

AN ACT

RELATING TO PUBLIC ASSISTANCE; ENACTING THE NEW MEXICO WORKS ACT; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE.--Sections 1 through 20 of this act may be cited as the "New Mexico Works Act".

Section 2. LEGISLATIVE FINDINGS--PURPOSE OF ACT.--

A. The legislature finds that:

(1) the poverty rate in New Mexico is the highest in the nation and has exceeded more than twenty percent of the population for most of the past twenty-five years;

(2) having a job does not provide a guarantee of avoiding poverty as demonstrated by the high percentage of persons in the civilian labor force over sixteen years of age with reported incomes in 1989 that were below the poverty level; and

(3) the diversity of the state, with its residents living in rural and metropolitan areas, reservations and border areas, requires the state to adjust state policies governing economic and social programs for the poor and the working poor to reflect the particular needs of particular locales, not just to create a generic one-size-

fits-all program.

B. The legislature finds that education and training are essential to long-term career development.

C. The legislature finds that employment improves the quality of life for parents and children by increasing family income, developing the discipline necessary for self-sufficiency and improving self-esteem, and thus, it is in the public interest to fundamentally alter the state's financial assistance program for needy families with children so both cash and services, including education, job training, child care and transportation provided in accordance with the New Mexico Works Act assist recipients to obtain and keep employment that is sufficient to sustain their families, ensure the dignity of those who receive assistance and strengthen families and families' support for their children.

D. The legislature finds that although most New Mexicans want to work, and in fact New Mexico has been cited as a "like to work" state, not all families can move quickly into the labor force and that regular assessments and key intervention and follow-up can help persons connect to the work force to obtain meaningful work and achieve self-sufficiency.

E. The legislature further finds that the federal act envisions that state and tribal governments will work together to serve participants residing in Indian country,

and it is important that the state and the tribal governments work, government to government, to address the issues of availability and delivery of service to the twenty-two tribes and pueblos.

F. The purpose of the New Mexico Works Act is to increase family income through family employment and child support and, by viewing financial assistance as a support service to enable and assist parents to participate in employment rather than as an entitlement, to enable New Mexico to change the culture of the welfare office, both on the part of the department and on the part of the recipients, so that all parties can focus on addressing the barriers to participation in work activities and putting New Mexicans to work.

Section 3. DEFINITIONS.--As used in the New Mexico Works Act:

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

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

C. "department" means the human services department;

D. "dependent child" means a natural or adopted child or ward who is eighteen years of age or younger;

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

F. "earned income" includes cash or payment in kind that is received as wages from employment or payment in lieu of wages, earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services and all other income not classified as unearned income;

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

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

I. "household group" means a group, including the benefit group, of people who live together in a household regardless of whether they are related or have a legal support responsibility for a member of the benefit group, but does not include:

- (1) landlords;
- (2) tenants; or

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

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

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

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

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

N. "person" means an individual;

O. "secretary" means the secretary of the department;

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

Q. "tenant" means a person who pays rent for the

use and occupancy of real property owned by a landlord; and

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

Section 4. APPLICATION-- RESOURCE PLANNING SESSION--
INDIVIDUAL RESPONSIBILITY PLANS-- PARTICIPATION AGREEMENT--
REVIEW PERIODS. --

A. Application for cash assistance or services shall be made to the department's county office in the county or district in which an applicant resides. The application shall be in writing or reduced to writing in the manner and on the form prescribed by the department. The application shall be made under oath by an applicant having custody of a dependent child and shall contain a statement of the age of the child, residence, a complete statement of the amount of property in which the applicant has an interest, a statement of all income that he and other household group members have at the time of the filing of the application and other information required by the department.

B. Application for expedited food stamps shall be made to the department's county office in the county or

district in which an applicant resides. The department shall process the application for expedited food stamps within twenty-four hours after the application is made.

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

D. No later than forty-five days after an application is filed, the department shall provide to an applicant a resource planning session to ascertain his immediate needs, assess financial and nonfinancial options, make referrals and act on the application.

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

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

G. Within fifteen days after an application is approved, the department shall assess the education, skills, prior work experience and employability of the participant.

