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SENATE BILL 183

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

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" AND "GED" WITH THE TERM "HIGH SCHOOL EQUIVALENCY DIPLOMA"; 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 military institute at Roswell shall determine and fix the

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1 standard of requirements for admission to their respective
2 institutions.

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

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

16 "21-1-1.1. HOME SCHOOL STUDENTS--ADMISSION REQUIREMENTS--
17 PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.--In determining
18 the standard of requirements for admission to any public
19 post-secondary educational institution, the board of regents,
20 governing board or community college board shall not require a
21 student who has completed the requirements of a home-based or
22 non-public school educational program and who has submitted
23 test scores that otherwise qualify [~~him~~] the student for
24 admission to that institution to obtain or submit proof of
25 having obtained a [~~general equivalency~~] high school equivalency

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1 diploma [~~certificate~~]. In determining requirements for
2 admission, the board of regents, governing board or community
3 college board shall evaluate and treat applicants from home-
4 based or non-public educational programs fairly and in a
5 nondiscriminatory manner."

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

8 "22-2-8.8. [~~GENERAL EDUCATIONAL DEVELOPMENT CERTIFICATES~~]
9 HIGH SCHOOL EQUIVALENCY DIPLOMAS.--The department [~~of~~
10 ~~education~~] shall issue a [~~general educational development~~
11 ~~certificate~~] high school equivalency diploma to any candidate
12 who is at least sixteen years of age and who has successfully
13 completed the [~~general educational development~~] high school
14 equivalency tests."

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

19 "27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

20 A. The following qualify as work activities:

21 (1) unsubsidized employment, including self-
22 employment;

23 (2) subsidized private sector employment,
24 including self-employment;

25 (3) subsidized public sector employment;

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- 1 (4) work experience;
- 2 (5) on-the-job training;
- 3 (6) job search and job readiness;
- 4 (7) community service programs;
- 5 (8) vocational education;
- 6 (9) job skills training activities directly
7 related to employment;
- 8 (10) education directly related to employment;
- 9 (11) satisfactory attendance at a secondary
10 school or course of study leading to a [~~certificate of general~~
11 ~~equivalency~~] high school equivalency diploma in the case of a
12 participant who has not completed secondary school or received
13 such a [~~certificate~~] diploma; and
- 14 (12) the provision of child care services to a
15 participant who is participating in a community service
16 program.
- 17 B. The department shall recognize community service
18 programs and job training programs that are operated by an
19 Indian nation, tribe or pueblo.
- 20 C. The department may not require a participant to
21 work more than four hours per week over the work requirement
22 rate set pursuant to the federal act.
- 23 D. The department shall require a parent, caretaker
24 or other adult who is a member of a benefit group to engage in
25 a work activity.

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

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

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

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

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

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

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

25 (1) participating in unpaid internships with

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1 private and government entities;

2 (2) refurbishing publicly assisted housing;

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

5 (4) weatherizing low-income housing; and

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

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

23 H. A participant engaged in vocational education
24 studies shall make reasonable efforts to obtain a loan,
25 scholarship, grant or other assistance to pay for costs and

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1 tuition, and the department shall disregard those amounts in
2 the eligibility determination.

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

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

8 (2) a participant over age sixty;

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

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

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

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

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

24 (c) unavailability of appropriate and
25 affordable formal child-care arrangements as defined by the

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1 children, youth and families department;

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

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

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

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

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

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

24 "29-7C-3. QUALIFICATIONS FOR CERTIFICATION.--An applicant
25 for certification shall provide evidence satisfactory to the

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1 board that ~~[he]~~ the applicant:

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

4 B. holds a high school ~~[or general]~~ equivalency
5 diploma from an accredited institution;

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

8 (1) felony charge; or

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

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

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

17 F. is of good moral character;

18 G. has met all other requirements for certification
19 prescribed by the board; and

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

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

25 "31-18-22. SPECIAL INCARCERATION ALTERNATIVE PROGRAM.--

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

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

- 17 (1) sentenced to death;
- 18 (2) who have received a life sentence;
- 19 (3) with a record of prior confinement for a
20 felony conviction;
- 21 (4) convicted of murder in the first or second
22 degree, child abuse resulting in death or great bodily harm,
23 criminal sexual penetration in the first or second degree or
24 criminal sexual contact with a minor;
- 25 (5) convicted of an offense carrying a

