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SENATE BILL 214

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Jacob R. Candelaria

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTIONS OF THE NEW MEXICO WORKS ACT TO DEFINE AND ESTABLISH SOME PROGRAM FUNCTIONS OF THE STATE WORKFORCE AGENCY.

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

**SECTION 1.** Section 27-2B-3 NMSA 1978 (being Laws 1998, Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as amended) is amended to read:

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

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

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

1 stepsiblings living with the dependent child's parent or  
2 relative within the fifth degree of consanguinity and the  
3 parent with whom the children live;

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

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

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

11 (1) seventeen years of age or younger;

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

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

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

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

25 H. "federal act" means the federal Social Security

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1 Act and rules promulgated pursuant to the Social Security Act;

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

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

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

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

13 M. "person" means an individual;

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

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

22 P. "state workforce agency" means the workforce  
23 solutions department, its designee or its successor;

24 [~~P.~~] Q. "unearned income" means old age, survivors  
25 and disability insurance; railroad retirement benefits;

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

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

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

20 **SECTION 2.** Section 27-2B-4 NMSA 1978 (being Laws 1998,  
21 Chapter 8, Section 4 and Laws 1998, Chapter 9, Section 4, as  
22 amended) is amended to read:

23 "27-2B-4. APPLICATION--RESOURCE PLANNING SESSION--  
24 INDIVIDUAL RESPONSIBILITY PLANS--PARTICIPATION AGREEMENT--  
25 REVIEW PERIODS.--

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1           A. Application for cash assistance or services  
2 shall be made to the department. The application shall be in  
3 writing or reduced to writing in the manner and on the form  
4 prescribed by the department. The application shall be made  
5 under oath by an applicant having custody of or residing with a  
6 dependent child who is a benefit group member and shall contain  
7 a statement of the age of the child, residence, a complete  
8 statement of the amount of property in which the applicant has  
9 an interest, a statement of all income that the applicant and  
10 other benefit group members have at the time of the filing of  
11 the application and other information required by the  
12 department.

13           B. The department shall assist an applicant in  
14 completing the application for cash assistance or services and  
15 shall evaluate an applicant to determine eligibility for all  
16 department programs for which the applicant is eligible. The  
17 department shall process all expedited food stamp applications  
18 within two business days of submission, and the department  
19 shall deliver expedited food stamps to an eligible applicant  
20 within seven days of the application.

21           C. At the time of application for cash assistance  
22 and services, an applicant and the department shall identify  
23 everyone who is to be counted in the benefit group. Once an  
24 application is approved, the participant shall advise the  
25 department if there are any changes in the membership of the

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1 benefit group.

2 D. No later than thirty days after an application  
3 is filed, the department shall provide to an applicant a  
4 resource planning session to ascertain the applicant's  
5 immediate needs, assess financial and nonfinancial options,  
6 make referrals and act on the application.

7 E. No later than five days after an application is  
8 approved, the department shall provide reimbursement for child  
9 care.

10 F. Whenever the department receives an application  
11 for assistance, a verification and record of the applicant's  
12 circumstances shall promptly be made to ascertain the facts  
13 supporting the application and to obtain other information  
14 required by the department. The verification may include a  
15 visit to the home of the applicant, as long as the department  
16 gives adequate prior notice of the visit to the applicant.

17 G. No later than fifteen days after an application  
18 is approved, the [~~department~~] state workforce agency shall  
19 assess the education, skills, prior work experience and  
20 employability of the participant.

21 H. After the initial assessment of skills, the  
22 [~~department~~] state workforce agency shall work with the  
23 participant to develop an individual responsibility plan that:

24 (1) sets forth an employment goal for the  
25 participant and a plan for moving the participant into

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1 employment;

2 (2) sets forth obligations of the participant  
3 that may include a requirement that the participant attend  
4 school, maintain certain grades and attendance, keep the  
5 participant's school-age children in school, immunize the  
6 participant's children or engage in other activities that will  
7 help the participant become and remain employed;

8 (3) is designed to the greatest extent  
9 possible to move the participant into whatever employment the  
10 participant is capable of handling and to provide additional  
11 services as necessary to increase the responsibility and amount  
12 of work the participant will handle over time;

13 (4) describes the services the [~~department~~]  
14 state workforce agency may provide so that the participant may  
15 obtain and keep employment; and

16 (5) may require the participant to participate  
17 in appropriate services, such as substance abuse, domestic  
18 violence or mental health services.

