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HOUSE BILL 14

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

INTRODUCED BY

J. PAUL TAYLOR

FOR THE WELFARE REFORM SUBCOMMITTEE AND THE HEALTH AND
WELFARE REFORM COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; ENACTING THE NEW MEXICO WORKS
ACT; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE
NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
through 19 of this act may be cited as the "New Mexico Works
Act".

Section 2. [NEW MATERIAL] LEGISLATIVE FINDINGS--PURPOSE
OF ACT. --

A. The legislature finds that:

(1) the poverty rate in New Mexico is the
highest in the nation and has exceeded more than twenty
percent of the population for most of the past twenty-five
years;

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1 (2) having a job does not provide a guarantee
2 of avoiding poverty as demonstrated by the high percentage of
3 persons in the civilian labor force over sixteen years of age
4 with reported incomes in 1989 that were below the poverty
5 level; and

6 (3) the diversity of the state, with its
7 residents living in rural and metropolitan areas, reservations
8 and border areas, requires the state to adjust state policies
9 governing economic and social programs for the poor and the
10 working poor to reflect the particular needs of particular
11 locales, not just to create a generic one-size-fits-all
12 program.

13 B. The legislature finds that education and
14 training are essential to long-term career development.

15 C. The legislature finds that employment improves
16 the quality of life for parents and children by increasing
17 family income, developing the discipline necessary for self-
18 sufficiency and improving self-esteem, and thus, it is in the
19 public interest to fundamentally alter the state's financial
20 assistance program for needy families with children so both
21 cash and services, including education, job training, child
22 care and transportation provided in accordance with the New
23 Mexico Works Act assist recipients to obtain and keep
24 employment that is sufficient to sustain their families,
25 ensure the dignity of those who receive assistance and

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1 strengthen families and families' support for their children.

2 D. The legislature finds that although most New
3 Mexicans want to work, and in fact New Mexico has been cited
4 as a "like to work" state, not all families can move quickly
5 into the labor force and that regular assessments and key
6 intervention and follow-up can help persons connect to the
7 work force to obtain meaningful work and achieve self-
8 sufficiency.

9 E. The purpose of the New Mexico Works Act is to
10 increase family income through family employment and child
11 support and, by viewing financial assistance as a support
12 service to enable and assist parents to participate in
13 employment rather than as an entitlement, to enable New Mexico
14 to change the culture of the welfare office, both on the part
15 of the department and on the part of the recipients, so that
16 all parties can focus on addressing the barriers to
17 participation in work activities and putting New Mexicans to
18 work.

19 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the
20 New Mexico Works Act:

21 A. "benefit group" means a group of people that
22 includes at least one dependent child living with a parent,
23 legal guardian or relative within the fifth degree of
24 consanguinity or a pregnant woman;

25 B. "cash assistance" means cash payments funded by

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1 the temporary assistance for needy families block grant
2 pursuant to the federal act and state funds;

3 C. "department" means the human services
4 department;

5 D. "dependent child" means a natural or adopted
6 child or ward who is eighteen years of age or younger;

7 E. "director" means the director of the income
8 support division of the department;

9 F. "earned income" includes cash or payment in
10 kind that is received as wages from employment or payment in
11 lieu of wages, earnings from self-employment or earnings
12 acquired from the direct provision of services, goods or
13 property, production of goods, management of property or
14 supervision of services and all other income not classified as
15 unearned income;

16 G. "federal act" means the federal Social Security
17 Act and rules promulgated pursuant to the Social Security Act;

18 H. "federal poverty guidelines" means the level of
19 income defining poverty by family size published annually in
20 the federal register by the United States department of health
21 and human services;

22 I. "household group" means a group, including the
23 benefit group, of people who live together in a household
24 regardless of whether they are related or have a legal support
25 responsibility for a member of the benefit group, but does not

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1 include:

2 (1) landlords;

3 (2) tenants; or

4 (3) members of a registered nonprofit

5 organization or church who provide shelter to a benefit group

6 through a program sponsored by the nonprofit organization or

7 church;

8 J. "immigrant" means alien as defined in the

9 federal act;

10 K. "landlord" means the owner of an estate in land

11 or a rental property who has leased it to another person

12 called the tenant;

13 L. "parent" means natural parent, adoptive parent,

14 stepparent or legal guardian;

15 M. "participant" means a recipient of cash

16 assistance or services or a member of a benefit group who has

17 reached the age of majority;

18 N. "person" means an individual;

19 O. "secretary" means the secretary of the

20 department;

21 P. "services" includes child care assistance;

22 payment for employment-related transportation costs; job

23 search assistance; employment counseling; employment,

24 education and job training placement; one-time payment for

25 necessary employment-related costs; case management or other

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1 activities whose purpose is to assist transition into
2 employment;

3 Q. "tenant" means a person who pays rent for the
4 use and occupancy of real property owned by a landlord; and

5 R. "unearned income" includes old age, survivors
6 and disability insurance; railroad retirement benefits;
7 veterans administration compensation or pension; military
8 retirement; pensions, annuities and retirement benefits;
9 lodge or fraternal benefits; shared shelter payments;
10 settlement payments; individual Indian money; and similar
11 kinds of income.

12 Section 4. [NEW MATERIAL] APPLICATION-- RESOURCE PLANNING
13 SESSION-- INDIVIDUAL RESPONSIBILITY PLANS-- PARTICIPATION
14 AGREEMENT-- REVIEW PERIODS. --

15 A. Application for cash assistance or services
16 shall be made to the department's county office in the county
17 or district in which an applicant resides. The application
18 shall be in writing or reduced to writing in the manner and on
19 the form prescribed by the department. The application shall
20 be made under oath by an applicant having custody of a
21 dependent child and shall contain a statement of the age of
22 the child, residence, a complete statement of the amount of
23 property in which the applicant has an interest, a statement
24 of all income that he and other household group members have
25 at the time of the filing of the application and other

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1 information required by the department.

