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HOUSE BILL 208

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LUCIANO "LUCKY" VARELA

FOR THE LEGISLATIVE FINANCE COMMITTEE AND  
THE HEALTH AND WELFARE REFORM COMMITTEE

AN ACT

RELATING TO HEALTH; ENACTING THE CHILD HEALTH ACT; CREATING  
THE HEALTHY KIDS PROGRAM; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING  
AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1  
through 7 of this act may be cited as the "Child Health Act".

Section 2. [NEW MATERIAL] DEFINITIONS. --As used in the  
Child Health Act:

- A. "child" means a natural person who has not  
reached his nineteenth birthday;
- B. "department" means the human services  
department;
- C. "low-income family" means a family with income

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1 at or below the level specified in Section 5 of the Child  
2 Health Act; and

3 D. "secretary" means the secretary of human  
4 services.

5 Section 3. [NEW MATERIAL] HEALTHY KIDS PROGRAM CREATED. --

6 After consultation with the secretary of health and the  
7 secretary of children, youth and families, the secretary is  
8 directed to design and implement a program to provide health  
9 services to children and adults in low-income families in  
10 accordance with the provisions of the Child Health Act. The  
11 program shall be known as "healthy kids". It shall meet the  
12 requirements for obtaining allotted federal funds pursuant to  
13 the provisions of Title 21 of the federal Social Security Act.  
14 In accordance with those requirements and the requirements of  
15 the Child Health Act, the secretary shall prepare and submit a  
16 child health plan to the secretary of health and human  
17 services. Healthy kids shall be administered by the  
18 department.

19 Section 4. [NEW MATERIAL] PROGRAM OBJECTIVES-- DEVELOPMENT  
20 OF PLAN AND ADOPTION OF RULES. --

21 A. The child health plan and healthy kids shall be  
22 designed to achieve the following objectives:

- 23 (1) expand access to and coverage for full or  
24 partial payment for a comprehensive array of personal health  
25 services for children and adults in low-income families that do

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1 not have those services at present;

2 (2) increase measurably the quality of life  
3 and well-being for the state's citizens by ensuring the good  
4 health of children and adults in low-income families;

5 (3) reduce substantially the occurrence rates  
6 of preventable illness and disease, morbidity and mortality in  
7 the state's population;

8 (4) increase positively the benefit-to-cost  
9 ratios of health services provided in the state to the  
10 population as a whole while at the same time improving the  
11 quality of service when measured by both scientifically  
12 objective and beneficiary-perceived criteria;

13 (5) retard escalation of health care costs in  
14 all segments of the health care industry; and

15 (6) provide through experimentation and  
16 demonstration projects, coupled with any necessary and  
17 appropriate federal waivers of conditions for expenditure  
18 approval, innovative and imaginative methods of providing  
19 health care to all segments of the state's population.

20 B. Implementation of an approved child health plan  
21 shall be in accordance with rules adopted by the secretary.

22 The rules shall be designed to achieve and be consistent with  
23 the objectives specified in Subsection A of this section.

24 Those objectives are stated as mandatory standards by which the  
25 validity of proposed rules shall be tested. Additionally, the

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1 rules must be consistent with those provisions of the Child  
2 Health Act that mandate program requirements.

3 Section 5. [NEW MATERIAL] PLAN CONTENT--REQUIRED  
4 ELEMENTS.--The child health plan and the program of services to  
5 be provided by it shall include:

6 A. a one-year period measured from the date of  
7 federal approval of the child health plan to be known as "phase  
8 one", during which the following shall occur:

9 (1) the family income eligibility requirement  
10 for participation of children in healthy kids shall be  
11 established at two hundred thirty-five percent of the federal  
12 poverty level;

13 (2) presumptive eligibility procedures shall  
14 be established and initiated;

15 (3) a simplified application process shall be  
16 established and implemented;

17 (4) the locations of eligibility workers shall  
18 be diversified;

19 (5) training for health care providers to  
20 enable them to assist families in filling out application forms  
21 shall be developed and implemented; and

22 (6) specific outreach procedures shall be  
23 developed, including within those procedures ways to recognize  
24 and accommodate cultural diversity, to involve families of  
25 children likely to be eligible for healthy kids or other public

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1 or private health coverage programs and to inform these  
2 families of the availability of and assist them in enrolling in  
3 those programs;

