

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 235

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

AN ACT

RELATING TO INSURANCE; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

SECTION 1. A new Section 59A-1-8.2 NMSA 1978 is enacted  
to read:

"59A-1-8.2. [NEW MATERIAL] DELIVER OR DELIVERY--  
DEFINITION.--"Deliver" or "delivery" means send to by:

- A. email and retain an email delivery confirmation;
- B. electronic transmission through a dedicated two-  
way communication portal and retain delivery confirmation;
- C. fax and retain a fax delivery confirmation;
- D. regular mail; or
- E. personal delivery."

SECTION 2. Section 59A-2-8 NMSA 1978 (being Laws 1984,

1 Chapter 127, Section 26, as amended) is amended to read:

2 "59A-2-8. GENERAL POWERS AND DUTIES OF SUPERINTENDENT.--

3 A. The superintendent shall:

4 [~~A.~~] (1) organize and manage the office of  
5 superintendent of insurance and direct and supervise all its  
6 activities;

7 [~~B.~~] (2) execute the duties imposed upon the  
8 superintendent by the Insurance Code;

9 [~~C.~~] (3) enforce those provisions of the  
10 Insurance Code that are administered by the superintendent;

11 [~~D.~~] (4) have the powers and authority  
12 expressly conferred by or reasonably implied from the  
13 provisions of the Insurance Code;

14 [~~E.~~] (5) conduct such examinations and  
15 investigations of insurance matters, in addition to those  
16 expressly authorized, as the superintendent may deem proper  
17 upon reasonable and probable cause to determine whether a  
18 person has violated a provision of the Insurance Code or to  
19 secure information useful in the lawful enforcement or  
20 administration of the provision;

21 [~~F.~~] (6) have the power to sue or be sued;

22 [~~G.~~] (7) have the power to make, enter into  
23 and enforce all contracts, agreements and other instruments  
24 necessary, convenient or desirable in the exercise of the  
25 superintendent's powers and functions and for the purposes of

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1 the Insurance Code;

2 ~~[H.]~~ (8) prepare an annual budget for the  
3 office of superintendent of insurance;

4 ~~[F.]~~ (9) have the right to require performance  
5 bonds of employees as the superintendent deems necessary  
6 pursuant to the Surety Bond Act. The office of superintendent  
7 of insurance shall pay the cost of required bonds;

8 ~~[J.]~~ (10) comply with the provisions of the  
9 Administrative Procedures Act; ~~[and]~~

10 (11) upon an order based upon the invocation  
11 of a state of emergency under the All Hazard Emergency  
12 Management Act or the Public Health Emergency Response Act by  
13 the governor, take those actions necessary to ensure access to  
14 insurance and the stability of insurance markets during the  
15 emergency. Such actions may include issuing emergency rules or  
16 orders to address any or all of the following matters related  
17 to insurance policies issued in New Mexico:

18 (a) grace periods for payment of  
19 insurance premiums and performance of other duties by insureds;

20 (b) refund of premiums;

21 (c) waiver of cost sharing or  
22 deductibles;

23 (d) temporary postponement of  
24 cancellations and nonrenewals;

25 (e) reporting requirements for claims;

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1 and

2 (f) suspension of compliance with a  
3 statute, rule or contract, if strict compliance would prevent,  
4 hinder or delay necessary action in response to the emergency;

5 and

6 ~~[K-]~~ (12) have such additional powers and  
7 duties as may be provided by other laws of this state.

8 B. If a state of emergency under the All Hazard  
9 Emergency Management Act or the Public Health Emergency  
10 Response Act is invoked by the governor, and the superintendent  
11 issues emergency rules or orders to address matters related to  
12 insurance policies issued in New Mexico, each emergency rule or  
13 order:

14 (1) shall specify, by line of insurance:

15 (a) the geographic area in which the  
16 order applies; and

17 (b) the dates on which the order becomes  
18 effective and terminates; and

19 (2) shall not:

20 (a) apply retroactively;

21 (b) apply outside the geographic area  
22 designated in the governor's order; or

23 (c) extend beyond the end date of the  
24 governor's order."

25 **SECTION 3.** Section 59A-4-15 NMSA 1978 (being Laws 1984,

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1 Chapter 127, Section 59, as amended by Laws 2011, Chapter 127,  
2 Section 3 and by Laws 2011, Chapter 144, Section 1) is amended  
3 to read:

4 "59A-4-15. HEARINGS--IN GENERAL.--

5 A. The superintendent may hold a hearing, without  
6 request by others, for any purpose within the scope of the  
7 Insurance Code.

8 B. The superintendent shall hold a hearing:

9 (1) if required by any other provision of the  
10 Insurance Code; or

11 (2) upon written request for a hearing by a  
12 person aggrieved by any act, threatened act or failure of the  
13 superintendent to act or by any report, rule or order of the  
14 superintendent, other than an order for the holding of a  
15 hearing or order on hearing or pursuant to such an order on a  
16 hearing of which the person had notice.

17 C. The request for a hearing shall briefly state  
18 the respects in which the applicant is so aggrieved, the relief  
19 to be sought and the grounds to be relied upon as basis for  
20 relief. The request shall be received by the superintendent no  
21 later than thirty days from the date of the act, threatened act  
22 or failure of the superintendent to act or the date of the  
23 superintendent's report, rule or order.

24 D. If the superintendent finds that the request is  
25 made in good faith, that the applicant would be so aggrieved if

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1 the stated grounds are established and that such grounds  
2 otherwise justify the hearing, the superintendent shall  
3 commence the hearing within thirty days after filing of the  
4 request, unless postponed by mutual consent. No postponement  
5 shall be later than ninety days after the filing of the  
6 request.

7 E. Pending the hearing and decision, the  
8 superintendent may suspend or postpone the effective date of  
9 the action as to which the hearing is requested. If upon  
10 request the superintendent refuses to grant the suspension or  
11 postponement, the person requesting the hearing may apply no  
12 later than twenty days from the superintendent's refusal to the  
13 district court of Santa Fe county for a stay of the  
14 superintendent's action or proposed action pending the hearing  
15 and the superintendent's order.

16 F. Except as otherwise expressly provided, this  
17 section does not apply to hearings relative to matters arising  
18 under Chapter 59A, Article 17 NMSA 1978.

19 G. The superintendent may appoint a hearing officer  
20 to preside over hearings [~~on reconsideration of rate filings~~].  
21 The hearing officer shall provide the superintendent with a  
22 recommended decision on the matter assigned to the hearing  
23 officer, including findings of fact and conclusions of law."

24 SECTION 4. Section 59A-5-23 NMSA 1978 (being Laws 1984,  
25 Chapter 127, Section 90) is amended to read:

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1 "59A-5-23. CONTINUANCE, EXPIRATION, REINSTATEMENT OF  
2 CERTIFICATE OF AUTHORITY.--

3 A. A certificate of authority shall continue in  
4 force as long as the insurer is entitled thereto under the  
5 Insurance Code, and until suspended or revoked by the  
6 superintendent or terminated at the insurer's request, subject,  
7 however, to continuance of the certificate by the insurer each  
8 year by:

9 (1) payment on or before March 1 of the  
10 continuation fee referred to in Section [~~101 (fee schedule) of~~  
11 ~~the Insurance Code~~] 59A-6-1 NMSA 1978;

12 (2) due filing by the insurer of its annual  
13 statement for the next preceding calendar year as required by  
14 Section [~~96 of this article~~] 59A-5-29 NMSA 1978; and

15 (3) payment by the insurer when due of premium  
16 taxes with respect to the preceding calendar year.

17 B. If not so continued by the insurer its  
18 certificate of authority shall expire at midnight on the date  
19 of failure of the insurer to continue it in force, unless  
20 earlier revoked as provided in Sections [~~91 through 93 of this~~  
21 ~~article~~] 59A-5-24 through 59A-5-26 NMSA 1978.

22 C. Upon the insurer's request made within three  
23 [~~(3)~~] months after expiration, the superintendent may reinstate  
24 a certificate of authority [~~which~~] that the insurer  
25 inadvertently permitted to expire, after the insurer has fully

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1 cured all its failures [~~which~~] that resulted in the expiration,  
2 and upon payment by the insurer of the fee for reinstatement  
3 specified in Section [~~101 (fee schedule) of the Insurance Code]~~  
4 59A-6-1 NMSA 1978. Otherwise the superintendent shall grant  
5 the insurer another certificate of authority only after filing  
6 an application therefor and meeting all other requirements as  
7 for an original certificate of authority in this state.

8 D. If an insurer allows a certificate of authority  
9 issued by the superintendent to expire, the holder of the  
10 expired certificate shall remain subject to the provisions of  
11 the Insurance Code but is not authorized to transact any  
12 insurance business. If the insurer reinstates the expired  
13 certificate of authority within three months after expiration,  
14 the reinstatement shall relate back to the date of the  
15 expiration; provided that this shall not excuse any violation  
16 of the Insurance Code that occurred during the intervening  
17 period."

18 SECTION 5. Section 59A-5-32 NMSA 1978 (being Laws 1984,  
19 Chapter 127, Section 99) is amended to read:

20 "59A-5-32. SERVING PROCESS--TIME TO PLEAD.--

21 A. Service of process against an insurer for whom  
22 the superintendent is attorney shall be made by delivering by  
23 email to [~~and leaving with~~] the superintendent, [~~his deputy, or~~  
24 ~~a person in apparent charge of the office during the~~  
25 ~~superintendent's absence, two (2) copies]~~ or the

1 superintendent's designee, an electronic copy of the process  
 2 together with the fee [~~therefor~~] specified in Section [~~101 (fee~~  
 3 ~~schedule) of the Insurance Code~~] 59A-6-1 NMSA 1978, taxable as  
 4 costs in the action.

5 B. Upon such service the superintendent shall  
 6 [~~forthwith forward by prepaid registered or certified mail~~  
 7 ~~return receipt requested one of the copies of~~] deliver such  
 8 process showing the date and time of service on the  
 9 superintendent, to the email or electronic portal address of  
 10 the person currently designated by the insurer to receive [~~the~~  
 11 ~~copy~~] such process as provided in Section [~~98 (appointment of~~  
 12 ~~superintendent as process agent) of this article~~] 59A-5-31 NMSA  
 13 1978. Service of process on the insurer shall be complete upon  
 14 [~~receipt, or, in the event of refusal to accept, the date of~~  
 15 ~~such refusal~~] such electronic delivery of the process.

