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SENATE BILL 44

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Gay G. Kernan

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC EDUCATION; REPLACING THE TERMS "GENERAL EDUCATION DIPLOMA", "GENERAL EQUIVALENCY DIPLOMA", "GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATE", "CERTIFICATE OF GENERAL EQUIVALENCY" AND "GED CERTIFICATE" WITH THE TERM "HIGH SCHOOL EQUIVALENCY CREDENTIAL"; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007.

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

SECTION 1. Section 21-1-1 NMSA 1978 (being Laws 1912, Chapter 83, Section 2, as amended) is amended to read:

"21-1-1. STATE INSTITUTIONS--ADMISSION REQUIREMENTS TO BE ESTABLISHED BY BOARDS OF REGENTS.--

A. The respective boards of regents of New Mexico state university, New Mexico institute of mining and technology, the university of New Mexico and the New Mexico

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1 military institute at Roswell shall determine and fix the
2 standard of requirements for admission to their respective
3 institutions.

4 B. In determining the standard of requirements for
5 admission to their respective institutions, boards of regents
6 shall not require a student who has completed the requirements
7 of a home-based or non-public school educational program and
8 who has submitted test scores that otherwise qualify [~~him~~] the
9 student for admission to that institution to obtain or submit
10 proof of having obtained a [~~general education development~~
11 ~~certificate~~] high school equivalency credential. In
12 determining requirements for admission, boards of regents shall
13 evaluate and treat applicants from home-based educational
14 programs or non-public schools fairly and in a
15 nondiscriminatory manner."

16 SECTION 2. Section 21-1-1.1 NMSA 1978 (being Laws 1999,
17 Chapter 182, Section 1) is amended to read:

18 "21-1-1.1. HOME SCHOOL STUDENTS--ADMISSION REQUIREMENTS--
19 PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.--In determining
20 the standard of requirements for admission to any public
21 post-secondary educational institution, the board of regents,
22 governing board or community college board shall not require a
23 student who has completed the requirements of a home-based or
24 non-public school educational program and who has submitted
25 test scores that otherwise qualify [~~him~~] the student for

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1 admission to that institution to obtain or submit proof of
2 having obtained a [~~general~~] high school equivalency [~~diploma~~
3 ~~certificate~~] credential. In determining requirements for
4 admission, the board of regents, governing board or community
5 college board shall evaluate and treat applicants from home-
6 based or non-public educational programs fairly and in a
7 nondiscriminatory manner."

8 SECTION 3. Section 22-2-8.8 NMSA 1978 (being Laws 1999,
9 Chapter 193, Section 1) is amended to read:

10 "22-2-8.8. [~~GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATES~~]
11 HIGH SCHOOL EQUIVALENCY CREDENTIAL.--The department [~~of~~
12 ~~education~~] shall issue a [~~general educational development~~
13 ~~certificate~~] high school equivalency credential to any
14 candidate who is at least sixteen years of age and who has
15 successfully completed the [~~general educational development~~]
16 high school equivalency tests."

17 SECTION 4. Section 27-2B-5 NMSA 1978 (being Laws 1998,
18 Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as
19 amended by Laws 2007, Chapter 46, Section 18 and by Laws 2007,
20 Chapter 350, Section 3) is amended to read:

21 "27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

22 A. The following qualify as work activities:

23 (1) unsubsidized employment, including self-
24 employment;

25 (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 [~~certificate of general~~]
13 high school equivalency credential in the case of a participant
14 who has not completed secondary school or received such a
15 [~~certificate~~] credential; and

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

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

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

25 D. The department shall require a parent, caretaker

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1 or other adult who is a member of a benefit group to engage in
2 a work activity.

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

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

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

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

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

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

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

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1 following:

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

4 (2) refurbishing publicly assisted housing;

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

7 (4) weatherizing low-income housing; and

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

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

25 H. A participant engaged in vocational education

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1 studies shall make reasonable efforts to obtain a loan,
2 scholarship, grant or other assistance to pay for costs and
3 tuition, and the department shall disregard those amounts in
4 the eligibility determination.

