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## FISCAL IMPACT REPORT

**SPONSOR** Morales **ORIGINAL DATE** 2/05/2016  
**LAST UPDATED** 2/12/2016 **HB** \_\_\_\_\_

**SHORT TITLE** Collect Data on 3-Month SNAP Training **SM** 54

**ANALYST** Leger/Boerner

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$15.0		\$15.0	Non-recurring	HSD Income Support Operating Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the Feed Bill (House Bill 1) and SB 142 SNAP WAIVER

#### SOURCES OF INFORMATION

LFC Files

#### RESPONSES RECEIVED FROM

Human Services Department (HSD)

#### SUMMARY

##### Synopsis of Memorial

Senate Memorial 54 requests Legislative Finance Committee (LFC) staff collect data and conduct a study of the costs associated with implementing a three-month time limit and employment and training requirements in the supplemental nutrition assistance program (SNAP).

The memorial requests a cost analysis for the following:

- (1) all costs associated with administering the three-month time limit for able-bodied adults without dependents age eighteen to forty-nine;
- (2) all costs associated with administering work requirements in the New Mexico supplemental nutrition assistance program's employment and training program;
- (3) the number of New Mexicans subject to the three-month time limit or the employment and training requirement;

- (4) the number of applicants and participants in the supplemental nutrition assistance program in the state who gain employment or increased earnings from participating in the supplemental nutrition assistance program's employment and training program; and
- (5) the number of applicants and participants in the supplemental nutrition assistance program who are disqualified from receiving food assistance for noncompliance with time limit or employment and training work requirements in the supplemental nutrition assistance program and the corresponding loss, in dollars, of federal food assistance in New Mexico as a result of those disqualifications.

## **FISCAL IMPLICATIONS**

LFC's operating budget can absorb the costs associated with the proposed study. The study could be included in the LFC's Program Evaluation and analyst work plans that are approved by the committee.

HSD would have to develop, design, and implement new reports. There would be five new reports that will have to be compiled from at least two sources, SHARE and HSD's eligibility system ASPEN. See Administrative Implications below.

## **SIGNIFICANT ISSUES**

HSD notes that this memorial includes statements that are factually incorrect.

Lines 21-25, page 2 and lines 1-4, page 3 cite to a court order not relevant to the three-month time limit. This court litigation deals with timely processing of applications up until initial eligibility is determined or benefits are issued. Both the employment and training program and the three-month time limit apply to ongoing benefits.

The "Whereas" sections do not correctly identify to whom the three-month time limit for able-bodied adults without dependents ("ABAWD Program") applies:

(1) Lines 9-14, page 3, of the Memorial does not address the correct population – the three-month time limit on food assistance applies to able bodied adults between the ages of 18 and 49 who are mentally and physically fit for work (individuals who are unfit include those who are chronically homeless or have substance abuse issues, or mental or physical attributes making them unfit); do not have dependents (either minors of their own, or minors residing with them); are not caring for incapacitated individuals; are not pregnant; are not receiving temporary or permanent disability (and have not applied for Supplemental Security Income (SSI)); are not receiving unemployment compensation; are not a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; are not self-employed or employed 30 or more hours a week; and are not students enrolled at least half time in an institution of higher education. Additionally, the Memorial does not address the multiple counties and tribes, pueblos, and Nations that have been waived utilizing federally allowed options for waivers. The following counties, tribes, pueblos, and Nations have been waived: Cibola, Rio Arriba, Sierra, Guadalupe, Taos, Luna, McKinley, Torrance, Mora, Valencia, Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Pojoaque, San Felipe, Santa Ana, Santo Domingo, Zia, Zuni, Taos, Santa Clara, San Ildefonso, Sandia, and Picuris, as well as the Navajo and Mescalero Apache Nations.

These lines also do not accurately reflect that HSD offers employment and training programs to help ABAWDs meet their requirements.

(2) Lines 15-18, page 3, New Mexico's statewide waiver expired on December 31, 2015. At that time, the ABAWD time limit rule became mandatory per federal law. The time limit rule is not discretionary. The type of waiver the state could apply for is the discretionary piece. After multiple public comment periods, tribal roundtables, and tribal consultation, New Mexico chose to apply for, and was granted, waivers for areas of the state with high unemployment rates or that had a low and declining employment to population ratio. That application was federally approved and resulted in the waiver of the counties and tribes, pueblos, and Nations listed above in number 1.

