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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MAKING THE DEPARTMENT OF HEALTH THE HEALTH PLANNING AGENCY OF THE STATE; ELIMINATING THE NEW MEXICO HEALTH POLICY COMMISSION; PROVIDING FOR TRANSFERS OF FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES OF THE NEW MEXICO HEALTH POLICY COMMISSION TO THE DEPARTMENT OF HEALTH; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2005 AND LAWS 2007; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 9-7-3 NMSA 1978 (being Laws 1977, Chapter 253, Section 3, as amended) is amended to read:

"9-7-3. PURPOSE.--The purpose of the Department of Health Act is to establish a single, unified department to administer

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1 the laws and exercise the functions relating to health formerly  
2 administered and exercised by various organizational units of  
3 state government, including the state health agency, the  
4 scientific laboratory system and an appropriate allocation of  
5 administrative support services of the health and social  
6 services department and the hospital and institutions  
7 department. All public health and scientific laboratory  
8 functions formerly performed by the health and environment  
9 department shall be performed by the department. The functions  
10 of the former New Mexico health policy commission shall be  
11 performed by the department. Behavioral health services,  
12 including mental health and substance abuse services, provided  
13 by or through the department shall be subject to the direction  
14 of the secretary and the provisions of Section 9-7-6.4 NMSA  
15 1978."

16 SECTION 2. Section 9-7-4.1 NMSA 1978 (being Laws 2004,  
17 Chapter 51, Section 1, as amended by Laws 2007, Chapter 46,  
18 Section 6 and by Laws 2007, Chapter 279, Section 1) is amended  
19 to read:

20 "9-7-4.1. COMPREHENSIVE STRATEGIC PLAN FOR HEALTH.--

21 A. The department, in conjunction with [~~the New~~  
22 ~~Mexico health policy commission and~~] other state agencies,  
23 [~~pursuant to Section 9-7-11.1 NMSA 1978~~] shall develop a  
24 comprehensive strategic plan for health that emphasizes  
25 prevention, personal responsibility, access and quality.

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1           B. The department shall publish the comprehensive  
2 strategic plan for health by September 1, 2008 and every four  
3 years thereafter. By September 1 of each even-numbered year,  
4 the department shall review and update or amend the plan in  
5 response to changes and developments.

6           C. The department shall include the legislature,  
7 health care providers, consumer and patient advocates, health  
8 care financing organizations, managed care organizations, major  
9 insurers in the state, the human services department, the  
10 children, youth and families department, the aging and long-  
11 term services department, pharmaceutical manufacturers and  
12 other stakeholders in its development of the comprehensive  
13 strategic plan for health so as to give geographic  
14 representation to all areas of the state. The department shall  
15 ensure that public participation and public input are  
16 integrated into the planning process. The department shall  
17 convene regional meetings on the proposed plan to allow public  
18 review and comment, including oral and written testimony,  
19 pursuant to the Open Meetings Act.

20           D. The department shall consult with the  
21 governments of Indian nations, tribes and pueblos located  
22 wholly or partially within New Mexico to include Indian  
23 nations, tribes and pueblos in the development of the  
24 comprehensive strategic plan for health.

25           E. The department shall report its findings,

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1 recommendations and goals in its comprehensive strategic plan  
2 for health. The plan shall address the following areas and  
3 others that the governor and the legislature may from time to  
4 time request:

5 (1) a summary of the state's health care  
6 system that includes the financial, administrative and delivery  
7 structure in both the public and private sector;

8 (2) the diseases, injuries and risk factors  
9 for physical, behavioral and oral health that are the greatest  
10 cause of illness, injury or death in the state, with special  
11 attention to and recognition of the disparities that currently  
12 exist for different population groups;

13 (3) key indicators of and barriers to health  
14 care coverage and access, with specific emphasis on reducing  
15 the number of uninsured New Mexicans;

16 (4) the role of the department, other state  
17 agencies and the private sector in identifying strategies and  
18 interventions to provide health care coverage, access and  
19 quality;

20 (5) a continuum of care model that emphasizes  
21 prevention, early intervention and health promotion and that  
22 includes public health services, emergency medical services,  
23 primary care, acute care, specialized care, tertiary care and  
24 long-term care;

25 (6) health education, wellness, nutrition and

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1 exercise initiatives that emphasize personal health  
2 responsibility;

3 (7) workforce initiatives to identify, recruit  
4 and retain health care professionals;

5 (8) health care facility infrastructure,  
6 capacity, capitalization and financial viability in both the  
7 public and private sector;

8 (9) licensing, credentialing, oversight and  
9 tracking initiatives designed to improve health care quality  
10 and outcome measurements;

11 (10) programs, services and activities  
12 designed to address the needs of persons who have a disability,  
13 are elderly or have special needs;

14 (11) anticipated demands and challenges on the  
15 health care system as the need for long-term care services  
16 increases;

17 (12) data and information addressing key  
18 health status and system indicators, statistics, benchmarks,  
19 targets and goals for the state and comparing ~~[it]~~ them  
20 nationally, regionally and to other states of similar size and  
21 demographics; provided that individually identifiable health  
22 information and other proprietary information is protected as  
23 required by state or federal law; and

24 (13) planning and response to public health  
25 emergencies, including bioterrorism, pandemic flu, disease

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1 outbreaks and other situations that will require a  
2 coordinated response by the health care system."