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1 mandatory sentence that cannot be suspended or deferred;

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

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

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

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

17 D. If the sentencing court accepts the
18 recommendation of the corrections department that the offender
19 is suitable for participation in a special incarceration
20 alternative program, the court shall resentence the offender to
21 provide that, in the event the offender successfully completes
22 the program, the remainder of the sentence shall be suspended
23 and the offender shall be placed on probation for the remainder
24 of the term. The sentencing court shall be notified in writing
25 by the corrections department of the offender's successful

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1 completion of the special incarceration alternative program.

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

8 F. Appropriate post-institutional treatment shall
9 be made available by the corrections department to the
10 offender."

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

13 "33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
14 DEDUCTIONS.--

15 A. To earn meritorious deductions, a prisoner
16 confined in a correctional facility designated by the
17 corrections department must be an active participant in programs
18 recommended for the prisoner by the classification supervisor
19 and approved by the warden or the warden's designee.
20 Meritorious deductions shall not exceed the following amounts:

21 (1) for a prisoner confined for committing a
22 serious violent offense, up to a maximum of four days per month
23 of time served;

24 (2) for a prisoner confined for committing a
25 nonviolent offense, up to a maximum of thirty days per month of

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1 time served;

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

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

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

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

19 B. A prisoner may earn meritorious deductions upon
20 recommendation by the classification supervisor, based upon the
21 prisoner's active participation in approved programs and the
22 quality of the prisoner's participation in those approved
23 programs. A prisoner may not earn meritorious deductions unless
24 the recommendation of the classification supervisor is approved
25 by the warden or the warden's designee.

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

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

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

18 (2) for earning a [~~general education~~] high
19 school equivalency diploma, three months;

20 (3) for earning an associate's degree, four
21 months;

22 (4) for earning a bachelor's degree, five
23 months;

24 (5) for earning a graduate qualification, five
25 months; and

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

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

20 F. A prisoner is not eligible to earn meritorious
21 deductions if the prisoner:

- 22 (1) disobeys an order to perform labor,
23 pursuant to Section 33-8-4 NMSA 1978;
24 (2) is in disciplinary segregation;
25 (3) is confined for committing a serious

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1 violent offense and is within the first sixty days of receipt by
2 the corrections department; or

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

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

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

17 I. A New Mexico prisoner confined in a federal or
18 out-of-state correctional facility is eligible to earn
19 meritorious deductions for active participation in programs on
20 the basis of the prisoner's conduct and program reports
21 furnished by that facility to the corrections department. All
22 decisions regarding the award and forfeiture of meritorious
23 deductions at such facility are subject to final approval by the
24 director of the adult institutions division of the corrections
25 department or the director's designee.

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

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

19 L. As used in this section:

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

22 (2) "program" means work, vocational,
23 educational, substance abuse and mental health programs,
24 approved by the classification supervisor, that contribute to a
25 prisoner's self-betterment through the development of personal

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1 and occupational skills. "Program" does not include
2 recreational activities;

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

5 (4) "serious violent offense" means:

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

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

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

12 (d) third degree aggravated battery
13 against a household member, as provided in Section 30-3-16 NMSA
14 1978;

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

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

19 (g) second and third degree criminal
20 sexual contact of a minor, as provided in Section 30-9-13 NMSA
21 1978;

22 (h) first and second degree robbery, as
23 provided in Section 30-16-2 NMSA 1978;

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

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

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

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

7 (m) assault with intent to commit a
8 violent felony upon a peace officer, as provided in Section
9 30-22-23 NMSA 1978;

