

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR SENATE BILL 221 &
3 SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR SENATE BILL 589

4 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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10 AN ACT

11 RELATING TO HEALTH INSURANCE; ENACTING THE NEW MEXICO HEALTH
12 INSURANCE EXCHANGE ACT; CREATING THE NEW MEXICO HEALTH
13 INSURANCE EXCHANGE; PROVIDING FOR THE APPOINTMENT, POWERS AND
14 DUTIES OF A BOARD OF DIRECTORS FOR THE EXCHANGE; PROVIDING THE
15 SUPERINTENDENT OF INSURANCE WITH RULEMAKING POWERS RELATING TO
16 THE EXCHANGE; PROVIDING FOR POWERS AND DUTIES OF THE EXCHANGE;
17 PROVIDING FOR TRANSPARENCY OF EXCHANGE FUNDING AND OPERATIONS;
18 AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING
19 MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009;
20 DECLARING AN EMERGENCY.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
24 through 9 of this act may be cited as the "New Mexico Health
25 Insurance Exchange Act".

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

3 A. "agent" means a person appointed by a health
4 insurance issuer authorized to transact business in this state
5 to act as its representative in any given locality;

6 B. "board" means the board of directors of the
7 exchange;

8 C. "broker" means a person licensed as a broker
9 pursuant to the New Mexico Insurance Code;

10 D. "exchange" means the New Mexico health insurance
11 exchange, composed of an exchange for the individual market and
12 a small business health options program or "SHOP" exchange
13 under a single governance and administrative structure;

14 E. "health insurance issuer" means an insurance
15 company, insurance service or insurance organization, including
16 a health maintenance organization, that is licensed to engage
17 in the business of insurance in the state and that is subject
18 to state law that regulates insurance within the meaning of
19 Section 514(b)(2) of the federal Employee Retirement Income
20 Security Act of 1974, but "health insurance issuer" does not
21 include a group health plan;

22 F. "Native American" means:

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

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

5 G. "navigator" means a person that, in a manner
6 culturally and linguistically appropriate to the state's
7 diverse populations, conducts public education, distributes tax
8 credit and qualified health plan enrollment information,
9 facilitates enrollment in qualified health plans or provides
10 referrals to consumer assistance or ombudsman services.

11 "Navigator" does not mean a health insurance issuer or a person
12 that receives any consideration, directly or indirectly, from
13 any health insurance issuer in connection with the enrollment
14 of a qualified individual in a qualified health plan; provided
15 that a broker or an agent may be a navigator if the broker or
16 the agent receives no consideration, directly or indirectly,
17 from any health insurance issuer in connection with the
18 enrollment of a qualified individual or qualified employer in a
19 qualified health plan, an approved health plan or any other
20 health coverage; and

21 H. "superintendent" means the superintendent of
22 insurance.

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

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

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

9 B. The exchange shall not duplicate, impair,
10 enhance, supplant, infringe upon or replace, in whole or in any
11 part, the powers, duties or authority of the superintendent,
12 including the superintendent's authority to review and approve
13 premium rates pursuant to the provisions of the New Mexico
14 Insurance Code.

15 C. The exchange shall not purchase qualified health
16 plans from insurance health issuers to offer for purchase
17 through the exchange.

18 D. All health insurance issuers and health
19 maintenance organizations authorized to conduct business in
20 this state and meeting the requirements of the rules
21 promulgated by the superintendent pursuant to Section 7 of the
22 New Mexico Health Insurance Exchange Act, as well as meeting
23 the rules under the federal act, shall be eligible to
24 participate in the exchange.

25 E. The "board of directors of the New Mexico health

1 insurance exchange" is created. The board consists of thirteen
2 voting directors as follows:

3 (1) one voting director is the superintendent
4 or the superintendent's designee;

5 (2) six voting directors appointed by the
6 governor, including the secretary of human services or the
7 secretary's designee, a health insurance issuer and a consumer
8 advocate; and

9 (3) six voting directors, three appointed by
10 the president pro tempore of the senate, including one health
11 care provider, and three appointed by the speaker of the house
12 of representatives, including one health insurance issuer. One
13 of the directors appointed by the president pro tempore of the
14 senate and one of the directors appointed by the speaker of the
15 house of representatives shall be from a list of at least three
16 candidates provided, respectively, by the minority leader of
17 the senate and by the minority leader of the house of
18 representatives.