3 SECTION 3. Section 9-7-6.4 NMSA 1978 (being Laws 2004,  
4 Chapter 46, Section 8, as amended) is amended to read:

5 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING  
6 COLLABORATIVE.--

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

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

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

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

9 (3) inventory all expenditures for  
10 behavioral health, including mental health and substance  
11 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) contract for operation of one or more  
18 behavioral health entities to ensure availability of services  
19 throughout the state.

20 C. The plan for delivery of behavioral health  
21 services shall include specific service plans to address the  
22 needs of infants, children, adolescents, adults and seniors,  
23 as well as to address workforce development and retention and  
24 quality improvement issues. The plan shall be revised every  
25 two years and shall be adopted by the department of health as

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1 part of the statewide health plan.

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

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

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

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

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

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

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

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

25 (8) services should include behavioral

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1 health promotion, prevention, early intervention, treatment  
2 and community support; and

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

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

12 F. Pursuant to the State Rules Act, the  
13 collaborative shall adopt rules through the human services  
14 department for:

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

- 18 (a) quality management and  
19 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  
5 records; and

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

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

21 H. The collaborative shall, with the consent of  
22 the 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  
25 of staff from the collaborative member agencies.

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1 I. The collaborative shall provide a quarterly  
2 report to the legislative finance committee on performance  
3 outcome measures. The collaborative shall submit an annual  
4 report to the legislative finance committee and the interim  
5 legislative health and human services committee that provides  
6 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  
13 of service and other aggregate claims data relating to  
14 services rendered and program operations."

15 SECTION 4. A new section of the Department of Health  
16 Act is enacted to read:

17 "[NEW MATERIAL] HEALTH POLICY--DUTIES OF DEPARTMENT.--

18 A. It is the policy of the state to promote  
19 optimal health; to prevent disease, disability and premature  
20 death; to improve the quality of life; and to assure that  
21 basic health services are available, accessible, acceptable  
22 and culturally appropriate, regardless of financial status.  
23 This policy shall be realized through the following organized  
24 efforts:

25 (1) education, motivation and support of the

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1 person in healthy behavior;

2 (2) protection and improvement of the  
3 physical and social environments;

4 (3) promotion of health services for early  
5 diagnosis and prevention of disease and disability; and

6 (4) provisions of basic treatment services  
7 needed by all New Mexicans.

8 B. The department shall establish task forces as  
9 needed to make recommendations to the department on various  
10 health issues. Task force members may include persons who  
11 have expertise or a pecuniary or fiduciary interest in the  
12 health services industry. Voting members of a task force may  
13 receive mileage expenses if they:

14 (1) are members who represent consumer  
15 interests;

16 (2) are persons who were not appointed to  
17 represent the views of the organization or agency for which  
18 they work; or

19 (3) represent an organization that has a  
20 policy of not reimbursing travel expenses of employees or  
21 representatives for travel to meetings.

22 C. The department shall:

23 (1) develop a plan for and monitor the  
24 implementation of the state's health policy;

25 (2) obtain and evaluate information from a

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1 broad spectrum of New Mexico's society to develop and monitor  
2 the implementation of the state's health policy;

3 (3) obtain and evaluate information relating  
4 to factors that affect the availability and accessibility of  
5 health services and health care personnel in the public and  
6 private sectors;

7 (4) perform needs assessments on health  
8 personnel, health education and recruitment and retention and  
9 make recommendations regarding the training, recruitment,  
10 placement and retention of health professionals in  
11 underserved areas of the state;

12 (5) prepare and publish an annual report  
13 describing the progress in addressing the state's health  
14 policy and planning issues. The report shall include a work  
15 plan of goals and objectives for addressing the state's  
16 health policy and planning issues in the upcoming year;

17 (6) distribute the annual report to the  
18 governor, appropriate state agencies and interim legislative  
19 committees and interested parties;

20 (7) establish a process to prioritize  
21 recommendations on program development, resource allocation  
22 and proposed legislation;

23 (8) provide information and analysis on  
24 health issues;

25 (9) serve as a catalyst and synthesizer of

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1 health policy in the public and private sectors;

2 (10) respond to requests by the executive  
3 and legislative branches of government; and

4 (11) ensure that any behavioral health  
5 projects, including those relating to mental health and  
6 substance abuse, are conducted in compliance with the  
7 requirements of Section 9-7-6.4 NMSA 1978."

8 SECTION 5. Section 9-7-11.3 NMSA 1978 (being Laws 2003,  
9 Chapter 235, Section 2) is amended to read:

10 "9-7-11.3. TASK FORCE CREATED--RESPONSIBILITIES--  
11 PARTICIPANTS--FUNDING.--

12 A. The "health care providers licensing and  
13 credentialing task force" is created under the direction of  
14 the [~~New Mexico health policy commission~~] department to study  
15 and make recommendations for the consolidation and  
16 simplification of the health care licensure processes. The  
17 task force shall make recommendations for the establishment  
18 of a web site portal for licensure to facilitate and  
19 complement or replace the present system conducted by  
20 individual health care provider boards and for a central  
21 database for credentialing information to simplify and  
22 eliminate duplication of effort.

23 B. The task force shall study and make  
24 recommendations to the superintendent of insurance on health  
25 care provider credentialing issues and obstacles to one-time

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1 efforts by providers to meet all necessary requirements to  
2 practice independently or as a provider for any appropriately  
3 licensed health care organization or facility. The task  
4 force shall study and recommend, if practicable, use of  
5 credentialing expertise developed by a statewide association  
6 of hospitals.