16 C. Process served as provided in this section shall  
 17 for all purposes constitute valid and binding personal service  
 18 within this state upon the insurer. If summons is served under  
 19 this section, the time within which the insurer is required to  
 20 appear shall be extended an additional ten [~~10~~] days beyond  
 21 that otherwise allowed by New Mexico rules of civil procedure.

22 D. The superintendent shall keep record of the day  
 23 and time of service of legal process under this section.

24 E. If the electronic delivery requirements of this  
 25 section create a hardship for any person serving an insurer

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1 pursuant to this subsection, that person shall deliver to the  
2 superintendent or the superintendent's designee two copies of  
3 the process together with the fee specified in Section 59A-6-1  
4 NMSA 1978, taxable as costs in the action. Upon such service,  
5 the superintendent shall deliver the process to the insurer as  
6 provided in Subsection B of this section."

7 SECTION 6. Section 59A-12-2 NMSA 1978 (being Laws 2016,  
8 Chapter 89, Section 26) is amended to read:

9 "59A-12-2. DEFINITIONS.--As used in Chapter 59A, Article  
10 12 NMSA 1978:

11 A. "affiliate" means a person that controls, is  
12 controlled by or is under common control with the insurance  
13 producer;

14 B. "business entity" means a corporation,  
15 association, partnership, limited liability company, limited  
16 liability partnership or other legal entity;

17 C. "home state" means the District of Columbia and  
18 any state or territory of the United States in which an  
19 insurance producer maintains the insurance producer's principal  
20 place of residence or principal place of business and is  
21 licensed to act as an insurance producer;

22 D. "insurance" means any of the lines of authority  
23 in Chapter 59A, Article 7 NMSA 1978;

24 E. "insurance producer" means a person required to  
25 be licensed under the laws of this state to sell, solicit or

1 negotiate insurance;

2 F. "insurer" means every person engaged as  
3 principal and as indemnitor, surety or contractor in the  
4 business of entering into contracts of insurance;

5 G. "license" means a document issued by the  
6 superintendent authorizing a person to act as an insurance  
7 producer for the lines of authority specified in the document.  
8 The license itself does not create any authority, actual,  
9 apparent or inherent, in the holder to represent or commit an  
10 insurance carrier;

11 H. "limited line credit insurance" includes credit  
12 life, credit disability, credit property, credit unemployment,  
13 involuntary unemployment, mortgage life, mortgage guaranty,  
14 mortgage disability, guaranteed automobile protection insurance  
15 and any other form of insurance offered in connection with an  
16 extension of credit that is limited to partially or wholly  
17 extinguishing that credit obligation;

18 I. "limited line credit insurance producer" means a  
19 person who sells, solicits or negotiates one or more forms of  
20 limited line credit insurance coverage to individuals through a  
21 master, corporate, group or individual policy;

22 J. "limited lines insurance" means those lines of  
23 insurance referred to in Section 59A-12-18 NMSA 1978 or any  
24 other line of insurance that the superintendent deems necessary  
25 to recognize for the purposes of complying with Subsection E of

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1 Section ~~[23 of this 2016 act]~~ 59A-11-24 NMSA 1978;

2 K. "limited lines producer" means a person  
3 authorized by the superintendent to sell, solicit or negotiate  
4 limited lines insurance;

5 L. "negotiate" means the act of conferring directly  
6 with or offering advice directly to a purchaser or prospective  
7 purchaser of a particular contract of insurance concerning any  
8 of the substantive benefits, terms or conditions of the  
9 contract; provided that the person engaged in that act either  
10 sells insurance or obtains insurance from insurers for  
11 purchasers;

12 M. "personal lines insurance producer" means a  
13 general lines producer who is limited to transacting business  
14 related to property and casualty insurance sold to individuals  
15 and families for noncommercial purposes;

16 N. "reinstatement" means reestablishment of a  
17 licensee's authority to transact insurance after a lapse of  
18 that authority that restores the licensee's authority to the  
19 same scope and condition that pertained to that authority  
20 before the lapse;

21 ~~[M.]~~ O. "sell" means to exchange a contract of  
22 insurance by any means, for money or its equivalent, on behalf  
23 of an insurer;

24 ~~[N.]~~ P. "solicit" means attempting to sell  
25 insurance or asking or urging a person to apply for a

1 particular kind of insurance from a particular insurer;

2           ~~[Q.]~~ Q. "terminate" means to cancel the  
3 relationship between an insurance producer and the insurer or  
4 to terminate an insurance producer's authority to transact  
5 insurance;

6           ~~[P.]~~ R. "uniform application" means the current  
7 version of the national association of insurance commissioners  
8 uniform application for resident and nonresident insurance  
9 producer licensing; and

10           ~~[Q.]~~ S. "uniform business entity application" means  
11 the current version of the national association of insurance  
12 commissioners uniform business entity application for resident  
13 and nonresident business entities."

14           **SECTION 7.** Section 59A-12-3 NMSA 1978 (being Laws 1984,  
15 Chapter 127, Section 203, as amended) is amended to read:

16           "59A-12-3. "BROKER" ~~[AND "SERVICE REPRESENTATIVE"]~~  
17 DEFINED.--For the purpose of the Insurance Code ~~[A.]~~, a  
18 "broker" is a type of insurance producer who, not being an  
19 agent of the insurer, as an independent contractor and on  
20 behalf of the insured solicits, negotiates or procures  
21 insurance or annuity contracts or renewal or continuation  
22 thereof for insureds or prospective insureds other than the  
23 broker. "Broker" does not include a surplus line broker, as  
24 defined in Chapter 59A, Article 14 NMSA 1978 ~~[and~~

25           ~~B. "Service representative" means an individual,~~

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1 ~~regularly employed on salary by an insurer, group of insurers~~  
2 ~~or managing general agent, who assists insurance producers in~~  
3 ~~soliciting, negotiating and effectuating insurance for such~~  
4 ~~insurer, group or managing general agent and, in conduct of~~  
5 ~~their business, receives no part of the commission on insurance~~  
6 ~~written. A service representative is not required to be~~  
7 ~~licensed, nor shall the service representative independently~~  
8 ~~solicit or negotiate insurance or annuity contracts]."~~

9 SECTION 8. Section 59A-12-16 NMSA 1978 (being Laws 1984,  
10 Chapter 127, Section 217, as amended) is amended to read:

11 "59A-12-16. EXAMINATION FOR LICENSE.--

12 A. A resident individual applying for an insurance  
13 producer license shall, prior to issuance of license,  
14 personally take and pass a written examination. The  
15 examination shall test the knowledge of the individual  
16 concerning the lines of authority for which application is  
17 made, the duties and responsibilities of an insurance producer  
18 and the insurance laws and rules of this state. Examinations  
19 required by this section shall be developed and conducted under  
20 rules prescribed by the superintendent.

21 B. The superintendent may contract with an outside  
22 testing service for administering examinations and collecting  
23 the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

24 C. Each individual applying for an examination  
25 shall remit a nonrefundable fee as prescribed by the

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1 superintendent as set forth in Section 59A-6-1 NMSA 1978.

2 D. An individual who fails to appear for the  
3 examination as scheduled or fails to pass the examination shall  
4 reapply for an examination and remit all required fees and  
5 forms before being rescheduled for another examination.

6 E. No examination shall be required:

7 (1) for renewal or continuance of an existing  
8 license, except as provided in Subsection D of Section  
9 59A-11-10 NMSA 1978;

10 (2) of an applicant for limited license as  
11 provided in Section 59A-12-18 NMSA 1978;

12 (3) of applicants with respect to life and  
13 annuities or accident and health insurances who hold the  
14 chartered life underwriter designation by the American college  
15 of financial services;

16 (4) of applicants with respect to property and  
17 casualty insurance who hold the designation of chartered  
18 property and casualty underwriter designation by the American  
19 institute for chartered property casualty underwriters;

20 (5) of applicants for temporary license as  
21 provided for in Section 59A-12-19 NMSA 1978;

22 (6) of an applicant for a license covering the  
23 same kind or kinds of insurance as to which licensed in this  
24 state under a similar license within [~~five years~~] one year  
25 preceding date of application for the new license, unless the

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1 previous license was suspended, revoked or continuation thereof  
2 refused by the superintendent;

3 (7) of an applicant for insurance producer  
4 license, if the applicant took and passed a similar examination  
5 in a state in which already licensed, subject to Section  
6 59A-5-33 NMSA 1978; or

7 (8) of an applicant for self-service storage  
8 insurance producer license.

9 F. An individual who applies for an insurance  
10 producer license in this state who was previously licensed for  
11 the same lines of authority in another state shall not be  
12 required to take an examination. This exemption is only  
13 available if the person is currently licensed in that state or  
14 if the application is received within ninety days of the  
15 cancellation of the applicant's previous license and if the  
16 prior state issues a certification that, at the time of  
17 cancellation, the applicant was in good standing in that state  
18 or the state's insurance producer database records, maintained  
19 by the national association of insurance commissioners, its  
20 affiliates or subsidiaries, indicate that the insurance  
21 producer is or was licensed in good standing for the line of  
22 authority requested.

23 G. A person licensed as an insurance producer in  
24 another state who moves to this state shall apply within ninety  
25 days of establishing legal residence to become a resident

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1 insurance producer. No examination shall be required of that  
 2 person to obtain any line of authority previously held in the  
 3 prior state except where the superintendent determines  
 4 otherwise by rule."

