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AN ACT

RELATING TO PUBLIC ASSISTANCE; EXCLUDING THE INCOME OF A
LEGAL GUARDIAN IN AN ELIGIBILITY DETERMINATION FOR THE NEW
MEXICO WORKS AND EDUCATION WORKS PROGRAMS; ALLOWING THE HUMAN
SERVICES DEPARTMENT SOME FLEXIBILITY IN DETERMINING
ELIGIBILITY; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
SECTION OF LAW IN LAWS 2007.

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

Section 1. Section 27-2B-1 NMSA 1978 (being Laws 1998,
Chapter 8, Section 1 and Laws 1998, Chapter 9, Section 1) is
amended to read:

"27-2B-1. SHORT TITLE.--Chapter 27, Article 2B NMSA
1978 may be cited as the "New Mexico Works Act"."

Section 2. Section 27-2B-3 NMSA 1978 (being Laws 1998,
Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as
amended) is amended to read:

"27-2B-3. DEFINITIONS.--As used in the New Mexico Works
Act:

A. "applicant" means a person applying for cash
assistance on behalf of a benefit group;

B. "benefit group" means a pregnant woman or a
group of people that includes a dependent child, all of that
dependent child's full, half or adopted siblings or
stepsiblings living with the dependent child's parent or

1 relative within the fifth degree of consanguinity and the
2 parent with whom the children live;

3 C. "cash assistance" means cash payments funded by
4 the temporary assistance for needy families block grant
5 pursuant to the federal act and by state funds;

6 D. "department" means the human services
7 department;

8 E. "dependent child" means a natural child,
9 adopted child, stepchild or ward who is:

10 (1) seventeen years of age or younger;

11 (2) eighteen years of age and is enrolled in
12 high school; or

13 (3) between eighteen and twenty-two years of
14 age and is receiving special education services regulated by
15 the public education department;

16 F. "director" means the director of the income
17 support division of the department;

18 G. "earned income" means cash or payment in kind
19 that is received as wages from employment or payment in lieu
20 of wages; and earnings from self-employment or earnings
21 acquired from the direct provision of services, goods or
22 property, production of goods, management of property or
23 supervision of services;

24 H. "federal act" means the federal Social Security
25 Act and rules promulgated pursuant to the Social Security

1 Act;

2 I. "federal poverty guidelines" means the level of
3 income defining poverty by family size published annually in
4 the federal register by the United States department of
5 health and human services;

6 J. "immigrant" means alien as defined in the
7 federal act;

8 K. "parent" means natural parent, adoptive parent
9 or stepparent;

10 L. "participant" means a recipient of cash
11 assistance or services or a member of a benefit group who has
12 reached the age of majority;

13 M. "person" means an individual;

14 N. "secretary" means the secretary of the
15 department;

16 O. "services" means child care assistance; payment
17 for employment-related transportation costs; job search
18 assistance; employment counseling; employment, education and
19 job training placement; one-time payment for necessary
20 employment-related costs; case management; or other
21 activities whose purpose is to assist transition into
22 employment;

23 P. "unearned income" means old age, survivors and
24 disability insurance; railroad retirement benefits; veterans
25 administration compensation or pension; military retirement;

1 pensions, annuities and retirement benefits; lodge or
2 fraternal benefits; shared shelter payments; settlement
3 payments; individual Indian money; child support;
4 unemployment compensation benefits; union benefits paid in
5 cash; gifts and contributions; and real property income;

6 Q. "vehicle" means a conveyance for the
7 transporting of individuals to or from employment, for the
8 activities of daily living or for the transportation of
9 goods; "vehicle" does not include any boat, trailer or mobile
10 home used as a principal place of residence; and

11 R. "vocational education" means an organized
12 educational program that is directly related to the
13 preparation of a person for employment in a current or
14 emerging occupation requiring training other than a
15 baccalaureate or advanced degree. Vocational education must
16 be provided by an educational or a training organization,
17 such as a vocational-technical school, community college,
18 post-secondary educational institution or proprietary
19 school."

20 Section 3. Section 27-2B-7 NMSA 1978 (being Laws 1998,
21 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as
22 amended by Laws 2007, Chapter 349, Section 14 and by Laws
23 2007, Chapter 350, Section 5) is amended to read:

24 "27-2B-7. FINANCIAL STANDARD OF NEED.--

25 A. The secretary shall adopt a financial standard

1 of need based upon the availability of federal and state
2 funds and based upon appropriations by the legislature of the
3 available federal temporary assistance for needy families
4 grant made pursuant to the federal act in the following
5 categories:

- 6 (1) cash assistance;
- 7 (2) child care services;
- 8 (3) other services; and
- 9 (4) administrative costs.