7 C. The task force shall include participation by  
8 [~~the New Mexico health policy commission~~] the department [~~of~~  
9 ~~health~~]; the New Mexico medical board [~~of medical examiners~~];  
10 the board of nursing; other health care provider boards; the  
11 regulation and licensing department; the insurance division  
12 of the public regulation commission; the human services  
13 department; the office of the attorney general; other  
14 affected state agencies; members of the health care industry,  
15 including statewide associations and societies representing  
16 providers, hospitals and other affected facilities; insurers;  
17 [~~and~~] other third-party payers; [~~as well as~~] health care  
18 advocates; and members of the public.

19 D. The [~~New Mexico health policy commission~~]  
20 department, together with the New Mexico medical board [~~of~~  
21 ~~medical examiners~~] and the board of nursing, shall hire an  
22 information technology project manager to work under the  
23 [~~commission~~] department to design, implement and maintain a  
24 web site portal for licensure and a central database for  
25 credentialing of health care providers."

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1           SECTION 6. Section 24-1G-4 NMSA 1978 (being Laws 2005,  
2 Chapter 55, Section 4, as amended by Laws 2007, Chapter 14,  
3 Section 4 and by Laws 2007, Chapter 46, Section 13) is  
4 amended to read:

5           "24-1G-4. NEW MEXICO TELEHEALTH AND HEALTH INFORMATION  
6 COMMISSION CREATED--POWERS AND DUTIES--MEMBERSHIP.--

7           A. The "New Mexico telehealth and health  
8 information technology commission" is created. The  
9 commission is administratively attached to the department of  
10 health [~~which shall work in conjunction with the New Mexico~~  
11 ~~health policy commission, in accordance with the Executive~~  
12 ~~Reorganization Act~~].

13           B. The commission shall consist of no more than  
14 twenty-five members with members, one-third of whom shall be  
15 from rural areas, chosen from the following categories, all  
16 of whom shall be appointed by and serve at the pleasure of  
17 the governor:

- 18                   (1) health care facilities;
- 19                   (2) health care practitioners;
- 20                   (3) health care workforce educators;
- 21                   (4) telehealth technology experts;
- 22                   (5) the telecommunications industry;
- 23                   (6) the business community;
- 24                   (7) health care insurance providers or other  
25 health care payers;

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- 1 (8) the health information technology  
2 industry;
- 3 (9) Indian nations, tribes and pueblos;  
4 (10) legislators;
- 5 (11) state agencies responsible for:  
6 (a) telecommunications;  
7 (b) public health;  
8 (c) medicaid and social services;  
9 (d) workforce development;  
10 (e) children's health and social  
11 services;  
12 (f) services for the elderly and  
13 persons with a disability;  
14 (g) criminal justice;  
15 (h) health policy and planning; and  
16 (i) education; and

17 (12) other members as the governor may  
18 appoint to ensure appropriate cultural and geographic  
19 representation and the interests of the public.

20 C. The commission shall:

21 (1) identify how telehealth and health  
22 information technology can be used to increase access to care  
23 and implement state comprehensive health plans;

24 (2) identify barriers to telehealth and  
25 health information technology utilization and expansion,

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1 including payment, infrastructure, training and workforce  
2 availability;

3 (3) inventory the state's telehealth and  
4 health information technology assets, map available  
5 telecommunications infrastructure and examine the financial  
6 impact of failing to develop the state's telehealth and  
7 health information technology capacities;

8 (4) coordinate public and private sector  
9 initiatives to enhance networking, portal development and  
10 connectivity and to expand telehealth and health information  
11 technology and telecommunications capacity;

12 (5) establish such subcommittees as the  
13 commission deems necessary to fulfill its purpose, powers and  
14 duties or to address specific telehealth and health  
15 information technology issues;

16 (6) identify specific actions to increase  
17 collaborative efforts and public-private partnerships to  
18 increase the use of telehealth and health information  
19 technology for health care access development, patient  
20 outcome improvement, patient and workforce education and  
21 health care practitioner recruitment and development;

22 (7) develop and disseminate specific  
23 telehealth and health information technology standards and  
24 guidelines to ensure quality of care, positive health  
25 outcomes, appropriate use of technology and protection of

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1 privacy and confidentiality;

2 (8) review and comment on initiatives,  
3 projects or grant applications to ensure telehealth and  
4 health information technology standards and guidelines are  
5 met and maximum collaboration and cooperation across the  
6 state is encouraged;

7 (9) meet at least once each quarter at the  
8 call of the chair or vice chair, who shall be designated by  
9 the governor from among the membership; and

10 (10) report annually to the governor and the  
11 legislature on the state of the telehealth and health  
12 information technology system and the adequacy and allocation  
13 of telehealth services throughout the state, providing the  
14 governor and the legislature with specific recommendations  
15 for improving telehealth and health information technology  
16 and related service systems.

17 D. A majority of the members of the commission  
18 constitutes a quorum for the transaction of business."

19 SECTION 7. Section 24-14-1 NMSA 1978 (being Laws 1961,  
20 Chapter 44, Section 1) is amended to read:

21 "24-14-1. SHORT TITLE.--~~[This act]~~ Chapter 24, Article  
22 14 NMSA 1978 may be cited as the "Vital Statistics Act"."