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

12 (o) any of the following offenses, when
13 the nature of the offense and the resulting harm are such that
14 the court judges the crime to be a serious violent offense for
15 the purpose of this section: 1) involuntary manslaughter, as
16 provided in Section 30-2-3 NMSA 1978; 2) fourth degree
17 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)
18 third degree assault with intent to commit a violent felony, as
19 provided in Section 30-3-3 NMSA 1978; 4) fourth degree
20 aggravated assault against a household member, as provided in
21 Section 30-3-13 NMSA 1978; 5) third degree assault against a
22 household member with intent to commit a violent felony, as
23 provided in Section 30-3-14 NMSA 1978; 6) third and fourth
24 degree aggravated stalking, as provided in Section 30-3A-3.1
25 NMSA 1978; 7) second degree kidnapping, as provided in Section

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

13 M. Except for sex offenders, as provided in Section
14 31-21-10.1 NMSA 1978, an offender sentenced to confinement in a
15 correctional facility designated by the corrections department
16 who has been released from confinement and who is serving a
17 parole term may be awarded earned meritorious deductions of up
18 to thirty days per month upon recommendation of the parole
19 officer supervising the offender, with the final approval of the
20 adult parole board. The offender must be in compliance with all
21 the conditions of the offender's parole to be eligible for
22 earned meritorious deductions. The adult parole board may
23 remove earned meritorious deductions previously awarded if the
24 offender later fails to comply with the conditions of the
25 offender's parole. The corrections department and the adult

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1 parole board shall promulgate rules to implement the provisions
2 of this subsection. This subsection applies to offenders who
3 are serving a parole term on or after July 1, 2004."

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

6 "33-11-3. REGULATIONS.--

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

12 ~~A.~~ B. The regulations shall apply only to any
13 inmate who:

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

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

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

21 ~~(4)~~ (b) does not possess a ~~general~~
22 ~~education~~ high school equivalency diploma or a high school
23 diploma.

24 ~~B.~~ C. The regulations adopted shall require that:

25 (1) a minimum education standard shall be met

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1 beginning in 1988 and in all subsequent years as follows:

2 (a) in 1988, the education standard shall
3 be the equivalent of grade six in reading and math on the test
4 of adult basic education;

5 (b) in 1989, the education standard shall
6 be the equivalent of grade seven in reading and math on the test
7 of adult basic education;

8 (c) in 1990, the education standard shall
9 be the equivalent of grade eight in reading and math on the test
10 of adult basic education; and

11 (d) in 1991, the education standard shall
12 be a high school diploma or a [~~general education~~] high school
13 equivalency diploma;

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

20 (3) notwithstanding any other provision of
21 law, inmates who are subject to these regulations but who refuse
22 or choose not to participate shall not be eligible for monetary
23 compensation for work performed or for meritorious deduction as
24 set forth in Subsection A of Section 33-2-34 NMSA 1978.

25 [~~C.~~] D. The regulations may:

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

4 (2) exclude any inmate who is assigned a
5 minimum custody classification; or

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

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

11 "52-1-26.3. PARTIAL DISABILITY DETERMINATION--EDUCATION
12 MODIFICATION.--

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

17 B. A worker shall be awarded points based on the
18 formal education he has received. A worker who:

19 (1) has completed no higher than the fifth
20 grade shall be awarded three points;

21 (2) has completed the sixth grade but has
22 completed no higher than the eleventh grade shall be awarded two
23 points;

24 (3) has completed the twelfth grade or has
25 obtained a [~~GED certificate~~] high school equivalency diploma but

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1 has not completed a college degree shall be awarded one point;
2 and

3 (4) has completed a college degree or more
4 shall receive zero points.

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

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

21 (2) a worker with an SVP of three to four
22 shall be awarded three points;

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

25 (4) a worker with an SVP of seven to nine

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1 shall be awarded one point.

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

7 E. The sum of the points awarded the worker in
8 Subsections B, C and D of this section shall constitute the
9 education modification."

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

12 "58-28-5. USE OF MONEY--ELIGIBLE ACTIVITIES.--

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

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

20 (2) no less than twenty percent of the fund
21 shall be invested in a permanent capital fund, the interest on
22 which may be used for purposes specified in this section;

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

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

8 (5) the remaining balance may be allocated to
9 eligible organizations for other housing-related programs for
10 the benefit of the public as specifically approved by the
11 trustee from time to time.

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