

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 594

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTIONS OF THE  
NONPROFIT HEALTH CARE PLAN LAW RELATING TO QUALIFICATIONS FOR  
ORGANIZATION IN THE STATE.

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

Section 1. Section 59A-37-6 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 621, as amended) is amended to read:

"59A-37-6. APPROVAL BY SUPERINTENDENT-- REVIEW. --

A. The superintendent shall approve any merger or  
other acquisition of control referred to in Section 59A-37-4  
NMSA 1978 unless, after a public hearing thereon, he finds  
that:

(1) after the change of control, the domestic  
insurer would not be able to satisfy the requirements for the  
issuance of a certificate of authority to write the line or

underscoring material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 lines of insurance for which it is presently authorized;

2 (2) the effect of the merger or other  
3 acquisition of control would be substantially to lessen  
4 competition in insurance in this state or tend to create a  
5 monopoly therein;

6 (3) the financial condition of any acquiring  
7 party is such as might jeopardize the financial stability of  
8 the insurer, or prejudice the interests of its policyholders  
9 or the interests of any remaining security holders who are  
10 unaffiliated with the acquiring party;

11 (4) the plans or proposals which the  
12 acquiring party has to liquidate the insurer, sell its assets  
13 or consolidate or merge it with any other person, or to make  
14 any other material change in its business or corporate  
15 structure or management, are unfair and unreasonable to  
16 policyholders of the insurer and not in the public interest;

17 (5) the competence, experience and integrity  
18 of those persons who would control the operation of the  
19 insurer are such that it would not be in the interest of  
20 policyholders of the insurer and of the public to permit the  
21 merger or other acquisition of control; [ ~~or~~ ]

22 (6) the applicable provisions of Chapter 59A,  
23 Article 34 NMSA 1978 would be violated; or

24 [~~(6)~~] (7) the acquisition is likely to be  
25 hazardous or prejudicial to the insurance-buying public.

. 126076. 4

underscored material = new  
[bracketed material] = delete

1           B. The superintendent may retain at the acquiring  
2 party's expense any attorneys, actuaries, accountants and  
3 other experts not otherwise a part of the superintendent's  
4 staff reasonably necessary to assist the superintendent to  
5 review the proposed acquisition of control. "

6           Section 2. Section 59A-47-4 NMSA 1978 (being Laws 1984,  
7 Chapter 127, Section 879.2) is amended to read:

8           "59A-47-4. ORGANIZATION--PROFIT OR FOREIGN CORPORATIONS  
9 PROHIBITED--MERGER AND CONSOLIDATION OF HEALTH CARE PLANS.--

10           A. A corporation may be organized under the laws  
11 of this state which provide for the organization of nonprofit  
12 corporations, as a nonprofit corporation organized for making  
13 health care expense payments on a service benefit basis or an  
14 indemnity basis, or both, for subscribers under contract with  
15 such corporation.

16           B. The articles of incorporation of each domestic  
17 health care plan shall have endorsed thereon or annexed  
18 thereto the consent of the superintendent prior to filing.  
19 The amendment of the articles of incorporation of any domestic  
20 health care plan shall have endorsed thereon or annexed  
21 thereto the consent of the superintendent prior to filing.

22           C. The directors of a domestic health care plan  
23 shall be chosen in accordance with the bylaws of the  
24 corporation, subject to the following:

25                   (1) at least twenty-five percent [~~(25%)~~] of

underscored material = new  
[bracketed material] = delete

1 the directors shall be members of the general public; and  
2 (2) the balance of the directors shall be  
3 either representatives of purveyors or members of the general  
4 public.

5 D. No domestic health care plan shall be converted  
6 into a corporation organized for pecuniary profit; and any  
7 such plan shall be maintained and operated primarily for the  
8 benefit of its subscribers.

9 ~~[E. No health care plan shall furnish or contract~~  
10 ~~to furnish health care expense payments in this state unless~~  
11 ~~organized under the laws of this state as above provided and~~  
12 ~~so authorized to operate under the provisions of this article.~~  
13 ~~No foreign health care plan may be authorized to conduct~~  
14 ~~business in this state.]~~

15 E. A domestic health care plan may merge with  
16 another health care plan in accordance with applicable  
17 provisions of the Insurance Holding Company Law and the  
18 Nonprofit Corporation Act. "

19 Section 3. Section 59A-47-5 NMSA 1978 (being Laws 1984,  
20 Chapter 127, Section 879.3, as amended) is amended to read:

21 "59A-47-5. QUALIFICATIONS FOR HEALTH CARE PLAN  
22 AUTHORITY. --The superintendent shall not authorize any  
23 proposed health care plan to solicit preliminary applications  
24 from subscribers or to transact business as a health care plan  
25 unless he finds after such investigation and hearings as he

underscored material = new  
[bracketed material] = delete

1 deems advisable that the proposed health care plan is  
2 qualified therefor as follows:

3 A. it [~~must~~] shall be duly incorporated as a  
4 health care plan under the laws of [~~this~~] a state governing  
5 incorporation of nonprofit corporations;

6 B. its sponsors [~~must~~] shall have financial  
7 stability and its directors and officers [~~must~~] shall be  
8 individuals of good personal and business reputation and  
9 integrity;

10 C. its proposed management [~~must~~] shall possess  
11 experience and competence as to the business in which to  
12 engage;

13 D. it [~~must~~] shall have ready access to health  
14 care facilities in this state reasonably sufficient to provide  
15 the health care services to be covered by its subscriber  
16 contracts, whether on service or indemnity bases;

17 E. it [~~must~~] shall actually or prospectively have  
18 sufficient funds to finance preliminary solicitation of  
19 subscribers and to conduct its operations with reasonable  
20 margin of financial safety;

21 F. its proposed contracts to be offered  
22 subscribers [~~must~~] shall be well drafted and provide  
23 substantial health care coverage and benefits at reasonable  
24 premium rates;

25 G. operation of the health care plan in the area

underscored material = new  
[bracketed material] = delete

1 of this state proposed to be served would be in the public  
2 interest and of convenience to its residents; and

3 H. if it a newly formed health care plan, prior to  
4 being granted an initial certificate of authority to engage in  
5 business, it [~~must~~] shall have applied for and received from  
6 the superintendent a preliminary permit to solicit  
7 subscribers' applications for health care contracts as  
8 proposed to be offered, and thereunder have solicited and  
9 received, within one year from date of the preliminary permit,  
10 applications for coverage of not less than one thousand  
11 individuals under such contracts together with payment in  
12 advance of one month's premium therefor or if it is a foreign  
13 health care plan with a certificate of authority from its  
14 state of domicile, it must already cover not less than one  
15 thousand individuals. "

16 Section 4. Section 59A-47-8 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 879.6) is amended to read:

18 "59A-47-8. CERTIFICATE OF AUTHORITY REQUIRED--  
19 APPLICATION AND CONDITIONS--EXCEPTIONS. --

20 A. No health care plan shall ~~make~~ health care  
21 expense payments unless and until it has obtained from the  
22 superintendent a certificate of authority to do business.  
23 Violation of this provision shall constitute a misdemeanor  
24 punishable upon conviction by a fine of not to exceed one  
25 thousand dollars (\$1,000).

underscored material = new  
[bracketed material] = delete

1           B. ~~[The]~~ A newly formed health care plan's  
2 application for initial certificate of authority must be filed  
3 with the superintendent prior to expiration of one year from  
4 date of issuance of the preliminary permit referred to in  
5 Section ~~[879.4 of this article]~~ 59A-47-6 NMSA 1978.

6           C. The application for certificate of authority  
7 shall be in the form prescribed and furnished by the  
8 superintendent consistent with ~~[this article]~~ Chapter 59A,  
9 Article 47 NMSA 1978, and be verified by two of the  
10 applicant's officers. The application shall include or be  
11 accompanied by such proof as the superintendent may reasonably  
12 require that the applicant is qualified for the certificate of  
13 authority under this article. At filing of the application  
14 the applicant shall pay to the superintendent the applicable  
15 filing fee as specified in Section ~~[101 (fee schedule) of the~~  
16 ~~Insurance Code]~~ 59A-6-1 NMSA 1978. The filing fee shall not  
17 be refundable.

18           ~~[C.]~~ D. No such certificate of authority shall be  
19 required for a health care plan formerly so authorized, to  
20 enable it to investigate and settle losses under its contracts  
21 lawfully written in New Mexico, or to liquidate assets and  
22 liabilities (other than collection of new premiums) resulting  
23 from its former authorized operations in this state. A health  
24 care plan not transacting new business in this state but  
25 continuing collection of premiums on and servicing contracts

underscored material = new  
[bracketed material] = delete

1 remaining in force as to residents of or risks located in this  
2 state, is transacting business in New Mexico for the purpose  
3 of premium tax requirements only and is not required to have a  
4 certificate of authority. "

5 Section 5. Section 59A-47-9 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 879.7) is amended to read:

7 "59A-47-9. ISSUANCE AND DENIAL OF INITIAL CERTIFICATE OF  
8 AUTHORITY. --

9 A. If [~~prior to expiration of one year from date~~  
10 ~~of issuance of the preliminary permit referred to in Section~~  
11 ~~879.4 of this article the newly formed health care plan has~~  
12 ~~filed and completed its application to the superintendent for~~  
13 ~~an initial certificate of authority as required under Section~~  
14 ~~879.6 of this article and]~~ after such investigation as he  
15 deems advisable the superintendent finds that the applicant is  
16 in sound financial condition and is otherwise qualified  
17 therefor, he shall issue to the applicant [~~an initial~~] a  
18 certificate of authority as a health care plan.