5 SECTION 9. Section 59A-16-15 NMSA 1978 (being Laws 1984,  
 6 Chapter 127, Section 281) is amended to read:

7 "59A-16-15. DISCRIMINATION--REBATES AND CERTAIN  
 8 INDUCEMENTS PROHIBITED--LIFE, HEALTH AND ANNUITY CONTRACTS.--  
 9 Except as otherwise expressly provided by law, no person shall  
 10 [~~knowingly~~] directly or indirectly, as an inducement to any  
 11 contract of life, annuity or health insurance:

12 A. [~~permit to be made or offer to make or make any~~  
 13 ~~contract of life insurance, life annuity or health insurance,~~  
 14 ~~or agreement as to such contract, other than as plainly~~  
 15 ~~expressed in the contract issued, or pay or allow, or give or~~  
 16 ~~offer to pay, allow or give, directly or indirectly, or~~  
 17 ~~knowingly accept, as an inducement to such insurance or annuity~~  
 18 ~~any rebate of premiums payable on the contract, or any special~~  
 19 ~~favor or advantage in the dividends or other benefits thereon,~~  
 20 ~~or any paid employment or contract for services of any kind,~~  
 21 ~~or [any valuable consideration or inducement whatever not~~  
 22 ~~specified in the contract] offer, pay or accept any special~~  
 23 favor or advantage, any rebate of premiums or any valuable  
 24 consideration or promise whatsoever; or

25 B. [~~directly or indirectly give or sell or purchase~~

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1 ~~or offer or agree to give, sell, purchase, or allow as an~~  
 2 ~~inducement to such insurance or annuity or in connection~~  
 3 ~~therewith, whether or not to be specified in the policy or~~  
 4 ~~contract, any agreement of any form or nature promising returns~~  
 5 ~~and profits, or any stocks, bonds or other securities, or~~  
 6 ~~interest present or contingent therein or as measured thereby,~~  
 7 ~~of any insurer or other person, or any dividends or profits~~  
 8 ~~accrued or to accrue thereon] promise any returns or profits,~~  
 9 ~~interest or dividends not specified in the contract."~~

10 SECTION 10. Section 59A-16-16 NMSA 1978 (being Laws 1984,  
 11 Chapter 127, Section 282) is amended to read:

12 "59A-16-16. EXCEPTIONS TO DISCRIMINATION, REBATE AND  
 13 INDUCEMENT PROHIBITION--LIFE, HEALTH AND ANNUITY CONTRACTS.--

14 A. Nothing in [~~Sections 279 or 281 of this article~~]  
 15 Section 59A-16-11 or 59A-16-15 NMSA 1978 shall be construed as  
 16 including within the definition of discrimination or rebates  
 17 any of the following practices:

18 (1) in the case of any contract of life  
 19 insurance or life annuity, paying bonuses to policyholders or  
 20 otherwise abating their premiums in whole or in part out of  
 21 surplus accumulated from nonparticipating insurance, provided  
 22 that any such bonuses or abatement of premiums shall be fair  
 23 and equitable to policyholders and for the best interests of  
 24 the insurer and its policyholders;

25 (2) in the case of life insurance policies

underscored material = new  
 [bracketed material] = delete

1 issued on the industrial or debit plan, making allowance, in an  
2 amount which fairly [~~represents~~] represents the saving in  
3 collection expense, to policyholders who have continuously for  
4 a specified period made premium payments directly to an office  
5 of the insurer;

6 (3) readjusting the rate of premiums for a  
7 group insurance policy based on the loss or expense experience  
8 thereunder, at the end of the first or any subsequent policy  
9 year of insurance thereunder, which may be made retroactive  
10 only for such policy year;

11 (4) reducing the premium rate for policies of  
12 large amounts, but not exceeding savings in issuance and  
13 administration expenses reasonably attributable to such  
14 policies as compared with policies of similar plan issued in  
15 smaller amounts;

16 (5) reducing the premium rates for life or  
17 health insurance policies or annuity contracts on salary  
18 savings, payroll deduction, preauthorized check, bank draft or  
19 similar plans in amounts reasonably commensurate with the  
20 savings made by the use of such plans; [~~or~~]

21 (6) extending credit for the payment of any  
22 premium, and for which credit a reasonable rate of interest is  
23 charged and collected; or

24 (7) offering or providing any value-added  
25 product or service in conformance with Subsection G of Section

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1 59A-16-17 NMSA 1978.

2 B. Nothing in [~~this article~~] Chapter 59A, Article 16  
3 NMSA 1978 shall be construed as including within the definition  
4 of securities as inducements to purchase insurance the selling  
5 or offering for sale, contemporaneously with life insurance, of  
6 mutual fund shares or face amount certificates of regulated  
7 investment companies under offerings registered with the  
8 securities and exchange commission where such shares or such  
9 face amount certificates or such insurance may be purchased  
10 independently of and not contingent upon purchase of the other,  
11 at the same price and upon similar terms and conditions as  
12 where purchased independently."

13 SECTION 11. Section 59A-16-17 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 283, as amended) is amended to read:

15 "59A-16-17. [~~UNFAIR~~] DISCRIMINATION, REBATES AND CERTAIN  
16 INDUCEMENTS PROHIBITED--OTHER COVERAGES.--

17 A. [~~No property, casualty or title insurer, or~~  
18 ~~nonprofit health care or prepaid dental plan or other~~  
19 ~~insurance-type organization, or any employee or representative~~  
20 ~~thereof, and no insurance producer or other representative~~  
21 ~~shall pay, allow or give, or offer to pay, allow or give,~~  
22 ~~directly or indirectly, as an inducement to insurance or~~  
23 ~~coverage, or after insurance or coverage has been effected, any~~  
24 ~~rebate, discount, abatement, credit or reduction of the premium~~  
25 ~~named in a policy, or any special favor or advantage in the~~

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1 ~~dividends or other benefits to accrue thereon, or any valuable~~  
2 ~~consideration or inducement whatever, not specified or provided~~  
3 ~~for in the policy]~~ No person subject to the superintendent's  
4 jurisdiction shall induce or attempt to induce another person  
5 to enter into or continue a contract of insurance by directly  
6 or indirectly offering to pay or accept any special favor or  
7 advantage, any rebate of premiums or any valuable consideration  
8 or promise whatsoever not specified in the insurance contract,  
9 except to the extent provided for in an applicable filing with  
10 the superintendent as provided by law or as allowed by this  
11 section.

12 B. No title insurer or title insurance producer  
13 shall:

14 (1) pay, directly or indirectly, to the insured  
15 or any person acting as agent, representative, attorney or  
16 employee of the owner, lessee, mortgagee, existing or  
17 prospective, of the real property, or interest therein, that is  
18 the subject matter of title insurance or as to which a service  
19 is to be performed any commission or part of its fee or charges  
20 or other consideration as inducement or compensation for the  
21 placing of any order for a title insurance policy or for  
22 performance of any escrow or other service by the insurer with  
23 respect thereto;

24 (2) issue any policy or perform any service in  
25 connection with which it or any insurance producer or other

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1 person has paid or contemplates paying any commission, rebate  
2 or inducement in violation of this section;

3 (3) give or receive, directly or indirectly, any  
4 consideration or thing of value for the referral of title  
5 insurance business or escrow or other service provided by a  
6 title insurer or title insurance producer unless otherwise  
7 permitted by regulation of the superintendent; or

8 (4) enter into a reinsurance agreement with an  
9 affiliate of a real estate developer, real estate agency,  
10 mortgage lender or referrer of title business without the prior  
11 written approval of the superintendent.

12 C. No insured named in a policy or any employee of  
13 such insured shall knowingly receive or accept, directly or  
14 indirectly, any rebate, discount, abatement, credit or  
15 reduction of premium, or any special favor or advantage or  
16 valuable consideration or inducement, except as allowed by this  
17 section.

18 D. No insurer or organization shall make or permit  
19 any unfair discrimination between insureds or property having  
20 like insuring or risk characteristics, in the premium or rates  
21 charged for insurance or coverage, or in the dividends or other  
22 benefits payable thereon or in any other of the terms and  
23 conditions of the insurance or coverage.

24 E. Nothing in this section shall be construed as  
25 prohibiting the payment of commissions or other compensation to

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1 licensed insurance producers or other representatives; or as  
2 prohibiting the extension of credit to an insured for the  
3 payment of any premium and for which credit a reasonable rate  
4 of interest is charged and collected; or as prohibiting any  
5 insurer or insurance producer from allowing or returning to its  
6 participating policyholders, members or subscribers, dividends,  
7 savings or unabsorbed premium deposits. As to title insurance,  
8 nothing in this section shall prohibit bulk rates or special  
9 rates for customers of prescribed classes if such bulk or  
10 special rates are provided for in the currently effective  
11 schedule of fees and charges of the title insurer as filed with  
12 the superintendent.

13 F. The provisions of this section shall not prohibit  
14 a property or casualty insurer, or any employee or  
15 representative thereof, or a property or casualty insurance  
16 producer or other representative thereof from providing to  
17 customers or prospective customers prizes and gifts, including  
18 goods, gift cards, gift certificates, charitable donations,  
19 raffle entries, meals, event tickets and other items not  
20 exceeding one hundred dollars (\$100) in the aggregate in value  
21 per customer or prospective customer in any one calendar year.

22 G. A person subject to the superintendent's  
23 jurisdiction may offer or provide value-added products or  
24 services at no or reduced cost, even when such products or  
25 services are not specified in the insurance contract, if the

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1 product or service:

2 (1) relates to the insurance coverage;

3 (2) is offered at a cost that is reasonable in  
4 comparison to the insured's or prospective insured's premiums;

5 (3) has its availability based on documented  
6 objective evidence and offered in a manner that is not unfairly  
7 discriminatory; and

8 (4) is primarily designed to:

9 (a) provide loss mitigation or loss control;

10 (b) reduce claim costs or claim settlement  
11 costs;

12 (c) monitor or assess risk, identify sources  
13 of risk or develop strategies for eliminating or reducing risk;

14 (d) enhance health;

15 (e) enhance financial wellness through items  
16 such as education or financial planning services;

17 (f) provide post-loss services;

18 (g) incentivize behavioral changes to  
19 improve the health or reduce the risk of death or disability of  
20 an insured or prospective insured;

21 (h) assist in the administration of employee  
22 or retiree benefit insurance coverage; or

23 (i) provide education about liability risks  
24 or risk of loss to persons or property.

25 H. Prior to offering or providing a value-added

1 product or service, a person shall notify the superintendent of  
2 the person's intent to offer or provide a value-added product  
3 or service."