10 The legislature shall determine the actual percentage of
11 each category to be used annually of the federal temporary
12 assistance for needy families grant made pursuant to the
13 federal act. Within the New Mexico works program, the
14 department may provide cash assistance or services to
15 specific categories of benefit groups from general funds
16 appropriated to cash assistance or services. The department
17 may exclude these funds from temporary assistance for needy
18 families maintenance of effort. The department shall
19 identify alternative state spending to claim as maintenance
20 of effort and make necessary arrangements to allow reporting
21 of that spending.

22 B. The following income sources are exempt from
23 the gross income test, the net income test and the cash
24 payment calculation:

- 25 (1) medicaid;

- 1 (2) food stamps;
- 2 (3) government-subsidized foster care
- 3 payments if the child for whom the payment is received is
- 4 also excluded from the benefit group;
- 5 (4) supplemental security income;
- 6 (5) government-subsidized housing or housing
- 7 payments;
- 8 (6) federally excluded income;
- 9 (7) educational payments made directly to an
- 10 educational institution;
- 11 (8) government-subsidized child care;
- 12 (9) earned income that belongs to a person
- 13 seventeen years of age or younger who is not the head of
- 14 household;
- 15 (10) child support passed through to the
- 16 participant by the child support enforcement division of the
- 17 department in the following amounts:
- 18 (a) fifty dollars (\$50.00) per month
- 19 through December 31, 2008; and
- 20 (b) no later than January 1, 2009, a
- 21 minimum of one hundred dollars (\$100) for one child and two
- 22 hundred dollars (\$200) for two or more children as based on
- 23 the availability of state or federal funds;
- 24 (11) earned income deposited in an
- 25 individual development account by a member of the benefit

1 group or money received as matching funds for allowable uses
2 by the owner of the individual development account pursuant
3 to the Individual Development Account Act; and

4 (12) other income sources as determined by
5 the department.

6 C. The total countable gross earned and unearned
7 income of the benefit group cannot exceed eighty-five percent
8 of the federal poverty guidelines for the size of the benefit
9 group.

10 D. For a benefit group to be eligible to
11 participate:

12 (1) gross countable income that belongs to
13 the benefit group must not exceed eighty-five percent of the
14 federal poverty guidelines for the size of the benefit group;
15 and

16 (2) net countable income that belongs to the
17 benefit group must not equal or exceed the financial standard
18 of need after applying the disregards set out in Paragraphs
19 (1) through (4) of Subsection E of this section.

20 E. Subject to the availability of state and
21 federal funds, the department shall determine the cash
22 payment of the benefit group by applying the following
23 disregards to the benefit group's earned income and then
24 subtracting that amount from the benefit group's financial
25 standard of need:

1 (1) one hundred twenty-five dollars (\$125)
2 of monthly earned income and one-half of the remainder, or
3 for a two-parent family, two hundred twenty-five dollars
4 (\$225) of monthly earned income and one-half of the remainder
5 for each parent;

6 (2) monthly payments made for child care at
7 a maximum of two hundred dollars (\$200) for a child under two
8 years of age and at a maximum of one hundred seventy-five
9 dollars (\$175) for a child two years of age or older;

10 (3) costs of self-employment income; and

11 (4) business expenses.

12 F. In addition to the disregards specified in
13 Subsection E of this section, and between June 28, 2007 and
14 June 30, 2008, or until implementation of the employment
15 retention and advancement bonus program described in
16 Subsection G of this section, the department shall apply the
17 following income disregards to the benefit group's earned
18 income and then subtract that amount from the benefit group's
19 financial standard of need:

20 (1) for the first two years of receiving
21 cash assistance or services, if a participant works over the
22 work requirement rate set by the department pursuant to the
23 New Mexico Works Act, one hundred percent of the income
24 earned by the participant beyond that rate; and

25 (2) for the first two years of receiving

1 cash assistance or services, for a two-parent benefit group
2 in which one parent works more than thirty-five hours per
3 week and the other works more than twenty-four hours per
4 week, one hundred percent of income earned by each
5 participant beyond the work requirement rate set by the
6 department.