H. After the initial assessment of skills, the department shall work with the participant to develop an individual responsibility plan that:

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

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

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

(4) describes the services the department may provide so that the participant may obtain and keep employment; and

(5) may require the participant to undergo appropriate substance abuse treatment.

I. The participant and a representative of the department shall sign the participant's individual responsibility plan.

J. The participant shall also sign a participation agreement that designates the number of hours that he must participate in work activities to meet participation standards.

K. The department shall review the current financial eligibility of a benefit group when the department reviews food stamp eligibility.

L. The department shall meet semi-annually with a participant to review and revise his individual responsibility plan.

M. The department shall develop a complaint procedure to address issues pertinent to the delivery of services and other issues relating to a participant's individual responsibility plan.

Section 5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

A. The following qualify as work activities:

- (1) unsubsidized employment;
- (2) subsidized private sector employment;
- (3) subsidized public sector employment;
- (4) work experience, including work

associated with the refurbishing of publicly assisted housing

if sufficient private sector employment is not available;

(5) on-the-job training;

(6) job search and job readiness assistance,
as long as the department complies with the federal act;

(7) community service programs;

(8) vocational education, except that
vocational education shall not qualify as a work activity for
longer than is provided by the federal act;

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

(10) education directly related to
employment for a participant who has not received a high
school diploma or a certificate of high school equivalency;

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

(12) the provision of child care services to
a participant who is participating in a community service
program.

B. The department shall recognize community
service programs and job training programs that are operated
by an Indian nation, tribe or pueblo.

C. The department may not require a participant

to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity once the department determines he is ready to engage in a work activity or once he has received cash assistance or services for twenty-four months or as otherwise required by the federal act, whether or not consecutive, whichever is earlier.

E. The following qualify as temporary alternative work activities that the department may establish for no longer than twelve weeks except as otherwise provided:

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

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

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

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

(5) in the case of a participant who does

not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the labor department, New Mexico office of Indian affairs and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

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

(2) refurbishing publicly assisted housing;

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

(4) weatherizing low-income housing; and

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

G. If a participant is engaged in full-time post-secondary education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section, the participant shall engage in another work activity at the same time. Additionally, for two-parent families that receive federally funded child care assistance, the participant's spouse shall engage in a work activity set out

in Paragraphs (1) through (5) or (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars him from engaging in a work activity or he is barred from engaging in a work activity because he provides sole care for a disabled person.

H. A participant engaged in post-secondary education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition and the department shall disregard those amounts in the eligibility determination.

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

(1) a participant barred from engaging in a work activity because he is temporarily or completely disabled;

(2) a participant over age sixty;

(3) a participant barred from engaging in a work activity because he provides the sole care for a disabled person;

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

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

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

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

(c) unavailability of appropriate and affordable formal child care arrangements as defined by the children, youth and families department;

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

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

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

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

Section 6. DURATIONAL LIMITS.--

A. Pursuant to the federal act, on or after July 1, 1997 a participant may receive federally funded cash

assistance and services for up to sixty months.

B. During a participant's fourth, sixth and eighth semi-annual reviews, the department shall examine the participant's progress to determine if the participant has successfully completed an educational or training program or increased the number of hours he is working as required by the federal act. The department may refer the participant to alternative work activities or provide additional services to address possible barriers to employment facing the participant.

C. Up to twenty percent of the population of participants may be exempted from the sixty-month durational limit set out in Subsection A of this section because of hardship or because those participants are battered or subject to extreme cruelty.

D. For the purposes of this section, a participant has been battered or subjected to extreme cruelty if he can demonstrate by reliable medical, psychological or mental reports, court orders or police reports that he has been subjected to and currently is affected by:

- (1) physical acts that result in physical injury;
- (2) sexual abuse;
- (3) being forced to engage in nonconsensual sexual acts or activities;

(4) threats or attempts at physical or sexual abuse;

(5) mental abuse; or

(6) neglect or deprivation of medical care except when the deprivation is based by mutual consent on religious grounds.

