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HOUSE BILL 94

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

INTRODUCED BY

Danice Picraux

AN ACT

RELATING TO HEALTH AND HUMAN SERVICES POLICY; ENACTING THE
HEALTH POLICY AND FINANCE DEPARTMENT ACT; CREATING THE HEALTH
POLICY AND FINANCE DEPARTMENT; CHANGING THE NAME OF THE JOINT
INTERIM LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE TO THE
LEGISLATIVE HEALTH COMMITTEE; PROVIDING FOR STAFF TO ASSIST THE
LEGISLATIVE HEALTH COMMITTEE; TRANSFERRING ADMINISTRATION AND
OPERATION OF MEDICAL ASSISTANCE PROGRAMS AND BEHAVIORAL HEALTH
SERVICES PROGRAMS TO THE HEALTH POLICY AND FINANCE DEPARTMENT;
TRANSFERRING ADMINISTRATION AND OPERATION OF HOME- AND
COMMUNITY-BASED WAIVER SERVICES AND CERTAIN OTHER LONG-TERM
SERVICES PROGRAMS TO THE HEALTH POLICY AND FINANCE DEPARTMENT;
PROVIDING FOR A STUDY ON THE EVENTUAL TRANSFER OF THE
ADMINISTRATION OF HEALTH BENEFIT PLANS FOR PUBLIC SCHOOL
EMPLOYEES, STATE AND LOCAL PUBLIC EMPLOYEES AND PUBLIC RETIREES
TO THE HEALTH POLICY AND FINANCE DEPARTMENT; PROVIDING FOR

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1 HEALTH CARE COST-CONTAINMENT WORK FORCE PLANNING, DATA
2 COLLECTION AND DELIVERY SYSTEM PLANNING; CHANGING THE NAME OF
3 THE JOINT LEGISLATIVE WELFARE REFORM OVERSIGHT COMMITTEE TO THE
4 HUMAN SERVICES COMMITTEE; AMENDING, REPEALING AND ENACTING
5 SECTIONS OF THE NMSA 1978.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
9 through 6 of this act may be cited as the "Health Policy and
10 Finance Department Act".

11 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
12 Health Policy and Finance Department Act:

13 A. "acquired immunodeficiency syndrome and acquired
14 immunodeficiency syndrome-related condition waiver" means the
15 home- and community-based services program established pursuant
16 to federal waiver under the federal Social Security Act for
17 individuals diagnosed with acquired immunodeficiency syndrome
18 or an acquired immunodeficiency syndrome-related condition who
19 require an institutional level of care;

20 B. "all-payer claims database" means a database
21 containing claims in aggregate form from all public and private
22 persons in the state that purchase health care services
23 directly from a provider or through a health insurer or other
24 third party;

25 C. "department" means the health policy and finance

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1 department;

2 D. "developmental disabilities" means developmental
3 disability and mental retardation or specific related
4 conditions as determined by rules the secretary has
5 promulgated;

6 E. "health coverage" means the coverage of items
7 and services associated with hospital care; surgical care and
8 treatment; medical care and treatment; dental care; eye care;
9 obstetrical benefits; prescribed drugs, medicines and
10 prosthetic devices; and other benefits, supplies and services
11 through the vehicles of self insurance, indemnity coverages,
12 health maintenance organizations, preferred provider
13 organizations and other health care delivery systems;

14 F. "medically fragile" means a condition that meets
15 the level of care required for admission to an intermediate
16 care facility for the mentally retarded;

17 G. "publicly funded health care agency" means the:

18 (1) risk management division and the group
19 benefits committee of the general services department;

20 (2) retiree health care authority;

21 (3) public school insurance authority; and

22 (4) publicly funded health care program of any
23 public school district with a student enrollment in excess of
24 sixty thousand students;

25 H. "secretary" means the secretary of health policy

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1 and finance; and

2 I. "superintendent" means the superintendent of
3 insurance of the insurance division of the public regulation
4 commission, or the commission's successor in interest.

5 SECTION 3. [NEW MATERIAL] HEALTH POLICY AND FINANCE
6 DEPARTMENT ESTABLISHED.--

7 A. There is created in the executive branch the
8 "health policy and finance department". The department shall
9 be a cabinet department and shall consist of, at a minimum, the
10 following divisions:

- 11 (1) the administrative services division;
- 12 (2) the medical assistance division;
- 13 (3) the behavioral health services division;
- 14 (4) the long-term services division; and
- 15 (5) the health policy and planning division.

16 B. As of July 1, 2011, the following references in
17 law shall be construed as referring to the health policy and
18 finance department:

- 19 (1) the medical assistance division of the
20 human services department;
- 21 (2) the behavioral health services division of
22 the human services department; and
- 23 (3) the interagency behavioral health
24 purchasing collaborative.

