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HOUSE BILL 584

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Terry H. McMillan

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING THE NEW MEXICO HEALTH
BENEFIT EXCHANGE ACT; ESTABLISHING A NEW MEXICO HEALTH BENEFIT
EXCHANGE; PROVIDING FOR A BOARD OF DIRECTORS OF THE EXCHANGE;
PROVIDING FOR POWERS AND DUTIES OF THE EXCHANGE; PROVIDING FOR
QUALIFIED HEALTH PLAN CERTIFICATION; PROVIDING FOR DISPUTE
RESOLUTION; PROVIDING FOR TRANSPARENCY OF EXCHANGE FUNDING AND
OPERATIONS; REQUIRING THE HUMAN SERVICES AND CORRECTIONS
DEPARTMENTS TO STUDY THE FEASIBILITY OF COVERING INDIVIDUALS
THROUGH THE EXCHANGE; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION
OF LAW IN LAWS 2009; DECLARING AN EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 12 of this act may be cited as the "New Mexico Health
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1 Benefit Exchange Act".

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

4 A. "board" means the board of directors of the
5 exchange;

6 B. "carrier" means a person that is subject to
7 licensure by the superintendent or subject to the provisions of
8 the New Mexico Insurance Code and that provides one or more
9 health benefit or insurance plans in the state;

10 C. "child" means an individual who is related to a
11 principal insured by birth or adoption;

12 D. "dependent" means the spouse of a principal
13 insured or a child who is under the age of twenty-six;

14 E. "exchange" means the New Mexico health benefit
15 exchange created pursuant to the New Mexico Health Benefit
16 Exchange Act offering qualified health plans to qualified
17 individuals in the individual market and the small group
18 market;

19 F. "health care facility" means an institution that
20 provides health care services, including a hospital or other
21 licensed inpatient center; an ambulatory surgical or treatment
22 center; a skilled nursing center; a residential treatment
23 center; a home health agency; a diagnostic, laboratory or
24 imaging center; and a rehabilitation or other organized
25 therapeutic health setting;

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1 G. "health care provider" means an individual who
2 is licensed, certified or otherwise authorized or permitted by
3 law pursuant to Chapter 61 NMSA 1978 to provide health care in
4 the ordinary course of business or practice of a profession;

5 H. "health care services finance or coverage
6 sector" includes carriers and other health insurance issuers;
7 health maintenance or managed care organizations; nonprofit
8 health plans; self-insured group health plans; trade
9 associations of carriers; producers; and health care
10 facilities;

11 I. "individual market" means the market for health
12 insurance coverage offered to individuals other than in
13 connection with a group health plan;

14 J. "Native American" means:

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

17 (2) an individual who has been deemed eligible
18 for services and programs provided to Native Americans by the
19 United States public health service, the bureau of Indian
20 affairs or other federal program;

21 K. "premium" means the consideration for insurance,
22 by whatever name the consideration is called. Any
23 "assessment", "membership", "policy", "survey", "inspection",
24 "service" or similar fee or other charge in consideration for
25 an insurance contract is part of the premium;

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1 L. "producer" means a person that is licensed in
2 the state to sell, solicit or negotiate insurance;

3 M. "qualified employer" means:

4 (1) prior to January 1, 2017 or the granting
5 of prior permission pursuant to federal law to permit both
6 large and small employers to purchase qualified health plans on
7 the exchange, a small employer that elects to make its full-
8 time employees, and, at the option of the employer, some or all
9 of its part-time employees, eligible for one or more qualified
10 health plans offered in the exchange, provided that the small
11 employer:

12 (a) has its principal place of business
13 in the state and elects to provide coverage through the
14 exchange to all of its eligible employees, wherever employed;
15 or

16 (b) elects to provide coverage through
17 the exchange to all of its eligible employees who are
18 principally employed in the state; and

