

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 15

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

INTRODUCED BY

Dede Feldman and 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; CREATING A HEALTH UNIT OF THE
LEGISLATIVE COUNCIL SERVICE; 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

.183672.1

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

underscored material = new
[bracketed material] = delete

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

.183672.1

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

underscored material = new
[bracketed material] = delete

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

.183672.1

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

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

.183672.1

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

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

.183672.1

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

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

.183672.1

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

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

.183672.1

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

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

.183672.1

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

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

.183672.1

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

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

.183672.1

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

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

.183672.1

underscored material = new
[bracketed material] = delete

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

.183672.1

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

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

.183672.1

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

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 health unit of the
18 legislative council service as provided in Section 7 of the
19 Health Policy and Finance Department Act a draft of the
20 proposed contract and any bids received from managed care
21 organizations and receive the recommendations of those advisory
22 councils; and

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

25 E. In the event that there is established in the

.183672.1

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

1 state a health benefits exchange, the department shall
2 cooperate with the exchange to share information and facilitate
3 transitions between the exchange and medicaid, the children's
4 health insurance program or any other state public health
5 coverage program.

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

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

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

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

24 D. assume responsibility for and implement adult
25 mental health and substance abuse services in the state in

.183672.1

underscored material = new
[bracketed material] = delete

1 coordination with the children, youth and families department;

2 E. establish criteria for determining individual
3 eligibility for behavioral health services; and

4 F. maintain a management information system in
5 accordance with standards for reporting.

6 SECTION 7. [NEW MATERIAL] HEALTH UNIT.--

7 A. The legislative council service shall establish
8 a "health unit", staffed by persons knowledgeable and
9 proficient in the areas of health coverage and delivery of
10 health care services, health care economics, research, law or
11 policy analysis.

12 B. The health unit shall staff the legislative
13 health committee, conduct research and develop policy options
14 regarding health coverage and access to health care services,
15 health care provider supply and quality of health care
16 services, health coverage and other health issues.

17 SECTION 8. Section 2-13-1 NMSA 1978 (being Laws 1989,
18 Chapter 349, Section 1) is amended to read:

19 "2-13-1. CREATION OF COMMITTEE--MEMBERS--APPOINTMENT--
20 TERMS.--There is created a permanent joint interim committee of
21 the legislature to be called the "legislative health [~~and human~~
22 ~~services~~] committee". The committee shall be composed of eight
23 members. The New Mexico legislative council shall appoint four
24 members from the house of representatives and four members from
25 the senate. At the time of making the appointment, the

.183672.1

underscored material = new
[bracketed material] = delete

1 legislative council shall designate the [~~chairman~~] chair and
2 vice [~~chairman~~] chair of the committee. Members shall be
3 appointed so as to give the two major political parties in each
4 house the same proportionate representation on the committee as
5 prevails in each house; provided, in no event shall either of
6 such parties have less than one member from each house on the
7 committee. Members may be removed from the committee by the
8 legislative council, at the request of the committee [~~chairman~~]
9 chair, for nonattendance according to council policy.

10 Vacancies on the committee, however caused, may be filled by
11 the legislative council, or the council may reduce the size of
12 the committee by not making replacement appointments and in
13 such case need not readjust party representation. No action
14 shall be taken by the committee if a majority of the total
15 membership from either house on the committee rejects such
16 action."

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

19 "2-13-2. DUTIES OF THE COMMITTEE.--The legislative health
20 committee shall conduct a continuing study of the programs,
21 agencies, policies, issues and needs relating to health [~~and~~
22 ~~human services~~], including review and study of the statutes,
23 constitutional provisions, regulations and court decisions
24 governing such programs, agencies and issues. The committee
25 shall [~~also study the full continuum of programs and services~~

.183672.1

underscoring material = new
[bracketed material] = delete

1 ~~available and needed for children, families and the aging~~
2 ~~population]~~ oversee all aspects of medical assistance programs
3 and other health-related programs of the health policy and
4 finance department, the human services department, the
5 department of health, the aging and long-term services
6 department and the children, youth and families department.

7 The committee shall make an annual report of its findings and
8 recommendations and recommend any necessary legislation to each
9 session of the legislature."

10 SECTION 10. Section 2-13-3 NMSA 1978 (being Laws 1989,
11 Chapter 349, Section 3) is amended to read:

12 "2-13-3. SUBCOMMITTEES.--Subcommittees shall be created
13 only by majority vote of all members appointed to the
14 legislative health committee and with the prior approval of the
15 New Mexico legislative council. A subcommittee shall be
16 composed of at least one member from the senate and one member
17 from the house of representatives, and at least one member of
18 the minority party shall be a member of the subcommittee. All
19 meetings and expenditures of a subcommittee shall be approved
20 by the full committee in advance of such meeting or
21 expenditure, and the approval shall be shown in the minutes of
22 the committee."