4 B. a two-year period measured from the date of  
5 federal approval of the child health plan to be known as "phase  
6 two", during which the following shall occur:

7 (1) a continuum of prevention and intervention  
8 services shall be developed and implemented consisting of at  
9 least the following, including applications for any federal  
10 waivers of conditions that are necessary:

11 (a) implementation of a universal home  
12 visiting program for mothers having their first child,  
13 beginning during pregnancy and extending for two years, with a  
14 frequency of use as both desired and medically indicated;

15 (b) creation of a program of early  
16 intervention developmental services;

17 (c) provision of a behavioral health  
18 identification, assessment and management system;

19 (d) expansion of school-based health  
20 services into the network of health care programs;

21 (e) expansion of the healthier kids fund  
22 administered by the department of health to enable children to  
23 have effective access to health care; and

24 (f) development of ways to increase  
25 children's dental services; and

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1 (2) development of a plan to provide health  
2 services to uninsured parents of children eligible for healthy  
3 kids;

4 C. twelve months of continuous coverage for healthy  
5 kids beneficiaries;

6 D. a requirement that no asset test be imposed as a  
7 condition of eligibility for children;

8 E. provisions for inhibiting or preventing both  
9 employer crowd-out and employee crowd-out;

10 F. requirements that in its development and  
11 implementation interests of Native American children are  
12 identified and that appropriate provisions for their enrollment  
13 are made with recognition that the application process and the  
14 delivery of services with respect to those children present  
15 special cultural and other considerations;

16 G. provisions for the coordination of the  
17 administration of healthy kids with other public and private  
18 health programs;

19 H. identification and implementation of methods,  
20 including monitoring, used to ensure the quality and  
21 appropriateness of care, particularly with respect to well-baby  
22 care, well-child care and immunizations provided under the plan  
23 and to ensure access to covered services, including emergency  
24 services;

25 I. methods by which the state will collect data,

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1 maintain the records and furnish required reports to the  
2 secretary of health and human services; and

3 J. specific requirements for and description of the  
4 means to be used to ensure that members of the public will be  
5 involved in the design and implementation of the plan and a  
6 description of a method to ensure ongoing public involvement.

7 Section 6. [NEW MATERIAL] CREATION OF LEGISLATIVE  
8 OVERSIGHT COMMITTEE-- AUTHORITY AND DUTIES. --

9 A. There is created a joint interim legislative  
10 committee, which shall be known as the "healthy kids oversight  
11 committee".

12 B. The committee shall be composed of eight  
13 members. Four members of the house of representatives shall be  
14 appointed by the speaker of the house of representatives and  
15 four members of the senate shall be appointed by the  
16 committees' committee of the senate or, if the senate  
17 appointments are made in the interim, by the president pro  
18 tempore of the senate after consultation with and agreement of  
19 a majority of the members of the committees' committee. Members  
20 shall be appointed so that there is a member from each of the  
21 major political parties from each house. No member who has a  
22 financial interest in an insurance company or health care  
23 provider shall be appointed to the committee.

24 C. The healthy kids oversight committee shall  
25 oversee the development and operations of healthy kids created

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1 pursuant to the Child Health Act. It shall fulfill any  
2 responsibilities delegated to it pursuant to that act.

3 D. The committee shall report annually its findings  
4 and recommendations regarding healthy kids to each regular  
5 session of the legislature and shall include in that report any  
6 recommendations for changes in the laws pertaining to the  
7 program.

8 Section 7. [NEW MATERIAL] CREATION OF HEALTHY KIDS FUND. --  
9 The "healthy kids fund" is created in the state treasury.  
10 Revenue consisting of all amounts shall be deposited in the fund.  
11 Interest earned by investment of the fund shall be deposited in  
12 the fund. Balances of the fund shall not revert to the general  
13 fund at the close of any fiscal year. Expenditures from the fund  
14 shall be made pursuant to warrants drawn by the department of  
15 finance and administration upon vouchers submitted by the  
16 secretary of human services for the purpose of providing state  
17 funds needed to match federal funds for payment of the costs of  
18 healthy kids operated by the human services department pursuant  
19 to the Child Health Act.