23 SECTION 8. Section 24-14-27 NMSA 1978 (being Laws 1961,  
24 Chapter 44, Section 25, as amended) is amended to read:

25 "24-14-27. DISCLOSURE OF RECORDS.--

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1           A. It is unlawful for any person to permit  
2 inspection of or to disclose information contained in vital  
3 records or to copy or issue a copy of all or part of any  
4 record except as authorized by law.

5           B. The department shall provide access to record-  
6 level data required by the [~~New Mexico health policy~~  
7 ~~commission and the~~] health information system created in the  
8 Health Information System Act. The [~~New Mexico health policy~~  
9 ~~commission and the~~] health information system may only  
10 release record level data obtained from vital records in the  
11 aggregate. For the purposes of this subsection, "record-  
12 level data" means one or more unique and non-aggregated data  
13 elements relating to a single identifiable individual. The  
14 department may authorize the disclosure of data contained in  
15 vital records for other research purposes.

16           C. When one hundred years have elapsed after the  
17 date of birth or fifty years have elapsed after the date of  
18 death, the vital records of these events in the custody of  
19 the state registrar shall become open public records, and  
20 information shall be made available in accordance with  
21 [~~regulations~~] rules that provide for the continued  
22 safekeeping of the records; provided that vital records of  
23 birth shall not become open public records prior to the  
24 individual's death."

25           SECTION 9. Section 24-14A-2 NMSA 1978 (being Laws 1989,

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1 Chapter 29, Section 2, as amended) is amended to read:

2 "24-14A-2. DEFINITIONS.--As used in the Health  
3 Information System Act:

4 A. "aggregate data" means data that are obtained  
5 by combining like data elements in a manner that precludes  
6 specific identification of a single client or provider;

7 ~~[B. "commission" means the New Mexico health  
8 policy commission;~~

9 ~~G.]~~ B. "data source" or "data provider" means a  
10 person that possesses health information, including any  
11 public or private sector licensed health care practitioner,  
12 primary care clinic, ambulatory surgery center, ambulatory  
13 urgent care center, ambulatory dialysis unit, home health  
14 agency, long-term care facility, hospital, pharmacy, third-  
15 party payer and any public entity that has health  
16 information;

17 ~~[D.]~~ C. "department" means the department of  
18 health;

19 ~~[E.]~~ D. "health information" or "health data"  
20 means any data relating to health care; health status,  
21 including environmental, social and economic factors; the  
22 health system; or health costs and financing;

23 ~~[F.]~~ E. "hospital" means any general or special  
24 hospital licensed by the department, whether publicly or  
25 privately owned;

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1           [~~G.~~] F. "long-term care facility" means any  
2 skilled nursing facility or nursing facility licensed by the  
3 department, whether publicly or privately owned;

4           [~~H.~~] G. "record-level data" means a medical  
5 record that contains unique and non-aggregated data elements  
6 that relate to a single identifiable individual, provider or  
7 hospital; and

8           [~~I.~~] H. "third-party payer" means any public or  
9 private payer of health care services and includes health  
10 maintenance organizations and health insurers."

11           **SECTION 10.** Section 24-14A-3 NMSA 1978 (being Laws  
12 1989, Chapter 29, Section 3, as amended by Laws 2005, Chapter  
13 321, Section 12 and by Laws 2005, Chapter 322, Section 1) is  
14 amended to read:

15           "24-14A-3. HEALTH INFORMATION SYSTEM--CREATION--DUTIES  
16 OF [~~COMMISSION~~] DEPARTMENT.--

17           A. The "health information system" is created for  
18 the purpose of assisting the [~~commission~~] department,  
19 legislature and other agencies and organizations in the  
20 state's efforts in collecting, analyzing and disseminating  
21 health information to assist:

22                   (1) in the performance of health planning  
23 and policymaking functions, including identifying personnel,  
24 facility, education and other resource needs and allocating  
25 financial, personnel and other resources where appropriate;

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1 (2) consumers in making informed decisions  
2 regarding health care; and

3 (3) in administering, monitoring and  
4 evaluating a statewide health plan.

5 B. In carrying out its powers and duties pursuant  
6 to the Health Information System Act, the [~~commission~~]  
7 department shall not duplicate databases that exist in the  
8 public sector or databases in the private sector to which it  
9 has electronic access. Every governmental entity shall  
10 provide the [~~commission~~] department with access to its  
11 health-related data as needed by the [~~commission~~] department.  
12 The [~~commission~~] department shall collect data from data  
13 sources in the most cost-effective and efficient manner.