19 (2) as of January 1, 2017 or the granting of
20 prior permission pursuant to federal law that permits both
21 large and small employers to purchase qualified health plans on
22 the exchange, a large or small employer that elects to make its
23 full-time employees, and, at the option of the employer, some
24 or all of its part-time employees, eligible for one or more
25 qualified health plans offered in the exchange, provided that

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1 the employer meets the criteria set forth in Subparagraphs (a)
2 and (b) of Paragraph (1) of this subsection;

3 N. "qualified health plan" means health insurance
4 coverage or a group health plan that the board has certified as
5 meeting the requirements in state and federal law for coverage
6 to be offered through the exchange;

7 O. "qualified individual" means an individual who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Q. "small group market" means the small business
7 health options program under which employees obtain health
8 insurance coverage, directly or through any arrangement, on
9 behalf of the employees and their dependents through a
10 qualified health plan maintained by a qualified employer; and

11 R. "superintendent" means the superintendent of
12 insurance of the insurance division of the public regulation
13 commission or its successor agency.

14 SECTION 3. [NEW MATERIAL] NEW MEXICO HEALTH BENEFIT
15 EXCHANGE CREATED--CORPORATE FORM.--The "New Mexico health
16 benefit exchange" is created as a nonprofit public corporation,
17 separate and apart from the state, to provide increased access
18 for qualified individuals and qualified employers to health
19 insurance in the state. The exchange shall operate subject to
20 the supervision and approval of the board. The exchange is a
21 governmental entity for purposes of the Tort Claims Act.

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

23 A. The exchange shall be governed by a board of
24 directors. The board is a governmental entity for purposes of
25 the Tort Claims Act, but neither the board nor the exchange

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1 shall be considered a governmental entity for any other
2 purpose.

3 B. Each member of the board shall be entitled to
4 one vote in person or by proxy at each meeting.

5 C. The board shall consist of eleven voting members
6 and two nonvoting members. The governor and the New Mexico
7 legislative council each shall appoint five voting members of
8 the exchange. The superintendent shall be an ex-officio
9 eleventh voting member. The administrative head of the entity
10 charged with administering the state's medicaid program shall
11 be a nonvoting, ex-officio member. In addition, the governor
12 shall appoint as a nonvoting, ex-officio member the
13 administrative head of a state entity charged with health care
14 planning and administration.

15 D. The board shall draft bylaws to govern the
16 expiration of members' terms and the removal of board members
17 for cause, provided that two members' terms shall expire on
18 June 30 of each year.

19 E. Within ninety days of the effective date of the
20 New Mexico Health Benefit Exchange Act, the superintendent
21 shall convene the organizational meeting of the board, during
22 which the board shall elect a chair and vice chair from among
23 its members.

24 F. While serving on the board, appointed members
25 shall not have any affiliation with or any income derived from:

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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 sector.

6 G. Each member appointed to the board shall have
7 demonstrated and acknowledged expertise in at least two of the
8 following areas:

9 (1) health care coverage in the individual
10 market;

11 (2) health care coverage in the small group
12 market;

13 (3) health care coverage plan administration;

14 (4) health care finance;

15 (5) administration of a public or private
16 health care delivery system; or

17 (6) the purchase of health care coverage.

18 H. Whenever a vacancy on the board occurs, the
19 electing or appointing authority of the position that is vacant
20 shall fill the vacancy by electing or appointing an individual
21 to serve the balance of the unexpired term.

22 I. Members of the board may be reimbursed by the
23 board as provided in the Per Diem and Mileage Act for
24 nonsalaried public officers but shall receive no other
25 compensation, perquisite or allowance from the board.

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1 J. The board shall hire an executive director for
2 the exchange, who shall be a full-time employee of the exchange
3 and shall organize and administer all of the exchange's
4 activities and contracts. The executive director shall serve
5 at the pleasure of the board.

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

7 A. The board shall submit a written plan of
8 operation to the superintendent with any provisions necessary
9 to ensure the fair, reasonable, equitable and self-sustaining
10 administration of the exchange.