4 SECTION 12. Section 59A-16-21 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 287, as amended by Laws 2017, Chapter 15,  
6 Section 1 and by Laws 2017, Chapter 130, Section 12) is amended  
7 to read:

8 "59A-16-21. PAYMENT OF CLAIM BY CHECK, DRAFT OR  
9 ELECTRONIC TRANSFER--FAILURE TO PAY--INTEREST.--

10 A. An insurer shall pay promptly claims arising under  
11 its policies with checks or drafts, or, if a claimant requests,  
12 may pay by electronic transfer of funds. Without amending  
13 other statutes dealing with checks, drafts or electronic  
14 transfer of funds, a resident of New Mexico is granted a cause  
15 of action for ten percent of the amount of any check, draft or  
16 electronic transfer of funds that is not paid or lawfully  
17 rejected within ten days of forwarding by a New Mexico  
18 financial institution, but in no case to be less than five  
19 hundred dollars (\$500) plus costs of suit and attorney fees.  
20 The insurer shall not be required to pay such civil damages for  
21 delay if it proves that the delay in processing and payment was  
22 caused by a financial institution or postal or delivery service  
23 and the check, draft or electronic transfer of funds was paid  
24 or lawfully rejected within forty-eight hours of actual receipt  
25 of the draft, check or electronic transfer of funds by the

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1 person on whom drawn.

2 B. Notwithstanding any provision of the Insurance  
3 Code, any insurer issuing any policy, certificate or contract  
4 of insurance, surety, guaranty or indemnity of any kind or  
5 nature that fails for a period of forty-five days, after  
6 required proof of loss has been furnished, to pay to the person  
7 entitled the amount justly due shall be liable for the amount  
8 due and unpaid with interest on that amount at the rate of one  
9 and one-half times the prime lending rate [~~as determined by the~~  
10 ~~superintendent~~] for New Mexico banks [~~per year~~] during the  
11 period the claim is unpaid. Interest shall accrue, and the  
12 interest rate shall be determined, as of the forty-sixth day  
13 after the proof of loss was furnished.

14 C. Subsection B of this section shall not apply to  
15 any claims in arbitration or litigation."

16 SECTION 13. Section 59A-18-1 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 331, as amended) is amended to read:

18 "59A-18-1. SCOPE OF ARTICLE.--Chapter 59A, Article 18  
19 NMSA 1978 applies as to all insurance policies and annuity  
20 contracts of authorized insurers covering individuals resident,  
21 or risks located, or insurance protection to be rendered in  
22 this state, other than:

23 A. reinsurance;

24 B. policies or contracts not issued for delivery in  
25 this state nor delivered in this state, except for contracts

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1 for or endorsements of workers' compensation insurance when the  
2 workers' compensation risk insured arises from the employment  
3 of a worker performing work for an employer in New Mexico and  
4 that employer is not domiciled in New Mexico;

5 C. wet marine and transportation insurance [~~as~~  
6 ~~defined in Section 59A-7-5 NMSA 1978~~]; or

7 D. surplus lines insurance contracts, unless such  
8 contracts are specifically included by rule."

9 SECTION 14. Section 59A-18-22 NMSA 1978 (being Laws 1984,  
10 Chapter 127, Section 351) is amended to read:

11 "59A-18-22. BINDERS.--

12 A. While acting within the scope of authority granted  
13 by the insurer, binders or other contracts for temporary  
14 insurance may be made by [~~an agent~~] a producer orally or in  
15 writing, and shall be deemed to include all the usual terms of  
16 the policy as to which the binder was given together with such  
17 applicable endorsements as are designated in the binder, except  
18 as superseded by the clear and express terms of the binder.

19 B. No binder shall be valid beyond the issuance of  
20 the policy as to which given, or beyond ninety [~~(90)~~] days for  
21 written binders, fifteen days for oral, from its effective  
22 date, whichever period is the shorter.

23 C. If the policy has not been issued, a binder may be  
24 extended or renewed beyond such ninety [~~(90)~~] or fifteen days  
25 with the written approval of the insurer.

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1           D. This section shall not apply as to life or health  
2 insurances; and binders under the standard fire policy are  
3 governed by Section 492 of the Insurance Code and not by this  
4 section."

5           SECTION 15. Section 59A-18-29 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 358) is amended to read:

7           "59A-18-29. CANCELLATION OF CERTAIN POLICIES.--

8           A. An insurer or agent may at any time cancel a  
9 policy for nonpayment of premium [~~thereon~~] when due, whether  
10 the premium is payable directly to the insurer or agent or  
11 indirectly under any premium financing plan or extension of  
12 credit. The insurer or agent shall give the named insured  
13 written notice of [~~such~~] the cancellation not less than ten  
14 [~~(10)~~] days prior to the effective date of the cancellation.

15           B. An insurer may cancel its policy without cause at  
16 any time within sixty [~~(60)~~] days [~~next~~] following original  
17 issuance and effective date of the policy. The insurer shall  
18 give the named insured written notice of [~~such~~] the  
19 cancellation not less than ten [~~(10)~~] days prior to the  
20 effective date of the cancellation, which effective date shall  
21 fall within [~~such~~] the sixty- [~~(60)~~] day period.

22           C. Subject to Subsection A [~~above~~] of this section,  
23 after expiration of the sixty- [~~(60)~~] day period referred to in  
24 Subsection B of this section, an insurer or agent shall not  
25 cancel except for reasonable cause such policies and for such

1 causes, and with advance notice of cancellation for such period  
 2 of time, as may from time to time be provided by rules and  
 3 regulations of the superintendent. Such rules and regulations  
 4 may also require that statement of the reasons for [~~such~~]  
 5 cancellation be contained in the notice of cancellation given  
 6 to specified persons.

7 D. Notice of cancellation [~~may~~] shall be given using  
 8 any communication method authorized by the named insured, or by  
 9 personal delivery to the named insured or by mailing the notice  
 10 postage-paid addressed to the named insured at [~~his~~] the  
 11 address last of record with the insurer. Notice so mailed  
 12 shall be deemed given when deposited in a mail depository of  
 13 the United States post office.

14 E. There shall be no liability on the part of and no  
 15 cause of action shall arise against [~~any~~] an insurer or other  
 16 person for furnishing information as to reasons for  
 17 cancellation or for [~~any~~] a statement made or information given  
 18 pursuant to this section.

19 F. This section shall not apply as to life insurance  
 20 or annuity contracts, health insurance contracts, title  
 21 insurance, inland marine insurance contracts, or to [~~any~~] an  
 22 insurance policy [~~which~~] that by its terms is not cancellable  
 23 during the term of the policy at the option of the insurer."

24 SECTION 16. Section 59A-22-2 NMSA 1978 (being Laws 1984,  
 25 Chapter 127, Section 423) is amended to read:

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1 "59A-22-2. FORM AND CONTENT OF POLICY.--No policy of  
2 individual health insurance shall be delivered or issued for  
3 delivery in this state unless:

4 A. the entire money and other considerations therefor  
5 are expressed therein; [~~and~~]

6 B. the time at which insurance takes effect and  
7 terminates is expressed therein; [~~and~~]

8 C. it purports to insure only one person, except as  
9 provided in Chapter 59A, Article 23 [~~of the Insurance Code~~]  
10 NMSA 1978, and except that a policy or contract may be issued  
11 upon application of the head of a family, who shall be deemed  
12 the policyholder, covering members of any one family, including  
13 husband, wife, dependent children or any children under the age  
14 of [~~nineteen (19)~~] twenty-six and other dependents living with  
15 the family; [~~and~~]

16 D. every printed portion of the text matter and of  
17 any endorsements or attached papers shall be printed in uniform  
18 type of which the face shall be not less than ten [~~(10)~~] point  
19 (the "text" shall include all printed matter except the name  
20 and address of the insurer, name and title of the policy,  
21 captions, subcaptions and form numbers), but notwithstanding  
22 any provision of this law, the superintendent shall not  
23 disapprove any such policy on the ground that every printed  
24 portion of its text matter or of any endorsement or attached  
25 paper is not printed in uniform type if it shall be shown that

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1 the type used is required to conform to the laws of another  
2 state in which the insurer is authorized; ~~and~~

3 E. the exceptions and reductions of indemnity are  
4 adequately captioned and clearly set forth in the policy or  
5 contract; ~~and~~

6 F. each ~~such~~ separate form, including riders and  
7 endorsements, shall be identified by a form number and  
8 consecutive page numbers in the lower left-hand corner of [~~the~~  
9 ~~first~~] each page; [~~thereof~~] and

10 G. if any policy is issued by an insurer domiciled in  
11 this state for delivery to a person residing in another state,  
12 and if the official having responsibility for the  
13 administration of insurance laws of such other state shall have  
14 advised the superintendent that any such policy is not subject  
15 to approval or disapproval by such official, the superintendent  
16 may by ruling require that such policy meet the standards set  
17 forth in Sections [~~424 through 446 of this article~~] 59A-22-3  
18 through 59A-22-25 NMSA 1978."

19 **SECTION 17.** Section 59A-22-30.1 NMSA 1978 (being Laws  
20 2005, Chapter 41, Section 1) is amended to read:

21 "59A-22-30.1. MAXIMUM AGE OF DEPENDENT.--An individual or  
22 group health policy or certificate of insurance delivered,  
23 issued for delivery or renewed in New Mexico that provides  
24 coverage for an insured's dependent shall not terminate  
25 coverage of an unmarried dependent by reason of the dependent's

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1 age before the dependent's [~~twenty-fifth~~] twenty-sixth  
2 birthday, regardless of whether the dependent is enrolled in an  
3 educational institution."

4 SECTION 18. Section 59A-22-33 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 455) is amended to read:

6 "59A-22-33. [~~HANDICAPPED~~] CHILDREN WITH DISABILITIES--  
7 COVERAGE CONTINUED.--An individual or group hospital or medical  
8 expense insurance policy delivered or issued for delivery in  
9 this state [~~which~~] that provides that coverage of a dependent  
10 child of an insured, or of an employee or other member of the  
11 covered group, shall terminate upon attainment of the limiting  
12 age for dependent children specified in the policy shall also  
13 provide, in substance, that attainment of the limiting age  
14 shall not operate to terminate the coverage of a child while  
15 the child is, and continues to be both incapable of self-  
16 sustaining employment, by reason of [~~mental retardation~~]  
17 intellectual or developmental disability or physical [~~handicap~~]  
18 disability, and chiefly dependent upon the policyholder for  
19 support and maintenance. However, proof of the incapacity and  
20 dependency of the child must be furnished to the insurer by the  
21 insured employee or member within thirty-one [~~(31)~~] days of the  
22 child's attainment of the limiting age and subsequently, as may  
23 be required by the insurer, but not more frequently than  
24 annually after the two-year period following the child's  
25 attainment of the limiting age."