7 G. No later than July 1, 2008, New Mexico
8 employment incentives shall be as follows:

9 (1) the department shall implement an
10 employment retention and advancement bonus program based on
11 availability of state or federal funds that includes
12 financial incentives to encourage a participant to:

13 (a) leave the New Mexico works program
14 and move into an employment retention and advancement bonus
15 incentive program;

16 (b) maintain a minimum of thirty hours
17 per week employment; and

18 (c) leave the employment retention and
19 advancement bonus incentive program due to increased earnings
20 above the income eligibility standard and continue
21 employment;

22 (2) the employment retention and advancement
23 bonus incentive program shall provide a cash bonus and
24 employment services to a former participant who, upon
25 application:

1 (a) is currently engaged in paid work
2 for a minimum of thirty hours per week;

3 (b) has received cash assistance for at
4 least three months and one of the last three months;

5 (c) has had a gross income of less than
6 one hundred fifty percent of the federal poverty guidelines;
7 and

8 (d) has participated in the employment
9 retention and advancement bonus incentive program for no
10 longer than eighteen months;

11 (3) for continued eligibility in the
12 employment retention and advancement bonus incentive program,
13 a participant shall:

14 (a) be engaged in paid work for thirty
15 hours per week for at least one of the past three months;

16 (b) be engaged in paid work for thirty
17 hours per week for at least four of the past six months;

18 (c) have had gross income less than one
19 hundred fifty percent of the federal poverty guidelines; and

20 (d) have participated in the program no
21 more than eighteen months;

22 (4) the department shall provide employment
23 services to assist participants in gaining access to
24 available work supports, maintain employment and advance to
25 higher-paying employment; and

1 (5) the department shall:

2 (a) establish the amount of bonus to be
3 paid to participants in the employment retention and
4 advancement bonus program based on availability of state and
5 federal funds;

6 (b) propose rules to implement the
7 employment retention and advancement bonus incentive program
8 of this subsection no later than January 1, 2008; and

9 (c) begin implementation of the
10 employment retention and advancement bonus incentive program
11 of this subsection no later than July 1, 2008.

12 H. The department may recover overpayments of cash
13 assistance on a monthly basis not to exceed fifteen percent
14 of the financial standard of need applicable to the benefit
15 group.

16 I. Based upon the availability of funds and in
17 accordance with the federal act, the secretary may establish
18 a separate temporary assistance for needy families cash
19 assistance program that may waive certain New Mexico Works
20 Act requirements due to a specific situation.

21 J. Subject to the availability of state and
22 federal funds, the department may limit the eligibility of
23 benefit groups that are eligible because a legal guardian is
24 not included in the benefit group."

25 Section 4. Section 27-2D-1 NMSA 1978 (being Laws 2003,

1 Chapter 317, Section 1) is amended to read:

2 "27-2D-1. SHORT TITLE.--Chapter 27, Article 2D NMSA
3 1978 may be cited as the "Education Works Act"."

4 Section 5. Section 27-2D-2 NMSA 1978 (being Laws 2003,
5 Chapter 317, Section 2, as amended) is amended to read:

6 "27-2D-2. DEFINITIONS.--As used in the Education Works
7 Act:

8 A. "applicant" means a person applying for cash
9 assistance on behalf of a benefit group;

10 B. "benefit group" means a pregnant woman or a
11 group of people that includes a dependent child, all of that
12 dependent child's full, half, step- or adopted siblings
13 living with the dependent child's parent or relative within
14 the fifth degree of consanguinity and the parent with whom
15 the children live;

16 C. "cash assistance" means cash payments
17 distributed by the department pursuant to the Education Works
18 Act;

19 D. "department" means the human services
20 department;

21 E. "dependent child" means a natural, adopted
22 step-child or ward who is:

23 (1) seventeen years of age or younger;

24 (2) eighteen years of age and is enrolled in
25 high school; or

1 (3) between eighteen and twenty-two years of
2 age and is receiving special education services regulated by
3 the public education department;

4 F. "director" means the director of the income
5 support division of the department;

6 G. "earned income" means cash or payment in kind
7 that is received as wages from employment or payment in lieu
8 of wages; and earnings from self-employment or earnings
9 acquired from the direct provision of services, goods or
10 property, production of goods, management of property or
11 supervision of services;

12 H. "education works program" means the cash
13 assistance, activities and services available to a recipient
14 pursuant to the Education Works Act;

15 I. "federal act" means the federal Social Security
16 Act and rules promulgated pursuant to the Social Security
17 Act;

18 J. "federal poverty guidelines" means the level of
19 income defining poverty by family size published annually in
20 the federal register by the United States department of
21 health and human services;

22 K. "parent" means natural parent, adoptive parent
23 or stepparent;

24 L. "person" means an individual;

25 M. "recipient" means a person who receives cash

1 assistance or services or a member of a benefit group who has
2 reached the age of majority;

3 N. "secretary" means the secretary of human
4 services;

5 O. "services" means child-care assistance; payment
6 for education- or employment-related transportation costs;
7 job search assistance; employment counseling; employment,
8 education and job training placement; an annual payment for
9 education-related costs; case management; or other activities
10 whose purpose is to assist transition into employment;

11 P. "unearned income" means old age, survivors and
12 disability insurance; railroad retirement benefits; veterans
13 administration compensation or pension; military retirement;
14 pensions, annuities and retirement benefits; lodge or
15 fraternal benefits; shared shelter payments; settlement
16 payments; individual Indian money; child support;
17 unemployment compensation benefits; union benefits paid in
18 cash; gifts and contributions; and real property income; and

19 Q. "vehicle" means a conveyance for the
20 transporting of persons to or from employment or education
21 for the activities of daily living or for the transportation
22 of goods; "vehicle" does not include boats, trailers or
23 mobile homes used as a principal place of residence."