2 B. Application for expedited food stamps shall be
3 made to the department's county office in the county or
4 district in which an applicant resides. The department shall
5 process the application for expedited food stamps within
6 twenty-four hours after the application is made.

7 C. At the time of application for cash assistance
8 and services, an applicant shall identify household group
9 members who are to be counted in the benefit group. Once an
10 application is approved, the participant shall advise the
11 department if there are any changes in the membership of the
12 household group or benefit group.

13 D. No later than forty-five days after an
14 application is filed, the department shall provide to an
15 applicant a resource planning session to ascertain his
16 immediate needs, assess financial and nonfinancial options,
17 make referrals and act on the application.

18 E. No later than five days after an application is
19 approved, the department shall provide reimbursement for child
20 care.

21 F. Whenever the department receives an application
22 for assistance, a verification and record of the applicant's
23 circumstances shall promptly be made to ascertain the facts
24 supporting the application and to obtain other information
25 required by the department. The verification may include a

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1 visit to the home of the applicant, as long as the department
2 gives adequate prior notice of the visit to the applicant.

3 G. Within fifteen days after an application is
4 approved, the department shall assess the education, skills,
5 prior work experience and employability of the participant.

6 H. After the initial assessment of skills, the
7 department shall work with the participant to develop an
8 individual responsibility plan that:

9 (1) sets forth an employment goal for the
10 participant and a plan for moving the participant into
11 employment;

12 (2) sets forth obligations of the participant
13 that may include a requirement that the participant attend
14 school, maintain certain grades and attendance, keep his
15 school-age children in school, immunize his children or engage
16 in other activities that will help the participant become and
17 remain employed;

18 (3) is designed to the greatest extent
19 possible to move the participant into whatever employment the
20 participant is capable of handling and to provide additional
21 services as necessary to increase the responsibility and
22 amount of work the participant will handle over time;

23 (4) describes the services the department may
24 provide so that the participant may obtain and keep
25 employment; and

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1 (5) may require the participant to undergo
2 appropriate substance abuse treatment.

3 I. The participant and a representative of the
4 department shall sign the participant's individual
5 responsibility plan.

6 J. The participant shall also sign a participation
7 agreement that designates the number of hours that he must
8 participate in work activities to meet participation
9 standards.

10 K. The department shall review the current
11 financial eligibility of a benefit group when the department
12 reviews food stamp eligibility.

13 L. The department shall meet semi-annually with a
14 participant to review and revise his individual responsibility
15 plan.

16 M. The department shall develop a complaint
17 procedure to address issues pertinent to the delivery of
18 services and other issues relating to a participant's
19 individual responsibility plan.

20 Section 5. [NEW MATERIAL] WORK REQUIREMENTS--WORK
21 PARTICIPATION RATES--WORK ACTIVITIES DISREGARDS.--

- 22 A. The following qualify as work activities:
- 23 (1) unsubsidized employment;
 - 24 (2) subsidized private sector employment;
 - 25 (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 employment
14 for a participant who has not received a high school diploma
15 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 completed
19 secondary school or received such a certificate; and

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

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

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

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

11 (1) participating in parenting classes, money
12 management classes or life skills training;

13 (2) participating in a certified alcohol or
14 drug addiction program;

15 (3) in the case of a homeless benefit group,
16 finding a home;

17 (4) in the case of a participant who is a
18 victim of domestic violence residing in a domestic violence
19 shelter, receiving counseling or treatment or participating in
20 criminal justice activities directed at prosecuting the
21 domestic violence perpetrator, for no longer than twenty-four
22 weeks; and

23 (5) in the case of a participant who does not
24 speak English, participating in a course in English as a
25 second language.

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1 E. Subject to the availability of funds, the
2 department in cooperation with the department of labor and
3 other appropriate state agencies may develop projects to
4 provide for the placement of participants in work activities,
5 including the following:

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

8 (2) refurbishing publicly assisted housing;

9 (3) volunteering at a head start program or a
10 school;

11 (4) weatherizing low-income housing; and

12 (5) restoring public sites and buildings,
13 including monuments, parks, fire stations, police buildings,
14 jails, libraries, museums, auditoriums, convention halls,
15 hospitals, buildings for administrative offices and city
16 halls.

17 F. If a participant is engaged in full-time post-
18 secondary education studies or an activity set out in
19 Paragraphs 9 through 11 of Subsection A of this section, the
20 participant shall engage in another work activity at the same
21 time. Additionally, for two-parent families that receive
22 federally funded child care assistance, the participant's
23 spouse shall engage in a work activity set out in Paragraphs
24 (1) through (5) or (7) of Subsection A of this section unless
25 the participant suffers from a temporary or complete

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1 disability that bars him from engaging in a work activity or
2 he is barred from engaging in a work activity because he
3 provides sole care for a disabled person.

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

9 H. For as long as the described conditions exist,
10 the following are exempt from the work requirement:

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

14 (2) a participant over age sixty;

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

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

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

24 (a) unavailability of appropriate child
25 care within a reasonable distance from the parent's home or

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1 work as defined by the children, youth and families
2 department;

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

6 (c) unavailability of appropriate and
7 affordable formal child care arrangements as defined by the
8 children, youth and families department;

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

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

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

19 (9) a participant who demonstrates good cause
20 of the need for the exemption.

21 Section 6. [NEW MATERIAL] DURATIONAL LIMITS. --

22 A. Pursuant to the federal act, on or after July
23 1, 1997 a participant may receive federally funded cash
24 assistance and services for up to sixty months.

25 B. During a participant's fourth, sixth and eighth

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1 semi-annual reviews, the department shall examine the
2 participant's progress to determine if the participant has
3 successfully completed an educational or training program or
4 increased the number of hours he is working as required by the
5 federal act. The department may refer the participant to
6 alternative work activities or provide additional services to
7 address possible barriers to employment facing the
8 participant.