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1           **SECTION 19.** Section 59A-22-40.1 NMSA 1978 (being Laws  
2 2007, Chapter 278, Section 1) is amended to read:

3           "59A-22-40.1. COVERAGE FOR THE HUMAN PAPILOMAVIRUS  
4 VACCINE.--

5           A. An individual or group health insurance policy,  
6 health care plan or certificate of health insurance that is  
7 delivered, issued for delivery or renewed in this state shall  
8 provide coverage for the human papillomavirus vaccine [~~to~~  
9 ~~females nine to fourteen years of age~~] in accordance with the  
10 current standards of the federal centers for disease control  
11 and prevention.

12           B. Coverage for the human papillomavirus vaccine may  
13 be subject to deductibles and coinsurance consistent with those  
14 imposed on other benefits under the same policy, plan or  
15 certificate.

16           C. The provisions of this section shall not apply to  
17 short-term travel, accident-only or limited or specified  
18 disease policies.

19           D. For the purposes of this section, "human  
20 papillomavirus vaccine" means a vaccine approved by the federal  
21 food and drug administration used for the prevention of human  
22 papillomavirus infection and cervical precancers."

23           **SECTION 20.** Section 59A-22-41.1 NMSA 1978 (being Laws  
24 2003, Chapter 192, Section 1) is amended to read:

25           "59A-22-41.1. COVERAGE FOR MEDICAL DIETS FOR GENETIC

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[bracketed material] = delete

1 INBORN ERRORS OF METABOLISM.--

2 A. As of July 1, 2003, each individual and group  
3 health insurance policy, health care plan, certificate of  
4 health insurance and managed health care plan delivered, issued  
5 for delivery, renewed, extended or modified in this state shall  
6 provide coverage for the treatment of genetic inborn errors of  
7 metabolism that involve amino acid, carbohydrate and fat  
8 metabolism and for which medically standard methods of  
9 diagnosis, treatment and monitoring exist.

10 B. Coverage shall include expenses of diagnosing,  
11 monitoring and controlling disorders by nutritional and medical  
12 assessment, including clinical services, biochemical analysis,  
13 medical supplies, prescription drugs, corrective lenses for  
14 conditions related to the genetic inborn error of metabolism,  
15 nutritional management and special medical foods used in  
16 treatment to compensate for the metabolic abnormality and to  
17 maintain adequate nutritional status.

18 C. Services required to be covered pursuant to this  
19 section are subject to the terms and conditions of the  
20 applicable individual or group policy or plan that establishes  
21 durational limits, dollar limits, deductibles and co-payments  
22 as long as the terms are not less favorable than for physical  
23 illness generally.

24 D. As used in this section:

25 (1) "genetic inborn error of metabolism" means a

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1 rare, inherited disorder that:

2 (a) is present at birth;

3 (b) if untreated, results in [~~mental~~  
4 ~~retardation~~] intellectual or developmental disability or death;  
5 and

6 (c) causes the necessity for consumption of  
7 special medical foods;

8 (2) "special medical foods" means nutritional  
9 substances in any form that are:

10 (a) formulated to be consumed or  
11 administered internally under the supervision of a physician;

12 (b) specifically processed or formulated to  
13 be distinct in one or more nutrients present in natural food;

14 (c) intended for the medical and nutritional  
15 management of patients with limited capacity to metabolize  
16 ordinary foodstuffs or certain nutrients contained in ordinary  
17 foodstuffs or who have other specific nutrient requirements as  
18 established by medical evaluation; and

19 (d) essential to optimize growth, health and  
20 metabolic homeostasis; and

21 (3) "treatment" means medical services provided  
22 by licensed health care professionals, including physicians,  
23 dieticians and nutritionists, with specific training in  
24 managing patients diagnosed with genetic inborn errors of  
25 metabolism."

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1           SECTION 21. Section 59A-22-50 NMSA 1978 (being Laws 2010,  
2 Chapter 94, Section 1, as amended) is amended to read:

3           "59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

4           A. A health insurer shall ~~[make reimbursement for~~  
5 ~~direct services at a level not less than eighty-five percent of~~  
6 ~~premiums across all health product lines, including short-term~~  
7 ~~plans and excluding individually underwritten health insurance~~  
8 ~~policies, contracts or plans, that are governed by the~~  
9 ~~provisions of Chapter 59A, Article 22 NMSA 1978, the Health~~  
10 ~~Maintenance Organization Law and the Nonprofit Health Care Plan~~  
11 ~~Law, and an excepted benefit policy intended to supplement~~  
12 ~~major medical coverage, including medicare supplement, vision,~~  
13 ~~dental, disease-specific, accident-only or hospital indemnity-~~  
14 ~~only insurance policies, or a plan that only issues policies~~  
15 ~~for long-term care or disability income. Reimbursement shall~~  
16 ~~be made for direct services provided over the preceding three~~  
17 ~~calendar years, but not earlier than calendar year 2010, as~~  
18 ~~determined by reports filed with the office of superintendent~~  
19 ~~of insurance. Nothing in this subsection shall be construed to~~  
20 ~~preclude a purchaser from negotiating an agreement with a~~  
21 ~~health insurer that requires a higher amount of premiums paid~~  
22 ~~to be used for reimbursement for direct services for one or~~  
23 ~~more products or for one or more years] reimburse direct~~  
24 services as follows:

25                   (1) for small groups, at no less than eighty

1 percent of aggregate premiums for all such products; and

2 (2) for large groups, at no less than  
3 eighty-five percent of aggregate premiums for all such  
4 products.

5 B. Reimbursement for direct services shall be  
6 determined based on services provided over the preceding three  
7 calendar years, but not earlier than calendar year 2010, as  
8 determined by reports filed with the office of superintendent  
9 of insurance. Reimbursement calculations shall include  
10 short-term plans, but exclude all other excepted benefits plans  
11 governed by the provisions of Chapter 59A, Article 23G NMSA  
12 1978.

13 ~~[B.]~~ C. For individually underwritten health care  
14 policies, plans or contracts, the superintendent shall  
15 establish, after notice and informal hearing, the level of  
16 reimbursement for direct services, as determined by the reports  
17 filed with the office of superintendent of insurance, as a  
18 percent of premiums. Additional informal hearings may be held  
19 at the superintendent's discretion. In establishing the level  
20 of reimbursement for direct services, the superintendent shall  
21 consider the costs associated with the individual marketing and  
22 medical underwriting of these policies, plans or contracts at a  
23 level not less than seventy-five percent of premiums. A health  
24 insurer writing these policies shall make reimbursement for  
25 direct services at a level not less than that level established

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1 by the superintendent pursuant to this subsection over the  
2 three calendar years preceding the date upon which that rate is  
3 established, but not earlier than calendar year 2010. Nothing  
4 in this subsection shall be construed to preclude a purchaser  
5 of one of these policies, plans or contracts from negotiating  
6 an agreement with a health insurer that requires a higher  
7 amount of premiums paid to be used for reimbursement for direct  
8 services.

9 ~~[E-]~~ D. An insurer that fails to comply with the  
10 reimbursement requirements pursuant to this section shall issue  
11 a dividend or credit against future premiums to all  
12 policyholders in an amount sufficient to ensure that the  
13 benefits paid in the preceding three calendar years plus the  
14 amount of the dividends or credits are equal to the required  
15 direct services reimbursement level pursuant to Subsection A of  
16 this section for group health coverage and blanket health  
17 coverage or the required direct services reimbursement level  
18 pursuant to Subsection B of this section for individually  
19 underwritten health policies, contracts or plans for the  
20 preceding three calendar years. If the insurer fails to issue  
21 the dividend or credit in accordance with the requirements of  
22 this section, the superintendent shall enforce these  
23 requirements and may pursue any other penalties as provided by  
24 law, including general penalties pursuant to Section 59A-1-18  
25 NMSA 1978.

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1           ~~[D.]~~ E. After notice and hearing, the superintendent  
2 may adopt and promulgate reasonable rules necessary and proper  
3 to carry out the provisions of this section.

4           ~~[E.]~~ F. For the purposes of this section:

5                   (1) "direct services" means services rendered to  
6 an individual by a health insurer or a health care  
7 practitioner, facility or other provider, including case  
8 management, disease management, health education and promotion,  
9 preventive services, quality incentive payments to providers  
10 and any portion of an assessment that covers services rather  
11 than administration and for which an insurer does not receive a  
12 tax credit pursuant to the Medical Insurance Pool Act;  
13 provided, however, that "direct services" does not include care  
14 coordination, utilization review or management or any other  
15 activity designed to manage utilization or services;

16                   (2) "health insurer" means a person duly  
17 authorized to transact the business of health insurance in the  
18 state pursuant to the Insurance Code, including a person that  
19 issues a short-term plan and a person that only issues an  
20 excepted benefit policy intended to supplement major medical  
21 coverage, including medicare supplement, vision, dental,  
22 disease-specific, accident-only or hospital indemnity-only  
23 insurance policies, or that only issues policies for long-term  
24 care or disability income;

25                   (3) "premium" means all income received from

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1 individuals and private and public payers or sources for the  
2 procurement of health coverage, including capitated payments,  
3 self-funded administrative fees, self-funded claim  
4 reimbursements, recoveries from third parties or other insurers  
5 and interests less any tax paid pursuant to the Insurance  
6 Premium Tax Act and fees associated with participating in a  
7 health insurance exchange that serves as a clearinghouse for  
8 insurance; and

9 (4) "short-term plan" means a nonrenewable  
10 health benefits plan covering a resident of the state,  
11 regardless of where the plan is delivered, that:

12 (a) has a maximum specified duration of not  
13 more than three months after the effective date of the plan;  
14 [~~and~~]

15 (b) is issued only to individuals who have  
16 not been enrolled in a health benefits plan that provides the  
17 same or similar nonrenewable coverage from any health insurance  
18 carrier within the three months preceding enrollment in the  
19 short-term plan; and

20 (c) is not an excepted benefit or  
21 combination of excepted benefits."