25 C. As of January 1, 2014, the following references

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1 in law shall be construed as referring to the health policy and
2 finance department:

3 (1) the long-term care division of the aging
4 and long-term services department;

5 (2) the coordination of long-term services
6 program of the aging and long-term services department;

7 (3) the brain injury services program of the
8 aging and long-term services department;

9 (4) the program of all-inclusive care for the
10 elderly of the aging and long-term services department;

11 (5) the home- and community-based waiver
12 program of the department of health for individuals who are
13 medically fragile; and

14 (6) the acquired immunodeficiency syndrome and
15 acquired immunodeficiency syndrome-related condition waiver
16 program of the department of health.

17 D. Those organizational units of the department and
18 the officers of those units specified by law shall have all of
19 the powers and duties enumerated in the specific laws involved.
20 However, the carrying out of those powers and duties shall be
21 subject to the direction and supervision of the secretary, who
22 shall retain the final decision-making authority and
23 responsibility for the administration of any those laws. The
24 department shall have access to all records, data and
25 information of other state departments, agencies and

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1 institutions, including its own organizational units not
2 specifically held confidential by law.

3 SECTION 4. [NEW MATERIAL] SECRETARY OF HEALTH POLICY AND
4 FINANCE--APPOINTMENT--DUTIES--POWERS.--

5 A. The administrative head of the health policy and
6 finance department is the "secretary of health policy and
7 finance", who shall be appointed by the governor with the
8 consent of the senate and who shall serve in the executive
9 cabinet. The secretary shall be exempt from the provisions of
10 the Personnel Act.

11 B. An appointed secretary shall serve and have all
12 the duties, responsibilities and authority of that office
13 during the period of time prior to final action by the senate
14 confirming or rejecting the secretary's appointment.

15 C. The secretary is responsible to the governor for
16 the operation of the department. It is the secretary's duty to
17 manage all operations of the department and to administer and
18 enforce the laws with which the secretary or the department is
19 charged.

20 D. To perform the secretary's duties, the secretary
21 has every power expressly enumerated in the laws, whether
22 granted to the secretary, to the department or to any division
23 of the department, except where authority conferred upon any
24 division is explicitly exempted from the secretary's authority
25 by statute. In accordance with these provisions, the secretary

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1 shall:

2 (1) except as otherwise provided in the Health
3 Policy and Finance Department Act, exercise general supervisory
4 and appointing authority over all department employees, subject
5 to any applicable personnel laws and regulations;

6 (2) with the approval of the governor, appoint
7 "directors" of the divisions established within the department
8 and a director of communications. These positions are exempt
9 from the Personnel Act. Individuals appointed to these
10 positions shall serve at the pleasure of the secretary;

11 (3) establish bureaus within each division of
12 the department as the secretary deems necessary to carry out
13 the provisions of the Health Policy and Finance Department Act.
14 The secretary shall employ "chiefs" to be administrative heads
15 of these bureaus. The chiefs and all subsidiary employees of
16 the department shall be covered by the Personnel Act, unless
17 otherwise provided by law;

18 (4) delegate authority to subordinates as the
19 secretary deems necessary and appropriate, clearly delineating
20 that delegated authority and the limitations of that authority;

21 (5) organize the department into those
22 organizational units the secretary deems will enable it to
23 function most efficiently, subject to any provisions of law
24 requiring or establishing specific organizational units;

25 (6) within the limitations of available

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1 appropriations and applicable laws, employ and fix the
2 compensation of those persons necessary to discharge the
3 secretary's duties;

4 (7) take administrative action by issuing
5 orders and instructions to assure implementation of and
6 compliance with the provisions of law for whose administration
7 or execution the secretary is responsible and to enforce those
8 orders and instructions by appropriate administrative action in
9 the courts;

10 (8) conduct research and studies that will
11 improve the operations of the department and the provision of
12 services to the residents of the state;

13 (9) provide courses of instruction and
14 practical training for employees of the department and other
15 persons involved in the administration of programs with the
16 objective of improving the operations and efficiency of
17 administration;

18 (10) prepare an annual budget of the
19 department;

20 (11) give bond in the sum of twenty-five
21 thousand dollars (\$25,000) and require each director to give
22 bond in the sum of ten thousand dollars (\$10,000) conditioned
23 upon the faithful performance of duties as provided in the
24 Surety Bond Act. The department shall pay the costs of these
25 bonds; and

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1 (12) require performance bonds of department
2 employees and officers as the secretary deems necessary, as
3 provided in the Surety Bond Act. The department shall pay the
4 costs of these bonds.

5 E. The secretary may apply for and receive, in the
6 name of the department, any public or private funds, including
7 United States government funds, available to the department to
8 carry out its programs, duties or services.

9 F. Where functions of the department overlap with
10 other state agencies or if a function assigned to the
11 department could better be performed by another department, the
12 secretary may recommend appropriate legislation to the next
13 session of the legislature for its approval.

