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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO HEALTH CARE ADMINISTRATION AND FINANCE; ENACTING
THE HEALTH POLICY AND FINANCE DEPARTMENT ACT; CREATING THE
HEALTH POLICY AND FINANCE DEPARTMENT; CREATING THE COST-
CONTAINMENT AND DELIVERY SYSTEM BOARD; 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; TRANSFERRING THE OPERATIONS OF THE NEW MEXICO
HEALTH POLICY COMMISSION TO THE HEALTH POLICY AND FINANCE
DEPARTMENT; PROVIDING FOR A STUDY ON THE EVENTUAL TRANSFER OF
THE ADMINISTRATION OF HEALTH BENEFIT PLANS FOR PUBLIC SCHOOL
EMPLOYEES, STATE AND LOCAL PUBLIC EMPLOYEES AND PUBLIC RETIREES
TO THE HEALTH POLICY AND FINANCE DEPARTMENT; PROVIDING FOR

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1 HEALTH CARE COST-CONTAINMENT WORK FORCE PLANNING, DATA
2 COLLECTION AND DELIVERY SYSTEM PLANNING; AMENDING, REPEALING
3 AND ENACTING SECTIONS OF THE NMSA 1978.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
7 through 7 of this act may be cited as the "Health Policy and
8 Finance Department Act".

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

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

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

23 C. "department" means the health policy and finance
24 department;

25 D. "developmental disabilities" means developmental

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1 disability and mental retardation or specific related
2 conditions as determined by rules the secretary has
3 promulgated;

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

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

15 G. "secretary" means the secretary of health policy
16 and finance; and

17 H. "superintendent" means the superintendent of
18 insurance of the insurance division of the public regulation
19 commission, or the commission's successor in interest.

20 SECTION 3. [NEW MATERIAL] HEALTH POLICY AND FINANCE
21 DEPARTMENT ESTABLISHED.--

22 A. There is created in the executive branch the
23 "health policy and finance department". The department shall
24 be a cabinet department and shall consist of, at a minimum, the
25 following divisions:

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

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

- 9 (1) the medical assistance division of the
10 human services department;
- 11 (2) the behavioral health services division of
12 the human services department; and
- 13 (3) the interagency behavioral health
14 purchasing collaborative.

15 C. As of January 1, 2013, the following references
16 in law shall be construed as referring to the health policy and
17 finance department:

- 18 (1) the long-term care division of the aging
19 and long-term services department;
- 20 (2) the coordination of long-term services
21 program of the aging and long-term services department;
- 22 (3) the brain injury services program of the
23 aging and long-term services department;
- 24 (4) the program of all-inclusive care for the
25 elderly of the aging and long-term services department;

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1 (5) the home- and community-based waiver
2 program of the department of health for individuals who are
3 medically fragile;

4 (6) the acquired immunodeficiency syndrome and
5 acquired immunodeficiency syndrome-related condition waiver
6 program of the department of health; and

7 (7) the New Mexico health policy commission.

8 D. Those organizational units of the department and
9 the officers of those units specified by law shall have all of
10 the powers and duties enumerated in the specific laws involved.
11 However, the carrying out of those powers and duties shall be
12 subject to the direction and supervision of the secretary, who
13 shall retain the final decision-making authority and
14 responsibility for the administration of any those laws. The
15 department shall have access to all records, data and
16 information of other state departments, agencies and
17 institutions, including its own organizational units not
18 specifically held confidential by law.

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

21 A. The administrative head of the health policy and
22 finance department is the "secretary of health policy and
23 finance", who shall be appointed by the governor with the
24 consent of the senate and who shall serve in the executive
25 cabinet. The secretary shall be exempt from the provisions of

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1 the Personnel Act.

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

6 C. The secretary is responsible to the governor for
7 the operation of the department. It is the secretary's duty to
8 manage all operations of the department and to administer and
9 enforce the laws with which the secretary or the department is
10 charged.