ABAWDs are required, pursuant to 7 C.F.R. 273.24, to participate in a work or work-like activity (which can include paid work, unpaid work, work for services, work experience, job search activities, community service, etc.) for an average of 20 hours per week (or 80 hours per month). If an ABAWD chooses to avail himself or herself to the work training program offered by the state, these hours may be reduced applying the Fair Labor Standards Act's formula. An ABAWD who does not comply and does not have good cause as defined by federal law receives countable months. An ABAWD has to not comply without good cause for three months before the agency takes the federally required adverse action. Even if an ABAWD receives adverse action, they have the right to a fair hearing on such determination and can regain eligibility.

Relative to a separate program, the Employment and Training Program, lines 19-23 incorrectly state who must comply with certain requirements. The Employment and Training Program will become mandatory for individuals aged 16 to 59 who are mentally and physically fit for work; are not caring for a dependent child under 13; are not caring for incapacitated individuals; are not receiving temporary or permanent disability (and have not applied for SSI); are not receiving unemployment compensation; are not a regular participant in a drug or alcohol addiction treatment and rehabilitation program; are not self-employed or employed 30 or more hours a week; and are not students enrolled at least half time in an institution of higher education. Additionally, these individuals are not required to complete unpaid work hours or face loss of food assistance – they are required to complete a certain number of hours of work activities, work training, job search, community service, or some combination of the above, to continue to receive benefits. A process for good cause for temporary excusal of the requirements exists in this program.

### **ADMINISTRATIVE IMPLICATIONS**

The Human Services Department (HSD) would have to develop, design, and implement new reports. There would be five new reports that will have to be compiled from at least two sources, SHARE and HSD's eligibility system ASPEN. The following reports will cost an estimated total of \$15,000 to develop, design and implement.

- (1) all costs associated with administering the three-month time limit for able-bodied adults without dependents age eighteen to forty-nine;
- (2) all costs associated with administering work requirements in the New Mexico supplemental nutrition assistance program's employment and training program;

- (3) the number of New Mexicans subject to the three-month time limit or the employment and training requirement (estimated cost of \$5,000 to develop);
- (4) the number of applicants and participants in the supplemental nutrition assistance program in the state who gain employment or increased earnings from participating in the supplemental nutrition assistance program's employment and training program (estimated cost of \$5,000 to develop); and
- (5) the number of applicants and participants in the supplemental nutrition assistance program who are disqualified from receiving food assistance for noncompliance with time limit or employment and training work requirements in the supplemental nutrition assistance program and the corresponding loss, in dollars, of federal food assistance in New Mexico as a result of those disqualifications (estimated cost of \$5,000 to develop).

### **PERFORMANCE IMPLICATIONS**

The mission of the LFC is to provide the Legislature with objective fiscal and public policy analyses, recommendations, and oversight of state agencies to improve performance and to ensure accountability through the effective allocation of resources for the benefit of all New Mexicans. The LFC consistently produces evaluations on a number of policy issues.

Staff is directed to present a report and recommendations for improving the state's indigent care system to the LFC and the Legislative Health and Human Services committee by October 1, 2016.

JLL/CB/al/jle/jo

## **Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) Program Fact Sheet FFY 2016**

### **What is SNAP?**

SNAP offers nutrition assistance to thousands of eligible, low-income individuals and families while providing economic benefits to communities in New Mexico.

### **Background:**

The New Mexico Human Services Department (NMHSD) operates the Employment and Training (E&T) program and administers it statewide. The E&T program consists of general SNAP recipient's ages 16 through 59 years of age who do not meet a federal exemption in accordance with 7 CFR 273.7(a) or any state exemption as defined by the department. Pursuant to federal law, of the mandatory E&T population, those individuals ages 18 to 49 years of age without dependents, also known as able-bodied adults without dependents (ABAWDs), who do not meet a federal exemption or waiver, will be subject to additional E&T activities and the 3-month time limit tracking to remain eligible for SNAP benefits. The purpose of this program is to assist SNAP participants to gain skills, opportunities, training or experience that will improve their employment prospects or earning potential. These activities ensure that eligible families and individuals get the training and experience needed to become self-supporting, while providing support services necessary to participate in qualifying activities. In addition to reducing the participants need for assistance, the E&T program seeks to enhance the participant's sense of self-worth and esteem. Working parents provide an appropriate role model for children in the home, thereby contributing to a reduction in multi-generational dependency. Both staff and participants understand that successful employment is the ultimate goal of the program.

