the speaker of the house of
18 representatives shall appoint one member who is an employee of
19 a small employer;

20 (5) the senate minority leader shall appoint
21 one member who is an individual consumer in the individual plan
22 health insurance market; and

23 (6) the house minority leader shall appoint
24 one member who is an employee of a small employer.

25 D. Ten initial voting members of the board shall be

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 appointed from the membership of the New Mexico health
2 insurance alliance board of directors. Those members shall
3 serve on the exchange board until the dates on which their
4 terms on the alliance board are set to expire, notwithstanding
5 the repeal of the Health Insurance Alliance Act. When a term
6 of a member of the exchange board appointed pursuant to this
7 subsection expires, a new member shall be appointed to the
8 exchange board according to the provisions of Subsection C of
9 this section. Selection of the initial appointed members of
10 the board of the exchange from the alliance board shall be as
11 follows, in lieu of the appointing provisions in Paragraphs
12 (1), (2), (4) and (6) of Subsection C of this section:

13 (1) the governor shall appoint four members
14 who represent insurers;

15 (2) the superintendent shall appoint four
16 members who represent small employers;

17 (3) the speaker of the house of
18 representatives shall appoint one member who is an employee of
19 a small employer; and

20 (4) the house minority leader shall appoint
21 one member who is an employee of a small employer.

22 E. The board shall be composed, as a whole, to
23 assure representation of the state's Native American
24 population, ethnic diversity, cultural diversity and geographic
25 diversity. Board members shall have demonstrated knowledge or

.187843.4

underscored material = new
[bracketed material] = delete

1 experience in at least one of the following areas; provided
2 that each area of expertise shall be represented on the board:

- 3 (1) purchasing coverage in the individual
4 market;
- 5 (2) purchasing coverage in the small employer
6 market;
- 7 (3) health care finance;
- 8 (4) health care economics;
- 9 (5) health care policy;
- 10 (6) the enrollment of underserved residents in
11 health care coverage; or
- 12 (7) administering private or public health
13 care insurance.

14 F. While serving on the board, managerial and full-
15 time employees of the exchange and appointed members, except
16 those appointed pursuant to Paragraph (1) of Subsection C or
17 Paragraph (1) of Subsection D of this section, shall not have
18 any affiliation with or any income derived from:

- 19 (1) current or active employment as, a
20 contract with or consultation for a health care provider; or
- 21 (2) current or active employment in, a
22 contract with or consultation for the health care services
23 finance or coverage sectors.

24 G. Each board member and employee of the exchange
25 shall have a fiduciary duty to the exchange.

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 H. Except as provided in Subsection D of this
2 section, members shall serve three-year terms. A member shall
3 serve until the member's successor is appointed by the
4 respective appointing authority.

5 I. The exchange and the board shall operate
6 consistent with provisions of the Governmental Conduct Act, the
7 Inspection of Public Records Act, the Financial Disclosure Act
8 and the Open Meetings Act and shall not be subject to the
9 Procurement Code or the Personnel Act.

10 J. A majority of members of the board constitutes a
11 quorum. The board may allow members to attend meetings by
12 telephone or other electronic media. A decision by the board
13 requires a quorum and a majority of members in attendance
14 voting in favor of the decision.

15 K. Within sixty days of the effective date of the
16 New Mexico Health Insurance Exchange Act, the superintendent
17 shall convene the organizational meeting of the board, during
18 which the board shall elect a chair and vice chair from among
19 its members. Thereafter, every three years the board shall
20 elect in open meeting a chair and vice chair from among its
21 members. The chair and vice chair shall serve no more than two
22 consecutive three-year terms as chair and vice chair.

23 L. A vacancy on the board shall be filled by
24 appointment by the original appointing authority for the
25 remainder of the member's unexpired term.

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 M. A member may be removed from the board by a
2 majority vote of the members. The board shall set standards
3 for attendance and may remove a member for lack of attendance,
4 neglect of duty or malfeasance in office. A member shall not
5 be removed without proceedings consisting of at least one
6 ten-day notice of hearing and an opportunity to be heard.
7 Removal proceedings shall be before the board and in accordance
8 with procedures adopted by the board.

9 N. Appointed members may receive per diem and
10 mileage in accordance with the Per Diem and Mileage Act,
11 subject to the travel policy set by the board. Appointed
12 members shall receive no other compensation, perquisite or
13 allowance.