11 D. To perform the secretary's duties, the secretary
12 has every power expressly enumerated in the laws, whether
13 granted to the secretary, to the department or to any division
14 of the department, except where authority conferred upon any
15 division is explicitly exempted from the secretary's authority
16 by statute. In accordance with these provisions, the secretary
17 shall:

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

22 (2) with the approval of the governor, appoint
23 "directors" of the divisions established within the department
24 and a director of communications. These positions are exempt
25 from the Personnel Act. Individuals appointed to these

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1 positions shall serve at the pleasure of the secretary;

2 (3) establish bureaus within each division of
3 the department as the secretary deems necessary to carry out
4 the provisions of the Health Policy and Finance Department Act.
5 The secretary shall employ "chiefs" to be administrative heads
6 of these bureaus. The chiefs and all subsidiary employees of
7 the department shall be covered by the Personnel Act, unless
8 otherwise provided by law;

9 (4) delegate authority to subordinates as the
10 secretary deems necessary and appropriate, clearly delineating
11 that delegated authority and the limitations of that authority;

12 (5) organize the department into those
13 organizational units the secretary deems will enable it to
14 function most efficiently, subject to any provisions of law
15 requiring or establishing specific organizational units;

16 (6) within the limitations of available
17 appropriations and applicable laws, employ and fix the
18 compensation of those persons necessary to discharge the
19 secretary's duties;

20 (7) take administrative action by issuing
21 orders and instructions to assure implementation of and
22 compliance with the provisions of law for whose administration
23 or execution the secretary is responsible and to enforce those
24 orders and instructions by appropriate administrative action in
25 the courts;

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1 (8) conduct research and studies that will
2 improve the operations of the department and the provision of
3 services to the residents of the state;

4 (9) provide courses of instruction and
5 practical training for employees of the department and other
6 persons involved in the administration of programs with the
7 objective of improving the operations and efficiency of
8 administration;

9 (10) prepare an annual budget of the
10 department;

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

17 (12) require performance bonds of department
18 employees and officers as the secretary deems necessary, as
19 provided in the Surety Bond Act. The department shall pay the
20 costs of these bonds.

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

25 F. Where functions of the department overlap with

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1 other state agencies or if a function assigned to the
2 department could better be performed by another department, the
3 secretary may recommend appropriate legislation to the next
4 session of the legislature for its approval.

5 G. The secretary may make and adopt reasonable and
6 procedural rules and regulations as may be necessary to carry
7 out the duties of the department and its divisions. A rule or
8 regulation promulgated by the director of any division of the
9 department in carrying out the functions and duties of that
10 division shall not be effective until the secretary approves
11 it, unless otherwise provided by statute. Unless otherwise
12 provided by statute, no rule or regulation affecting any person
13 or agency outside of the department shall be adopted, amended
14 or repealed without a public hearing on the proposed action
15 before the secretary or a hearing officer that the secretary
16 designates. The public hearing shall be held in Santa Fe
17 unless otherwise permitted by statute. Notice of the subject
18 matter of the rule or regulation, the action proposed to be
19 taken, the time and place of the hearing, the manner in which
20 interested persons may present their views and the method by
21 which copies of the proposed rule or regulation or proposed
22 amendment or repeal of an existing rule or regulation may be
23 obtained shall be published once at least thirty days prior to
24 the hearing date on the department's web site and in a
25 newspaper of general circulation and mailed at least thirty

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1 days prior to the hearing date to all persons who have made a
2 written request for advance notice of hearing.

3 H. In the event that the secretary anticipates that
4 the adoption, amendment or repeal of a rule or regulation will
5 be required by a cancellation, reduction or suspension of
6 federal funds or by an order by a court of competent
7 jurisdiction:

8 (1) if the secretary is notified by
9 appropriate federal authorities or court order at least sixty
10 days prior to the effective date of the cancellation, reduction
11 or termination of federal funds, the department shall
12 promulgate rules or regulations through the public hearing
13 process to be effective on the date mandated by the appropriate
14 federal authority; or

15 (2) if the secretary is notified by
16 appropriate federal authorities or court order less than sixty
17 days prior to the effective date of the cancellation, reduction
18 or suspension of federal funds, the department shall, without a
19 public hearing, promulgate interim rules or regulations
20 effective for a period not to exceed ninety days. Interim
21 rules or regulations shall not be promulgated without first
22 providing a written notice twenty days in advance to providers
23 of medical or behavioral health services and beneficiaries of
24 department programs. At the time of the promulgation of the
25 interim rules or regulations, the department shall give notice

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1 of the public hearing on the final rules or regulations in
2 accordance with Subsection G of this section.

