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SENATE BILL 724

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Patrick H. Lyons

AN ACT

RELATING TO THE HUMAN SERVICES DEPARTMENT; ABOLISHING THE HUMAN SERVICES DEPARTMENT; TRANSFERRING ACTIVITIES TO THE LABOR DEPARTMENT, THE DEPARTMENT OF HEALTH AND THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 6-24-22 NMSA 1978 (being Laws 1995, Chapter 155, Section 22) is amended to read:

"6-24-22. LIEN ON LOTTERY WINNINGS FOR DEBT COLLECTED BY [~~HUMAN SERVICES~~] CHILDREN, YOUTH AND FAMILIES DEPARTMENT-- PAYMENT TO DEPARTMENT-- PROCEDURE. --

A. The [~~human services~~] children, youth and families department, acting as the state's child support enforcement agency pursuant to Title IV-D of the Social

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1 Security Act, shall periodically certify to the authority the  
2 names and social security numbers of persons owing a debt to  
3 or collected by the [~~human services~~] children, youth and  
4 families department.

5 B. Prior to the payment of a lottery prize in  
6 excess of six hundred dollars (\$600), the lottery shall check  
7 the name of the winner against the list of names and social  
8 security numbers of persons owing a debt to or collected by  
9 the [~~human services~~] children, youth and families department.

10 C. If the prize winner is on the list of persons  
11 owing a debt to or collected by the agency, the lottery shall  
12 make a good-faith attempt to notify the [~~human services~~]  
13 children, youth and families department, and the department  
14 then has a lien against the lottery prize in the amount of the  
15 debt owed to or collected by the agency. The lottery has no  
16 liability to the [~~human services~~] children, youth and families  
17 department or the person on whose behalf the department is  
18 collecting the debt if the lottery fails to match a winner's  
19 name to a name on the list or is unable to notify the  
20 department of a match. The department shall provide the  
21 lottery with written notice of a support lien promptly within  
22 five working days after the lottery notifies the department of  
23 a match.

24 D. If the lottery prize is to be paid directly by  
25 the authority, the amount of the debt owed to or collected by

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1 the [~~human services~~] children, youth and families department  
2 shall be held by the lottery for a period of thirty days from  
3 the lottery's confirmation of the amount of the debt to allow  
4 the department to institute any necessary garnishment or wage  
5 withholding proceedings. If a garnishment or withholding  
6 proceeding is not initiated within the thirty-day period, the  
7 authority shall release the lottery prize payment to the  
8 winner.

9 E. The [~~human services~~] children, youth and  
10 families department, in its discretion, may release or  
11 partially release the support lien upon written notice to the  
12 authority.

13 F. A support lien under this section is in  
14 addition to any other lien created by law. "

15 Section 2. Section 7-1-8 NMSA 1978 (being Laws 1965,  
16 Chapter 248, Section 13, as amended) is amended to read:

17 "7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER  
18 INFORMATION.--It is unlawful for any employee of the  
19 department or any former employee of the department to reveal  
20 to any individual other than another employee of the  
21 department any information contained in the return of any  
22 taxpayer made pursuant to any law subject to administration  
23 and enforcement under the provisions of the Tax Administration  
24 Act or any other information about any taxpayer acquired as a  
25 result of his employment by the department, except:

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1           A. to an authorized representative of another  
2 state; provided that the receiving state has entered into a  
3 written agreement with the department to use the information  
4 for tax purposes only and that the receiving state has enacted  
5 a confidentiality statute similar to this section to which the  
6 representative is subject;

7           B. to a representative of the secretary of the  
8 treasury or the secretary's delegate pursuant to the terms of  
9 a reciprocal agreement entered into with the federal  
10 government for exchange of the information;

11           C. to the multistate tax commission or its  
12 authorized representative; provided that the information is  
13 used for tax purposes only and is disclosed by the multistate  
14 tax commission only to states that have met the requirements  
15 of Subsection A of this section;

16           D. to a district court or an appellate court or a  
17 federal court:

18                   (1) in response to an order thereof in an  
19 action relating to taxes to which the state is a party and in  
20 which the information sought is about a taxpayer who is party  
21 to the action and is material to the inquiry, in which case  
22 only that information may be required to be produced in court  
23 and admitted in evidence subject to court order protecting the  
24 confidentiality of the information and no more;

25                   (2) in any action in which the department is

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1 attempting to enforce an act with which the department is  
2 charged or to collect a tax; or

3 (3) in any matter in which the department is  
4 a party and the taxpayer has put his own liability for taxes  
5 at issue, in which case only that information regarding the  
6 taxpayer who is party to the action may be produced, but this  
7 shall not prevent the disclosure of department policy or  
8 interpretation of law arising from circumstances of a taxpayer  
9 who is not a party;

10 E. to the taxpayer or to the taxpayer's authorized  
11 representative; provided, however, that nothing in this  
12 subsection shall be construed to require any employee to  
13 testify in a judicial proceeding except as provided in  
14 Subsection D of this section;

15 F. information obtained through the administration  
16 of any law not subject to administration and enforcement under  
17 the provisions of the Tax Administration Act to the extent  
18 that release of that information is not otherwise prohibited  
19 by law;

20 G. in such manner, for statistical purposes, that  
21 the information revealed is not identified as applicable to  
22 any individual taxpayer;

23 H. with reference to any information concerning  
24 the tax on tobacco imposed by Sections 7-12-1 through 7-12-13,  
25 [~~and Sections~~] 7-12-15 and 7-12-17 NMSA 1978 to a committee of

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1 the legislature for a valid legislative purpose or to the  
2 attorney general for purposes of Section 6-4-13 NMSA 1978 and  
3 the master settlement agreement defined in Section 6-4-12 NMSA  
4 1978;

5 I. to a transferee, assignee, buyer or lessor of a  
6 liquor license, the amount and basis of any unpaid assessment  
7 of tax for which his transferor, assignor, seller or lessee is  
8 liable;

9 J. to a purchaser of a business as provided in  
10 Sections 7-1-61 through 7-1-63 NMSA 1978, the amount and basis  
11 of any unpaid assessment of tax for which the purchaser's  
12 seller is liable;

13 K. to a municipality of this state upon its  
14 request for any period specified by that municipality within  
15 the twelve months preceding the request for the information by  
16 that municipality;

17 (1) the names, taxpayer identification  
18 numbers and addresses of registered gross receipts taxpayers  
19 reporting gross receipts for that municipality under the Gross  
20 Receipts and Compensating Tax Act or a local option gross  
21 receipts tax imposed by that municipality. The department may  
22 also release the information described in this paragraph  
23 quarterly or upon such other periodic basis as the secretary  
24 and the municipality may agree; and

25 (2) information indicating whether persons

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1 shown on any list of businesses located within that  
2 municipality furnished by the municipality have reported gross  
3 receipts to the department but have not reported gross  
4 receipts for that municipality under the Gross Receipts and  
5 Compensating Tax Act or a local option gross receipts tax  
6 imposed by that municipality.

7 The employees of municipalities receiving information as  
8 provided in this subsection shall be subject to the penalty  
9 contained in Section 7-1-76 NMSA 1978 if that information is  
10 revealed to individuals other than other employees of the  
11 municipality in question or the department;

12 L. to the commissioner of public lands for use in  
13 auditing that pertains to rentals, royalties, fees and other  
14 payments due the state under land sale, land lease or other  
15 land use contracts; the commissioner of public lands and  
16 employees of the commissioner are subject to the same  
17 provisions regarding confidentiality of information as  
18 employees of the department;

19 M the department shall furnish, upon request by  
20 the child support enforcement division of the [~~human services~~]  
21 children, youth and families department, the last known  
22 address with date of all names certified to the department as  
23 being absent parents of children receiving public financial  
24 assistance. The child support enforcement division personnel  
25 shall use such information only for the purpose of enforcing

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1 the support liability of the absent parents and shall not use  
2 the information or disclose it for any other purpose; the  
3 child support enforcement division and its employees are  
4 subject to the provisions of this section with respect to any  
5 information acquired from the department;

6 N. with respect to the tax on gasoline imposed by  
7 the Gasoline Tax Act, the department shall make available for  
8 public inspection at monthly intervals a report covering the  
9 amount and gallonage of gasoline and ethanol blended fuels  
10 imported, exported, sold and used, including tax-exempt sales  
11 to the federal government reported or upon which the gasoline  
12 tax was paid and covering taxes received from each distributor  
13 in the state of New Mexico;

14 O. the identity of distributors and gallonage  
15 reported on returns required under the Gasoline Tax Act,  
16 Special Fuels Supplier Tax Act or Alternative Fuel Tax Act to  
17 any distributor or supplier, but only when it is necessary to  
18 enable the department to carry out its duties under the  
19 Gasoline Tax Act, the Special Fuels Supplier Tax Act or the  
20 Alternative Fuel Tax Act;

21 P. the department shall release upon request only  
22 the names and addresses of all gasoline or special fuel  
23 distributors, wholesalers and retailers to the New Mexico  
24 department of agriculture, the employees of which are thereby  
25 subject to the penalty contained in Section 7-1-76 NMSA 1978

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1 if that information is revealed to individuals other than  
2 employees of either the New Mexico department of agriculture  
3 or the department;

4 Q. the department shall answer all inquiries  
5 concerning whether a person is or is not a registered  
6 taxpayer;

7 R. upon request of a municipality or county of  
8 this state, the department shall permit officials or employees  
9 of the municipality or county to inspect the records of the  
10 department pertaining to an increase or decrease to a  
11 distribution or transfer made pursuant to Section 7-1-6.15  
12 NMSA 1978 for the purpose of reviewing the basis for the  
13 increase or decrease. The municipal or county officials or  
14 employees receiving information provided in this subsection  
15 shall not reveal that information to any person other than  
16 another employee of the municipality or the county, the  
17 department or a district court, an appellate court or a  
18 federal court in a proceeding relating to a disputed  
19 distribution and in which both the state and the municipality  
20 or county are parties. Any information provided pursuant to  
21 provisions of this subsection that is revealed other than as  
22 provided in this subsection shall subject the person revealing  
23 the information to the penalties contained in Section 7-1-76  
24 NMSA 1978;

25 S. to a county of this state that has in effect

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1 any local option gross receipts tax imposed by the county upon  
2 its request for any period specified by that county within the  
3 twelve months preceding the request for the information by  
4 that county:

5 (1) the names, taxpayer identification  
6 numbers and addresses of registered gross receipts taxpayers  
7 reporting gross receipts either for that county in the case of  
8 a local option gross receipts tax imposed on a countywide  
9 basis or only for the areas of that county outside of any  
10 incorporated municipalities within that county in the case of  
11 a county local option gross receipts tax imposed only in areas  
12 of the county outside of any incorporated municipalities. The  
13 department may also release the information described in this  
14 paragraph quarterly or upon such other periodic basis as the  
15 secretary and the county may agree;

16 (2) in the case of a local option gross  
17 receipts tax imposed by a county on a countywide basis,  
18 information indicating whether persons shown on any list of  
19 businesses located within the county furnished by the county  
20 have reported gross receipts to the department but have not  
21 reported gross receipts for that county under the Gross  
22 Receipts and Compensating Tax Act or a local option gross  
23 receipts tax imposed by that county on a countywide basis; and

24 (3) in the case of a local option gross  
25 receipts tax imposed by a county only on persons engaging in

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1 business in that area of the county outside of any  
2 incorporated municipalities, information indicating whether  
3 persons shown on any list of businesses located in the area of  
4 that county outside of any incorporated municipalities within  
5 that county furnished by the county have reported gross  
6 receipts to the department but have not reported gross  
7 receipts for the area of that county outside of any  
8 incorporated municipalities within that county under the Gross  
9 Receipts and Compensating Tax Act or any local option gross  
10 receipts tax imposed by the county only on persons engaging in  
11 business in that area of the county outside of any  
12 incorporated municipalities.

13 The officers and employees of counties receiving  
14 information as provided in this subsection shall be subject to  
15 the penalty contained in Section 7-1-76 NMSA 1978 if such  
16 information is revealed to individuals other than other  
17 officers or employees of the county in question or the  
18 department;

19 T. to authorized representatives of an Indian  
20 nation, tribe or pueblo, the territory of which is located  
21 wholly or partially within New Mexico, pursuant to the terms  
22 of a reciprocal agreement entered into with the Indian nation,  
23 tribe or pueblo for the exchange of that information for tax  
24 purposes only; provided that the Indian nation, tribe or  
25 pueblo has enacted a confidentiality statute similar to this

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1 section;

2 U. information with respect to the taxes or tax  
3 acts administered pursuant to Subsection B of Section 7-1-2  
4 NMSA 1978, except that:

5 (1) information for or relating to any period  
6 prior to July 1, 1985 with respect to Sections 7-25-1 through  
7 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978 may be released  
8 only to a committee of the legislature for a valid legislative  
9 purpose;

10 (2) except as provided in Paragraph (3) of  
11 this subsection, contracts and other agreements between the  
12 taxpayer and other parties and the proprietary information  
13 contained in such contracts and agreements shall not be  
14 released without the consent of all parties to the contract or  
15 agreement; and

16 (3) audit workpapers and the proprietary  
17 information contained in such workpapers shall not be released  
18 except to:

19 (a) the minerals management service of  
20 the United States department of the interior, if production  
21 occurred on federal land;

22 (b) a person having a legal interest in  
23 the property that is subject to the audit;

24 (c) a purchaser of products severed  
25 from a property subject to the audit; or

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1 (d) the authorized representative of  
2 any of the persons in Subparagraphs (a) through (c) of this  
3 paragraph. This paragraph does not prohibit the release of  
4 any proprietary information contained in the workpapers that  
5 is also available from returns or from other sources not  
6 subject to the provisions of this section;

7 V. information with respect to the taxes,  
8 surtaxes, advance payments or tax acts administered pursuant  
9 to Subsection C of Section 7-1-2 NMSA 1978;

10 W. to the public regulation commission,  
11 information with respect to the Corporate Income and Franchise  
12 Tax Act required to enable the commission to carry out its  
13 duties;

14 X. to the state racing commission, information  
15 with respect to the state, municipal and county gross receipts  
16 taxes paid by racetracks;

17 Y. upon request of a corporation authorized to be  
18 formed under the Educational Assistance Act, the department  
19 shall furnish the last known address and the date of that  
20 address of every person certified to the department as being  
21 an absent obligor of an educational debt that is due and owed  
22 to the corporation or that the corporation has lawfully  
23 contracted to collect. The corporation and its officers and  
24 employees shall use that information only for the purpose of  
25 enforcing the educational debt obligation of such absent

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1 obligors and shall not disclose that information or use it for  
2 any other purpose;

3 Z. any decision and order made by a hearing  
4 officer pursuant to Section 7-1-24 NMSA 1978 with respect to a  
5 protest filed with the secretary on or after July 1, 1993;

6 AA. information required by any provision of the  
7 Tax Administration Act to be made available to the public by  
8 the department;

9 BB. upon request by the Bernalillo county  
10 metropolitan court, the department shall furnish the last  
11 known address and the date of that address for every person  
12 certified to the department by the court as being a person who  
13 owes fines, fees or costs to the court or who has failed to  
14 appear pursuant to a court order or a promise to appear;

15 CC. upon request by a magistrate court, the  
16 department shall furnish the last known address and the date  
17 of that address for every person certified to the department  
18 by the court as being a person who owes fines, fees or costs  
19 to the court or who has failed to appear pursuant to a court  
20 order or a promise to appear; and

21 DD. to the national tax administration agencies of  
22 Mexico and Canada, provided the agency receiving the  
23 information has entered into a written agreement with the  
24 department to use the information for tax purposes only and is  
25 subject to a confidentiality statute similar to this section. "

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1           Section 3.   Section 7-2C-11 NMSA 1978 (being Laws 1985,  
2 Chapter 106, Section 11, as amended) is amended to read:

3           "7-2C-11.   PRIORITY OF CLAIMS. --

4           A.   Claims of the department take precedence over  
5 the claim of any competing claimant agency, whether the  
6 department asserts a claim or sets off an asserted debt under  
7 the provisions of the Tax Refund Intercept Program Act or  
8 under the provisions of any other law that authorizes the  
9 department to apply amounts of tax owed against any refund due  
10 an individual pursuant to the Income Tax Act.

11           B.   After claims of the department, claims shall  
12 take priority in the following order before claims of any  
13 competing claimant agency:

14                   (1)   claims of the [~~human services~~] children,  
15 youth and families department resulting from child support  
16 enforcement liabilities;

17                   (2)   claims of the [~~human services~~] department  
18 of health resulting from medical support liabilities;

19                   (3)   claims resulting from educational loans  
20 made under the Educational Assistance Act;

21                   (4)   claims of the [~~human services~~] labor  
22 department resulting from [~~AFDC~~] cash assistance liabilities;

23                   (5)   claims of the [~~human services~~] labor  
24 department resulting from food stamp liabilities;

25                   (6)   claims of the employment security

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1 division of the labor department arising under the  
2 Unemployment Compensation Law;

3 (7) claims of a district court for fines,  
4 fees or costs owed to that court;

5 (8) claims of a magistrate court for fines,  
6 fees or costs owed to that court;

7 (9) claims of the Bernalillo county  
8 metropolitan court for fines, fees or costs owed to that  
9 court; and

10 (10) claims of a municipal court for fines,  
11 fees or costs owed to that court. "

12 Section 4. Section 9-2A-4 NMSA 1978 (being Laws 1992,  
13 Chapter 57, Section 4) is amended to read:

14 "9-2A-4. DEPARTMENT CREATED-- DIVISIONS. --

15 A. The "children, youth and families department"  
16 is created. The department is a cabinet department and  
17 [~~consists of, but is not limited to, six divisions as~~  
18 ~~follows~~] includes the following divisions:

19 (1) the administrative services division;  
20 (2) the preventive services division;  
21 (3) the risk reduction services division;  
22 (4) the moderate intervention services  
23 division;

24 (5) the community residential services  
25 division;

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1                    [~~(6)~~ the juvenile justice services  
2 ~~division, until July 1, 1993; and~~  
3                    ~~(7)~~] (6) the institutional care division,  
4 beginning July 1, 1993; and  
5                    (7) the child support enforcement division.

6                    B. The secretary is empowered to organize the  
7 department and the divisions specified in Subsection A of  
8 this section and may transfer or merge functions between  
9 divisions in the interest of efficiency and economy.

10                    C. The governor is empowered to merge divisions  
11 and to abolish or create divisions of the department by  
12 executive order in the interest of efficiency and economy. "

13                    Section 5. Section 9-7-4 NMSA 1978 (being Laws 1991,  
14 Chapter 25, Section 16) is amended to read:

15                    "9-7-4. DEPARTMENT ESTABLISHED. --

16                    A. There is created in the executive branch the  
17 "department of health". The department shall be a cabinet  
18 department and shall include, but not be limited to, the  
19 programs and functions of the public health division, the  
20 behavioral health services division and the scientific  
21 laboratory.

22                    B. [~~All references in the law to the "health~~  
23 ~~services division" shall be construed to be references to~~  
24 ~~the "public health division".]~~ All references in the law to  
25 the public health division of the health and environment

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1 department, the behavioral health services division of the  
2 health and environment department, the state department of  
3 public health, the public health department, the health  
4 services division or the state board of health shall be  
5 construed as referring to the department [~~of health~~].

6 C. The administrative services division of the  
7 department [~~of health~~] shall provide clerical, recordkeeping  
8 and administrative support to the department [~~of health~~] and  
9 to the department of environment, including, but not limited  
10 to, the areas of personnel, budget, procurement and  
11 contracting.

12 D. The medical assistance division of the  
13 department shall administer the medicaid program pursuant to  
14 Title 19 and Title 21 of the Social Security Act. The  
15 medical assistance division shall establish the medicaid  
16 eligibility criteria as provided in state and federal law  
17 and shall provide that criteria to the income support  
18 division of the labor department for eligibility  
19 determinations and related administrative functions."

20 Section 6. Section 9-18-4 NMSA 1978 (being Laws 1987,  
21 Chapter 342, Section 4) is amended to read:

22 "9-18-4. LABOR DEPARTMENT ESTABLISHED. --There is  
23 created in the executive branch the "labor department". The  
24 department [~~shall be~~] is a cabinet department and [~~shall~~  
25 ~~consist of, but not be limited to, five program divisions~~

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1 ~~and one administrative division, as follows]~~ includes the  
2 following divisions:

- 3 A. employment security division;
- 4 B. workers' compensation division;
- 5 C. labor and industrial division;
- 6 D. human rights division;
- 7 E. job training division; ~~and]~~
- 8 F. administrative services division; and
- 9 G. income support division. "

10 Section 7. Section 24-14-13 NMSA 1978 (being Laws  
11 1961, Chapter 44, Section 13, as amended) is amended to  
12 read:

13 "24-14-13. BIRTH REGISTRATION. --

14 A. A certificate of birth for each live birth  
15 ~~which]~~ that occurs in this state shall be filed with the  
16 vital statistics bureau of the public health division of the  
17 department or as otherwise directed by the state registrar  
18 within ten days after the birth and shall be registered if  
19 it has been completed and filed in accordance with this  
20 section. When a birth, however, occurs on a moving  
21 conveyance, a birth certificate shall be registered in this  
22 state and the place where the child is first removed shall  
23 be considered the place of birth.

24 B. When a birth occurs in an institution, the  
25 person in charge of the institution or his designated

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1 representative shall obtain the personal data, prepare the  
2 certificate of birth, secure the signatures required and  
3 file it as directed in this section. The physician or other  
4 person in attendance shall certify the medical information  
5 required by the certificate of birth within ten working days  
6 after the birth in accordance with policies established by  
7 the institution where the birth occurred. The person in  
8 charge of the institution or his designee shall complete and  
9 sign the certificate of birth.

10 C. When a birth occurs outside an institution,  
11 the certificate of birth shall be prepared and filed by one  
12 of the following in the indicated order of priority:

13 (1) the physician in attendance at or  
14 immediately after the birth;

15 (2) any other person in attendance at or  
16 immediately after the birth [~~or in the absence of this~~  
17 ~~person~~]; or

18 (3) the father, the mother or, in the  
19 absence of the father and the inability of the mother, the  
20 person in charge of the premises where the birth occurred.

21 D. If the mother was married at the time of  
22 either conception or birth, the name of the husband shall be  
23 entered on the certificate of birth as the father of the  
24 child, unless paternity has been determined pursuant to  
25 Subsection F or G of this section or by a court, in which

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1 case the name of the father as determined by the court shall  
2 be entered.

3 E. If the mother was not married at the time of  
4 either conception or birth, but the father has signed an  
5 acknowledgment of paternity as provided by this section, the  
6 father's name, date of birth and social security number  
7 shall be entered on the acknowledgment of paternity. The  
8 name of the father shall not be entered on the certificate  
9 of birth without the written consent of the mother and the  
10 person to be named as the father, unless a determination of  
11 paternity has been made by a court, in which case the name  
12 of the father as determined by the court shall be entered.

13 F. At or before the birth of a child to an  
14 unmarried woman, the person in charge of the institution, a  
15 designated representative, the attending physician or  
16 midwife shall:

17 (1) provide an opportunity for the child's  
18 mother and natural father to complete an acknowledgement of  
19 paternity. The completed affidavit shall be filed with the  
20 vital statistics bureau of the public health division of the  
21 department. The acknowledgement shall contain or have  
22 attached to it:

23 (a) a sworn statement by the mother  
24 consenting to the assertion of paternity;

25 (b) a sworn statement by the father

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1 that he is the natural father of the child;

2 (c) written information, furnished by  
3 the [~~human services~~] children, youth and families  
4 department, explaining the implications of signing,  
5 including legal parental rights and responsibilities; and

6 (d) the social security numbers of  
7 both parents;

8 (2) provide written information, furnished  
9 by the [~~human services~~] children, youth and families  
10 department, to the mother and father or putative father,  
11 regarding the benefits of having the child's paternity  
12 established and of the availability of paternity  
13 establishment services and child support enforcement  
14 services.

15 G. If a married mother claims that her husband  
16 is not the father of the child, the husband agrees that he  
17 is not the father and the putative father agrees that he is  
18 the father, an acknowledgement of paternity may be signed by  
19 the respective parties and duly notarized. Upon filing this  
20 affidavit with the state registrar, the name of the  
21 nonhusband shall be entered on the certificate of birth as  
22 the father.