14 C. The [~~commission~~] department shall establish,  
15 operate and maintain the health information system.

16 D. In establishing, operating and maintaining the  
17 health information system, the [~~commission~~] department shall:

- 18 (1) obtain information on the following  
19 health factors:
- 20 (a) mortality and natality, including  
21 accidental causes of death;
  - 22 (b) morbidity;
  - 23 (c) health behavior;
  - 24 (d) disability;
  - 25 (e) health system costs, availability,

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1 utilization and revenues;

2 (f) environmental factors;

3 (g) health personnel;

4 (h) demographic factors;

5 (i) social, cultural and economic  
6 conditions affecting health, including language preference;

7 (j) family status;

8 (k) medical and practice outcomes as  
9 measured by nationally accepted standards and quality of  
10 care; and

11 (1) participation in clinical research  
12 trials;

13 (2) give the highest priority in data  
14 gathering to information needed to implement and monitor  
15 progress toward achievement of the state health policy,  
16 including determining where additional health resources such  
17 as personnel, programs and facilities are most needed, what  
18 those additional resources should be and how existing  
19 resources should be reallocated;

20 (3) standardize collection and specific  
21 methods of measurement across databases and use scientific  
22 sampling or complete enumeration for collecting and reporting  
23 health information;

24 (4) take adequate measures to provide health  
25 information system security for all health data acquired

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1 under the Health Information System Act and protect  
2 individual patient and provider confidentiality. The right  
3 to privacy for the individual shall be a major consideration  
4 in the collection and analysis of health data and shall be  
5 protected in the reporting of results;

6 (5) adopt and promulgate rules necessary to  
7 establish and administer the provisions of the Health  
8 Information System Act, including an appeals process for data  
9 sources and procedures to protect data source proprietary  
10 information from public disclosure;

11 (6) establish definitions, formats and other  
12 common information standards for core health data elements of  
13 the health information system in order to provide an  
14 integrated financial, statistical and clinical health  
15 information system, including a geographic information  
16 system, that allows data sharing and linking across databases  
17 maintained by data sources and federal, state and local  
18 public agencies;

19 (7) develop and maintain health and  
20 health-related data inventories and technical documentation  
21 on data holdings in the public and private sectors;

22 (8) collect, analyze and make available  
23 health data to support preventive health care practices and  
24 to facilitate the establishment of appropriate benchmark data  
25 to measure performance improvements over time;

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1 (9) establish and maintain a systematic  
2 approach to the collection and storage of health data for  
3 longitudinal, demographic and policy impact studies;

4 (10) use expert system-based protocols to  
5 identify individual and population health risk profiles and  
6 to assist in the delivery of primary and preventive health  
7 care services;

8 (11) collect health data sufficient for  
9 consumers to be able to evaluate health care services, plans,  
10 providers and payers and to make informed decisions regarding  
11 quality, cost and outcome of care across the spectrum of  
12 health care services, providers and payers;

13 (12) collect comprehensive information on  
14 major capital expenditures for facilities, equipment by type  
15 and by data source and significant facility capacity  
16 reductions; provided that for the purposes of this paragraph  
17 and Section 24-14A-5 NMSA 1978, "major capital expenditure"  
18 means purchases of at least one million dollars (\$1,000,000)  
19 for construction or renovation of facilities and at least  
20 five hundred thousand dollars (\$500,000) for purchase or  
21 lease of equipment, and "significant facility capacity  
22 reductions" means those reductions in facility capacities as  
23 defined by the [~~commission~~] department;

24 (13) serve as a health information  
25 clearinghouse, including facilitating private and public

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1 collaborative, coordinated data collection and sharing and  
2 access to appropriate data and information, maintaining  
3 patient and client confidentiality in accordance with state  
4 and federal requirements;

5 (14) collect data in the most cost-efficient  
6 and effective method feasible and adopt [~~regulations~~] rules  
7 that place a limit on the maximum amount of unreimbursed  
8 costs that a data source can incur in any year for the  
9 purposes of complying with the data requirements of the  
10 Health Information System Act; and

11 (15) identify disparities in health care  
12 access and quality by aggregating the information collected  
13 pursuant to Paragraph (1) of this subsection [~~of this~~  
14 ~~section~~] by population subgroups to include race, ethnicity,  
15 gender and age."

16 SECTION 11. Section 24-14A-4 NMSA 1978 (being Laws  
17 1989, Chapter 29, Section 4, as amended) is amended to read:

18 "24-14A-4. HEALTH INFORMATION SYSTEM--APPLICABILITY.--

19 A. All data sources shall participate in the  
20 health information system. Requests for health data under  
21 the Health Information System Act from a member of a data  
22 source category shall, where reasonable and equitable, be  
23 made to all members of that data source category.

24 B. Upon making any request for health data  
25 pursuant to the Health Information System Act, the

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1     ~~[commission]~~ department shall provide reasonable deadlines  
2     for compliance and shall give notice that noncompliance may  
3     subject the person to a civil penalty pursuant to Section  
4     24-14A-10 NMSA 1978.

5             C. To the extent possible, the health information  
6     system shall be established in a manner to facilitate the  
7     exchange of information with other databases, including those  
8     maintained by the Indian health service and various agencies  
9     of the federal government."

10            **SECTION 12.** Section 24-14A-4.1 NMSA 1978 (being Laws  
11     1994, Chapter 59, Section 11, as amended) is amended to read:

12            "24-14A-4.1. ANNUAL REVIEW OF DATA NEEDS.--At least  
13     once each year, the ~~[commission]~~ department shall review its  
14     data collection requirements to determine the relevancy of  
15     the data elements on which it collects data and review its  
16     regulations and procedures for collecting, analyzing and  
17     reporting data for efficiency, effectiveness and  
18     appropriateness. The review shall consider the cost incurred  
19     by data sources to collect and submit data."