19 F. Except as provided in Subsection G of this
20 section, managerial and full-time staff of the exchange shall
21 be subject to applicable provisions of the Governmental Conduct
22 Act and shall not have any direct or indirect affiliation with
23 any health care provider, health insurance issuer or health
24 care service provider.

25 G. Each director shall comply with the

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1 conflict-of-interest provisions of Subsection F of this
2 section, except as follows:

3 (1) directors who may be appointed from the
4 boards of directors of the New Mexico medical insurance pool
5 and the New Mexico health insurance alliance shall not be
6 considered to have a conflict of interest with respect to their
7 association with those entities;

8 (2) the secretary of human services, or the
9 secretary's designee, shall not be considered to have a
10 conflict of interest with respect to the secretary's
11 performance of the secretary's duties as secretary of human
12 services;

13 (3) the director who is a health care provider
14 shall not be considered to have a conflict of interest arising
15 from that director's receipt of payment for services as a
16 health care provider; and

17 (4) directors who are representatives of
18 health insurance issuers shall not be considered to have a
19 conflict of interest with respect to those directors'
20 association with their respective health insurance issuers.

21 H. Each director and employee of the exchange shall
22 have a fiduciary duty to the exchange.

23 I. The board shall be composed, as a whole, to
24 assure representation of the state's Native American
25 population, ethnic diversity, cultural diversity and geographic

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1 diversity.

2 J. Directors shall have demonstrated knowledge or
3 experience in at least one of the following areas:

4 (1) purchasing coverage in the individual
5 market;

6 (2) purchasing coverage in the small employer
7 market;

8 (3) health care finance;

9 (4) health care economics or health care
10 actuarial science;

11 (5) health care policy;

12 (6) the enrollment of underserved residents in
13 health care coverage;

14 (7) administration of a private or public
15 health care delivery system;

16 (8) information technology;

17 (9) starting a small business with fifty or
18 fewer employees; or

19 (10) provision of health care services.

20 K. The governor shall appoint no more than four
21 directors from the same political party.

22 L. Except for the secretary of human services, the
23 non-health insurance issuer directors appointed by the governor
24 shall be appointed for initial terms of three years or less,
25 staggered so that the term of at least one director expires on

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1 June 30 of each year. The non-health insurance insurer
2 directors appointed by the legislature shall be appointed for
3 initial terms of three years or less, staggered so that the
4 term of at least one director expires on June 30 of each year.
5 The health insurance issuers appointed to the board shall, upon
6 appointment, select one of them by lot to have an initial term
7 ending on June 30 following one year of service and one to have
8 an initial term ending on June 30 following two years of
9 service. Following the initial terms, health insurance issuer
10 directors shall be appointed for terms of two years. A
11 director whose term has expired shall continue to serve until a
12 successor is appointed by the respective appointing authority.
13 Health insurance issuer directors shall not serve two
14 consecutive terms.

15 M. The exchange and the board shall operate
16 consistent with provisions of the Governmental Conduct Act, the
17 Inspection of Public Records Act, the Financial Disclosure Act
18 and the Open Meetings Act and shall not be subject to the
19 Procurement Code or the Personnel Act.

20 N. A majority of directors constitutes a quorum.
21 The board may allow members to attend meetings by telephone or
22 other electronic media. A decision by the board requires a
23 quorum and a majority of directors in attendance voting in
24 favor of the decision.

25 O. Within thirty days of the effective date of the

1 New Mexico Health Insurance Exchange Act, the board shall be
2 fully appointed and the superintendent shall convene an
3 organizational meeting of the board, during which the board
4 shall elect a chair and vice chair from among the directors.
5 Thereafter, every three years, the board shall elect in open
6 meeting a chair and vice chair from among the directors. The
7 chair and vice chair shall serve no more than two consecutive
8 three-year terms as chair and vice chair.

9 P. A vacancy on the board shall be filled by
10 appointment by the original appointing authority for the
11 remainder of the director's unexpired term.

12 Q. A director may be removed from the board by a
13 two-thirds majority vote of the directors. The board shall set
14 standards for attendance and may remove a director for lack of
15 attendance, neglect of duty or malfeasance in office. A
16 director shall not be removed without proceedings consisting of
17 at least one ten-day notice of hearing and an opportunity to be
18 heard. Removal proceedings shall be before the board and in
19 accordance with procedures adopted by the board.

20 R. Appointed directors may receive per diem and
21 mileage in accordance with the Per Diem and Mileage Act,
22 subject to the travel policy set by the board. Appointed
23 directors shall receive no other compensation, perquisite or
24 allowance.

