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OFFICE OF
SECRETARY OF STATE

Susana Martinez
Governor

April 8, 2011

SENATE EXECUTIVE MESSAGE NO. 53

The Honorable Timothy Z. Jennings, President Pro Tempore
And Members of the New Mexico State Senate
State Capitol Building
Santa Fe, New Mexico 87501

Dear President Pro Tempore Jennings and Members of the Senate:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and am returning SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR SENATE BILLS 38 & 370, as amended, without emergency clause, enacted by the Fiftieth Legislature, First Session, 2011.

This bill implements an insurance exchange structure in adherence with federal healthcare law.

I am in general support of the creation of a framework to establish a state insurance exchange because I believe it is important that New Mexico maintain control over the design of a market-based exchange, instead of allowing the federal government to define the process.

However, this legislation is premature because federal law does not require the state to demonstrate its readiness to run an exchange before January 2013 and it has not promulgated rules governing its implementation. Further, challenges to specific components of the federal law have been brought in several federal and district courts and are ongoing.

Moreover, legislators ignored my administration's attempts to address the concerns I had with this particular piece of legislation. The costs associated with the creation of an exchange are substantial and must be carefully considered. Once established, the exchange must be self-sustaining. I believe more time is needed to ensure that any

SENATE EXECUTIVE MESSAGE NO. 53
The Honorable Timothy Z. Jennings
April 8, 2011
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arrangement devised in response to this federal mandate is constructed in a way that best serves the interests of all New Mexicans.

Respectfully yours,



Susana Martinez
Governor

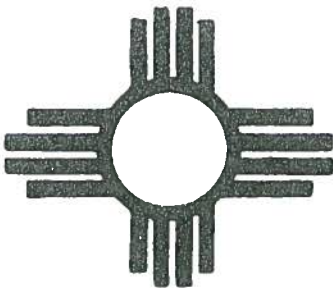
RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: 8:49 a.m. p.m.
Date: April 8 2011

By Billy Ue
Secretary of State

Time: _____ a.m. p.m.
Date: _____ 2011

By _____
Chief Clerk of the Senate



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER _____

SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR

SENATE BILLS 38 & 370, as amended,

without emergency clause

Introduced by

VETOED



1 AN ACT

2 RELATING TO HEALTH INSURANCE; ENACTING THE NEW MEXICO HEALTH
3 INSURANCE EXCHANGE ACT; CREATING THE NEW MEXICO HEALTH
4 INSURANCE EXCHANGE; PROVIDING FOR THE APPOINTMENT, POWERS AND
5 DUTIES OF A BOARD OF DIRECTORS FOR THE EXCHANGE; PROVIDING
6 THE SUPERINTENDENT OF INSURANCE OF THE PUBLIC REGULATION
7 COMMISSION WITH RULEMAKING POWERS RELATING TO THE EXCHANGE;
8 PROVIDING FOR POWERS AND DUTIES OF THE EXCHANGE; PROVIDING
9 FOR TRANSPARENCY OF EXCHANGE FUNDING AND OPERATIONS; AMENDING
10 AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE
11 AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

14 SECTION 1. SHORT TITLE.--Sections 1 through 9 of this
15 act may be cited as the "New Mexico Health Insurance Exchange
16 Act".

17 SECTION 2. DEFINITIONS.--As used in the New Mexico
18 Health Insurance Exchange Act:

19 A. "board" means the board of directors of the
20 exchange;

21 B. "carrier" means a person that is subject to
22 licensure by the superintendent or subject to the provisions
23 of the New Mexico Insurance Code and that provides one or
24 more health benefits or insurance plans in the state;

25 C. "dependent" means "dependent" as defined in

1 Section 152 of the federal Internal Revenue Code of 1986;

2 D. "employee" means an individual hired by another
3 individual or entity for a wage or fixed payment in exchange
4 for personal services and who does not provide the services
5 as part of an independent business;

6 E. "exchange" means the New Mexico health
7 insurance exchange;

8 F. "health care provider" means an individual who
9 is licensed, certified or otherwise authorized or permitted
10 by law pursuant to Chapter 61 NMSA 1978 to provide health
11 care in the ordinary course of business or practice of a
12 profession;

13 G. "health care services finance or coverage
14 sector" includes carriers and other health insurance issuers;
15 health maintenance or managed care organizations; nonprofit
16 health plans; self-insured group health plans; trade
17 associations of carriers; producers; and health care
18 facilities;