3 I. If the secretary certifies to the secretary of
4 finance and administration and gives contemporaneous notice of
5 that certification through a health policy and finance register
6 that the department has insufficient state funds to operate any
7 of the programs it administers and that reductions in services
8 or benefit levels are necessary, the secretary may engage in
9 interim rulemaking. Notwithstanding any provision to the
10 contrary in the State Rules Act, interim rulemaking shall be
11 conducted pursuant to Subsection G of this section, except
12 that:

13 (1) the period of notice of public hearing
14 shall be fifteen days;

15 (2) the department shall also send individual
16 notices of the interim rulemaking and of the public hearing to
17 affected providers and beneficiaries;

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

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

24 (5) if final rules and regulations are
25 necessary to replace the interim rules and regulations, the

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1 department shall give notice of intent to promulgate final
2 rules and regulations at the time of notice. The final rules
3 and regulations shall be promulgated not more than forty-five
4 days after the public hearing and filed in accordance with the
5 State Rules Act.

6 J. At the time of the promulgation of the interim
7 rules or regulations, the department shall give notice of the
8 public hearing on the final rules or regulations in accordance
9 with Subsection G of this section.

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

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

16 M. At least once each calendar quarter, the
17 secretary shall consult with the health care cost-containment
18 and delivery system board and at least quarterly receive any
19 policy recommendations from that board.

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

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

23 (1) provide medical assistance pursuant to the
24 provisions of the Public Assistance Act;

25 (2) provide behavioral health services and

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1 operate the interagency behavioral health purchasing
2 collaborative pursuant to the provisions of Section 9-7-6.4
3 NMSA 1978;

4 (3) conduct a study and, by September 1, 2012,
5 make recommendations to the legislative health and human
6 services committee and to the legislative finance committee
7 regarding the feasibility of transferring from the department
8 of health and from the human services department to the health
9 policy and finance department all of the home- and community-
10 based waiver services and other programs delivering services to
11 individuals living with developmental disabilities, including
12 the administrative, finance, service delivery and any other
13 components of those programs;

14 (4) undertake a feasibility study regarding
15 the quality of care provided and cost-effectiveness of the
16 state's reliance upon managed-care contracts to provide
17 coordinated long-term services, behavioral health services
18 through a statewide entity and other medical assistance. By
19 September 1, 2014, the department shall provide the results of
20 the feasibility study and make legislative recommendations
21 pursuant to that study to the legislative health and human
22 services committee and to the legislative finance committee;

23 (5) implement a health care work force
24 database and collect data pertaining to health care providers
25 who apply for licensure or renewal of health care provider

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1 licensure pursuant to Chapter 61 NMSA 1978; and

2 (6) perform the following functions related to
3 health policy and planning:

4 (a) develop a plan for and monitor the
5 implementation of the state's health policy;

6 (b) identify potential cost-containment
7 measures;

8 (c) obtain and evaluate information from
9 a broad spectrum of New Mexico's population to develop and
10 monitor the implementation of the state's health policy;

11 (d) obtain and evaluate information
12 relating to factors that affect the availability and
13 accessibility of health services and health care personnel in
14 the public and private sectors;

15 (e) perform needs assessments on health
16 personnel, health education and recruitment and retention of
17 health care providers and make recommendations regarding the
18 training, recruitment, placement and retention of health care
19 providers in underserved areas of the state;

20 (f) prepare and publish an annual report
21 describing the progress in addressing the state's health policy
22 and planning issues. The report shall include a work plan of
23 goals and objectives for addressing the state's health policy
24 and planning issues in the upcoming year;

25 (g) distribute the annual report to the

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1 governor, appropriate state agencies and interim legislative
2 committees and interested parties;

3 (h) establish a process to prioritize
4 recommendations on program development, resource allocation and
5 proposed legislation;

6 (i) provide information and analysis on
7 health issues;

8 (j) serve as a catalyst and synthesizer
9 of health policy in the public and private sectors; and

10 (k) respond to requests by the executive
11 and legislative branches of government.

12 B. As of January 1, 2013, the department shall:

13 (1) administer coordinated purchasing of
14 health care benefits on behalf of the publicly funded health
15 care agencies; and

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

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

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

23 (c) the program of all-inclusive care
24 for the elderly;

25 (d) the brain injury services program;

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1 (e) the home- and community-based waiver
2 program for individuals living with acquired immunodeficiency
3 syndrome or conditions related to acquired immunodeficiency
4 syndrome;

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

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

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

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

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

19 (2) provide to the advisory councils listed in
20 Section 7 of the Health Policy and Finance Department Act a
21 draft of the proposed contract and any bids received from
22 managed care organizations and receive the recommendations of
23 those advisory councils; and

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

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1 E. In the event that there is established in the
2 state a health benefits exchange, the department shall
3 cooperate with the exchange to share information and facilitate
4 transitions between the exchange and medicaid, the children's
5 health insurance program or any other state public health
6 coverage program.