20 Section 8. Section 27-2-1 NMSA 1978 (being Laws 1973,  
21 Chapter 376, Section 1) is amended to read:

22 "27-2-1. SHORT TITLE. -- Sections [ ~~1 through 20 of this act~~  
23 ~~and Sections 13-1-9, 13-1-10, 13-1-12, 13-1-13, 13-1-17,~~  
24 ~~13-1-18, 13-1-18.1, 13-1-19, 13-1-20, 13-1-20.1, 13-1-21,~~  
25 ~~13-1-22, 13-1-27, 13-1-27.2, 13-1-27.3, 13-1-27.4, 13-1-28,~~

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1 ~~13-1-28.6, 13-1-29, 13-1-30, 13-1-34, 13-1-35, 13-1-37, 13-1-39,~~  
2 ~~13-1-40, 13-1-41 and 13-1-42 NMSA 1953]~~ 27-2-1 through 27-2-36  
3 NMSA 1978 may be cited as the "Public Assistance Act". "

4 Section 9. Section 27-2-12 NMSA 1978 (being Laws 1973,  
5 Chapter 376, Section 16, as amended) is amended to read:

6 "27-2-12. ~~MEDICAL ASSISTANCE [PROGRAMS]~~ PROGRAM - MEDICAID. -  
7 -Consistent with the federal act and subject to the appropriation  
8 and availability of federal and state funds, the medical  
9 assistance division of the human services department may by  
10 [~~regulation~~] rule provide medical assistance [~~including the~~  
11 ~~services of licensed doctors of oriental medicine and licensed~~  
12 ~~chiropractors, to persons eligible for public assistance programs~~  
13 ~~under the federal act]~~ pursuant to a state plan approved by the  
14 federal health and human services department in accordance with  
15 Title 19 of the federal act. This medical assistance program  
16 shall be known as "medicaid". "

17 Section 10. Section 27-2-12.2 NMSA 1978 (being Laws 1987,  
18 Chapter 16, Section 1, as amended) is amended to read:

19 "27-2-12.2. [~~MEDICAL ASSISTANCE PROGRAM]~~ MEDICAID--  
20 ELIGIBILITY OF MARRIED INDIVIDUALS. --For the purpose of  
21 determining [~~medical assistance~~] medicaid eligibility for the  
22 institutional care program [~~eligibility under the Public~~  
23 ~~Assistance Act]~~, the community spouse resource allowance for a  
24 community spouse as defined and authorized by the federal  
25 Medicare Catastrophic Coverage Act of 1988 shall be a minimum of

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1 thirty thousand dollars (\$30,000). "

2 Section 11. Section 27-2-12.3 NMSA 1978 (being Laws 1987,  
3 Chapter 269, Section 1, as amended) is amended to read:

4 "27-2-12.3. MEDICAID REIMBURSEMENT-- EQUAL PAY FOR EQUAL  
5 PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS' AND  
6 PSYCHOLOGISTS' SERVICES. -- The [~~human services~~] department shall  
7 establish a rate for the reimbursement of physicians, dentists,  
8 optometrists, podiatrists and psychologists for services rendered  
9 to medicaid patients that provides equal reimbursement for the  
10 same or similar services rendered without respect to the date on  
11 which such physician, dentist, optometrist, podiatrist or  
12 psychologist entered into practice in New Mexico; the date on  
13 which the physician, dentist, optometrist, podiatrist or  
14 psychologist entered into an agreement or contract to provide  
15 such services; or the location in which such services are to be  
16 provided in the state; provided, however, that the requirements  
17 of this section shall not apply when the [~~human services~~]  
18 department contracts with entities pursuant to Section 27-2-12.6  
19 NMSA 1978 to negotiate a rate for the reimbursement for services  
20 rendered to medicaid patients in the medicaid managed care  
21 system. "

22 Section 12. Section 27-2-12.4 NMSA 1978 (being Laws 1987,  
23 Chapter 214, Section 1) is amended to read:

24 "27-2-12.4. LONG-TERM CARE FACILITIES-- NONCOMPLIANCE WITH  
25 STANDARDS AND CONDITIONS-- SANCTIONS. --

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A. In addition to any other actions required or permitted by federal law or regulation, the [~~human services~~] department shall impose a hold on [~~state~~] medicaid payments to a long-term care facility thirty days after the department of health [~~and environment department~~] notifies the [~~human services~~] department in writing pursuant to an on-site visit that the long-term care facility is not in substantial compliance with the standards or conditions of participation promulgated by the federal department of health and human services pursuant to which the facility is a party to a medicaid provider agreement, unless the substantial noncompliance has been corrected within that thirty-day period or the facility's medicaid provider agreement is terminated or not renewed based in whole or in part on the noncompliance. The written notice shall cite the specific deficiencies that constitute noncompliance.