22 SECTION 22. Section 59A-22A-3 NMSA 1978 (being Laws 1993,  
23 Chapter 320, Section 61) is amended to read:

24 "59A-22A-3. DEFINITIONS.--As used in the Preferred  
25 Provider Arrangements Law:

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1           A. "covered person" means any person on whose behalf  
2 the health care insurer is obligated to pay for or to provide  
3 health benefit services;

4           B. "covered services" means health care services  
5 which the health care insurer is obligated to pay for or to  
6 provide under a health benefit plan;

7           C. "emergency care" means ~~[covered services delivered~~  
8 ~~to a covered person after the sudden onset of a medical~~  
9 ~~condition manifesting itself by acute symptoms that are severe~~  
10 ~~enough that:~~

11                   ~~(1) the lack of immediate medical attention~~  
12 ~~could result in:~~

13                           ~~(a) placing the person's health in jeopardy;~~

14                           ~~(b) serious impairment of bodily functions;~~

15 or

16                           ~~(c) serious dysfunction of any bodily organ~~  
17 ~~or part; or~~

18                           ~~(2) a reasonable person believes that immediate~~  
19 ~~medical attention is required] health care procedures,~~  
20 treatments or services delivered to a covered person after the  
21 sudden onset of what reasonably appears to be a medical  
22 condition that manifests itself by symptoms of sufficient  
23 severity, including severe pain, that the absence of immediate  
24 medical attention could be reasonably expected by a reasonable  
25 layperson to result in jeopardy to a person's health, serious

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1 impairment of bodily functions, serious dysfunction of a bodily  
2 organ or part or disfigurement to a person;

3 D. "health benefit plan" means the health insurance  
4 policy or subscriber agreement between the covered person or  
5 the policyholder and the health care insurer ~~[which]~~ that  
6 defines the covered services and benefit levels available;

7 E. "health care insurer" means any person who  
8 provides health insurance in this state. For the purposes of  
9 the Small Group Rate and Renewability Act, "carrier" or  
10 "insurer" includes a licensed insurance company, a licensed  
11 fraternal benefit society, a prepaid hospital or medical  
12 service plan, a health maintenance organization, a nonprofit  
13 health care organization, a multiple employer welfare  
14 arrangement or any other person providing a plan of health  
15 insurance subject to state insurance regulation;

16 F. "health care provider" means providers of health  
17 care services licensed as required in this state;

18 G. "health care services" means services rendered or  
19 products sold by a health care provider within the scope of the  
20 provider's license. The term includes hospital, medical,  
21 surgical, dental, vision and pharmaceutical services or  
22 products;

23 H. "preferred provider" means a health care provider  
24 or group of providers who have contracted with a health care  
25 insurer to provide specified covered services to a covered

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1 person; and

2 I. "preferred provider arrangement" means a contract  
3 between or on behalf of the health care insurer and a preferred  
4 provider [~~which~~] that complies with all the requirements of the  
5 Preferred Provider Arrangements Law."

6 SECTION 23. Section 59A-23-4 NMSA 1978 (being Laws 1984,  
7 Chapter 127, Section 463, as amended) is amended to read:

8 "59A-23-4. OTHER PROVISIONS APPLICABLE.--

9 A. A blanket or group health insurance policy or  
10 contract shall not contain a provision relative to notice or  
11 proof of loss or the time for paying benefits or the time  
12 within which suit may be brought upon the policy that in the  
13 superintendent's opinion is less favorable to the insured than  
14 would be permitted in the required or optional provisions for  
15 individual health insurance policies as set forth in Chapter  
16 59A, Article 22 NMSA 1978.

17 B. The following provisions of Chapter 59A, Article  
18 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23  
19 NMSA 1978 and blanket and group health insurance contracts:

20 (1) Section 59A-22-1 NMSA 1978, except  
21 Subsection C of that section; and

22 (2) Section 59A-22-32 NMSA 1978.

23 C. The following provisions of Chapter 59A, Article  
24 22 NMSA 1978 shall also apply as to group health insurance  
25 contracts:

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- 1                    (1) Section 59A-22-2 NMSA 1978;
- 2                    (2) Section 59A-22-3 NMSA 1978;
- 3                    (3) Section 59A-22-4 NMSA 1978;
- 4                    (4) Section 59A-22-5 NMSA 1978;
- 5                    (5) Section 59A-22-6 NMSA 1978;
- 6                    (6) Section 59A-22-7 NMSA 1978;
- 7                    (7) Section 59A-22-8 NMSA 1978;
- 8                    (8) Section 59A-22-9 NMSA 1978;
- 9                    (9) Section 59A-22-10 NMSA 1978;
- 10                   (10) Section 59A-22-11 NMSA 1978;
- 11                   (11) Section 59A-22-12 NMSA 1978;
- 12                   (12) Section 59A-22-13 NMSA 1978;
- 13                   (13) Section 59A-22-14 NMSA 1978;
- 14                   (14) Section 59A-22-25 NMSA 1978;
- 15                   (15) Section 59A-22-28 NMSA 1978;
- 16                   (16) Section 59A-22-29 NMSA 1978;
- 17                   (17) Section 59A-22-32 NMSA 1978;
- 18                   (18) Section 59A-22-32.1 NMSA 1978;
- 19                   [~~(1)~~] (19) Section 59A-22-33 NMSA 1978;
- 20                   [~~(2)~~] (20) Section 59A-22-34 NMSA 1978;
- 21                   [~~(3)~~] (21) Section 59A-22-34.1 NMSA 1978;
- 22                   [~~(4)~~] (22) Section 59A-22-34.3 NMSA 1978;
- 23                   [~~(5)~~] (23) Section 59A-22-35 NMSA 1978;
- 24                   [~~(6)~~] (24) Section 59A-22-36 NMSA 1978;
- 25                   [~~(7)~~] (25) Section 59A-22-39 NMSA 1978;

1           ~~[(8)]~~ (26) Section 59A-22-39.1 NMSA 1978;  
 2           ~~[(9)]~~ (27) Section 59A-22-40 NMSA 1978;  
 3           ~~[(10)]~~ (28) Section 59A-22-40.1 NMSA 1978;  
 4           ~~[(11)]~~ (29) Section 59A-22-41 NMSA 1978;  
 5           ~~[(12)]~~ (30) Section 59A-22-42 NMSA 1978;  
 6           ~~[(13)]~~ (31) Section 59A-22-43 NMSA 1978; ~~[and]~~  
 7           ~~[(14)]~~ (32) Section 59A-22-44 NMSA 1978; and  
 8           (33) Section 59A-22-50 NMSA 1978."

9           **SECTION 24.** Section 59A-23-7.3 NMSA 1978 (being Laws  
 10          2003, Chapter 391, Section 3) is amended to read:

11           "59A-23-7.3. MAXIMUM AGE OF DEPENDENT.--Each blanket or  
 12          group health policy or certificate of insurance delivered,  
 13          issued for delivery or renewed in New Mexico on or after July  
 14          1, 2003 that provides coverage for an insured's dependent shall  
 15          not terminate coverage of an unmarried dependent by reason of  
 16          the dependent's age before the dependent's ~~[twenty-fifth]~~  
 17          twenty-sixth birthday, regardless of whether the dependent is  
 18          enrolled in an educational institution."

19           **SECTION 25.** Section 59A-23D-2 NMSA 1978 (being Laws 1995,  
 20          Chapter 93, Section 2, as amended) is amended to read:

21           "59A-23D-2. DEFINITIONS.--As used in the Medical Care  
 22          Savings Account Act:

23           A. "account administrator" means any of the following  
 24          that administers medical care savings accounts:

25           (1) a national or state-chartered bank, savings

1 and loan association, savings bank or credit union;

2 (2) a trust company authorized to act as a  
3 fiduciary in this state;

4 (3) an insurance company or health maintenance  
5 organization authorized to do business in this state pursuant  
6 to the Insurance Code; or

7 (4) a person approved by the federal secretary  
8 of health and human services;

9 B. "deductible" means the total covered medical  
10 expense an employee or the employee's dependents must pay prior  
11 to any payment by a qualified higher deductible health plan for  
12 a calendar year;

13 C. "department" means the office of superintendent of  
14 insurance;

15 D. "dependent" means:

16 (1) a spouse;

17 (2) an unmarried or unemancipated child of the  
18 employee who is a minor and who is:

19 (a) a natural child;

20 (b) a legally adopted child;

21 (c) a stepchild living in the same household  
22 who is primarily dependent on the employee for maintenance and  
23 support;

24 (d) a child for whom the employee is the  
25 legal guardian and who is primarily dependent on the employee

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1 for maintenance and support, as long as evidence of the  
2 guardianship is evidenced in a court order or decree; or

3 (e) a foster child living in the same  
4 household, if the child is not otherwise provided with health  
5 care or health insurance coverage;

6 (3) an unmarried child described in  
7 Subparagraphs (a) through (e) of Paragraph (2) of this  
8 subsection who is between the ages of eighteen and twenty-five;  
9 or

10 (4) a child over the age of eighteen who is  
11 incapable of self-sustaining employment by reason of [~~mental~~  
12 ~~retardation~~] intellectual or developmental disability or  
13 physical [~~handicap~~] disability and who is chiefly dependent on  
14 the employee for support and maintenance;

15 E. "eligible individual" means an individual who with  
16 respect to any month:

17 (1) is covered under a qualified higher  
18 deductible health plan as of the first day of that month;

19 (2) is not, while covered under a qualified  
20 higher deductible health plan, covered under a health plan  
21 that:

22 (a) is not a qualified higher deductible  
23 health plan; and

24 (b) provides coverage for a benefit that is  
25 covered under the qualified higher deductible health plan; and

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1                   (3) is covered by a qualified higher deductible  
2 health plan that is established and maintained by the employer  
3 of the individual or of the spouse of the individual;