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

25 "2-13-4. REPORT.--The legislative health committee shall

.183672.1

underscored material = new
[bracketed material] = delete

1 make a report of its findings and recommendations for the
2 consideration of each session of the legislature. The report
3 and suggested legislation shall be made available to the New
4 Mexico legislative council on or before December 15 preceding
5 each session."

6 SECTION 12. Section 2-13-5 NMSA 1978 (being Laws 1989,
7 Chapter 349, Section 5) is amended to read:

8 "2-13-5. STAFF.--The staff for the legislative health
9 committee shall be provided by the health unit of the
10 legislative council service."

11 SECTION 13. Section 2-17-1 NMSA 1978 (being Laws 1998,
12 Chapter 8, Section 21 and Laws 1998, Chapter 9, Section 21, as
13 amended by Laws 2003, Chapter 311, Section 1 and by Laws 2003,
14 Chapter 432, Section 1) is amended to read:

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

21 SECTION 14. Section 2-17-2 NMSA 1978 (being Laws 1998,
22 Chapter 8, Section 22 and Laws 1998, Chapter 9, Section 22) is
23 amended to read:

24 "2-17-2. MEMBERSHIP--APPOINTMENT--VACANCIES.--
25 A. The [~~welfare reform oversight~~] human services

underscored material = new
[bracketed material] = delete

1 committee shall be composed of twelve members. The New Mexico
2 legislative council shall appoint six members from the house of
3 representatives and six members from the senate. At the time
4 of making the appointment, the legislative council shall
5 designate the [~~chairman~~] chair and vice [~~chairman~~] chair of the
6 committee.

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

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

23 SECTION 15. Section 2-17-3 NMSA 1978 (being Laws 1998,
24 Chapter 8, Section 23 and Laws 1998, Chapter 9, Section 23) is
25 amended to read:

.183672.1

1 "2-17-3. DUTIES.--

2 A. After its appointment, the [~~welfare reform~~
3 ~~oversight~~] human services committee shall hold one
4 organizational meeting to develop a work plan and budget for
5 the ensuing interim. The work plan and budget shall be
6 submitted to the New Mexico legislative council for approval.
7 Upon approval of the work plan and budget by the legislative
8 council, the committee shall:

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

11 (2) monitor and oversee the implementation of
12 the New Mexico Works Act;

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

21 (4) make recommendations relating to the
22 adoption of rules and legislation, if any are found to be
23 necessary;

24 (5) conduct a continuing study of the
25 programs, agencies, policies, issues and needs relating to

.183672.1

underscored material = new
[bracketed material] = delete

1 human services in New Mexico, including review and study of the
2 statutes, constitutional provisions, regulations and court
3 decisions governing such programs, agencies, policies, issues
4 and needs; and

5 (6) study the full continuum of programs and
6 services available and needed for children, families and the
7 aging population.

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

16 SECTION 16. Section 2-17-4 NMSA 1978 (being Laws 1998,
17 Chapter 8, Section 24 and Laws 1998, Chapter 9, Section 24) is
18 amended to read:

19 "2-17-4. SUBCOMMITTEES.--Subcommittees shall be created
20 only by majority vote of all members appointed to the [~~welfare~~
21 ~~reform oversight~~] human services committee and with the prior
22 approval of the New Mexico legislative council. A subcommittee
23 shall be composed of at least one member from the senate and
24 one member from the house of representatives, and at least one
25 member of the minority party shall be a member of the

.183672.1

underscored material = new
[bracketed material] = delete

1 subcommittee. Any meeting or expenditure of a subcommittee
2 shall be approved by the full committee in advance of that
3 meeting or expenditure, and the approval shall be shown in the
4 minutes of the committee."

5 SECTION 17. A new section of Chapter 2, Article 17 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] STAFF.--The staff for the human services
8 committee shall be provided by the legislative council
9 service."

10 SECTION 18. Section 9-7-6.4 NMSA 1978 (being Laws 2004,
11 Chapter 46, Section 8, as amended) is amended to read:

12 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING
13 COLLABORATIVE.--

14 A. There is created the "interagency behavioral
15 health purchasing collaborative", consisting of the secretaries
16 of aging and long-term services; health policy and finance;
17 Indian affairs; [~~human services~~] health; corrections; children,
18 youth and families; finance and administration; workforce
19 solutions; public education; and transportation; the directors
20 of the administrative office of the courts; the New Mexico
21 mortgage finance authority; the governor's commission on
22 disability; the developmental disabilities planning council;
23 the instructional support and vocational [~~rehabilitation~~]
24 education division of the public education department; and the
25 New Mexico health policy commission; and the governor's health

.183672.1

underscored material = new
[bracketed material] = delete

1 policy coordinator, or their designees. The collaborative
2 shall be chaired by the secretary of ~~[human services]~~ health
3 policy and finance, with the respective secretaries of health
4 and children, youth and families alternating annually as co-
5 chairs.