B. The [~~human services~~] department shall remove the payment hold imposed under Subsection A of this section when the department of health [~~and environment department~~], pursuant to an on-site visit, certifies in writing to the [~~human services~~] department that the long-term care facility is in substantial compliance with the standards or conditions of participation pursuant to which the facility is a party to a medicaid provider agreement.

C. The [~~human services~~] department shall not reimburse any long-term care facility during the payment hold

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1 period imposed pursuant to Subsection A of this section for any  
2 medicaid [~~recipient-patients~~] patients who are new admissions and  
3 who are admitted on or after the day the hold is imposed and  
4 prior to the day the hold is removed.

5 D. If a long-term care facility is certified in  
6 writing to be in noncompliance pursuant to Subsection A of this  
7 section for the second time in any twelve-month period, the  
8 [~~human services~~] department shall cancel or refuse to execute the  
9 long-term care facility's medicaid provider agreement for a two-  
10 month period, unless it can be demonstrated that harm to the  
11 patients would result from this action or that good cause exists  
12 to allow the facility to continue to participate in [ ~~the~~]  
13 medicaid [~~program~~]. The provisions of this subsection are  
14 subject to appeal procedures set forth in federal regulations for  
15 nonrenewal or termination of a medicaid provider agreement.

16 E. A long-term care facility shall not charge  
17 medicaid [~~recipient-patients~~] beneficiaries, their families or  
18 their responsible parties to recoup [ ~~any~~] payments not received  
19 because of a hold on medicaid payments imposed pursuant to this  
20 section.

21 F. This section [~~shall not be construed to~~] does not  
22 affect any other provisions for medicaid provider agreement  
23 termination, nonrenewal, due process and appeal pursuant to  
24 federal law or regulation.

25 G. As used in this section:

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1 (1) "day" means a twenty-four hour period  
2 beginning at midnight and ending one second before midnight;

3 (2) "long-term care facility" means any  
4 intermediate care facility or skilled nursing facility [~~which~~]  
5 that is licensed by the department of health [~~and environment~~  
6 ~~department~~] and [~~which~~] is medicaid certified;

7 (3) "new admissions" means medicaid [~~recipients~~]  
8 patients who have never been in the long-term care facility or,  
9 if previously admitted, had been discharged or had voluntarily  
10 left the facility, but the term does not include:

11 (a) individuals who were in the long-term  
12 care facility before the effective date of the hold on medicaid  
13 payments and became eligible for medicaid after that date; and

14 (b) individuals who, after a temporary  
15 absence from the facility, are readmitted to beds reserved for  
16 them in accordance with federal regulations; and

17 (4) "substantial compliance" means the condition  
18 of having no cited deficiencies or having only those cited  
19 deficiencies [~~which~~] that:

20 (a) are not inconsistent with any federal  
21 statutory requirement;

22 (b) do not interfere with adequate patient  
23 care;

24 (c) do not represent a hazard to the  
25 patients' health or safety;

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1 (d) are capable of correction within a  
2 reasonable period of time; and

3 (e) are [~~ones which~~] deficiencies the long-  
4 term care facility is making reasonable plans to correct. "

5 Section 13. Section 27-2-12.5 NMSA 1978 (being Laws 1989,  
6 Chapter 83, Section 1, as amended) is amended to read:

7 "27-2-12.5. MEDICAID-CERTIFIED NURSING FACILITIES--  
8 RETROACTIVE ELIGIBILITY--REFUNDS--PENALTY.--

9 A. Medicaid payment for a medicaid-eligible patient  
10 shall be accepted by a medicaid-certified nursing facility from  
11 the first month of medicaid eligibility, regardless of whether  
12 the eligibility is retroactive. The nursing facility shall  
13 refund to the patient or responsible party all out-of-pocket  
14 money except for required medical-care credits paid to the  
15 nursing facility for that patient's care on and after the date of  
16 medicaid eligibility for services covered by the medicaid  
17 program. Within thirty days after notification by the [~~human~~  
18 ~~services~~] department of the patient's medicaid eligibility, the  
19 nursing facility shall make any necessary refund to the patient  
20 or responsible party required under this section.