9 C. Up to twenty percent of the population of
10 participants may be exempted from the sixty-month durational
11 limit set out in Subsection A of this section because of
12 hardship or because those participants are battered or subject
13 to extreme cruelty.

14 D. For the purposes of this section, a participant
15 has been battered or subjected to extreme cruelty if he can
16 demonstrate by reliable medical, psychological or mental
17 reports, court orders or police reports that he has been
18 subjected to and currently is affected by:

- 19 (1) physical acts that result in physical
20 injury;
- 21 (2) sexual abuse;
- 22 (3) being forced to engage in nonconsensual
23 sexual acts or activities;
- 24 (4) threats or attempts at physical or sexual
25 abuse;

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1 (5) mental abuse; or

2 (6) neglect or deprivation of medical care
3 except when the deprivation is based by mutual consent on
4 religious grounds.

5 E. For the purposes of this section, a hardship
6 exception applies to a person who demonstrates through
7 reliable medical, psychological or mental reports, court
8 orders or police reports that he is a person:

9 (1) who is barred from engaging in a work
10 activity because he is temporarily or completely disabled;

11 (2) who is the sole provider of home care to
12 an ill or disabled family member; or

13 (3) whose ability to be gainfully employed is
14 affected by domestic violence.

15 F. Pursuant to the federal act the department
16 shall not count a month of receipt of cash assistance or
17 services toward the sixty-month durational limit if during the
18 time of receipt the participant:

19 (1) was a minor and was not the head of a
20 household or married to the head of a household; or

21 (2) lived in Indian country, as defined in
22 the federal act, with a population of at least one thousand
23 and at least fifty percent of the adults living in Indian
24 country were unemployed.

25 Section 7. [NEW MATERIAL] FINANCIAL STANDARD OF NEED. --

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

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

11 The legislature shall determine the actual percentage of each
12 category to be used annually of the federal temporary
13 assistance for needy families grant made pursuant to the
14 federal act.

15 B. The cash benefit level for a benefit group not
16 living in government-subsidized housing or receiving
17 government-subsidized housing payments shall be increased by
18 one hundred dollars (\$100) per month.

19 C. The following income sources are exempt from
20 the gross income test, the net income test and the cash
21 payment calculation:

- 22 (1) medicaid;
- 23 (2) food stamps;
- 24 (3) government-subsidized foster care and
25 adoption payments;

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- 1 (4) supplemental security income;
- 2 (5) government-subsidized housing or housing
- 3 payments;
- 4 (6) federally excluded income;
- 5 (7) educational payments made directly to an
- 6 educational institution;
- 7 (8) government-subsidized child care;
- 8 (9) earned and unearned income that belongs
- 9 to a person eighteen years of age or younger who is not the
- 10 head of household;
- 11 (10) for the first two years of receiving
- 12 cash assistance or services, if a participant works over the
- 13 work requirement rate set by the department pursuant to the
- 14 New Mexico Works Act, one hundred percent of the income earned
- 15 by the participant beyond that rate;
- 16 (11) for the first two years of receiving
- 17 cash assistance or services, for a two-parent benefit group in
- 18 which one parent works over thirty-five hours per week and the
- 19 other works over twenty-four hours per week, the department
- 20 shall disregard one hundred percent of income earned by each
- 21 participant beyond the work requirement rate set by the
- 22 department;
- 23 (12) unearned income that belongs to the
- 24 household group but not to the benefit group; and
- 25 (13) other income sources as determined by

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1 the department.

2 D. Earned income over one hundred thirty percent
3 of the federal poverty guidelines that belongs to the
4 household group but not to the benefit group is countable
5 income. The department shall count the entire household group
6 to determine family size when applying the federal poverty
7 guidelines.

8 E. The department shall count the entire household
9 group to determine family size when applying the financial
10 standard of need. For a benefit group to be eligible to
11 participate:

12 (1) gross countable earned income that
13 belongs to the household group but not to the benefit group
14 must not exceed one hundred eighty-five percent of the
15 financial standard of need; and

16 (2) net countable earned income that belongs
17 to the household group must not equal or exceed the financial
18 standard of need after applying the disregards set out in
19 Paragraphs (1) through (5) of Subsection F of this section.

20 F. Subject to the availability of state and
21 federal funds, the department shall determine the cash payment
22 of the benefit group by applying the following disregards to
23 the benefit group's earned gross income:

24 (1) one hundred fifty dollars (\$150) of
25 monthly earned income and one-half of the remainder, or for a

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1 two-parent family, two hundred fifty dollars (\$250) of monthly
2 earned income and one-half of the remainder for each parent;

3 (2) monthly payments made for child care at a
4 maximum of two hundred dollars (\$200) for a child under two
5 years of age and at a maximum of one hundred seventy-five
6 dollars (\$175) for a child two years of age or older;

7 (3) costs of self-employment income;

8 (4) business expenses; and

9 (5) fifty dollars (\$50.00) collected child
10 support passed through to the participant by the department's
11 child support enforcement program;

12 and then subtracting that amount from the financial standard
13 of need.

14 G. The department may recover overpayments of cash
15 assistance on a monthly basis not to exceed fifteen percent of
16 the financial standard of need applicable to the benefit
17 group.

18 Section 8. [NEW MATERIAL] RESOURCES. --

19 A. Liquid and nonliquid resources owned by the
20 household group but not by the benefit group shall not be
21 counted in the eligibility determination.