19 H. "member" means a person appointed to the board
20 of directors of the exchange;

21 I. "Native American" means:

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

24 (2) an individual who has been deemed
25 eligible for services and programs provided to Native

1 Americans by the United States public health service or the
2 bureau of Indian affairs;

3 J. "qualified employer" means a small employer
4 that elects to make its full-time employees, and, at the
5 option of the employer, some or all of its part-time
6 employees, eligible for one or more qualified health plans
7 offered in the small group market through the exchange;
8 provided that the employer:

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

12 (2) elects to provide coverage through the
13 exchange to all of its eligible employees who are principally
14 employed in the state;

15 K. "qualified health plan" means health insurance
16 coverage or a group health plan that the board has determined
17 as meeting the requirements in federal law for coverage to be
18 offered through the exchange;

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

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

23 (a) the individual is a resident of the
24 state and is, and continues to be, legally domiciled and
25 physically residing on a full-time basis in a place of

1 habitation in the state that remains the person's principal
2 residence and from which the person is absent only for a
3 temporary or transitory purpose;

4 (b) the individual is a full-time
5 student attending an educational institution outside of the
6 state but, prior to attending the educational institution,
7 met the requirements of Subparagraph (a) of this paragraph;

8 (c) the individual is a full-time
9 student attending an institution of higher education located
10 in the state;

11 (d) the individual, whether a resident
12 or not, is a dependent; or

13 (e) the individual, whether a resident
14 or not, is an employee of a qualified employer;

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

18 (3) is a citizen or national of the
19 United States or an alien lawfully present in the United
20 States, or who is reasonably expected to be a citizen or
21 national of the United States or an alien lawfully present in
22 the United States during the entire period for which
23 enrollment in the exchange is sought;

24 M. "small employer" means a person that is
25 actively engaged in business that employed an average of at

1 least one but not more than fifty full-time-equivalent
2 employees on business days during the preceding calendar year
3 and that employs at least one employee in the first day of
4 the plan year; provided that:

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

8 (2) persons that are affiliated persons or
9 that are eligible to file a combined tax return for purposes
10 of state income taxation shall be considered one small
11 employer;

12 (3) in the case of an employer that was not
13 in existence throughout a preceding calendar year, the
14 determination of whether the employer is a small employer
15 shall be based on the average number of employees that the
16 employer is reasonably expected to employ on working days in
17 the current calendar year; and

18 (4) the person is not a self-insured entity;
19 and

20 N. "superintendent" means the superintendent of
21 insurance of the insurance division of the public regulation
22 commission or the division's successor in interest.

23 SECTION 3. NEW MEXICO HEALTH INSURANCE EXCHANGE
24 CREATED--BOARD CREATED.--

25 A. The "New Mexico health insurance exchange" is

1 created as a nonprofit public corporation to provide
2 qualified individuals and qualified employers with increased
3 access to health insurance in the state and shall be governed
4 by a board of directors constituted pursuant to the
5 provisions of the New Mexico Health Insurance Exchange Act.
6 The exchange is a governmental entity for purposes of the
7 Tort Claims Act, and neither the exchange nor the board shall
8 be considered a governmental entity for any other purpose.

9 B. The "board of directors of the New Mexico
10 health insurance exchange" is created. The board consists of
11 eleven voting members. One voting ex-officio member is the
12 secretary of human services, the secretary of the human
13 services department's successor in interest responsible for
14 the state's medicaid program or the secretary's designee.
15 One nonvoting ex-officio member is the superintendent or the
16 superintendent's designee.

17 C. Managerial and full-time employees of the
18 exchange and appointed members, while serving on the board,
19 except those whom the superintendent appoints from the
20 New Mexico medical insurance pool and those whom the governor
21 appoints from the New Mexico health insurance alliance boards
22 of directors, who shall not be considered to have a conflict
23 of interest with respect to their association with those
24 entities, shall not have any affiliation with or any income
25 derived from:

1 (1) current or active employment as, a
2 contract with or consultation for a health care provider; or

3 (2) current or active employment in, a
4 contract with or consultation for the health care services
5 finance or coverage sectors.