21 B. In any [~~cause of action~~] lawsuit brought against a  
22 nursing facility because of its failure to make a refund to the  
23 patient or responsible party as required under Subsection A of  
24 this section, the patient or responsible party may be awarded  
25 damages equal to triple the amount of the money not refunded or

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1 three hundred dollars (\$300), whichever is greater, [ and]  
2 reasonable [attorneys'] attorney fees and [court] costs. "

3 Section 14. Section 27-2-12.6 NMSA 1978 (being Laws 1994,  
4 Chapter 62, Section 22) is amended to read:

5 "27-2-12.6. MEDICAID PAYMENTS--MANAGED CARE. --

6 A. The department shall provide for a statewide  
7 managed care system to provide cost-efficient, preventive,  
8 primary and acute health care for medicaid [recipients by July 1,  
9 1995] beneficiaries.

10 B. The managed care system shall ensure:

11 (1) access to medically necessary services,  
12 particularly for medicaid [recipients] beneficiaries with chronic  
13 health problems;

14 (2) to the extent practicable, maintenance of  
15 the rural primary care delivery infrastructure;

16 (3) that the department's approach is consistent  
17 with national and state health care reform principles; and

18 (4) to the maximum extent possible, that  
19 [~~medicaid-eligible individuals~~] beneficiaries are not identified  
20 as such except as necessary for billing purposes.

21 C. The department may exclude nursing homes,  
22 intermediate care facilities for the mentally retarded, medicaid  
23 in-home and community-based waiver services and residential and  
24 community-based mental health services for children with serious  
25 emotional disorders from the provisions of this section. "

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1           Section 15. Section 27-2-12.7 NMSA 1978 (being Laws 1980,  
2 Chapter 86, Section 1) is amended to read:

3           "27-2-12.7. MEDICAID--HUMAN SERVICES DEPARTMENT EMPLOYEES--  
4 STANDARDS OF CONDUCT--ENFORCEMENT. --

5           A. As used in this section:

6                   (1) "business" means a corporation, partnership,  
7 sole proprietorship, firm, organization or individual carrying on  
8 a business;

9                   [~~(2)~~] "~~department~~" ~~means the human services~~  
10 ~~department;~~

11                   ~~(3)~~] (2) "employee" means [any] a person who has  
12 been appointed to or hired for [any] a department office  
13 connected with the administration of medicaid funds and who  
14 receives compensation in the form of salary;

15                   [~~(4)~~] (3) "employee with responsibility" means  
16 an employee who is directly involved in or has a significant part  
17 in the medicaid decision-making, regulatory, procurement or  
18 contracting process; and

19                   [~~(5)~~] (4) "financial interest" means an interest  
20 held by an individual, his spouse or minor child [which] that is:

21                           (a) an ownership interest in business; or

22                           (b) [any] an employment or prospective  
23 employment for which negotiations have already begun.

24           B. No employee with responsibility shall, for twenty-  
25 four months following the date on which he ceases to be an

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1 employee, act as agent or attorney for [~~any other~~] another person  
2 or business in connection with a judicial or administrative  
3 proceeding, application, ruling, contract, claim or other matter  
4 relating to the medicaid program with respect to which the  
5 employee made an investigation, rendered [~~any~~] a ruling or was  
6 otherwise substantially and directly involved during the last  
7 year he was an employee and [~~which~~] that was actually pending  
8 under his responsibility within that period.

9 C. No [~~department~~] secretary of human services,  
10 income support division director or medical assistance bureau  
11 chief or their deputies shall, for twelve months following the  
12 date on which he ceases to be an employee, participate [~~in any~~  
13 ~~manner~~] with respect to a judicial or administrative proceeding,  
14 application, ruling, contract, claim or other matter relating to  
15 the medicaid program and pending before the department.

16 D. No employee with responsibility shall participate  
17 [~~in any manner~~] with respect to a judicial or administrative  
18 proceeding, application, ruling, contract, claim or other matter  
19 relating to the medicaid program and involving his spouse, minor  
20 child or [~~any~~] a business in which he has a financial interest  
21 unless prior to [~~such~~] the participation:

22 (1) full disclosure of his relationship or  
23 financial interest is made in writing to the secretary of [~~the~~  
24 ~~department~~] human services; and

25 (2) a written determination is made by the

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1 secretary of human services that the disclosed relationship or  
2 financial interest is too remote or inconsequential to affect the  
3 integrity of the services of the employee.