23 H. Pursuant to an interagency agreement for  
24 proper reimbursement, the vital statistics bureau of the  
25 public health division of the department shall make

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1 available to the [~~human services~~] children, youth and  
2 families department the birth certificate, the mother's and  
3 father's social security numbers and paternity  
4 acknowledgements. The [~~human services~~] children, youth and  
5 families department shall use these records only in  
6 conjunction with its duties as the state IV-D agency  
7 responsible for the child support program under Title IV-D  
8 of the federal Social Security Act. "

9 Section 8. Section 27-1-3 NMSA 1978 (being Laws 1937,  
10 Chapter 18, Section 4, as amended) is amended to read:

11 "27-1-3. ACTIVITIES OF [~~HUMAN SERVICES~~] DEPARTMENT OF  
12 HEALTH. --The [~~human services~~] department of health shall be  
13 charged with the administration of [~~all~~] the [~~welfare~~]  
14 health-related activities of the state as provided in  
15 Chapter 27 NMSA 1978, except as otherwise provided for by  
16 law. The [~~human services~~] department shall, except as  
17 otherwise provided by law:

18 A. administer old age assistance, aid to  
19 dependent children, assistance to the needy blind and  
20 otherwise handicapped and general relief;

21 B. administer all aid or services to crippled  
22 children, including the extension and improvement of  
23 services for crippled children, insofar as practicable under  
24 conditions in this state, provide for locating children who  
25 are crippled or who are suffering from conditions which lead

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1 to crippling, provide corrective and any other services and  
2 care and facilities for diagnosis, hospitalization and after-  
3 care for children who are crippled or who are suffering from  
4 conditions which lead to crippling, and supervise the  
5 administration of those services which are not administered  
6 directly by the department;

7 ~~[C. administer and supervise all child welfare~~  
8 ~~activities, service to children placed for adoption, service~~  
9 ~~and care of homeless, dependent and neglected children,~~  
10 ~~service and care for children in foster family homes or in~~  
11 ~~institutions because of dependency or delinquency and care and~~  
12 ~~service to any child who because of physical or mental defect~~  
13 ~~may need such service;~~

14 ~~D.]~~ C. formulate detailed plans, make rules [and  
15 ~~regulations]~~ and take action deemed necessary or desirable to  
16 carry out the provisions of Chapter 27 NMSA 1978 and which is  
17 not inconsistent with the provisions of that chapter;

18 ~~[E.]~~ D. cooperate with the federal government in  
19 matters of mutual concern pertaining to [~~public welfare and~~  
20 ~~public]~~ medical assistance, including the adoption of such  
21 methods of administration as are found by the federal  
22 government to be necessary for the efficient operation of the  
23 plan for public welfare and assistance;

24 ~~[F.]~~ E. assist other departments, agencies and  
25 institutions of local, state and federal governments when so



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1 requested, cooperate with such agencies when expedient in  
2 performing services in conformity with the purposes of Chapter  
3 27 NMSA 1978 and cooperate with medical, health, nursing and  
4 welfare groups, any state agency charged with the  
5 administration of laws providing for vocational rehabilitation  
6 of physically handicapped persons and organizations within the  
7 state;

8 ~~[G.]~~ F. act as the agent of the federal government  
9 in ~~[welfare]~~ medical assistance matters of mutual concern in  
10 conformity with the provisions of Chapter 27 NMSA 1978 and in  
11 the administration of any federal funds granted to this state,  
12 to aid in furtherance of any such functions of the state  
13 government;

14 ~~[H. establish in counties or in districts, which~~  
15 ~~may include two or more counties, local units of~~  
16 ~~administration to serve as agents of the department;~~

17 ~~I. at its discretion, establish local boards of~~  
18 ~~public welfare for such territory as it may see fit and by~~  
19 ~~rule and regulation prescribe the duties of the local board;~~

20 ~~J. administer such other public welfare functions~~  
21 ~~as may be assumed by the state after the effective date of~~  
22 ~~this section;~~

23 ~~K.]~~ G. carry on research and compile statistics  
24 relative to the entire ~~[public welfare]~~ medical assistance  
25 program throughout the state ~~[including all phases of~~

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1 ~~dependency, defectiveness, delinquency and related problems]~~  
2 and develop plans in cooperation with other public and private  
3 agencies for the prevention as well as treatment of conditions  
4 giving rise to public ~~[welfare]~~ health-related problems; and

5 ~~[L.]~~ H. inspect and require reports from all  
6 private institutions, boarding homes and agencies providing  
7 assistance, care or other direct services to children who are  
8 crippled, neglected, delinquent or dependent, the aged, blind,  
9 feeble-minded and other dependent persons.

10 ~~[Nothing contained in this section shall be construed to~~  
11 ~~authorize the department to establish or prescribe standards~~  
12 ~~or regulations for or otherwise regulate programs or services~~  
13 ~~to children in group homes as defined in Section 9-8-13 NMSA~~  
14 ~~1978.]"~~

15 Section 9. Section 27-1-3.1 NMSA 1978 (being Laws 1980,  
16 Chapter 83, Section 1) is amended to read:

17 "27-1-3.1. ACUTE CARE BED USAGE-- FUNDING  
18 AUTHORIZATION. --The ~~[human services]~~ medical assistance  
19 division of the department of health is authorized to accept  
20 and use federal grants or matching funds for the purpose of  
21 reimbursement to certain rural hospitals for using empty acute  
22 care beds for intermediate care and skilled nursing care, as  
23 defined in federal statutes and regulations, subject to  
24 federal approval and the availability of funds. The  
25 ~~[department]~~ medical assistance division is authorized to use

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1 funds from existing appropriations for matching federal funds  
2 for the purposes of this ~~[act]~~ section. "

3 Section 10. Section 27-1-8 NMSA 1978 (being Laws 1997,  
4 Chapter 237, Section 1) is amended to read:

5 "27-1-8. STATE CASE REGISTRY. --

6 A. The ~~[human services]~~ children, youth and  
7 families department, acting as the state's child support  
8 enforcement agency pursuant to Title IV-D of the Social  
9 Security Act, shall establish a state case registry by October  
10 1, 1998 that contains records with respect to:

11 (1) each case in which services are being  
12 provided on or after October 1, 1998 by the ~~[state Title IV-D~~  
13 ~~agency]~~ children, youth and families department; and

14 (2) each support order established or  
15 modified in the state on or after October 1, 1998, whether or  
16 not the order was obtained by the ~~[Title IV-D agency]~~  
17 children, youth and families department.

18 B. The records maintained by the state case  
19 registry shall use standardized data elements for parents,  
20 such as names, social security numbers and other uniform  
21 identification numbers like dates of birth and case  
22 identification numbers and contain such other information,  
23 such as ~~[on]~~ case status, as the United States secretary of  
24 ~~[the United States department of]~~ health and human services  
25 may require.

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1 C. The [~~Title IV-D agency~~] children, youth and  
2 families department and the administrative office of the  
3 courts shall work cooperatively to ensure that the  
4 requirements of [~~this act~~] Laws 1997, Chapter 237 are  
5 implemented in an effective, efficient and timely manner. The  
6 [~~human services~~] children, youth and families department shall  
7 reimburse the administrative office of the courts for all  
8 costs incurred in furnishing the information. A cooperative  
9 agreement between the [~~Title IV-D agency~~] children, youth and  
10 families department and the administrative office of the  
11 courts shall include costs to be charged by the administrative  
12 office of the courts for all work performed to conform to  
13 these requirements. The [~~human services~~] children, youth and  
14 families department shall promptly provide the administrative  
15 office of the courts the data elements and formats required  
16 under Subsection B of this section as soon as they become  
17 available to the department.

18 D. The state case registry shall extract  
19 information from its automated system to share and compare  
20 information with and to receive information from other  
21 databases and information comparison services in order to  
22 obtain or provide information necessary to enable the [~~Title~~  
23 ~~IV-D agency~~] children, youth and families department or the  
24 United States secretary of health and human services  
25 [~~department secretary~~] or other state or federal agencies to

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1 carry out the Title IV-D program, subject to Section 6103 of  
2 the Internal Revenue Code of 1986. Such information  
3 comparison activities shall include the following:

4 (1) furnishing to the federal case registry  
5 of child support orders established (and update as necessary  
6 with information, including notice of expiration of orders)  
7 the minimum amount of information on child support cases  
8 recorded in the state case registry that is necessary to  
9 operate the federal registry, as specified by the United  
10 States secretary of health and human services [~~department~~  
11 ~~secretary~~] in regulations;

12 (2) exchanging information with the federal  
13 parent locator service for the purposes specified in the State  
14 Directory of New Hires Act;

15 (3) exchanging information with [~~state~~]  
16 agencies of the state and agencies of other states  
17 administering programs of temporary assistance for needy  
18 families and medicaid and other programs designated by the  
19 United States secretary of health and human services  
20 [~~secretary~~] as necessary to perform state agency  
21 responsibilities under this [~~part~~] section and under such  
22 programs; and

23 (4) exchanging information with other  
24 agencies of the state, agencies of other states and interstate  
25 information networks as necessary and appropriate to carry out

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1 or assist other states to carry out purposes of the Title IV-D  
2 program "

3 Section 11. Section 27-1-9 NMSA 1978 (being Laws 1997,  
4 Chapter 237, Section 14) is amended to read:

5 "27-1-9. LOCATOR INFORMATION FROM INTERSTATE NETWORKS. --  
6 The [~~state Title IV-D agency~~] children, youth and families  
7 department is authorized to have access to any system used by  
8 the state to locate an individual for purposes relating to  
9 motor vehicle or law enforcement. "

10 Section 12. Section 27-1-10 NMSA 1978 (being Laws 1997,  
11 Chapter 237, Section 15) is amended to read:

12 "27-1-10. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS  
13 FOR USE IN CHILD SUPPORT ENFORCEMENT. --

14 A. The state [~~must~~] shall have and use procedures  
15 requiring that the social security number of:

16 (1) any applicant for a professional license,  
17 commercial driver's license, occupational license or marriage  
18 license be recorded on the application;

19 (2) any person who is subject to a divorce  
20 decree, support order or paternity determination or  
21 acknowledgment be placed in the records relating to the  
22 matter; and

23 (3) any person who has died be placed in the  
24 records relating to the death and be recorded on the death  
25 certificate.

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1           B. The collection and use of social security  
2 numbers shall be made available to the [~~state Title IV-D~~  
3 ~~agency~~] children, youth and families department for use in  
4 child support enforcement. "

5           Section 13. Section 27-1-11 NMSA 1978 (being Laws 1997,  
6 Chapter 237, Section 16) is amended to read:

7           "27-1-11. EXPEDITED PROCEDURE. --The [~~state Title IV-D~~  
8 ~~agency~~] children, youth and families department shall have the  
9 authority to take the following actions relating to  
10 establishment of paternity or to establishment, modification  
11 or enforcement of support orders, without the necessity of  
12 obtaining an order from any other judicial or administrative  
13 tribunal, and to recognize and enforce the authority of state  
14 Title IV-D agencies of other states to take the following  
15 actions:

16           A. to order genetic testing for the purpose of  
17 paternity establishments;

18           B. to subpoena any financial or other information  
19 needed to establish, modify or enforce a support order and to  
20 impose penalties for failure to respond to such a subpoena. A  
21 subpoena issued by the [~~state Title IV-D agency~~] children,  
22 youth and families department under this section shall be  
23 served upon the person to be subpoenaed or [~~at the option of~~  
24 ~~the secretary of human services or the secretary's authorized~~  
25 ~~representative~~] by certified mail addressed to the person at

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1 his last known address. The service of the subpoena shall be  
2 at least ten days prior to the required production of the  
3 information. If the subpoena is served by certified mail,  
4 proof of service is the affidavit of mailing. After service  
5 of a subpoena upon a person, if the person neglects or refuses  
6 to comply with the subpoena, the [~~state Title IV-D agency~~]  
7 children, youth and families department may apply to the  
8 district court of the county where the subpoena was served or  
9 the county where the subpoena was responded to for an order  
10 compelling compliance. Failure of the person to comply with  
11 the district court's order shall be punishable as contempt;

12 C. to require all entities in the state, including  
13 for-profit, nonprofit and governmental employers, to provide  
14 promptly, in response to a request by the [~~state Title IV-D~~  
15 ~~agency~~] children, youth and families department of that or any  
16 other state administering a program under this part,  
17 information on the employment compensation and benefits of any  
18 person employed by such entity as an employee or contractor  
19 and to sanction failure to respond to any such request;

20 D. to obtain access, subject to safeguards on  
21 privacy and information security and subject to the  
22 nonliability of entities that afford such access, to  
23 information contained in the following records, including  
24 automated access in the case of records maintained in  
25 automated databases:

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- 1 (1) records of other states and local  
2 government agencies, including:  
3 (a) vital statistics, including records  
4 of marriage, birth and divorce;  
5 (b) state and local tax and revenue  
6 records, including information on residence address, employer,  
7 income and assets;  
8 (c) records concerning real and titled  
9 personal property;  
10 (d) records of occupational and  
11 professional licenses and records concerning the ownership and  
12 control of corporations, partnerships and other business  
13 entities;  
14 (e) employment security records;  
15 (f) records of agencies administering  
16 public assistance programs;  
17 (g) records of the motor vehicle  
18 division of the taxation and revenue department; and  
19 (h) corrections records; and  
20 (2) certain records held by private entities  
21 with respect to persons who owe or are owed support, or  
22 against or with respect to whom a support obligation is  
23 sought, consisting of:  
24 (a) the names and addresses of such  
25 persons and the names and addresses of the employers of such

1 persons, as appearing in customer records of public utilities  
2 and cable television companies, pursuant to an administrative  
3 subpoena; and

4 (b) information, including information  
5 on assets and liabilities, on such individuals held by  
6 financial institutions;

7 E. in cases in which support is subject to an  
8 assignment in order to comply with a requirement imposed  
9 pursuant to temporary assistance for needy families or  
10 medicaid, or to a requirement to pay through the state  
11 disbursement unit established pursuant to Section 454B of the  
12 Social Security Act, upon providing notice to obligor and  
13 obligee to direct the obligor or other payor to change the  
14 payee to the appropriate government entity;

15 F. to order income withholding;

16 G. in cases in which there is a support arrearage,  
17 to secure assets to satisfy the arrearage by:

18 (1) intercepting or seizing periodic or lump-  
19 sum payments from:

20 (a) a state or local agency, including  
21 unemployment compensation, workers' compensation and other  
22 benefits; and

23 (b) judgments, settlements and  
24 lotteries;

25 (2) attaching and seizing assets of the

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1 obligor held in financial institutions;

2 (3) attaching public and private retirement  
3 funds; and

4 (4) imposing liens and, in appropriate cases,  
5 to force sale of property and distribution of proceeds;

6 H. for the purpose of securing overdue support, to  
7 increase the amounts for arrearages, subject to such  
8 conditions or limitations as the [~~state Title IV-D agency~~]  
9 children, youth and families department may provide;

10 I. [~~the~~] to include in the required expedited  
11 procedures, [~~required shall include~~] the following rules and  
12 authority, applicable with respect to all proceedings to  
13 establish paternity or to establish, modify or enforce support  
14 orders:

15 (1) each party to any paternity or child  
16 support proceeding is required, subject to privacy safeguards,  
17 to file with the tribunal and the state case registry upon  
18 entry of an order, and to update, as appropriate, information  
19 on location and identity of the party, including social  
20 security number, residential and mailing addresses, telephone  
21 number and driver's license number, and name, address and  
22 telephone number of employer; and

23 (2) in any subsequent child support  
24 enforcement action between the parties, upon sufficient  
25 showing that diligent effort has been made to ascertain the

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1 location of such a party, the tribunal may deem state due  
2 process requirements for notice and service of process to be  
3 met with respect to the party upon delivery of written notice  
4 to the most recent residential or employer address filed with  
5 the tribunal;

6 J. to establish procedures under which:

7 (1) the state agency and administrative or  
8 judicial tribunal with authority to hear child support and  
9 paternity cases exerts statewide jurisdiction over the  
10 parties; and

11 (2) in a state in which orders are issued by  
12 courts or administrative tribunals, a case may be transferred  
13 between local jurisdictions in the state without need for any  
14 additional filing by the petitioner, or service of process  
15 upon the respondent, to retain jurisdiction over the parties;  
16 and

17 K. the authority of the [~~Title IV-D~~ agency]  
18 children, youth and families department with regard to  
19 Subsections A through J of this section shall be subject to  
20 due process safeguards, including, as appropriate,  
21 requirements for notice, opportunity to contest the action and  
22 opportunity for an appeal on the record to an independent  
23 administrative or judicial tribunal. Such due process  
24 safeguards shall be developed and implemented by the [~~Title~~  
25 ~~IV-D~~ agency] children, youth and families department in

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1 accordance with the administrative office of the courts and  
2 other affected agencies and individuals consistent with  
3 current policies and procedures for implementation of the  
4 [~~human services~~] department's [~~regulations~~] rules. "

5 Section 14. Section 27-1-12 NMSA 1978 (being Laws 1997,  
6 Chapter 237, Section 22) is amended to read:

7 "27-1-12. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE  
8 CHILD SUPPORT. --The [~~state Title IV-D agency~~] children, youth  
9 and families department must have and use procedures under  
10 which the state has the authority, in any case in which an  
11 individual owes past-due support with respect to a child  
12 receiving assistance under a state program funded under  
13 temporary assistance for needy families, to issue an order or  
14 to request that a court or an administrative process  
15 established pursuant to state law issue an order that requires  
16 the individual to:

17 A. pay [~~such~~] the support in accordance with a  
18 plan approved by the court or, at the option of the state, a  
19 plan approved by the [~~state Title IV-D agency~~] children, youth  
20 and families department; or

21 B. if the individual is subject to such a plan and  
22 is not incapacitated, participate in such work activities as  
23 the court or, at the option of the state, the [~~state Title~~  
24 ~~IV-D agency~~] children, youth and families department deems  
25 appropriate. "

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1           Section 15. Section 27-1-13 NMSA 1978 (being Laws 1997,  
2 Chapter 237, Section 33) is amended to read:

3           "27-1-13. FINANCIAL INSTITUTION DATA MATCHES. --

4           A. "Financial institution" means:

5                   (1) a depository institution, as defined in  
6 Section 3(c) of the Federal Deposit Insurance Act  
7 (12 U. S. C. 1813(c));

8                   (2) an institution-affiliated party, as  
9 defined in Section 3(u) of [~~such~~] that act (12 U. S. C.  
10 1813(u));

11                   (3) any federal credit union or state credit  
12 union, as defined in Section 101 of the Federal Credit Union  
13 Act (12 U. S. C. 1752), including an institution-affiliated  
14 party of such a credit union, as defined in Section 206(r) of  
15 [~~such~~] that act (12 U. S. C. 1786(r)); and

16                   (4) any benefit association, insurance  
17 company, safe deposit company, money-market mutual fund or  
18 similar entity authorized to do business in the state.

19           B. "Account" means a demand deposit account,  
20 checking or negotiable withdrawal order account, savings  
21 account, time deposit account or money-market mutual fund  
22 account.

23           C. "Past-due support" means the amount of support  
24 determined under a court order or an order of an  
25 administrative process established under state law for support

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1 and maintenance of a child or of a child and the parent with  
2 whom the child is living [~~which~~] that has not been paid.

3 D. The [~~human services~~] children, youth and  
4 families department, acting as the state's child support  
5 enforcement agency pursuant to Title IV-D of the Social  
6 Security Act, shall enter into agreements with financial  
7 institutions doing business in the state to develop and  
8 operate, in coordination with such financial institutions, a  
9 data match system to be operational by October 1, 2000, using  
10 automated data exchanges to the maximum extent feasible, in  
11 which each such financial institution is required to provide  
12 the information.

13 E. The [~~human services~~] children, youth and  
14 families department shall establish standard procedures and  
15 formats for the financial institutions. Such procedures shall  
16 include administrative due process for child support obligors  
17 before funds or assets may be seized by the department.

18 F. Each financial institution in New Mexico shall  
19 provide to the [~~human services~~] children, youth and families  
20 department for each calendar quarter the name, record address,  
21 social security number or other taxpayer identification number  
22 and other identifying information for each noncustodial parent  
23 who maintains an account at such institution and who owes  
24 past-due support, as identified by the [~~human services~~]  
25 department, by name and social security number or other

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1 taxpayer identification number.

2 G. Upon receipt of a notice of lien or levy from  
3 the [~~human services~~] children, youth and families department,  
4 financial institutions shall encumber and surrender assets  
5 held by the institution on behalf of any noncustodial parent  
6 who is subject to a child support lien.

7 H. The [~~human services~~] children, youth and  
8 families department may establish and pay a reasonable fee to  
9 a financial institution for conducting the data match provided  
10 for in this [~~aet~~] section, not to exceed the actual costs  
11 incurred by such financial institutions.

12 I. A financial institution shall not be liable  
13 under any state law to any person for disclosing of  
14 information to the [~~human services~~] children, youth and  
15 families department under this section or for freezing or  
16 surrendering any assets held by [~~such~~] the financial  
17 institution in response to a notice of lien or seizure issued  
18 by the [~~human services~~] department or for any other action  
19 taken in good faith to comply with the requirements of this  
20 section.

21 J. A state child support enforcement agency that  
22 obtains a financial record of a person from a financial  
23 institution may disclose [~~such~~] the financial record only for  
24 the purpose of, and to the extent necessary in, establishing,  
25 modifying or enforcing a child support obligation of [~~such~~]



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1 the person. "

2 Section 16. Section 27-1-14 NMSA 1978 (being Laws 1997,  
3 Chapter 237, Section 34) is amended to read:

4 "27-1-14. ENFORCEMENT OF ORDERS FOR HEALTH CARE. -- All  
5 Title IV-D child support orders enforced shall include a  
6 provision for the health care coverage of the child [~~and~~]. In  
7 the case in which a noncustodial parent provides [~~such~~] health  
8 care coverage and changes employment and the new employer  
9 provides health care coverage, the [~~state Title IV-D agency~~]  
10 children, youth and families department shall transfer notice  
11 of the provision to the employer, which notice shall operate  
12 to enroll the child in the noncustodial parent's health plan  
13 unless the noncustodial parent successfully contests the  
14 notice. "

15 Section 17. Section 27-2-2 NMSA 1978 (being Laws 1973,  
16 Chapter 376, Section 2, as amended) is amended to read:

17 "27-2-2. DEFINITIONS. -- As used in the Public Assistance  
18 Act:

19 [A. ~~"department" means the human services~~  
20 ~~department;~~

21 B. ~~"board" means the human services department;~~

22 C. ~~"director" means the secretary of human~~  
23 ~~services;~~

24 D.] A. "local office" means the county or district  
25 office of the [~~human services~~] labor department;

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1                   ~~[E. "public welfare" or]~~ B. "public assistance"  
2 means ~~[any]~~ aid or relief granted to or on behalf of an  
3 eligible person under the Public Assistance Act and  
4 regulations issued pursuant to that act;

5                   ~~[F.]~~ C. "applicant" means a person who has applied  
6 for public assistance or [services] medical assistance under  
7 the Public Assistance Act;

8                   ~~[G.]~~ D. "recipient" means a person who is  
9 receiving public assistance or [services under the Public  
10 Assistance Act] medical assistance;

11                   ~~[H.]~~ E. "federal act" means the federal Social  
12 Security Act, as may be amended from time to time, and  
13 regulations issued pursuant to that act; and

14                   ~~[I. "secretary" means the secretary of human~~  
15 ~~services]~~

16                   F. "medical assistance" means services or supplies  
17 provided pursuant to Title 19 or Title 21 of the federal act."

18                   Section 18. Section 27-2-3 NMSA 1978 (being Laws 1973,  
19 Chapter 376, Section 3, as amended) is amended to read:

20                   "27-2-3. STANDARD OF NEED--INCOME DETERMINATION. --

21                   A. Consistent with the federal act and subject to  
22 the availability of federal and state funds, the ~~[board]~~  
23 income support division of the labor department shall adopt a  
24 standard of need, which shall establish a reasonable level of  
25 subsistence.

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1                   B. Consistent with the federal act, the [~~board~~]  
2 income support division of the labor department shall define  
3 by regulation exempt and nonexempt income and resources.  
4 Medical expenses shall not be deducted from either income or  
5 resources in determining eligibility. "

6                   Section 19. Section 27-2-6.1 NMSA 1978 (being Laws 1978,  
7 Chapter 30, Section 1) is amended to read:

8                   "27-2-6.1. SUPPLEMENTAL POSTNATAL ASSISTANCE. -- The  
9 [~~health and social services~~] labor department shall establish  
10 a program of supplemental postnatal assistance for those  
11 mentally retarded persons who during pregnancy received [~~aid~~  
12 ~~to families with dependent children~~] temporary assistance for  
13 needy families but whose [~~aid~~] assistance was revoked upon  
14 relinquishment of the newly born child for adoption. The  
15 supplemental postnatal assistance provided for in this section  
16 shall be at the same rate as [~~aid to families with dependent~~  
17 ~~children~~] temporary assistance for needy families, but [~~such~~]  
18 supplemental postnatal assistance shall not exceed a period of  
19 sixty days. The [~~health and social services~~] labor department  
20 shall promulgate rules [~~and regulations in order~~] to carry out  
21 the provisions of this section. "

22                   Section 20. Section 27-2-7 NMSA 1978 (being Laws 1973,  
23 Chapter 376, Section 10, as amended by Laws 1998, Chapter 8,  
24 Section 27 and also by Laws 1998, Chapter 9, Section 27) is  
25 amended to read:

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1 "27-2-7. GENERAL ASSISTANCE PROGRAM - QUALIFICATIONS AND  
2 PAYMENTS. --

3 A. Subject to the availability of state funds,  
4 public assistance shall be provided under a general assistance  
5 program to or on behalf of eligible persons who:

6 (1) are under eighteen years of age and meet  
7 all eligibility conditions for the New Mexico Works Act except  
8 the relationship to the person with whom they are living;

9 (2) are over the age of eighteen and are  
10 disabled, according to rules of the labor department, and are  
11 not receiving cash assistance or services pursuant to the New  
12 Mexico Works Act;

13 (3) meet the qualifications under other rules  
14 for the general assistance program as the labor department  
15 shall establish; or

16 (4) are lawful resident immigrants who would  
17 otherwise be eligible for cash assistance or services pursuant  
18 to the New Mexico Works Act except that they began residing in  
19 the United States after August 22, 1996.