14 G. The secretary may make and adopt reasonable and
15 procedural rules and regulations as may be necessary to carry
16 out the duties of the department and its divisions. A rule or
17 regulation promulgated by the director of any division of the
18 department in carrying out the functions and duties of that
19 division shall not be effective until the secretary approves
20 it, unless otherwise provided by statute. Unless otherwise
21 provided by statute, no rule or regulation affecting any person
22 or agency outside of the department shall be adopted, amended
23 or repealed without a public hearing on the proposed action
24 before the secretary or a hearing officer that the secretary
25 designates. The public hearing shall be held in Santa Fe

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1 unless otherwise permitted by statute. Notice of the subject
2 matter of the rule or regulation, the action proposed to be
3 taken, the time and place of the hearing, the manner in which
4 interested persons may present their views and the method by
5 which copies of the proposed rule or regulation or proposed
6 amendment or repeal of an existing rule or regulation may be
7 obtained shall be published once at least thirty days prior to
8 the hearing date on the department's web site and in a
9 newspaper of general circulation and mailed at least thirty
10 days prior to the hearing date to all persons who have made a
11 written request for advance notice of hearing.

12 H. In the event that the secretary anticipates that
13 the adoption, amendment or repeal of a rule or regulation will
14 be required by a cancellation, reduction or suspension of
15 federal funds or by an order by a court of competent
16 jurisdiction:

17 (1) if the secretary is notified by
18 appropriate federal authorities or court order at least sixty
19 days prior to the effective date of the cancellation, reduction
20 or termination of federal funds, the department shall
21 promulgate rules or regulations through the public hearing
22 process to be effective on the date mandated by the appropriate
23 federal authority; or

24 (2) if the secretary is notified by
25 appropriate federal authorities or court order less than sixty

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1 days prior to the effective date of the cancellation, reduction
2 or suspension of federal funds, the department shall, without a
3 public hearing, promulgate interim rules or regulations
4 effective for a period not to exceed ninety days. Interim
5 rules or regulations shall not be promulgated without first
6 providing a written notice twenty days in advance to providers
7 of medical or behavioral health services and beneficiaries of
8 department programs. At the time of the promulgation of the
9 interim rules or regulations, the department shall give notice
10 of the public hearing on the final rules or regulations in
11 accordance with Subsection G of this section.

12 I. If the secretary certifies to the secretary of
13 finance and administration and gives contemporaneous notice of
14 that certification through a health policy and finance register
15 that the department has insufficient state funds to operate any
16 of the programs it administers and that reductions in services
17 or benefit levels are necessary, the secretary may engage in
18 interim rulemaking. Notwithstanding any provision to the
19 contrary in the State Rules Act, interim rulemaking shall be
20 conducted pursuant to Subsection G of this section, except
21 that:

22 (1) the period of notice of public hearing
23 shall be fifteen days;

24 (2) the department shall also send individual
25 notices of the interim rulemaking and of the public hearing to

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1 affected providers and beneficiaries;

2 (3) rules and regulations promulgated pursuant
3 to the provisions of this subsection shall be in effect not
4 less than five days after the public hearing;

5 (4) rules and regulations promulgated pursuant
6 to the provisions of this subsection shall not be in effect for
7 more than ninety days; and

8 (5) if final rules and regulations are
9 necessary to replace the interim rules and regulations, the
10 department shall give notice of intent to promulgate final
11 rules and regulations at the time of notice. The final rules
12 and regulations shall be promulgated not more than forty-five
13 days after the public hearing and filed in accordance with the
14 State Rules Act.

15 J. At the time of the promulgation of the interim
16 rules or regulations, the department shall give notice of the
17 public hearing on the final rules or regulations in accordance
18 with Subsection G of this section.

19 K. The secretary shall ensure that any behavioral
20 health services, including mental health and substance abuse
21 services, that are provided, contracted for or approved are in
22 compliance with the requirements of Section 9-7-6.4 NMSA 1978.

23 L. All rules and regulations shall be filed in
24 accordance with the State Rules Act.

25 M. At least once each calendar quarter, the

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1 secretary shall consult with the health care cost-containment
2 and delivery system board and at least quarterly receive any
3 policy recommendations from that board.

4 SECTION 5. [NEW MATERIAL] DUTIES OF THE HEALTH POLICY AND
5 FINANCE DEPARTMENT.--

6 A. As of July 1, 2011, the department shall:

7 (1) provide medical assistance pursuant to the
8 provisions of the Public Assistance Act;

9 (2) provide behavioral health services and
10 operate the interagency behavioral health purchasing
11 collaborative pursuant to the provisions of Section 9-7-6.4
12 NMSA 1978;

13 (3) conduct a study and, by September 1, 2012,
14 make recommendations to the legislative health committee and to
15 the legislative finance committee regarding the feasibility of
16 transferring from the department of health and from the human
17 services department to the health policy and finance department
18 all of the home- and community-based waiver services and other
19 programs delivering services to individuals living with
20 developmental disabilities, including the administrative,
21 finance, service delivery and any other components of those
22 programs;

23 (4) undertake a feasibility study regarding
24 the quality of care provided and cost-effectiveness of the
25 state's reliance upon managed-care contracts to provide

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1 coordinated long-term services, behavioral health services
2 through a statewide entity and other medical assistance. By
3 September 1, 2014, the department shall provide the results of
4 the feasibility study and make legislative recommendations
5 pursuant to that study to the legislative health committee and
6 to the legislative finance committee; and

7 (5) implement a health care work force
8 database and collect data pertaining to health care providers
9 who apply for licensure or renewal of health care provider
10 licensure pursuant to Chapter 61 NMSA 1978.