6 B. The collaborative shall meet regularly and at
7 the call of either co-chair and shall:

8 (1) identify behavioral health needs
9 statewide, with an emphasis on that hiatus between needs and
10 services set forth in the department of health's gap analysis
11 and in ongoing needs assessments, and develop a master plan for
12 statewide delivery of services;

13 (2) give special attention to regional
14 differences, including cultural, rural, frontier, urban and
15 border issues;

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

18 (4) plan, design and direct a statewide
19 behavioral health system, ensuring both availability of
20 services and efficient use of all behavioral health funding,
21 taking into consideration funding appropriated to specific
22 affected departments; and

23 (5) make recommendations to the secretary of
24 health policy and finance on provisions to be contained in a
25 contract for operation of one or more behavioral health

.183672.1

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

1 entities to ensure availability of services throughout the
2 state.

3 C. The plan for delivery of behavioral health
4 services shall include specific service plans to address the
5 needs of infants, children, adolescents, adults and seniors, as
6 well as to address work force development and retention and
7 quality improvement issues. The plan shall be revised every
8 two years and shall be adopted by the department of health as
9 part of the statewide health plan.

10 D. The plan shall take the following principles
11 into consideration, to the extent practicable and within
12 available resources:

13 (1) services should be individually centered
14 and family-focused based on principles of individual capacity
15 for recovery and resiliency;

16 (2) services should be delivered in a
17 culturally responsive manner in a home- or community-based
18 setting, where possible;

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

21 (4) individualized service planning and case
22 management should take into consideration individual and family
23 circumstances, abilities and strengths and be accomplished in
24 consultation with appropriate family, caregivers and other
25 persons critical to the individual's life and well-being;

.183672.1

underscored material = new
[bracketed material] = delete

1 (5) services should be coordinated,
2 accessible, accountable and of high quality;

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

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

7 (8) services should include behavioral health
8 promotion, prevention, early intervention, treatment and
9 community support; and

10 (9) services should consider regional
11 differences, including cultural, rural, frontier, urban and
12 border issues.

13 E. The collaborative shall seek and consider
14 suggestions of Native American representatives from Indian
15 nations, tribes and pueblos and the urban Indian population,
16 located wholly or partially within New Mexico, in the
17 development of the plan for delivery of behavioral health
18 services.

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

22 (1) standards of delivery for behavioral
23 health services provided through contracted behavioral health
24 entities, including:

25 (a) quality management and improvement;

.183672.1

underscored material = new
[bracketed material] = delete

- 1 (b) performance measures;
2 (c) accessibility and availability of
3 services;
4 (d) utilization management;
5 (e) credentialing of providers;
6 (f) rights and responsibilities of
7 consumers and providers;
8 (g) clinical evaluation and treatment
9 and supporting documentation; and
10 (h) confidentiality of consumer records;
11 and

12 (2) approval of contracts and contract
13 amendments by the collaborative, including public notice of the
14 proposed final contract.

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

.183672.1

underscored material = new
[bracketed material] = delete

1 subject to the provisions of the Procurement Code.

2 H. The collaborative shall, with the consent of the
3 governor, appoint a "director of the collaborative". The
4 director is responsible for the coordination of day-to-day
5 activities of the collaborative, including the coordination of
6 staff from the collaborative member agencies.

7 I. The collaborative shall provide a quarterly
8 report to the legislative health committee and the legislative
9 finance committee on performance outcome measures. The
10 collaborative shall submit an annual report to the legislative
11 finance committee and the [~~interim~~] legislative health
12 committee that provides information on:

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

15 (2) the collaborative's performance
16 information, including contractors and providers; and

17 (3) the number of people receiving services,
18 the most frequently treated diagnoses, expenditures by type of
19 service and other aggregate claims data relating to services
20 rendered and program operations."

21 SECTION 19. Section 27-2-12 NMSA 1978 (being Laws 1973,
22 Chapter 376, Section 16, as amended) is amended to read:

23 "27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

24 A. Consistent with the federal act and subject to
25 the appropriation and availability of federal and state funds,

.183672.1

underscored material = new
[bracketed material] = delete

1 the ~~[medical assistance division of the department]~~ health
2 policy and finance department may by rule provide medical
3 assistance, including the services of licensed doctors of
4 oriental medicine, licensed chiropractic physicians and
5 licensed dental hygienists in collaborating practice, to
6 persons eligible for public assistance programs under the
7 federal act.