20            **SECTION 13.** Section 24-14A-4.2 NMSA 1978 (being Laws  
21     1994, Chapter 59, Section 12) is amended to read:

22            "24-14A-4.2. INVESTIGATORY POWERS.--The ~~[commission]~~  
23     department has the right to verify the accuracy of data  
24     provided by any data source. The verification may include  
25     requiring the data source to submit documentation sufficient

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1 to verify the accuracy of the data in question or to provide  
2 direct inspection during normal business hours of only the  
3 records and documents that pertain directly to the data in  
4 question; provided that no data source shall be required to  
5 expend more than twenty-five thousand dollars (\$25,000) each  
6 year to comply with the provisions of this section."

7 SECTION 14. Section 24-14A-4.3 NMSA 1978 (being Laws  
8 1994, Chapter 59, Section 15) is amended to read:

9 "24-14A-4.3. AGENCY COOPERATION.--All state agencies  
10 and political subdivisions shall cooperate with and assist  
11 the [~~commission~~] department in carrying out the provisions of  
12 the Health Information System Act, including sharing  
13 information and joining in any appropriate health information  
14 system."

15 SECTION 15. Section 24-14A-6 NMSA 1978 (being Laws  
16 1989, Chapter 29, Section 6, as amended) is amended to read:

17 "24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

18 A. Access to data in the health information  
19 system shall be provided in accordance with [~~regulations~~]  
20 rules adopted by the [~~commission~~] department pursuant to the  
21 Health Information System Act.

22 B. A data provider may obtain data it has  
23 submitted to the system, as well as aggregate data, but,  
24 except as provided in [~~Subsections~~] Subsection D [~~and E~~] of  
25 this section, it shall not have access to data submitted by

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1 another provider that is limited only to that provider.  
2 Except as provided in [~~Subsections~~] Subsection D [~~and E~~] of  
3 this section, in no event may a data provider obtain data  
4 regarding an individual patient except in instances where the  
5 data were originally submitted by the requesting provider.  
6 Prior to the release of any data, in any form, data sources  
7 shall be permitted the opportunity to verify the accuracy of  
8 the data pertaining to that data source. Data identified in  
9 writing as inaccurate shall be corrected prior to the data's  
10 release. Time limits shall be set for the submission and  
11 review of data by data sources, and penalties shall be  
12 established for failure to submit and review the data within  
13 the established time.

14 C. Any person may obtain any aggregate data.

15 [~~D. Through a secure delivery or transmission~~  
16 ~~process, the commission may share with the department record-~~  
17 ~~level data that contain identifiable individual, provider or~~  
18 ~~hospital information.~~

19 ~~E.]~~ D. Through a secure delivery or transmission  
20 process, the [~~commission~~] department may share record-level  
21 data with a federal agency that is authorized to collect,  
22 analyze or disseminate health information. The [~~commission~~]  
23 department shall remove identifiable individual or provider  
24 information from the record-level data prior to its  
25 disclosure to the federal agency. In providing hospital

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1 information under an agreement or arrangement with a federal  
2 agency, the [~~commission~~] department shall ensure that any  
3 identifiable hospital information disclosed is necessary for  
4 the agency's authorized use and that its disclosure meets  
5 with state and federal privacy and confidentiality laws and  
6 rules [~~and regulations~~]."

7 SECTION 16. Section 24-14A-7 NMSA 1978 (being Laws  
8 1989, Chapter 29, Section 7, as amended) is amended to read:

9 "24-14A-7. HEALTH INFORMATION SYSTEM--REPORTS.--

10 A. A report in printed format that provides  
11 information of use to the general public shall be produced  
12 annually. The report shall be made available upon request.  
13 The [~~commission~~] department may make the report available on  
14 tape or other electronic format.

15 B. The [~~commission~~] department shall provide an  
16 annual report of its activities, including health care system  
17 statistics, to the legislature. The report shall be  
18 submitted by November 15 each year."

19 SECTION 17. Section 24-14A-8 NMSA 1978 (being Laws  
20 1989, Chapter 29, Section 8, as amended) is amended to read:

21 "24-14A-8. HEALTH INFORMATION SYSTEM--  
22 CONFIDENTIALITY.--

23 A. Health information collected and disseminated  
24 pursuant to the Health Information System Act is strictly  
25 confidential and shall not be a matter of public record or

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1 accessible to the public except as provided in Sections  
2 24-14A-6 and 24-14A-7 NMSA 1978. No data source shall be  
3 liable for damages to any person for having furnished the  
4 information to the [~~commission~~] department.

5 B. Record-level data provided to the department  
6 pursuant to Section 24-14A-6 NMSA 1978 are confidential. The  
7 department that receives record-level data shall not disclose  
8 the data except to the extent that they are included in a  
9 compilation of aggregate data.

10 C. The individual forms, electronic information  
11 or other forms of data collected by and furnished for the  
12 health information system shall not be public records subject  
13 to inspection pursuant to Section 14-2-1 NMSA 1978.  
14 Compilations of aggregate data prepared for release or  
15 dissemination from the data collected, except for a report  
16 prepared for an individual data provider or the provider's  
17 designee containing information concerning only its  
18 transactions, shall be public records."

19 SECTION 18. Section 24-14A-9 NMSA 1978 (being Laws  
20 1989, Chapter 29, Section 9, as amended) is amended to read:

21 "24-14A-9. HEALTH INFORMATION SYSTEM--FEES.--Except for  
22 the annual reports required pursuant to the Health  
23 Information System Act, the [~~commission~~] department may  
24 collect a fee of up to one hundred dollars (\$100) per hour to  
25 offset partially the costs of producing public-use data

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1 aggregations or data for single use special studies.  
2 Entities contributing data to the system shall be charged  
3 reduced rates. Rates shall be established by [~~regulation~~]  
4 rule and shall be reviewed annually. Fees collected pursuant  
5 to this section are appropriated to the [~~commission~~]  
6 department to carry out the provisions of the Health  
7 Information System Act."