11 B. As of January 1, 2014, the department shall:

12 (1) purchase health care benefits on behalf of
13 the publicly funded health care agencies; and

14 (2) administer long-term services, including:

15 (a) the coordinated long-term services
16 home- and community-based waiver program;

17 (b) the Mi Via self-directed home- and
18 community-based waiver program as it relates to individuals who
19 are elderly, disabled or brain-injured and require a nursing
20 facility level of care;

21 (c) the program of all-inclusive care
22 for the elderly;

23 (d) the brain injury services program;

24 (e) the home- and community-based waiver
25 program for individuals living with acquired immunodeficiency

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1 syndrome or conditions related to acquired immunodeficiency
2 syndrome;

3 (f) the home- and community-based waiver
4 program for individuals who are medically fragile; and

5 (g) quality assurance programs related
6 to the programs in Subparagraphs (a) through (f) of this
7 paragraph.

8 C. As of January 1, 2014, the department shall
9 implement an all-payer claims database.

10 D. Before executing any contracts to provide long-
11 term services, behavioral health services or medical assistance
12 through a managed care organization, the department shall:

13 (1) provide a draft of the proposed contract
14 and any bids received from managed care organizations to the
15 interim legislative health committee and the legislative
16 finance committee;

17 (2) provide to the staff of the legislative
18 health committee a draft of the proposed contract and any bids
19 received from managed care organizations and receive the
20 recommendations of legislative health committee staff; and

21 (3) post the proposed contract in a manner
22 easily accessible to the public on the department's web site.

23 E. In the event that there is established in the
24 state a health benefits exchange, the department shall
25 cooperate with the exchange to share information and facilitate

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1 transitions between the exchange and medicaid, the children's
2 health insurance program or any other state public health
3 coverage program.

4 SECTION 6. [NEW MATERIAL] BEHAVIORAL HEALTH SERVICES
5 DIVISION--POWERS AND DUTIES.--Subject to appropriation, the
6 behavioral health services division of the department shall:

7 A. contract for behavioral health treatment and
8 support services, including mental health services, and alcohol
9 abuse services and other substance abuse services;

10 B. establish standards for the delivery of
11 behavioral health services, including quality management and
12 improvement, performance measures, accessibility and
13 availability of services, utilization management, credentialing
14 and recredentialing, rights and responsibilities of behavioral
15 health services providers, preventive behavioral health
16 services, clinical treatment and evaluation and the
17 documentation and confidentiality of client records;

18 C. ensure that all behavioral health services,
19 including mental health and substance abuse services, that are
20 provided, contracted for or approved are in compliance with the
21 requirements of Section 9-7-6.4 NMSA 1978;

22 D. assume responsibility for and implement adult
23 mental health and substance abuse services in the state in
24 coordination with the children, youth and families department;

25 E. establish criteria for determining individual

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1 eligibility for behavioral health services; and

2 F. maintain a management information system in
3 accordance with standards for reporting.

4 SECTION 7. Section 2-13-1 NMSA 1978 (being Laws 1989,
5 Chapter 349, Section 1) is amended to read:

6 "2-13-1. CREATION OF COMMITTEE--MEMBERS--APPOINTMENT--
7 TERMS.--There is created a permanent joint interim committee of
8 the legislature to be called the "legislative health [~~and human~~
9 ~~services~~] committee". The committee shall be composed of eight
10 members. The New Mexico legislative council shall appoint four
11 members from the house of representatives and four members from
12 the senate. At the time of making the appointment, the
13 legislative council shall designate the [~~chairman~~] chair and
14 vice [~~chairman~~] chair of the committee. Members shall be
15 appointed so as to give the two major political parties in each
16 house the same proportionate representation on the committee as
17 prevails in each house; provided, in no event shall either of
18 such parties have less than one member from each house on the
19 committee. Members may be removed from the committee by the
20 legislative council, at the request of the committee [~~chairman~~]
21 chair, for nonattendance according to council policy.

22 Vacancies on the committee, however caused, may be filled by
23 the legislative council, or the council may reduce the size of
24 the committee by not making replacement appointments and in
25 such case need not readjust party representation. No action

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1 shall be taken by the committee if a majority of the total
2 membership from either house on the committee rejects such
3 action."

4 SECTION 8. Section 2-13-2 NMSA 1978 (being Laws 1989,
5 Chapter 349, Section 2) is amended to read:

6 "2-13-2. DUTIES OF THE COMMITTEE.--The legislative health
7 committee shall conduct a continuing study of the programs,
8 agencies, policies, issues and needs relating to health [~~and~~
9 ~~human services~~], including review and study of the statutes,
10 constitutional provisions, regulations and court decisions
11 governing such programs, agencies and issues. The committee
12 shall [~~also study the full continuum of programs and services~~
13 ~~available and needed for children, families and the aging~~
14 ~~population~~] oversee all aspects of medical assistance programs
15 and other health-related programs of the health policy and
16 finance department, the human services department, the
17 department of health, the aging and long-term services
18 department and the children, youth and families department.
19 The committee shall make an annual report of its findings and
20 recommendations and recommend any necessary legislation to each
21 session of the legislature."