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

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

10 (2) a participant over age sixty;

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

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

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

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

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

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

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

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

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

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

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

24 **SECTION 5.** Section 29-7C-3 NMSA 1978 (being Laws 2003,
25 Chapter 320, Section 5) is amended to read:

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1 "29-7C-3. QUALIFICATIONS FOR CERTIFICATION.--An applicant
2 for certification shall provide evidence satisfactory to the
3 board that ~~[he]~~ the applicant:

4 A. is a citizen or legal resident of the United
5 States and has reached the age of majority;

6 B. holds a high school ~~[or general equivalency]~~
7 diploma or high school equivalency credential from an
8 accredited institution;

9 C. has not been convicted of, pled guilty to or
10 entered a plea of nolo contendere to a:

11 (1) felony charge; or

12 (2) violation of a federal or state law, a
13 local ordinance relating to aggravated assault or theft or a
14 law involving moral turpitude within the three-year period
15 immediately preceding ~~[his]~~ the application;

16 D. has not received a dishonorable discharge from
17 the armed forces of the United States;

18 E. is free from a physical, emotional or mental
19 condition that might adversely affect ~~[his]~~ performance;

20 F. is of good moral character;

21 G. has met all other requirements for certification
22 prescribed by the board; and

23 H. has received a certificate attesting to ~~[his]~~
24 the completion of an approved basic telecommunicator training
25 program from the director."

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1 SECTION 6. Section 31-18-22 NMSA 1978 (being Laws 1990,
2 Chapter 51, Section 1) is amended to read:

3 "31-18-22. SPECIAL INCARCERATION ALTERNATIVE PROGRAM.--

4 A. The corrections department shall develop and
5 implement a special incarceration alternative program for
6 certain adult male and adult female felony offenders pursuant
7 to this section. The program shall provide substance abuse
8 counseling and treatment, [~~general education diploma~~] high
9 school equivalency credential preparatory courses, manual labor
10 assignments, physical training and drills, training in
11 decision-making and personal development and pre-release skills
12 training. The programs shall be conducted in a strict
13 disciplinary environment. Emphasis shall be given to
14 rehabilitation of alcohol and substance abusers. The
15 corrections department shall require that program participants
16 complete a structured, ninety-day program.

17 B. Participation in the program shall be limited to
18 those offenders sentenced on or after July 1, 1990. Offenders
19 ineligible to participate in the program are offenders:

- 20 (1) sentenced to death;
- 21 (2) who have received a life sentence;
- 22 (3) with a record of prior confinement for a
23 felony conviction;
- 24 (4) convicted of murder in the first or second
25 degree, child abuse resulting in death or great bodily harm,

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1 criminal sexual penetration in the first or second degree or
2 criminal sexual contact with a minor;

3 (5) convicted of an offense carrying a
4 mandatory sentence that cannot be suspended or deferred;

5 (6) who have participated in a special
6 incarceration alternative program in the past;

7 (7) who are more than thirty years of age at
8 time of sentencing; or

9 (8) who do not volunteer to participate in the
10 program and who do not agree to the special conditions of
11 probation for successful program participants.

12 C. The corrections department shall develop and
13 adopt regulations to provide for the screening of all convicted
14 felons sentenced to the custody of the corrections department.
15 The regulations shall provide that the screening occurs within
16 thirty days of sentencing. Persons deemed suitable under the
17 regulations adopted pursuant to this subsection shall not be
18 denied eligibility for participation in the program solely due
19 to physical disability.

20 D. If the sentencing court accepts the
21 recommendation of the corrections department that the offender
22 is suitable for participation in a special incarceration
23 alternative program, the court shall resentence the offender to
24 provide that, in the event the offender successfully completes
25 the program, the remainder of the sentence shall be suspended

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1 and the offender shall be placed on probation for the remainder
2 of the term. The sentencing court shall be notified in writing
3 by the corrections department of the offender's successful
4 completion of the special incarceration alternative program.

5 E. The corrections department may contract for the
6 design, construction and lease of a facility to house a special
7 incarceration alternative program with public or private
8 agencies, entities or persons capable of providing financing or
9 construction of such a facility. The facility shall be
10 operated by the corrections department.

11 F. Appropriate post-institutional treatment shall
12 be made available by the corrections department to the
13 offender."