19 I. The participant and the [~~department~~] state  
20 workforce agency shall sign the participant's individual  
21 responsibility plan. The department shall not allow a  
22 participant to decline to participate in developing an  
23 individual responsibility plan. The [~~department~~] state  
24 workforce agency shall not waive the requirement that a  
25 participant develop an individual responsibility plan. The

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1     ~~[department]~~ state workforce agency shall emphasize the  
2     importance of the individual responsibility plan to the  
3     participant.

4             J. If a participant does not develop an individual  
5     responsibility plan, refuses to sign an individual  
6     responsibility plan or refuses to attend semiannual reviews of  
7     an individual responsibility plan, the participant shall be  
8     required to enter into a conciliation process pursuant to  
9     Subsection C of Section 27-2B-14 NMSA 1978. If the participant  
10    persists in noncompliance with the individual responsibility  
11    plan process after the conciliation process, the participant  
12    shall be subject to sanctions pursuant to Section 27-2B-14 NMSA  
13    1978.

14            K. The participant shall also sign a participation  
15    agreement that designates the number of hours that the  
16    participant must participate in work activities to meet  
17    participation standards.

18            L. The department shall review the current  
19    financial eligibility of a benefit group when the department  
20    reviews food stamp eligibility.

21            M. The ~~[department]~~ state workforce agency shall  
22    meet semiannually with a participant to review and revise the  
23    participant's individual responsibility plan.

24            N. The ~~[department]~~ state workforce agency shall  
25    develop a complaint procedure to address issues pertinent to

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1 the delivery of services and other issues relating to a  
2 participant's individual responsibility plan."

3 SECTION 3. Section 27-2B-5 NMSA 1978 (being Laws 1998,  
4 Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as  
5 amended) is amended to read:

6 "27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

7 A. The following qualify as work activities:

8 (1) unsubsidized employment, including self-  
9 employment;

10 (2) subsidized private sector employment,  
11 including self-employment;

12 (3) subsidized public sector employment;

13 (4) work experience;

14 (5) on-the-job training;

15 (6) job search and job readiness;

16 (7) community service programs;

17 (8) vocational education;

18 (9) job skills training activities directly  
19 related to employment;

20 (10) education directly related to employment;

21 (11) satisfactory attendance at a secondary  
22 school or course of study leading to a high school equivalency  
23 credential in the case of a participant who has not completed  
24 secondary school or received such a certificate; and

25 (12) the provision of child care services to a

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1 participant who is participating in a community service  
2 program.

3 B. The ~~[department]~~ state workforce agency shall  
4 recognize community service programs and job training programs  
5 that are operated by an Indian nation, tribe or pueblo.

6 C. The department may not require a participant to  
7 work more than four hours per week over the work requirement  
8 rate set pursuant to the federal act.

9 D. The department shall require a parent, caretaker  
10 or other adult who is a member of a benefit group to engage in  
11 a work activity.

12 E. Where best suited for the participant to address  
13 barriers, the department may require the following work  
14 activities:

15 (1) participating in parenting classes, money  
16 management classes or life skills training;

17 (2) participating in a certified alcohol or  
18 drug addiction program;

19 (3) in the case of a homeless benefit group,  
20 finding a home;

21 (4) in the case of a participant who is a  
22 victim of domestic violence, residing in a domestic violence  
23 shelter or receiving counseling or treatment or participating  
24 in criminal justice activities directed at prosecuting the  
25 domestic violence perpetrator for no longer than twenty-four

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1 weeks; and

2 (5) in the case of a participant who does not  
3 speak English, participating in a course in English as a second  
4 language.

5 F. Subject to the availability of funds, the  
6 [~~department~~] state workforce agency in cooperation with [~~the~~  
7 ~~workforce solutions department, Indian affairs department and~~]  
8 other appropriate state agencies may develop projects to  
9 provide for the placement of participants in work activities,  
10 including the following:

11 (1) participating in unpaid internships with  
12 private and government entities;

13 (2) refurbishing publicly assisted housing;

14 (3) volunteering at a head start program or a  
15 school;

16 (4) weatherizing low-income housing; and

17 (5) restoring public sites and buildings,  
18 including monuments, parks, fire stations, police buildings,  
19 jails, libraries, museums, auditoriums, convention halls,  
20 hospitals, buildings for administrative offices and city halls.

21 G. If a participant is engaged in full-time  
22 vocational education studies or an activity set out in  
23 Paragraphs (9) through (11) of Subsection A of this section,  
24 the participant shall engage in another work activity at the  
25 same time. Additionally, for two-parent families that receive

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1 federally funded [~~child-care~~] child care assistance, the  
2 participant's spouse shall engage in a work activity set out in  
3 Paragraphs (1) through (5) or (7) of Subsection A of this  
4 section unless the participant suffers from a temporary or  
5 complete disability that bars the participant from engaging in  
6 a work activity or the participant is barred from engaging in a  
7 work activity because the participant provides sole care for a  
8 person with a disability.