4                   F. "eligible medical expense" means an expense paid  
5 by the employee for medical care described in Section 213(d) of  
6 the Internal Revenue Code of 1986 that is deductible for  
7 federal income tax purposes to the extent that those amounts  
8 are not compensated for by insurance or otherwise;

9                   G. "employee" includes a self-employed individual;

10                  H. "employer" includes a self-employed individual;

11                  I. "medical care savings account" or "savings  
12 account" means an account established by an employer in the  
13 United States exclusively for the purpose of paying the  
14 eligible medical expenses of the employee or dependent, but  
15 only if the written governing instrument creating the trust  
16 meets the following requirements:

17                   (1) except in the case of a rollover  
18 contribution, no contribution will be accepted:

19                   (a) unless it is in cash; or

20                   (b) to the extent the contribution, when  
21 added to previous contributions to the trust for the calendar  
22 year, exceeds seventy-five percent of the highest annual limit  
23 deductible permitted pursuant to the Medical Care Savings  
24 Account Act;

25                   (2) no part of the trust assets will be invested

1 in life insurance contracts;

2 (3) the assets of the trust will not be  
3 commingled with other property except in a common trust fund or  
4 common investment fund; and

5 (4) the interest of an individual in the balance  
6 in the individual's account is nonforfeitable;

7 J. "program" means the medical care savings account  
8 program established by an employer for employees; and

9 K. "qualified higher deductible health plan" means a  
10 health coverage policy, certificate or contract that provides  
11 for payments for covered health care benefits that exceed the  
12 policy, certificate or contract deductible, that is purchased  
13 by an employer for the benefit of an employee and that has the  
14 following deductible provisions:

15 (1) self-only coverage with an annual deductible  
16 of not less than one thousand five hundred dollars (\$1,500) or  
17 more than two thousand two hundred fifty dollars (\$2,250) and a  
18 maximum annual out-of-pocket expense requirement of three  
19 thousand dollars (\$3,000), not including premiums;

20 (2) family coverage with an annual deductible of  
21 not less than three thousand dollars (\$3,000) or more than four  
22 thousand five hundred dollars (\$4,500) and a maximum annual  
23 out-of-pocket expense requirement of five thousand five hundred  
24 dollars (\$5,500), not including premiums; and

25 (3) preventive care coverage may be provided

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1 within the policies without the preventive care being subjected  
2 to the qualified higher deductibles."

3 SECTION 26. Section 59A-46-30 NMSA 1978 (being Laws 1993,  
4 Chapter 266, Section 29, as amended) is amended to read:

5 "59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO  
6 OTHER LAWS.--

7 A. The provisions of the Insurance Code other than  
8 Chapter 59A, Article 46 NMSA 1978 shall not apply to health  
9 maintenance organizations except as expressly provided in the  
10 Insurance Code and that article. To the extent reasonable and  
11 not inconsistent with the provisions of that article, the  
12 following articles and provisions of the Insurance Code shall  
13 also apply to health maintenance organizations and their  
14 promoters, sponsors, directors, officers, employees, agents,  
15 solicitors and other representatives. For the purposes of such  
16 applicability, a health maintenance organization may therein be  
17 referred to as an "insurer":

- 18 (1) Chapter 59A, Article 1 NMSA 1978;
- 19 (2) Chapter 59A, Article 2 NMSA 1978;
- 20 (3) Chapter 59A, Article 4 NMSA 1978;
- 21 (4) Subsection C of Section 59A-5-22 NMSA 1978;
- 22 (5) Sections 59A-6-2 through 59A-6-4 and 59A-6-6  
23 NMSA 1978;
- 24 (6) Chapter 59A, Article 8 NMSA 1978;
- 25 (7) Chapter 59A, Article 10 NMSA 1978;

1                   ~~[(8) Section 59A-12-22 NMSA 1978;~~  
2                   ~~(9)]~~ (8) Chapter 59A, Article 16 NMSA 1978;  
3                   (9) the Domestic Abuse Insurance Protection Act;  
4                   (10) the Insurance Fraud Act;  
5                   ~~[(10)]~~ (11) Chapter 59A, Article 18 NMSA 1978;  
6                   ~~[(11)]~~ (12) the Policy Language Simplification  
7 Law;  
8                   ~~[(12)]~~ (13) Section 59A-22-14 NMSA 1978;  
9                   ~~[(13) the Insurance Fraud Act;~~  
10                   ~~(14) Section 59A-22-43 NMSA 1978;~~  
11                   ~~(15) the Minimum Healthcare Protection Act]~~  
12                   (14) the Health Insurance Portability Act;  
13                   ~~[(16)]~~ (15) Sections 59A-34-2, 59A-34-7 through  
14 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-36,  
15 59A-34-37, 59A-34-40 through 59A-34-42 and 59A-34-44 through  
16 59A-34-46 NMSA 1978;  
17                   ~~[(17)]~~ (16) the Insurance Holding Company Law;  
18 [and  
19                   ~~(18)]~~ (17) the Patient Protection Act; and  
20                   (18) the Surprise Billing Protection Act.

21                   B. Solicitation of enrollees by a health maintenance  
22 organization granted a certificate of authority, or its  
23 representatives, shall not be construed as violating any  
24 provision of law relating to solicitation or advertising by  
25 health professionals, but health professionals shall be

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1 individually subject to the laws, rules and ethical provisions  
2 governing their individual professions.

3 C. Any health maintenance organization authorized  
4 under the provisions of the Health Maintenance Organization Law  
5 shall not be deemed to be practicing medicine and shall be  
6 exempt from the provisions of laws relating to the practice of  
7 medicine."

8 SECTION 27. Section 59A-46-38.3 NMSA 1978 (being Laws  
9 2003, Chapter 391, Section 5, as amended) is amended to read:

10 "59A-46-38.3. MAXIMUM AGE OF DEPENDENT.--Each individual  
11 or group health maintenance organization contract delivered or  
12 issued for delivery or renewed in New Mexico that provides  
13 coverage for an enrollee's dependents shall not terminate  
14 coverage of an unmarried dependent by reason of the dependent's  
15 age before the dependent's [~~twenty-fifth~~] twenty-sixth  
16 birthday, regardless of whether the dependent is enrolled in an  
17 educational institution; provided that this requirement does  
18 not apply to the medicaid managed care system."

19 SECTION 28. Section 59A-46-42.1 NMSA 1978 (being Laws  
20 2007, Chapter 278, Section 3) is amended to read:

21 "59A-46-42.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS  
22 VACCINE.--

23 A. An individual or group health maintenance  
24 organization contract delivered, issued for delivery or renewed  
25 in this state shall provide coverage for the human

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1 papillomavirus vaccine [~~to females nine to fourteen years of~~  
 2 ~~age~~] in accordance with the current standards of the federal  
 3 centers for disease control and prevention.

4 B. Coverage for the human papillomavirus vaccine may  
 5 be subject to deductibles and coinsurance consistent with those  
 6 imposed on other benefits under the same policy, plan or  
 7 certificate.

8 C. The provisions of this section shall not apply to  
 9 short-term travel, accident-only or limited or specified  
 10 disease policies.

11 D. For the purposes of this section, "human  
 12 papillomavirus vaccine" means a vaccine approved by the federal  
 13 food and drug administration used for the prevention of human  
 14 papillomavirus infection and cervical precancers."

15 SECTION 29. Section 59A-47-33 NMSA 1978 (being Laws 1984,  
 16 Chapter 127, Section 879.32, as amended) is amended to read:

17 "59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions  
 18 of the Insurance Code other than Chapter 59A, Article 47 NMSA  
 19 1978 shall not apply to health care plans except as expressly  
 20 provided in the Insurance Code and that article. To the extent  
 21 reasonable and not inconsistent with the provisions of that  
 22 article, the following articles and provisions of the Insurance  
 23 Code shall also apply to health care plans, their promoters,  
 24 sponsors, directors, officers, employees, agents, solicitors  
 25 and other representatives; and, for the purposes of such

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1 applicability, a health care plan may therein be referred to as  
2 an "insurer":

- 3 A. Chapter 59A, Article 1 NMSA 1978;
- 4 B. Chapter 59A, Article 2 NMSA 1978;
- 5 C. Chapter 59A, Article 4 NMSA 1978;
- 6 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 7 E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA  
8 1978;
- 9 F. Section 59A-7-11 NMSA 1978;
- 10 G. Chapter 59A, Article 8 NMSA 1978;
- 11 H. Chapter 59A, Article 10 NMSA 1978;
- 12 I. Section 59A-12-22 NMSA 1978;
- 13 J. Chapter 59A, Article 16 NMSA 1978;
- 14 K. Chapter 59A, Article 18 NMSA 1978;
- 15 L. ~~[the Policy Language Simplification Law]~~ Chapter  
16 59A, Article 19 NMSA 1978;
- 17 M. Subsections B through E of Section 59A-22-5 NMSA  
18 1978;
- 19 N. Section 59A-22-14 NMSA 1978;
- 20 O. Section 59A-22-34.1 NMSA 1978;
- 21 P. Section 59A-22-39 NMSA 1978;
- 22 Q. Section 59A-22-40 NMSA 1978;
- 23 R. Section 59A-22-40.1 NMSA 1978;
- 24 S. Section 59A-22-41 NMSA 1978;
- 25 T. Section 59A-22-42 NMSA 1978;

1 U. Section 59A-22-43 NMSA 1978;

2 V. Section 59A-22-44 NMSA 1978;

3 W. Section 59A-22-50 NMSA 1978;

4 [~~W.~~] X. Sections 59A-34-7 through 59A-34-13,  
5 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-40 through 59A-34-42  
6 and 59A-34-44 through 59A-34-46 NMSA 1978;

7 [~~X.~~] Y. the Insurance Holding Company Law, except  
8 Section 59A-37-7 NMSA 1978;

9 [~~Y.~~] Z. Section 59A-46-15 NMSA 1978; [~~and~~]

10 [~~Z.~~] AA. the Patient Protection Act; and

11 BB. the Surprise Billing Protection Act."

12 SECTION 30. Section 59A-47-40 NMSA 1978 (being Laws 2003,  
13 Chapter 391, Section 7, as amended) is amended to read:

14 "59A-47-40. MAXIMUM AGE OF DEPENDENT.--An individual or  
15 group health care coverage, including any form of self-  
16 insurance, offered, issued or renewed under the Health Care  
17 Purchasing Act that offers coverage of an insured's dependent  
18 shall not terminate coverage of an unmarried dependent by  
19 reason of the dependent's age before the dependent's [~~twenty-~~  
20 ~~fifth~~] twenty-sixth birthday, regardless of whether the  
21 dependent is enrolled in an educational institution."