25 S. The board shall:

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1 (1) meet at the call of the chair and no less
2 often than once per calendar quarter. There shall be at least
3 seven days' notice given to directors prior to any meeting.
4 There shall be sufficient notice provided to the public prior
5 to meetings pursuant to the Open Meetings Act;

6 (2) create, make appointments to and duly
7 consider recommendations of an advisory committee or committees
8 made up of stakeholders, including health insurance issuers,
9 health care consumers, health care providers, health care
10 practitioners, brokers, qualified employer representatives and
11 advocates for low-income or underserved residents;

12 (3) create an advisory committee made up of
13 members insured through the New Mexico health insurance
14 alliance and the New Mexico medical insurance pool to make
15 recommendations to the board regarding the transition of each
16 organization's insured members into the exchange. The advisory
17 committee shall only exist until a transition plan has been
18 adopted by the board;

19 (4) create an advisory committee made up of
20 Native Americans, some of whom live on a reservation and some
21 of whom do not live on a reservation, to guide the
22 implementation of the Native American-specific provisions of
23 the federal Patient Protection and Affordable Care Act and the
24 federal Indian Health Care Improvement Act;

25 (5) designate a Native American liaison, who

1 shall assist the board in developing and ensuring
2 implementation of communication and collaboration between the
3 exchange and Native Americans in the state. The Native
4 American liaison shall serve as a contact person between the
5 exchange and New Mexico Indian nations, tribes and pueblos and
6 shall ensure that training is provided to the staff of the
7 exchange, which may include training in:

8 (a) cultural competency;
9 (b) state and federal law relating to
10 Indian health; and

11 (c) other matters relating to the
12 functions of the exchange with respect to Native Americans in
13 the state; and

14 (6) establish at least one walk-in customer
15 service center where persons may, if eligible, enroll in
16 qualified health plans or public coverage programs.

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

18 POWERS.--The board may:

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

22 B. generate funding, including charging assessments
23 or fees, to support its operations in accordance with
24 provisions of the New Mexico Health Insurance Exchange Act;
25 provided that assessments shall be limited to those plans in

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1 the exchange and solely to the reasonable administrative costs
2 of the exchange;

3 C. establish a Native American service center to
4 ensure that the exchange:

5 (1) is accessible to Native Americans;

6 (2) complies with the provisions of the
7 federal Indian Health Care Improvement Act and Indian-specific
8 provisions of the federal Patient Protection and Affordable
9 Care Act; and

10 (3) facilitates meaningful, ongoing
11 consultation with Native Americans;

12 D. create ad hoc advisory councils;

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

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

24 G. enter into contracts with similar exchanges of
25 other states for the joint performance of common administrative

1 functions;

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

8 I. sue or be sued or otherwise take any necessary
9 or proper legal action in the execution of its duties and
10 powers;

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

15 K. conduct periodic audits to assure the general
16 accuracy of the financial data submitted to the exchange.

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

18 A. Within sixty days of the effective date of the
19 New Mexico Health Insurance Exchange Act, the board shall
20 create a preliminary plan of operation containing provisions to
21 ensure the fair, reasonable and equitable administration of the
22 exchange. Within six months of the effective date of the New
23 Mexico Health Insurance Exchange Act, the board shall create
24 and implement a final plan of operation containing provisions
25 to ensure the fair, reasonable and equitable administration of

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1 the exchange.

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

4 C. The preliminary plan of operation shall:

5 (1) establish procedures to implement the
6 provisions of the New Mexico Health Insurance Exchange Act,
7 consistent with state and federal law;

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

10 (3) establish regular times and meeting places
11 for meetings of the board.

12 D. The final plan of operation shall:

13 (1) establish a statewide consumer assistance
14 program, including a navigator program;

15 (2) establish consumer complaint and grievance
16 procedures for issues relating to the exchange;

17 (3) establish procedures for alternative
18 dispute resolution between the exchange and contractors or
19 health insurance issuers;

20 (4) develop and implement policies that:

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

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1 (b) promote cultural competency in
2 providing effective services to Native Americans;

3 (5) establish conflict-of-interest policies
4 and procedures; and

5 (6) contain additional provisions necessary
6 and proper for the execution of the powers and duties of the
7 board.

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

10 A. between July 1, 2013 and January 1, 2015,
11 provide quarterly reports to the legislature, the governor and
12 the superintendent on the implementation of the exchange and
13 report annually and upon request thereafter;

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

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

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

25 E. discharge those duties required to implement and

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1 operate the exchange in accordance with the provisions of the
2 New Mexico Health Insurance Exchange Act consistent with state
3 and federal law.