11 B. The plan of operation shall provide for the
12 pooling of risk among the individual and small employer
13 markets.

14 C. The plan of operation shall include measures to
15 establish the exchange as a plan administrator for qualified
16 employers, including meeting the obligations of a plan
17 administrator under federal law.

18 D. The plan of operation shall establish a "premium
19 aggregator" as a means by which the exchange will accept
20 premium payments for qualified individuals from multiple
21 sources, including:

22 (1) government assistance programs;

23 (2) contributions from a cafeteria plan
24 established pursuant to Section 125 of the federal Internal
25 Revenue Code of 1986, a health reimbursement arrangement or

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1 other qualified mechanisms for pretax payments established by
2 an employer; and

3 (3) contributions from private sources of
4 premium assistance.

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

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

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

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

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1 I. The secretary of human services shall, after
2 notice and hearing, approve the plan of operation; provided
3 that it is determined to ensure fair, reasonable and equitable
4 administration of the exchange.

5 J. The plan of operation shall:

6 (1) establish procedures to implement the
7 provisions of the New Mexico Health Benefit Exchange Act,
8 consistent with state and federal law, including determination
9 of which qualified health plans will be offered through the
10 exchange;

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

13 (3) establish regular times and meeting places
14 for meetings of the board;

15 (4) establish a program to publicize the
16 existence of the exchange, the qualified health plans, the
17 eligibility requirements and procedures for enrollment in an
18 approved health plan and to maintain public awareness of the
19 exchange;

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

22 (6) establish procedures for alternative
23 dispute resolution between the exchange and contractors or
24 carriers;

25 (7) establish conflict of interest policies

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1 and procedures; and

2 (8) contain additional provisions necessary
3 and proper for the execution of the powers and duties of the
4 board.

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

7 A. coordinate with the human services department to
8 receive any federal planning and implementation grants for the
9 establishment and operation of the exchange. The board may
10 also on behalf of the exchange seek and directly receive grant
11 funding from federal, state or local governments or private
12 philanthropic organizations to defray the costs of operating
13 the exchange; provided that the board avoid any conflict of
14 interest that receipt of these funds may present;

15 B. coordinate with the superintendent to review the
16 establishment and operation of the internet portal that the
17 United States department of health and human services has
18 established pursuant to the federal Patient Protection and
19 Affordable Care Act to determine whether the federal internet
20 portal meets the needs of the state in providing an electronic
21 clearinghouse of health benefit coverage for the individual and
22 small employer markets. If the board and the superintendent
23 determine that the federal internet portal does not meet the
24 state's requirements for an electronic clearinghouse, the
25 insurance division of the public regulation commission and the

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1 board shall jointly develop and maintain an electronic
2 clearinghouse of health benefit coverage for the individual and
3 small employer markets in the state;

4 C. consult with representatives of New Mexico
5 Native American nations, tribes or pueblos and develop and
6 implement policies that:

7 (1) promote effective communication and
8 collaboration between the exchange and Native American nations,
9 tribes or pueblos, including those nations', tribes' or
10 pueblos' plans for creating or participating in health benefit
11 exchanges;

12 (2) promote cultural competency in providing
13 effective services to Native Americans; and

14 (3) designate a tribal liaison, who shall
15 assist the executive director of the exchange in developing and
16 ensuring implementation of communication and collaboration
17 between the exchange and Native Americans in the state. The
18 tribal liaison shall serve as a contact person between the
19 exchange and Native American nations, tribes and pueblos and
20 shall ensure that training is provided to the staff of the
21 exchange;

22 D. provide reports quarterly or upon request on the
23 implementation of the exchange between July 1, 2011 and January
24 1, 2014 and report annually and upon request thereafter to the
25 governor, the legislative health and human services committee

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1 and the legislative finance committee;

2 E. keep an accurate accounting of all of the
3 activities, receipts and expenditures of the exchange and
4 submit this information no later than September 1 of each year
5 to the federal secretary of health and human services and the
6 superintendent;