22 B. A benefit group may at a maximum own the
23 following resources:

24 (1) two thousand dollars (\$2,000) in nonliquid
25 resources;

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1 (2) one thousand five hundred dollars (\$1,500)
2 in liquid resources;

3 (3) the value of the principal residence of
4 the participant;

5 (4) the value of burial plots and funeral
6 contracts for family members;

7 (5) individual development accounts;

8 (6) the value of work-related equipment up to
9 one thousand dollars (\$1,000);

10 (7) in areas without public transportation,
11 the value of one motor vehicle for each participant engaged in
12 a work activity; and

13 (8) in areas with public transportation, the
14 value of one motor vehicle.

15 Section 9. [NEW MATERIAL] MANDATORY SCHOOL ATTENDANCE. --

16 If a minor member of a benefit group has three unexcused
17 absences from school during a grading period, his parent shall
18 notify the department of the absences within fourteen days.

19 The department may impose a sanction on the benefit group that
20 reduces the cash assistance by the amount the minor member
21 would otherwise receive only after the department refers the
22 minor member to the appropriate state agency, counselor or
23 community program for appropriate resolution of the attendance
24 problem.

25 Section 10. [NEW MATERIAL] INDIVIDUAL DEVELOPMENT

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1 ACCOUNTS. --

2 A. A participant may establish an individual
3 development account.

4 B. A participant or a person on the participant's
5 behalf may contribute to an individual development account;
6 provided the participant first establishes a savings account
7 not to exceed one thousand five hundred dollars (\$1,500).

8 C. An individual development account shall be
9 organized as a trust. The department shall by rule establish
10 the form, substance and procedure by which the trust shall be
11 established.

12 D. Individual development accounts shall be used
13 only for:

14 (1) post-secondary education for dependents;

15 (2) purchase of a principal residence for a
16 first-time homebuyer; or

17 (3) business capitalization.

18 E. Upon establishing an individual development
19 account, the participant shall declare the purposes for the
20 account.

21 F. If the declared purpose of an individual
22 development account is for the purchase of a principal
23 residence for a first-time homebuyer, the amount used for that
24 purpose shall be limited to one thousand five hundred dollars
25 (\$1,500).

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1 G. Money in an individual development account
2 shall only be disbursed to an educational institution, to a
3 person due money for a principal residence or to a business
4 capitalization account.

5 H. A participant shall contribute only earned
6 income to an individual development account.

7 Section 11. [NEW MATERIAL] INELIGIBILITY. --

8 A. The following are ineligible to be members of a
9 benefit group:

10 (1) an inmate or patient of a nonmedical
11 institution;

12 (2) a person who, in the two years preceding
13 application, assigned or transferred real property unless he:

14 (a) received or receives a reasonable
15 return;

16 (b) attempted to or attempts to receive
17 a reasonable return; or

18 (c) attempted to or attempts to regain
19 title to the real property;

20 (3) a minor unmarried parent who has not
21 successfully completed a high school education and who has a
22 child at least twelve weeks of age in his care unless the
23 minor unmarried parent:

24 (a) participates in educational
25 activities directed toward the attainment of a high school

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1 diploma or its equivalent; or

2 (b) participates in an alternative
3 educational or training program that has been approved by the
4 department;

5 (4) a minor unmarried parent who is not
6 residing in a place of residence maintained by his parent,
7 legal guardian or other adult relative unless the department:

8 (a) refers or locates the minor
9 unmarried parent to a second-chance home, maternity home or
10 other appropriate adult-supervised supportive living
11 arrangement, taking into account the needs and concerns of the
12 minor unmarried parent;

13 (b) determines that the minor unmarried
14 parent has no parent, legal guardian or other appropriate
15 adult relative who is living or whose whereabouts are known;

16 (c) determines that a minor unmarried
17 parent is not allowed to live in the home of a living parent,
18 legal guardian or other appropriate adult relative;

19 (d) determines that the minor unmarried
20 parent is or has been subjected to serious physical or
21 emotional harm, sexual abuse or exploitation in the home of
22 the parent, legal guardian or other appropriate adult
23 relative;

24 (e) finds that substantial evidence
25 exists of an act or a failure to act that presents an imminent

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1 or serious harm to the minor unmarried parent and the child of
2 the minor unmarried parent if they live in the same residence
3 with the parent, legal guardian or other appropriate adult
4 relative; or

5 (f) determines that it is in the best
6 interest of the unmarried minor parent to waive this
7 requirement;

8 (5) a minor child who has been absent or is
9 expected to be absent from the home for forty-five days;

10 (6) a person who does not provide a social
11 security number or who refuses to apply for one;

12 (7) a person who is not a resident of New
13 Mexico;

14 (8) a person who fraudulently misrepresented
15 residency to receive assistance in two or more states
16 simultaneously except that such person shall be ineligible
17 only for ten years;

18 (9) for five years following the date of
19 release from any federal or state prison or county jail or
20 following the date of completion of the terms of probation, a
21 person convicted of a drug-related felony on or after August
22 22, 1996; however, the cash assistance of the other members of
23 his assistance group shall be reduced only by the amount to
24 which he otherwise would be entitled;

25 (10) a person who is a fleeing felon or a

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1 probation and parole violator;

2 (11) a person concurrently receiving
3 supplemental security income, tribal temporary assistance for
4 needy families, bureau of Indian affairs general assistance or
5 adoption subsidies; and

6 (12) unless he demonstrates good cause, a
7 parent who does not assist the department in establishing
8 paternity or obtaining child support or who does not assign
9 support rights to New Mexico as required pursuant to the
10 federal act.

11 B. At the time of application, a participant shall
12 state in writing whether he or another member of the benefit
13 group has been convicted on or after August 22, 1996 of a
14 drug-related felony.

15 C. A person convicted of a drug-related felony may
16 be eligible to receive services if the department in
17 consultation with the corrections department determines that
18 services would enhance his rehabilitation and employment
19 success.