4 E. Violation of any of the provisions of this section  
5 by an employee is grounds for dismissal, demotion or suspension.  
6 A former employee who violates [~~any of the provisions~~] a  
7 provision of this section [~~shall be~~] is subject to assessment by  
8 the department of a civil money penalty of two hundred fifty  
9 dollars (\$250) for each violation. The department shall  
10 promulgate [~~regulations~~] rules to provide for an administrative  
11 appeal of any assessment imposed."

12 Section 16. Section 27-2-12.8 (being Laws 1997, Chapter  
13 264, Section 1) is amended to read:

14 "27-2-12.8 MAMMOGRAMS FOR MEDICAID [~~RECIPIENTS~~]  
15 BENEFICIARIES. -- In providing coverage for mammograms under the  
16 medicaid program, the department shall ensure that:

17 A. patients will not be routinely solicited for  
18 mammograms and that mammograms will only be performed based on  
19 nationally recognized standards; and

20 B. any fee for service payment that [~~shall be~~] is  
21 made on behalf of [~~the~~] medicaid [~~program~~] for a mammogram of a  
22 medicaid [~~recipient~~] beneficiary shall be consistent with and not  
23 exceed the usual and customary charge that reflects the  
24 reasonable fair market value of the cost of a mammogram."

25 Section 17. Section 27-2-13 NMSA 1978 (being Laws 1973,

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1 Chapter 376, Section 17) is amended to read:

2 "27-2-13. CONFLICT IN FEDERAL AND STATE LAWS. -- Any section  
3 of the NMSA [1953] 1978 [~~relating to~~] authorizing public  
4 assistance [~~which~~] that is in conflict with the provisions of the  
5 federal act, [~~or~~] the federal Food Stamp Act, [~~as may be amended~~  
6 ~~from time to time, and~~] or federal regulations issued pursuant  
7 [~~thereto~~] to those acts shall be suspended in its operation if  
8 the attorney general certifies that [~~such~~] the conflict exists."

9 Section 18. Section 27-2-15 NMSA 1978 (being Laws 1937,  
10 Chapter 18, Section 9) is amended to read:

11 "27-2-15. COOPERATION WITH THE UNITED STATES. --

12 A. The [~~State~~] department is [~~hereby~~] designated as  
13 the state agency to cooperate with the federal government in the  
14 administration of the provisions of [~~Title 1, Title 4, part 2 and~~  
15 ~~3 of Title 5 and Title 10~~] Titles 4 and 19 of the federal [~~Social~~  
16 ~~Security Act. The State Board is hereby authorized and directed~~  
17 ~~to cooperate with the proper departments of the federal~~  
18 ~~government and with all other departments of the state and local~~  
19 ~~governments in the enforcement and administration of such~~  
20 ~~provisions of the federal Social Security Act, and any amendments~~  
21 ~~thereto and the rules and regulations issued thereunder, and in~~  
22 ~~compliance therewith in the manner prescribed in this act or as~~  
23 ~~otherwise provided by law~~] act.

24 B. The department shall [~~also~~] make reports in [~~such~~]  
25 the form and containing [~~such~~] the information [~~as any~~] required

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1 by an agency or instrumentality of the United States with which  
2 it is cooperating [~~may from time to time require~~], and shall  
3 comply with [~~such~~] those provisions [~~as any such~~] a federal  
4 agency or instrumentality may [~~from time to time~~] find necessary  
5 to assure the correctness and verification of [~~such~~] the  
6 reports. "