14 SECTION 7. Section 33-2-34 NMSA 1978 (being Laws 1999,
15 Chapter 238, Section 1, as amended) is amended to read:

16 "33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
17 DEDUCTIONS.--

18 A. To earn meritorious deductions, a prisoner
19 confined in a correctional facility designated by the
20 corrections department must be an active participant in programs
21 recommended for the prisoner by the classification supervisor
22 and approved by the warden or the warden's designee.

23 Meritorious deductions shall not exceed the following amounts:

24 (1) for a prisoner confined for committing a
25 serious violent offense, up to a maximum of four days per month

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1 of time served;

2 (2) for a prisoner confined for committing a
3 nonviolent offense, up to a maximum of thirty days per month of
4 time served;

5 (3) for a prisoner confined following
6 revocation of parole for the alleged commission of a new felony
7 offense or for absconding from parole, up to a maximum of four
8 days per month of time served during the parole term following
9 revocation; and

10 (4) for a prisoner confined following
11 revocation of parole for a reason other than the alleged
12 commission of a new felony offense or absconding from parole:

13 (a) up to a maximum of eight days per
14 month of time served during the parole term following
15 revocation, if the prisoner was convicted of a serious violent
16 offense or failed to pass a drug test administered as a
17 condition of parole; or

18 (b) up to a maximum of thirty days per
19 month of time served during the parole term following
20 revocation, if the prisoner was convicted of a nonviolent
21 offense.

22 B. A prisoner may earn meritorious deductions upon
23 recommendation by the classification supervisor, based upon the
24 prisoner's active participation in approved programs and the
25 quality of the prisoner's participation in those approved

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1 programs. A prisoner may not earn meritorious deductions unless
2 the recommendation of the classification supervisor is approved
3 by the warden or the warden's designee.

4 C. If a prisoner's active participation in approved
5 programs is interrupted by a lockdown at a correctional
6 facility, the prisoner may continue to be awarded meritorious
7 deductions at the rate the prisoner was earning meritorious
8 deductions prior to the lockdown, unless the warden or the
9 warden's designee determines that the prisoner's conduct
10 contributed to the initiation or continuance of the lockdown.

11 D. A prisoner confined in a correctional facility
12 designated by the corrections department is eligible for lump-
13 sum meritorious deductions as follows:

14 (1) for successfully completing an approved
15 vocational, substance abuse or mental health program, one month;
16 except when the prisoner has a demonstrable physical, mental
17 health or developmental disability that prevents the prisoner
18 from successfully earning a [~~general education diploma~~] high
19 school equivalency credential, in which case, the prisoner shall
20 be awarded three months;

21 (2) for earning a [~~general education diploma~~]
22 high school equivalency credential, three months;

23 (3) for earning an associate's degree, four
24 months;

25 (4) for earning a bachelor's degree, five

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1 months;

2 (5) for earning a graduate qualification, five
3 months; and

4 (6) for engaging in a heroic act of saving
5 life or property, engaging in extraordinary conduct for the
6 benefit of the state or the public that is at great expense or
7 risk to or involves great effort on [~~behalf~~] the part of the
8 prisoner or engaging in extraordinary conduct far in excess of
9 normal program assignments that demonstrates the prisoner's
10 commitment to self-rehabilitation. The classification
11 supervisor and the warden or the warden's designee may recommend
12 the number of days to be awarded in each case based upon the
13 particular merits, but any award shall be determined by the
14 director of the adult institutions division of the corrections
15 department or the director's designee.

16 E. Lump-sum meritorious deductions, provided in
17 Paragraphs (1) through (6) of Subsection D of this section, may
18 be awarded in addition to the meritorious deductions provided in
19 Subsections A and B of this section. Lump-sum meritorious
20 deductions shall not exceed one year per award and shall not
21 exceed a total of one year for all lump-sum meritorious
22 deductions awarded in any consecutive twelve-month period.

23 F. A prisoner is not eligible to earn meritorious
24 deductions if the prisoner:

25 (1) disobeys an order to perform labor,

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1 pursuant to Section 33-8-4 NMSA 1978;

2 (2) is in disciplinary segregation;

3 (3) is confined for committing a serious
4 violent offense and is within the first sixty days of receipt by
5 the corrections department; or

6 (4) is not an active participant in programs
7 recommended and approved for the prisoner by the classification
8 supervisor.

9 G. The provisions of this section shall not be
10 interpreted as providing eligibility to earn meritorious
11 deductions from a sentence of life imprisonment or a sentence of
12 ~~[death]~~ life imprisonment without possibility of release or
13 parole.