22 SECTION 9. Section 2-13-3 NMSA 1978 (being Laws 1989,
23 Chapter 349, Section 3) is amended to read:

24 "2-13-3. SUBCOMMITTEES.--Subcommittees shall be created
25 only by majority vote of all members appointed to the

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1 legislative health committee and with the prior approval of the
2 New Mexico legislative council. A subcommittee shall be
3 composed of at least one member from the senate and one member
4 from the house of representatives, and at least one member of
5 the minority party shall be a member of the subcommittee. All
6 meetings and expenditures of a subcommittee shall be approved
7 by the full committee in advance of such meeting or
8 expenditure, and the approval shall be shown in the minutes of
9 the committee."

10 SECTION 10. Section 2-13-4 NMSA 1978 (being Laws 1989,
11 Chapter 349, Section 4) is amended to read:

12 "2-13-4. REPORT.--The legislative health committee shall
13 make a report of its findings and recommendations for the
14 consideration of each session of the legislature. The report
15 and suggested legislation shall be made available to the New
16 Mexico legislative council on or before December 15 preceding
17 each session."

18 SECTION 11. Section 2-13-5 NMSA 1978 (being Laws 1989,
19 Chapter 349, Section 5) is amended to read:

20 "2-13-5. DIRECTOR--STAFF.--The [~~staff for the~~]
21 legislative health committee shall [~~be provided by the~~
22 ~~legislative council service~~] appoint a director of the
23 committee and authorize the director to hire persons to assist
24 the director, as funding permits. The director and staff shall
25 provide year-round support to the committee in performing the

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1 committee's duties as the committee directs. The director and
2 staff shall be knowledgeable and proficient in the areas of
3 health coverage, health care delivery services or health care
4 economics, research, law or policy analysis."

5 SECTION 12. Section 2-17-1 NMSA 1978 (being Laws 1998,
6 Chapter 8, Section 21 and Laws 1998, Chapter 9, Section 21, as
7 amended by Laws 2003, Chapter 311, Section 1 and by Laws 2003,
8 Chapter 432, Section 1) is amended to read:

9 "2-17-1. [~~WELFARE REFORM OVERSIGHT~~] HUMAN SERVICES
10 COMMITTEE CREATED--TERMINATION.--The joint interim legislative
11 [~~welfare reform oversight~~] "human services committee" is
12 created. The committee shall function from the date of its
13 appointment until December 15 prior to the first session of the
14 [~~forty-ninth~~] sixtieth legislature."

15 SECTION 13. Section 2-17-2 NMSA 1978 (being Laws 1998,
16 Chapter 8, Section 22 and Laws 1998, Chapter 9, Section 22) is
17 amended to read:

18 "2-17-2. MEMBERSHIP--APPOINTMENT--VACANCIES.--

19 A. The [~~welfare reform oversight~~] human services
20 committee shall be composed of twelve members. The New Mexico
21 legislative council shall appoint six members from the house of
22 representatives and six members from the senate. At the time
23 of making the appointment, the legislative council shall
24 designate the [~~chairman~~] chair and vice [~~chairman~~] chair of the
25 committee.

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1 B. Members shall be appointed from each house so as
2 to give the two major political parties in each house the same
3 proportionate representation on the committee as prevails in
4 each house; however, in no event shall either party have less
5 than one member from each house on the committee. At the
6 request of the committee [~~chairman~~] chair, members may be
7 removed from the committee by the New Mexico legislative
8 council for nonattendance according to legislative council
9 policy. Vacancies on the committee, however caused, may be
10 filled by the legislative council, or the legislative council
11 may reduce the size of the committee by not making replacement
12 appointments and in that case need not readjust party
13 representation.

14 C. An action shall not be taken by the committee if
15 a majority of the total membership from either house on the
16 committee rejects that action."

17 **SECTION 14.** Section 2-17-3 NMSA 1978 (being Laws 1998,
18 Chapter 8, Section 23 and Laws 1998, Chapter 9, Section 23) is
19 amended to read:

20 "2-17-3. DUTIES.--

21 A. After its appointment, the [~~welfare reform~~
22 ~~oversight~~] human services committee shall hold one
23 organizational meeting to develop a work plan and budget for
24 the ensuing interim. The work plan and budget shall be
25 submitted to the New Mexico legislative council for approval.