6 D. Each board member and employee of the exchange
7 shall have a fiduciary duty to the exchange.

8 E. The board shall be composed, as a whole, to
9 assure representation of the state's Native American
10 population, ethnic diversity, cultural diversity and
11 geographic diversity. Board members shall have demonstrated
12 knowledge or experience in at least one of the following
13 areas:

14 (1) purchasing coverage in the individual
15 market;

16 (2) purchasing coverage in the small
17 employer market;

18 (3) health care finance;

19 (4) health care economics;

20 (5) health care policy;

21 (6) the enrollment of underserved residents
22 in health care coverage; or

23 (7) administering private or public health
24 care insurance.

25 F. Selection of the ten appointed voting members

1 shall be as follows:

2 (1) the governor shall appoint three members
3 selected from the New Mexico health insurance alliance board
4 of directors who represent qualified employers. If the
5 New Mexico health insurance alliance ceases to exist, members
6 appointed by the governor shall be chosen from officers,
7 general partners or proprietors of qualified employers;

8 (2) the superintendent shall appoint three
9 members selected from the New Mexico medical insurance pool
10 board of directors, who shall represent individual consumers
11 in the health insurance market. If the New Mexico medical
12 insurance pool ceases to exist, members appointed by the
13 superintendent shall be chosen from among the following, each
14 of whom shall be a resident of the state:

15 (a) individuals who are not
16 professionally affiliated with a carrier; and

17 (b) individuals who have purchased
18 coverage in the exchange; and

19 (3) members of the legislature shall appoint
20 four members as follows: the president pro tempore of the
21 senate, the speaker of the house of representatives, the
22 senate minority leader and the house minority leader shall
23 each appoint one member.

24 G. The members selected from the New Mexico health
25 insurance alliance board and the New Mexico medical insurance

1 pool board shall have terms that coincide with terms of
2 membership on their respective originating boards. The
3 members selected by members of the legislature shall have
4 initial terms chosen by lot as follows: two shall serve
5 four-year terms and two shall serve three-year terms.
6 Thereafter, members shall serve three-year terms.

7 H. A member shall serve until the member's
8 successor is appointed by the respective appointing
9 authority.

10 I. The exchange and the board shall operate
11 consistent with provisions of the Governmental Conduct Act,
12 the Inspection of Public Records Act, the Financial
13 Disclosure Act and the Open Meetings Act and shall not be
14 subject to the Procurement Code or the Personnel Act.

15 J. A majority of members constitutes a quorum.
16 The board may allow members to attend meetings by telephone
17 or other electronic media. A decision by the board requires
18 a quorum and a majority of members in attendance voting in
19 favor of the decision.

20 K. Within sixty days of the effective date of the
21 New Mexico Health Insurance Exchange Act, the superintendent
22 shall convene the organizational meeting of the board, during
23 which the board shall elect a chair and vice chair from among
24 its members. Thereafter, every three years the board shall
25 elect in open meeting a chair and vice chair from among its

1 members. The chair and vice chair shall serve no more than
2 two consecutive three-year terms as chair and vice chair.

3 L. A vacancy on the board shall be filled by
4 appointment by the original appointing authority for the
5 remainder of the member's unexpired term.

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

14 N. Appointed members may receive per diem and
15 mileage in accordance with the Per Diem and Mileage Act,
16 subject to the travel policy set by the board. Appointed
17 members shall receive no other compensation, perquisite or
18 allowance.

19 O. The board shall meet at the call of the chair
20 and no less often than once per calendar quarter. There
21 shall be at least seven days' notice given to members prior
22 to any meeting. There shall be sufficient notice provided to
23 the public prior to meetings consistent with the Open
24 Meetings Act.

25 P. The board shall create, make appointments to

1 and duly consider recommendations of an advisory committee or
2 committees made up of stakeholders, including carriers,
3 health care consumers, health care providers, health care
4 practitioners, brokers, qualified employer representatives
5 and advocates for low-income or underserved residents.

6 Q. The board shall create an advisory committee
7 made up of Native Americans, some of whom live on a
8 reservation and some of whom do not live on a reservation, to
9 guide the implementation of the Native-American-specific
10 provisions of the federal Patient Protection and Affordable
11 Care Act and the federal Indian Health Care Improvement Act.