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

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

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

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

25 D. assume responsibility for and implement adult

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1 mental health and substance abuse services in the state in
2 coordination with the children, youth and families department;

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

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

7 SECTION 7. [NEW MATERIAL] ADVISORY COUNCILS--HEALTH CARE
8 COST-CONTAINMENT AND DELIVERY SYSTEM BOARD--APPOINTMENT--
9 DUTIES.--

10 A. The New Mexico legislative council shall appoint
11 five-member advisory councils made up of experts in the
12 councils' respective subject areas. The advisory councils
13 shall provide the health care cost-containment and delivery
14 system board with analysis and recommendations regarding policy
15 and program development and recommendations related to each
16 council's subject area to maximize departmental efficiency and
17 effectiveness and to contain costs in the health care sector.
18 Members of the advisory councils may receive per diem and
19 mileage as provided in the Per Diem and Mileage Act and shall
20 receive no other compensation, perquisite or allowance. Each
21 advisory council shall elect a chair. The advisory councils
22 shall consist of:

- 23 (1) a finance council to study existing and
24 prospective public and private health care system financing and
25 propose cost-containment initiatives;

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1 (2) a Native American health council
2 consisting of members of Native American tribes, nations and
3 pueblos to:

4 (a) examine Native American access to
5 health care services and health coverage;

6 (b) make recommendations on measures to
7 improve access to health care services and health coverage for
8 Native Americans; and

9 (c) study and advise the agency on
10 federal and state laws regarding Native American health care
11 rights;

12 (3) a health care provider council consisting
13 of a broad spectrum of licensed and certified health care
14 providers to make recommendations on provider reimbursement and
15 on supporting a working environment that maximizes providers'
16 abilities to deliver quality health care;

17 (4) a health disparities council consisting of
18 representatives from underserved populations who have expertise
19 in the causes and elimination of health disparities to make
20 recommendations regarding, at a minimum:

21 (a) disparities in disease rates among
22 and between genders and racial and ethnic populations;

23 (b) language and cultural barriers to
24 health care services and health coverage; and

25 (c) enrollment strategies appropriate

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1 for diverse populations;

2 (5) an interagency benefits council of state-
3 funded, state-created health care services or health coverage
4 entities to examine and make recommendations regarding cost-
5 containment and benefit issues and make policy recommendations
6 related to those issues;

7 (6) a health care work force council to study
8 and provide recommendations to attract and retain qualified
9 health professionals throughout the state; and

10 (7) a delivery system council to:

11 (a) examine prevention and wellness
12 incentives and chronic disease management; and

13 (b) make recommendations on new health
14 care services, reimbursement, innovations in health delivery
15 and health coverage systems and evidence-based quality and
16 outcome indicators for health care services.

17 B. The chairs of the advisory councils listed in
18 Subsection A of this section shall constitute the "health care
19 cost-containment and delivery system board". The board shall
20 meet at least once each calendar quarter to receive and review
21 from the advisory councils their analyses and recommendations
22 regarding policy and program development and their
23 recommendations to maximize departmental efficiency and
24 effectiveness. The board shall compile the analyses and
25 recommendations into a written report. The board shall provide

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1 the written report to and meet in person with the secretary at
2 least once every calendar quarter to discuss the analyses and
3 recommendations in the report. The board shall provide the
4 written report and, upon request, shall provide testimony to
5 the legislative health and human services committee and the
6 legislative finance committee regarding the analyses and
7 recommendations in the report.

8 C. From July 1, 2011 through July 31, 2012, the
9 secretary; the interagency benefits council; the superintendent
10 of any school district with a student enrollment in excess of
11 sixty thousand students; and the directors of the public school
12 insurance authority, the retiree health care authority and the
13 risk management division of the general services department
14 shall meet at least quarterly and analyze how to transfer the
15 health coverage functions of the public school insurance
16 authority, the retiree health care authority, any school
17 district with a student enrollment in excess of sixty thousand
18 students and the risk management division of the general
19 services department to the health policy and finance
20 department. By August 1, 2012, the interagency benefits
21 council shall compile a report with legislative recommendations
22 on how to implement the July 1, 2013 transfer of the health
23 coverage functions of these entities and the potential for cost
24 containment as a result of that transfer. The interagency
25 benefits council shall present the report to the legislative

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1 health and human services committee and to the legislative
2 finance committee.

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

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

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

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

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1 two years and shall be adopted by the department of health as
2 part of the statewide health plan.