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1 Upon approval of the work plan and budget by the legislative
2 council, the committee shall:

3 (1) examine the statutes, constitutional
4 provisions and rules governing welfare reform in New Mexico;

5 (2) monitor and oversee the implementation of
6 the New Mexico Works Act;

7 (3) review issues related to ~~[welfare reform,~~
8 ~~including]~~ job training and public benefits programs and
9 related contracts; cash assistance; child care, transportation
10 and other job-related services; alleviation of poverty,
11 homelessness and hunger and other issues ~~[that arise because of~~
12 ~~the devolution of the federal welfare programs to the states;~~
13 ~~and]~~ related to helping New Mexicans rise out of poverty, take
14 part in the work force and earn a family-sustaining wage;

15 (4) make recommendations relating to the
16 adoption of rules and legislation, if any are found to be
17 necessary;

18 (5) conduct a continuing study of the
19 programs, agencies, policies, issues and needs relating to
20 human services in New Mexico, including review and study of the
21 statutes, constitutional provisions, regulations and court
22 decisions governing such programs, agencies, policies, issues
23 and needs; and

24 (6) study the full continuum of programs and
25 services available and needed for children, families and the

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1 aging population.

2 B. The committee shall regularly receive testimony
3 from the secretaries of health policy and finance; human
4 services; [~~labor~~] workforce solutions; children, youth and
5 families; [~~and~~] health; higher education; and [~~the~~
6 ~~superintendent of public instruction~~] public education on
7 poverty issues [~~arising from the implementation of the New~~
8 ~~Mexico Works Act~~] and shall review proposed rules, schedules
9 and formulae before adoption."

10 SECTION 15. Section 2-17-4 NMSA 1978 (being Laws 1998,
11 Chapter 8, Section 24 and Laws 1998, Chapter 9, Section 24) is
12 amended to read:

13 "2-17-4. SUBCOMMITTEES.--Subcommittees shall be created
14 only by majority vote of all members appointed to the [~~welfare~~
15 ~~reform oversight~~] human services committee and with the prior
16 approval of the New Mexico legislative council. A subcommittee
17 shall be composed of at least one member from the senate and
18 one member from the house of representatives, and at least one
19 member of the minority party shall be a member of the
20 subcommittee. Any meeting or expenditure of a subcommittee
21 shall be approved by the full committee in advance of that
22 meeting or expenditure, and the approval shall be shown in the
23 minutes of the committee."

24 SECTION 16. A new section of Chapter 2, Article 17 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] STAFF.--The staff for the human services
2 committee shall be provided by the legislative council
3 service."

4 SECTION 17. Section 9-7-6.4 NMSA 1978 (being Laws 2004,
5 Chapter 46, Section 8, as amended) is amended to read:

6 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING
7 COLLABORATIVE.--

8 A. There is created the "interagency behavioral
9 health purchasing collaborative", consisting of the secretaries
10 of aging and long-term services; health policy and finance;
11 Indian affairs; [~~human services~~] health; corrections; children,
12 youth and families; finance and administration; workforce
13 solutions; public education; and transportation; the directors
14 of the administrative office of the courts; the New Mexico
15 mortgage finance authority; the governor's commission on
16 disability; the developmental disabilities planning council;
17 the instructional support and vocational [~~rehabilitation~~]
18 education division of the public education department; and the
19 New Mexico health policy commission; and the governor's health
20 policy coordinator, or their designees. The collaborative
21 shall be chaired by the secretary of [~~human services~~] health
22 policy and finance, with the respective secretaries of health
23 and children, youth and families alternating annually as co-
24 chairs.

25 B. The collaborative shall meet regularly and at

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1 the call of either co-chair and shall:

2 (1) identify behavioral health needs
3 statewide, with an emphasis on that hiatus between needs and
4 services set forth in the department of health's gap analysis
5 and in ongoing needs assessments, and develop a master plan for
6 statewide delivery of services;

7 (2) give special attention to regional
8 differences, including cultural, rural, frontier, urban and
9 border issues;

10 (3) inventory all expenditures for behavioral
11 health, including mental health and substance abuse;

12 (4) plan, design and direct a statewide
13 behavioral health system, ensuring both availability of
14 services and efficient use of all behavioral health funding,
15 taking into consideration funding appropriated to specific
16 affected departments; and

17 (5) make recommendations to the secretary of
18 health policy and finance on provisions to be contained in a
19 contract for operation of one or more behavioral health
20 entities to ensure availability of services throughout the
21 state.

22 C. The plan for delivery of behavioral health
23 services shall include specific service plans to address the
24 needs of infants, children, adolescents, adults and seniors, as
25 well as to address work force development and retention and

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1 quality improvement issues. The plan shall be revised every
2 two years and shall be adopted by the department of health as
3 part of the statewide health plan.

4 D. The plan shall take the following principles
5 into consideration, to the extent practicable and within
6 available resources:

7 (1) services should be individually centered
8 and family-focused based on principles of individual capacity
9 for recovery and resiliency;

10 (2) services should be delivered in a
11 culturally responsive manner in a home- or community-based
12 setting, where possible;

13 (3) services should be delivered in the least
14 restrictive and most appropriate manner;

15 (4) individualized service planning and case
16 management should take into consideration individual and family
17 circumstances, abilities and strengths and be accomplished in
18 consultation with appropriate family, caregivers and other
19 persons critical to the individual's life and well-being;

20 (5) services should be coordinated,
21 accessible, accountable and of high quality;

22 (6) services should be directed by the
23 individual or family served to the extent possible;

24 (7) services may be consumer- or family-
25 provided, as defined by the collaborative;

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1 (8) services should include behavioral health
2 promotion, prevention, early intervention, treatment and
3 community support; and

4 (9) services should consider regional
5 differences, including cultural, rural, frontier, urban and
6 border issues.