E. For the purposes of this section, a hardship exception applies to a person who demonstrates through reliable medical, psychological or mental reports, court orders or police reports that he is a person:

(1) who is barred from engaging in a work activity because he is temporarily or completely disabled;

(2) who is the sole provider of home care to an ill or disabled family member; or

(3) whose ability to be gainfully employed is affected by domestic violence.

F. Pursuant to the federal act the department shall not count a month of receipt of cash assistance or services toward the sixty-month durational limit if during the time of receipt the participant:

(1) was a minor and was not the head of a household or married to the head of a household; or

(2) lived in Indian country, as defined in the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of

the adults living in Indian country or in the village were not employed.

Section 7. FINANCIAL STANDARD OF NEED. --

A. The secretary shall adopt a financial standard of need based upon the availability of federal and state funds and based upon appropriations by the legislature of the available federal temporary assistance for needy families grant made pursuant to the federal act in the following categories:

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

The legislature shall determine the actual percentage of each category to be used annually of the federal temporary assistance for needy families grant made pursuant to the federal act.

B. The cash benefit level for a benefit group not living in government-subsidized housing or receiving government-subsidized housing payments shall be increased by one hundred dollars (\$100) per month.

C. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

- (1) medicaid;

- (2) food stamps;
- (3) government-subsidized foster care and adoption payments;
- (4) supplemental security income;
- (5) government-subsidized housing or housing payments;
- (6) federally excluded income;
- (7) educational payments made directly to an educational institution;
- (8) government-subsidized child care;
- (9) earned and unearned income that belongs to a person eighteen years of age or younger who is not the head of household;
- (10) for the first two years of receiving cash assistance or services, if a participant works over the work requirement rate set by the department pursuant to the New Mexico Works Act, one hundred percent of the income earned by the participant beyond that rate;
- (11) for the first two years of receiving cash assistance or services, for a two-parent benefit group in which one parent works over thirty-five hours per week and the other works over twenty-four hours per week, one hundred percent of income earned by each participant beyond the work requirement rate set by the department;
- (12) unearned income that belongs to the

household group but not to the benefit group; and

(13) other income sources as determined by the department.

D. Earned income over one hundred thirty percent of the federal poverty guidelines that belongs to the household group but not to the benefit group is countable income. The department shall count the entire household group to determine family size when applying the federal poverty guidelines.

E. The department shall count the entire household group to determine family size when applying the financial standard of need. For a benefit group to be eligible to participate:

(1) gross countable earned income that belongs to the household group but not to the benefit group must not exceed one hundred eighty-five percent of the financial standard of need; and

(2) net countable earned income that belongs to the household group must not equal or exceed the financial standard of need after applying the disregards set out in Paragraphs (1) through (5) of Subsection F of this section.

F. Subject to the availability of state and federal funds, the department shall determine the cash payment of the benefit group by applying the following disregards to the benefit group's earned gross income:

(1) one hundred fifty dollars (\$150) of monthly earned income and one-half of the remainder, or for a two-parent family, two hundred fifty dollars (\$250) of monthly earned income and one-half of the remainder for each parent;

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

(3) costs of self-employment income;

(4) business expenses; and

(5) fifty dollars (\$50.00) of collected child support passed through to the participant by the department's child support enforcement program; and then subtracting that amount from the financial standard of need.

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

Section 8. RESOURCES. --

A. Liquid and nonliquid resources owned by the household group but not by the benefit group shall not be counted in the eligibility determination.

B. A benefit group may at a maximum own the

following resources:

(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid resources;

(3) the value of the principal residence of the participant;

(4) the value of burial plots and funeral contracts for family members;

(5) individual development accounts;

(6) the value of work-related equipment up to one thousand dollars (\$1,000);

(7) in areas without public transportation, the value of one motor vehicle for each participant engaged in a work activity; and

(8) in areas with public transportation, the value of one motor vehicle.