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

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

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

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

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

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1 promotion, prevention, early intervention, treatment and
2 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 and 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 health policy and finance 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 improvement;
19 (b) performance measures;
20 (c) accessibility and availability of
21 services;
22 (d) utilization management;
23 (e) credentialing of providers;
24 (f) rights and responsibilities of
25 consumers and providers;

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

3 (h) confidentiality of consumer records;
4 and

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

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

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

25 I. The collaborative shall provide a quarterly

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

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

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

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

15 SECTION 9. Section 27-2-12 NMSA 1978 (being Laws 1973,
16 Chapter 376, Section 16, as amended) is amended to read:

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

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

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1 federal act.

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

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

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

19 SECTION 10. TEMPORARY PROVISION--MEDICAL ASSISTANCE
20 PROGRAMS AND BEHAVIORAL HEALTH SERVICES PROGRAMS--TRANSFER OF
21 PROPERTY AND CONTRACTS.--On July 1, 2011:

22 A. all appropriations, money, records, equipment,
23 supplies and other property directly related to medical
24 assistance and behavioral health services programs shall be
25 transferred from the human services department to the health

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1 policy and finance department; and

2 B. all contracts relating to medical assistance and
3 behavioral health services programs currently binding and
4 effective upon the human services department or the interagency
5 behavioral health purchasing collaborative shall be binding and
6 effective on the health policy and finance department.

7 SECTION 11. TEMPORARY PROVISION--LONG-TERM SERVICES
8 PROGRAMS--TRANSFER OF PROPERTY AND CONTRACTS.--On January 1,
9 2013:

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

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

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

22 (3) the program of all-inclusive care for the
23 elderly;

24 (4) the brain injury services program; and

25 (5) quality assurance programs related to any

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1 of the programs listed in Paragraphs (1) through (4) of this
2 subsection; and

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

8 SECTION 12. TEMPORARY PROVISION--DEPARTMENT OF HEALTH
9 MEDICALLY FRAGILE AND ACQUIRED IMMUNODEFICIENCY SYNDROME WAIVER
10 PROGRAMS--TRANSFER OF PROPERTY AND CONTRACTS.--On January 1,
11 2013:

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

20 B. all contracts directly related to the programs
21 listed in Subsection A of this section currently binding and
22 effective upon the department of health shall be binding and
23 effective upon the health policy and finance department.

24 SECTION 13. TEMPORARY PROVISION--NEW MEXICO HEALTH POLICY
25 COMMISSION--TRANSFER OF PROPERTY AND CONTRACTS.--On January 1,

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1 2012:

2 A. all personnel, appropriations, money, records,
3 equipment, supplies and other property of the New Mexico health
4 policy commission shall be transferred to the health policy and
5 finance department; and

6 B. all contracts of the New Mexico health policy
7 commission shall be binding and effective on the health policy
8 and finance department.

9 SECTION 14. REPEAL.--

10 A. Sections 9-7-11.1 and 9-7-11.2 NMSA 1978 (being
11 Laws 1991, Chapter 139, Sections 1 and 2, as amended) are
12 repealed effective January 1, 2012.

13 B. Section 10-7B-1 through 10-7B-8 NMSA 1978 (being
14 Laws 1989, Chapter 231, Sections 1 through 6, Laws 2005,
15 Chapter 301, Section 4 and Laws 1989, Chapter 23, Sections 7
16 and 8, as amended) are repealed effective July 1, 2013.

17 C. Sections 10-7C-1 through 10-7C-19 NMSA 1978
18 (being Laws 1990, Chapter 6, Sections 1 through 7; Laws 2000,
19 Chapter 79, Sections 1 and 2; Laws 1990, Chapter 6, Sections 8
20 through 16; Laws 2002, Chapter 75, Section 2 and Laws 2002,
21 Chapter 80, Section 2; Laws 2002, Chapter 75, Section 3 and
22 Laws 2002, Chapter 80, Section 3; and Laws 2002, Chapter 75,
23 Section 4 and Laws 2002, Chapter 80, Section 4, as amended) are
24 repealed effective July 1, 2013.

25 D. Sections 22-29-1 through 22-29-12 NMSA 1978

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1 (being Laws 1986, Chapter 94, Sections 1 through 9, Laws 1989,
2 Chapter 373, Section 5, Laws 2005, Chapter 274, Section 18 and
3 Laws 2007, Chapter 236, Section 3, as amended) are repealed
4 effective July 1, 2013.

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