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SENATE BILL 37

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Pat Woods and Elizabeth "Liz" Stefanics

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING AND ENACTING SECTIONS OF THE NEW MEXICO WORKS ACT TO PROVIDE FOR REIMPLEMENTATION OF THE EMPLOYMENT RETENTION AND ADVANCEMENT BONUS INCENTIVE PROGRAM AND TO ESTABLISH WORK PARTICIPATION OUTCOME REQUIREMENTS AND REPORTING; MAKING AN APPROPRIATION.

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

**SECTION 1.** Section 27-2B-5 NMSA 1978 (being Laws 1998, Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as amended) is amended to read:

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

A. The following qualify as work activities:

(1) unsubsidized employment, including self-employment;

(2) subsidized private sector employment,

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1 including self-employment;

2 (3) subsidized public sector employment;

3 (4) work experience;

4 (5) on-the-job training;

5 (6) job search and job readiness;

6 (7) community service programs;

7 (8) vocational education;

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

10 (10) education directly related to employment;

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

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

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

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

24 D. The department shall require a parent, caretaker  
25 or other adult who is a member of a benefit group to engage in

1 a work activity.

2 E. Where best suited for the participant to address  
3 barriers, the department may require the following work  
4 activities:

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

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

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

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

17 (5) in the case of a participant who does not  
18 speak English, participating in a course in English as a second  
19 language.

20 F. Subject to the availability of funds, the  
21 department, in cooperation with the workforce solutions  
22 department, Indian affairs department and other appropriate  
23 state agencies, may develop projects to provide for the  
24 placement of participants in work activities, including the  
25 following:

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

3 (2) refurbishing publicly assisted housing;

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

6 (4) weatherizing low-income housing; and

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

11 G. If a participant is engaged in full-time  
12 vocational education studies or an activity set out in  
13 Paragraphs (9) through (11) of Subsection A of this section,  
14 the participant shall engage in another work activity at the  
15 same time. Additionally, for two-parent families that receive  
16 federally funded [~~child-care~~] child care assistance, the  
17 participant's spouse shall engage in a work activity set out in  
18 Paragraphs (1) through (5) or (7) of Subsection A of this  
19 section unless the participant suffers from a temporary or  
20 complete disability that bars the participant from engaging in  
21 a work activity or the participant is barred from engaging in a  
22 work activity because the participant provides sole care for a  
23 person with a disability.

24 H. A participant engaged in vocational education  
25 studies shall make reasonable efforts to obtain a loan,

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1 scholarship, grant or other assistance to pay for costs and  
2 tuition, and the department shall disregard those amounts in  
3 the eligibility determination.

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

6 (1) a participant barred from engaging in a  
7 work activity because the participant has a temporary or  
8 permanent disability;

9 (2) a participant over age sixty;

10 (3) a participant barred from engaging in a  
11 work activity because the participant provides the sole care  
12 for a person with a disability;

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

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

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

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

25 (c) unavailability of appropriate and

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1 affordable formal [~~child-care~~] child care arrangements as  
2 defined by the children, youth and families department;

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

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

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

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

14 J. As a condition of the exemptions identified in  
15 Subsection I of this section, the department may establish  
16 participation requirements; provided that these requirements  
17 are specific to the participant's condition or circumstances  
18 [~~such as~~]; and provided further that these participation  
19 requirements are individualized and limited to those specific  
20 to substance abuse services, mental health services, domestic  
21 violence services, pursuit of disability benefits, job  
22 readiness or education directly related to employment. The  
23 activities are established to improve the participant's  
24 capacity to improve income and strengthen family support."

25 SECTION 2. Section 27-2B-7 NMSA 1978 (being Laws 1998,

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1 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as  
2 amended) is amended to read:

3 "27-2B-7. FINANCIAL STANDARD OF NEED.--

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

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

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

24 B. The following income sources are exempt from the  
25 gross income test, the net income test and the cash payment

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

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1 (11) earned income deposited in an individual  
2 development account by a member of the benefit group or money  
3 received as matching funds for allowable uses by the owner of  
4 the individual development account pursuant to the Individual  
5 Development Account Act; and

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

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

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

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

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

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

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1 from the benefit group's financial standard of need:

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

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

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

12 (4) business expenses.