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

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

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

25 SECTION 20. TEMPORARY PROVISION--TRANSFER OF STATE

.183672.1

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

1 EMPLOYEE AND RETIREE HEALTH COVERAGE FUNCTIONS TO THE HEALTH
2 POLICY AND FINANCE DEPARTMENT--STUDY--REPORTING.--From July 1,
3 2011 through July 31, 2012, the secretary of health policy and
4 finance; the director of the health unit of the legislative
5 council service; staff of the legislative finance committee;
6 the superintendent of any school district with a student
7 enrollment in excess of sixty thousand students; and the
8 directors of the public school insurance authority, the retiree
9 health care authority and the risk management division of the
10 general services department shall meet at least quarterly and
11 analyze how to transfer the health coverage functions of the
12 public school insurance authority, the retiree health care
13 authority, any school district with a student enrollment in
14 excess of sixty thousand students and the risk management
15 division of the general services department to the health
16 policy and finance department. By August 1, 2012, the
17 secretary of health policy and finance shall compile a report
18 with legislative recommendations on how to implement the
19 January 1, 2014 transfer of the health coverage functions of
20 these entities and the potential for cost containment as a
21 result of that transfer. The secretary of health policy and
22 finance shall present the report to the legislative health
23 committee and to the legislative finance committee.

24 SECTION 21. TEMPORARY PROVISION--REFERENCES IN LAW.--All
25 references in law to the welfare reform oversight committee

.183672.1

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

1 shall be deemed to be references to the human services
2 committee. All references in law to the legislative health and
3 human services committee shall be deemed to be references to
4 the legislative health committee.

5 SECTION 22. TEMPORARY PROVISION--MEDICAL ASSISTANCE
6 PROGRAMS AND BEHAVIORAL HEALTH SERVICES PROGRAMS--TRANSFER OF
7 PROPERTY AND CONTRACTS.--On July 1, 2011:

8 A. all appropriations, money, records, equipment,
9 supplies and other property directly related to medical
10 assistance and behavioral health services programs shall be
11 transferred from the human services department to the health
12 policy and finance department; and

13 B. all contracts relating to medical assistance and
14 behavioral health services programs currently binding and
15 effective upon the human services department or the interagency
16 behavioral health purchasing collaborative shall be binding and
17 effective on the health policy and finance department.

18 SECTION 23. TEMPORARY PROVISION--LONG-TERM SERVICES
19 PROGRAMS--TRANSFER OF PROPERTY AND CONTRACTS.--On January 1,
20 2014:

21 A. all appropriations, money, records, equipment,
22 supplies and other property directly related to the following
23 programs currently located at the aging and long-term services
24 department shall be transferred from the aging and long-term
25 services department to the health policy and finance

.183672.1

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

1 department:

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

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

8 (3) the program of all-inclusive care for the
9 elderly;

10 (4) the brain injury services program; and

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

14 B. all contracts relating to the programs listed in
15 Subsection A of this section currently binding and effective
16 upon the aging and long-term services department shall be
17 binding and effective upon the health policy and finance
18 department.

19 SECTION 24. TEMPORARY PROVISION--DEPARTMENT OF HEALTH
20 MEDICALLY FRAGILE AND ACQUIRED IMMUNODEFICIENCY SYNDROME WAIVER
21 PROGRAMS--TRANSFER OF PROPERTY AND CONTRACTS.--On January 1,
22 2014:

23 A. all personnel, appropriations, money, records,
24 equipment, supplies and other property of the department of
25 health directly related to the provision of services pursuant

.183672.1

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

1 to the medically fragile and acquired immunodeficiency syndrome
2 and acquired immunodeficiency syndrome-related condition waiver
3 programs, including quality control and administrative support
4 services related to those programs, shall be transferred to the
5 health policy and finance department; and

6 B. all contracts directly related to the programs
7 listed in Subsection A of this section currently binding and
8 effective upon the department of health shall be binding and
9 effective upon the health policy and finance department.

10 SECTION 25. REPEAL.--

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

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

23 C. Sections 13-7-1 through 13-7-11 NMSA 1978 (being
24 Laws 1997, Chapter 74, Sections 1 through 4, Laws 2001, Chapter
25 351, Sections 1 through 3, Laws 2003, Chapter 391, Section 2,

.183672.1

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

1 Laws 2007, Chapter 218, Section 1, Laws 2007, Chapter 356,
2 Section 1 and Laws 2009, Chapter 212, Section 1, as amended)
3 are repealed effective January 1, 2014.

4 D. Sections 22-29-1 through 22-29-12 NMSA 1978
5 (being Laws 1986, Chapter 94, Sections 1 through 9, Laws 1989,
6 Chapter 373, Section 5, Laws 2005, Chapter 274, Section 18 and
7 Laws 2007, Chapter 236, Section 3, as amended) are repealed
8 effective January 1, 2014.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25