20 B. General assistance program payments may be made  
21 directly to the recipient or to the vendor of goods or  
22 services provided to the recipient. The labor department may  
23 by rule limit the grants that are made to general assistance  
24 recipients.

25 C. Whenever the labor department makes an

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1 adjustment in the standard of need for the New Mexico Works  
2 Act, subject to the availability of state funds, it shall make  
3 a commensurate adjustment in the standard of need for the  
4 general assistance program."

5 Section 21. Section 27-2-9 NMSA 1978 (being Laws 1973,  
6 Chapter 376, Section 13) is amended to read:

7 "27-2-9. PAYMENT FOR HOSPITAL CARE. --

8 A. Consistent with the federal act, the  
9 ~~[department]~~ medical assistance division of the department of  
10 health shall provide necessary hospital care for recipients of  
11 public assistance other than those eligible under the general  
12 assistance program authorized by Section ~~[10 of the Public~~  
13 ~~Assistance Act]~~ 27-2-7 NMSA 1978. The rate of payment for in-  
14 patient hospital services shall be based either on the  
15 reasonable cost or the customary cost of such services,  
16 whichever is less. In determining reasonable cost under this  
17 section, the ~~[board]~~ division shall adopt ~~[regulations]~~ rules  
18 establishing a formula consistent with the federal act. The  
19 ~~[department]~~ division shall apply that formula to determine  
20 the amount to which each hospital is entitled as reimbursement  
21 for providing in-patient hospital services.

22 B. To receive reimbursement for providing  
23 in-patient hospital services, a hospital shall file annually  
24 with the ~~[department]~~ medical assistance division such  
25 information as the ~~[department]~~ division may reasonably

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1 require to determine reasonable costs or the hospital's  
2 customary cost of in-patient hospital services.

3 C. Any hospital entitled to reimbursement for in-  
4 patient hospital services shall be entitled to a hearing,  
5 pursuant to ~~[regulations]~~ rules of the ~~[board]~~ medical  
6 assistance division consistent with applicable state law, if  
7 the hospital disagrees with the ~~[department's]~~ division's  
8 determination of the reimbursement the hospital is to  
9 receive. "

10 Section 22. Section 27-2-9.1 NMSA 1978 (being Laws 1979,  
11 Chapter 401, Section 1, as amended) is amended to read:

12 "27-2-9.1. ADMINISTRATION OF SHELTER CARE SUPPLEMENT. --

13 A. A shelter care supplement shall be provided to  
14 those individuals who are recipients of supplemental security  
15 income under Title 16 of the federal Social Security Act and  
16 who reside in shelter care homes licensed pursuant to  
17 regulations of the ~~[health and environment]~~ department of of  
18 health.

19 B. The ~~[human services]~~ labor department is  
20 authorized to determine eligibility, compute payment, make  
21 payments and otherwise administer the shelter care supplement  
22 program.

23 C. The amount of the shelter care supplement  
24 payment shall be established by the secretary of ~~[human~~  
25 ~~services]~~ labor subject to the availability of general funds. "

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1           Section 23.   Section 27-2-10 NMSA 1978 (being Laws 1973,  
2 Chapter 376, Section 14) is amended to read:

3           "27-2-10.   **FOOD STAMP PROGRAM** --The income support  
4 division of the labor department is authorized to establish a  
5 food stamp program to carry out the federal Food Stamp Act of of  
6 1977, as may be amended from time to time, and regulations  
7 issued pursuant [~~thereto~~] to that act, subject to the  
8 continuation of the federal food stamp program and the  
9 availability of federal funds. "

10          Section 24.   Section 27-2-11 NMSA 1978 (being Laws 1973,  
11 Chapter 376, Section 15) is amended to read:

12          "27-2-11.   **SCOPE OF ASSISTANCE PROGRAMS**. --Any public  
13 assistance program conducted [~~by the~~] under the federal act is  
14 effective in all political subdivisions if the federal act so  
15 requires. "

16          Section 25.   Section 27-2-12 NMSA 1978 (being Laws 1973,  
17 Chapter 376, Section 16, as amended) is amended to read:

18          "27-2-12.   **MEDICAL ASSISTANCE PROGRAMS**. --Consistent with  
19 the federal act and subject to the appropriation and  
20 availability of federal and state funds, the medical  
21 assistance division of the [~~human services~~] department of  
22 health may by [~~regulation~~] rule provide medical assistance,  
23 including the services of licensed doctors of oriental  
24 medicine and licensed chiropractors, to persons eligible for  
25 [~~public~~] medical assistance programs under the federal act. "

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1           Section 26.   Section 27-2-12.3 NMSA 1978 (being Laws  
2   1987, Chapter 269, Section 1, as amended) is amended to read:  
3           "27-2-12.3.   MEDICAID REIMBURSEMENT--EQUAL PAY FOR EQUAL  
4   PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS' AND  
5   PSYCHOLOGISTS' SERVICES. --The [~~human services department~~]  
6   medical assistance division of the department of health shall  
7   establish a rate for the reimbursement of physicians,  
8   dentists, optometrists, podiatrists and psychologists for  
9   services rendered to medicaid patients that provides equal  
10   reimbursement for the same or similar services rendered  
11   without respect to the date on which such physician, dentist,  
12   optometrist, podiatrist or psychologist entered into practice  
13   in New Mexico, the date on which the physician, dentist,  
14   optometrist, podiatrist or psychologist entered into an  
15   agreement or contract to provide such services or the location  
16   in which such services are to be provided in the state;  
17   provided, however, that the requirements of this section shall  
18   not apply when the [~~human services department~~] division  
19   contracts with entities pursuant to Section 27-2-12.6 NMSA  
20   1978 to negotiate a rate for the reimbursement for services  
21   rendered to medicaid patients in the medicaid managed care  
22   system. "

23           Section 27.   Section 27-2-12.4 NMSA 1978 (being Laws  
24   1987, Chapter 214, Section 1) is amended to read:

25           "27-2-12.4.   LONG-TERM CARE FACILITIES--NONCOMPLIANCE

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1 WITH STANDARDS AND CONDITIONS-- SANCTIONS. --

2 A. In addition to any other actions required or  
3 permitted by federal law or regulation, the [~~human services~~  
4 ~~department~~] medical assistance division of the department of  
5 health shall impose a hold on state medicaid payments to a  
6 long-term care facility thirty days after the [~~health and~~  
7 ~~environment~~] department of health notifies the [~~human services~~  
8 ~~department~~] division in writing pursuant to an on-site visit  
9 that the long-term care facility is not in substantial  
10 compliance with the standards or conditions of participation  
11 promulgated by the federal department of health and human  
12 services pursuant to which the facility is a party to a  
13 medicaid provider agreement, unless the substantial  
14 noncompliance has been corrected within that thirty-day period  
15 or the facility's medicaid provider agreement is terminated or  
16 not renewed based in whole or in part on the noncompliance.  
17 The written notice shall cite the specific deficiencies that  
18 constitute noncompliance.

19 B. The [~~human services department~~] medical  
20 assistance division shall remove the payment hold imposed  
21 under Subsection A of this section when the [~~health and~~  
22 ~~environment~~] department of health, pursuant to an on-site  
23 visit, certifies in writing to the [~~human services department~~]  
24 division that the long-term care facility is in substantial  
25 compliance with the standards or conditions of participation

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1 pursuant to which the facility is a party to a medicaid  
2 provider agreement.

3 C. The [~~human services department~~] medical  
4 assistance division shall not reimburse any long-term care  
5 facility during the payment hold period imposed pursuant to  
6 Subsection A of this section for any medicaid [~~recipient-~~  
7 ~~patients~~] recipients who are new admissions and who are  
8 admitted on or after the day the hold is imposed and prior to  
9 the day the hold is removed.

10 D. If a long-term care facility is certified in  
11 writing to be in noncompliance pursuant to Subsection A of  
12 this section for the second time in any twelve-month period,  
13 the [~~human services department~~] medical assistance division  
14 shall cancel or refuse to execute the long-term care  
15 facility's medicaid provider agreement for a two-month period,  
16 unless it can be demonstrated that harm to the [~~patients~~]  
17 medicaid recipients would result from this action or that good  
18 cause exists to allow the facility to continue to participate  
19 in the medicaid program. The provisions of this subsection  
20 are subject to appeal procedures set forth in federal  
21 regulations for nonrenewal or termination of a medicaid  
22 provider agreement.

23 E. A long-term care facility shall not charge  
24 medicaid [~~recipient-patients~~] recipients, their families or  
25 their responsible parties to recoup any payments not received

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1 because of a hold on medicaid payments imposed pursuant to  
2 this section.

3 F. This section shall not be construed to affect  
4 any other provisions for medicaid provider agreement  
5 termination, nonrenewal, due process and appeal pursuant to  
6 federal law or regulation.

7 G. As used in this section:

8 (1) "day" means a twenty-four hour period  
9 beginning at midnight and ending one second before midnight;

10 (2) "long-term care facility" means any  
11 intermediate care facility or skilled nursing facility [~~which~~]  
12 that is licensed by the [health and environment] department of  
13 health and [which] that is medicaid certified;

14 (3) "new admissions" means medicaid  
15 recipients who have never been in the long-term care facility  
16 or, if previously admitted, had been discharged or had  
17 voluntarily left the facility. [~~The term~~] "New admissions"  
18 does not include:

19 (a) [~~individuals~~] persons who were in  
20 the long-term care facility before the effective date of the  
21 hold on medicaid payments and became eligible for medicaid  
22 after that date; and

23 (b) [~~individuals~~] persons who, after a  
24 temporary absence from the facility, are readmitted to beds  
25 reserved for them in accordance with federal regulations; and

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1 (4) "substantial compliance" means the  
2 condition of having no cited deficiencies or having only those  
3 cited deficiencies [~~which~~] that:

4 (a) are not inconsistent with any  
5 federal statutory requirement;

6 (b) do not interfere with adequate  
7 patient care;

8 (c) do not represent a hazard to the  
9 patients' health or safety;

10 (d) are capable of correction within a  
11 reasonable period of time; and

12 (e) are ones [~~which~~] that the long-term  
13 care facility is making reasonable plans to correct. "

14 Section 28. Section 27-2-12.5 NMSA 1978 (being Laws  
15 1989, Chapter 83, Section 1, as amended) is amended to read:

16 "27-2-12.5. MEDICAID-CERTIFIED NURSING FACILITIES--  
17 RETROACTIVE ELIGIBILITY--REFUNDS--PENALTY.--

18 A. Medicaid payment for a medicaid-eligible  
19 patient shall be accepted by a medicaid-certified nursing  
20 facility from the first month of medicaid eligibility,  
21 regardless of whether the eligibility is retroactive. The  
22 nursing facility shall refund to the [~~patient~~] medicaid  
23 recipient or responsible party all out-of-pocket money except  
24 for required medical-care credits paid to the nursing facility  
25 for that [~~patient's~~] medicaid recipient's care on and after

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1 the date of ~~medicaid~~ eligibility for services covered by the  
2 ~~medicaid~~ program. Within thirty days after notification by  
3 the [~~human services department~~] medical assistance division of  
4 the department of health of the patient's ~~medicaid~~  
5 eligibility, the nursing facility shall make any necessary  
6 refund to the [~~patient~~] medicaid recipient or responsible  
7 party required under this section.

8 B. In any cause of action brought against a  
9 nursing facility because of its failure to make a refund to  
10 the [~~patient~~] medicaid recipient or responsible party as  
11 required under Subsection A of this section, the [~~patient~~]  
12 medicaid recipient or responsible party may be awarded triple  
13 the amount of the money not refunded or three hundred dollars  
14 (\$300), whichever is greater, and reasonable [~~attorneys'~~]  
15 attorney fees and court costs. "

16 Section 29. Section 27-2-12.6 NMSA 1978 (being Laws  
17 1994, Chapter 62, Section 22) is amended to read:

18 "27-2-12.6. **MEDICAID PAYMENTS--MANAGED CARE.** --

19 A. The department of health shall provide for a  
20 statewide, managed care system to provide cost-efficient,  
21 preventive, primary and acute care for ~~medicaid~~ recipients [~~by~~  
22 ~~July 1, 1995~~].

23 B. The managed care system shall ensure:

24 (1) access to medically necessary services,  
25 particularly for ~~medicaid~~ recipients with chronic health

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1 problems;

2 (2) to the extent practicable, maintenance of  
3 the rural primary care delivery infrastructure;

4 (3) that the [~~department's~~] department of  
5 health's approach is consistent with national and state health  
6 care reform principles; and

7 (4) to the maximum extent possible, that  
8 [~~medicaid-eligible individuals~~] medicaid recipients are not  
9 identified as such except as necessary for billing purposes.

10 C. The department of health may exclude nursing  
11 homes, intermediate care facilities for the mentally retarded,  
12 medicaid in-home and community-based waiver services and  
13 residential and community-based mental health services for  
14 children with serious emotional disorders from the provisions  
15 of this section. "

16 Section 30. Section 27-2-12.7 NMSA 1978 (being Laws  
17 1980, Chapter 86, Section 1) is amended to read:

18 "27-2-12.7. MEDICAID-- [~~HUMAN SERVICES~~] DEPARTMENT OF  
19 HEALTH EMPLOYEES--STANDARDS OF CONDUCT--ENFORCEMENT. --

20 A. As used in this section:

21 (1) "business" means a corporation,  
22 partnership, sole proprietorship, firm, organization or  
23 [~~individual~~] person carrying on a business;

24 (2) "department" means the [~~human services~~]  
25 department of health;

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1 (3) "employee" means ~~[any]~~ a person who has  
2 been appointed to or hired for ~~[any department]~~ an office of  
3 the department, the labor department or the children, youth  
4 and families department, connected with the administration of  
5 medicaid funds and who receives compensation in the form of  
6 salary;

7 (4) "employee with responsibility" means an  
8 employee who is directly involved in or has a significant part  
9 in the medicaid decision-making, regulatory, procurement or  
10 contracting process; and

11 (5) "financial interest" means an interest  
12 held by ~~[an individual]~~ a person, his spouse or minor child  
13 ~~[which]~~ that is:

14 (a) an ownership interest in business;  
15 or

16 (b) ~~[any]~~ an employment or prospective  
17 employment for which negotiations have already begun.

18 B. No employee with responsibility shall, for  
19 twenty-four months following the date on which he ceases to be  
20 an employee, act as agent or attorney for ~~[any other]~~ another  
21 person or business in connection with a judicial or  
22 administrative proceeding, application, ruling, contract,  
23 claim or other matter relating to the medicaid program with  
24 respect to which the employee made an investigation, rendered  
25 ~~[any]~~ a ruling or was otherwise substantially and directly

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1 involved during the last year he was an employee and which was  
2 actually pending under his responsibility within that period.

3 C. No ~~[department]~~ secretary ~~[income support]~~ or  
4 ~~division director [or medical assistance bureau chief or their~~  
5 ~~deputies]~~ under the department of health, labor department or  
6 children, youth and families department shall, for twelve  
7 months following the date on which he ceases to be an  
8 employee, participate ~~[in any manner]~~ with respect to a  
9 judicial or administrative proceeding, application, ruling,  
10 contract, claim or other matter relating to the medicaid  
11 program and pending before the respective ~~[department]~~  
12 departments.

13 D. No employee with responsibility shall  
14 participate ~~[in any manner]~~ with respect to a judicial or  
15 administrative proceeding, application, ruling, contract,  
16 claim or other matter relating to the medicaid program and  
17 involving his spouse, minor child or ~~[any]~~ a business in which  
18 he has a financial interest unless prior to ~~[such]~~ the  
19 participation:

20 (1) full disclosure of his relationship or  
21 financial interest is made in writing to the secretary of ~~[the~~  
22 ~~department]~~ health; and

23 (2) a written determination is made by the  
24 secretary of health that the disclosed relationship or  
25 financial interest is too remote or inconsequential to affect



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1 the integrity of the services of the employee.

2 E. Violation of any of the provisions of this  
3 section by an employee is grounds for dismissal, demotion or  
4 suspension. A former employee who violates [~~any of the~~  
5 ~~provisions~~] a provision of this section [~~shall be~~] is subject  
6 to assessment by the department of a civil money penalty of  
7 two hundred fifty dollars (\$250) for each violation. The  
8 department shall promulgate [~~regulations~~] rules to provide for  
9 an administrative appeal of any assessment imposed. "

10 Section 31. Section 27-2-14 NMSA 1978 (being Laws 1973,  
11 Chapter 376, Section 18) is amended to read:

12 "27-2-14. CONTINUING EFFECT OF REGULATIONS AND  
13 STANDARDS. -- Regulations and standards of [~~the board and~~] a  
14 state agency or department adopted prior to the effective date  
15 of the Public Assistance Act are continued in full force and  
16 effect, unless modified or revoked. "

17 Section 32. Section 27-2-15 NMSA 1978 (being Laws 1937,  
18 Chapter 18, Section 9) is amended to read:

19 "27-2-15. COOPERATION WITH THE UNITED STATES. --

20 [~~A. The state department is hereby designated as~~  
21 ~~the state agency to cooperate with the federal government in~~  
22 ~~the administration of the provisions of Title 1, Title 4, part~~  
23 ~~2 and 3 of Title 5 and Title 10 of the federal Social Security~~  
24 ~~Act. The State Board is hereby authorized and directed to~~  
25 ~~cooperate with the proper departments of the federal~~

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1 ~~government and with all other departments of the state and~~  
2 ~~local governments in the enforcement and administration of~~  
3 ~~such provisions of the federal Social Security Act and any~~  
4 ~~amendments thereto and the rules and regulations issued~~  
5 ~~thereunder and in compliance therewith in the manner~~  
6 ~~prescribed in this Act or as otherwise provided by law. The~~  
7 ~~department shall also make reports in such form and containing~~  
8 ~~such information as any agency or instrumentality of the~~  
9 ~~United States with which it is cooperating may from time to~~  
10 ~~time require and shall comply with such provisions as any such~~  
11 ~~agency or instrumentality may from time to time find necessary~~  
12 ~~to assure the correctness and verification of such reports.]~~

13 The department of health, the labor department and the  
14 children, youth and families department are authorized to  
15 cooperate with the federal government in the administration of  
16 federal programs for public assistance and medical assistance.  
17 The departments shall cooperate with the proper federal  
18 government departments and with state and local governments in  
19 the enforcement and administration of the federal programs and  
20 with applicable federal laws, rules, regulations and  
21 amendments. "

22 Section 33. Section 27-2-16 NMSA 1978 (being Laws 1974,  
23 Chapter 31, Section 1, as amended) is amended to read:

24 "27-2-16. COMPLIANCE WITH FEDERAL LAW. --

25 A. Subject to the availability of state funds, the

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1 ~~[human services department]~~ medical assistance division of the  
2 department of health may provide assistance to aged, blind or  
3 disabled ~~[individuals]~~ persons in the amounts consistent with  
4 federal law to enable the state to be eligible for medicaid  
5 funding. ~~[Individuals]~~ A person shall be determined to be  
6 aged, blind or disabled according to ~~[regulations]~~ rules of  
7 the ~~[human services department]~~ division.

8 B. If drug product selection is permitted by  
9 Section 26-3-3 NMSA 1978, reimbursement by the medicaid  
10 program shall be limited to the wholesale cost of the ~~[lesser]~~  
11 less expensive therapeutic equivalent drug generally available  
12 in New Mexico plus a reasonable dispensing fee of at least  
13 three dollars sixty-five cents (\$3.65). "

14 Section 34. Section 27-2-17 NMSA 1978 (being Laws 1937,  
15 Chapter 18, Section 10) is amended to read:

16 "27-2-17. CUSTODIAN OF FUNDS. --The ~~[State]~~ department of  
17 health is ~~[hereby]~~ designated as the custodian ~~[subject to the~~  
18 ~~provisions of Section 21 of this Act]~~ of ~~[any and]~~ all ~~[monies~~  
19 ~~which may be]~~ money received by the state ~~[of New Mexico,~~  
20 ~~which]~~ that the ~~[State Board of Public Welfare]~~ department is  
21 authorized to administer, from any appropriations made by the  
22 congress of the United States for the purpose of cooperating  
23 with the several states in the enforcement and administration  
24 of the provisions of the federal ~~[Social Security]~~ act  
25 ~~[referred to in Section 9]~~ and all ~~[monies]~~ money received

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1 from any other source for the purposes set forth in [~~this Act~~]  
2 Chapter 27 NMSA 1978. The [~~State~~] department of health is  
3 [~~hereby~~] authorized to receive such [~~monies~~] money, provide  
4 for [~~the~~] its proper custody [~~thereof~~] and [~~to~~] make  
5 disbursements [~~therefrom~~] of it under such rules [~~and~~  
6 ~~regulations~~] as the [~~State Board~~] department may prescribe. "

7 Section 35. Section 27-2-23 NMSA 1978 (being Laws 1969,  
8 Chapter 232, Section 1) is amended to read:

9 "27-2-23. [~~THIRD-PARTY~~] THIRD-PARTY LIABILITY. - -

10 A. The [~~health and social services department~~]  
11 medical assistance division of the department of health shall  
12 make reasonable efforts to ascertain any legal liability of  
13 third parties who are or may be liable to pay all or part of  
14 the medical cost of injury, disease or disability of an  
15 applicant for or recipient of medical assistance pursuant to  
16 the provisions of Chapter 27 NMSA 1978.

17 B. When the [~~department~~] medical assistance  
18 division makes medical assistance payments [~~in~~] on behalf of a  
19 recipient, the [~~department~~] division is subrogated to any  
20 right of the recipient against a third party for recovery of  
21 medical expenses to the extent that the [~~department~~] division  
22 has made payment. "

23 Section 36. Section 27-2-23.1 NMSA 1978 (being Laws  
24 1989, Chapter 184, Section 1) is amended to read:

25 "27-2-23.1. EMPLOYEE RETIREMENT INCOME SECURITY ACT

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1 EMPLOYEE HEALTH BENEFIT PLANS-- CLAUSES TO EXCLUDE MEDICAID  
2 COVERAGE PROHIBITED. -- No employee health benefit plan  
3 established under the Employee Retirement Income Security Act  
4 of 1974, 29 U. S. C. 1144, that provides payments for health  
5 care on behalf of individuals residing in the state shall  
6 contain any provisions excluding or limiting coverage or  
7 payment for any health care for an individual who would  
8 otherwise be covered or entitled to benefits or services under  
9 the terms of the employee health benefit plan because that  
10 individual is provided or is eligible for benefits under the  
11 medicaid program of this state pursuant to Title [XIX] 19 or  
12 Title 21 of the federal [~~Social Security Act, 42 U. S. C. 1396,~~  
13 ~~et seq.~~] act. "

14 Section 37. Section 27-2-25 NMSA 1978 (being Laws 1937,  
15 Chapter 18, Section 11j, as amended) is amended to read:

16 "27-2-25. FUNERAL EXPENSES. --

17 A. On the death of:

18 (1) a recipient of financial assistance under  
19 Section [~~13-17-9~~ or ~~Section 13-17-10 NMSA 1953~~] 27-2-6 or  
20 27-2-7 NMSA 1978 or under the federal supplemental security  
21 income program; or

22 (2) an individual living in a nursing home or  
23 an intermediate care facility, the payment for whose care is  
24 made in whole or in part pursuant to Title 19 of the federal  
25 act; funeral expenses up to two hundred dollars (\$200) shall

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1 be paid by the [~~health and social services department~~] medical  
2 assistance division of the department of health if the  
3 deceased's available resources, as defined by [~~regulation~~]  
4 rules of the [~~board~~] division, are insufficient to pay the  
5 funeral expenses, the persons legally responsible for the  
6 support of the deceased are unable to pay the funeral expenses  
7 and no other person will undertake to pay [~~said~~] those  
8 expenses.

9 B. No payment shall be made by the [~~department~~]  
10 medical assistance division when resources available from all  
11 sources to pay the funeral expenses total six hundred dollars  
12 (\$600) or more. When the resources are less than six hundred  
13 dollars (\$600), the [~~department~~] division shall pay the  
14 difference between six hundred dollars (\$600) and the  
15 resources, or two hundred dollars (\$200), whichever is less."

