

1 SENATE JOINT MEMORIAL 46

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

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10 A JOINT MEMORIAL

11 REQUESTING THE LEGISLATIVE FINANCE COMMITTEE TO CONDUCT A STUDY
12 TO ASSESS THE IMPACT ON HOME- AND COMMUNITY-BASED SERVICES
13 AGENCIES THAT ARE REIMBURSED ON A FIXED-RATE BASIS OF THE
14 PATIENT PROTECTION AND AFFORDABLE CARE ACT MANDATE THAT LARGE
15 EMPLOYERS PROVIDE HEALTH INSURANCE COVERAGE TO THEIR EMPLOYEES.

16
17 WHEREAS, the federal Patient Protection and Affordable
18 Care Act contains a mandate, beginning in 2014, for employers
19 of more than fifty employees to provide health insurance
20 benefits to their employees or pay a fine; and

21 WHEREAS, home- and community-based services agencies
22 recognize the importance of and are committed to providing
23 health insurance benefits to their employees; and

24 WHEREAS, home- and community-based services agencies are
25 concerned about the lack of a revenue source that will enable

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1 them to meet this important mandate; and

2 WHEREAS, many home- and community-based services agencies
3 will not be able to afford the significant costs associated
4 with meeting this health insurance requirement because the
5 services that they provide are provided primarily through
6 government programs and are reimbursed on a fixed-rate basis;
7 and

8 WHEREAS, in addition to this new federal mandate, there
9 are a number of existing unfunded state programmatic mandates
10 and state requirements related to the cost of doing business,
11 including: minimum wage standards that exceed the national
12 requirement, required criminal background screening of
13 employees and disparities in the reimbursement of state gross
14 receipts taxes; and

15 WHEREAS, combined with these state policies, the new
16 federal mandate poses a very real threat of closure of home-
17 and community-based services agencies when implemented; and

18 WHEREAS, if timely and meaningful action is not taken,
19 vulnerable individuals and families relying on these critical
20 home- and community-based services will be faced with the
21 threat of vanishing caregivers when agencies find that they can
22 no longer afford to operate; and

23 WHEREAS, access to home- and community-based services
24 agencies and the chronic care management that they provide is a
25 critical element in the continuum of long-term care services;

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1 and

2 WHEREAS, it is reasonable to presume that, without the
3 availability of these services, there will be higher costs and
4 less-desirable institutional placements, coupled with increased
5 unemployment among home- and community-based services
6 caregivers; and

7 WHEREAS, a thriving home care and hospice industry has the
8 potential to realize savings to both state and federal
9 governments that are far greater than the cost of the mandated
10 health insurance coverage; and

11 WHEREAS, it is imperative that a solution be found to
12 ensure that home- and community-based services agencies will be
13 able to meet the mandate to provide health insurance coverage
14 to their employees;

15 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
16 STATE OF NEW MEXICO that the legislative finance committee be
17 requested to direct its staff to conduct a study to assess the
18 impact on home- and community-based services agencies that are
19 reimbursed on a fixed-rate basis of the federal Patient
20 Protection and Affordable Care Act mandate that large employers
21 provide health insurance coverage to their employees or incur a
22 penalty; and

23 BE IT FURTHER RESOLVED that legislative finance committee
24 staff collaborate with home- and community-based services
25 agencies, the New Mexico association for home and hospice care,

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1 managed care organizations that provide medicaid services in
2 New Mexico, the human services department and others, as
3 legislative finance committee staff deem necessary, to analyze
4 this issue; and

5 BE IT FURTHER RESOLVED that the findings and
6 recommendations of this study be presented to the legislative
7 finance committee and to the legislative health and human
8 services committee no later than November 1, 2013; and

9 BE IT FURTHER RESOLVED that copies of this memorial be
10 transmitted to the director of the legislative finance
11 committee, the secretary of human services and the director of
12 the medical assistance division of the human services
13 department.