14 O. The board shall meet at the call of the chair
15 and no less often than once per calendar quarter. There shall
16 be at least seven days' notice given to members prior to any
17 meeting. There shall be sufficient notice provided to the
18 public prior to meetings consistent with the Open Meetings Act.

19 P. The board shall create, make appointments to and
20 duly consider recommendations of an advisory committee or
21 committees made up of stakeholders, including carriers, health
22 care consumers, health care providers, health care
23 practitioners, brokers, qualified employer representatives and
24 advocates for low-income or underserved residents.

25 Q. The board shall create an advisory committee

.187843.4

underscored material = new
~~[bracketed material]~~ = delete

1 made up of Native Americans, some of whom live on a reservation
2 and some of whom do not live on a reservation, to guide the
3 implementation of the Native-American-specific provisions of
4 the federal Patient Protection and Affordable Care Act of 2010
5 and the federal Indian Health Care Improvement Act.

6 SECTION 4. [NEW MATERIAL] BOARD OF DIRECTORS--

7 POWERS.--The board may:

8 A. seek and receive grant funding from federal,
9 state or local governments or private philanthropic
10 organizations to defray the costs of operating the exchange;

11 B. generate funding, including charging assessments
12 or fees, to support its operations in accordance with
13 provisions of the New Mexico Health Insurance Exchange Act;

14 C. create ad hoc advisory councils;

15 D. request assistance from other boards,
16 commissions, departments, agencies and organizations as
17 necessary to provide appropriate expertise to accomplish the
18 exchange's duties;

19 E. enter into contracts with persons or other
20 organizations as necessary or proper to carry out the
21 provisions and purposes of the New Mexico Health Insurance
22 Exchange Act, including the authority to contract or employ
23 staff for the performance of administrative, legal, actuarial,
24 accounting and other functions; provided that no contractor
25 shall be a carrier;

.187843.4

underscored material = new
[bracketed material] = delete

1 F. enter into contracts with similar exchanges of
2 other states for the joint performance of common administrative
3 functions;

4 G. enter into information-sharing agreements with
5 federal and state agencies and other state exchanges to carry
6 out its responsibilities; provided that these agreements
7 include adequate protections of the confidentiality of the
8 information to be shared and comply with all state and federal
9 laws and regulations;

10 H. sue or be sued or otherwise take any necessary
11 or proper legal action in the execution of its duties and
12 powers;

13 I. appoint board committees, which may include
14 non-board members, to provide technical assistance in the
15 operation of the exchange and any other function within the
16 authority of the exchange; and

17 J. conduct periodic audits to assure the general
18 accuracy of the financial data submitted to the exchange.

19 SECTION 5. [NEW MATERIAL] PLAN OF OPERATION.--

20 A. The board shall submit a plan of operation, and
21 any necessary amendments to the plan, to the superintendent
22 with any provisions to ensure the fair, reasonable and
23 equitable administration of the exchange.

24 B. The superintendent shall, after notice and
25 hearing, approve the plan of operation; provided that it is

.187843.4

1 determined to ensure fair, reasonable and equitable
2 administration of the exchange. The plan of operation shall
3 become effective upon the superintendent's written approval.

4 C. The plan of operation shall:

5 (1) establish procedures to implement the
6 provisions of the New Mexico Health Insurance Exchange Act,
7 consistent with state law, the federal Patient Protection and
8 Affordable Care Act of 2010 and other federal law, including
9 procedures to provide for:

10 (a) determination of which qualified
11 health plans will be offered through the exchange;

12 (b) determination of eligibility for the
13 exchange and related public programs;

14 (c) enrollment of qualified individuals
15 and qualified employers;

16 (d) administration of assessments and
17 fees;

18 (e) a navigator program; and

19 (f) a quality rating system for
20 qualified health plans;

21 (2) establish procedures for handling and
22 accounting for the exchange's assets and money;

23 (3) establish regular times and meeting places
24 for meetings of the board;

25 (4) establish a program to publicize the

underscored material = new
[bracketed material] = delete

1 existence of the exchange, the qualified health plans, the
2 eligibility requirements and procedures for enrollment in a
3 qualified health plan, medicaid or other public health coverage
4 program and to maintain public awareness of the exchange;

5 (5) establish consumer complaint and grievance
6 procedures for issues raised with the exchange;

7 (6) establish procedures for alternative
8 dispute resolution between the exchange and contractors or
9 carriers;

10 (7) establish conflict of interest policies
11 and procedures; and

12 (8) contain additional provisions necessary
13 and proper for the execution of the powers and duties of the
14 board.

