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HOUSE BILL 93  
44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY  
James G. Taylor

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; CREATING THE EDUCATION WORKS  
ACT; CREATING THE EDUCATION WORKS FUND; MAKING AN  
APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. SHORT TITLE.--This act may be cited as the  
"Education Works Act".

Section 2. DEFINITIONS.--As used in the Education Works  
Act:

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

B. "cash assistance" means cash payments funded by  
the education works fund;

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- C. "department" means the human services department;
- D. "dependent child" means a natural or adopted child or ward who is eighteen years of age or younger;
- E. "earned income" includes cash or payment in kind that is received as wages from employment or payment in lieu of wages; earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services; and all other income not classified as unearned income;
- F. "federal act" means the federal Social Security Act and rules promulgated pursuant to that act;
- G. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;
- H. "household group" means a group of people that consists of a benefit group and any other person who resides in a household regardless of whether they are related or have a legal support responsibility for a member of the benefit group, but does not include:
  - (1) landlords;
  - (2) tenants; or
  - (3) members of a registered nonprofit

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1 organization or church who provide shelter to a benefit group  
2 through a program sponsored by the nonprofit organization or  
3 church;

4 I. "landlord" means the owner of an estate in land  
5 or rental property who has leased it to another person called  
6 the tenant;

7 J. "parent" means natural parent, adoptive parent,  
8 stepparent or legal guardian;

9 K. "person" means an individual;

10 L. "recipient" means a person who receives cash  
11 assistance or services pursuant to the Education Works Act;

12 M. "secretary" means the secretary of the  
13 department;

14 N. "services" includes child-care assistance;  
15 payment for education- or employment-related transportation  
16 costs; one-time payment per year for education costs funded by  
17 the education works fund;

18 O. "tenant" means a person who pays rent for the  
19 use and occupancy of real property owned by a landlord; and

20 P. "unearned income" includes old age, survivors'  
21 and disability insurance; railroad retirement benefits;  
22 veterans' administration compensation or pension; military  
23 retirement; pensions, annuities and retirement benefits; lodge  
24 or fraternal benefits; shared shelter payments; settlement  
25 payments; individual Indian money; and similar kinds of

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1 income.

2 Section 3. APPLICATION. --

3 A. Application for cash assistance or services  
4 shall be made to the department's county office in the county  
5 or district in which an applicant resides. The application  
6 shall be in writing or reduced to writing in the manner and on  
7 the form prescribed by the department. The application shall  
8 be made under oath by an applicant having custody of or  
9 residing with a dependent child who is a household group  
10 member and shall contain a statement of the age of the child,  
11 the child's residence, a complete statement of the amount of  
12 property in which the applicant has an interest, a statement  
13 of all income that he and other household group members have  
14 at the time of the filing of the application and other  
15 information required by the department.

16 B. At the time of application for cash assistance  
17 and services, an applicant shall identify household group  
18 members who are to be counted in the benefit group. Once an  
19 application is approved, the recipient shall advise the  
20 department if there are any changes in the membership of the  
21 household group or benefit group.

22 C. An applicant shall report to the department the  
23 names of all of the members of the applicant's household group  
24 or benefit group. A household group may contain more than one  
25 benefit group.

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1                   D. Not later than forty-five days after an  
2 application is filed, the department shall provide to an  
3 applicant a resource planning session to ascertain his  
4 immediate needs, assess financial and nonfinancial options,  
5 make referrals and act on the application.

6                   E. The applicant shall immediately be referred to  
7 the children, youth and families department to apply for  
8 child-care services.

9                   F. Whenever the department receives an application  
10 for assistance, a verification and record of the applicant's  
11 circumstances shall promptly be made to ascertain the facts  
12 supporting the application and to obtain other information  
13 required by the department. The verification may include a  
14 visit to the home of the applicant, as long as the department  
15 gives adequate prior notice of the visit to the applicant.

16                   G. The department shall meet semi-annually with a  
17 recipient to review the current financial eligibility of a  
18 benefit group and to review and revise his individual  
19 responsibility plan.

20                   Section 4. ELIGIBILITY--RESTRICTIONS--REQUIREMENTS.--

21                   A. A recipient is eligible if he demonstrates  
22 that:

23                                   (1) at the time of application he does not  
24 have a bachelor's degree;

25                                   (2) he has been accepted and has enrolled in

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1 a two- or four-year post-secondary degree program;

2 (3) he has the ability to succeed in the  
3 educational program that he has chosen; and

4 (4) the degree he will receive will increase  
5 his ability to engage in full-time paid employment.

6 B. A recipient shall not receive any cash  
7 assistance or services funded by the temporary assistance for  
8 needy families block grant.

9 C. A recipient shall apply for all financial aid  
10 available.

11 D. In the first two years of the program, a  
12 recipient shall engage in at least twenty hours per week of  
13 class time, studying, work, work-study or volunteering. The  
14 department shall assume that a recipient spends one and  
15 one-half hours studying for every hour of class time.