24 Section 6. Section 27-2D-5 NMSA 1978 (being Laws 2003,
25 Chapter 317, Section 5, as amended) is amended to read:

1 "27-2D-5. FINANCIAL STANDARD OF NEED.--

2 A. The secretary shall adopt a financial standard
3 of need based upon the availability of state funds.

4 B. The following income sources are exempt from
5 the gross income test, the net income test and the cash
6 payment calculation:

- 7 (1) medicaid;
- 8 (2) food stamps;
- 9 (3) government-subsidized foster care
10 payments if the child for whom the payment is received is
11 also excluded from the benefit group;
- 12 (4) supplemental security income;
- 13 (5) government-subsidized housing or housing
14 payments;
- 15 (6) federally excluded income;
- 16 (7) educational payments made directly to an
17 educational institution;
- 18 (8) government-subsidized child care;
- 19 (9) earned income that belongs to a person
20 seventeen years of age or younger who is not the head of
21 household;
- 22 (10) child support passed through to the
23 participant by the child support enforcement division of the
24 department in the following amounts:

- 25 (a) fifty dollars (\$50.00) per month

1 through December 31, 2008; and

2 (b) no later than January 1, 2009, a
3 minimum of one hundred dollars (\$100) for one child and two
4 hundred dollars (\$200) for two or more children as based on
5 availability of state and federal funds; and

6 (11) other income sources as determined by
7 the department.

8 C. The total countable gross earned and unearned
9 income of the benefit group shall not exceed eighty-five
10 percent of the federal poverty guidelines for the size of the
11 benefit group.

12 D. For a benefit group to be eligible to
13 participate:

14 (1) earned and unearned income that belongs
15 to the benefit group shall not exceed eighty-five percent of
16 the federal poverty guidelines for the size of the benefit
17 group; and

18 (2) earned and unearned income that belongs
19 to the benefit group shall not equal or exceed the financial
20 standard of need after applying the disregards set out in
21 Paragraphs (1) through (4) of Subsection E of this section.

22 E. Subject to the availability of state funds, the
23 department shall determine the cash payment of the benefit
24 group by applying the following disregards to the benefit
25 group's earned income and then subtracting that amount from

1 the benefit group's financial standard of need:

2 (1) one hundred twenty-five dollars (\$125)
3 of monthly earned income and one-half of the remainder, or
4 for a two-parent family, two hundred twenty-five dollars
5 (\$225) of monthly earned income and one-half of the remainder
6 for each parent;

7 (2) monthly payments made for child care at
8 a maximum of two hundred dollars (\$200) for a child under two
9 years of age and a maximum of one hundred seventy-five
10 dollars (\$175) for a child two years of age or older;

11 (3) costs of self-employment income; and

12 (4) business expenses.

13 F. In addition to the disregards specified in
14 Subsection E of this section, and between June 28, 2007 and
15 June 30, 2008, or until implementation of the employment
16 retention and advancement bonus program in the New Mexico
17 Works Act, the department shall apply the following income
18 disregards to the benefit group's earned income and then
19 subtract that amount from the benefit group's financial
20 standard of need:

21 (1) for the first two years of receiving
22 cash assistance or services, if a participant works over the
23 work requirement rate set by the department pursuant to the
24 New Mexico Works Act, one hundred percent of the income
25 earned by the participant beyond that rate; and

1 (2) for the first two years of receiving
2 cash assistance or services, for a two-parent benefit group
3 in which one parent works more than thirty-five hours per
4 week and the other works more than twenty-four hours per
5 week, one hundred percent of income earned by each
6 participant beyond the work requirement rate set by the
7 department.

8 G. The department may recover overpayments of cash
9 assistance on a monthly basis not to exceed fifteen percent
10 of the financial standard of need applicable to the benefit
11 group.

12 H. Subject to the availability of state and
13 federal funds, the department may limit the eligibility of
14 benefit groups that are eligible because a legal guardian is
15 not included in the benefit group."

16 Section 7. APPLICABILITY.--The provisions of this act
17 apply beginning August 1, 2009. _____