Section 9. MANDATORY SCHOOL ATTENDANCE. --If a minor member of a benefit group has three unexcused absences from school during a grading period, his parent shall notify the department of the absences within fourteen days. The department may impose a sanction on the benefit group that reduces the cash assistance by the amount the minor member would otherwise receive only after the department refers the minor member to the appropriate state agency, counselor or

community program for appropriate resolution of the attendance problem. The department shall not consider participation in cultural and religious activities an unexcused absence, as long as the student has parental consent.

Section 10. INDIVIDUAL DEVELOPMENT ACCOUNTS. --

A. A participant may establish an individual development account.

B. A participant or a person on the participant's behalf may contribute to an individual development account; provided the participant first establishes a savings account not to exceed one thousand five hundred dollars (\$1,500).

C. An individual development account shall be organized as a trust. The department shall by rule establish the form, substance and procedure by which the trust shall be established.

D. Individual development accounts shall be used only for:

- (1) post-secondary education for dependents;
- (2) purchase of a principal residence for a first-time homebuyer; or
- (3) business capitalization.

E. Upon establishing an individual development account, the participant shall declare the purposes for the account.

F. If the declared purpose of an individual development account is for the purchase of a principal residence for a first-time homebuyer, the amount used for that purpose shall be limited to one thousand five hundred dollars (\$1,500).

G. Money in an individual development account shall only be disbursed to an educational institution, to a person due money for a principal residence or to a business capitalization account.

H. A participant shall contribute only earned income to an individual development account.

Section 11. INELIGIBILITY. --

A. The following are ineligible to be members of a benefit group:

(1) an inmate or patient of a nonmedical institution;

(2) a person who, in the two years preceding application, assigned or transferred real property unless he:

(a) received or receives a reasonable return;

(b) attempted to or attempts to receive a reasonable return; or

(c) attempted to or attempts to regain title to the real property;

(3) a minor unmarried parent who has not

successfully completed a high school education and who has a child at least twelve weeks of age in his care unless the minor unmarried parent:

(a) participates in educational activities directed toward the attainment of a high school diploma or its equivalent; or

(b) participates in an alternative educational or training program that has been approved by the department;

(4) a minor unmarried parent who is not residing in a place of residence maintained by his parent, legal guardian or other adult relative unless the department:

(a) refers or locates the minor unmarried parent to a second-chance home, maternity home or other appropriate adult-supervised supportive living arrangement, taking into account the needs and concerns of the minor unmarried parent;

(b) determines that the minor unmarried parent has no parent, legal guardian or other appropriate adult relative who is living or whose whereabouts are known;

(c) determines that a minor unmarried parent is not allowed to live in the home of a living parent, legal guardian or other appropriate adult relative;

(d) determines that the minor

unmarried parent is or has been subjected to serious physical or emotional harm, sexual abuse or exploitation in the home of the parent, legal guardian or other appropriate adult relative;

(e) finds that substantial evidence exists of an act or a failure to act that presents an imminent or serious harm to the minor unmarried parent and the child of the minor unmarried parent if they live in the same residence with the parent, legal guardian or other appropriate adult relative; or

(f) determines that it is in the best interest of the unmarried minor parent to waive this requirement;

(5) a minor child who has been absent or is expected to be absent from the home for forty-five days;

(6) a person who does not provide a social security number or who refuses to apply for one;

(7) a person who is not a resident of New Mexico;

(8) a person who fraudulently misrepresented residency to receive assistance in two or more states simultaneously except that such person shall be ineligible only for ten years;

(9) for five years following the date of release from any federal or state prison or county jail or

following the date of completion of the terms of probation, a person convicted of a drug-related felony on or after August 22, 1996; however, the cash assistance of the other members of his assistance group shall be reduced only by the amount to which he otherwise would be entitled;

(10) a person who is a fleeing felon or a probation and parole violator;

(11) a person concurrently receiving supplemental security income, tribal temporary assistance for needy families, bureau of Indian affairs general assistance or adoption subsidies; and

(12) unless he demonstrates good cause, a parent who does not assist the department in establishing paternity or obtaining child support or who does not assign support rights to New Mexico as required pursuant to the federal act.

B. At the time of application, a participant shall state in writing whether he or another member of the benefit group has been convicted on or after August 22, 1996 of a drug-related felony.