14 H. The corrections department shall promulgate rules
15 to implement the provisions of this section, and the rules shall
16 be matters of public record. A concise summary of the rules
17 shall be provided to each prisoner, and each prisoner shall
18 receive a quarterly statement of the meritorious deductions
19 earned.

20 I. A New Mexico prisoner confined in a federal or
21 out-of-state correctional facility is eligible to earn
22 meritorious deductions for active participation in programs on
23 the basis of the prisoner's conduct and program reports
24 furnished by that facility to the corrections department. All
25 decisions regarding the award and forfeiture of meritorious

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1 deductions at such facility are subject to final approval by the
2 director of the adult institutions division of the corrections
3 department or the director's designee.

4 J. In order to be eligible for meritorious
5 deductions, a prisoner confined in a federal or out-of-state
6 correctional facility designated by the corrections department
7 must actively participate in programs that are available. If a
8 federal or out-of-state correctional facility does not have
9 programs available for a prisoner, the prisoner may be awarded
10 meritorious deductions at the rate the prisoner could have
11 earned meritorious deductions if the prisoner had actively
12 participated in programs.

13 K. A prisoner confined in a correctional facility in
14 New Mexico that is operated by a private company, pursuant to a
15 contract with the corrections department, is eligible to earn
16 meritorious deductions in the same manner as a prisoner confined
17 in a state-run correctional facility. All decisions regarding
18 the award or forfeiture of meritorious deductions at such
19 facilities are subject to final approval by the director of the
20 adult institutions division of the corrections department or the
21 director's designee.

22 L. As used in this section:

23 (1) "active participant" means a prisoner who
24 has begun, and is regularly engaged in, approved programs;

25 (2) "program" means work, vocational,

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1 educational, substance abuse and mental health programs,
2 approved by the classification supervisor, that contribute to a
3 prisoner's self-betterment through the development of personal
4 and occupational skills. "Program" does not include
5 recreational activities;

6 (3) "nonviolent offense" means any offense
7 other than a serious violent offense; and

8 (4) "serious violent offense" means:

9 (a) second degree murder, as provided in
10 Section 30-2-1 NMSA 1978;

11 (b) voluntary manslaughter, as provided
12 in Section 30-2-3 NMSA 1978;

13 (c) third degree aggravated battery, as
14 provided in Section 30-3-5 NMSA 1978;

15 (d) third degree aggravated battery
16 against a household member, as provided in Section 30-3-16 NMSA
17 1978;

18 (e) first degree kidnapping, as provided
19 in Section 30-4-1 NMSA 1978;

20 (f) first and second degree criminal
21 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

22 (g) second and third degree criminal
23 sexual contact of a minor, as provided in Section 30-9-13 NMSA
24 1978;

25 (h) first and second degree robbery, as

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1 provided in Section 30-16-2 NMSA 1978;

2 (i) second degree aggravated arson, as
3 provided in Section 30-17-6 NMSA 1978;

4 (j) shooting at a dwelling or occupied
5 building, as provided in Section 30-3-8 NMSA 1978;

6 (k) shooting at or from a motor vehicle,
7 as provided in Section 30-3-8 NMSA 1978;

8 (l) aggravated battery upon a peace
9 officer, as provided in Section 30-22-25 NMSA 1978;

10 (m) assault with intent to commit a
11 violent felony upon a peace officer, as provided in Section
12 30-22-23 NMSA 1978;

13 (n) aggravated assault upon a peace
14 officer, as provided in Section 30-22-22 NMSA 1978; ~~and~~ or

15 (o) any of the following offenses, when
16 the nature of the offense and the resulting harm are such that
17 the court judges the crime to be a serious violent offense for
18 the purpose of this section: 1) involuntary manslaughter, as
19 provided in Section 30-2-3 NMSA 1978; 2) fourth degree
20 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)
21 third degree assault with intent to commit a violent felony, as
22 provided in Section 30-3-3 NMSA 1978; 4) fourth degree
23 aggravated assault against a household member, as provided in
24 Section 30-3-13 NMSA 1978; 5) third degree assault against a
25 household member with intent to commit a violent felony, as