16 Section 38. Section 27-2-26 NMSA 1978 (being Laws 1975,  
17 Chapter 220, Section 2) is amended to read:

18 "27-2-26. MONEY RECEIVED FROM OTHER SOURCES-- DUTY AND  
19 LIABILITY OF FUNERAL DIRECTOR.--Should any funeral director  
20 accept payment from sources other than the medical assistance  
21 [~~department~~] division of the department of health for burial  
22 of a deceased person for whom a claim for burial expenses has  
23 been made to the [~~department~~] division, he shall immediately  
24 notify the [~~department~~] division of [~~said~~] the payment. The  
25 [~~department will~~] division shall consider [~~said~~] the payment

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1 in determining the amount of any funeral expense payment it  
2 makes. If the [~~department~~] division has already made payment,  
3 the funeral director shall refund to the [~~department~~] division  
4 any excess over the amount [~~which~~] that the [~~department~~]  
5 division would have paid had it known of the payment from  
6 other sources. If any funeral director [~~shall fail~~] fails to  
7 notify the [~~department~~] division of any such payment from  
8 other sources, he shall be liable to the [~~department~~] division  
9 in an amount double the amount paid or to be paid by the  
10 [~~department~~] division. "

11 Section 39. Section 27-2-27 NMSA 1978 (being Laws 1981,  
12 Chapter 90, Section 1, as amended) is amended to read:

13 "27-2-27. SINGLE STATE AGENCY--POWERS AND DUTIES. --

14 A. The children, youth and families department is  
15 designated as the single state agency for the enforcement of  
16 child and spousal support obligations pursuant to Title IV-D  
17 of the federal act with the following duties and powers:

18 [~~A.-~~] (1) establish the paternity of a child  
19 in the case of the child born out of wedlock with respect to  
20 whom an assignment of support rights has been executed in  
21 favor of the department;

22 [~~B.-~~] (2) establish an order of support for  
23 children receiving [~~aid to families with dependent children~~]  
24 temporary assistance for needy families and, at the option of  
25 the department, for the spouse or former spouse with whom such

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1 children are living, but only if a support obligation has been  
2 established with respect to such spouse or former spouse, for  
3 whom no order of support [~~presently~~] currently exists and seek  
4 modification, based upon the noncustodial parent's ability to  
5 pay, of existing orders in which the support order is  
6 inadequate to properly care for the child and the spouse or  
7 former spouse with whom the child is living;

8 [~~C.-~~] (3) enforce as the real party in  
9 interest any existing order for the support of children who  
10 are receiving [~~aid to families with dependent children~~]  
11 temporary assistance for needy families or of the spouse or  
12 former spouse with whom such children are living; and

13 [~~D.-~~] (4) provide services to [~~non-aid~~  
14 ~~families with dependent children~~] those not receiving  
15 temporary assistance for needy families in the establishment  
16 and enforcement of paternity and child support obligations,  
17 including locating the absent parent. For these services, the  
18 department is authorized to establish and collect fees, costs  
19 and charges permitted or required by federal law or by  
20 regulations adopted pursuant to that federal law.

21 [~~E.-~~] B. In all cases handled by the children,  
22 youth and families department pursuant to the provisions of  
23 this section, the child support enforcement division of the  
24 department and any attorney employed by the division represent  
25 the department in establishing, modifying and enforcing



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1 support obligations. "

2 Section 40. Section 27-2-28 NMSA 1978 (being Laws 1981,  
3 Chapter 90, Section 2, as amended) is amended to read:

4 "27-2-28. LIABILITY FOR REPAYMENT OF PUBLIC  
5 ASSISTANCE. --

6 A. A noncustodial parent is liable to the [~~human~~  
7 ~~services~~] children, youth and families department in the  
8 amount of the public assistance lawfully and properly  
9 furnished to the children, and the spouse or former spouse  
10 with whom such children are living, to whom the noncustodial  
11 parent owes a duty of support; except that if a support order  
12 has been entered, liability for the time period covered by the  
13 support order shall not exceed the amount of support provided  
14 for in the order.

15 B. Amounts of support due and owing for periods  
16 prior to the granting of public assistance shall be paid to  
17 and retained by the [~~human services~~] children, youth and  
18 families department to the extent that the amount of  
19 assistance granted exceeds the amount of the monthly support  
20 obligation.

21 C. Amounts of support collected that are in excess  
22 of the amounts specified in Subsections A and B of this  
23 section shall be paid by the [~~human services~~] children, youth  
24 and families department to the custodian of the child.

25 D. No agreement between any custodian of a child

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1 and a parent of that child, either relieving the parent of any  
2 duty of child or spousal support or responsibility or  
3 purporting to settle past, present or future support  
4 obligations, either as a settlement or prepayment, shall act  
5 to reduce or terminate any rights of the [~~human services~~]  
6 children, youth and families department to recover from that  
7 parent for support provided, unless the [~~human services~~]  
8 department has consented to the agreement in writing.

9 E. The noncustodial parent shall be given credit  
10 for any support actually provided, including housing,  
11 clothing, food or funds paid prior to the entry of any order  
12 for support. The noncustodial parent has the burden on the  
13 issue of any payment.

14 F. An application for public assistance by any  
15 person constitutes an assignment by operation of law of any  
16 support rights the person is entitled to from any other  
17 person, whether the support rights are owed to the applicant  
18 or to any family member for whom the applicant is applying for  
19 or receiving assistance. The assignment includes all support  
20 rights that have accrued at the time of application for public  
21 assistance and continues as an assignment of all support  
22 rights the applicant is entitled to for as long as the  
23 applicant receives public assistance.

24 G. By operation of law, an assignment to the  
25 [~~human services~~] children, youth and families department of

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1 any and all rights of an applicant for or recipient of medical  
2 assistance under the medicaid program in New Mexico or  
3 supplemental security income through the social security  
4 administration:

5 (1) is deemed to be made of:

6 (a) any payment for medical care from  
7 any person, firm or corporation, including an insurance  
8 carrier; and

9 (b) any recovery for personal injury,  
10 whether by judgment or contract for compromise or settlement;

11 (2) shall be effective to the extent of the  
12 amount of medical assistance actually paid by the department  
13 of health under the medicaid program; and

14 (3) shall be effective as to the rights of  
15 any other individuals who are eligible for medical assistance  
16 and whose rights can legally be assigned by the applicant or  
17 recipient.

18 An applicant or recipient is required to cooperate fully  
19 with the [~~human services~~] children, youth and families  
20 department in its efforts to secure the assignment and to  
21 execute and deliver any instruments and papers deemed  
22 necessary to complete the assignment by that department. "

23 Section 41. Section 27-2-31 NMSA 1978 (being Laws 1965,  
24 Chapter 66, Section 4) is amended to read:

25 "27-2-31. JUDGMENTS AND PROCEEDS. -- Upon final hearing,

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1 judgment for the income support division of the labor  
2 department shall include all sums expended during the pendency  
3 of the action. When the [~~department of public welfare~~]  
4 division recovers judgments under [~~this act~~] Chapter 27,  
5 Article 2 NMSA 1978, it may enforce, compromise or settle the  
6 judgments in any way considered by the [~~board of public~~  
7 ~~welfare~~] division to be in the public interest. Any proceeds  
8 of judgments or settlements shall be retained by the  
9 [~~department~~] division for its authorized activities and  
10 required reimbursements to the federal government. "

11 Section 42. Section 27-2-32 NMSA 1978 (being Laws 1969,  
12 Chapter 182, Section 3, as amended) is amended to read:

13 "27-2-32. DUTY OF AGENCIES TO COOPERATE. --All state,  
14 county and municipal agencies, departments, bureaus and  
15 divisions shall cooperate in the location of absent parents  
16 who are not fulfilling their obligation to support their  
17 children and shall on request supply the children, youth and  
18 families department with all information on hand relative to  
19 the location, social security number, income and property of  
20 such absent parents, notwithstanding any other provision of  
21 law making the information confidential. The children, youth  
22 and families department shall use such information only for  
23 the purpose of enforcing the support liability of such absent  
24 parents and shall not use the information or disclose it for  
25 any other purpose. "

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1           Section 43. Section 27-2-43 NMSA 1978 (being Laws 1990,  
2 Chapter 93, Section 3) is amended to read:

3           "27-2-43. DEFINITIONS. --As used in the Indigent  
4 Catastrophic Illness Hospital Funding Act:

5           A. "department" means the [~~human services~~]  
6 department of health;

7           B. "fund" means the indigent catastrophic illness  
8 hospital fund;

9           C. "hospital" means any general or special  
10 hospital that is licensed by the [~~health and environment~~]  
11 department and that has annual gross charges for medicare,  
12 medicaid and indigent patients greater than ten percent of the  
13 hospital's total annual gross charges; and

14           D. "medically indigent patient" means an  
15 individual who is a New Mexico resident who incurs hospital  
16 charges, who is not eligible for medicaid or medicare and  
17 whose family or household income does not exceed two hundred  
18 fifty percent of the federal poverty level. "

19           Section 44. Section 27-2A-2 NMSA 1978 (being Laws 1994,  
20 Chapter 87, Section 2) is amended to read:

21           "27-2A-2. PURPOSE OF ACT. --The purpose of the Medicaid  
22 Estate Recovery Act is to authorize and require the department  
23 to seek recovery of medical assistance payments made by the  
24 department for certain individuals, under certain  
25 circumstances, as provided in Title [~~XIX~~] 19 or Title 21 of

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1 the Social Security Act. "

2 Section 45. Section 27-2A-3 NMSA 1978 (being Laws 1994,  
3 Chapter 87, Section 3) is amended to read:

4 "27-2A-3. DEFINITIONS. --As used in the Medicaid Estate  
5 Recovery Act:

6 A. "department" means the [~~human services~~]  
7 department of health;

8 B. "estate" means real and personal property and  
9 other assets of the [~~individual~~] person subject to probate or  
10 administration pursuant to the provisions of the Uniform  
11 Probate Code; and

12 C. "medical assistance" means amounts paid by the  
13 department as medical assistance pursuant to Title [~~XIX~~] 19 or  
14 Title 21 of the Social Security Act. "

15 Section 46. Section 27-2A-6 NMSA 1978 (being Laws 1994,  
16 Chapter 87, Section 6) is amended to read:

17 "27-2A-6. HARDSHIP WAIVER. --The department shall waive  
18 the application of the provisions of the Medicaid Estate  
19 Recovery Act if application of the provisions would work an  
20 undue hardship as determined pursuant to regulations adopted  
21 and promulgated by the secretary of [~~human services~~] health.  
22 The regulations shall include a provision for special  
23 consideration when an asset subject to recovery is the sole  
24 income-producing asset or is a homestead of modest value. "

25 Section 47. Section 27-2B-3 NMSA 1978 (being Laws 1998,

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1 Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as  
2 amended) is amended to read:

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

5 A. "benefit group" means a group of people that  
6 includes at least one dependent child living with his parent,  
7 legal guardian or relative within the fifth degree of  
8 consanguinity; or a pregnant woman;

9 B. "cash assistance" means cash payments funded by  
10 the temporary assistance for needy families block grant  
11 pursuant to the federal act and by state funds;

12 C. "department" means the [~~human services~~] labor  
13 department;

14 D. "dependent child" means a natural or adopted  
15 child or ward who is seventeen years of age or younger or a  
16 household group member who is eighteen years of age and is  
17 enrolled in high school;

18 E. "director" means the director of the income  
19 support division of the department;

20 F. "earned income" [~~includes~~] means cash or  
21 payment in kind that is received as wages from employment or  
22 payment in lieu of wages; earnings from self-employment or  
23 earnings acquired from the direct provision of services, goods  
24 or property, production of goods, management of property or  
25 supervision of services; and all other income not classified

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1 as unearned income;

2 G. "federal act" means the federal Social Security  
3 Act and rules promulgated pursuant to the Social Security Act;

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

8 I. "household group" means a group of people that  
9 consists of a benefit group and any other person who resides  
10 in a household, regardless of whether they are related or have  
11 a legal support responsibility for a member of the benefit  
12 group, but does not include:

13 (1) landlords;

14 (2) tenants; or

15 (3) members of a registered nonprofit  
16 organization or church who provide shelter to a benefit group  
17 through a program sponsored by the nonprofit organization or  
18 church;

19 J. "immigrant" means alien as defined in the  
20 federal act;

21 K. "landlord" means the owner of an estate in land  
22 or a rental property who has leased it to another person  
23 called the tenant;

24 L. "parent" means natural parent, adoptive parent,  
25 stepparent or legal guardian;



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1 M "participant" means a recipient of cash  
2 assistance or services or a member of a benefit group who has  
3 reached the age of majority;

4 N. "person" means an individual;

5 O. "secretary" means the secretary of [~~the~~  
6 ~~department~~] labor;

7 P. "services" includes child-care assistance;  
8 payment for employment-related transportation costs; job  
9 search assistance; employment counseling; employment,  
10 education and job training placement; one-time payment for  
11 necessary employment-related costs; case management; or other  
12 activities whose purpose is to assist transition into  
13 employment;

14 Q. "tenant" means a person who pays rent for the  
15 use and occupancy of real property owned by a landlord; and

16 R. "unearned income" includes old age, survivors  
17 and disability insurance; railroad retirement benefits;  
18 veterans administration compensation or pension; military  
19 retirement; pensions, annuities and retirement benefits; lodge  
20 or fraternal benefits; shared shelter payments; settlement  
21 payments; individual Indian money; and similar kinds of  
22 income. "

23 Section 48. Section 27-3-3 NMSA 1978 (being Laws 1973,  
24 Chapter 256, Section 3, as amended) is amended to read:

25 "27-3-3. FAIR HEARING. --

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1           A. The labor department, the department of health  
2 and the children, youth and families department shall provide  
3 a fair hearing process for the respective assistance programs  
4 they administer.

5           [A-] B. An applicant for or recipient of  
6 assistance or services under any provisions of the Public  
7 Assistance Act, [~~Social Security Act or~~] Special Medical Needs  
8 Act or federal Social Security Act or [~~regulations of the~~  
9 ~~board~~] rules adopted pursuant to those acts may request a  
10 hearing in accordance with [~~regulations of the board~~] the  
11 respective department's rules if:

12                           (1) an application is not acted upon within a  
13 reasonable time after the filing of the application;

14                           (2) an application is denied in whole or in  
15 part; or

16                           (3) the assistance or services are modified,  
17 terminated or not provided.

18           The respective department shall notify the recipient or  
19 applicant of his rights under this section.

20           [B-] C. The [~~board~~] respective department shall by  
21 [~~regulation~~] rule establish procedures for the filing of a  
22 request for a hearing and the time limits within which a  
23 request may be filed; provided, however, that the department  
24 may grant reasonable extensions of the time limits. If the  
25 request is not filed within the specified time for appeal or

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1 within whatever extension the department may grant, the  
2 department action shall be final. Upon receipt of a timely  
3 request, the department shall give the applicant or recipient  
4 reasonable notice of an opportunity for a fair hearing in  
5 accordance with the [~~regulations of the board~~] rules.

6 [~~C.~~] D. The hearing shall be conducted by a  
7 hearing officer designated by the [~~director~~] respective  
8 department's secretary. The powers of the hearing officer  
9 shall include administering oaths or affirmations to witnesses  
10 called to testify, taking testimony, examining witnesses,  
11 admitting or excluding evidence and reopening any hearing to  
12 receive additional evidence. The technical rules of evidence  
13 and the rules of civil procedure shall not apply. The hearing  
14 shall be conducted so that the contentions or defenses of each  
15 party to the hearing are amply and fairly presented. Either  
16 party may be represented by counsel or other representative of  
17 his designation, and he or his representative may conduct  
18 cross-examination. Any oral or documentary evidence may be  
19 received, but the hearing officer may exclude irrelevant,  
20 immaterial or unduly repetitious evidence.

21 [~~D.~~] E. The [~~director~~] respective department's  
22 secretary shall review the record of the proceedings and shall  
23 make a decision thereon. The applicant or recipient or his  
24 representative shall be notified in writing of the director's  
25 decision and the reasons for the decision. The written notice

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1 shall inform the applicant or recipient of his right to  
2 judicial review. The respective department shall be  
3 responsible for assuring that the decision is enforced. "

4 Section 49. Section 27-3-4 NMSA 1978 (being Laws 1973,  
5 Chapter 256, Section 4, as amended) is amended to read:

6 "27-3-4. APPEAL. -- Within thirty days after receiving  
7 written notice of [~~the~~] a fair hearing decision [~~of the~~  
8 ~~director~~] pursuant to Section 27-3-3 NMSA 1978, an applicant  
9 or recipient may file a notice of appeal with the district  
10 court pursuant to the provisions of Section 39-3-1.1 NMSA  
11 1978. "

12 Section 50. Section 27-4-2 NMSA 1978 (being Laws 1973,  
13 Chapter 311, Section 2, as amended) is amended to read:

14 "27-4-2. DEFINITIONS. -- As used in the Special Medical  
15 Needs Act:

16 A. "department" means the [~~income support division~~  
17 ~~of the human services~~] department of health;

18 [~~B.~~] "board" means the ~~income support division of~~  
19 ~~the human services department~~;

20 ~~C.~~] B. "aged person" means one who has attained  
21 the age of sixty-five years and does not have a spouse  
22 financially able, according to [~~regulations of the board~~] the  
23 department's rules, to furnish support;

24 [~~D.~~] C. "disabled person" means one who has  
25 attained the age of eighteen years and is determined to be

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1 permanently and totally disabled, according to [~~regulations~~]  
2 rules of the [~~board~~] department; and

3 [~~E.-~~] D. "blind person" means one who is determined  
4 to be blind according to [~~regulations~~] rules of the [~~board~~]  
5 department. "

6 Section 51. Section 27-4-3 NMSA 1978 (being Laws 1973,  
7 Chapter 311, Section 3) is amended to read:

8 "27-4-3. PERSONS WITH SPECIAL NEEDS. --

9 A. The [~~board~~] department shall by [~~regulation~~]  
10 rule establish a program to provide essential medical care for  
11 aged, blind or disabled persons not eligible for public  
12 assistance under the Public Assistance Act and who have a  
13 serious medical condition [~~which~~] that will as a reasonable  
14 medical probability lead to death in the near future.

15 B. Such medical condition [~~will~~] shall be  
16 certified by an individual licensed under state law to  
17 practice medicine or osteopathy. The medical care shall be  
18 reviewed and approved according to [~~regulations~~] the rules of  
19 the [~~board~~] department. "

20 Section 52. Section 27-4-4 NMSA 1978 (being Laws 1973,  
21 Chapter 311, Section 4, as amended) is amended to read:

22 "27-4-4. STANDARD OF NEED--INCOME DETERMINATION. --

23 A. Standard of need for purposes of the Special  
24 Medical Needs Act shall be determined in accordance with  
25 [~~regulations~~] rules adopted by the [~~board~~] department.

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1                   B. The ~~[board]~~ department shall define by  
2 ~~[regulation]~~ rule exempt and nonexempt income and resources.  
3 Medical expenses shall not be deducted from either income or  
4 resources in determining eligibility. "

5                   Section 53. Section 27-4-5 NMSA 1978 (being Laws 1973,  
6 Chapter 311, Section 5, as amended) is amended to read:

7                   "27-4-5. ELIGIBILITY REQUIREMENTS. --A person is eligible  
8 for medical care under the Special Medical Needs Act if:

9                   A. pursuant to Section ~~[13-15-4 NMSA 1953]~~ 27-4-4  
10 NMSA 1978, the total amount of his nonexempt income is less  
11 than the applicable standard of need; ~~[and]~~

12                   B. nonexempt specific and total resources are less  
13 than the level of maximum permissible resources established by  
14 the ~~[board; and]~~ department;

15                   C. he meets all qualifications for persons with  
16 special needs, pursuant to Section ~~[13-15-3 NMSA 1953; and]~~  
17 27-4-3 NMSA 1978;

18                   D. within two years immediately prior to the  
19 filing of an application for assistance, he has not made an  
20 assignment or transfer of real property unless he has received  
21 a reasonable return for the real property or, if he has not  
22 received ~~[such]~~ a reasonable return, he is willing to attempt  
23 to obtain such return and, if ~~[such]~~ that attempt proves  
24 futile, he is willing to attempt to regain title to the  
25 property; ~~[and]~~

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1 E. he is not an inmate of any public nonmedical  
2 institution at the time of receiving assistance; and

3 F. he is a resident of New Mexico. "

4 Section 54. Section 27-5-3 NMSA 1978 (being Laws 1965,  
5 Chapter 234, Section 3, as amended) is amended to read:

6 "27-5-3. PUBLIC ASSISTANCE PROVISIONS. --

7 A. A hospital shall not be paid from the [~~county~~  
8 ~~indigent hospital claims~~] fund under the Indigent Hospital and  
9 County Health Care Act for any costs of an indigent patient  
10 for services that have been determined by the [~~human services~~  
11 ~~department~~] medical assistance division of the department of  
12 health to be eligible for medicaid reimbursement [~~from that~~  
13 ~~department~~]. However, nothing in the Indigent Hospital and  
14 County Health Care Act shall be construed to prevent the board  
15 from transferring money from the [~~county indigent hospital~~  
16 ~~claims~~] fund to the sole community provider fund or the  
17 county-supported medicaid fund for support of the state  
18 medicaid program.

19 B. No action for collection of claims under the  
20 Indigent Hospital and County Health Care Act shall be allowed  
21 against an indigent patient who is medicaid eligible for  
22 medicaid-covered services, nor shall action be allowed against  
23 the person who is legally responsible for the care of the  
24 indigent patient during the time that person is medicaid  
25 eligible. "

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1           Section 55. Section 27-5-4 NMSA 1978 (being Laws 1965,  
2 Chapter 234, Section 4, as amended by Laws 1999, Chapter 37,  
3 Section 1 and also by Laws 1999, Chapter 270, Section 4) is  
4 amended to read:

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

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

19           B. "board" means a county indigent hospital and  
20 county health care board;

21           C. "indigent patient" means a person to whom an  
22 ambulance service, a hospital or a health care provider has  
23 provided medical care, ambulance transportation or health care  
24 services and who can normally support himself and his  
25 dependents on present income and liquid assets available to



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

20 D. "hospital" means ~~[any]~~ a general or limited  
21 hospital licensed by the department of health, whether  
22 nonprofit or owned by a political subdivision, and may include  
23 by resolution of a board the following health facilities if  
24 licensed or, in the case of out-of-state hospitals, approved,  
25 by the department ~~[of health]~~:

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- 1 (1) for-profit hospitals;  
2 (2) state-owned hospitals; or  
3 (3) licensed out-of-state hospitals where  
4 treatment provided is necessary for the proper care of an  
5 indigent patient when that care is not available in an in-  
6 state hospital;

7 E. "cost" means all allowable ambulance  
8 transportation costs, medical care costs or costs of providing  
9 health care services, to the extent determined by resolution  
10 of a board, for an indigent patient. Allowable costs shall be  
11 determined in accordance with a uniform system of accounting  
12 and cost analysis as determined by regulation of a board,  
13 which includes cost of ancillary services but shall not  
14 include the cost of servicing long-term indebtedness of a  
15 hospital, health care provider or ambulance service;

16 F. "fund" means a county indigent hospital claims  
17 fund;

18 G. "medicaid eligible" means a person who is  
19 eligible for medical assistance from the department;

20 H. "county" means any county except a class A  
21 county with a county hospital operated and maintained pursuant  
22 to a lease with a state educational institution named in  
23 Article 12, Section 11 of the constitution of New Mexico;

24 I. "department" means the [human services]  
25 department of health;

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1           J. "sole ~~community~~ provider hospital" means a  
2 hospital that is a sole ~~community~~ provider hospital under the  
3 provisions of the federal ~~medicare~~ guidelines established in  
4 42 C.F.R. 412.92 pursuant to Title 18 of the federal Social  
5 Security Act;

6           K. "drug rehabilitation center" means an agency of  
7 local ~~government~~, a state agency, a private nonprofit entity  
8 or ~~combination~~ thereof that operates drug abuse rehabilitation  
9 programs that meet the standards and requirements set by the  
10 department [~~of health~~];

11           L. "alcohol rehabilitation center" means an agency  
12 of local ~~government~~, a state agency, a private nonprofit  
13 entity or ~~combination~~ thereof that operates alcohol abuse  
14 rehabilitation programs that meet the standards set by the  
15 department [~~of health~~];

16           M. "mental health center" means a not-for-profit  
17 center that provides outpatient mental health services that  
18 meet the standards set by the department [~~of health~~];

19           N. "health care provider" means:  
20               (1) a nursing home;  
21               (2) an in-state home health agency;  
22               (3) an in-state licensed hospice;  
23               (4) a ~~community~~-based health program operated  
24 by a political subdivision of the state or other nonprofit  
25 health organization that provides prenatal care delivered by

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1 New Mexico licensed, certified or registered health care  
2 practitioners;

3 (5) a community-based health program operated  
4 by a political subdivision of the state or other nonprofit  
5 health care organization that provides primary care delivered  
6 by New Mexico licensed, certified or registered health care  
7 practitioners;

8 (6) a drug rehabilitation center;

9 (7) an alcohol rehabilitation center; ~~[or]~~

10 (8) a mental health center; or

11 (9) services provided in a hospital or  
12 outpatient setting by a licensed medical doctor, osteopathic  
13 physician, dentist, optometrist or expanded practice nurse  
14 that are necessary for such conditions that endanger the life  
15 of or threaten permanent disability to an indigent patient;

16 0. "health care services" means all treatment and  
17 services designed to promote improved health in the county  
18 indigent population, including primary care, prenatal care,  
19 dental care, provision of prescription drugs, preventive care  
20 or health outreach services, to the extent determined by  
21 resolution of the board; ~~[and]~~

22 P. "planning" means the development of a  
23 countywide or multicounty health plan to improve and fund  
24 health services in the county based on the county's needs  
25 assessment and inventory of existing services and resources

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1 and ~~[which]~~ that demonstrates coordination between the county  
2 and state and local health planning efforts; and

3 Q. "commission" means the New Mexico health policy  
4 commission. "

5 Section 56. Section 27-5-6.1 NMSA 1978 (being Laws 1993,  
6 Chapter 321, Section 18) is amended to read:

7 "27-5-6.1. SOLE COMMUNITY PROVIDER FUND CREATED. --

8 A. The "sole community provider fund" is created  
9 in the state treasury. The sole community provider fund,  
10 which shall be administered by the ~~[human services]~~ department  
11 of health, shall consist of funds provided by counties to  
12 match federal funds for medicaid sole community provider  
13 hospital payments. Money in the fund shall be invested by the  
14 state treasurer as other state funds are invested. Any  
15 unexpended or unencumbered balance remaining in the fund at  
16 the end of any fiscal year shall not revert.