C. A person convicted of a drug-related felony may be eligible to receive services if the department in consultation with the corrections department determines that services would enhance his rehabilitation and employment success.

D. For the purposes of this section, "second-chance home" means an entity that provides a supportive and supervised living arrangement to a minor unmarried parent where the minor unmarried parent is required to learn parenting skills including child development, family budgeting, health and nutrition and other skills to promote long-term economic independence and the well-being of children.

Section 12. SERVICES. --Subject to the availability of federal and state funds, a group of people that includes at least one dependent child living with a parent, legal guardian or relative within the fifth degree of consanguinity or a pregnant woman who is not receiving cash assistance but has an income less than one hundred percent of the federal poverty guidelines may be eligible to receive services.

Section 13. FAIR HEARING--REVIEW AND APPEAL. --

A. A participant may request a hearing if:

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

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

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

B. The department shall notify the participant of his rights under this section.

C. The department shall by rule establish procedures for the filing of a request for a hearing and the time limits within which a request may be filed; provided, however, that the department may grant reasonable extensions of the time limits. If the request is filed in a timely manner, cash assistance and services shall be provided until the appeal is resolved. If the request is not filed within the specified time for appeal or within whatever extension the department may grant, the department action shall be final. Upon receipt of a timely request, the department shall give the participant reasonable notice of an opportunity for a fair hearing in accordance with the rules of the department.

D. The hearing shall be conducted by a hearing officer designated by the director. The powers of the hearing officer shall include administering oaths or affirmations to witnesses called to testify, taking testimony, examining witnesses, admitting or excluding evidence and reopening a hearing to receive additional evidence. The technical rules of evidence and the rules of civil procedure shall not apply. The hearing shall be conducted so that the contentions or defenses of each party to the hearing are amply and fairly presented. Either party may be represented by counsel or other representative of his designation, and he or his representative may conduct cross-

examination. Oral or documentary evidence may be received but the hearing officer may exclude irrelevant, immaterial or unduly repetitious evidence.

E. The director shall review the record of the proceedings and shall make his decision on the record. The participant or his representative shall be notified in writing of the director's decision and the reasons for the decision. The written notice shall inform the participant of his right to judicial review. The department shall be responsible for ensuring that the decision is enforced.

F. Within thirty days after receiving written notice of the decision of the director, a participant may file a notice of appeal with the court of appeals together with a copy of the notice of the decision. The clerk of the court shall transmit a copy of the notice of appeal to the director.

G. The filing of a notice of appeal shall not stay the enforcement of the decision of the director, but the department may grant, or the court upon motion and good cause shown may order, a stay.

H. Within twenty days after receipt of the notice of appeal, the department shall file with the clerk of the court three copies and furnish to the appellant one copy of the written transcript of the record of the proceedings.

I. If, before the date set for argument,

application is made to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and there was good reason for not presenting it in the hearing, the court may order the additional evidence taken before the department. If the application to present additional evidence is filed by the department and is approved by the court, the department's decision that is being appealed shall be stayed. The director may modify his findings and decision by reason of the additional evidence and shall file with the court a transcript of the additional evidence together with any modified or new findings or decision.

J. The review of the court shall be made upon the decision and the record of the proceedings.

K. The court shall set aside a decision and order of the director only if found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record as a whole; or
- (3) otherwise not in accordance with law.

L. The department shall not authorize or allow expenditures for the affected programs in excess of the amounts previously appropriated by the legislature.

A. The department shall sanction a member of the benefit group for noncompliance with work requirements and child support requirements.

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

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

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

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

C. Prior to imposing the first sanction, if the department determines that a participant is not complying with the work participation requirement or child support requirements, the participant shall be required to enter into a conciliation process to address the noncompliance and to identify good cause for noncompliance. The conciliation process shall occur only once prior to the imposition of the sanction. If the participant fails to participate in the conciliation process within ten days of receiving notice, the sanction shall be imposed.

D. Reestablishing compliance will allow full payment to resume.

E. Within ten days of a failure to comply with a

requirement, a notice of action shall be mailed to the participant. A participant is in sanction status when the notice of action is mailed. The sanction is imposed on the first day of the month following the month in which the notice of action is mailed to the participant.