15 SECTION 6. [NEW MATERIAL] BOARD DUTIES--REPORTING.--The
16 board shall:

17 A. keep an accurate accounting of all of the
18 activities, receipts and expenditures of the exchange and
19 submit this information annually to the superintendent and as
20 required by federal law to the federal secretary of health and
21 human services;

22 B. beginning with the first year of operation in
23 which access to health insurance coverage is provided, obtain
24 an annual audit of the exchange's operations from an
25 independent certified public accountant;

.187843.4

underscored material = new
[bracketed material] = delete

1 C. cooperate with the medical assistance division
2 of the human services department to share information and
3 facilitate transitions in enrollment between the exchange and
4 medicaid, the state children's health insurance program or any
5 other state public health coverage program;

6 D. publish the administrative costs of the exchange
7 as required by state or federal law; and

8 E. discharge those duties required to implement and
9 operate the exchange in accordance with the provisions of the
10 New Mexico Health Insurance Exchange Act consistent with state
11 and federal law.

12 SECTION 7. [NEW MATERIAL] RULES.--The superintendent
13 shall:

14 A. adopt rules that implement the provisions of the
15 New Mexico Health Insurance Exchange Act; and

16 B. adopt any other rules the superintendent deems
17 necessary in order to carry out the provisions of the New
18 Mexico Health Insurance Exchange Act, including rules providing
19 for:

20 (1) mechanisms for avoiding adverse selection;

21 and

22 (2) conflict resolution.

23 SECTION 8. [NEW MATERIAL] EXEMPTION.--The exchange is
24 exempt from payment of all fees and all taxes levied by this
25 state or any of its political subdivisions.

.187843.4

1 SECTION 9. ~~[NEW MATERIAL]~~ FUNDING.--

2 A. To fund the planning, implementation and
3 operation of the exchange, the board shall contract with the
4 human services department or any other state agency that
5 receives federal funds allocated, appropriated or granted to
6 the state for purposes of funding the planning, implementation
7 or operation of a health insurance exchange.

8 B. The human services department or any other state
9 agency that receives federal funds allocated, appropriated or
10 granted to the state for purposes of funding the planning,
11 implementation or operation of a health insurance exchange
12 shall contract with the board to provide those funds to the
13 exchange in consideration for its planning, implementation or
14 operation.

15 SECTION 10. ~~[NEW MATERIAL]~~ NEW MEXICO HEALTH INSURANCE
16 EXCHANGE FUND.--

17 A. The "New Mexico health insurance exchange fund"
18 is created in the state treasury. The fund and any income
19 produced by the fund shall be deposited in a segregated account
20 and invested by the state investment council in consultation
21 with the board. Money in the fund is appropriated to the
22 exchange and shall be used solely for the purposes of the New
23 Mexico Health Insurance Exchange Act and shall not be used to
24 pay any general or special obligation or debt of the state,
25 other than as authorized by this section.

.187843.4

underscored material = new
[bracketed material] = delete

1 B. The fund shall consist of federal and state
2 appropriations to the fund, income from investment of the fund,
3 contributions, insurance or reinsurance proceeds and other
4 funds received by gift, grant, bequest or otherwise for deposit
5 in the fund, including refunds from carriers, all of which are
6 appropriated to and for the purposes of the fund.

7 C. Disbursements from the fund shall be made by
8 warrant signed by the secretary of finance and administration
9 pursuant to vouchers signed by the chief administrator of the
10 exchange.

11 D. Any unexpended or unencumbered balance remaining
12 in the fund at the end of any fiscal year shall not revert to
13 the general fund.

14 **SECTION 11.** [NEW MATERIAL] COOPERATION WITH THE NEW
15 MEXICO HEALTH INSURANCE EXCHANGE.--The medical assistance
16 division of the human services department shall cooperate with
17 the New Mexico health insurance exchange to share information
18 and facilitate transitions in enrollment between the exchange
19 and medicaid, the state children's health insurance program or
20 any other state public health coverage program.

21 **SECTION 12.** A new section of the New Mexico Insurance
22 Code is enacted to read:

23 "[NEW MATERIAL] INSURANCE DIVISION--COOPERATION WITH NEW
24 MEXICO HEALTH INSURANCE EXCHANGE.--The insurance division shall
25 cooperate with the New Mexico health insurance exchange to

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 share information and assist in the implementation of the
2 functions of the exchange."