16 E. In the subsequent years, a recipient shall  
17 engage in at least twenty hours per week paid employment in  
18 addition to attending school full time.

19 F. If a recipient does not attend summer school  
20 full time, he shall engage in work for at least twenty hours  
21 per week. A recipient may continue to attend school during  
22 the summer session.

23 G. A recipient may take no more than four years to  
24 complete a four-year degree program and two years for a two-  
25 year degree program unless he demonstrates good cause for the

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1 following reasons:

- 2 (1) illness;
- 3 (2) caring for an aging parent or a special
- 4 needs child; or
- 5 (3) a learning disability or other kind of
- 6 mental or physical health problem.

7 H. At no time shall the number of recipients  
8 enrolled in the Education Works Act program exceed four  
9 hundred people.

10 I. A recipient may only earn one degree through  
11 the Education Works Act program.

12 J. For the purposes of this section, "work" means  
13 work-study, training-related practicums, internships, paid  
14 employment, volunteering or any other activity approved by the  
15 department.

16 Section 5. FINANCIAL STANDARD OF NEED. --

17 A. The secretary shall adopt a financial standard  
18 of need based upon the availability of state funds.

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

23 C. The following income sources are exempt from  
24 the gross income test, the net income test and the cash  
25 payment calculation:

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- 1 (1) medi caid;
- 2 (2) food stamps;
- 3 (3) government-subsidized foster care and
- 4 adoption payments;
- 5 (4) supplemental security income;
- 6 (5) government-subsidized housing or housing
- 7 payments;
- 8 (6) federally excluded income;
- 9 (7) educational payments made directly to an
- 10 educational institution;
- 11 (8) government-subsidized child care;
- 12 (9) earned and unearned income that belongs
- 13 to a person eighteen years of age or younger who is not the
- 14 head of household;
- 15 (10) unearned income that belongs to the
- 16 household group but not to the benefit group; and
- 17 (11) other income sources as determined by
- 18 the department.

19 D. Earned income over one hundred thirty percent  
20 of the federal poverty guidelines that belongs to the  
21 household group but not to the benefit group is countable  
22 income. The department shall count the entire household group  
23 to determine family size when applying the federal poverty  
24 guidelines.

25 E. The department shall count the entire household

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1 group to determine family size when applying the financial  
2 standard of need. For a benefit group to be eligible to  
3 participate:

4 (1) gross countable earned income that  
5 belongs to the household group but not to the benefit group  
6 must not exceed one hundred eighty-five percent of the  
7 financial standard of need; and

8 (2) net countable earned income that belongs  
9 to the household group must not equal or exceed the financial  
10 standard after applying the disregards set out in Paragraphs  
11 (1) through (4) of Subsection F of this section.

12 F. Subject to the availability of state funds, the  
13 department shall determine the cash payment of the benefit  
14 group by applying the following disregards to the benefit  
15 group's earned gross income:

16 (1) one hundred fifty dollars (\$150) of  
17 monthly earned income and one-half of the remainder, or for a  
18 two-parent family, two hundred fifty dollars (\$250) of monthly  
19 earned income and one-half of the remainder for each parent;

20 (2) monthly payments made for child care at a  
21 maximum of two hundred dollars (\$200) for a child under two  
22 years of age and at a maximum of one hundred seventy-five  
23 dollars (\$175) for a child two years of age or older;

24 (3) costs of self-employment income; and

25 (4) business expenses.

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1           G. The department may recover overpayments of cash  
2 assistance on a monthly basis not to exceed fifteen percent of  
3 the financial standard of need applicable to the benefit  
4 group.

5           Section 6. RESOURCES. --

6           A. Liquid and nonliquid resources owned by the  
7 household group but not the benefit group shall not be counted  
8 in the eligibility determination.

9           B. A benefit group may at a maximum own the  
10 following resources:

- 11                   (1) two thousand dollars (\$2,000) in  
12 nonliquid resources;
- 13                   (2) one thousand five hundred dollars  
14 (\$1,500) in liquid resources;
- 15                   (3) the value of the principal residence of  
16 the recipient;
- 17                   (4) the value of burial plots and funeral  
18 contracts for family members;
- 19                   (5) the value of work-related equipment up to  
20 one thousand dollars (\$1,000);
- 21                   (6) in areas without public transportation,  
22 the value of one motor vehicle for each recipient enrolled in  
23 a bachelor's degree program; and
- 24                   (7) in areas with public transportation, the  
25 value of one motor vehicle.