19 B. If the superintendent does not so find, he  
20 shall deny issuance of [~~an initial~~] the certificate of  
21 authority and notify the applicant thereof in writing stating  
22 the reasons for such denial. "

23 Section 6. Section 59A-47-22 NMSA 1978 (being Laws 1984,  
24 Chapter 127, Section 879.20) is amended to read:

25 "59A-47-22. TRANSFER OF SUBSCRIBERSHIP. -- A health care



underscored material = new  
[bracketed material] = delete

1 plan may enter into agreements with [~~a similar corporation~~]  
2 another health care plan or mutual company similarly engaged  
3 in this state or another state or country for transfer of  
4 subscribers from one such plan to the other, subject to prior  
5 approval of any such agreement by the superintendent. The  
6 superintendent shall disapprove any such agreement if he finds  
7 on basis of such investigation as he deems advisable that the  
8 agreement in reasonable probability would result in loss to  
9 the health care plan authorized to do business in this state  
10 or is otherwise unfair or inequitable. The superintendent  
11 shall approve the agreement if he finds that the transfer of  
12 subscribership is to be accompanied by transfer of funds  
13 representing reserves in amount adequate to cover all  
14 liabilities to be incurred by the assuming health care plan  
15 through such transfer, that the transfer meets the applicable  
16 requirements of Chapter 59A, Article 34 NMSA 1978 and of the  
17 Nonprofit Corporation Act for disposition or distribution of  
18 assets and that the agreement is otherwise fair and equitable  
19 to the [~~health care plans~~] insurers and subscribers involved. "

1 FORTY-FOURTH LEGISLATURE

SB 594/a

2 FIRST SESSION, 1999

3  
4  
5  
6 February 24, 1999

7  
8 Mr. President:

9  
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
11 referred

12  
13 SENATE BILL 594

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

- 17  
18  
19 1. On page 3, line 8, strike "OR FOREIGN".  
20  
21 2. On page 4, line 15, after "merge" insert "only".  
22  
23 3. On page 4, line 16, after "another" insert "domestic".,

24  
25 and thence referred to the CORPORATIONS & TRANSPORTATION

. 126076. 4

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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

%%%

COMMITTEE.

Respectfully submitted,

---

Shannon Robinson, Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Feldman

Excused: Garcia, Stockard

underscored material = new  
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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

%%%

Page 12

Absent: None

S0594PA1

. 128224. 1

. 126076. 4

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

1 FORTY- FOURTH LEGI SLATURE  
2 FIRST SESSI ON, 1999

3 %%% Page 13

4  
5  
6 FORTY- FOURTH LEGI SLATURE  
7 FIRST SESSI ON, 1999  
8  
9

10  
11  
12 March 3, 1999  
13

14 Mr. President:

15  
16 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to  
17 whom has been referred

18  
19 SENATE BILL 594, as amended  
20

21  
22 has had it under consideration and reports same with  
23 recommendation that it DO PASS.  
24  
25

. 126076. 4

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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

%%%

Page 14

Respectfully submitted,

Roman M. Maes, Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

. 126076. 4

underscored material = new  
[bracketed material] = delete

FORTY- FOURTH LEGI SLATURE  
FIRST SESSI ON, 1999

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

%%%

Yes: 6

No: 0

Excused: Aragon, Fi del , Kysar, McKi bben

Absent: None

S0594CT1

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

FORTY- FOURTH LEGISLATURE

FIRST SESSION

March 5, 1999

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 594, as amended

Amendment sponsored by Senator Shannon Robinson

1. On page 3, between lines 5 and 6, insert the following new subsection:

"C. The superintendent shall ensure, by imposition of conditions, if necessary, that New Mexico charitable assets are protected and preserved for the benefit of the people of New Mexico. "

2. On page 8, line 25, after "SUBSCRIBERSHIP. -- " insert "A. "

3. On page 9, between lines 19 and 20, insert the

128708. 1

underscored material = new  
[bracketed material] = delete



FORTY- FOURTH LEGISLATURE  
FIRST SESSION

SF1/SB 594, aa

Page 17

following new subsection:

"B. The superintendent shall ensure, by imposition of conditions, if necessary, that New Mexico charitable assets are protected and preserved for the benefit of the people of New Mexico. "

Shannon Robinson

Adopted \_\_\_\_\_ Not Adopted

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 March 18, 1999  
7

8 Mr. Speaker:  
9

10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
11 been referred  
12

13 SENATE BILL 594, as amended  
14

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

17 Respectfully submitted,  
18

19  
20  
21 \_\_\_\_\_  
22 Fred Luna, Chairman  
23  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Page 19

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Hobbs

Absent: None

G:\BILLTEXT\BILLW\_99\S0594

underscored material = new  
[bracketed material] = delete