

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

SB 38/a

February 10, 2011

Mr. President:

Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

SENATE BILL 38

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

1. On page 2, between lines 19 and 20, insert the following new subsection:

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

2. Reletter the succeeding subsections accordingly.

3. On page 4, between lines 12 and 13, insert the following new subsections:

"K. "health care facility" means an institution that provides health care services, including a hospital or other licensed inpatient center; an ambulatory surgical or treatment center; facilities that provide primary care services; a home health agency; a diagnostic, laboratory or imaging center; and a rehabilitation or other organized therapeutic health setting;

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

M. "health care services finance or coverage sector" means carriers and other health insurance issuers; health maintenance or managed care organizations; nonprofit health plans; self-insured group health plans; trade associations of carriers; producers; and

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health care facilities;".

4. Reletter the succeeding subsections accordingly.

5. On page 4, line 16, strike "superintendent's" and insert in lieu thereof "board's".

6. On page 6, line 7, strike "superintendent" and insert in lieu thereof "board".

7. On page 6, line 8, strike "certified" and insert in lieu thereof "determined" and strike "state and".

8. On page 9, line 10, strike "voting" and insert in lieu thereof "nonvoting".

9. On page 9, strike lines 14 through 25 in their entirety, and on page 10, strike lines 1 through 22 in their entirety and insert in lieu thereof the following new subsections:

"B. Appointed members, while serving on the board, and managerial and full-time employees of the exchange shall not have any affiliation with or any income derived from:

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

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

C. Each board member and employee of the exchange shall have a fiduciary duty to the exchange.

D. The board shall be composed, as a whole, to ensure representation of the state's Native American population, ethnic diversity, cultural diversity and geographic diversity. Board

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members shall have demonstrated knowledge or experience in at least one of the following areas:

- (1) purchasing coverage in the individual market;
- (2) purchasing coverage in the small group market;
- (3) health care finance;
- (4) health care economics;
- (5) health care policy;
- (6) the enrollment of underserved residents in health care coverage; or
- (7) administering private or public health care insurance.

E. Selection of the ten appointed voting members shall be as follows:

- (1) the governor shall appoint four members; and
- (2) the New Mexico legislative council shall appoint six members.

F. A member shall serve until the member's successor is appointed by the respective appointing authority."

10. Reletter the succeeding subsections accordingly.

11. On page 10, line 23, strike "board is" and insert in lieu thereof "exchange and the board are".

12. On page 10, line 25, before "Public", insert "Inspection of".

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13. On page 11, line 2, after "agencies", insert ", except that the exchange and the board shall not be subject to the Procurement Code or the Personnel Act".

14. On page 11, line 4, strike "two" and insert in lieu thereof "three".

15. On page 11, strike lines 11 through 15 in their entirety and insert in lieu thereof the following subsection:

"I. A majority of members constitutes a quorum. The board may allow members to attend meetings by telephone or other electronic media. A decision by the board shall require a quorum and a majority of members in attendance voting in favor of the decision."

16. Reletter the succeeding subsections accordingly.

17. On page 13, line 6, after "employers", insert ", advocates for low-income or underserved residents".

18. On page 13, line 25, after "exchange", insert "based, in part, on affordability and quality".

19. On page 16, line 11, strike "2014" and insert in lieu thereof "2012".

20. On page 18, strike lines 15 through 22 in their entirety and insert in lieu thereof the following new paragraph:

"(1) enter into contracts with persons or other organizations as necessary or proper to carry out the provisions and purposes of the New Mexico Health Insurance Exchange Act, including the authority to contract or employ staff for the performance of administrative, legal, actuarial, accounting and other functions; and".

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21. On page 19, strike lines 9 through 19 in their entirety and insert in lieu thereof the following new subsection:

"B. The superintendent shall, after notice and hearing, approve the plan of operation, provided it is determined to ensure fair, reasonable and equitable administration of the exchange. If the board fails to submit a plan of operation within one hundred eighty days after the appointment of the board, or at any time thereafter fails to submit amendments to the plan of operation that the superintendent deems necessary, the superintendent shall, after notice and hearing, adopt and promulgate rules that the superintendent deems necessary or advisable to effectuate the provisions of the New Mexico Health Insurance Exchange Act. The plan of operation shall become effective upon the superintendent's written approval. Rules promulgated by the superintendent shall continue in force until modified by the superintendent or superseded by a subsequent plan of operation submitted by the superintendent."

22. On page 20, line 21, strike ", qualified individuals".,

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and thence referred to the **CORPORATIONS AND TRANSPORTATION
COMMITTEE.**

Respectfully submitted,

Dede Feldman, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 3 For 2 Against
Yes: 3
No: Boitano, Burt
Excused: Asbill, Eichenberg, Nava
Absent: None