4 SECTION 7. [NEW MATERIAL] SUPERINTENDENT OF INSURANCE--
5 RULEMAKING.--The superintendent shall promulgate rules
6 necessary to implement and carry out the provisions of the New
7 Mexico Health Insurance Exchange Act, including rules to
8 establish the criteria for certification of qualified health
9 plans.

10 SECTION 8. [NEW MATERIAL] FUNDING.--

11 A. To fund the planning, implementation and
12 operation of the exchange, the board shall contract with the
13 human services department or any other state agency that
14 receives federal funds allocated, appropriated or granted to
15 the state for purposes of funding the planning, implementation
16 or operation of a health insurance exchange.

17 B. The human services department or any other state
18 agency that receives federal funds allocated, appropriated or
19 granted to the state for purposes of funding the planning,
20 implementation or operation of a health insurance exchange
21 shall contract with the board to provide those funds to the
22 exchange in consideration for its planning, implementation or
23 operation.

24 SECTION 9. [NEW MATERIAL] COOPERATION WITH THE NEW MEXICO
25 HEALTH INSURANCE EXCHANGE.--The medical assistance division of

1 the human services department shall cooperate with the New
2 Mexico health insurance exchange to share information and
3 facilitate transitions in enrollment between the exchange and
4 medicaid.

5 SECTION 10. A new section of the New Mexico Insurance
6 Code is enacted to read:

7 "[~~NEW MATERIAL~~] OFFICE OF SUPERINTENDENT OF INSURANCE--
8 COOPERATION WITH NEW MEXICO HEALTH INSURANCE EXCHANGE.--The
9 office of superintendent of insurance shall cooperate with the
10 New Mexico health insurance exchange to share information and
11 assist in the implementation of the functions of the exchange."

12 SECTION 11. 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 when called to active duty by the
8 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) and (17) of this subsection, or of a
19 corporation organized pursuant to the Educational Assistance
20 Act, the Small Business Investment Act or the Mortgage Finance
21 Authority Act or a licensed health care provider, who has no
22 medical liability insurance, providing voluntary services as
23 defined in Paragraph (16) of this subsection and including:

24 (1) elected or appointed officials;

25 (2) law enforcement officers;

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

4 (4) licensed foster parents providing care for
5 children in the custody of the human services department,
6 corrections department or department of health, but not
7 including foster parents certified by a licensed child
8 placement agency;

9 (5) members of state or local selection panels
10 established pursuant to the Adult Community Corrections Act;

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

13 (7) licensed medical, psychological or dental
14 arts practitioners providing services to the corrections
15 department pursuant to contract;

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

18 (9) individuals who are members of medical
19 review boards, committees or panels established by the
20 educational retirement board or the retirement board of the
21 public employees retirement association;

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

25 (11) members of the board of directors of the

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1 New Mexico educational assistance foundation;

2 (12) members of the board of directors of the
3 New Mexico student loan guarantee corporation;

4 (13) members of the New Mexico mortgage
5 finance authority;

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

8 (15) members of the board of directors of the
9 small business investment corporation;

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

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

21 (18) the staff and members of the board of
22 directors of the New Mexico health insurance exchange
23 established pursuant to the New Mexico Health Insurance
24 Exchange Act;

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

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 12. Section 59A-56-4 NMSA 1978 (being Laws 1994,
8 Chapter 75, Section 4, as amended) is amended to read:

9 "59A-56-4. ALLIANCE CREATED--BOARD CREATED.--

10 A. The "New Mexico health insurance alliance" is
11 created as a nonprofit public corporation for the purpose of
12 providing increased access to health insurance in the state.
13 All insurance companies authorized to transact health insurance
14 business in this state, nonprofit health care plans, health
15 maintenance organizations and self-insurers not subject to
16 federal preemption shall organize and be members of the
17 alliance as a condition of their authority to offer health
18 insurance in this state, except for an insurance company that
19 is licensed under the Prepaid Dental Plan Law or a company that
20 is solely engaged in the sale of dental insurance and is
21 licensed under a provision of the Insurance Code.