20 D. For the purposes of this section, "second-
21 chance home" means an entity that provides a supportive and
22 supervised living arrangement to a minor unmarried parent
23 where the minor unmarried parent is required to learn
24 parenting skills including child development, family
25 budgeting, health and nutrition and other skills to promote

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1 long-term economic independence and the well-being of
2 children.

3 Section 12. [NEW MATERIAL] SERVICES. -- Subject to the
4 availability of federal and state funds, a group of people
5 that includes at least one dependent child living with a
6 parent, legal guardian or relative within the fifth degree of
7 consanguinity or a pregnant woman who is not receiving cash
8 assistance but has an income less than one hundred percent of
9 the federal poverty guidelines may be eligible to receive
10 services.

11 Section 13. [NEW MATERIAL] FAIR HEARING-- REVIEW AND
12 APPEAL. --

- 13 A. A participant may request a hearing if:
- 14 (1) an application is not acted on within a
 - 15 reasonable time after the filing of the application;
 - 16 (2) an application is denied in whole or in
 - 17 part; or
 - 18 (3) the cash assistance or services are
 - 19 modified, terminated or not provided.

20 B. The department shall notify the participant of
21 his rights under this section.

22 C. The department shall by rule establish
23 procedures for the filing of a request for a hearing and the
24 time limits within which a request may be filed; provided,
25 however, that the department may grant reasonable extensions

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1 of the time limits. If the request is filed in a timely
2 manner, cash assistance and services shall be provided until
3 the appeal is resolved. If the request is not filed within
4 the specified time for appeal or within whatever extension the
5 department may grant, the department action shall be final.
6 Upon receipt of a timely request, the department shall give
7 the participant reasonable notice of an opportunity for a fair
8 hearing in accordance with the rules of the department.

9 D. The hearing shall be conducted by a hearing
10 officer designated by the director. The powers of the hearing
11 officer shall include administering oaths or affirmations to
12 witnesses called to testify, taking testimony, examining
13 witnesses, admitting or excluding evidence and reopening a
14 hearing to receive additional evidence. The technical rules
15 of evidence and the rules of civil procedure shall not apply.
16 The hearing shall be conducted so that the contentions or
17 defenses of each party to the hearing are amply and fairly
18 presented. Either party may be represented by counsel or
19 other representative of his designation, and he or his
20 representative may conduct cross-examination. Oral or
21 documentary evidence may be received but the hearing officer
22 may exclude irrelevant, immaterial or unduly repetitious
23 evidence.

24 E. The director shall review the record of the
25 proceedings and shall make his decision on the record. The

1 participant or his representative shall be notified in writing
2 of the director's decision and the reasons for the decision.
3 The written notice shall inform the participant of his right
4 to judicial review. The department shall be responsible for
5 ensuring that the decision is enforced.

6 F. Within thirty days after receiving written
7 notice of the decision of the director, a participant may file
8 a notice of appeal with the court of appeals together with a
9 copy of the notice of the decision. The clerk of the court
10 shall transmit a copy of the notice of appeal to the director.

11 G. The filing of a notice of appeal shall not stay
12 the enforcement of the decision of the director, but the
13 department may grant, or the court upon motion and good cause
14 shown may order, a stay.

15 H. Within twenty days after receipt of the notice
16 of appeal, the department shall file with the clerk of the
17 court three copies and furnish to the appellant one copy of
18 the written transcript of the record of the proceedings.

19 I. If, before the date set for argument,
20 application is made to the court for leave to present
21 additional evidence and the court is satisfied that the
22 additional evidence is material and there was good reason for
23 not presenting it in the hearing, the court may order the
24 additional evidence taken before the department. If the
25 application to present additional evidence is filed by the

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1 department and is approved by the court, the department's
2 decision that is being appealed shall be stayed. The director
3 may modify his findings and decision by reason of the
4 additional evidence and shall file with the court a transcript
5 of the additional evidence together with any modified or new
6 findings or decision.

7 J. The review of the court shall be made upon the
8 decision and the record of the proceedings.

9 K. The court shall set aside a decision and order
10 of the director only if found to be:

- 11 (1) arbitrary, capricious or an abuse of
12 discretion;
- 13 (2) not supported by substantial evidence in
14 the record as a whole; or
- 15 (3) otherwise not in accordance with law.

16 L. The department shall not authorize or allow
17 expenditures for the affected programs in excess of the
18 amounts previously appropriated by the legislature.

19 Section 14. [NEW MATERIAL] SANCTIONS. --

20 A. The department shall sanction a member of the
21 benefit group for noncompliance with work requirements and
22 child support requirements.

23 B. The sanction shall be applied at the following
24 levels:

- 25 (1) twenty-five percent reduction of cash

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1 assistance for the first occurrence of noncompliance;

2 (2) fifty percent reduction of cash
3 assistance for the second occurrence of noncompliance; and

4 (3) termination of cash assistance and
5 ineligibility to reapply for six months for the third
6 occurrence of noncompliance.

7 C. Prior to imposing the first sanction, if the
8 department determines that a participant is not complying with
9 the work participation requirement or child support
10 requirements, the participant shall be required to enter into
11 a conciliation process to address the noncompliance and to
12 identify good cause for noncompliance. The conciliation
13 process shall occur only once prior to the imposition of the
14 sanction. If the participant fails to participate in the
15 conciliation process within ten days of receiving notice, the
16 sanction shall be imposed.

17 D. Reestablishing compliance will allow full
18 payment to resume.

19 E. Within ten days of a failure to comply with a
20 requirement, a notice of action shall be mailed to the
21 participant. A participant is in sanction status when the
22 notice of action is mailed. The sanction is imposed on the
23 first day of the month following the month in which the notice
24 of action is mailed to the participant.

25 F. Noncompliance with reporting requirements may

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1 subject a participant to other sanctions.