9 H. A participant engaged in vocational education  
10 studies shall make reasonable efforts to obtain a loan,  
11 scholarship, grant or other assistance to pay for costs and  
12 tuition, and the department shall disregard those amounts in  
13 the eligibility determination.

14 I. For as long as the described conditions exist,  
15 the following are exempt from the federal work requirement:

16 (1) a participant barred from engaging in a  
17 work activity because the participant has a temporary or  
18 permanent disability;

19 (2) a participant over age sixty;

20 (3) a participant barred from engaging in a  
21 work activity because the participant provides the sole care  
22 for a person with a disability;

23 (4) a single custodial parent caring for a  
24 child less than twelve months old for a lifetime total of  
25 twelve months;

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1 (5) a single custodial parent caring for a  
2 child under six years of age if the parent is unable to obtain  
3 child care for one or more of the following reasons:

4 (a) unavailability of appropriate child  
5 care within a reasonable distance from the parent's home or  
6 work as defined by the children, youth and families department;

7 (b) unavailability or unsuitability of  
8 informal child care by a relative under other arrangements as  
9 defined by the children, youth and families department; or

10 (c) unavailability of appropriate and  
11 affordable formal [~~child-care~~] child care arrangements as  
12 defined by the children, youth and families department;

13 (6) a pregnant woman during her last trimester  
14 of pregnancy;

15 (7) a participant prevented from working by a  
16 temporary emergency or a situation that precludes work  
17 participation for thirty days or less;

18 (8) a participant who demonstrates by reliable  
19 medical, psychological or mental reports, court orders or  
20 police reports that family violence or threat of family  
21 violence effectively bars the participant from employment; and

22 (9) a participant who demonstrates good cause  
23 of the need for the exemption.

24 J. As a condition of the exemptions identified in  
25 Subsection I of this section, the department may establish

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1 participation requirements specific to the participant's  
2 condition or circumstances, such as substance abuse services,  
3 mental health services, domestic violence services, pursuit of  
4 disability benefits, job readiness or education directly  
5 related to employment. The activities are established to  
6 improve the participant's capacity to improve income and  
7 strengthen family support."

8 SECTION 4. Section 27-2B-5.2 NMSA 1978 (being Laws 1999,  
9 Chapter 27, Section 1) is amended to read:

10 "27-2B-5.2. WORK PROGRAM--STATE WORKFORCE AGENCY--PUBLIC  
11 SCHOOLS.--The [~~department~~] state workforce agency and the  
12 [~~state department of~~] public education department may establish  
13 a work program for participants to engage in a work activity  
14 pursuant to Subsection A of Section 27-2B-5 NMSA 1978 at public  
15 schools."

16 SECTION 5. Section 27-2B-14 NMSA 1978 (being Laws 1998,  
17 Chapter 8, Section 14 and Laws 1998, Chapter 9, Section 14, as  
18 amended by Laws 2003, Chapter 311, Section 5 and Laws 2003,  
19 Chapter 432, Section 5) is amended to read:

20 "27-2B-14. SANCTIONS.--

21 A. The department shall sanction a member of a  
22 benefit group for noncompliance with work requirements or child  
23 support requirements.

24 B. The sanction shall be applied at the following  
25 levels:

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1 (1) twenty-five percent reduction of cash  
2 assistance for the first occurrence of noncompliance;

3 (2) fifty percent reduction of cash assistance  
4 for the second occurrence of noncompliance; and

5 (3) termination of cash assistance and  
6 ineligibility to reapply for six months for the third  
7 occurrence of noncompliance.

8 C. Prior to imposing the first sanction, if [~~the~~  
9 ~~department determines that~~] a participant is not complying with  
10 the work participation requirement or child support  
11 requirements, the participant shall be required to enter into a  
12 conciliation process established by the department or the state  
13 workforce agency to address the noncompliance and to identify  
14 good cause for noncompliance or barriers to compliance. The  
15 conciliation process shall occur only once prior to the  
16 imposition of the sanction. The participant shall have ten  
17 working days from the date a conciliation notice is mailed to  
18 contact the department or the state workforce agency to  
19 initiate the conciliation process. A participant who fails to  
20 initiate the conciliation process shall have a notice of  
21 adverse action mailed to [~~him~~] the participant after the tenth  
22 working day following the date on which the conciliation notice  
23 is mailed. Participants who begin but do not complete the  
24 conciliation process shall be mailed a notice of adverse action  
25 thirty days from the date the original conciliation notice was

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1 mailed.