F. Noncompliance with reporting requirements may subject a participant to other sanctions.

Section 15. MEDICAID ELIGIBILITY. --The following are eligible for medicaid:

A. a benefit group that meets the requirements of New Mexico's aid to families with dependent children as they existed on July 16, 1996;

B. a participant who is in transition to self-sufficiency due to employment or child support;

C. a pregnant woman who meets the income and resource requirements for New Mexico's aid to families with dependent children as they existed on July 16, 1996;

D. a member of a benefit group who is eighteen years of age or younger if the benefit group's income is below one hundred eighty-five percent of the federal poverty guidelines;

E. a pregnant woman whose income is below one hundred eighty-five percent of the federal poverty guidelines;

F. participants receiving federal supplemental

security income;

G. an aged, blind or disabled person in an institution who meets all the supplemental security income standards except for income;

H. a person who meets all standards for institutional care but is cared for at home and meets eligibility standards for medicaid;

I. a qualified medicare beneficiary, qualified disabled working person or specified low-income medicare beneficiary; and

J. a foster child in the custody of the state or of an Indian pueblo, tribe or nation who meets eligibility standards for medicare.

Section 16. IMMIGRANT ELIGIBILITY. -- An immigrant may be eligible to receive cash assistance and services if the immigrant is:

A. from one of the classes of immigrants defined in the federal act who entered the United States prior to August 22, 1996; or

B. a qualified immigrant as defined in the federal act who entered the United States after August 22, 1996.

Section 17. RECORDS-- CONFIDENTIALITY. --

A. Pursuant to the federal act, the department shall establish and enforce rules governing the custody, use

and preservation of the records, papers, files and communications to restrict the use or disclosure of information contained in those documents concerning participants.

B. It is unlawful for a person, body, association, firm, corporation or other agency outside the department to solicit, disclose, receive or make use of or authorize, knowingly permit, participate in or acquiesce in the use of a name or list of names of participants for commercial or political purposes.

C. A person, body, association, firm, corporation or other agency that willfully or knowingly violates a provision of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a definite term not to exceed sixty days or both.

Section 18. CERTIFICATION.--The governor shall make the certifications mandated by the federal act.

Section 19. PILOT PROJECT--SUBSIDIZED EMPLOYMENT.--

A. The department may apply for a food stamp waiver from the United States department of agriculture to operate a wage subsidy pilot program.

B. Upon securing a food stamp waiver, the department shall develop a wage subsidy pilot program to run

from the effective date of the New Mexico Works Act until July 1, 2001. The department shall select a class A county, a class B county with a valuation under three hundred million dollars (\$300,000,000), a class B county with a valuation over three hundred million dollars (\$300,000,000), a class C county and a first class county as sites for the wage subsidy pilot program.

C. The wage subsidy pilot program shall include the following requirements:

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

(2) participating employers shall receive a subsidy for up to six months. The department may grant an extension of three months to employers operating in areas identified as having a higher unemployment rate than the state average, as defined by the department, if the extension increases the likelihood of ongoing unsubsidized employment for the subsidized employee;

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

(4) subsidized employees shall be paid a wage that is substantially like the wage paid for similar

jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage;

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

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

(7) wage subsidy employers shall:

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

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

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

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

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

(8) the department shall make a

determination of whether a participant is eligible to be a subsidized employee that includes the following criteria:

(a) sufficient work experience to obtain unsubsidized employment;

(b) completion of an employment preparation program; or

(c) benefit from this employment strategy by the department;

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

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

(11) the department shall pay employers each month, from cash assistance and food stamps, the lesser of a fixed subsidy amount determined by the department or the gross wages paid to the subsidized employee;

(12) a subsidized employee shall be eligible for supplemental payments if the net monthly full-time wage paid to the subsidized employee is less than the combined monthly total of the cash assistance and food stamps the participant is eligible to receive. The department shall

authorize issuance of a supplemental cash payment to compensate for the deficit. To determine if a deficit exists, the department shall adopt an equivalency scale that is adjustable to household size and other factors; and

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

D. Prior to the forty-fifth legislature, first session, the department shall report the results of the wage subsidy pilot program to the appropriate interim committee.