17 B. Money in the sole community provider fund is  
18 appropriated to the ~~[human services]~~ department of health to  
19 make sole community provider hospital payments pursuant to the  
20 state medicaid program. No sole community provider hospital  
21 payments or money in the sole community provider fund shall be  
22 used to supplant any general fund support for the state  
23 medicaid program.

24 C. Money in the sole community provider fund shall  
25 be remitted back to the individual counties from which it came

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1 if federal medicaid matching funds are not received for  
2 medicaid sole community provider hospital payments. "

3 Section 57. Section 27-5-7.1 NMSA 1978 (being Laws 1993,  
4 Chapter 321, Section 16) is amended to read:

5 "27-5-7.1. COUNTY INDIGENT HOSPITAL CLAIMS FUND--  
6 AUTHORIZED USES OF THE FUND. --

7 A. The fund shall be used:

8 (1) to meet the county's contribution for  
9 support of sole community provider payments as calculated by  
10 the [~~department~~] medical assistance division of the department  
11 of health for that county; and

12 (2) to pay all claims that have been approved  
13 by the board that are not matched with federal funds under the  
14 state medicaid program.

15 B. The fund may be used to meet the county's  
16 obligation under Section 27-10-4 NMSA 1978.

17 C. Until June 30, 1996, the cash reserves from the  
18 fund may be used to meet the county's obligation under Section  
19 27-10-4 NMSA 1978. "

20 Section 58. Section 27-5-12.2 NMSA 1978 (being Laws  
21 1993, Chapter 321, Section 15) is amended to read:

22 "27-5-12.2. DUTIES OF THE COUNTY--SOLE COMMUNITY  
23 PROVIDER HOSPITAL PAYMENTS.--Every county in New Mexico that  
24 authorizes payment for services to a sole community provider  
25 hospital shall:

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1           A. determine eligibility for benefits and  
2 determine an amount payable on each claim for services to  
3 indigent patients from sole community provider hospitals;

4           B. notify the sole community provider hospital of  
5 its decision on each request for payment while not actually  
6 reimbursing the hospital for the services that are reimbursed  
7 with federal funds under the state medicaid program;

8           C. confirm the amount of the sole community  
9 provider hospital payments authorized for each hospital for  
10 the past fiscal year by September 30 of the current fiscal  
11 year;

12           D. negotiate agreements with each sole community  
13 provider hospital providing services for county residents on  
14 the anticipated amount of the payments for the following  
15 fiscal year; and

16           E. provide the [~~human services~~] department of  
17 health by January 15 of each year with the budgeted amount of  
18 sole community provider hospital payments, by hospital, for  
19 the following fiscal year. "

20           Section 59. Section 27-5-16 NMSA 1978 (being Laws 1965,  
21 Chapter 234, Section 16, as amended) is amended to read:

22           "27-5-16. [~~DEPARTMENT~~] PAYMENTS-- COOPERATION. --

23           A. The [~~department~~] medical assistance division of  
24 the department of health shall not decrease the amount of any  
25 medical assistance payments made to the hospitals or health

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1 care providers of this state pursuant to law because of any  
2 financial reimbursement made to ambulance services, hospitals  
3 or health care providers for indigent or [~~medicaid-eligible~~]  
4 medicaid-eligible patients as provided in the Indigent  
5 Hospital and County Health Care Act.

6 B. The [~~department~~] medical assistance division  
7 shall cooperate with each board in furnishing information or  
8 assisting in the investigation of any person to determine  
9 whether he meets the qualifications of an indigent patient as  
10 defined in the Indigent Hospital and County Health Care Act.

11 C. The [~~department~~] medical assistance division  
12 shall ensure that the sole community provider payment and the  
13 reimbursement to hospitals made under the state medicaid  
14 program do not exceed what would have been paid for under  
15 medicare payment principles. In the event the sole community  
16 provider payment and medicaid reimbursement to hospitals would  
17 exceed medicare payment principles, the [~~department~~] division  
18 shall reduce the sole community provider payment prior to  
19 making any reduction in reimbursement to hospitals made under  
20 the state medicaid program."

21 Section 60. Section 27-6A-3 NMSA 1978 (being Laws 1993,  
22 Chapter 206, Section 3) is amended to read:

23 "27-6A-3. DEFINITIONS. --As used in the Low Income Water,  
24 Sewer and Solid Waste Service Assistance Act:

25 A. "department" means the [~~human services~~] labor



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1 department; and

2 B. "utility" means any individual, firm,  
3 partnership, company, district, including but not limited to  
4 solid waste district, water and sanitation district and  
5 special district, cooperative, association, public or private  
6 corporation, lessee, trustee or receiver appointed by any  
7 court, municipality and municipal utility as defined in the  
8 Municipal Code, incorporated county or county that may or does  
9 own, operate, lease or control any plant, property or facility  
10 for:

11 (1) the supply, storage, distribution or  
12 furnishing of water to or for the public;

13 (2) the supply and furnishing of sanitary  
14 sewer service to or for the public; or

15 (3) the supply and furnishing of collection,  
16 transportation, treatment or disposal of solid waste to or for  
17 the public. "Utility" does not include a public utility  
18 subject to the jurisdiction of the ~~[New Mexico]~~ public  
19 ~~[service]~~ regulation commission. "

20 Section 61. Section 27-8-3 NMSA 1978 (being Laws 1983,  
21 Chapter 139, Section 3) is amended to read:

22 "27-8-3. DEFINITIONS. --As used in the Community Action  
23 Act:

24 A. "poverty level" means the official poverty  
25 level established by the federal director of the office of

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1 management and budget and revised periodically by the federal  
2 secretary of health and human services; and

3 B. "secretary" means the secretary of [~~human~~  
4 ~~services~~] children, youth and families. "

5 Section 62. Section 27-8-9 NMSA 1978 (being Laws 1983,  
6 Chapter 139, Section 9) is amended to read:

7 "27-8-9. FINANCIAL ASSISTANCE--LIMITATIONS. -- The  
8 secretary, consistent with federal law, shall make grants of  
9 not less than ninety percent of the annual allocation of funds  
10 available under the community services block grant to  
11 community action agencies defined in Subsection A of Section  
12 [~~5 of the Community Action Act~~] 27-8-5 NMSA 1978. The [~~human~~  
13 ~~services~~] children, youth and families department is  
14 authorized to implement, by regulation or contract, a  
15 limitation on the amount of community services block grant  
16 funds allocated to administrative costs. "

17 Section 63. Section 27-9-1 NMSA 1978 (being Laws 1983,  
18 Chapter 323, Section 1) is amended to read:

19 "27-9-1. PROGRAM - DEMONSTRATIONS. -- The [~~human services~~]  
20 department [~~in cooperation with the health and environment~~  
21 ~~department~~] of health is authorized to administer  
22 demonstration programs [~~which~~] that provide in-home and  
23 coordinated community care services to the frail elderly and  
24 to disabled individuals who would otherwise require  
25 institutionalization. The programs authorized by this section

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1 shall serve both those eligible and not eligible for federal  
2 medical assistance programs. "

3 Section 64. Section 27-9-2 NMSA 1978 (being Laws 1983,  
4 Chapter 323, Section 2) is amended to read:

5 "27-9-2. IMPLEMENTATION. --The secretary of [~~human~~  
6 ~~services~~] health shall, by regulation, specify the areas in  
7 which the programs shall operate, specify the services to be  
8 provided, establish eligibility criteria of persons to be  
9 served and provide for cost sharing, where possible, with  
10 individuals and participating communities. "

11 Section 65. Section 27-10-3 NMSA 1978 (being Laws 1991,  
12 Chapter 212, Section 3, as amended) is amended to read:

13 "27-10-3. COUNTY-SUPPORTED MEDICAID FUND CREATED--USE--  
14 APPROPRIATION BY THE LEGISLATURE. --

15 A. There is created in the state treasury the  
16 "county-supported medicaid fund". The fund shall be invested  
17 by the state treasurer as other state funds are invested.  
18 Income earned from investment of the fund shall be credited to  
19 the county-supported medicaid fund. The fund shall not revert  
20 in any fiscal year.

21 B. Money in the county-supported medicaid fund is  
22 subject to appropriation by the legislature to support the  
23 state medicaid program and to institute or support primary  
24 care health care services pursuant to Subsections D and E of  
25 Section 24-1A-3.1 NMSA 1978. Of the amount appropriated each

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1 year, nine percent shall be appropriated to the department of  
2 health to institute or support primary care health care  
3 services pursuant to Subsections D and E of Section 24-1A-3.1  
4 NMSA 1978.

5 C. Up to three percent of the county-supported  
6 medicaid fund each year may be expended for administrative  
7 costs related to medicaid or developing new primary care  
8 health care centers or facilities.

9 D. In the event federal funds for medicaid are not  
10 received by New Mexico for any eighteen-month period, the  
11 unencumbered balance remaining in the county-supported  
12 medicaid fund and the sole community provider fund at the end  
13 of the fiscal year following the end of any eighteen-month  
14 period shall be paid within a reasonable time to each county  
15 for deposit in the county indigent hospital claims fund in  
16 proportion to the payments made by each county through tax  
17 revenues or transfers in the previous fiscal year as certified  
18 by the local government division of the department of finance  
19 and administration. The department ~~[will]~~ of health shall  
20 provide for budgeting and accounting of payments to the fund."

21 Section 66. Section 27-11-2 NMSA 1978 (being Laws 1998,  
22 Chapter 30, Section 2) is amended to read:

23 "27-11-2. DEFINITIONS. --As used in the Medicaid Provider  
24 Act:

25 A. "department" means the ~~[human services]~~

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1 department of health;

2 B. "managed care organization" means a person  
3 eligible to enter into risk-based prepaid capitation  
4 agreements with the department to provide health care and  
5 related services;

6 C. "medicaid" means the medical assistance program  
7 established pursuant to Title 19 of the federal Social  
8 Security Act and regulations issued pursuant to that act;

9 D. "medicaid provider" means a person, including a  
10 managed care organization, operating under contract with the  
11 department to provide medicaid-related services to recipients;

12 E. "person" means an individual or other legal  
13 entity;

14 F. "recipient" means a person whom the department  
15 has determined to be eligible to receive medicaid-related  
16 services;

17 G. "secretary" means the secretary of [~~human~~  
18 ~~services~~] health; and

19 H. "subcontractor" means a person who contracts  
20 with a medicaid provider to provide medicaid-related services  
21 to recipients. "

22 Section 67. Section 27-11-3 NMSA 1978 (being Laws 1998,  
23 Chapter 30, Section 3, as amended) is amended to read:

24 "27-11-3. REVIEW OF MEDICAID PROVIDERS-- CONTRACT  
25 REMEDIES-- PENALTIES. --

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1           A. Consistent with the terms of any contract  
2 between the department and a medicaid provider, the secretary  
3 shall have the right to be afforded access to such of the  
4 medicaid provider's records and personnel, as well as its  
5 subcontracts and that subcontractor's records and personnel,  
6 as may be necessary to ensure that the medicaid provider is  
7 complying with the terms of its contract with the department.

8           B. Upon not less than two days' written notice to  
9 a medicaid provider the secretary may, consistent with the  
10 provisions of the Medicaid Provider Act and rules issued  
11 pursuant to that act, carry out an administrative  
12 investigation or conduct administrative proceedings to  
13 determine whether a medicaid provider has:

14                   (1) materially breached its obligation to  
15 furnish medicaid-related services to recipients, or any other  
16 duty specified in its contract with the department;

17                   (2) violated any provision of the Public  
18 Assistance Act or the Medicaid Provider Act or any rules  
19 issued pursuant to those acts;

20                   (3) intentionally or with reckless disregard  
21 made any false statement with respect to any report or  
22 statement required by the Public Assistance Act or the  
23 Medicaid Provider Act, rules issued pursuant to either of  
24 those acts or a contract with the department;

25                   (4) intentionally or with reckless disregard

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1 advertised or marketed, or attempted to advertise or market,  
2 its services to recipients in a manner as to misrepresent its  
3 services or capacity for services, or engaged in any  
4 deceptive, misleading or unfair practice with respect to  
5 advertising or marketing;

6 (5) hindered or prevented the secretary from  
7 performing any duty imposed by the Public Assistance Act, [~~the~~  
8 ~~Human Services Department Act~~] the Department of Health Act or  
9 the Medicaid Provider Act or any rules issued pursuant to  
10 those acts; or

11 (6) fraudulently procured or attempted to  
12 procure any benefit from medicaid.

13 C. Subject to the provisions of Subsection D of  
14 this section, after affording a medicaid provider written  
15 notice of hearing not less than ten days before the hearing  
16 date and an opportunity to be heard, and upon making  
17 appropriate administrative findings, the secretary may take  
18 any or any combination of the following actions against the  
19 provider:

20 (1) impose an administrative penalty of not  
21 more than five thousand dollars (\$5,000) for engaging in any  
22 practice described in Paragraphs (1) through (6) of Subsection  
23 B of this section; provided that each separate occurrence of  
24 such practice shall constitute a separate offense;

25 (2) issue an administrative order requiring

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1 the provider to:

2 (a) cease or modify any specified  
3 conduct or practices engaged in by it or its employees,  
4 subcontractors or agents;

5 (b) fulfill its contractual obligations  
6 in the manner specified in the order;

7 (c) provide any service that has been  
8 denied;

9 (d) take steps to provide or arrange  
10 for any service that it has agreed or is otherwise obligated  
11 to make available; or

12 (e) enter into and abide by the terms  
13 of a binding or nonbinding arbitration proceeding, if agreed  
14 to by any opposing party, including the secretary; or

15 (3) suspend or revoke the contract between  
16 the provider and the department pursuant to the terms of that  
17 contract.

18 D. If a contract between the department and a  
19 medicaid provider explicitly specifies a dispute resolution  
20 mechanism for use in resolving disputes over performance of  
21 that contract, the dispute resolution mechanism specified in  
22 the contract shall be used to resolve such disputes in lieu of  
23 the mechanism set forth in Subsection C of this section.

24 E. If a medicaid provider's contract so specifies,  
25 the medicaid provider shall have the right to seek de novo



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1 review in district court of any decision by the secretary  
2 regarding a contractual dispute. "

3 Section 68. Section 27-12-3 NMSA 1978 (being Laws 1998,  
4 Chapter 52, Section 3) is amended to read:

5 "27-12-3. DEFINITIONS. --As used in the Child Health Act:

6 A. "child" means a natural person who has not  
7 reached his nineteenth birthday;

8 B. "department" means the [~~human services~~]  
9 department of health;

10 C. "low-income children and their families" means  
11 a family with a dependent child with income at or below the  
12 level specified in Section [~~6 of the Child Health Act~~] 27-12-6  
13 NMSA 1978; and

14 D. "secretary" means the secretary of [~~human~~  
15 ~~services~~] health. "

16 Section 69. Section 27-12-4 NMSA 1978 (being Laws 1998,  
17 Chapter 52, Section 4) is amended to read:

18 "27-12-4. PROGRAM CREATED. --After consultation with the  
19 secretary of [~~health~~] labor and the secretary of children,  
20 youth and families, the secretary is directed to design and  
21 implement a program to provide health services to low-income  
22 children and their families in accordance with the provisions  
23 of the Child Health Act. The program shall meet the  
24 requirements for obtaining allotted federal funds pursuant to  
25 the provisions of Title 21 of the federal Social Security Act.

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1 In accordance with those requirements and the requirements of  
2 the Child Health Act, the secretary shall prepare and submit a  
3 child health plan to the federal secretary of health and human  
4 services. The department is the designated state agency to  
5 administer the program and cooperate with the federal  
6 government in its administration. "

7 Section 70. Section 30-40-1 NMSA 1978 (being Laws 1979,  
8 Chapter 170, Section 1, as amended) is amended to read:

9 "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF  
10 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE OR MEDICAL  
11 ASSISTANCE. --

12 A. Failing to disclose facts or change of  
13 circumstances to obtain public assistance or medical  
14 assistance consists of any person knowingly failing to  
15 disclose any material facts known to be necessary to determine  
16 eligibility for public assistance or medical assistance or  
17 knowingly failing to disclose a change in circumstances for  
18 the purpose of obtaining or continuing to receive public  
19 assistance or medical assistance to which he is not entitled  
20 or in amounts greater than that to which he is entitled.

21 B. Whoever commits failing to disclose facts or  
22 change of circumstances to obtain public assistance or medical  
23 assistance when the value of the assistance wrongfully  
24 received is one hundred dollars (\$100) or less in any twelve  
25 consecutive months is guilty of a petty misdemeanor.

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1 C. Whoever commits failing to disclose facts or  
2 change of circumstances to obtain public assistance or medical  
3 assistance when the value of the assistance wrongfully  
4 received is more than one hundred dollars (\$100) but not more  
5 than two hundred fifty dollars (\$250) in any twelve  
6 consecutive months is guilty of a misdemeanor.

7 D. Whoever commits failing to disclose facts or  
8 change of circumstances to obtain public assistance or medical  
9 assistance when the value of the assistance wrongfully  
10 received is more than two hundred fifty dollars (\$250) but not  
11 more than two thousand five hundred dollars (\$2,500) in any  
12 twelve consecutive months is guilty of a fourth degree felony.

13 E. Whoever commits failing to disclose facts or  
14 change of circumstances to obtain public assistance or medical  
15 assistance when the value of the assistance wrongfully  
16 received is more than two thousand five hundred dollars  
17 (\$2,500) but not more than twenty thousand dollars (\$20,000)  
18 is guilty of a third degree felony.

19 F. Whoever commits failing to disclose facts or  
20 change of circumstances to obtain public assistance or medical  
21 assistance when the value of the assistance wrongfully  
22 received exceeds twenty thousand dollars (\$20,000) is guilty  
23 of a second degree felony. "

24 Section 71. Section 30-40-2 NMSA 1978 (being Laws 1979,  
25 Chapter 170, Section 2, as amended) is amended to read:

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1           "30- 40- 2.   UNLAWFUL USE OF FOOD STAMP IDENTIFICATION CARD  
2   OR MEDICAL IDENTIFICATION CARD. --

3           A.   Unlawful use of food stamp identification card  
4   or medical identification card consists of the use of a food  
5   stamp or medical identification card by any person to whom it  
6   has not been issued, or who is not an authorized  
7   representative of such a person, for a food stamp allotment.

8           B.   Whoever commits unlawful use of food stamp  
9   identification card or medical identification card when the  
10   value of the food stamps or medical ~~[services]~~ assistance  
11   wrongfully received is one hundred dollars (\$100) or less is  
12   guilty of a petty misdemeanor.

13          C.   Whoever commits unlawful use of food stamp  
14   identification card or medical identification card when the  
15   value of the food stamps or medical ~~[services]~~ assistance  
16   wrongfully received is more than one hundred dollars (\$100)  
17   but not more than two hundred fifty dollars (\$250) is guilty  
18   of a misdemeanor.

19          D.   Whoever commits unlawful use of food stamp  
20   identification card or medical identification card when the  
21   value of the food stamps or medical ~~[services]~~ assistance  
22   wrongfully received is more than two hundred fifty dollars  
23   (\$250) but not more than two thousand five hundred dollars  
24   (\$2, 500) is guilty of a fourth degree felony.

25          E.   Whoever commits unlawful use of food stamp

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1 identification card or medical identification card when the  
2 value of the food stamps or medical [~~services~~] assistance  
3 wrongfully received is more than two thousand five hundred  
4 dollars (\$2,500) but not more than twenty thousand dollars  
5 (\$20,000) is guilty of a third degree felony.

6 F. Whoever commits unlawful use of food stamp  
7 identification card or medical identification card when the  
8 value of the food stamps or medical [~~services~~] assistance  
9 wrongfully received exceeds twenty thousand dollars (\$20,000)  
10 is guilty of a second degree felony.

11 G. For the purpose of this section, the value of  
12 the medical assistance received is the amount paid by the  
13 [~~human services~~] department of health for medical [~~services~~]  
14 assistance received through use of the card. "

15 Section 72. Section 30-40-3 NMSA 1978 (being Laws 1979,  
16 Chapter 170, Section 3, as amended) is amended to read:

17 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE OR MEDICAL  
18 ASSISTANCE. --

19 A. Misappropriating public assistance or medical  
20 assistance consists of any public officer or public employee  
21 fraudulently misappropriating, attempting to misappropriate or  
22 aiding and abetting in the misappropriation of food stamp  
23 coupons, WIC checks pertaining to the special supplemental  
24 food program for women, infants and children administered by  
25 the department of health [~~and environment department~~] or the

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1 labor department food stamp or medical identification cards,  
2 public assistance benefits, medical assistance benefits or  
3 funds received in exchange for food stamp coupons.

4 B. Whoever commits misappropriating public  
5 assistance or medical assistance when the value of the thing  
6 misappropriated is one hundred dollars (\$100) or less is  
7 guilty of a petty misdemeanor.

8 C. Whoever commits misappropriating public  
9 assistance or medical assistance when the value of the thing  
10 misappropriated is more than one hundred dollars (\$100) but  
11 not more than two hundred fifty dollars (\$250) is guilty of a  
12 misdemeanor.

13 D. Whoever commits misappropriating public  
14 assistance or medical assistance when the value of the thing  
15 misappropriated is more than two hundred fifty dollars (\$250)  
16 but not more than two thousand five hundred dollars (\$2,500)  
17 is guilty of a fourth degree felony.

18 E. Whoever commits misappropriating public  
19 assistance or medical assistance when the value of the thing  
20 misappropriated is more than two thousand five hundred dollars  
21 (\$2,500) but not more than twenty thousand dollars (\$20,000)  
22 is guilty of a third degree felony.

23 F. Whoever commits misappropriating public  
24 assistance or medical assistance when the value of the thing  
25 misappropriated exceeds twenty thousand dollars (\$20,000) is

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1 guilty of a second degree felony.

2 G. Whoever commits misappropriating public  
3 assistance or medical assistance when the item misappropriated  
4 is a food stamp or medical identification card is guilty of a  
5 fourth degree felony. "

6 Section 73. Section 30-40-4 NMSA 1978 (being Laws 1979,  
7 Chapter 170, Section 4) is amended to read:

8 "30-40-4. MAKING OR PERMITTING A FALSE CLAIM FOR  
9 REIMBURSEMENT FOR PUBLIC ASSISTANCE OR MEDICAL ASSISTANCE  
10 SERVICES. --

11 A. Making or permitting a false claim for  
12 reimbursement of public assistance or medical assistance  
13 services consists of knowingly making, causing to be made or  
14 permitting to be made a claim for reimbursement for services  
15 provided to a recipient of public assistance or medical  
16 assistance for services not rendered or making a false  
17 material statement or forged signature upon any claim for  
18 services, with intent that the claim shall be relied upon for  
19 the expenditure of public money.