7 E. The collaborative shall seek and consider
8 suggestions of Native American representatives from Indian
9 nations, tribes and pueblos and the urban Indian population,
10 located wholly or partially within New Mexico, in the
11 development of the plan for delivery of behavioral health
12 services.

13 F. Pursuant to the State Rules Act, the
14 collaborative shall adopt rules through the [~~human services~~]
15 health policy and finance department for:

16 (1) standards of delivery for behavioral
17 health services provided through contracted behavioral health
18 entities, including:

- 19 (a) quality management and improvement;
- 20 (b) performance measures;
- 21 (c) accessibility and availability of
22 services;
- 23 (d) utilization management;
- 24 (e) credentialing of providers;
- 25 (f) rights and responsibilities of

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1 consumers and providers;

2 (g) clinical evaluation and treatment
3 and supporting documentation; and

4 (h) confidentiality of consumer records;
5 and

6 (2) approval of contracts and contract
7 amendments by the collaborative, including public notice of the
8 proposed final contract.

9 G. The collaborative shall, through the [~~human~~
10 ~~services~~] health policy and finance department, submit a
11 separately identifiable consolidated behavioral health budget
12 request. The consolidated behavioral health budget request
13 shall account for requested funding for the behavioral health
14 services program at the [~~human services~~] health policy and
15 finance department and any other requested funding for
16 behavioral health services from agencies identified in
17 Subsection A of this section that will be used pursuant to
18 Paragraph (5) of Subsection B of this section. Any contract
19 proposed, negotiated or entered into by the collaborative is
20 subject to the provisions of the Procurement Code.

21 H. The collaborative shall, with the consent of the
22 governor, appoint a "director of the collaborative". The
23 director is responsible for the coordination of day-to-day
24 activities of the collaborative, including the coordination of
25 staff from the collaborative member agencies.

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1 I. The collaborative shall provide a quarterly
2 report to the legislative health committee and the legislative
3 finance committee on performance outcome measures. The
4 collaborative shall submit an annual report to the legislative
5 finance committee and the [~~interim~~] legislative health
6 committee that provides information on:

7 (1) the collaborative's progress toward
8 achieving its strategic plans and goals;

9 (2) the collaborative's performance
10 information, including contractors and providers; and

11 (3) the number of people receiving services,
12 the most frequently treated diagnoses, expenditures by type of
13 service and other aggregate claims data relating to services
14 rendered and program operations."

15 SECTION 18. Section 27-2-12 NMSA 1978 (being Laws 1973,
16 Chapter 376, Section 16, as amended) is amended to read:

17 "27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

18 A. Consistent with the federal act and subject to
19 the appropriation and availability of federal and state funds,
20 the [~~medical assistance division of the~~] health policy and
21 finance department may by rule provide medical assistance,
22 including the services of licensed doctors of oriental
23 medicine, licensed chiropractic physicians and licensed dental
24 hygienists in collaborating practice, to persons eligible for
25 public assistance programs under the federal act.

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1 B. Subject to appropriation and availability of
2 federal, state or other funds received by the state from public
3 or private grants or donations, the ~~[medical assistance~~
4 ~~division of the]~~ health policy and finance department may, by
5 rule, provide medical assistance, including assistance in the
6 payment of premiums for medical or long-term care insurance, to
7 children up to the age of twelve if not part of a sibling
8 group; children up to the age of eighteen if part of a sibling
9 group that includes a child up to the age of twelve; and
10 pregnant women who are residents of the state of New Mexico and
11 who are ineligible for public assistance under the federal act.
12 The health policy and finance department, in implementing the
13 provisions of this subsection, shall:

14 (1) establish rules that encourage pregnant
15 women to participate in prenatal care; and

16 (2) not provide a benefit package that exceeds
17 the benefit package provided to state employees."

18 **SECTION 19. TEMPORARY PROVISION--TRANSFER OF STATE**
19 **EMPLOYEE AND RETIREE HEALTH COVERAGE FUNCTIONS TO THE HEALTH**
20 **POLICY AND FINANCE DEPARTMENT--STUDY--REPORTING.--**From July 1,
21 2011 through July 31, 2012, the secretary of health policy and
22 finance; the director of the legislative health committee;
23 staff of the legislative finance committee; the superintendent
24 of any school district with a student enrollment in excess of
25 sixty thousand students; and the directors of the public school

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1 insurance authority, the retiree health care authority and the
2 risk management division of the general services department
3 shall meet at least quarterly and analyze how to transfer the
4 health coverage functions of the public school insurance
5 authority, the retiree health care authority, any school
6 district with a student enrollment in excess of sixty thousand
7 students and the risk management division of the general
8 services department to the health policy and finance
9 department. By August 1, 2012, the secretary of health policy
10 and finance shall compile a report with legislative
11 recommendations on how to implement the January 1, 2014
12 transfer of the health coverage functions of these entities and
13 the potential for cost containment as a result of that
14 transfer. The secretary of health policy and finance shall
15 present the report to the legislative health committee and to
16 the legislative finance committee.