22 SECTION 31. Section 59A-54-6 NMSA 1978 (being Laws 1987,  
23 Chapter 154, Section 6, as amended) is amended to read:

24 "59A-54-6. NOTICE OF POOL.--

25 A. [~~Commencing September 1, 1987, every~~] Every

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1 insurer shall provide a notice and an application for coverage  
2 by the pool to any person who receives:

3 (1) a rejection of coverage for health insurance  
4 or health care services;

5 (2) a notice that the rate for health insurance  
6 or coverage for health care services provided will exceed the  
7 rates of a pool policy; ~~[or]~~

8 (3) a notice of reduction or limitation of  
9 coverage, including a restrictive rider, from an insurer if the  
10 effect of the reduction or limitation is to substantially  
11 reduce coverage compared to the coverage available to a person  
12 considered a standard risk for the type of coverage provided by  
13 the plan; or

14 (4) a termination of coverage for health  
15 insurance or health care services by either the carrier or the  
16 covered individual.

17 B. The notice required by Subsection A of this  
18 section shall state that ~~[effective January 1, 1988 or an~~  
19 ~~earlier date, that]~~ the person is eligible to apply for health  
20 insurance provided by the pool. Application for the health  
21 insurance shall be on forms prescribed by the board and made  
22 available to all insurers."

23 SECTION 32. Section 59A-54-8 NMSA 1978 (being Laws 1987,  
24 Chapter 154, Section 8) is amended to read:

25 "59A-54-8. EXAMINATION.--The pool shall be subject to and

1 responsible for examination by the superintendent [~~of~~  
 2 ~~insurance~~]. Not later than [~~March 1~~] June 1 of each year, the  
 3 board shall submit to the superintendent an audited financial  
 4 report for the preceding calendar year in a form approved by  
 5 the superintendent."

6 SECTION 33. Section 59A-54-11 NMSA 1978 (being Laws 1987,  
 7 Chapter 154, Section 11, as amended) is amended to read:

8 "59A-54-11. POOL ADMINISTRATOR--SELECTION--DUTIES.--

9 A. The board shall select a pool administrator  
 10 through a competitive bidding process. The board shall  
 11 evaluate bids based on criteria established by the board, which  
 12 shall include:

13 (1) proven ability to handle accident and health  
 14 insurance;

15 (2) efficiency of claim paying procedures;

16 (3) an estimate of total charges for  
 17 administering the plan; and

18 (4) ability to administer the pool in a cost-  
 19 efficient manner.

20 B. The pool administrator shall serve for a period  
 21 [~~of three years~~] not to exceed that provided in Subsection B of  
 22 Section 13-1-150 NMSA 1978, subject to removal for cause. At  
 23 least one year prior to the expiration of [~~each three-year~~  
 24 ~~period of service by~~] the pool [~~administrator~~] administrator's  
 25 contract, the board shall invite all interested parties,

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1 including the current administrator, to submit bids to serve as  
2 the pool administrator for the succeeding [~~three-year~~] contract  
3 period. Selection of the administrator for a succeeding period  
4 shall be made at least six months prior to the expiration of [~~a~~  
5 ~~three-year period of service by a pool administrator~~] the pool  
6 administrator's current contract.

7 C. The pool administrator shall:

8 (1) perform all eligibility and administrative  
9 claim payment functions relating to the pool;

10 (2) establish a premium billing procedure for  
11 collection of premiums from insured persons. Billings shall be  
12 made on a periodic basis, not less than monthly, as determined  
13 by the board;

14 (3) perform all necessary functions to assure  
15 timely payment of benefits to persons covered under the pool,  
16 including:

17 (a) making information available relating to  
18 the proper manner of submitting a claim for benefits to the  
19 pool and distributing forms upon which submission shall be  
20 made; and

21 (b) evaluating the eligibility of each claim  
22 for payment by the pool;

23 (4) submit regular reports to the board  
24 regarding the operation of the pool. The frequency, content  
25 and form of the report shall be as determined by the board; and

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1                   (5) following the close of each fiscal year,  
 2 determine net written and earned premiums, the expense of  
 3 administration and the paid and incurred losses for the year  
 4 and report this information to the board and the superintendent  
 5 on a form prescribed by the superintendent.

6                   D. The administrator shall be paid as provided in the  
 7 contract negotiated pursuant to the process for selection of  
 8 the administrator established by the board."

9                   **SECTION 34.** Section 59A-54-14 NMSA 1978 (being Laws 1987,  
 10 Chapter 154, Section 14, as amended) is amended to read:

11                   "59A-54-14. DEDUCTIBLES--COINSURANCE--MAXIMUM OUT-OF-  
 12 POCKET PAYMENTS.--

13                   A. Subject to the limitation provided in Subsection C  
 14 of this section, a pool policy offered in accordance with the  
 15 Medical Insurance Pool Act shall impose a deductible on a per-  
 16 person calendar-year basis. Deductible plans of five hundred  
 17 dollars (\$500) and one thousand dollars (\$1,000) shall  
 18 initially be offered. The board may authorize deductibles in  
 19 other amounts. The deductible shall be applied to the first  
 20 five hundred dollars (\$500) or one thousand dollars (\$1,000) of  
 21 eligible expenses incurred by the covered person.

22                   B. Subject to the limitations provided in Subsection  
 23 C of this section, a mandatory coinsurance requirement shall be  
 24 imposed at the rate [~~of twenty percent of eligible expenses in~~  
 25 ~~excess of the mandatory deductible~~] determined by the board.

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1           C. The maximum aggregate out-of-pocket payments for  
2 eligible expenses by the insured shall be determined by the  
3 board."

4           **SECTION 35.** Section 59A-54-19 NMSA 1978 (being Laws 1987,  
5 Chapter 154, Section 19, as amended) is amended to read:

6           "59A-54-19. RATES--STANDARD RISK RATE.--

7           A. The pool shall determine a standard risk rate by  
8 actuarially calculating the individual rate that an insurer  
9 would charge for an individual policy with the pool benefits  
10 issued to a person who was a standard risk. Separate schedules  
11 of standard risk rates based on age and other appropriate  
12 demographic characteristics may be used. In determining the  
13 standard risk rate, the pool shall consider the benefits  
14 provided, the standard risk experience and the anticipated  
15 expenses for a standard risk for the coverage provided. The  
16 rates charged for pool coverage shall be no more than one  
17 hundred fifty percent of the standard risk rate for each class  
18 of insureds.

19           B. The board shall adopt a low-income premium  
20 schedule that provides coverage at lower rates for those  
21 persons with an income less than four hundred percent of the  
22 current federal poverty level guidelines applicable to New  
23 Mexico, published by the United States department of health and  
24 human services. For individuals with household incomes of one  
25 hundred ninety-nine percent of the federal poverty level or

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1 lower, the premium reduction shall be seventy-five percent.  
 2 For individuals with household incomes of two hundred percent  
 3 to two hundred ninety-nine percent of the federal poverty  
 4 level, the premium reduction shall be fifty percent. For  
 5 individuals with household incomes of three hundred percent to  
 6 three hundred ninety-nine percent of the federal poverty level,  
 7 the premium reduction shall be twenty-five percent [~~with the~~  
 8 ~~exception of those individuals in this category who were~~  
 9 ~~enrolled and receiving a fifty percent reduction in premium~~  
 10 ~~prior to January 1, 2009, who shall be phased down to a twenty-~~  
 11 ~~five percent premium reduction over a two-?year period,~~  
 12 ~~provided that they continue to re-qualify annually for a~~  
 13 ~~premium reduction in the three hundred percent to three hundred~~  
 14 ~~ninety-nine percent of the federal poverty level category].  
 15 The board shall determine income based on the preceding taxable  
 16 year. No person shall be eligible for a low-income premium  
 17 reduction if that person's premium is paid by a third party who  
 18 is not a family member.~~

19 C. All rates and rate schedules shall be submitted to  
 20 the superintendent for approval."

21 SECTION 36. Section 59A-58-5 NMSA 1978 (being Laws 2001,  
 22 Chapter 206, Section 5, as amended) is amended to read:

23 "59A-58-5. REGISTRATION REQUIREMENTS.--

24 A. A provider who wishes to issue, sell or offer for  
 25 sale service contracts in this state must submit to the

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1 superintendent:

2 (1) a registration application on a form  
3 prescribed by the superintendent;

4 (2) proof that the provider has complied with  
5 the requirements for security pursuant to Section 59A-58-6 NMSA  
6 1978;

7 (3) the name, address and telephone number of  
8 each administrator with whom the provider intends to contract,  
9 if any; and

10 (4) provided that House Bill 248 of the first  
11 session of the fifty-fifth legislature:

12 (a) becomes law, the registration renewal  
13 fee provided in Section 59A-6-1 NMSA 1978; or

14 (b) does not become law, a fee of five  
15 hundred dollars (\$500).

16 B. A provider's registration is valid for one year  
17 after the date the registration is filed. A provider may renew  
18 the provider's registration if, before the registration  
19 expires, the provider submits to the superintendent an  
20 application on a form prescribed by the superintendent and,  
21 provided that House Bill 248 of the first session of the  
22 fifty-fifth legislature:

23 (1) becomes law, the registration renewal fee  
24 provided in Section 59A-6-1 NMSA 1978; or

25 (2) does not become law, a fee of five hundred

1 dollars (\$500).

2 C. The provisions of this section shall not apply to  
3 major manufacturing companies' service contracts.

4 D. Service contract forms are not required to be  
5 filed with the superintendent."

6 SECTION 37. REPEAL.--Sections 59A-23-9, 59A-46-51 and  
7 59A-47-46 NMSA 1978 (being Laws 1997, Chapter 243, Section 20  
8 and Laws 2010, Chapter 94, Sections 3 and 4, as amended) are  
9 repealed.

10 SECTION 38. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2021.

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