22 B. The alliance shall be governed by ~~[a board of~~
23 ~~directors constituted pursuant to the provisions of this~~
24 ~~section. The board is a governmental entity for purposes of~~
25 ~~the Tort Claims Act, but neither the board nor the alliance~~

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

3 ~~C. Each member shall be entitled to one vote in~~
4 ~~person or by proxy at each meeting.~~

5 ~~D. The alliance shall operate subject to the~~
6 ~~supervision and approval of the board. The board shall consist~~
7 ~~of:~~

8 ~~(1) five directors, elected by the members,~~
9 ~~who shall be officers or employees of members and shall consist~~
10 ~~of two representatives of health maintenance organizations and~~
11 ~~three representatives of other types of members;~~

12 ~~(2) five directors, appointed by the governor,~~
13 ~~who shall be officers, general partners or proprietors of small~~
14 ~~employers, one director of which shall represent nonprofit~~
15 ~~corporations;~~

16 ~~(3) four directors, appointed by the governor,~~
17 ~~who shall be employees of small employers; and~~

18 ~~(4) the superintendent or the superintendent's~~
19 ~~designee, who shall be a nonvoting member, except when the~~
20 ~~superintendent's vote is necessary to break a tie.~~

21 ~~E. The superintendent shall serve as chairman of~~
22 ~~the board unless the superintendent declines, in which event~~
23 ~~the superintendent shall appoint the chairman.~~

24 ~~F. The directors elected by the members shall be~~
25 ~~elected for initial terms of three years or less, staggered so~~

1 ~~that the term of at least one director expires on June 30 of~~
 2 ~~each year. The directors appointed by the governor shall be~~
 3 ~~appointed for initial terms of three years or less, staggered~~
 4 ~~so that the term of at least one director expires on June 30 of~~
 5 ~~each year. Following the initial terms, directors shall be~~
 6 ~~elected or appointed for terms of three years. A director~~
 7 ~~whose term has expired shall continue to serve until a~~
 8 ~~successor is elected or appointed and qualified.~~

9 ~~G. Whenever a vacancy on the board occurs, the~~
 10 ~~electing or appointing authority of the position that is vacant~~
 11 ~~shall fill the vacancy by electing or appointing an individual~~
 12 ~~to serve the balance of the unexpired term; provided when a~~
 13 ~~vacancy occurs in one of the director's positions elected by~~
 14 ~~the members, the superintendent is authorized to appoint a~~
 15 ~~temporary replacement director until the next scheduled~~
 16 ~~election of directors elected by the members is held. The~~
 17 ~~individual elected or appointed to fill a vacancy shall meet~~
 18 ~~the requirements for initial election or appointment to that~~
 19 ~~position.~~

20 ~~H. Directors may be reimbursed by the alliance as~~
 21 ~~provided in the Per Diem and Mileage Act for nonsalaried public~~
 22 ~~officers but shall receive no other compensation, perquisite or~~
 23 ~~allowance from the alliance] the board of directors of the New~~
 24 ~~Mexico health insurance exchange appointed pursuant to the New~~
 25 ~~Mexico Health Insurance Exchange Act."~~

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1 **SECTION 13. TEMPORARY PROVISION.**--On the effective date
2 of this act, the board of directors of the New Mexico health
3 insurance alliance, appointed pursuant to the Health Insurance
4 Alliance Act prior to the effective date of this act, shall
5 cease to exist and the New Mexico health insurance alliance
6 shall be governed pursuant to the Health Insurance Alliance Act
7 by the board of directors of the New Mexico health insurance
8 exchange appointed pursuant to the New Mexico Health Insurance
9 Exchange Act. In exercising its duties, the board of directors
10 of the New Mexico health insurance exchange shall neither apply
11 any provisions of the Health Insurance Alliance Act to the New
12 Mexico health insurance exchange nor apply any provisions of
13 the New Mexico Health Insurance Exchange Act to the New Mexico
14 health insurance alliance.

15 **SECTION 14. TEMPORARY PROVISION--NEW MEXICO HEALTH**
16 **INSURANCE ALLIANCE--NEW MEXICO HEALTH INSURANCE**
17 **EXCHANGE--TRANSFER OF CONTRACTS.**--On July 1, 2013, all
18 contracts of the New Mexico health insurance alliance relating
19 to the development and implementation of a health insurance
20 exchange shall be binding and effective on the New Mexico
21 health insurance exchange.

22 **SECTION 15. DELAYED REPEAL.**--Sections 59A-56-1 through
23 59A-56-25 NMSA 1978 (being Laws 1994, Chapter 75, Sections 1
24 through 25, as amended) are repealed effective January 1, 2015.

25 **SECTION 16. SEVERABILITY.**--If any part or application of
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1 this act is held invalid, the remainder or its application to
2 other situations or persons shall not be affected.

3 SECTION 17. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

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