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

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

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

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

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

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

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

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

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

25                               (a) is currently engaged in paid work

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1 for a minimum of thirty hours per week;

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

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

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

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

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

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

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

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

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

25 (5) the department shall:

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

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

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

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

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

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

23 SECTION 3. A new section of the New Mexico Works Act is  
24 enacted to read:

25 "[NEW MATERIAL] WORK PARTICIPATION--PERFORMANCE

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1 MEASURES.--

2 A. By December 31, 2018, the secretary shall adopt  
3 and promulgate rules to establish performance measures for New  
4 Mexico Works Act work participation outcomes. The performance  
5 measures shall include, at a minimum:

6 (1) the following performance measures  
7 recorded for each fiscal year related to adult recipients who  
8 are not deemed exempt from work participation requirements  
9 pursuant to Subsection I of Section 27-2B-5 NMSA 1978:

10 (a) the number of recipients who have  
11 become ineligible for cash assistance due to new work-related  
12 income;

13 (b) the average wage for former  
14 recipients who have become ineligible for cash assistance due  
15 to work-related income;

16 (c) the number of recipients who are  
17 employed for six months or more;

18 (d) the number of two-parent-family  
19 recipients who meet work participation requirements;

20 (e) the number of other recipients who  
21 meet work participation requirements;

22 (f) the number of recipients who are  
23 having cash assistance benefits reduced or eliminated due to  
24 failure to meet work participation requirements;

25 (g) the number of recipients who receive

1 child care assistance;

2 (h) the number of recipients who receive  
3 transportation assistance; and

4 (i) the number of recipients who receive  
5 supports other than or in addition to transportation and child  
6 care assistance, and the type of supports they are receiving;  
7 and

8 (2) the following performance measures  
9 recorded for each fiscal year related to adult recipients who  
10 are exempt from work participation pursuant to Subsection I of  
11 Section 27-2B-5 NMSA 1978:

12 (a) the number of recipients who meet an  
13 exemption from work participation;

14 (b) a listing of the number of  
15 recipients per each reason for exemption provided pursuant to  
16 Subsection I of Section 27-2B-5 NMSA 1978;

17 (c) the number of recipients who receive  
18 transportation assistance;

19 (d) the number of recipients who receive  
20 supports other than or in addition to transportation and child  
21 care assistance, and the type of supports they are receiving;

22 (e) the number of exempt recipients who  
23 receive child care assistance; and

24 (f) the number of recipients who have  
25 been identified as exempt under Paragraph (1) of Subsection I

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1 of Section 27-2B-5 NMSA 1978 who have become ineligible for  
2 cash assistance on the basis of receipt of permanent disability  
3 income.

4 B. The secretary shall publish on the department's  
5 website in a publicly accessible manner and on the state's  
6 sunshine portal website any evaluation that the department  
7 performs of work participation outcomes, including those  
8 achieved by work participation contractors.

9 C. The secretary shall establish by rule:

10 (1) outcome measures for the provision of job  
11 placement assistance, educational assistance, transportation  
12 assistance, child care assistance and other supports and  
13 services that the department specifies for any contractor to  
14 achieve through New Mexico Works Act work participation; and

15 (2) sanctions that the department shall impose  
16 on New Mexico Works Act work participation contractors that do  
17 not meet department outcome requirements."

18 SECTION 4. APPROPRIATION.--One million dollars  
19 (\$1,000,000) is appropriated from the general fund to the human  
20 services department for expenditure in fiscal year 2019 to fund  
21 the employment retention and advancement bonus incentive  
22 program established pursuant to Section 27-2B-7 NMSA 1978. Any  
23 unexpended or unencumbered balance remaining at the end of  
24 fiscal year 2019 shall revert to the general fund.