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HOUSE BILL 311

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY  
Luciano "Lucky" Varela

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; CLARIFYING THE CHILD-CARE  
EXEMPTION OF THE WORK REQUIREMENT; AMENDING THE NEW MEXICO  
WORKS ACT; DECLARING AN EMERGENCY.

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 also 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,  
including self-employment;

(3) subsidized public sector employment;

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1 (4) work experience, including work  
2 associated with the refurbishing of publicly assisted housing  
3 if sufficient private sector employment is not available;

4 (5) on-the-job training;

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

7 (7) community service programs;

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

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

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

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

20 and

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

24 B. The department shall recognize community  
25 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

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

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

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

- 13 (1) participating in parenting classes,  
14 money management classes or life skills training;
- 15 (2) participating in a certified alcohol or  
16 drug addiction program;
- 17 (3) in the case of a homeless benefit group,  
18 finding a home;
- 19 (4) in the case of a participant who is a  
20 victim of domestic violence, residing in a domestic violence  
21 shelter or receiving counseling or treatment or participating  
22 in criminal justice activities directed at prosecuting the  
23 domestic violence perpetrator, for no longer than twenty-four  
24 weeks; and
- 25 (5) in the case of a participant who does  
not speak English, participating in a course in English as a  
second language.

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F. Subject to the availability of funds, the department in cooperation with the labor department, the 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

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1 because he provides sole care for a disabled person.

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

7 I. For as long as the described conditions exist,  
8 the following are exempt from ~~[the]~~ an approved work  
9 ~~[requirement]~~ activity:

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

13 (2) a participant over age sixty;

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

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

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

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

(b) unavailability or unsuitability of

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1 informal child care by a relative under other arrangements as  
2 defined by the children, youth and families department; or

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

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

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

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

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

18 J. The department shall notify all applicants and  
19 participants of the available programs and services that may  
20 assist families that are subject to family violence. Written  
21 material shall generally be available in local income support  
22 division offices and during group orientations.

23 Notifications shall include:

24 (1) a definition of family violence,  
25 including examples of acts and circumstances that may  
constitute family violence;

(2) an explanation of the availability of

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1 exemptions from program requirements; and

2 (3) information about appeals.

3 K. The department shall notify all participants of  
4 the available programs and services that may assist the  
5 participant in selecting appropriate child-care services,  
6 including assistance available through the children, youth  
7 and families department.

8 L. The department shall notify a participant:

9 (1) that, if appropriate child care is not  
10 available, he may seek the exemption to the work requirement  
11 in Paragraph (5) of Subsection I of this section;

12 (2) of the department's procedures to be  
13 used by the participant to seek the exemption;

14 (3) that, if a participant receives an  
15 exemption because child care is unavailable, the exemption  
16 does not extend the time limits on benefits; and

17 (4) that the participant has access to a  
18 fair hearing process if a requested exemption is denied.

19 M. The children, youth and families department  
20 shall make reasonable determination regarding whether child  
21 care is available for a program participant. The children,  
22 youth and families department shall determine whether  
23 appropriate child care exists by considering:

24 (1) whether the child-care service allows  
25 the participant to engage in a work activity appropriately;

(2) the number and predictability of  
placements required to provide child care;

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1                   (3) whether the child care is suitable for  
2 children with medical needs or other special needs as  
3 determined by a physician or other licensed health care  
4 provider;

5                   (4) whether the child-care service provides  
6 infant care if necessary;

7                   (5) whether non-center-based child care, if  
8 selected by the participant, is suitable;

9                   (6) whether a participant has reasonable  
10 transportation, either public or private, available at the  
11 hours transportation is needed to and from the participant's  
12 child care and work activity considered along with the  
13 distances the participant needs to travel with a child to  
14 child care and to the work activity; and

15                   (7) other special or extenuating  
16 circumstances that directly affect a participant's ability to  
17 access available child-care providers.

18                   N. For the purposes of this section, "reasonable  
19 transportation" means that a participant either has:

20                   (1) a reliable, independent mode of  
21 transportation; or

22                   (2) available public transportation that  
23 operates at the hours of the participant's work activity or  
24 education activity."

25                   Section 2. EMERGENCY.--It is necessary for the public  
peace, health and safety that this act take effect  
immediately.

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