3 SECTION 13. Section 41-4-3 NMSA 1978 (being Laws 1976,
4 Chapter 58, Section 3, as amended by Laws 2009, Chapter 8,
5 Section 2 and by Laws 2009, Chapter 129, Section 2 and also by
6 Laws 2009, Chapter 249, Section 2) is amended to read:

7 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

8 A. "board" means the risk management advisory
9 board;

10 B. "governmental entity" means the state or any
11 local public body as defined in Subsections C and H of this
12 section;

13 C. "local public body" means all political
14 subdivisions of the state and their agencies, instrumentalities
15 and institutions and all water and natural gas associations
16 organized pursuant to Chapter 3, Article 28 NMSA 1978;

17 D. "law enforcement officer" means a full-time
18 salaried public employee of a governmental entity, or a
19 certified part-time salaried police officer employed by a
20 governmental entity, whose principal duties under law are to
21 hold in custody any person accused of a criminal offense, to
22 maintain public order or to make arrests for crimes, or members
23 of the national guard when called to active duty by the
24 governor;

25 E. "maintenance" does not include:

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 (1) conduct involved in the issuance of a
2 permit, driver's license or other official authorization to use
3 the roads or highways of the state in a particular manner; or

4 (2) an activity or event relating to a public
5 building or public housing project that was not foreseeable;

6 F. "public employee" means an officer, employee or
7 servant of a governmental entity, excluding independent
8 contractors except for individuals defined in Paragraphs (7),
9 (8), (10), (14) and (17) of this subsection, or of a
10 corporation organized pursuant to the Educational Assistance
11 Act, the Small Business Investment Act or the Mortgage Finance
12 Authority Act or a licensed health care provider, who has no
13 medical liability insurance, providing voluntary services as
14 defined in Paragraph (16) of this subsection and including:

15 (1) elected or appointed officials;

16 (2) law enforcement officers;

17 (3) persons acting on behalf or in service of
18 a governmental entity in any official capacity, whether with or
19 without compensation;

20 (4) licensed foster parents providing care for
21 children in the custody of the human services department,
22 corrections department or department of health, but not
23 including foster parents certified by a licensed child
24 placement agency;

25 (5) members of state or local selection panels

.187843.4

underscored material = new
[bracketed material] = delete

1 established pursuant to the Adult Community Corrections Act;

2 (6) members of state or local selection panels
3 established pursuant to the Juvenile Community Corrections Act;

4 (7) licensed medical, psychological or dental
5 arts practitioners providing services to the corrections
6 department pursuant to contract;

7 (8) members of the board of directors of the
8 New Mexico medical insurance pool;

9 (9) individuals who are members of medical
10 review boards, committees or panels established by the
11 educational retirement board or the retirement board of the
12 public employees retirement association;

13 (10) licensed medical, psychological or dental
14 arts practitioners providing services to the children, youth
15 and families department pursuant to contract;

16 (11) members of the board of directors of the
17 New Mexico educational assistance foundation;

18 (12) members of the board of directors of the
19 New Mexico student loan guarantee corporation;

20 (13) members of the New Mexico mortgage
21 finance authority;

22 (14) volunteers, employees and board members
23 of court-appointed special advocate programs;

24 (15) members of the board of directors of the
25 New Mexico small business investment corporation;

.187843.4

underscored material = new
[bracketed material] = delete

1 (16) health care providers licensed in New
2 Mexico who render voluntary health care services without
3 compensation in accordance with rules promulgated by the
4 secretary of health. The rules shall include requirements for
5 the types of locations at which the services are rendered, the
6 allowed scope of practice and measures to ensure quality of
7 care; ~~and~~

8 (17) an individual while participating in the
9 state's adaptive driving program and only while using a
10 special-use state vehicle for evaluation and training purposes
11 in that program; and

12 (18) the staff and members of the board of
13 directors of the New Mexico health insurance exchange;

14 G. "scope of duty" means performing any duties that
15 a public employee is requested, required or authorized to
16 perform by the governmental entity, regardless of the time and
17 place of performance; and

18 H. "state" or "state agency" means the state of New
19 Mexico or any of its branches, agencies, departments, boards,
20 instrumentalities or institutions."