2 Section 15. [NEW MATERIAL] MEDICAID ELIGIBILITY. -- The
3 following are eligible for medicaid:

4 A. a benefit group that meets the requirements of
5 New Mexico's aid to families with dependent children as they
6 existed on July 16, 1996;

7 B. a participant who is in transition to self-
8 sufficiency due to employment or child support;

9 C. a pregnant woman who meets the income and
10 resource requirements for New Mexico's aid to families with
11 dependent children as they existed on July 16, 1996;

12 D. a member of a benefit group who is eighteen
13 years of age or younger if the benefit group's income is below
14 one hundred eighty-five percent of the federal poverty
15 guidelines;

16 E. a pregnant woman whose income is below one
17 hundred eighty-five percent of the federal poverty guidelines;

18 F. participants receiving federal supplemental
19 security income;

20 G. an aged, blind or disabled person in an
21 institution who meets all the supplemental security income
22 standards except for income;

23 H. a person who meets all standards for
24 institutional care but is cared for at home and meets
25 eligibility standards for medicaid;

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1 I. a qualified medicare beneficiary, qualified
2 disabled working person or specified low-income medicare
3 beneficiary; and

4 J. a foster child in the custody of the state or
5 of a pueblo, tribe or nation who meets eligibility standards
6 for medicare.

7 Section 16. [NEW MATERIAL] IMMIGRANT ELIGIBILITY. -- An
8 immigrant may be eligible to receive cash assistance and
9 services if the immigrant is:

10 A. from one of the classes of immigrants defined in
11 the federal act who entered the United States prior to August
12 22, 1996; or

13 B. a qualified immigrant as defined in the federal
14 act who entered the United States after August 22, 1996.

15 Section 17. [NEW MATERIAL] RECORDS-- CONFIDENTIALITY. --

16 A. Pursuant to the federal act, the department shall
17 establish and enforce rules governing the custody, use and
18 preservation of the records, papers, files and communications
19 to restrict the use or disclosure of information contained in
20 those documents concerning participants.

21 B. It is unlawful for a person, body, association,
22 firm, corporation or other agency outside the department to
23 solicit, disclose, receive or make use of or authorize,
24 knowingly permit, participate in or acquiesce in the use of a
25 name or list of names of participants for commercial or

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1 political purposes.

2 C. A person, body, association, firm, corporation
3 or other agency that willfully or knowingly violates a
4 provision of this section is guilty of a misdemeanor and upon
5 conviction shall be punished by a fine of not less than
6 twenty-five dollars (\$25.00) nor more than one thousand
7 dollars (\$1,000) or by imprisonment in the county jail for a
8 definite term not to exceed sixty days or both.

9 Section 18. [NEW MATERIAL] CERTIFICATION. -- The governor
10 shall make the certifications mandated by the federal act.

11 Section 19. [NEW MATERIAL] TEMPORARY PROVISION-- PILOT
12 PROJECT-- SUBSIDIZED EMPLOYMENT. --

13 A. The human services department may apply for a
14 food stamp waiver from the United States department of
15 agriculture to operate a wage subsidy pilot program

16 B. Upon securing a food stamp waiver, the
17 department shall develop a wage subsidy pilot program to run
18 from the effective date of the New Mexico Works Act until July
19 1, 2001. The department shall select a class A county, a
20 class B county with a valuation under three hundred million
21 dollars (\$300,000,000), a class B county with a valuation over
22 three hundred million dollars (\$300,000,000), a class C county
23 and a first class county as sites for the wage subsidy pilot
24 program

25 C. The wage subsidy pilot program shall include

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1 the following requirements:

2 (1) participating employers shall hire
3 participants who receive cash assistance and food stamps for
4 subsidized job slots that are full time and that offer a
5 reasonable possibility of unsubsidized employment after the
6 subsidy period;

7 (2) participating employers shall receive a
8 subsidy for up to six months. The department may grant an
9 extension of three months to employers operating in areas
10 identified as having a higher unemployment rate than the state
11 average, as defined by the department, if the extension
12 increases the likelihood of ongoing unsubsidized employment
13 for the subsidized employee;

14 (3) subsidized employees shall not be
15 required to work in excess of forty hours per week;

16 (4) subsidized employees shall be paid a wage
17 that is substantially like the wage paid for similar jobs with
18 the employer with appropriate adjustments for experience and
19 training but not less than the federal minimum hourly wage;

20 (5) subsidized employment does not impair an
21 existing contract or collective bargaining agreement;

22 (6) subsidized employment does not displace
23 currently employed workers or fill positions that are vacant
24 due to a layoff;

25 (7) wage subsidy employers shall:

. 121051. 1

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1 (a) maintain health, safety and working
2 conditions at or above levels generally acceptable in the
3 industry and not less than those of comparable jobs offered by
4 the employer;

5 (b) provide on-the-job training
6 necessary for subsidized employees to perform their duties;

7 (c) sign an agreement for each
8 placement outlining the specific job offered to a subsidized
9 employee and agree to abide by all of the requirements of the
10 program;

11 (d) provide workers' compensation
12 coverage for each subsidized employee; and

13 (e) provide the subsidized employee
14 with benefits equal to those for new employees or as required
15 by state and federal law, whichever is greater;

16 (8) the department shall make a determination
17 of whether a participant is eligible to be a subsidized
18 employee that includes the following criteria:

19 (a) sufficient work experience to
20 obtain unsubsidized employment;

21 (b) completion of an employment
22 preparation program; or

23 (c) benefit from this employment
24 strategy by the department;

25 (9) a disregard of income earned by the

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1 subsidized employee in the subsidized job shall be applied in
2 the eligibility determination for services;

3 (10) the department shall suspend regular
4 payments of cash assistance and food stamps to the benefit
5 group for the calendar month in which an employer makes the
6 first subsidized wage payment to a subsidized employee who is
7 otherwise eligible for cash assistance and food stamps;