From October 1, 2015 through December 31, 2015, the Department will continue to serve the current E&T participants and focus on getting them placed into qualified ABAWD activities no later than January 1, 2016. The Department wants to ensure that each ABAWD has sufficient time to comply with the new ABAWD requirements and not accrue any countable months.

Beginning January 1, 2016 through December 31, 2018, NMHSD is implementing the Federal 3-month time limit tracking for ABAWDs due to the expiration of a Statewide Federal waiver that was put in effect in 2009 under the American Recovery and Reinvestment Act (ARRA). All general SNAP participants can volunteer for the E&T program until October 2016; all voluntary participants will not be subject to disqualification.

Beginning October 1, 2016, NMHSD will implement the general E&T work program activities. Unless otherwise exempt, individuals ages 16 through 59, will be mandatory to participate in the general E&T program, if assigned by ISD, to the extent required by law. Individuals will be subject to disqualification for failure to comply if they do not qualify for an exemption or good cause.

The rules are bipartisan in nature and based upon President Bill Clinton signing the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which reformed the nation’s welfare system. Many Federal exemptions exist under the re-implementation of these rules, however all mandatory recipients who are not specifically exempted by federal law are subject to the 3-month time limit tracking requirement They must meet all of the general SNAP work requirements, such as register for work, not voluntarily quit a job or reduce hours, and accept a bona job offer, as well as the additional requirements laid out below. HSD will provide assistance through the NMW Service Provider in order to help all recipients become more self-sufficient and meet the requirements.

The chart below provides the estimated SNAP E&T population that the New Mexico Human Services Department (NMHSD) anticipates to serve during FFY 2016.

Estimated SNAP E&T Participation	
Total Number of SNAP Participants (ages 16-59)	250,721
Total Number of Work Registrants	73,442
Number of individuals who meet Federal Exemption	177,279
Percent of work registrants that are exempt	76%
Number of Mandatory ABAWDs (after Federal Waiver for counties, Tribes, Pueblos and Nations)	17,480

**Work Registration**

Compliance with work registration is a prerequisite to certification, pursuant to 7 CFR 273.7, unless exempt by federal exemptions found at 7 CFR 273.7(b). Benefits may not be conditionally granted before registration of all mandatory household members which is accomplished with the signature on the application.

- Registers for work at the time of application and every 12 months thereafter, in a manner prescribed by Income Support.
- Participates in an E&T program if assigned by ISD, to the extent required by law.
- Provide ISD or its designee with sufficient information regarding employment status or availability for work
- Accept a bona fide offer of suitable employment, at a wage equal to the higher of the Federal or State minimum wage.

- Cannot voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week

**ABAWD Requirements Effective January 1, 2016 through December 31, 2018:**

Federal Law at 7 USC §2015(o)(2) outlines the requirements for the number of hours an ABAWD must participate in a component to be considered meeting the required number of hours. ABAWDs will be required to participate in any one or multiple components within the 36 month period (January 1, 2016-December 31, 2018) to satisfy the 20 hour a week requirement, unless otherwise exempt; if the ABAWD is placed into job search in conjunction with Work Experience, it must be less than half of the required 20 hours. An ABAWD can comply with any of the following components to meet the E&T requirement:

- work 20 hours or more per week, averaged monthly;
- participate in and comply with the requirement of a work program for 20 hours or more per week;
- participate in and comply with other acceptable hours as determined by the Fair Labor Standards Act (FLSA) requirements for Community Service (CS) or Work Experience (WE) or;
- job search or job search training activities as long as the job search or job search training activities equal less than half the work requirement and is completed in conjunction with another qualified activity.