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

F. For the purposes of this section "subsidized employee" means a participant engaged in a subsidized employment activity.

G. For the purpose of this section "net monthly full-time wage" means a subsidized employees' s wages after the required payroll deductions.

Section 20. CHILD SUPPORT--TRUSTS.--

A. The department shall take one-third of New

Mexico's share of collected child support for each child and deposit the money into a trust established in that child's name.

B. The department shall by rule establish the form, substance and procedure by which the trust shall be established.

Section 21. WELFARE REFORM OVERSIGHT COMMITTEE
CREATED--TERMINATION.--The joint interim legislative "welfare reform oversight committee" is created. The committee shall function from the date of its appointment until December 15 prior to the first session of the forty-sixth legislature.

Section 22. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The welfare reform oversight committee shall be composed of twelve members. The New Mexico legislative council shall appoint six members from the house of representatives and six members from the senate. At the time of making the appointment, the legislative council shall designate the chairman and vice chairman of the committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; however, in no event shall either party have less than one member from each house on the committee. At the request of the committee chairman, members may be removed from the committee by the New Mexico

legislative council for nonattendance according to council policy. Vacancies on the committee, however caused, may be filled by the legislative council, or the council may reduce the size of the committee by not making replacement appointments and in that case need not readjust party representation.

C. An action shall not be taken by the committee if a majority of the total membership from either house on the committee rejects that action.

Section 23. DUTIES. --

A. After its appointment, the welfare reform oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the work plan and budget by the legislative council, the committee shall:

(1) examine the statutes, constitutional provisions and rules governing welfare reform in New Mexico;

(2) monitor and oversee the implementation of the New Mexico Works Act;

(3) review issues related to welfare reform, including job training programs and related contracts; cash assistance; child care, transportation and other job-related services; and other issues that arise because of the

devolution of the federal welfare programs to the states; and

(4) make recommendations relating to the adoption of rules and legislation, if any are found to be necessary.

B. The committee shall regularly receive testimony from the secretaries of human services; labor; children, youth and families; and health and the superintendent of public instruction on issues arising from the implementation of the New Mexico Works Act and shall review proposed rules, schedules and formulae before adoption.

Section 24. SUBCOMMITTEES. -- Subcommittees shall be created only by majority vote of all members appointed to the welfare reform oversight committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. Any meeting or expenditure of a subcommittee shall be approved by the full committee in advance of that meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Section 25. REPORTS. -- The committee shall make reports of its findings and recommendations for the consideration of the first and second sessions of the forty-fourth legislature

and the first and second sessions of the forty-fifth legislature. The reports and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

Section 26. STAFF.--The staff for the welfare reform oversight committee shall be provided primarily by the legislative council service but the legislative council service may request the assistance of the legislative finance committee staff at the direction of the welfare reform oversight committee.

Section 27. Section 27-2-7 NMSA 1978 (being Laws 1973, Chapter 376, Section 10, as amended) is amended to read:

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

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

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

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

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

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

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

C. Whenever the department makes an adjustment in the standard of need for the New Mexico Works Act, subject to the availability of state funds, it shall make a commensurate adjustment in the standard of need for the general assistance program."

Section 28. REPEAL. -- Sections 27-2-5, 27-2-6, 27-2-6.2, 27-2-8, 27-2-18 through 27-2-20, 27-2-22, 27-2-33 and 27-2-35 through 27-2-40 NMSA 1978 (being Laws 1973, Chapter 376, Sections 5 and 9, Laws 1988, Chapter 122, Section 1, Laws 1973, Chapter 376, Section 11, Laws 1937, Chapter 18, Sections 11a, 11b, 11e, 11h and 21, Laws 1941, Chapter 116, Section 1, Laws 1921, Chapter 117, Section 9 and Laws 1980, Chapter 25, Sections 1 through 4, as amended) are

repealed.

Section 29. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