8 (11) the department shall pay employers each
9 month, from cash assistance and food stamps, the lesser of a
10 fixed subsidy amount determined by the department or the gross
11 wages paid to the subsidized employee;

12 (12) a subsidized employee shall be eligible
13 for supplemental payments if the net monthly full-time wage
14 paid to the subsidized employee is less than the combined
15 monthly total of the cash assistance and food stamps the
16 participant is eligible to receive. The department shall
17 authorize issuance of a supplemental cash payment to
18 compensate for the deficit. To determine if a deficit exists,
19 the department shall adopt an equivalency scale that is
20 adjustable to household size and other factors; and

21 (13) the department shall determine monthly
22 and pay in advance supplemental payments to eligible
23 subsidized employees. In calculating the payment, the
24 department shall assume that the subsidized employee will work
25 forty hours per week during the month unless an employer

. 121051. 1

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1 provides information that the number of hours to be worked by
2 the subsidized employee will be reduced.

3 D. Prior to the forty-fifth legislature, first
4 session, the department shall report the results of the wage
5 subsidy pilot program to the appropriate interim committee.

6 E. For the purposes of this section "benefits"
7 includes health care coverage, paid sick leave and holiday and
8 vacation pay.

9 F. For the purposes of this section "subsidized
10 employee" means a participant engaged in a subsidized
11 employment activity.

12 G. For the purpose of this section "net monthly
13 full-time wage" means a subsidized employees' s wages after the
14 required payroll deductions.

15 Section 20. [NEW MATERIAL] WELFARE REFORM OVERSIGHT
16 COMMITTEE CREATED-- TERMINATION. -- The joint interim legislative
17 "welfare reform oversight committee" is created. The
18 committee shall function from the date of its appointment
19 until December 15 prior to the first session of the forty-
20 sixth legislature.

21 Section 21. [NEW MATERIAL] MEMBERSHIP-- APPOINTMENT--
22 VACANCIES. --

23 A. The welfare reform oversight committee shall be
24 composed of twelve members. The New Mexico legislative
25 council shall appoint six members from the house of

. 121051. 1

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1 representatives and six members from the senate. At the time
2 of making the appointment, the legislative council shall
3 designate the chairman and vice chairman of the committee.

4 B. Members shall be appointed from each house so
5 as to give the two major political parties in each house the
6 same proportionate representation on the committee as prevails
7 in each house; however, in no event shall either party have
8 less than one member from each house on the committee. At the
9 request of the committee chairman, members may be removed from
10 the committee by the New Mexico legislative council for
11 nonattendance according to council policy. Vacancies on the
12 committee, however caused, may be filled by the legislative
13 council, or the council may reduce the size of the committee
14 by not making replacement appointments and in that case need
15 not readjust party representation.

16 C. An action shall not be taken by the committee
17 if a majority of the total membership from either house on the
18 committee rejects that action.

19 Section 22. [NEW MATERIAL] DUTIES. --

20 A. After its appointment, the welfare reform
21 oversight committee shall hold one organizational meeting to
22 develop a work plan and budget for the ensuing interim. The
23 work plan and budget shall be submitted to the New Mexico
24 legislative council for approval. Upon approval of the work
25 plan and budget by the legislative council, the committee

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1 shall:

2 (1) examine the statutes, constitutional
3 provisions and rules governing welfare reform in New Mexico;

4 (2) monitor and oversee the implementation of
5 the New Mexico Works Act;

6 (3) review issues related to welfare reform,
7 including job training programs and related contracts; cash
8 assistance; child care, transportation and other job-related
9 services; and other issues that arise because of the
10 devolution of the federal welfare programs to the states; and

11 (4) make recommendations relating to the
12 adoption of rules and legislation, if any are found to be
13 necessary.

14 B. The committee shall regularly receive testimony
15 from the secretaries of human services; labor; children, youth
16 and families; and health and the superintendent of public
17 instruction on issues arising from the implementation of the
18 New Mexico Works Act and shall review proposed rules,
19 schedules and formulae before adoption.

20 Section 23. [NEW MATERIAL] SUBCOMMITTEES. -- Subcommittees
21 shall be created only by majority vote of all members
22 appointed to the welfare reform oversight committee and with
23 the prior approval of the New Mexico legislative council. A
24 subcommittee shall be composed of at least one member from the
25 senate and one member from the house of representatives, and

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1 at least one member of the minority party shall be a member of
2 the subcommittee. Any meeting or expenditure of a
3 subcommittee shall be approved by the full committee in
4 advance of that meeting or expenditure, and the approval shall
5 be shown in the minutes of the committee.

6 Section 24. [NEW MATERIAL] REPORTS. --The committee shall
7 make reports of its findings and recommendations for the
8 consideration of the first and second sessions of the forty-
9 fourth legislature and the first and second sessions of the
10 forty-fifth legislature. The reports and suggested
11 legislation shall be made available to the New Mexico
12 legislative council on or before December 15 preceding each
13 session.

14 Section 25. [NEW MATERIAL] STAFF. --The staff for the
15 welfare reform oversight committee shall be provided primarily
16 by the legislative council service but the legislative council
17 service may request the assistance of the legislative finance
18 committee staff at the direction of the welfare reform
19 oversight committee.

20 Section 26. Section 27-2-7 NMSA 1978 (being Laws 1973,
21 Chapter 376, Section 10, as amended) is amended to read:

22 "27-2-7. GENERAL ASSISTANCE PROGRAM - QUALIFICATIONS AND
23 PAYMENTS. --

24 A. Subject to the availability of state funds,
25 public assistance shall be provided under a general assistance

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1 program to or on behalf of eligible persons who:

2 (1) are under eighteen years of age and meet
3 all eligibility conditions for [~~aid to families with dependent~~
4 ~~children~~] the New Mexico Works Act except the relationship to
5 the person with whom they are living; [~~or~~]

6 (2) are over the age of eighteen and are
7 temporarily disabled, according to [~~regulations~~] rules of the
8 [~~board~~] department, and are not receiving [~~aid to families~~
9 ~~with dependent children~~] cash assistance or services pursuant
10 to the New Mexico Works Act; [~~or~~]

11 (3) meet the qualifications under [~~such~~]
12 other [~~regulations~~] rules for the general assistance program
13 as the [~~board~~] department shall establish [~~from time to time~~];
14 or

15 (4) are lawful resident immigrants who would
16 otherwise be eligible for cash assistance or services pursuant
17 to the New Mexico Works Act except that they began residing in
18 the United States after August 22, 1996.