20 B. Whoever commits making or permitting a false  
21 claim for reimbursement for public assistance or medical  
22 assistance services is guilty of a fourth degree felony. "

23 Section 74. Section 30-40-5 NMSA 1978 (being Laws 1979,  
24 Chapter 170, Section 5) is amended to read:

25 "30-40-5. UNLAWFUL SEEKING OF PAYMENT FROM PUBLIC

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1 ASSISTANCE OR MEDICAL ASSISTANCE RECIPIENTS. --

2 A. Unlawful seeking of payment from public  
3 assistance or medical assistance recipients consists of  
4 knowingly seeking payment from recipients or their families  
5 for any unpaid portion of a bill for which reimbursement has  
6 been or will be received from the [~~human services~~] labor  
7 department or the medical assistance division of the  
8 department of health or for claims or services denied by the  
9 [~~human services~~] labor department or the medical assistance  
10 division because of [~~provider~~] the provider's administrative  
11 error.

12 B. Whoever commits unlawful seeking of payment  
13 from a public assistance or medical assistance recipient is  
14 guilty of a misdemeanor. "

15 Section 75. Section 30-40-6 NMSA 1978 (being Laws 1979,  
16 Chapter 170, Section 6, as amended) is amended to read:

17 "30-40-6. FAILURE TO REIMBURSE THE DEPARTMENT UPON  
18 RECEIPT OF THIRD-PARTY PAYMENT. --

19 A. Failure to reimburse the [~~human services~~  
20 ~~department~~] medical assistance division of the department of  
21 health upon receipt of third-party payment consists of  
22 [~~knowingly~~] knowing failure by a medicaid provider to  
23 reimburse the [~~human services department or the department's~~  
24 ~~fiscal agent~~] medical assistance division the amount of  
25 payment received from the [~~department~~] division for services



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1 when the provider receives payment for the same services from  
2 any third party.

3 B. A medicaid provider who commits failure to  
4 reimburse the [~~department~~] medical assistance division upon  
5 receipt of third-party payment when the value of the payment  
6 made by the [~~department~~] division is one hundred dollars  
7 (\$100) or less is guilty of a petty misdemeanor.

8 C. A medicaid provider who commits failure to  
9 reimburse the [~~department~~] medical assistance division upon  
10 receipt of third-party payment when the value of the payment  
11 made by the [~~department~~] division is more than one hundred  
12 dollars (\$100) but not more than two hundred fifty dollars  
13 (\$250) is guilty of a misdemeanor.

14 D. A medicaid provider who commits failure to  
15 reimburse the [~~department~~] medical assistance division upon  
16 receipt of third-party payment when the value of the payment  
17 made by the [~~department~~] division is more than two hundred  
18 fifty dollars (\$250) but not more than two thousand five  
19 hundred dollars (\$2,500) is guilty of a fourth degree felony.

20 E. A medicaid provider who commits failure to  
21 reimburse the [~~department~~] medical assistance division upon  
22 receipt of third-party payment when the value of the payment  
23 made by the [~~department~~] division is more than two thousand  
24 five hundred dollars (\$2,500) but not more than twenty  
25 thousand dollars (\$20,000) is guilty of a third degree felony.

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1 F. A medicaid provider who commits failure to  
2 reimburse the [~~department~~] medical assistance division upon  
3 receipt of third-party payment when the value of the payment  
4 made by the [~~department~~] division exceeds twenty thousand  
5 dollars (\$20,000) is guilty of a second degree felony."

6 Section 76. Section 30-40-7 NMSA 1978 (being Laws 1979,  
7 Chapter 170, Section 7) is amended to read:

8 "30-40-7. FAILURE TO NOTIFY THE LABOR DEPARTMENT OR THE  
9 DEPARTMENT OF HEALTH OF RECEIPT OF ANYTHING OF VALUE FROM  
10 PUBLIC ASSISTANCE OR MEDICAL ASSISTANCE RECIPIENT. -- Any  
11 employee of the [~~human services~~] labor department or the  
12 department of health who knowingly receives anything of value,  
13 other than as provided by law, from either a recipient of  
14 public assistance or medical assistance or from the family of  
15 a public assistance or medical assistance recipient shall  
16 notify the labor department or the department of health within  
17 ten days after such receipt on a form provided by the  
18 respective department. Whoever fails to so notify the  
19 respective department within ten days is guilty of a petty  
20 misdemeanor. "

21 Section 77. Section 30-44-2 NMSA 1978 (being Laws 1989,  
22 Chapter 286, Section 2, as amended) is amended to read:

23 "30-44-2. DEFINITIONS. -- As used in the Medicaid Fraud  
24 Act:

25 A. "benefit" means money, treatment, services,

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1 goods or anything of value authorized under the program;

2 B. "claim" means any communication, whether oral,  
3 written, electronic or magnetic, that identifies a treatment,  
4 good or service as reimbursable under the program;

5 C. "cost document" means [~~any~~] a cost report or  
6 similar document that states income or expenses and is used to  
7 determine a cost reimbursement-based rate of payment for a  
8 provider under the program;

9 D. "covered person" means an individual who is  
10 entitled to receive health care benefits from a managed health  
11 care plan;

12 E. "department" means the [~~human services~~]  
13 department of health;

14 F. "entity" means a person other than an  
15 individual and includes corporations, partnerships,  
16 associations, joint-stock companies, unions, trusts, pension  
17 funds, unincorporated organizations, governments and their  
18 political subdivisions [~~thereof~~] and nonprofit organizations;

19 G. "great physical harm" means physical harm of a  
20 type that causes physical loss of a bodily member or organ or  
21 functional loss of a bodily member or organ for a prolonged  
22 period of time;

23 H. "great psychological harm" means psychological  
24 harm that causes mental or emotional incapacitation for a  
25 prolonged period of time or that causes extreme behavioral

1 change or severe physical symptoms or that requires  
2 psychological or psychiatric care;

3 I. "health care official" means:

4 (1) an administrator, officer, trustee,  
5 fiduciary, custodian, counsel, agent or employee of a managed  
6 [eare] health care plan;

7 (2) an officer, counsel, agent or employee of  
8 an organization that provides, proposes to or contracts to  
9 provide services to a managed health care plan; or

10 (3) an official, employee or agent of a state  
11 or federal agency with regulatory or administrative authority  
12 over a managed health care plan;

13 J. "managed health care plan" means a government-  
14 sponsored health benefit plan that requires a covered person  
15 to use, or creates incentives, including financial incentives,  
16 for a covered person to use, health care providers managed,  
17 owned, under contract with or employed by a health care  
18 insurer or provider service network. A "managed health care  
19 plan" includes the health care services offered by a health  
20 maintenance organization, preferred provider organization,  
21 health care insurer, provider service network, entity or  
22 person that contracts to provide or provides goods or services  
23 that are reimbursed by or are a required benefit of a state or  
24 federally funded health benefit program, or [any] a person or  
25 entity who contracts to provide goods or services to the

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1 program;

2 K. "person" includes individuals, corporations,  
3 partnerships and other associations;

4 L. "physical harm" means an injury to the body  
5 that causes pain or incapacitation;

6 M. "program" means the medical assistance program  
7 authorized under Title ~~[XIX]~~ 19 or Title 21 of the federal  
8 Social Security Act [~~42 U.S.C. 1396, et seq. and implemented~~  
9 ~~under Section 27-2-12 NMSA 1978~~];

10 N. "provider" means [~~any~~] a person who has applied  
11 to participate or who participates in the program as a  
12 supplier of treatment, services or goods;

13 O. "psychological harm" means emotional or  
14 psychological damage of such a nature as to cause fear,  
15 humiliation or distress or to impair a person's ability to  
16 enjoy the normal process of his life;

17 P. "recipient" means [~~any~~] an individual who  
18 receives or requests benefits under the program;

19 Q. "records" means [~~any~~] medical or business  
20 documentation, however recorded, relating to the treatment or  
21 care of [~~any~~] a recipient, to services or goods provided to  
22 [~~any~~] a recipient or to reimbursement for treatment, services  
23 or goods, including [~~any~~] documentation required to be  
24 retained by regulations of the program; and

25 R. "unit" means the medicaid fraud control unit or

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1 any other agency with power to investigate or prosecute fraud  
2 and abuse of the program "

3 Section 78. Section 40-4-11.5 NMSA 1978 (being Laws  
4 1990, Chapter 58, Section 2, as amended) is amended to read:

5 "40-4-11.5. MODIFICATION OF CHILD SUPPORT ORDERS IN  
6 CASES ENFORCED BY THE STATE TITLE IV-D AGENCY. --

7 A. For child support cases being enforced by the  
8 [~~human services~~] children, youth and families department  
9 acting as the state's Title IV-D child support enforcement  
10 agency as provided in Section 27-2-27 NMSA 1978, the  
11 department shall implement a process for the periodic review  
12 of child support orders that shall include:

13 (1) a review of support orders every three  
14 years upon the request of either the obligor or obligee or, if  
15 there is an assignment of support rights pursuant to the  
16 Public Assistance Act, upon the request of the department or  
17 of either the obligor or obligee;

18 (2) notification by the department of its  
19 review to the obligor and obligee; and

20 (3) authorization to require financial  
21 information from the obligor and the obligee to determine  
22 whether the support obligation should be presented to the  
23 court for modification.

24 B. In carrying out [~~its~~] duties under this  
25 section, the secretary of [~~human services~~] children, youth and

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1 families or the secretary's authorized representative has the  
2 power to issue subpoenas to compel:

3 (1) [~~to compel~~] the attendance of the obligor  
4 or the obligee at a hearing on the child support order;

5 (2) [~~to compel~~] production by the obligor or  
6 the obligee of financial or wage information, including  
7 federal or state tax returns;

8 (3) [~~to compel~~] the obligor or the obligee to  
9 disclose the location of employment of the payor party; and

10 (4) [~~to compel~~] the employer of the obligor  
11 or the obligee to disclose information relating to the  
12 employee's wages.

13 C. A subpoena issued by the [~~human services~~]  
14 children, youth and families department under this section  
15 shall state with reasonable certainty the nature of the  
16 information required, the time and place where the information  
17 shall be produced, whether the subpoena requires the  
18 attendance of the person subpoenaed or only the production of  
19 information and records and the consequences of failure to  
20 obey the subpoena.

21 D. A subpoena issued by the [~~human services~~]  
22 children, youth and families department under this section  
23 shall be served upon the person to be subpoenaed or, at the  
24 option of the secretary of children, youth and families or the  
25 secretary's authorized representative, by certified mail

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1 addressed to the person at his last known address. The  
2 service of the subpoena shall be at least ten days prior to  
3 the required production of the information or the required  
4 appearance. If the subpoena is served by certified mail,  
5 proof of service is the affidavit of mailing. After service  
6 of a subpoena upon a person, if the person neglects or refuses  
7 to comply with the subpoena, the department may apply to the  
8 district court of the county where the subpoena was served or  
9 the county where the subpoena was responded to for an order  
10 compelling compliance. Failure of the person to comply with  
11 the district court's order shall be punishable as contempt.

12 E. If a review by the [~~human services~~] children,  
13 youth and families department results in a finding that a child  
14 support order should be modified in accordance with the  
15 guidelines, it should be presented to the court for modification  
16 and the obligor and the obligee shall be notified of their  
17 respective rights and shall have thirty days to respond to the  
18 department's finding. The right to seek modification shall rest  
19 with the department in the case of obligations being enforced as  
20 a result of a public assistance recipient's assignment of  
21 support rights to the state as provided in the Social Security  
22 Act, 42 U.S.C. 602(a)(26).

23 F. At the request of the obligor or the obligee or  
24 upon the filing of a motion to modify child support, the [~~human~~  
25 ~~services~~] children, youth and families department shall furnish



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1 any information it has obtained in its review process regarding  
2 wages or other information pertaining to the obligor or the  
3 obligee.

4 G. Nothing in this section shall be construed to  
5 restrict the right of either party to petition the court to  
6 modify a child support obligation. The [~~human services~~]  
7 children, youth and families department shall not be required to  
8 conduct a review of any party's obligation more than once every  
9 three years. "

10 Section 79. Section 40-4A-2 NMSA 1978 (being Laws 1985,  
11 Chapter 105, Section 2, as amended) is amended to read:

12 "40-4A-2. DEFINITIONS. --As used in the Support Enforcement  
13 Act:

14 A. "authorized quasi-judicial officer" means a  
15 person appointed by the court pursuant to Rule 53(a) of the  
16 Rules of Civil Procedure for the District Courts;

17 B. "consumer reporting agency" means any person who,  
18 for monetary fees, dues or on a cooperative nonprofit basis,  
19 regularly engages in whole or in part in the practice of  
20 assembling or evaluating consumer credit information or other  
21 information on consumers for the purpose of furnishing consumer  
22 reports to third parties and who uses any means or facility of  
23 interstate commerce for the purpose of preparing or furnishing  
24 consumer reports;

25 C. "delinquency" means any payment under an order

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1 for support [~~which~~] that has become due and is unpaid;

2 D. "department" means the [~~human services~~] children,  
3 youth and families department;

4 E. "income" means any form of periodic payment to an  
5 obligor, regardless of source, including [~~but not limited to~~]  
6 wages, salary, commission, compensation as an independent  
7 contractor, workers' compensation benefits, disability benefits,  
8 annuity and retirement benefits or other benefits, bonuses,  
9 interest or any other payments made by any person, but does not  
10 include:

11 (1) any amounts required by law to be withheld,  
12 other than creditor claims, including [~~but not limited to~~]  
13 federal, state and local taxes, social security and other  
14 retirement and disability contributions;

15 (2) union dues;

16 (3) any amounts exempted by federal law; or

17 (4) public assistance payments;

18 F. "notice of delinquency" means the notice of  
19 delinquency as provided for in Section 40-4A-4 NMSA 1978;

20 G. "notice to withhold income" means a notice that  
21 requires the payor to withhold from the obligor money necessary  
22 to meet the obligor's duty under an order for support and, in  
23 the event of a delinquency, requires the payor to withhold an  
24 additional amount to be applied towards the reduction of the  
25 delinquency;

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1           H. "obligor" means the person who owes a duty to  
2 make payments under an order for support;

3           I. "obligee" means any person who is entitled to  
4 receive support under an order for support or that person's  
5 legal representative;

6           J. "order for support" means any order ~~[which]~~ that  
7 has been issued by any judicial, quasi-judicial or  
8 administrative entity of competent jurisdiction of any state and  
9 which order provides for:

10                   (1) periodic payment of funds for the support  
11 of a child or a spouse;

12                   (2) modification or resumption of payment of  
13 support;

14                   (3) payment of delinquency; or

15                   (4) reimbursement of support;

16           K. "payor" means any person or entity who provides  
17 income to an obligor;

18           L. "person" means an individual, corporation,  
19 partnership, governmental agency, public office or other entity;  
20 and

21           M "public office" means the state disbursement unit  
22 of the department as defined in Section 454B of the Social  
23 Security Act. "

24           Section 80. Section 40-4B-3 NMSA 1978 (being Laws 1988,  
25 Chapter 127, Section 3) is amended to read:

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1 "40-4B-3. DEFINITIONS. --As used in the Child Support  
2 Hearing Officer Act:

3 A. "department" means the [~~child support enforcement~~  
4 ~~bureau of the human services~~] children, youth and families  
5 department; and

6 B. "secretary" means the secretary of [~~human~~  
7 ~~services~~] children, youth and families."

8 Section 81. Section 40-4B-4 NMSA 1978 (being Laws 1988,  
9 Chapter 127, Section 4, as amended) is amended to read:

10 "40-4B-4. CHILD SUPPORT HEARING OFFICERS--APPOINTMENT--  
11 TERMS--QUALIFICATIONS--COMPENSATION.--

12 A. Child support hearing officers shall be appointed  
13 by and serve at the pleasure of the judges of the judicial  
14 districts determined pursuant to Subsection D of this section.  
15 Each hearing officer shall be selected by a majority of the  
16 district court judges in the judicial district to which he is  
17 assigned. The child support hearing officers shall be paid  
18 pursuant to a cooperative agreement between the [~~human services~~]  
19 children, youth and families department and the judicial  
20 districts.

21 B. Child support hearing officers shall be lawyers  
22 who are licensed to practice law in this state and who have a  
23 minimum of five years experience in the practice of law, with at  
24 least twenty percent of that practice having been in family law  
25 or domestic relations matters. Child support hearing officers

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1 shall devote full time to their duties under the Child Support  
2 Hearing Officer Act and shall not engage in the private practice  
3 of law or in any employment, occupation or business interfering  
4 with or inconsistent with the discharge of their duties as [a]  
5 full-time child support hearing [officer] officers.

6 C. A child support hearing officer is required to  
7 conform to [~~Canon~~] Rules 21-100 through 21-500 and 21-700 of  
8 the Code of Judicial Conduct as adopted by the supreme court.  
9 Violation of any such [~~canon~~] rule shall be grounds for  
10 dismissal of any child support hearing officer. Child support  
11 hearing officers shall be employees of the judicial branch of  
12 government and shall not be subject to the Personnel Act. Their  
13 compensation shall be set by the judges who appoint them, but  
14 such compensation shall not exceed eighty percent of the current  
15 salary for district court judges.

16 D. Child support hearing officers shall serve in  
17 such judicial districts as the secretary deems appropriate  
18 considering the case loads and case needs of the state's Title  
19 IV-D program "

20 Section 82. Section 40-4C-3 NMSA 1978 (being Laws 1990,  
21 Chapter 78, Section 3, as amended) is amended to read:

22 "40-4C-3. DEFINITIONS. --As used in the Mandatory Medical  
23 Support Act:

24 A. "court" means any district court ordering child  
25 support of an obligor;

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1           B. "dental insurance coverage" means those coverages  
2 generally associated with a dental plan of benefits, not  
3 including medicaid coverage authorized by Title ~~[XIX]~~ 19 or  
4 Title 21 of the Social Security Act and administered by the  
5 ~~[human services]~~ department;

6           C. "department" means the ~~[human services]~~ children,  
7 youth and families department;

8           D. "employer" means any individual, organization,  
9 agency, business or corporation hiring an obligor for pay;

10          E. "health insurance coverage" means those coverages  
11 generally associated with a medical plan of benefits, not  
12 including medicaid coverage authorized by Title ~~[XIX]~~ 19 or  
13 Title 21 of the Social Security Act and administered by the  
14 department;

15          F. "insurer" includes a group health plan as defined  
16 in 29 U. S. C. 1167, a health maintenance organization as defined  
17 in Section 59A-46-2 NMSA 1978 and a nonprofit health care plan  
18 organized pursuant to the provisions of Section  
19 59A-47-4 NMSA 1978;

20          G. "minor child" means a child younger than eighteen  
21 years of age who has not been emancipated;

22          H. "obligee" means a person to whom a duty of  
23 support is owed or a person, including the department, who has  
24 commenced a proceeding for enforcement of an alleged duty of  
25 support or for registration of a support order, regardless of

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1 whether the person to whom a duty of support is owed is a  
2 recipient of public assistance; and

3 I. "obligor" means a person owing a duty of support  
4 or against whom a proceeding for the enforcement of a duty of  
5 support or registration of a support order is commenced. "

6 Section 83. Section 40-5A-3 NMSA 1978 (being Laws 1995,  
7 Chapter 25, Section 3, as amended) is amended to read:

8 "40-5A-3. DEFINITIONS. --As used in the Parental  
9 Responsibility Act:

10 A. "applicant" means an obligor who is applying for  
11 issuance of a license;

12 B. "board" means:

13 (1) the construction industries commission, the  
14 construction industries division and the electrical bureau,  
15 mechanical bureau and general construction bureau of the  
16 construction industries division of the regulation and licensing  
17 department;

18 (2) the manufactured housing committee and  
19 manufactured housing division of the regulation and licensing  
20 department;

21 (3) a board, commission or agency that  
22 administers a profession or occupation licensed pursuant to  
23 Chapter 61 NMSA 1978;

24 (4) any other state agency to which the Uniform  
25 Licensing Act is applied by law;

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1 (5) a licensing board or other authority that  
2 issues a license, certificate, registration or permit to engage  
3 in a profession or occupation regulated in New Mexico;

4 (6) the department of game and fish;

5 (7) the motor vehicle division of the taxation  
6 and revenue department; or

7 (8) the alcohol and gaming division of the  
8 regulation and licensing department;

9 C. "certified list" means a verified list that  
10 includes the names, social security numbers and last known  
11 addresses of obligors not in compliance;

12 D. "compliance" means that:

13 (1) an obligor is no more than thirty days in  
14 arrears in payment of amounts required to be paid pursuant to an  
15 outstanding judgment and order for support; and

16 (2) an obligor has, after receiving appropriate  
17 notice, complied with subpoenas or warrants relating to  
18 paternity or child support proceedings;

19 E. "department" means the [~~human services~~] children,  
20 youth and families department;

21 F. "judgment and order for support" means the  
22 judgment entered against an obligor by the district court or a  
23 tribal court in a case brought by the department pursuant to  
24 Title IV-D of the Social Security Act;

25 G. "license" means a liquor license or other



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1 license, certificate, registration or permit issued by a board  
2 that a person is required to have to engage in a profession or  
3 occupation in New Mexico; "license" includes a commercial  
4 driver's license, driver's license and recreational licenses,  
5 including hunting, fishing or trapping licenses;

6 H. "licensee" means an obligor to whom a license has  
7 been issued; and

8 I. "obligor" means the person who has been ordered  
9 to pay child or spousal support pursuant to a judgment and order  
10 for support."

11 Section 84. Section 40-6A-310 NMSA 1978 (being Laws 1994,  
12 Chapter 107, Section 310) is amended to read:

13 "40-6A-310. DUTIES OF STATE INFORMATION AGENCY. --

14 (a) The ~~[human services]~~ children, youth and  
15 families department is the state information agency under the  
16 Uniform Interstate Family Support Act.