21 SECTION 14. TEMPORARY PROVISION--NEW MEXICO HEALTH
22 INSURANCE EXCHANGE BOARD OF DIRECTORS DUTIES PROVISION DURING
23 EXCHANGE IMPLEMENTATION--REPORTING.--The New Mexico health
24 insurance exchange board of directors shall:

25 A. between July 1, 2012 and January 1, 2014,

underscoring material = new
~~[bracketed material] = delete~~

1 provide quarterly reports to the legislature, the governor and
2 the superintendent of insurance of the insurance division of
3 the public regulation commission on the implementation of the
4 New Mexico health insurance exchange and report annually and
5 upon request thereafter;

6 B. by November 1, 2012:

7 (1) report findings and submit recommendations
8 to the legislative health and human services committee, the
9 legislative finance committee and the superintendent of the
10 insurance division of the public regulation commission on how
11 to avoid adverse selection; and

12 (2) provide legislative recommendations to the
13 legislative health and human services committee and the
14 legislative finance committee on whether to change the number
15 of full-time-equivalent employees in the definition of "small
16 employer" in the New Mexico Health Insurance Exchange Act from
17 fifty to one hundred before January 1, 2016. The board shall
18 recommend a transition plan for the exchange and carriers to
19 follow when changing the definition of "small employer",
20 whether the change occurs prior to or on January 1, 2016;

21 C. by July 1, 2013, provide recommendations to the
22 legislative finance committee and other appropriate interim
23 legislative committees on mechanisms for funding the operations
24 of the New Mexico health insurance exchange and a plan for
25 achieving self-sufficiency, including the use of any

.187843.4

underscoring material = new
~~[bracketed material] = delete~~

1 assessments or fees; and

2 D. by July 1, 2016, provide legislative
3 recommendations to the legislative health and human services
4 committee and the legislative finance committee on whether to:

5 (1) continue limiting qualified employer
6 status to small employers and, if qualified employer status is
7 extended to large employers, whether to combine the large
8 employer risk pool with the small group market;

9 (2) combine the individual, small group and
10 large employer markets into a single risk pool; and

11 (3) enter into an exchange with other states
12 or share resources or responsibilities to enhance the
13 affordability of operating the New Mexico health insurance
14 exchange.

15 SECTION 15. TEMPORARY PROVISION--NEW MEXICO HEALTH
16 INSURANCE EXCHANGE--NEW MEXICO HEALTH INSURANCE ALLIANCE--
17 TRANSFER OF PROPERTY, PERSONNEL AND CONTRACTS.--

18 A. Until the date is reached upon which federal law
19 requires the New Mexico health insurance exchange to be
20 self-sustaining, resources for the exchange may be provided to
21 the exchange by the New Mexico health insurance alliance
22 through a cooperative agreement between the New Mexico health
23 insurance exchange and the board of the New Mexico health
24 insurance alliance. The New Mexico health insurance alliance
25 may fund reasonably required staff and other operating expenses

.187843.4

underscoring material = new
[bracketed material] = delete

1 for the New Mexico health insurance exchange through its
2 existing funding mechanisms. To the extent federal funding is
3 available to the New Mexico health insurance exchange, the New
4 Mexico health insurance exchange shall reimburse the New Mexico
5 health insurance alliance for the resources it provides to the
6 exchange.

7 B. The board of directors of the New Mexico health
8 insurance exchange shall meet with the board of directors of
9 the New Mexico health insurance alliance to:

10 (1) develop a plan to provide portability of
11 coverage for individuals covered through the New Mexico health
12 insurance alliance to the extent possible through the New
13 Mexico health insurance exchange; and

14 (2) prepare a report to the first session of
15 the fifty-first legislature on recommendations for transition
16 of functions of the New Mexico health insurance alliance to the
17 New Mexico health insurance exchange and on any recommendations
18 for continued and expanded health coverage of the state's
19 residents.

20 C. On January 1, 2014:

21 (1) all personnel, appropriations, money,
22 records, equipment, supplies and other property of the New
23 Mexico health insurance alliance shall be transferred to the
24 New Mexico health insurance exchange;

25 (2) all contracts of the New Mexico health

underscoring material = new
~~[bracketed material] = delete~~

1 insurance alliance shall be binding and effective on the New
2 Mexico health insurance exchange; and

3 (3) all references in law to the New Mexico
4 health insurance alliance shall be deemed to be references to
5 the New Mexico health insurance exchange.

6 SECTION 16. DELAYED REPEAL.--On January 1, 2014, Sections
7 59A-56-1 through 59A-56-25 NMSA 1978 (being Laws 1994, Chapter
8 75, Sections 1 through 25, as amended) are repealed.

9 SECTION 17. SEVERABILITY.--If any part or application of
10 this act is held invalid, the remainder or its application to
11 other situations or persons shall not be affected.

12 SECTION 18. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.