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1 provided in Section 30-3-14 NMSA 1978; 6) third and fourth
2 degree aggravated stalking, as provided in Section 30-3A-3.1
3 NMSA 1978; 7) second degree kidnapping, as provided in Section
4 30-4-1 NMSA 1978; 8) second degree abandonment of a child, as
5 provided in Section 30-6-1 NMSA 1978; 9) first, second and third
6 degree abuse of a child, as provided in Section 30-6-1 NMSA
7 1978; 10) third degree dangerous use of explosives, as provided
8 in Section 30-7-5 NMSA 1978; 11) third and fourth degree
9 criminal sexual penetration, as provided in Section 30-9-11 NMSA
10 1978; 12) fourth degree criminal sexual contact of a minor, as
11 provided in Section 30-9-13 NMSA 1978; 13) third degree robbery,
12 as provided in Section 30-16-2 NMSA 1978; 14) third degree
13 homicide by vehicle or great bodily ~~[injury]~~ harm by vehicle, as
14 provided in Section 66-8-101 NMSA 1978; ~~[and]~~ or 15) battery
15 upon a peace officer, as provided in Section 30-22-24 NMSA 1978.

16 M. Except for sex offenders, as provided in Section
17 31-21-10.1 NMSA 1978, an offender sentenced to confinement in a
18 correctional facility designated by the corrections department
19 who has been released from confinement and who is serving a
20 parole term may be awarded earned meritorious deductions of up
21 to thirty days per month upon recommendation of the parole
22 officer supervising the offender, with the final approval of the
23 adult parole board. The offender must be in compliance with all
24 the conditions of the offender's parole to be eligible for
25 earned meritorious deductions. The adult parole board may

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1 remove earned meritorious deductions previously awarded if the
2 offender later fails to comply with the conditions of the
3 offender's parole. The corrections department and the adult
4 parole board shall promulgate rules to implement the provisions
5 of this subsection. This subsection applies to offenders who
6 are serving a parole term on or after July 1, 2004."

7 SECTION 8. Section 33-11-3 NMSA 1978 (being Laws 1988,
8 Chapter 78, Section 3) is amended to read:

9 "33-11-3. REGULATIONS.--

10 A. The corrections department, by July 1, 1988,
11 shall adopt regulations for all adult correctional institutions
12 operated by the department for the implementation of a mandatory
13 education program for all inmates to attain a minimum education
14 standard as set forth in this section.

15 ~~A.~~ B. The regulations shall apply only to any
16 inmate who:

17 (1) commits a crime after the effective date
18 of the Inmate Literacy Act; and

19 (2) has eighteen months or more remaining to
20 be served on ~~his~~ the inmate's sentence of incarceration; and
21 ~~either~~ that:

22 ~~(3)~~ (a) is not exempted due to a
23 medical, developmental or learning disability; or

24 ~~(4)~~ (b) does not possess a ~~general~~
25 ~~education diploma~~ high school equivalency credential or a high

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1 school diploma.

2 [B.] C. The regulations adopted shall require that:

3 (1) a minimum education standard shall be met
4 beginning in 1988 and in all subsequent years as follows:

5 (a) in 1988, the education standard shall
6 be the equivalent of grade six in reading and math on the test
7 of adult basic education;

8 (b) in 1989, the education standard shall
9 be the equivalent of grade seven in reading and math on the test
10 of adult basic education;

11 (c) in 1990, the education standard shall
12 be the equivalent of grade eight in reading and math on the test
13 of adult basic education; and

14 (d) in 1991, the education standard shall
15 be a high school diploma or a [~~general education diploma~~] high
16 school equivalency credential;

17 (2) inmates who meet the criteria in
18 Subsection [A] B of this section shall be required to
19 participate in education programs for ninety days. After ninety
20 days, inmates may choose to withdraw from educational programs
21 but will be subject to the provisions of Paragraph (3) of
22 [~~Subsection B of this section~~] this subsection; and

23 (3) notwithstanding any other provision of
24 law, inmates who are subject to these regulations but who refuse
25 or choose not to participate shall not be eligible for monetary

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1 compensation for work performed or for meritorious deduction as
2 set forth in Subsection A of Section 33-2-34 NMSA 1978.