17 (b) The state information agency shall:

18 (1) compile and maintain a current list,  
19 including addresses, of the tribunals in this state which have  
20 jurisdiction under the Uniform Interstate Family Support Act and  
21 any support enforcement agencies in this state and transmit a  
22 copy to the state information agency of every other state;

23 (2) maintain a register of tribunals and support  
24 enforcement agencies received from other states;

25 (3) forward to the appropriate tribunal in the

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1 place in this state in which the individual obligee or the  
2 obligor resides, or in which the obligor's property is believed  
3 to be located, all documents concerning a proceeding under the  
4 Uniform Interstate Family Support Act received from an  
5 initiating tribunal or the state information agency of the  
6 initiating state; and

7 (4) obtain information concerning the location  
8 of the obligor and the obligor's property within this state not  
9 exempt from execution, by such means as postal verification and  
10 federal or state locator services, examination of telephone  
11 directories, requests for the obligor's address from employers  
12 and examination of governmental records, including, to the  
13 extent not prohibited by other law, those relating to real  
14 property, vital statistics, law enforcement, taxation, motor  
15 vehicles, driver's licenses and social security. "

16 Section 85. Section 40-7A-3 NMSA 1978 (being Laws 1981,  
17 Chapter 171, Section 3) is amended to read:

18 "40-7A-3. DEFINITIONS. --As used in the Child Placement  
19 Agency Licensing Act:

20 A. "child" means an individual under the age of  
21 eighteen years;

22 B. "child placement agency" means any individual,  
23 partnership, unincorporated association or corporation  
24 undertaking to place a child in a home in this or any other  
25 state for the purpose of foster care or adoption of the child;

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1 C. "department" means the [~~human services~~] children,  
2 youth and families department;

3 D. "division" means the [~~social services division of~~  
4 ~~the~~] department;

5 E. "foster home" means a home maintained by an  
6 individual having the care and control, for periods exceeding  
7 twenty-four hours, of a child who is abused, neglected,  
8 dependent or homeless and who is not placed for adoption;

9 F. "person" means any individual, partnership,  
10 unincorporated association or corporation; and

11 G. "secretary" means the secretary of [~~human~~  
12 ~~services~~] children, youth and families. "

13 Section 86. Section 40-7B-2 NMSA 1978 (being Laws 1985,  
14 Chapter 133, Section 2) is amended to read:

15 "40-7B-2. [~~HUMAN SERVICES~~] CHILDREN, YOUTH AND FAMILIES  
16 DEPARTMENT TO ADMINISTER COMPACT-- RULES AND REGULATIONS. --The  
17 [~~New Mexico human services~~] children, youth and families  
18 department, hereinafter called "the department", or its  
19 successor agency is the compact administrator of the Interstate  
20 Compact on Adoption and Medical Assistance, hereinafter called  
21 "the compact". The department shall promulgate rules and  
22 regulations to carry out more effectively the terms of the  
23 compact. Where appropriate, the department shall act jointly  
24 with the officers of other party states in promulgating such  
25 rules and regulations. The department may cooperate with all

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1 other departments and agencies of this state and its political  
2 subdivisions in facilitating the proper administration of the  
3 compact and any amendments or supplementary agreements  
4 thereunder entered into by this state. "

5 Section 87. Section 41-4-3 NMSA 1978 (being Laws 1976,  
6 Chapter 58, Section 3, as amended) is amended to read:

7 "41-4-3. DEFINITIONS. --As used in the Tort Claims Act:

8 A. "board" means the risk management advisory board;

9 B. "governmental entity" means the state or any  
10 local public body as defined in Subsections C and H of this  
11 section;

12 C. "local public body" means all political  
13 subdivisions of the state and their agencies, instrumentalities  
14 and institutions and all water and natural gas associations  
15 organized pursuant to Chapter 3, Article 28 NMSA 1978;

16 D. "law enforcement officer" means any full-time  
17 salaried public employee of a governmental entity whose  
18 principal duties under law are to hold in custody any person  
19 accused of a criminal offense, to maintain public order or to  
20 make arrests for crimes, or members of the national guard when  
21 called to active duty by the governor;

22 E. "maintenance" does not include:

23 (1) conduct involved in the issuance of a  
24 permit, driver's license or other official authorization to use  
25 the roads or highways of the state in a particular manner; or

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1 (2) an activity or event relating to a public  
2 building or public housing project that was not foreseeable;

3 F. "public employee" means any officer, employee or  
4 servant of a governmental entity, excluding independent  
5 contractors except for individuals defined in Paragraphs (7),  
6 (8), (10) and (14) of this subsection, or of a corporation  
7 organized pursuant to the Educational Assistance Act or the  
8 Mortgage Finance Authority Act and including:

9 (1) elected or appointed officials;

10 (2) law enforcement officers;

11 (3) persons acting on behalf or in service of a  
12 governmental entity in any official capacity, whether with or  
13 without compensation;

14 (4) licensed foster parents providing care for  
15 children in the custody of the [~~human services~~] children, youth  
16 and families department, corrections department or department of  
17 health, but not including foster parents certified by a licensed  
18 child placement agency;

19 (5) members of state or local selection panels  
20 established pursuant to the Adult Community Corrections Act;

21 (6) members of state or local selection panels  
22 established pursuant to the Juvenile Community Corrections Act;

23 (7) licensed medical, psychological or dental  
24 arts practitioners providing services to the corrections  
25 department pursuant to contract;

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1 (8) members of the board of directors of the  
2 New Mexico comprehensive health insurance pool;

3 (9) individuals who are members of medical  
4 review boards, committees or panels established by the  
5 educational retirement board or the retirement board of the  
6 public employees retirement association;

7 (10) licensed medical, psychological or dental  
8 arts practitioners providing services to the children, youth and  
9 families department pursuant to contract;

10 (11) members of the board of directors of the  
11 New Mexico educational assistance foundation;

12 (12) members of the board of directors of the  
13 New Mexico student loan corporation;

14 (13) members of the New Mexico mortgage finance  
15 authority; and

16 (14) volunteers, employees and board members of  
17 court-appointed special advocate programs;

18 G. "scope of duties" means performing any duties  
19 that a public employee is requested, required or authorized to  
20 perform by the governmental entity, regardless of the time and  
21 place of performance; and

22 H. "state" or "state agency" means the state of New  
23 Mexico or any of its branches, agencies, departments,  
24 boards, instrumentalities or institutions. "

25 Section 88. Section 41-13-2 NMSA 1978 (being Laws 1999,

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1 Chapter 268, Section 3) is amended to read:

2 "41-13-2. DEFINITIONS. -- As used in the Governmental  
3 Immunity Act:

4 A. "employment" includes services provided by an  
5 immune contractor;

6 B. "governmental entity" means the state or a local  
7 public body;

8 C. "immune contractor" means a person that:

9 (1) is an independent contractor; and

10 (2) contracts with a governmental entity to  
11 provide:

12 (a) care for children in the custody of  
13 the ~~[human services]~~ children, youth and families department,  
14 corrections department or department of health, as a licensed  
15 foster parent, excluding foster parents certified by a licensed  
16 child placement agency; or

17 (b) services to the children, youth and  
18 families department or the corrections department as a licensed  
19 medical, psychological or dental arts practitioner;

20 (3) is a member of:

21 (a) a state or local selection panel  
22 established pursuant to the Juvenile Community Corrections Act;

23 (b) a state or local selection panel  
24 established pursuant to the Adult Community Corrections Act;

25 (c) the board of directors of the New

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1 Mexico comprehensive health insurance pool;

2 (d) a medical review board, a committee  
3 or panel established by the educational retirement board or the  
4 retirement board of the public employees retirement association;

5 (e) the board of directors of the New  
6 Mexico educational assistance foundation; or

7 (f) the board of directors of the New  
8 Mexico student loan corporation; or

9 (4) is a volunteer, employee or board member of  
10 a court-created special advocate program;

11 D. "local public body" means a political subdivision  
12 of the state and its agencies, instrumentalities and  
13 institutions and a water and natural gas association organized  
14 pursuant to Chapter 3, Article 28 NMSA 1978;

15 E. "public employee" means a natural person that is  
16 an officer or employee of a governmental entity; and

17 F. "state" means the state of New Mexico or any of  
18 its branches, agencies, departments, boards, instrumentalities  
19 or institutions. "

20 Section 89. Section 50-13-3 NMSA 1978 (being Laws 1997,  
21 Chapter 237, Section 4) is amended to read:

22 "50-13-3. STATE DIRECTORY OF NEW HIRES. --

23 A. The [~~human services~~] children, youth and families  
24 department, acting as the state's child support enforcement  
25 agency pursuant to Title IV-D of the Social Security Act, shall,

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1 not later than October 1, 1997, establish an automated directory  
2 to be known as the state directory of new hires, which shall  
3 contain information supplied by employers on each newly hired or  
4 rehired employee.

5 B. The state directory of new hires shall use the  
6 information received to locate individuals for purposes of  
7 establishing paternity and establishing, modifying and enforcing  
8 child support obligations and may disclose such information to  
9 any agent of the state Title IV-D agency that is under contract  
10 with the agency to carry out such purposes.

11 C. All employers and labor organizations doing  
12 business in the state shall furnish to the state directory of  
13 new hires a report that contains the name, address and the  
14 social security number of each newly hired or rehired employee  
15 and the name and address of and identifying number assigned  
16 under Section 6109 of the Internal Revenue Code of 1986 to the  
17 employer.

18 D. An employer in the state who also employs persons  
19 in another state and who transmits reports magnetically or  
20 electronically must designate one state in which the employer  
21 has employees to which the employer will transmit the report.  
22 Any employer who transmits reports pursuant to this [paragraph]  
23 subsection shall notify the state directory of new hires in  
24 writing as to which state such employer designates for the  
25 purpose of sending reports.

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1           E. Any department, agency or instrumentality of the  
2 United States government shall comply with the provisions of  
3 this section by transmitting the report described in Subsection  
4 C of this section to the national directory of new hires.

5           F. Each employer and labor organization [~~as defined~~  
6 ~~above~~] shall report to the state directory of new hires not  
7 later than twenty days after the date the employer hires the  
8 employee; or in the case of an employer transmitting reports  
9 magnetically or electronically, by two monthly transmissions if  
10 necessary not less than twelve days nor more than sixteen days  
11 apart.

12           G. Each report shall be made on a W-4 form or, at  
13 the option of the employer, an equivalent form and may be  
14 transmitted by first class mail, magnetically or electronically.

15           H. The labor department shall furnish to the state  
16 directory of new hires wage and claim information as defined in  
17 Section 303(h)(3) of the Social Security Act.

18           I. The children, youth and families department shall  
19 reimburse the labor department for all costs incurred in  
20 furnishing the information. The state directory of new hires  
21 shall make available to state public assistance agencies  
22 responsible for administering a program specified in Section  
23 1137(b) of the Social Security Act information reported by  
24 employers for purposes of verifying eligibility for the program  
25 or investigating fraud.

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1           J. The state directory of new hires shall make  
2 available to the state agencies operating employment security  
3 and workers' compensation programs access to information  
4 reported by employers for the purposes of administering such  
5 programs or investigating fraud. "

6           Section 90. Section 50-13-4 NMSA 1978 (being Laws 1997,  
7 Chapter 237, Section 5) is amended to read:

8           "50-13-4. PENALTIES. -- The [~~state Title IV-D agency~~]  
9 children, youth and families department shall impose a civil  
10 money penalty of twenty dollars (\$20.00) on employers for each  
11 instance of failure to comply with the provisions of this  
12 section, unless the failure is the result of a conspiracy  
13 between the employer and the employee to not supply the required  
14 report or to supply a false or incomplete report, in which case  
15 the penalty shall be five hundred dollars (\$500) on the employer  
16 for each instance. The [~~human services~~] children, youth and  
17 families department shall establish an appeals process for  
18 employers penalized under this section. "

19           Section 91. Section 51-1-37.1 NMSA 1978 (being Laws 1982,  
20 Chapter 41, Section 4, as amended) is amended to read:

21           "51-1-37.1. CHILD SUPPORT OBLIGATIONS. --

22           A. The division shall notify the [~~human services~~]  
23 children, youth and families department of the name of any  
24 individual who files a new claim for unemployment compensation  
25 and who is determined to be eligible for benefits.

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1           B. The division shall deduct and withhold from any  
2 unemployment compensation otherwise payable to an individual who  
3 owes child support obligations:

4           (1) the amount specified by the individual to  
5 be deducted and withheld, if an amount is not specified under  
6 Paragraph (2) or (3) of this subsection;

7           (2) the amount specified in an agreement  
8 between the individual and the [~~child support enforcement bureau~~  
9 ~~of the human services~~] children, youth and families department,  
10 pursuant to Section 454(20)(B)(i) of the Social Security Act, a  
11 copy of which has been provided to the division by the [~~child~~  
12 ~~support enforcement bureau~~] children, youth and families  
13 department; or

14           (3) any amount otherwise required to be so  
15 deducted and withheld from such unemployment compensation  
16 pursuant to a writ of garnishment or other legal process for  
17 enforcement of judgments issued by any court or administrative  
18 agency of competent jurisdiction in any state, territory or  
19 possession of the United States or any foreign country with  
20 which the United States has an agreement to honor such process  
21 directed to the [~~human services~~] children, youth and families  
22 department for the purpose of enforcing an individual's  
23 obligation to provide child support.

24           C. Any amount withheld from the unemployment  
25 compensation benefits due a claimant shall be considered as

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1 payment of unemployment compensation benefits to the claimant  
2 and paid by the individual in satisfaction of his child support  
3 obligations.

4 D. The amount of child support obligations withheld  
5 by the division pursuant to this section shall be paid to the  
6 [~~human services~~] children, youth and families department.

7 E. As used in this section, "unemployment  
8 compensation benefits" means benefits payable under the  
9 Unemployment Compensation Law and amounts payable by or through  
10 the division pursuant to an agreement under any federal law  
11 providing for compensation, assistance or allowance with respect  
12 to unemployment.

13 F. As used in this section, "child support  
14 obligations" includes only obligations that are being enforced  
15 pursuant to a plan described in Section 454 of the Social  
16 Security Act that has been approved by the United States  
17 secretary of health and human services under Part D of Title 4  
18 of the Social Security Act.

19 G. The [~~human services~~] children, youth and families  
20 department shall reimburse the division for the administrative  
21 costs incurred by it that are attributable to the child support  
22 obligations being enforced by the [~~human services~~] children,  
23 youth and families department. If the [~~human services~~]  
24 children, youth and families department and the division fail to  
25 agree on the amount of such administrative costs, the state

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1 budget division of the department of finance and administration  
2 shall prescribe the amount of administrative costs to be  
3 reimbursed. "

4 Section 92. Section 51-1-37.2 NMSA 1978 (being Laws 1998,  
5 Chapter 91, Section 8) is amended to read:

6 "51-1-37.2. FOOD STAMP OVERISSUANCES. --

7 A. The division shall notify the [~~human services~~]  
8 labor department of the name and social security number of any  
9 individual who files a new claim for unemployment compensation  
10 and who is determined to be eligible for benefits. This  
11 information provided by the division shall be used by the [~~human~~  
12 ~~services~~] labor department to determine whether any eligible  
13 individual owes an uncollected overissuance of food stamp  
14 coupons, as defined in Section 13(c)(1) of the federal Food  
15 Stamp Act of 1977.

16 B. The division shall deduct and withhold from any  
17 unemployment compensation benefits payable to an individual who  
18 owes an uncollected overissuance:

19 (1) the amount specified by the individual to  
20 the division to be deducted and withheld under this subsection;

21 (2) the amount, if any, determined pursuant to  
22 an agreement submitted to the [~~human services~~] labor department  
23 pursuant to Section 13(c)(3)(A) of the federal Food Stamp Act of  
24 1977; or

25 (3) any amount otherwise required to be

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1 deducted and withheld from unemployment compensation pursuant to  
2 Section 13(c) (3) (B) of the federal Food Stamp Act of 1977.

3 C. Any amount deducted and withheld pursuant to this  
4 section shall be paid by the division to the [~~human services~~]  
5 labor department.

6 D. Any amount deducted and withheld pursuant to  
7 Subsection B of this section shall for all purposes be treated  
8 as if it were paid to the individual as unemployment  
9 compensation and paid by such individual to the [~~human services~~]  
10 labor department as repayment of the individual's uncollected  
11 overissuance.

12 E. As used in this section, "unemployment  
13 compensation benefits" means any benefits payable pursuant to  
14 the Unemployment Compensation Law and amounts payable pursuant  
15 to an agreement pursuant to any federal law providing for  
16 compensation, assistance or allowances with respect to  
17 unemployment.

18 F. This section applies only if arrangements have  
19 been made for reimbursement by the [~~human services~~] labor  
20 department for the administrative costs incurred by the division  
21 pursuant to this section that are attributable to the repayment  
22 of uncollected overissuances to the [~~human services~~] labor  
23 department. "

24 Section 93. Section 52-1-60 NMSA 1978 (being Laws 1937,  
25 Chapter 92, Section 16, as amended) is amended to read:

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1 "52-1-60. NOTICE TO DIRECTOR OF DATE OF PAYMENT. --

2 A. Every employer's workers' compensation insurance  
3 carrier shall notify the director of the date on which the  
4 initial payment of any claim for benefits has been made within  
5 ten days of such payment.

6 B. The director shall provide on a quarterly basis  
7 to the child support enforcement division of the [~~human~~  
8 ~~services~~] children, youth and families department the name,  
9 social security number, home address and employer of all injured  
10 workers reported.

11 C. A court order filed by the child support  
12 enforcement division of the [~~human services~~] children, youth and  
13 families department in the claim of the workers' compensation  
14 administration stating that the claimant owes past due or  
15 ongoing support shall constitute a notice that lump sum and  
16 partial-lump sum payment of benefits to a claimant are barred  
17 contingent on satisfaction of the child support arrearage. No  
18 order approving a lump sum or partial-lump sum payment to a  
19 claimant pursuant to Section 52-5-12 NMSA 1978 shall be executed  
20 or entered until:

21 (1) the arrearage has been satisfied;

22 (2) provision has been made in the order for  
23 lump sum or partial-lump sum settlement for direct payment of  
24 sufficient funds to the child support enforcement division to  
25 satisfy the arrearage; or

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1 (3) the workers' compensation judge makes a  
2 specific written finding of extreme hardship to the worker  
3 excusing the satisfaction of the arrearages from those funds."

4 Section 94. Section 52-3-52 NMSA 1978 (being Laws 1945,  
5 Chapter 135, Section 39, as amended) is amended to read:

6 "52-3-52. NOTICE TO DIRECTOR. --

7 A. Every employer of labor within this state subject  
8 to the provisions of the New Mexico Occupational Disease  
9 Disablement Law or his insurer shall notify the director of the  
10 date on which the initial payment of any claim for benefits  
11 under the New Mexico Occupational Disease Disablement Law has  
12 been made, within ten days after [~~such~~] the payment.

13 B. The director shall provide on a quarterly basis  
14 to the child support enforcement [~~bureau~~] division of the [~~human~~  
15 ~~services~~] children, youth and families department the name,  
16 social security number, home address and employer of all  
17 disabled workers reported."

18 Section 95. Section 52-5-3 NMSA 1978 (being Laws 1986,  
19 Chapter 22, Section 29, as amended) is amended to read:

20 "52-5-3. REPORTS-- DATA GATHERING. --

21 A. The intent of this section is to allow the  
22 director to gather data and conduct studies to evaluate the  
23 workers' compensation and occupational disease disablement  
24 system in New Mexico. This includes evaluating the benefits  
25 structure and the costs incurred under each version of the

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1 Workers' Compensation Act and the New Mexico Occupational  
2 Disease Disablement Law. To this end, the director shall  
3 establish baseline data against which to assess the changes in  
4 the law.

5 B. The director shall independently evaluate  
6 insurance industry data pertaining to workers' compensation and  
7 occupational disease disablement claims and payments, as well as  
8 other information the director believes to be necessary and  
9 relevant to a thorough evaluation of the system's effectiveness.  
10 In addition to data generated by insurance industry  
11 representatives and organizations, the director shall collect  
12 data from employers, claimants and other relevant parties.

13 C. Unless otherwise provided by law, the director  
14 shall have access to insurance industry information that  
15 contains workers' compensation and occupational disease  
16 disablement claim data as the director determines is necessary  
17 to carry out the provisions of this section.

18 D. The director shall have access to files and  
19 records of:

- 20 (1) the labor department that pertain to:  
21 (a) the name and number of employees  
22 reported by employers;  
23 (b) employers' mailing addresses;  
24 (c) federal identification numbers; and  
25 (d) general wage information;

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1 (2) the insurance [~~department~~] division of the  
2 public regulation commission that pertain to:

3 (a) historical insurance classification  
4 rates and total premiums paid during given periods of time;

5 (b) insurers licensed to underwrite  
6 casualty insurance; and

7 (c) records of group self-insurers;

8 (3) the [~~human services~~] labor department that  
9 include names, addresses and other identifying information of  
10 recipients of benefits and services pertaining to income  
11 support; and

12 (4) the taxation and revenue department that  
13 identify employers paying workers' compensation assessments in  
14 accordance with Section 52-5-19 NMSA 1978.

15 E. Information that is confidential under state law  
16 shall be accessible to the director and shall remain  
17 confidential.

18 F. The director shall prepare an annual report. He  
19 shall publish in that report and in other reports as he deems  
20 appropriate such statistical and informational reports and  
21 analyses based on reports and records available as, in his  
22 opinion, will be useful in increasing public understanding of  
23 the purposes, effectiveness, costs, coverage and administrative  
24 procedures of workers' compensation and in providing basic  
25 information regarding the occurrence and sources of work

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1 injuries or disablements to public and private agencies engaged  
2 in industrial injury prevention activities. The reports shall  
3 include information concerning the nature and frequency of  
4 injuries and occupational diseases sustained and the resulting  
5 benefits, costs and other factors that are important to  
6 furthering the intent of this section."

7 Section 96. Section 56-3-3 NMSA 1978 (being Laws 1969,  
8 Chapter 259, Section 3, as amended) is amended to read:

9 "56-3-3. INFORMATION TO NON CREDIT-GRANTING GOVERNMENTAL  
10 AGENCIES. --

11 A. A credit bureau may supply identifying  
12 information such as names, addresses, former addresses, places  
13 of employment and former employment to non credit-granting  
14 governmental agencies.

15 B. No other information may be supplied to such  
16 governmental agencies, other than as provided in Subsection A of  
17 this section, by a credit bureau, except in response to legal  
18 process, unless the investigation is for security purposes.

19 C. The limitations contained in Subsections A and B  
20 of this section shall not apply to the child support enforcement  
21 division of the [~~human services~~] children, youth and families  
22 department which shall, unless otherwise prohibited by law, have  
23 the right to full access to credit bureau reports for the  
24 purpose of assisting it in carrying out its duties to locate  
25 child support obligors and enforce child support obligations

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1 pursuant to the department's child support program  
2 responsibilities set forth in Section 27-2-27 NMSA 1978. The  
3 child support enforcement division shall limit its use of  
4 consumer credit reports to those purposes permissible under the  
5 federal Fair Credit Reporting Act, 15 U. S. C. 1681. The division  
6 shall furnish to the credit bureau the judgment or case number  
7 for the child support obligation for which a report is  
8 requested, and the credit bureau furnishing reports to the  
9 division shall audit the division's requests on a monthly basis  
10 to assure the division's compliance with this subsection. Any  
11 employee of the division having access to credit bureau reports  
12 shall limit strictly the use of information contained in the  
13 reports to purposes connected with the employee's  
14 responsibilities for enforcing child support obligations  
15 pursuant to the state's child support enforcement program "

16 Section 97. Section 58-18-5.5 NMSA 1978 (being Laws 1998,  
17 Chapter 63, Section 6) is amended to read:

18 "58-18-5.5. ADDITIONAL POWERS OF AUTHORITY--AUTHORITY  
19 DESIGNATED AS SINGLE STATE HOUSING AUTHORITY--APPLICATION  
20 FOR AND RECEIPT OF FEDERAL FUNDS--ADMINISTRATION OF HOUSING  
21 PROGRAMS.--In addition to the powers granted the authority  
22 pursuant to Sections 58-18-5 and 58-18-5.3 NMSA 1978, the  
23 authority:

24 A. is designated as the state housing authority for  
25 all purposes;

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1           B. shall make application for federal housing funds  
2 and programs;

3           C. shall administer federal and state housing  
4 programs and federal tax credit provisions associated with those  
5 programs;

6           D. shall receive and expend funds pursuant to  
7 applicable federal housing laws, federal housing regulations,  
8 the provisions of the Mortgage Finance Authority Act and  
9 regulations adopted pursuant to that act;

10          E. shall administer the following housing programs  
11 that were previously transferred to it by executive order, the  
12 provisions of which are ratified:

13                   (1) the federal HOME program;

14                   (2) the federal low-income housing tax credit  
15 program;

16                   (3) the federal emergency shelter grant  
17 programs;

18                   (4) the state homeless program;

19                   (5) the federal and state weatherization  
20 programs and that part of the low-income home energy assistance  
21 program authorized for weatherization; and

22                   (6) the state safe water program;

23          F. shall assist with technical consultation in  
24 connection with housing components of the community service  
25 block grant and community development block grant programs that

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1 are administered by the [~~human services~~] children, youth and  
2 families department and the department of finance and  
3 administration, respectively; and

4 G. shall not receive direct appropriations of state  
5 funds from the legislature, and, if a program for which the  
6 authority is granted the power and has the duty to administer  
7 involves the appropriation or expenditure of state funds, the  
8 authority is granted specific power to enter into a joint powers  
9 agreement with the department of finance and administration  
10 pursuant to the Joint Powers Agreements Act. "

11 Section 98. Section 59A-18-31 NMSA 1978 (being Laws 1989,  
12 Chapter 183, Section 1, as amended) is amended to read:

13 "59A-18-31. ACCIDENT AND HEALTH POLICY OR CERTIFICATE  
14 PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL  
15 BENEFITS UNDER THE MEDICAID PROGRAM --

16 A. Each individual or group policy or certificate of  
17 accident or health insurance that is delivered, issued for  
18 delivery or renewed in this state shall include provisions that  
19 require benefits paid on behalf of a child or other insured  
20 person under the policy or certificate to be paid to the [~~human~~  
21 ~~services department~~] medical assistance division of the  
22 department of health when:

23 (1) the [~~human services department~~] medical  
24 assistance division has paid or is paying benefits on behalf of  
25 the child or other insured person under the state's medicaid

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1 program pursuant to Title [~~XIX~~] 19 or Title 21 of the federal  
2 Social Security Act [~~42 U. S. C. 1396, et seq.~~];

3 (2) payment for the services in question has  
4 been made by the [~~human services department~~] medical assistance  
5 division to the medicaid provider; and

6 (3) the insurer is notified that the insured  
7 individual receives benefits under the medicaid program and that  
8 benefits [~~must~~] shall be paid directly to the [~~human services~~  
9 ~~department~~] medical assistance division.

10 B. The notice required under Paragraph (3) of  
11 Subsection A of this section may be accomplished through an  
12 attachment to the claim by the [~~human services department~~]  
13 medical assistance division for insurance benefits when the  
14 claim is first submitted by the [~~human services department~~]  
15 division to the insurer.

16 C. Notwithstanding any other provisions of law,  
17 checks in payment for claims pursuant to any individual or group  
18 policy or certificate of accident or health insurance for health  
19 care services provided to insured individuals who are also  
20 eligible for benefits under the medicaid program and provided by  
21 medical providers qualified to participate under the policy or  
22 certificate shall be made payable to the provider. The insurer  
23 may be notified that the insured individual is eligible for  
24 medicaid benefits through an attachment to the claim by the  
25 provider for insurance benefits when the claim is first



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1 submitted by the provider to the insurer.

2 D. No individual or group accident or health policy  
3 or certificate delivered, issued for delivery or renewed in this  
4 state on or after [~~the effective date of this section~~] June 16,  
5 1989 shall contain any provision denying or limiting insurance  
6 benefits because services are rendered to an insured who is  
7 eligible for or who has received medical assistance under the  
8 medicaid program of this state.