17 **SECTION 20. TEMPORARY PROVISION--REFERENCES IN LAW.--All**
18 references in law to the welfare reform oversight committee
19 shall be deemed to be references to the human services
20 committee. All references in law to the legislative health and
21 human services committee shall be deemed to be references to
22 the legislative health committee.

23 **SECTION 21. TEMPORARY PROVISION--MEDICAL ASSISTANCE**
24 **PROGRAMS AND BEHAVIORAL HEALTH SERVICES PROGRAMS--TRANSFER OF**
25 **PROPERTY AND CONTRACTS.--On July 1, 2011:**

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1 A. all appropriations, money, records, equipment,
2 supplies and other property directly related to medical
3 assistance and behavioral health services programs shall be
4 transferred from the human services department to the health
5 policy and finance department; and

6 B. all contracts relating to medical assistance and
7 behavioral health services programs currently binding and
8 effective upon the human services department or the interagency
9 behavioral health purchasing collaborative shall be binding and
10 effective on the health policy and finance department.

11 **SECTION 22. TEMPORARY PROVISION--LONG-TERM SERVICES**
12 **PROGRAMS--TRANSFER OF PROPERTY AND CONTRACTS.--**On January 1,
13 2014:

14 A. all appropriations, money, records, equipment,
15 supplies and other property directly related to the following
16 programs currently located at the aging and long-term services
17 department shall be transferred from the aging and long-term
18 services department to the health policy and finance
19 department:

20 (1) the coordination of long-term services
21 program for disabled, elderly or brain-injured individuals;

22 (2) that component of the Mi Via self-directed
23 waiver program that serves disabled, elderly or brain-injured
24 individuals who meet the criterion of needing a nursing-
25 facility level of care;

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1 (3) the program of all-inclusive care for the
2 elderly;

3 (4) the brain injury services program; and

4 (5) quality assurance programs related to any
5 of the programs listed in Paragraphs (1) through (4) of this
6 subsection; and

7 B. all contracts relating to the programs listed in
8 Subsection A of this section currently binding and effective
9 upon the aging and long-term services department shall be
10 binding and effective upon the health policy and finance
11 department.

12 SECTION 23. TEMPORARY PROVISION--DEPARTMENT OF HEALTH
13 MEDICALLY FRAGILE AND ACQUIRED IMMUNODEFICIENCY SYNDROME WAIVER
14 PROGRAMS--TRANSFER OF PROPERTY AND CONTRACTS.--On January 1,
15 2014:

16 A. all personnel, appropriations, money, records,
17 equipment, supplies and other property of the department of
18 health directly related to the provision of services pursuant
19 to the medically fragile and acquired immunodeficiency syndrome
20 and acquired immunodeficiency syndrome-related condition waiver
21 programs, including quality control and administrative support
22 services related to those programs, shall be transferred to the
23 health policy and finance department; and

24 B. all contracts directly related to the programs
25 listed in Subsection A of this section currently binding and

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1 effective upon the department of health shall be binding and
2 effective upon the health policy and finance department.

3 SECTION 24. REPEAL.--

4 A. Sections 10-7B-1 through 10-7B-8 NMSA 1978
5 (being Laws 1989, Chapter 231, Sections 1 through 6, Laws 2005,
6 Chapter 301, Section 4 and Laws 1989, Chapter 23, Sections 7
7 and 8, as amended) are repealed effective January 1, 2014.

8 B. Sections 10-7C-1 through 10-7C-19 NMSA 1978
9 (being Laws 1990, Chapter 6, Sections 1 through 7; Laws 2000,
10 Chapter 79, Sections 1 and 2; Laws 1990, Chapter 6, Sections 8
11 through 16; Laws 2002, Chapter 75, Section 2 and Laws 2002,
12 Chapter 80, Section 2; Laws 2002, Chapter 75, Section 3 and
13 Laws 2002, Chapter 80, Section 3; and Laws 2002, Chapter 75,
14 Section 4 and Laws 2002, Chapter 80, Section 4, as amended) are
15 repealed effective January 1, 2014.

16 C. Sections 13-7-1 through 13-7-11 NMSA 1978 (being
17 Laws 1997, Chapter 74, Sections 1 through 4, Laws 2001, Chapter
18 351, Sections 1 through 3, Laws 2003, Chapter 391, Section 2,
19 Laws 2007, Chapter 218, Section 1, Laws 2007, Chapter 356,
20 Section 1 and Laws 2009, Chapter 212, Section 1, as amended)
21 are repealed effective January 1, 2014.

22 D. Sections 22-29-1 through 22-29-12 NMSA 1978
23 (being Laws 1986, Chapter 94, Sections 1 through 9, Laws 1989,
24 Chapter 373, Section 5, Laws 2005, Chapter 274, Section 18 and
25 Laws 2007, Chapter 236, Section 3, as amended) are repealed

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1 effective January 1, 2014.

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