12 SECTION 4. BOARD OF DIRECTORS--POWERS.--The board may:

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

16 B. generate funding, including but not limited to,
17 charging assessments or fees, to support its operations in
18 accordance with provisions of the New Mexico Health Insurance
19 Exchange Act;

20 C. create ad hoc advisory councils;

21 D. request assistance from other boards,
22 commissions, departments, agencies and organizations as
23 necessary to provide appropriate expertise to accomplish the
24 exchange's duties;

25 E. enter into contracts with persons or other

1 organizations as necessary or proper to carry out the
2 provisions and purposes of the New Mexico Health Insurance
3 Exchange Act, including the authority to contract or employ
4 staff for the performance of administrative, legal,
5 actuarial, accounting and other functions, provided that no
6 contractor shall be a carrier;

7 F. enter into contracts with similar exchanges of
8 other states for the joint performance of common
9 administrative functions;

10 G. enter into information-sharing agreements with
11 federal and state agencies and other state exchanges to carry
12 out its responsibilities; provided that these agreements
13 include adequate protections of the confidentiality of the
14 information to be shared and comply with all state and
15 federal laws and regulations;

16 H. sue or be sued or otherwise take any necessary
17 or proper legal action in the execution of its duties and
18 powers;

19 I. appoint board committees, which may include
20 non-board members, to provide technical assistance in the
21 operation of the exchange and any other function within the
22 authority of the exchange; and

23 J. conduct periodic audits to assure the general
24 accuracy of the financial data submitted to the exchange.

25 SECTION 5. PLAN OF OPERATION.--

1 A. The board shall create a plan of operation
2 containing provisions to ensure the fair, reasonable and
3 equitable administration of the exchange.

4 B. The board shall provide for public notice and
5 hearing prior to approving the plan of operation.

6 C. The plan of operation shall:

7 (1) establish procedures to implement the
8 provisions of the New Mexico Health Insurance Exchange Act,
9 consistent with state law, approved waiver of federal law,
10 the federal Patient Protection and Affordable Care Act and
11 other federal law, including:

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

14 (b) eligibility determination for the
15 exchange and related public programs;

16 (c) enrollment of qualified individuals
17 and qualified employers; and

18 (d) administration of assessments and
19 fees;

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

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

24 (4) establish a program to publicize the
25 existence of the exchange, the qualified health plans, the

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

5 (5) establish consumer complaint and
6 grievance 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. BOARD DUTIES--REPORTING.--The board shall:

16 A. consult with representatives of New Mexico
17 Indian nations, tribes and pueblos and develop and implement
18 policies that:

19 (1) promote effective communication and
20 collaboration between the exchange and Indian nations, tribes
21 and pueblos, including communicating and collaborating on
22 those nations', tribes' and pueblos' plans for creating or
23 participating in health insurance exchanges; and

24 (2) promote cultural competency in providing
25 effective services to Native Americans;

1 B. designate a Native American liaison, who shall
2 assist the executive director of the exchange in developing
3 and ensuring implementation of communication and
4 collaboration between the exchange and Native Americans in
5 the state. The tribal liaison shall serve as a contact
6 person between the exchange and New Mexico Indian nations,
7 tribes and pueblos and shall ensure that training is provided
8 to the staff of the exchange;

9 C. between July 1, 2011 and January 1, 2014
10 provide quarterly reports to the legislature, the governor
11 and the superintendent on the implementation of the exchange
12 and report annually and upon request thereafter;

13 D. by July 1, 2013:

14 (1) report findings and submit
15 recommendations to the legislative health and human services
16 committee, the legislative finance committee and the
17 superintendent on how to avoid adverse selection and how to
18 assess and improve the quality and affordability of qualified
19 health plans that will be offered on the exchange; and

20 (2) provide legislative recommendations to
21 the legislative health and human services committee and the
22 legislative finance committee on whether to change the number
23 of full-time-equivalent employees in the definition of "small
24 employer" from fifty to one hundred before January 1, 2016.

25 The board shall recommend a transition plan for the exchange

1 and carriers to follow when changing the definition of "small
2 employer", whether the change occurs prior to or on January
3 1, 2016;

4 E. by July 1, 2013 provide recommendations to the
5 legislative finance committee and other appropriate interim
6 legislative committees on mechanisms for funding the
7 operations of the exchange and a plan for achieving
8 self-sufficiency, including the use of any assessments or
9 fees;

10 F. by July 1, 2016, provide legislative
11 recommendations to the legislative health and human services
12 committee and the legislative finance committee on whether
13 to:

14 (1) continue limiting qualified employer
15 status to small employers and, if qualified employer status
16 is extended to large employers, whether to combine the large
17 employer risk pool with the small group market;