9 E. To the extent that payment for covered expenses  
10 has been made pursuant to the state medicaid program for health  
11 care items or services furnished to an individual, in any case  
12 where an insurer has a legal liability to make payments, the  
13 state is considered to have acquired the rights of the  
14 individual to payment by the insurer for those health care items  
15 or services. "

16 Section 99. Section 59A-22-38 NMSA 1978 (being Laws 1989,  
17 Chapter 183, Section 2, as amended) is amended to read:

18 "59A-22-38. INDIVIDUAL HEALTH INSURANCE--POLICY PROVISIONS  
19 RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL BENEFITS  
20 UNDER THE MEDICAID PROGRAM --

21 A. Each individual health insurance policy that is  
22 delivered, issued for delivery or renewed in this state shall  
23 include provisions that require benefits paid on behalf of a  
24 child or other insured person under the policy to be paid to the  
25 [~~human services department~~] medical assistance division of the

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1 department of health when:

2 (1) the [~~human services department~~] medical  
3 assistance division has paid or is paying benefits on behalf of  
4 the child or other insured person under the state's medicaid  
5 program pursuant to Title [~~XIX~~] 19 or Title 21 of the federal  
6 Social Security Act [~~42 U. S. C. 1396, et seq.~~];

7 (2) payment for the services in question has  
8 been made by the [~~human services department~~] medical assistance  
9 division to the medicaid provider; and

10 (3) the insurer is notified that the insured  
11 individual receives benefits under the medicaid program and that  
12 benefits [~~must~~] shall be paid directly to the [~~human services~~  
13 ~~department~~] medical assistance division.

14 B. The notice required under Paragraph (3) of  
15 Subsection A of this section may be accomplished through an  
16 attachment to the claim by the [~~human services department~~]  
17 medical assistance division for insurance benefits when the  
18 claim is first submitted by the [~~human services department~~]  
19 medical assistance division to the insurer.

20 C. Notwithstanding any other provisions of law,  
21 checks in payment for claims pursuant to any individual health  
22 insurance policy for health care services provided to persons  
23 who are also eligible for benefits under the medicaid program  
24 and provided by medical providers qualified to participate under  
25 the policy shall be made payable to the provider. The insurer

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1 may be notified that the insured individual is eligible for  
2 medicaid benefits through an attachment to the claim by the  
3 provider for insurance benefits when the claim is first  
4 submitted by the provider to the insurer.

5 D. No individual health insurance policy delivered,  
6 issued for delivery or renewed in this state on or after [~~the~~  
7 ~~effective date of this section~~] June 16, 1989 shall contain any  
8 provision denying or limiting insurance benefits because  
9 services are rendered to an insured who is eligible for or who  
10 has received medical assistance under the medicaid program of  
11 this state.

12 E. To the extent that payment for covered expenses  
13 has been made pursuant to the state medicaid program for health  
14 care items or services furnished to an individual, in any case  
15 where an insurer has a legal liability to make payments, the  
16 state is considered to have acquired the rights of the  
17 individual to payment by the insurer for those health care items  
18 or services. "

19 Section 100. Section 59A-23-7 NMSA 1978 (being Laws 1989,  
20 Chapter 183, Section 3, as amended) is amended to read:

21 "59A-23-7. BLANKET OR GROUP HEALTH POLICY OR  
22 CERTIFICATE--PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE  
23 FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM --

24 A. Each blanket or group health policy or  
25 certificate of insurance that is delivered, issued for delivery

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1 or renewed in this state shall include provisions that require  
2 benefits paid on behalf of a child or other insured person under  
3 the policy or certificate to be paid to the [~~human services~~  
4 ~~department~~] medical assistance division of the department of  
5 health when:

6 (1) the [~~human services department~~] medical  
7 assistance division has paid or is paying benefits on behalf of  
8 the child or other insured person under the state's medicaid  
9 program pursuant to Title [~~XIX~~] 19 or Title 21 of the federal  
10 Social Security Act [~~42 U.S.C. 1396, et seq.~~];

11 (2) payment for the services in question has  
12 been made by the [~~human services department~~] medical assistance  
13 division to the medicaid provider; and

14 (3) the insurer is notified that the insured  
15 individual receives benefits under the medicaid program and that  
16 benefits [~~must~~] shall be paid directly to the [~~human services~~  
17 ~~department~~] medical assistance division.

18 B. The notice required under Paragraph (3) of  
19 Subsection A of this section may be accomplished through an  
20 attachment to the claim by the [~~human services department~~]  
21 division for insurance benefits when the claim is first  
22 submitted by the [~~human services department~~] medical assistance  
23 division to the insurer.

24 C. Notwithstanding any other provisions of law,  
25 checks in payment for claims pursuant to any blanket or group

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1 health insurance policy or certificate for health care services  
2 provided to persons who are also eligible for benefits under the  
3 medicaid program and provided by medical providers qualified to  
4 participate under the policy or certificate shall be made  
5 payable to the provider. The insurer may be notified that the  
6 insured individual is eligible for medicaid benefits through an  
7 attachment to the claim by the provider for insurance benefits  
8 when the claim is first submitted by the provider to the  
9 insurer.

10 D. No blanket or group health insurance policy or  
11 certificate delivered, issued for delivery or renewed in this  
12 state on or after [~~the effective date of this section~~] June 16,  
13 1989 shall contain any provision denying or limiting insurance  
14 benefits because services are rendered to an insured who is  
15 eligible for or who has received medical assistance under the  
16 medicaid program of this state.

17 E. To the extent that payment for covered expenses  
18 has been made pursuant to the state medicaid program for health  
19 care items or services furnished to an individual, in any case  
20 where the insurer has a legal liability to make payments, the  
21 state is considered to have acquired the rights of the  
22 individual to payment by an insurer for those health care items  
23 or services. "

24 Section 101. Section 59A-24A-15 NMSA 1978 (being Laws  
25 1989, Chapter 183, Section 4, as amended) is amended to read:

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1 "59A- 24A- 15. MEDICARE SUPPLEMENT POLICY-- PROVISIONS  
2 RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL BENEFITS  
3 UNDER THE MEDICAID PROGRAM --

4 A. Each medicare supplement policy that is  
5 delivered, issued for delivery or renewed in this state shall  
6 include provisions that require benefits paid on behalf of a  
7 child or other insured person under the policy to be paid to the  
8 [~~human services department~~] medical assistance division of the  
9 department of health when:

10 (1) the [~~human services department~~] medical  
11 assistance division has paid or is paying benefits on behalf of  
12 the child or other insured person under the state's medicaid  
13 program pursuant to Title [~~XIX~~] 19 or Title 21 of the federal  
14 Social Security Act [~~42 U.S.C. 1396, et seq.~~];

15 (2) payment for the services in question has  
16 been made by the [~~human services department~~] medical assistance  
17 division to the medicaid provider; and

18 (3) the issuer is notified that the insured  
19 individual receives benefits under the medicaid program and that  
20 benefits must be paid directly to the [~~human services~~  
21 ~~department~~] medical assistance division.

22 B. The notice required under Paragraph (3) of  
23 Subsection A of this section may be accomplished through an  
24 attachment to the claim by the [~~human services department~~]  
25 medical assistance division for insurance benefits when the

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1 claim is first submitted by the [~~human services department~~]  
2 division to the issuer.

3 C. Notwithstanding any other provisions of law,  
4 checks in payment for claims pursuant to any medicare supplement  
5 policy for health care services provided to persons who are also  
6 eligible for benefits under the medicaid program and provided by  
7 medical providers qualified to participate under the policy  
8 shall be made payable to the provider. The issuer may be  
9 notified that the insured individual is eligible for medicaid  
10 benefits through an attachment to the claim by the provider for  
11 insurance benefits when the claim is first submitted by the  
12 provider to the issuer.

13 D. No medicare supplement policy delivered, issued  
14 for delivery or renewed in this state on or after [~~the effective~~  
15 ~~date of this section~~] June 16, 1989 shall contain any provision  
16 denying or limiting insurance benefits because services are  
17 rendered to an insured who is eligible for or who has received  
18 medical assistance under the medicaid program of this state,  
19 unless:

20 (1) the medicare supplement policy or  
21 certificate has been suspended at the request of a policy or  
22 certificate holder for a period not to exceed twenty-four  
23 months; and

24 (2) during the period of suspension, the policy  
25 or certificate holder is entitled to medical assistance pursuant

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1 to Title [~~XIX~~] 19 or Title 21 of the federal Social Security Act  
2 [~~42 U. S. C. 1396, et seq.~~]. "

3 Section 102. Section 59A-44-46 NMSA 1978 (being Laws 1989,  
4 Chapter 183, Section 5) is amended to read:

5 "59A-44-46. FRATERNAL BENEFIT SOCIETIES-- CERTIFICATE  
6 PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL  
7 BENEFITS UNDER THE MEDICAID PROGRAM --

8 A. Each individual or group policy or certificate of  
9 accident or health insurance issued by a society that is  
10 delivered, issued for delivery or renewed in this state shall  
11 include provisions that require benefits paid on behalf of a  
12 child or other insured person under the policy or certificate to  
13 be paid to the [~~human services department~~] medical assistance  
14 division of the department of health when:

15 (1) the [~~human services department~~] medical  
16 assistance division has paid or is paying benefits on behalf of  
17 the child or other insured person under the state's medicaid  
18 program pursuant to Title [~~XIX~~] 19 or Title 21 of the federal  
19 Social Security Act [~~42 U. S. C. 1396, et seq.~~];

20 (2) payment for the services in question has  
21 been made by the [~~human services department~~] medical assistance  
22 division to the medicaid provider; and

23 (3) the society is notified that the insured  
24 individual receives benefits under the medicaid program and that  
25 benefits must be paid directly to the [~~human services~~



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1 ~~department]~~ medical assistance division.

2 B. The notice required under Paragraph (3) of  
3 Subsection A of this section may be accomplished through an  
4 attachment to the claim by the [~~human services department~~]  
5 division for insurance benefits when the claim is first  
6 submitted by the [~~human services department~~] medical assistance  
7 division to the society.

8 C. Notwithstanding any other provisions of law,  
9 checks in payment for claims pursuant to any individual or group  
10 policy or certificate of accident or health insurance for health  
11 care services provided to persons who are also eligible for  
12 benefits under the medicaid program and provided by medical  
13 providers qualified to participate under the policy or  
14 certificate shall be made payable to the provider. The society  
15 may be notified that the insured individual is eligible for  
16 medicaid benefits through an attachment to the claim by the  
17 provider for insurance benefits when the claim is first  
18 submitted by the provider to the society.

19 D. No individual or group policy or certificate of  
20 accident or health insurance issued by a society that is  
21 delivered, issued for delivery or renewed in this state on or  
22 after the effective date of this section shall contain any  
23 provision denying or limiting insurance benefits because  
24 services are rendered to an insured who is eligible for or who  
25 has received medical assistance under the medicaid program of

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1 this state. "

2 Section 103. Section 59A-46-29 NMSA 1978 (being Laws 1989,  
3 Chapter 183, Section 6, as amended) is amended to read:

4 "59A-46-29. HEALTH MAINTENANCE ORGANIZATIONS-- CONTRACT OR  
5 CERTIFICATE PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE  
6 FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM --

7 A. Each individual or group contract or certificate  
8 that is delivered, issued for delivery or renewed in this state  
9 shall include provisions that require any indemnity benefits  
10 payable by a health maintenance organization on behalf of an  
11 enrollee under the contract or certificate to be paid to the  
12 [~~human services department~~] medical assistance division of the  
13 department of health when:

14 (1) the [~~human services department~~] medical  
15 assistance division has paid or is paying benefits on behalf of  
16 the enrollee under the state's medicaid program pursuant to  
17 Title [XIX] 19 or Title 21 of the federal Social Security Act  
18 [~~42 U. S. C. 1396, et seq.~~];

19 (2) payment for the services in question has  
20 been made by the [~~human services department~~] medical assistance  
21 division to the medicaid provider; and

22 (3) the health maintenance organization is  
23 notified that the enrollee receives benefits under the medicaid  
24 program and that any indemnity benefits payable by the health  
25 maintenance organization must be paid directly to the [~~human~~

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1 ~~services department]~~ medical assistance division.

2 B. The notice required under Paragraph (3) of  
3 Subsection A of this section may be accomplished through an  
4 attachment to the claim by the [~~human services department]~~  
5 medical assistance division for any indemnity benefits payable  
6 by the health maintenance organization when the claim is first  
7 submitted by the [~~human services department]~~ division to the  
8 health maintenance organization.

9 C. Notwithstanding any other provisions of law,  
10 checks in payment for claims for any indemnity benefits payable  
11 by a health maintenance organization pursuant to any individual  
12 or group contract or certificate for health care services  
13 provided to persons who are also eligible for benefits under the  
14 medicaid program and provided by medical providers not  
15 contracting with the health maintenance organization shall be  
16 made payable to the provider. The health maintenance  
17 organization may be notified that the enrollee is eligible for  
18 medicaid benefits through an attachment to the claim by the  
19 provider for health maintenance organization benefits when the  
20 claim is first submitted by the provider to the health  
21 maintenance organization.

22 D. No health maintenance organization group or  
23 individual contract or certificate delivered, issued for  
24 delivery or renewed in this state on or after [~~the effective~~  
25 ~~date of this section]~~ June 16, 1989 shall contain any provision

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1 denying or limiting health maintenance organization benefits  
2 because services are rendered to an enrollee who is eligible for  
3 or who has received medical assistance under the medicaid  
4 program of this state.

5 E. To the extent that payment for covered expenses  
6 has been made pursuant to the state medicaid program for health  
7 care items or services furnished to an individual, in any case  
8 where a health maintenance organization has a legal liability to  
9 make payments, the state is considered to have acquired the  
10 rights of the individual to payment by the health maintenance  
11 organization for those health care items or services."

12 Section 104. Section 59A-47-36 NMSA 1978 (being Laws 1989,  
13 Chapter 183, Section 7, as amended) is amended to read:

14 "59A-47-36. NONPROFIT HEALTH CARE PLANS-- CONTRACT OR  
15 CERTIFICATE PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE  
16 FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM --

17 A. Each individual or group contract for health care  
18 expense payments or certificate therefor that is delivered,  
19 issued for delivery or renewed in this state by a health care  
20 plan shall include provisions that require benefits paid on  
21 behalf of a subscriber under the contract or certificate to be  
22 paid to the [~~human services department~~] medical assistance  
23 division of the department health when:

24 (1) the [~~human services department~~] medical  
25 assistance division has paid or is paying health care expenses

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1 on behalf of the subscriber under the state's medicaid program  
2 pursuant to Title [~~XIX~~] 19 or Title 21 of the federal Social  
3 Security Act [~~42 U.S.C. 1396, et seq.~~];

4 (2) payment for the expenses in question has  
5 been made by the [~~human services department~~] medical assistance  
6 division to the medicaid provider; and

7 (3) the health care plan is notified that the  
8 subscriber receives benefits under the medicaid program and that  
9 benefits must be paid directly to the [~~human services~~  
10 ~~department~~] medical assistance division.

11 B. The notice required under Paragraph (3) of  
12 Subsection A of this section may be accomplished through an  
13 attachment to the claim by the [~~human services department~~]  
14 division for health care expense payments when the claim is  
15 first submitted by the [~~human services department~~] medical  
16 assistance division to the health care plan.

17 C. Notwithstanding any other provisions of law,  
18 checks in payment for claims pursuant to any individual or group  
19 contract for health care expense payments or certificate  
20 therefor for health care services provided to subscribers who  
21 are also eligible for benefits under the medicaid program and  
22 provided by medical providers qualified to participate under the  
23 contract or certificate shall be made payable to the provider.  
24 The health care plan may be notified that the subscriber is  
25 eligible for medicaid benefits through an attachment to the

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1 claim by the provider for health care expense payments when the  
2 claim is first submitted by the provider to the health care  
3 plan.

4 D. No individual or group contract for health care  
5 expense payments or certificate therefor delivered, issued for  
6 delivery or renewed in this state on or after [~~the effective~~  
7 ~~date of this section~~] June 16, 1989 shall contain any provision  
8 denying or limiting contract benefits because services are  
9 rendered to a subscriber who is eligible for or who has received  
10 medical assistance under the medicaid program of this state.

11 E. To the extent that payment for covered expenses  
12 has been made pursuant to the state medicaid program for health  
13 care items or services furnished to an individual, in any case  
14 where a health care plan has a legal liability to make payments,  
15 the state is considered to have acquired the rights of the  
16 individual to payment by the health care plan for those health  
17 care items or services. "

18 Section 105. Section 59A-57-7 NMSA 1978 (being Laws 1998,  
19 Chapter 107, Section 7) is amended to read:

20 "59A-57-7. POINT-OF-SERVICE OPTION PLAN. --

21 A. Except as otherwise provided in this section, the  
22 department may require a plan that offers a point-of-service  
23 plan or open plan to include in any managed health care plan it  
24 offers an option for a point-of-service plan or open plan to the  
25 extent that the department determines that the open plan option

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1 is financially sound.

2 B. No health care insurer may be required to offer a  
3 point-of-service plan or open plan as an option under a  
4 medicaid-funded managed health care plan unless the [~~human~~  
5 ~~services department~~] medical assistance division of the  
6 department of health has established such a requirement as part  
7 of a procurement for managed health care under the medicaid  
8 program "

9 Section 106. Section 59A-57-10 NMSA 1978 (being Laws 1998,  
10 Chapter 107, Section 10) is amended to read:

11 "59A-57-10. APPLICATION OF ACT TO MEDICAID PROGRAM --

12 A. Except as otherwise provided in this section, the  
13 provisions of the Patient Protection Act apply to the medicaid  
14 program operation in the state. A managed health care plan  
15 offered through the medicaid program shall grant enrollees and  
16 providers the same rights and protections as are granted to  
17 enrollees and providers in any other managed health care plan  
18 subject to the provisions of the Patient Protection Act.

19 B. Nothing in the Patient Protection Act shall be  
20 construed to limit the authority of the [~~human services~~  
21 ~~department~~] medical assistance division of the department of  
22 health to administer the medicaid program, as required by law.  
23 Consistent with applicable state and federal law, the [~~human~~  
24 ~~services department~~] medical assistance division shall have sole  
25 authority to determine, establish and enforce medicaid

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1 eligibility criteria, the scope, definitions and limitations of  
2 medicaid benefits and the minimum qualifications or standards  
3 for medicaid service providers.

4 C. Medicaid recipients and applicants retain their  
5 right to appeal decisions adversely affecting their medicaid  
6 benefits to the [~~human services department~~] medical assistance  
7 division pursuant to the [~~Public~~] Medical Assistance Appeals  
8 Act. Notwithstanding other provisions of the Patient Protection  
9 Act, a medicaid recipient or applicant who files an appeal to  
10 the [~~human services department~~] division pursuant to the  
11 [~~Public~~] Medical Assistance Appeals Act may not file an appeal  
12 on the same issue to the superintendent pursuant to the Patient  
13 Protection Act, unless the [~~human services department~~] medical  
14 assistance division refuses to hear the appeal. The  
15 superintendent may refer to the [~~human services department~~]  
16 medical assistance division any appeal filed with the  
17 superintendent pursuant to the Patient Protection Act if the  
18 complainant is a medicaid beneficiary and the matter in dispute  
19 is subject to the provisions of the [~~Public~~] Medical Assistance  
20 Appeals Act.

21 D. Any managed health care plan participating in the  
22 medicaid managed care program as of [~~the effective date of the~~  
23 ~~Patient Protection Act~~] July 1, 1998 and that is in compliance  
24 with contractual and regulatory requirements applicable to that  
25 program shall be deemed to comply with any requirements



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1 established in accordance with [~~that~~] the Patient Protection Act  
2 until July 1, 1999; provided that, from [~~the effective date of~~  
3 ~~that act~~] July 1, 1998, any rights established under that act  
4 beyond those under requirements of the [~~human services~~  
5 ~~department~~] medical assistance division shall apply to enrollees  
6 in medicaid managed health care plans. "

7 Section 107. Section 60-2E-61 NMSA 1978 (being Laws 1997,  
8 Chapter 190, Section 63) is amended to read:

9 "60-2E-61. LIEN ON WINNINGS FOR DEBT COLLECTED BY [~~HUMAN~~  
10 ~~SERVICES~~] CHILDREN, YOUTH AND FAMILIES DEPARTMENT--PAYMENT TO  
11 DEPARTMENT--PROCEDURE. --

12 A. The [~~human services~~] children, youth and families  
13 department, acting as the state's child support enforcement  
14 agency pursuant to Title IV-D of the Social Security Act, shall  
15 periodically certify to the board the names and social security  
16 numbers of persons owing a debt to or collected by the [~~human~~  
17 ~~services~~] children, youth and families department.

18 B. Prior to the payment of a gaming machine amount  
19 in excess of six hundred dollars (\$600), the board shall check  
20 the name of the winner against the list of names and social  
21 security numbers of persons owing a debt to or collected by the  
22 [~~human services~~] children, youth and families department.

23 C. If the winner is on the list of persons owing a  
24 debt to or collected by the agency, the board shall make a good-  
25 faith attempt to notify the [~~human services~~] children, youth and

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1 families department, and the department then has a lien against  
2 the winnings in the amount of the debt owed to or collected by  
3 the agency. The board has no liability to the [~~human services~~]  
4 children, youth and families department or the person on whose  
5 behalf the department is collecting the debt if the board fails  
6 to match a winner's name to a name on the list or is unable to  
7 notify the department of a match. The department shall provide  
8 the board with written notice of a support lien promptly within  
9 five working days after the board notifies the department of a  
10 match.

11 D. If the amount won is to be paid directly by the  
12 board, the amount of the debt owed to or collected by the [~~human~~  
13 ~~services~~] children, youth and families department shall be held  
14 by the board for a period of thirty days from the board's  
15 confirmation of the amount of the debt to allow the department  
16 to institute any necessary garnishment or wage withholding  
17 proceedings. If a garnishment or withholding proceeding is not  
18 initiated within the thirty-day period, the board shall release  
19 the amount won to the winner.

20 E. The [~~human services~~] children, youth and families  
21 department, in its discretion, may release or partially release  
22 the support lien upon written notice to the board.

23 F. A support lien under this section is in addition  
24 to any other lien created by law. "

25 Section 108. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,

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1 PROPERTY, CONTRACTS AND REFERENCES IN LAW. -- On the effective  
2 date of this act:

3 A. all personnel, appropriations, money, records,  
4 equipment, supplies and other property relating to the  
5 operations of the income support division of the human services  
6 department shall be transferred to the labor department;

7 B. all personnel, appropriations, money, records,  
8 equipment, supplies and other property relating to the  
9 operations of the medical assistance division of the human  
10 services department shall be transferred to the department of  
11 health;

12 C. all personnel, appropriations, money, records,  
13 equipment, supplies and other property relating to the  
14 operations of the child support enforcement division of the  
15 human services department shall be transferred to the children,  
16 youth and families department;

17 D. all contracts relating to the operations of the  
18 income support division shall be binding and effective on the  
19 labor department;

20 E. all contracts relating to the operations of the  
21 medical assistance division shall be binding and effective on  
22 the department of health;

23 F. all contracts relating to the operations of the  
24 child support division shall be binding and effective on the  
25 children, youth and families department;

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1           G. all references in law to the income support  
2 division, food stamps, temporary assistance for needy families  
3 and other programs administered by the income support division  
4 shall be deemed to be references to the labor department;

5           H. all references in law to the medical assistance  
6 division, medicaid or Title 19 or Title 21 of the Social  
7 Security Act shall be deemed to be references to the department  
8 of health; and

9           I. all references in law to the child support  
10 division or child support enforcement or activities shall be  
11 deemed to be references to the children, youth and families  
12 department.

13           Section 109. REPEAL. --

14           A. Sections 9-8-1 through 9-8-14 NMSA 1978 (being  
15 Laws 1977, Chapter 252, Section 1, Laws 1977, Chapter 252,  
16 Section 2, Laws 1977, Chapter 252, Section 3, Laws 1977, Chapter  
17 252, Section 4, Laws 1977, Chapter 252, Section 6, Laws 1977,  
18 Chapter 252, Section 7, Laws 1977, Chapter 252, Section 8, Laws  
19 1977, Chapter 252, Section 9, Laws 1977, Chapter 252, Section  
20 10, Laws 1977, Chapter 252, Section 11, Laws 1977, Chapter 252,  
21 Section 12, Laws 1977, Chapter 252, Section 13, Laws 1977,  
22 Chapter 252, Section 15 and Laws 1987, Chapter 31, Section 4, as  
23 amended) are repealed.

24           B. Sections 27-1-1 and 27-1-2 NMSA 1978 (being Laws  
25 1977, Chapter 252, Section 16 and Laws 1937, Chapter 18, Section

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1 3, as amended) are repealed.

2 C. Section 27-3-2 NMSA 1978 (being Laws 1973,  
3 Chapter 256, Section 2, as amended) is repealed.

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