7 Section 19. Section 27-2-17 NMSA 1978 (being Laws 1937,  
8 Chapter 18, Section 10) is amended to read:

9 "27-2-17. CUSTODIAN OF FUNDS. --The [~~State~~] department is  
10 [~~hereby~~] designated as the custodian, subject to the provisions  
11 of Section [~~21 of this Act~~] 27-2-33 NMSA 1978, of [~~any and~~] all  
12 [~~monies which may be~~] money received by the state [~~of New Mexico~~  
13 ~~which~~] that the [~~State Board of Public Welfare~~] department is  
14 authorized to administer pursuant to the Public Assistance Act,  
15 from any appropriations made by the congress of the United States  
16 for the purpose of cooperating with the several states in the  
17 enforcement and administration of the provisions of the federal  
18 [~~Social Security~~] act referred to in Section [~~9~~] 27-2-15 NMSA  
19 1978 and all [~~monies~~] money received from any other source for  
20 [~~the~~] purposes [~~set forth in this Act~~] authorized by the Public  
21 Assistance Act. The [~~State~~] department is [~~hereby~~] authorized to  
22 receive such [~~monies~~] money, provide for [~~the~~] its proper custody  
23 [~~thereof~~] and [~~to~~] make disbursements [~~therefrom~~] of it under  
24 such rules [~~and regulations~~] as the [~~State Board~~] department may  
25 prescribe. "

Underscored material = new  
[bracketed material] = delete

1           Section 20. Section 27-2-23 NMSA 1978 (being Laws 1969,  
2 Chapter 232, Section 1) is amended to read:

3           "27-2-23. THIRD PARTY LIABILITY FOR MEDICAID EXPENDITURES. -

4 -

5           A. The [~~health and social services~~] department shall  
6 make reasonable efforts to ascertain [~~any~~] legal liability of  
7 third parties who are or may be liable to pay all or part of the  
8 medical cost of injury, disease or disability of an applicant for  
9 or recipient of [~~medical assistance~~] medicaid.

10           B. When the department makes [~~medical assistance~~]  
11 medicaid payments [~~in behalf of a recipient~~] for a medicaid  
12 beneficiary, the department is subrogated to any right of the  
13 [~~recipient~~] beneficiary against a third party for recovery of  
14 medical expenses to the extent that the department has made  
15 payment. "

16           Section 21. Section 27-2-23.1 NMSA 1978 (being Laws 1989,  
17 Chapter 184, Section 1) is amended to read:

18           "27-2-23.1. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF  
19 1974--EMPLOYEE HEALTH BENEFIT PLANS--CLAUSES TO EXCLUDE MEDICAID  
20 COVERAGE PROHIBITED.--No employee health benefit plan established  
21 under the Employee Retirement Income Security Act of 1974, 29  
22 U.S.C. 1144 that provides payments for health care on behalf of  
23 individuals residing in the state shall contain any provisions  
24 excluding or limiting coverage or payment for any health care for  
25 an individual who would otherwise be covered or entitled to

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Underscored material = new  
[bracketed material] = delete

1 benefits or services under the terms of the employee health  
2 benefit plan because that individual is provided or is eligible  
3 for benefits [~~under the~~] pursuant to medicaid [~~program of this~~  
4 ~~state pursuant to Title XIX of the federal Social Security Act,~~  
5 ~~42 U.S.C. 1396, et seq.~~]. "

6 Section 22. Section 27-2-33 NMSA 1978 (being Laws 1937,  
7 Chapter 18, Section 21) is amended to read:

8 "27-2-33. METHOD OF HANDLING FUNDS. --

9 A. All [~~monies~~] money received from the federal  
10 government for carrying out [~~of~~] any of the purposes of [~~this~~  
11 ~~Act~~] Chapter 27 NMSA 1978 and all other funds received by the  
12 [~~State~~] department under the provisions of [~~this Act~~] that  
13 chapter shall be [~~by it~~] paid [~~over~~] to the state treasurer and  
14 [~~shall be by him~~] kept in a separate fund known as the "social  
15 security fund" [~~and~~]. All [~~monies~~] money in [~~such~~] the fund [~~are~~  
16 ~~hereby~~] is appropriated to the [~~State Board~~] department for [~~the~~]  
17 carrying out [~~of~~] the purposes of [~~this Act~~] Chapter 27 NMSA  
18 1978, provided that all [~~monies~~] money received from the federal  
19 government shall be spent solely for the purposes for which  
20 [~~said~~] the funds were granted.

21 B. [~~By resolution of the State Board requisitions~~  
22 ~~shall be made from time to time~~] The department shall request  
23 from the state treasurer [~~for~~] the funds needed [~~for the~~  
24 ~~carrying~~] to carry out [~~of any of~~] the purposes of [~~this Act,~~  
25 ~~and~~] Chapter 27 NMSA 1978. The funds [~~so requisitioned~~] shall be