**ABAWD Exemptions Effective January 1, 2016:**

The ABAWD 3-month time limit does not apply to the following individuals:

- Under 18 or 50 years of age or older;
- Determined by the State agency to be medically certified as physically or mentally unfit for employment
- Is a parent (natural, adoptive, or step) of a household member under age 18, even if the household member is not eligible for SNAP benefits;
- Residing in a SNAP household that includes at least one child under the age of 18, even if the child is not eligible for SNAP benefits;
- Exempt from work registration under section 6(d)(2) of the Food Stamp Act, as implemented in regulations at §273.7(b);
- A pregnant woman; or
- Residing in a county, tribe, pueblo or nation that is waived by federal waiver.

**Effective January 1, 2016 NMHSD will offer a voluntary general E&T program; this program will become mandatory for those that do not qualify for an exemption effective October 1, 2016.**

**General E&T Exemptions:**

- Individual younger than 16 years of age, or 60 years of age or older.

- Individual age 16 or 17 who is attending school or enrolled in an employment and training program at least half time.
- Physically or mentally unfit for employment.
- Parent or other household member responsible for the care of a dependent child under age thirteen or an incapacitated person.
- Individual subject to and complying with any work requirement under Title IV of the Social Security Act, including TANF work requirements or subject to and complying with ABAWD work requirements
- Receives or has applied for unemployment compensation benefits (UCB).
- Regular participant in a state certified drug or alcohol treatment and rehabilitation program
- Individual employed or self-employed working minimum 30 hours a week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours
- Migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days are exempt, although this does not prevent such individuals from seeking services from the E&T program
- Workers in ACTION programs (such as VISTA) average 30 or more hours of work per week are exempt, even though they earn less than minimum wage
- Student eligible to participate in the SNAP program, and enrolled at least half time in any recognized school, high school.
- Household members applying for SSI and SNAP benefits under 7 CFR 273.2(k)(1)(i) will have E&T work requirements waived until determined eligible for SSI and become exempt from E&T work requirements, or until they are determined ineligible for SSI, at which time their exemptions from E&T work requirements will be reevaluated
- A pregnant woman
- Residing in a county, tribe, pueblo, or nation that is waived by a federal waiver.
- Individual's monthly expenses in an E&T component, which are necessary and directly related to participation in the E&T program, exceed the allowable reimbursement amount

**Waiver from E&T participation from activities and the ABAWD 3-month time limit Effective January 1, 2016:**

Individuals residing in one of the following counties, tribes, pueblos and nations will be waived, if granted the federal waiver by FNS; this includes individuals subject to the general E&T requirements and ABAWD requirements. ABAWDs waived from the 3-month time limit will not be subject to participate in the general E&T program. Also, ABAWDs under a waiver of the time limit are still subject to the requirements under 7 CFR 273.7(a) such as registering for work,

not voluntarily quitting or reducing work hours, informing NMHSD of employment status and accepting a bona fide job if offered.

The following counties have a two year average unemployment rate 20% above the national average, based on data from the Bureau of Labor Statistics. The two-year average for the counties, tribes, pueblos and nations is based on data from March 2013-February 2015:

Counties

Cibola County	Rio Arriba County
Guadalupe County	Sierra County
Luna County	Taos County
McKinley County	Torrance County
Mora County	Valencia County

The following tribes, pueblos, and nations had a low and declining employment to population ratio from 2011 to 2014. Employment to population ratios, were calculated, using data released from both the Census Bureau and Bureau of Labor Statistics. In 2014, the national average was 59%.

Tribes, Pueblos and Nations

Pueblo of Acoma	Pueblo of Cochiti
Pueblo of Isleta	Pueblo of Jemez
Jicarilla Apache Nation	Pueblo of Laguna
Mescalero Apache Nation	Pueblo of Nambe
Navajo Nation	Ohkay Owingeh Pueblo
Pueblo of Picuris	Pueblo of Pojoaque
Pueblo of Sandia	Pueblo of San Felipe
Pueblo of San Ildefonso	Pueblo of Santa Ana
Pueblo of Santa Clara	Pueblo of Santo Domingo
Pueblo of Taos	Pueblo of Zia
Pueblo of Zuni	Fort Sill Apache

**Good Cause for General SNAP E&T participants and ABAWDs**

Good cause as defined and outlined in 8.139.410.12(D) NMAC applies to both the E&T and ABAWD work requirements. Good cause includes circumstances beyond an individual's control and is determined by considering the facts and circumstances involved, including information submitted by the individual, the individual's representative, the work experience service site or community service site.