8 SECTION 19. Section 27-5-4 NMSA 1978 (being Laws 1965,  
9 Chapter 234, Section 4, as amended) is amended to read:

10 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital  
11 and County Health Care Act:

12 A. "ambulance provider" or "ambulance service"  
13 means a specialized carrier based within the state authorized  
14 under provisions and subject to limitations as provided in  
15 individual carrier certificates issued by the public  
16 regulation commission to transport persons alive, dead or  
17 dying en route by means of ambulance service. The rates and  
18 charges established by public regulation commission tariff  
19 shall govern as to allowable cost. Also included are air  
20 ambulance services approved by the board. The air ambulance  
21 service charges shall be filed and approved pursuant to  
22 Subsection D of Section 27-5-6 NMSA 1978 and Section 27-5-11  
23 NMSA 1978;

24 B. "board" means a county indigent hospital and  
25 county health care board;

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1           C. "indigent patient" means a person to whom an  
2 ambulance service, a hospital or a health care provider has  
3 provided medical care, ambulance transportation or health  
4 care services and who can normally support ~~[himself]~~ the  
5 person's self and ~~[his]~~ the person's dependents on present  
6 income and liquid assets available to ~~[him]~~ the person but,  
7 taking into consideration this income and those assets and  
8 ~~[his]~~ the person's requirement for other necessities of life  
9 for ~~[himself]~~ the person and ~~[his]~~ the person's dependents,  
10 is unable to pay the cost of the ambulance transportation or  
11 medical care administered or both. If provided by resolution  
12 of a board, it shall not include any person whose annual  
13 income together with ~~[his]~~ the person's spouse's annual  
14 income totals an amount that is fifty percent greater than  
15 the per capita personal income for New Mexico as shown for  
16 the most recent year available in the survey of current  
17 business published by the United States department of  
18 commerce. Every board that has a balance remaining in the  
19 fund at the end of a given fiscal year shall consider and may  
20 adopt at the first meeting of the succeeding fiscal year a  
21 resolution increasing the standard for indigency. The term  
22 "indigent patient" includes a minor who has received  
23 ambulance transportation or medical care or both and whose  
24 parent or the person having custody of that minor would  
25 qualify as an indigent patient if transported by ambulance,

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1 admitted to a hospital for care or treated by a health care  
2 provider;

3 D. "hospital" means a general or limited hospital  
4 licensed by the department of health, whether nonprofit or  
5 owned by a political subdivision, and may include by  
6 resolution of a board the following health facilities if  
7 licensed or, in the case of out-of-state hospitals, approved  
8 by the department of health:

9 (1) for-profit hospitals;

10 (2) state-owned hospitals; or

11 (3) licensed out-of-state hospitals where  
12 treatment provided is necessary for the proper care of an  
13 indigent patient when that care is not available in an  
14 in-state hospital;

15 E. "cost" means all allowable costs of providing  
16 health care services, to the extent determined by resolution  
17 of a board, for an indigent patient. Allowable costs shall  
18 be based on medicaid fee-for-service reimbursement rates for  
19 hospitals, licensed medical doctors and osteopathic  
20 physicians;

21 F. "fund" means a county indigent hospital claims  
22 fund;

23 G. "medicaid eligible" means that a person [~~who~~]  
24 is eligible for medical assistance from the department;

25 H. "county" means a county except a class A

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1 county with a county hospital operated and maintained  
2 pursuant to a lease with a state educational institution  
3 named in Article 12, Section 11 of the constitution of New  
4 Mexico;

5 I. "department" means the human services  
6 department;

7 J. "sole community provider hospital" means:

8 (1) a hospital that is a sole community  
9 provider hospital under the provisions of the federal  
10 medicare guidelines; or

11 (2) an acute care general hospital licensed  
12 by the department of health that is qualified, pursuant to  
13 rules adopted by the state agency primarily responsible for  
14 the medicaid program, to receive distributions from the sole  
15 community provider fund;

16 K. "drug rehabilitation center" means an agency  
17 of local government, a state agency, a private nonprofit  
18 entity or combination thereof that operates drug abuse  
19 rehabilitation programs that meet the standards and  
20 requirements set by the department of health;

21 L. "alcohol rehabilitation center" means an  
22 agency of local government, a state agency, a private  
23 nonprofit entity or combination thereof that operates alcohol  
24 abuse rehabilitation programs that meet the standards set by  
25 the department of health;

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1 M. "mental health center" means a not-for-profit  
2 center that provides outpatient mental health services that  
3 meet the standards set by the department of health;

4 N. "health care provider" means:

5 (1) a nursing home;

6 (2) an in-state home health agency;

7 (3) an in-state licensed hospice;

8 (4) a community-based health program  
9 operated by a political subdivision of the state or other  
10 nonprofit health organization that provides prenatal care  
11 delivered by New Mexico licensed, certified or registered  
12 health care practitioners;

13 (5) a community-based health program  
14 operated by a political subdivision of the state or other  
15 nonprofit health care organization that provides primary care  
16 delivered by New Mexico licensed, certified or registered  
17 health care practitioners;