7 F. by or before January 1, 2012:

8 (1) report findings and submit recommendations
9 on how to avoid adverse selection to the governor, the
10 legislative health and human services committee, the
11 legislative finance committee and the superintendent; and

12 (2) make recommendations on whether the state
13 should enter into an exchange with other states or share
14 resources or responsibilities to enhance the affordability and
15 effectiveness of the exchange;

16 G. by or before January 1, 2013, report to the
17 legislative health and human services committee and the
18 legislative finance committee its recommendations on:

19 (1) how to implement the participation of
20 large employers on the exchange when federal law permits their
21 participation; and

22 (2) whether to combine the large group market,
23 the small group market and the individual market into a single
24 risk pool;

25 H. by or before January 1, 2014, provide

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1 legislative recommendations to the legislative health and human
2 services committee and the legislative finance committee on
3 whether to change the number of full-time-equivalent employees
4 in the definition of a "small employer" from fifty to one
5 hundred before January 1, 2017. The board shall recommend a
6 transition plan for the exchange and carriers to follow when
7 changing the number of full-time-equivalent employees to one
8 hundred whether the change occurs prior to or on January 1,
9 2017;

10 I. beginning with the first year of operation in
11 which access to health insurance coverage is provided, obtain
12 an annual audit of the exchange's operations from an
13 independent certified public accountant; and

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

16 SECTION 7. [NEW MATERIAL] NEW MEXICO HEALTH BENEFIT
17 EXCHANGE--DUTIES AND POWERS.--

18 A. The exchange shall:

19 (1) in accordance with the provisions of the
20 New Mexico Health Benefit Exchange Act, create an
21 implementation plan to demonstrate that the exchange will be
22 fully implemented by January 1, 2013;

23 (2) certify and make qualified health plans
24 available to qualified individuals and qualified employers
25 beginning on or before January 1, 2014; and

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1 (3) implement the procedures established in
2 the plan of operation created pursuant to Section 5 of the New
3 Mexico Health Benefit Exchange Act.

4 B. The exchange may:

5 (1) contract with an eligible entity or a
6 producer for any of the functions described in its plan of
7 operation. For the purposes of this subsection, an eligible
8 entity means the human services department or any state agency
9 that operates medicaid programs, the children's health
10 insurance program or any applicable state or local public
11 health coverage program; and

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

18 SECTION 8. [NEW MATERIAL] CERTIFICATION OF QUALIFIED
19 HEALTH PLANS--BOARD POWERS.--

20 A. The board shall certify, recertify and decertify
21 plans as qualified health plans.

22 B. The board may withdraw certification of a
23 qualified health plan only after it provides sixty days' notice
24 to the carrier and an opportunity for hearing before the public
25 regulation commission pursuant to Section 8-8-14 NMSA 1978 and

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1 commission rules. The board may decline to renew the
2 certification of any carrier at the end of a certification
3 term.

4 SECTION 9. [NEW MATERIAL] DISPUTE RESOLUTION.--The
5 superintendent shall promulgate rules for resolving disputes
6 arising from the operation of the exchange in accordance with
7 the provisions of the New Mexico Health Benefit Exchange Act,
8 including disputes with respect to:

9 A. the eligibility of an individual, employer or
10 carrier to participate in the exchange;

11 B. receiving an exemption from the individual
12 responsibility to retain minimum essential coverage mandated
13 pursuant to Section 1501 of the federal Patient Protection and
14 Affordable Care Act; and

15 C. the exchange's collection and transmission to
16 the applicable qualified health plans any applications for
17 enrollment and all premium payments or contributions made by or
18 on behalf of qualified individuals or qualified employers
19 participating in the exchange.