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

20 (3) enter into an exchange with other states
21 or share resources or responsibilities to enhance the
22 affordability of operating the exchange;

23 G. keep an accurate accounting of all of the
24 activities, receipts and expenditures of the exchange and
25 submit this information annually to the superintendent and as

1 required by federal law to the federal secretary of health
2 and human services;

3 H. beginning with the first year of operation in
4 which access to health insurance coverage is provided, obtain
5 an annual audit of the exchange's operations from an
6 independent certified public accountant;

7 I. cooperate with the medical assistance division
8 of the human services department, or its successor in
9 interest, to share information and facilitate transitions in
10 enrollment between the exchange and medicaid, the state
11 children's health insurance program or any other state public
12 health coverage program;

13 J. publish the administrative costs of the
14 exchange as required by state or federal law; and

15 K. discharge those duties required to implement
16 and operate the exchange in accordance with the provisions of
17 the New Mexico Health Insurance Exchange Act consistent with
18 state and federal law.

19 SECTION 7. RULES--DISPUTE RESOLUTION.--

20 A. The superintendent shall promulgate rules
21 necessary to implement and carry out the provisions of the
22 New Mexico Health Insurance Exchange Act.

23 B. The superintendent shall promulgate rules for
24 resolving disputes arising from the operation of the exchange
25 in accordance with the provisions of the New Mexico Health

1 Insurance Exchange Act, including with respect to:

2 (1) the eligibility of an individual,
3 employer or carrier to participate in the exchange;

4 (2) receiving an exemption from any state or
5 federal individual requirement to retain minimum essential
6 coverage; and

7 (3) the exchange's collection and
8 transmission to the applicable qualified health plans any
9 applications for enrollment and all premium payments or
10 contributions made by or on behalf of qualified individuals
11 or qualified employers participating in the exchange.

12 SECTION 8. EXEMPTION.--The exchange is exempt from
13 payment of all fees and all taxes levied by this state or any
14 of its political subdivisions.

15 SECTION 9. FUNDING.--

16 A. To fund the planning, implementation and
17 operation of the exchange, the board shall contract with the
18 human services department or any other state agency that
19 receives federal funds allocated, appropriated or granted to
20 the state for purposes of funding the planning,
21 implementation or operation of a health insurance exchange.

22 B. The human services department or any other
23 state agency that receives federal funds allocated,
24 appropriated or granted to the state for purposes of funding
25 the planning, implementation or operation of a health

1 insurance exchange shall contract with the board to provide
2 those funds to the exchange in consideration for its
3 planning, implementation or operation.

4 SECTION 10. COOPERATION WITH THE NEW MEXICO HEALTH
5 INSURANCE EXCHANGE.--The medical assistance division of the
6 human services department, or its successor in interest,
7 shall cooperate with the New Mexico health insurance exchange
8 to share information and facilitate transitions in enrollment
9 between the exchange and medicaid, the state children's
10 health insurance program or any other state public health
11 coverage program.

12 SECTION 11. A new section of the New Mexico Insurance
13 Code is enacted to read:

14 "INSURANCE DIVISION--COOPERATION WITH NEW MEXICO HEALTH
15 INSURANCE EXCHANGE.--The insurance division, or its successor
16 in interest, shall cooperate with the New Mexico health
17 insurance exchange to share information and assist in the
18 implementation of the functions of the exchange."

19 SECTION 12. Section 41-4-3 NMSA 1978 (being Laws 1976,
20 Chapter 58, Section 3, as amended by Laws 2009, Chapter 8,
21 Section 2 and by Laws 2009, Chapter 129, Section 2 and also
22 by Laws 2009, Chapter 249, Section 2) is amended to read:

23 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

24 A. "board" means the risk management advisory
25 board;

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

4 C. "local public body" means all political
5 subdivisions of the state and their agencies,
6 instrumentalities and institutions and all water and natural
7 gas associations organized pursuant to Chapter 3, Article 28
8 NMSA 1978;

9 D. "law enforcement officer" means a full-time
10 salaried public employee of a governmental entity, or a
11 certified part-time salaried police officer employed by a
12 governmental entity, whose principal duties under law are to
13 hold in custody any person accused of a criminal offense, to
14 maintain public order or to make arrests for crimes, or
15 members of the national guard when called to active duty by
16 the governor;

17 E. "maintenance" does not include:

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

22 (2) an activity or event relating to a
23 public building or public housing project that was not
24 foreseeable;