18 (6) a drug rehabilitation center;

19 (7) an alcohol rehabilitation center;

20 (8) a mental health center;

21 (9) a licensed medical doctor, osteopathic  
22 physician, dentist, optometrist or expanded practice nurse  
23 when providing emergency services, as determined by the  
24 board, in a hospital to an indigent patient; or

25 (10) a licensed medical doctor or

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1 osteopathic physician, dentist, optometrist or expanded  
2 practice nurse when providing services in an outpatient  
3 setting, as determined by the board, to an indigent patient  
4 with a life-threatening illness or disability;

5 O. "health care services" means treatment and  
6 services designed to promote improved health in the county  
7 indigent population, including primary care, prenatal care,  
8 dental care, provision of prescription drugs, preventive care  
9 or health outreach services, to the extent determined by  
10 resolution of the board; and

11 P. "planning" means the development of a  
12 countywide or multicounty health plan to improve and fund  
13 health services in the county based on the county's needs  
14 assessment and inventory of existing services and resources  
15 and that demonstrates coordination between the county and  
16 state and local health planning efforts [~~and~~

17 ~~Q. "commission" means the New Mexico health~~  
18 ~~policy commission]."~~

19 SECTION 20. Section 27-5-5.1 NMSA 1978 (being Laws  
20 1993, Chapter 321, Section 17, as amended) is amended to  
21 read:

22 "27-5-5.1. INDIGENT HEALTH CARE REPORT--REQUIRED.--  
23 Every county in New Mexico shall file an annual report on all  
24 indigent health care funding by the county with the  
25 [~~commission~~] department of health. The report shall contain

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1 the county's eligibility criteria for indigent patients,  
2 services provided to indigent patients, restrictions on  
3 services provided to indigent patients, conditions for  
4 reimbursement to providers of health care, revenue sources  
5 used to pay for indigent health care and other related  
6 information as determined by the [~~commission~~] department of  
7 health. The report shall be submitted by October 1 of each  
8 year on a form provided by the [~~commission~~] department of  
9 health. The [~~commission~~] department of health shall make the  
10 report available to interested parties."

11 SECTION 21. Section 28-3-6.1 NMSA 1978 (being Laws  
12 2009, Chapter 83, Section 1) is amended to read:

13 "28-3-6.1. OFFICE OF THE GOVERNOR'S COUNCIL ON WOMEN'S  
14 HEALTH CREATED.--

15 A. The "office of the governor's council on  
16 women's health" is created and is administratively attached  
17 to the commission on the status of women.

18 B. The office of the governor's council on  
19 women's health shall:

20 (1) serve as a clearinghouse for education  
21 and information on women's health;

22 (2) recommend performance measures and  
23 outcomes specific to women's health;

24 (3) report annually by September 1 to the  
25 governor on women's health policy issues;

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1 (4) assist in developing policy to improve  
2 women's health and well-being, including policies that  
3 explain and explore the links between women's health and  
4 economic security; and

5 (5) assist state agencies, including the  
6 department of health, to improve access to health care for  
7 women.

8 C. The governor shall appoint the director of the  
9 office of the governor's council on women's health, who shall  
10 serve at the pleasure of the governor.

11 D. The governor shall appoint advisors to the  
12 office of the governor's council on women's health to  
13 represent the geographic diversity of the state as follows:

14 (1) one representative from each of the  
15 following:

16 (a) the commission on the status of  
17 women;

18 (b) the department of health;

19 [~~(c)~~ the New Mexico health policy  
20 commission;

21 ~~(d)~~ (c) the children, youth and  
22 families department;

23 [~~(e)~~ (d) the human services  
24 department;

25 [~~(f)~~ (e) the Indian affairs

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1 department;

2 [~~(g)~~] (f) the veterans' services

3 department; and

4 [~~(h)~~] (g) the office on African

5 American affairs;

6 (2) one representative of providers of  
7 women's health services;

8 (3) two representatives from rural counties;

9 and

10 (4) four representatives of advocacy,  
11 community or consumer groups.

12 E. Advisors to the office of the governor's  
13 council on women's health shall serve at the pleasure of the  
14 governor, shall meet at least four times per year and shall  
15 serve for two-year terms.

16 F. For purposes of conducting business, a  
17 majority of the advisors to the office of the governor's  
18 council on women's health shall constitute a quorum.

19 G. The advisors to the office of the governor's  
20 council on women's health may organize statewide meetings and  
21 focus groups to involve members of the public further in  
22 improving women's health and to identify emerging issues  
23 around women's health care delivery and services."

24 SECTION 22. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
25 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--

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1 STATUTORY REFERENCES.--

2 A. On the effective date of this act, all  
3 functions, appropriations, money, records, furniture,  
4 equipment and other property of the New Mexico health policy  
5 commission shall be transferred to the department of health.

6 B. On the effective date of this act, contractual  
7 obligations of the New Mexico health policy commission are  
8 binding on the department of health.

9 C. On the effective date of this act, all  
10 references in law to the New Mexico health policy commission  
11 shall be deemed to be references in law to the department of  
12 health.

13 SECTION 23. REPEAL.--Sections 9-7-11.1 and 9-7-11.2  
14 NMSA 1978 (being Laws 1991, Chapter 139, Sections 1 and 2, as  
15 amended) are repealed.

16 SECTION 24. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2011.