3 ~~[G.]~~ D. The regulations may:

4 (1) exclude any inmate who has been
5 incarcerated for less than ninety days in an institution
6 controlled by the corrections department;

7 (2) exclude any inmate who is assigned a
8 minimum custody classification; or

9 (3) defer educational requirements for inmates
10 with sentences longer than ten years."

11 SECTION 9. Section 52-1-26.3 NMSA 1978 (being Laws 1990
12 (2nd S.S.), Chapter 2, Section 14, as amended) is amended to
13 read:

14 "52-1-26.3. PARTIAL DISABILITY DETERMINATION--EDUCATION
15 MODIFICATION.--

16 A. The range of the education modification is one to
17 eight. The modification shall be based upon the worker's formal
18 education, skills and training at the time of the disability
19 rating.

20 B. A worker shall be awarded points based on the
21 formal education ~~[he]~~ the worker has received. A worker who has
22 completed:

23 (1) ~~[has completed]~~ no higher than the fifth
24 grade shall be awarded three points;

25 (2) ~~[has completed]~~ the sixth grade but has

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1 completed no higher than the eleventh grade shall be awarded two
2 points;

3 (3) [~~has completed~~] the twelfth grade or has
4 obtained a [~~GED certificate~~] high school equivalency credential
5 but has not completed a college degree shall be awarded one
6 point; and

7 (4) [~~has completed~~] a college degree or more
8 shall receive zero points.

9 C. A worker shall be awarded points based upon [~~his~~]
10 the worker's skills. Skills shall be measured by reviewing the
11 jobs [~~he~~] the worker has successfully performed during the ten
12 years preceding the date of disability determination. For the
13 purposes of this section, "successfully performed" means having
14 remained on the job the length of time necessary to meet the
15 specific vocational preparation (SVP) time requirement for that
16 job as established in the dictionary of occupational titles
17 published by the United States department of labor. The
18 appropriate award of points shall be based upon the highest SVP
19 level demonstrated by the worker in the performance of the jobs
20 [~~he~~] the worker has successfully performed in the ten-year
21 period preceding the date of disability determination, as
22 follows:

23 (1) a worker with an SVP of one to two shall
24 be awarded four points;

25 (2) a worker with an SVP of three to four

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1 shall be awarded three points;

2 (3) a worker with an SVP of five to six shall
3 be awarded two points; and

4 (4) a worker with an SVP of seven to nine
5 shall be awarded one point.

6 D. A worker shall be awarded points based upon the
7 training ~~[he]~~ the worker has received. A worker who cannot
8 competently perform a specific vocational pursuit shall be
9 awarded one point. A worker who can perform a specific
10 vocational pursuit shall not receive any points.

11 E. The sum of the points awarded the worker in
12 Subsections B, C and D of this section shall constitute the
13 education modification."

14 **SECTION 10.** Section 58-28-5 NMSA 1978 (being Laws 1997,
15 Chapter 118, Section 5, as amended) is amended to read:

16 "58-28-5. USE OF MONEY--ELIGIBLE ACTIVITIES.--

17 A. Money from the fund and other sources may be used
18 to finance in whole or in part any loans or grant projects that
19 will provide housing for low-income persons and for other uses
20 specified in this section. Money deposited into the fund may be
21 used annually as follows:

22 (1) no more than five percent of the fund
23 shall be used for expenses of administering the fund;

24 (2) no less than twenty percent of the fund
25 shall be invested in a permanent capital fund, the interest on

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1 which may be used for purposes specified in this section;

2 (3) no less than fifty percent of the fund
3 shall be allocated to eligible organizations to make housing
4 more accessible to low-income persons;

5 (4) no more than ten percent of the fund may
6 be ~~[alloted]~~ allocated for use to provide scholarships for New
7 Mexico high school graduates and ~~[general diploma]~~ high school
8 equivalency credential recipients at New Mexico public post-
9 secondary educational institutions under a program approved by
10 the trustee under the administration of a nonprofit statewide
11 land title association; and

12 (5) the remaining balance may be allocated to
13 eligible organizations for other housing-related programs for
14 the benefit of the public as specifically approved by the
15 trustee from time to time.

16 B. Money in the capital fund authorized in Paragraph
17 (2) of Subsection A of this section may be invested in fully
18 amortizing interest-bearing mortgages secured by real property
19 in New Mexico, the interest on which may be used for purposes
20 specified in this section."