20 SECTION 10. [NEW MATERIAL] FUNDING--PUBLICATION OF
21 COSTS.--The exchange:

22 A. may charge assessments or user fees to carriers,
23 qualified employers, qualified individuals and producers or
24 otherwise generate funding necessary to support its operations
25 provided pursuant to the New Mexico Health Benefit Exchange

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1 Act;

2 B. shall publish the average costs of licensing
3 fees and any other payments required by the exchange, and
4 administrative costs of the exchange, on an internet web site
5 to educate consumers on such costs. This information shall
6 include information on money lost to waste, fraud and abuse;
7 and

8 C. shall be the designated entity for the state to
9 receive any federal funds allocated, appropriated or granted to
10 the state for purposes of funding the planning, implementation
11 or operation of a health benefit exchange.

12 SECTION 11. [NEW MATERIAL] COOPERATION WITH THE HUMAN
13 SERVICES DEPARTMENT.--The board shall cooperate with the human
14 services department, or its successor in interest, to share
15 information and facilitate transitions between the exchange,
16 medicaid, the children's health insurance program or any other
17 state public health coverage program.

18 SECTION 12. [NEW MATERIAL] EXEMPTION.--The exchange is
19 exempt from payment of all fees and all taxes levied by this
20 state or any of its political subdivisions.

21 SECTION 13. [NEW MATERIAL] HUMAN SERVICES DEPARTMENT--
22 COOPERATION WITH THE NEW MEXICO HEALTH BENEFIT EXCHANGE.--The
23 human services department, or its successor in interest, shall
24 cooperate with the New Mexico health benefit exchange to
25 provide funding the department receives from the federal

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1 government or from other sources for the planning and
2 establishment of the exchange and to share information and
3 facilitate transitions between the exchange, medicaid, the
4 children's health insurance program or any other state public
5 health coverage program.

6 SECTION 14. [NEW MATERIAL] INSURANCE DIVISION--
7 COOPERATION WITH THE NEW MEXICO HEALTH BENEFIT EXCHANGE.--The
8 insurance division of the public regulation commission, or its
9 successor in interest, shall cooperate with the New Mexico
10 health benefit exchange to share information and assist in the
11 implementation of the functions of the exchange.

12 SECTION 15. Section 41-4-3 NMSA 1978 (being Laws 1976,
13 Chapter 58, Section 3, as amended by Laws 2009, Chapter 8,
14 Section 2 and by Laws 2009, Chapter 129, Section 2 and also by
15 Laws 2009, Chapter 249, Section 2) is amended to read:

16 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

17 A. "board" means the risk management advisory
18 board;

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

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

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1 D. "law enforcement officer" means a full-time
2 salaried public employee of a governmental entity, or a
3 certified part-time salaried police officer employed by a
4 governmental entity, whose principal duties under law are to
5 hold in custody any person accused of a criminal offense, to
6 maintain public order or to make arrests for crimes, or members
7 of the national guard of New Mexico when called to active duty
8 by the governor;

9 E. "maintenance" does not include:

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

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

15 F. "public employee" means an officer, employee or
16 servant of a governmental entity, excluding independent
17 contractors except for individuals defined in Paragraphs (7),
18 (8), (10), [~~(14)~~] (15) and [~~(17)~~] (18) of this subsection, or
19 of a corporation organized pursuant to the Educational
20 Assistance Act, the Small Business Investment Act, [~~or~~] the
21 Mortgage Finance Authority Act or the New Mexico Health Benefit
22 Exchange Act or a licensed health care provider, who has no
23 medical liability insurance, providing voluntary services as
24 defined in Paragraph [~~(16)~~] (17) of this subsection and
25 including:

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- 1 (1) elected or appointed officials;
- 2 (2) law enforcement officers;
- 3 (3) persons acting on behalf or in service of
- 4 a governmental entity in any official capacity, whether with or
- 5 without compensation;
- 6 (4) licensed foster parents providing care for
- 7 children in the custody of the human services department,
- 8 corrections department or department of health, but not
- 9 including foster parents certified by a licensed child
- 10 placement agency;
- 11 (5) members of state or local selection panels
- 12 established pursuant to the Adult Community Corrections Act;
- 13 (6) members of state or local selection panels
- 14 established pursuant to the Juvenile Community Corrections Act;
- 15 (7) licensed medical, psychological or dental
- 16 arts practitioners providing services to the corrections
- 17 department pursuant to contract;
- 18 (8) members of the board of directors of the
- 19 New Mexico medical insurance pool;
- 20 (9) individuals who are members of medical
- 21 review boards, committees or panels established by the
- 22 educational retirement board or the retirement board of the
- 23 public employees retirement association;
- 24 (10) licensed medical, psychological or dental
- 25 arts practitioners providing services to the children, youth

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1 and families department pursuant to contract;

2 (11) members of the board of directors of the
3 New Mexico educational assistance foundation;

4 (12) members of the board of directors of the
5 New Mexico student loan guarantee corporation;

6 (13) members of the board of directors and
7 staff of the New Mexico health benefit exchange;

8 [~~(13)~~] (14) members of the New Mexico mortgage
9 finance authority;

10 [~~(14)~~] (15) volunteers, employees and board
11 members of court-appointed special advocate programs;

12 [~~(15)~~] (16) members of the board of directors
13 of the New Mexico small business investment corporation;

14 [~~(16)~~] (17) health care providers licensed in
15 New Mexico who render voluntary health care services without
16 compensation in accordance with rules promulgated by the
17 secretary of health. The rules shall include requirements for
18 the types of locations at which the services are rendered, the
19 allowed scope of practice and measures to ensure quality of
20 care; and

21 [~~(17)~~] (18) an individual while participating
22 in the state's adaptive driving program and only while using a
23 special-use state vehicle for evaluation and training purposes
24 in that program;

25 G. "scope of duty" means performing any duties that

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1 a public employee is requested, required or authorized to
2 perform by the governmental entity, regardless of the time and
3 place of performance; and

4 H. "state" or "state agency" means the state of New
5 Mexico or any of its branches, agencies, departments, boards,
6 instrumentalities or institutions."

7 SECTION 16. TEMPORARY PROVISION--NEW MEXICO HEALTH
8 BENEFIT EXCHANGE--NEW MEXICO MEDICAL INSURANCE POOL--NEW MEXICO
9 HEALTH INSURANCE ALLIANCE.--

10 A. The board of directors of the New Mexico health
11 benefit exchange shall meet with the board of directors of the
12 New Mexico health insurance alliance and the New Mexico medical
13 insurance pool by October 1, 2011 and at least quarterly
14 through October 1, 2013 to:

15 (1) provide portability of coverage for
16 individuals covered through the New Mexico medical insurance
17 pool to the extent possible through the New Mexico health
18 benefit exchange;

19 (2) provide for the transition of other
20 functions of the New Mexico health insurance alliance to the
21 New Mexico health benefit exchange as permitted by law; and

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

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

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

4 B. Until the date is reached upon which federal law
5 requires it to be self-sustaining, resources for the New Mexico
6 health benefit exchange may be provided to the New Mexico
7 health benefit exchange by the New Mexico health insurance
8 alliance or the New Mexico medical insurance pool through a
9 cooperative agreement between the New Mexico health benefit
10 exchange and the respective board. The New Mexico health
11 insurance alliance and the New Mexico medical insurance pool
12 may fund reasonably required staff and other operating expenses
13 for the New Mexico health benefit exchange through their
14 respective existing funding mechanisms. To the extent federal
15 funding is available to the New Mexico health benefit exchange,
16 the New Mexico health benefit exchange shall reimburse the New
17 Mexico health insurance alliance and the New Mexico medical
18 insurance pool, respectively, for such resources as each may
19 provide.

20 SECTION 17. SEVERABILITY.--If any part or application of
21 the New Mexico Health Benefit Exchange Act is held invalid, the
22 remainder or its application to other situations or persons
23 shall not be affected.

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

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