25 F. "public employee" means an officer, employee or

1 servant of a governmental entity, excluding independent
2 contractors except for individuals defined in Paragraphs (7),
3 (8), (10), (14) and (17) of this subsection, or of a
4 corporation organized pursuant to the Educational Assistance
5 Act, the Small Business Investment Act or the Mortgage
6 Finance Authority Act or a licensed health care provider, who
7 has no medical liability insurance, providing voluntary
8 services as defined in Paragraph (16) of this subsection and
9 including:

10 (1) elected or appointed officials;
11 (2) law enforcement officers;
12 (3) persons acting on behalf or in service
13 of a governmental entity in any official capacity, whether
14 with or without compensation;

15 (4) licensed foster parents providing care
16 for children in the custody of the human services department,
17 corrections department or department of health, but not
18 including foster parents certified by a licensed child
19 placement agency;

20 (5) members of state or local selection
21 panels established pursuant to the Adult Community
22 Corrections Act;

23 (6) members of state or local selection
24 panels established pursuant to the Juvenile Community
25 Corrections Act;

1 (7) licensed medical, psychological or
2 dental arts practitioners providing services to the
3 corrections department pursuant to contract;

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

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

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

13 (11) members of the board of directors of
14 the New Mexico educational assistance foundation;

15 (12) members of the board of directors of
16 the New Mexico student loan guarantee corporation;

17 (13) members of the New Mexico mortgage
18 finance authority;

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

21 (15) members of the board of directors of
22 the New Mexico small business investment corporation;

23 (16) health care providers licensed in
24 New Mexico who render voluntary health care services without
25 compensation in accordance with rules promulgated by the

1 secretary of health. The rules shall include requirements
2 for the types of locations at which the services are
3 rendered, the allowed scope of practice and measures to
4 ensure quality of care;

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

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

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

15 H. "state" or "state agency" means the state of
16 New Mexico or any of its branches, agencies, departments,
17 boards, instrumentalities or institutions."

18 SECTION 13. TEMPORARY PROVISION--NEW MEXICO HEALTH
19 INSURANCE EXCHANGE--NEW MEXICO MEDICAL INSURANCE POOL--
20 NEW MEXICO HEALTH INSURANCE ALLIANCE.--

21 A. Until the date is reached upon which federal
22 law requires it to be self-sustaining, resources for the
23 New Mexico health insurance exchange may be provided to the
24 New Mexico health insurance exchange by the New Mexico health
25 insurance alliance or the New Mexico medical insurance pool

1 through a cooperative agreement between the New Mexico health
2 insurance exchange and the respective board. The New Mexico
3 health insurance alliance and the New Mexico medical
4 insurance pool may fund reasonably required staff and other
5 operating expenses for the New Mexico health insurance
6 exchange through their respective existing funding
7 mechanisms. To the extent federal funding is available to
8 the New Mexico health insurance exchange, the New Mexico
9 health insurance exchange shall reimburse the New Mexico
10 health insurance alliance and the New Mexico medical
11 insurance pool, respectively, for such resources as each may
12 provide.

13 B. The board of directors of the New Mexico health
14 insurance exchange shall meet with the boards of directors of
15 the New Mexico health insurance alliance and the New Mexico
16 medical insurance pool to:

17 (1) develop a plan to provide portability of
18 coverage for individuals covered through the New Mexico
19 health insurance alliance and the New Mexico medical
20 insurance pool to the extent possible through the New Mexico
21 health insurance exchange; and

22 (2) prepare a report to the first session of
23 the fifty-first legislature on recommendations for transition
24 of functions of the New Mexico health insurance alliance and
25 New Mexico medical insurance pool to the New Mexico health

1 insurance exchange and on any recommendations for continued
2 and expanded health coverage of the state's residents.

3 SECTION 14. SEVERABILITY.--If any part or application
4 of this act is held invalid, the remainder or its application
5 to other situations or persons shall not be affected. _____

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OFFICE OF THE CLERK
SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA

s/John A. Sanchez
John A. Sanchez, President
Senate

s/Lenore M. Naranjo
Lenore M. Naranjo, Chief Clerk
Senate

s/Ben Lujan
Ben Lujan, Speaker
House of Representatives

s/Stephen R. Arias
Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this _____ day of _____, 2011

s/Governor Susana Martinez
Governor Susana Martinez
State of New Mexico