2 D. Reestablishing compliance shall allow full  
3 payment to resume.

4 E. Noncompliance with reporting requirements may  
5 subject a participant to other sanctions, except that an adult  
6 member of the benefit group shall not be sanctioned for the  
7 failure of a dependent child to attend school.

8 F. Effective October 1, 2001, the department shall  
9 not terminate the medicaid benefits of any member of a benefit  
10 group due to imposition of a sanction pursuant to the  
11 provisions of this section."

12 SECTION 6. Section 27-2B-19 NMSA 1978 (being Laws 1998,  
13 Chapter 8, Section 19 and Laws 1998, Chapter 9, Section 19, as  
14 amended) is amended to read:

15 "27-2B-19. SUBSIDIZED EMPLOYMENT.--

16 A. The [~~department~~] state workforce agency may  
17 administer a wage subsidy program based on availability of  
18 federal and state funds.

19 B. The wage subsidy program shall include the  
20 following requirements:

21 (1) participating employers shall hire  
22 participants who receive cash assistance for subsidized job  
23 slots that are full time and that offer a reasonable  
24 possibility of unsubsidized employment after the subsidy  
25 period;

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1 (2) participating employers shall receive a  
2 subsidy for up to twelve months;

3 (3) subsidized employees shall not be required  
4 to work in excess of forty hours per week;

5 (4) subsidized employees shall be paid a wage  
6 that is substantially like the wage paid for similar jobs with  
7 the employer with appropriate adjustments for experience and  
8 training but not less than the federal minimum hourly wage;

9 (5) subsidized employment does not impair an  
10 existing contract or collective bargaining agreement;

11 (6) subsidized employment does not displace  
12 currently employed workers or fill positions that are vacant  
13 due to a layoff;

14 (7) wage subsidy employers shall:

15 (a) maintain health, safety and working  
16 conditions at or above levels generally acceptable in the  
17 industry and not less than those of comparable jobs offered by  
18 the employer;

19 (b) provide on-the-job training  
20 necessary for subsidized employees to perform their duties;

21 (c) sign an agreement for each placement  
22 outlining the specific job offered to a subsidized employee and  
23 agree to abide by all of the requirements of the program;

24 (d) provide workers' compensation  
25 coverage for each subsidized employee; and

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1 (e) provide the subsidized employee with  
2 benefits equal to those for new employees or as required by  
3 state and federal law, whichever is greater;

4 (8) the [~~department~~] state workforce agency  
5 shall determine whether a participant is eligible to be a  
6 subsidized employee by establishing:

7 (a) that the participant has sufficient  
8 work experience to obtain unsubsidized employment;

9 (b) that the participant has completed  
10 an employment preparation program; or

11 (c) that the department or participant  
12 may benefit from this employment strategy;

13 (9) a disregard of income earned by the  
14 subsidized employee in the subsidized job shall be applied in  
15 the eligibility determination for services;

16 (10) the department shall suspend regular  
17 payments of cash assistance to the benefit group for the  
18 calendar month in which an employer makes the first subsidized  
19 wage payment to a subsidized employee who is otherwise eligible  
20 for cash assistance and food stamps;

21 (11) the [~~department~~] state workforce agency  
22 shall pay employers each month [~~from cash assistance~~];

23 (12) a subsidized employee shall be eligible  
24 for supplemental payments if the net monthly full-time wage  
25 paid to the subsidized employee is less than the monthly total

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1 of the cash assistance the participant is eligible to receive.  
2 The ~~[department]~~ state workforce agency shall authorize  
3 issuance of a supplemental cash payment to compensate for the  
4 deficit. To determine if a deficit exists, the ~~[department]~~  
5 state workforce agency shall adopt an equivalency scale that is  
6 adjustable to household size and other factors; and

7 (13) the department shall determine monthly  
8 and pay in advance supplemental payments to eligible subsidized  
9 employees. In calculating the payment, the department shall  
10 assume that the subsidized employee will work forty hours per  
11 week during the month unless an employer provides information  
12 that the number of hours to be worked by the subsidized  
13 employee will be reduced.

14 C. For the purposes of this section, "benefits"  
15 includes health care coverage, paid sick leave and holiday and  
16 vacation pay.

17 D. For the purposes of this section, "subsidized  
18 employee" means a participant engaged in a subsidized  
19 employment activity.

20 E. For the purposes of this section, "net monthly  
21 full-time wage" means a subsidized employee's wages after the  
22 required payroll deductions."

23 **SECTION 7. EFFECTIVE DATE.**--The effective date of the  
24 provisions of this act is July 1, 2017.

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