19 B. General assistance program payments may be made
20 directly to the recipient or to the vendor of goods or
21 services provided to the recipient. The [~~board~~] department
22 may by [~~regulation~~] rule limit the grants that are made to
23 general assistance recipients.

24 C. Whenever the [~~board~~] department makes an
25 adjustment in the standard of need for the [~~aid to families~~

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1 ~~with dependent children program pursuant to Section 13-17-3~~
2 ~~NMSA 1953]~~ New Mexico Works Act, subject to the availability
3 of state funds, it shall make a commensurate adjustment in the
4 standard of need for the general assistance program "

5 Section 27. REPEAL. -- Sections 27-2-5, 27-2-6,
6 27-2-6.2, 27-2-8, 27-2-18 through 27-2-20, 27-2-22, 27-2-33,
7 27-2-35 through 27-2-40 NMSA 1978 (being Laws 1973, Chapter
8 376, Sections 5 and 9, Laws 1988, Chapter 122, Section 1, Laws
9 1973, Chapter 376, Section 11, Laws 1937, Chapter 18, Sections
10 11a, 11b, 11e, 11h, and 21, Laws 1941, Chapter 116, Section 1,
11 Laws 1921, Chapter 117, Section 9, Laws 1980, Chapter 25,
12 Sections 1 through 4, as amended) are repealed.

13 Section 28. EMERGENCY. -- It is necessary for the public
14 peace, health and safety that this act take effect
15 immediately.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

HB 14/a

3
4
5 January 28, 1998

6
7 Mr. President:

8
9 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
10 referred

11
12 HOUSE BILL 14

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

- 16
17 1. Strike House Consumer and Public Affairs Committee
18 Amendment 3.
19
20 2. On page 1, line 17, strike "19" and insert in lieu thereof
21 "20".
22
23 3. On page 12, line 2, strike "department of labor" and
24 insert in lieu thereof "labor department".
25
26 4. On page 12, line 19, strike "9 through 11" and insert in

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/ HB 14

Page 45

lieu thereof "(9) through (11)".

5. On page 18, lines 19 and 20, strike "the department shall disregard".

6. On page 20, line 9, before "collected" insert "of".

7. On page 33, line 5, strike "a" and insert in lieu thereof "an Indian".

8. On page 34, line 13, strike "human services".

9. On page 38, between lines 14 and 15, insert the following section:

"Section 20. [NEW MATERIAL] CHILD SUPPORT--TRUSTS.--

A. The department shall take one-third of New Mexico's share of collected child support for each child and deposit the money into a trust established in that child's name.

B. The department shall by rule establish the form, substance and procedure by which the trust shall be established."

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/ HB 14

Page 46

10. Renumber the succeeding sections accordingly.

11. On page 43, line 6, after "27-2-33" strike the comma and insert in lieu thereof "and".

12. On page 43, line 10, after "11h" strike the comma.

13. On page 43, line 11, after "Section 9" strike the comma and insert in lieu thereof "and".,

and thence referred to the **FINANCE COMMITTEE.**

Respectfully submitted,

Shannon Robinson, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Underscored material = new
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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SPAC/ HB 14

Page 47

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Adair, Boitano, Vernon, Smith

Absent: None

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3
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HB 14/a

5 February 12, 1998
6

7 Mr. President:
8

9 Your FINANCE COMMITTEE, to whom has been referred
10

11 HOUSE BILL 14, as amended
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:
15

16 1. On page 3, between lines 8 and 9, insert the following new
17 subsection:
18

19 "E. The legislature further finds that the federal act
20 envisions that state and tribal governments will work together to
21 serve participants residing in Indian country, and it is important
22 that the state and the tribal governments work, government to
23 government, to address the issues of availability and delivery of
24 service to the twenty-two tribes and pueblos."
25

. 121051. 1

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SFC/HB 14

Page 49

2. Reletter the succeeding subsection accordingly.

3. On page 10, between lines 22 and 23, insert:

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

4. Reletter the succeeding subsections accordingly.

5. On page 12, line 2, before "and" insert ", New Mexico office of Indian affairs".

6. On page 16, strike lines 22 through 24 and insert in lieu thereof:

"the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of the adults living in Indian country or in the village were not employed."

7. On page 21, line 24, after the period insert:

. 121051. 1

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SFC/HB 14

Page 50

"The department shall not consider participation in cultural and religious activities an unexcused absence, as long as the student has parental consent."

8. On page 42, line 7, strike "temporarily".

Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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SFC/HB 14

Page 51

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Carraro, Ingle, Lyons, McKibben

Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

SFC/HB 14

FORTY-THIRD LEGISLATURE
SECOND SESSION - 1998

February 14, 1998

Mr. Speaker:

Your ENROLLING AND ENGROSSING COMMITTEE, to whom has been referred

HOUSE BILL 14, as amended
with emergency clause

has had it under consideration and reports that same has been duly enrolled and engrossed preparatory to signing by the officers of the House.

Respectfully submitted,

CHAIRPERSON, ENROLLING & ENGROSSING COMMITTEE
HOUSE OF REPRESENTATIVES

Adopted _____ Not Adopted _____
(CHIEF CLERK) (CHIEF CLERK)

Date _____

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