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1           Section 7. INELIGIBILITY. --The following are ineligible  
2 to be members of a benefit group:

3           A. an inmate or patient of a nonmedical  
4 institution;

5           B. a person who, in the two years preceding  
6 application, assigned or transferred real property unless he:

7                   (1) received or receives a reasonable return;

8                   (2) attempted to or attempts to receive a  
9 reasonable return; or

10                   (3) attempted to or attempts to regain title  
11 to the real property;

12           C. a minor child who has been absent or is  
13 expected to be absent from the home for forty-five days;

14           D. a person who does not provide a social security  
15 number or who refuses to apply for one;

16           E. a person who is not a resident of New Mexico;

17           F. a person who fraudulently misrepresented  
18 residency to receive assistance in two or more states  
19 simultaneously except that such person shall be ineligible for  
20 only ten years;

21           G. a person who is a fleeing felon or a probation  
22 and parole violator;

23           H. a person concurrently receiving supplemental  
24 security income, tribal temporary assistance for needy  
25 families, bureau of Indian affairs general assistance or

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1 adoption subsidies; and

2 I. a parent who does not assist the department in  
3 establishing paternity or obtaining child support or who does  
4 not assign support rights to New Mexico, unless he  
5 demonstrates good cause.

6 Section 8. FAIR HEARING--REVIEW AND APPEAL. --

7 A. A recipient may request a hearing if:

8 (1) an application is not acted on within a  
9 reasonable time after the filing of the application;

10 (2) an application is denied in whole or in  
11 part; or

12 (3) the cash assistance or services are  
13 modified, terminated or not provided.

14 B. The department shall notify the recipient of  
15 his rights under this section.

16 C. The department shall by rule establish  
17 procedures for the filing of a request for a hearing and the  
18 time limits within which a request may be filed; provided,  
19 however, that the department may grant reasonable extensions  
20 of the time limits. If the request is filed in a timely  
21 manner, cash assistance and services shall be provided until  
22 the appeal is resolved. If the request is not filed within  
23 the specified time for appeal or within whatever extension the  
24 department may grant, the department action is final. Upon  
25 receipt of a timely request, the department shall give the

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1 recipient reasonable notice of an opportunity for a fair  
2 hearing in accordance with the rules of the department.

3 D. The hearing shall be conducted by a hearing  
4 officer designated by the director of the income support  
5 division of the department. The powers of the hearing officer  
6 shall include administering oaths or affirmations to witnesses  
7 called to testify, taking testimony, examining witnesses,  
8 admitting or excluding evidence and reopening a hearing to  
9 receive additional evidence. The technical rules of evidence  
10 and the rules of civil procedure shall not apply. The hearing  
11 shall be conducted so that the contentions or defenses of each  
12 party to the hearing are amply and fairly presented. Each  
13 party may be represented by counsel or other representative  
14 and may conduct cross-examination. Oral or documentary  
15 evidence may be received, but the hearing officer may exclude  
16 irrelevant, immaterial or unduly repetitious evidence.

17 E. The director of the income support division  
18 shall review the record of the proceedings and shall make his  
19 final decision on the record. The recipient or his  
20 representative shall be notified in writing of the director's  
21 final decision and the reasons for the decision. The written  
22 notice shall inform the recipient of his right to judicial  
23 review pursuant to Section 39-3-1.1 NMSA 1978. The department  
24 shall be responsible for ensuring that the decision is  
25 enforced.

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1 F. A recipient may appeal the final decision of  
2 the director of the income support division to district court  
3 pursuant to Section 39-3-1.1 NMSA 1978.

4 G. The department shall not authorize or allow  
5 expenditures in excess of the amounts previously appropriated  
6 by the legislature.

7 Section 9. SATISFACTORY PARTICIPATION. --

8 A. To maintain satisfactory participation, a  
9 recipient shall meet the standard of the school that he  
10 attends.

11 B. If a recipient falls below the standard of the  
12 school in one semester, then he will be placed on probationary  
13 status for one semester to improve his grades. If a  
14 recipient's overall grade point average falls below 2.0, the  
15 department shall place him on a maximum of two probationary  
16 semesters to bring up the overall grade point average.

17 C. A recipient shall:

18 (1) attend classes as scheduled and  
19 participate as required by the school;

20 (2) report to the department anything that  
21 might affect his ability to participate in the Education Works  
22 Act program;

23 (3) provide the department with a copy of  
24 financial aid award letters; and

25 (4) provide the department with copies of his

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1 grades as they become available.

2 D. If a recipient does not comply with Subsection  
3 C of this section, the department may require the recipient to  
4 apply for public assistance pursuant to the New Mexico Works  
5 Act. This decision shall be made in writing, and the  
6 recipient shall have the opportunity to appeal it.

7 Section 10. FUND CREATED. --

8 A. The "education works fund" is created in the  
9 state treasury. Money in the fund is appropriated to the  
10 human services department for the purpose of implementing the  
11 provisions of the Education Works Act. Money in the fund  
12 shall only be expended pursuant to warrants issued by the  
13 secretary of finance and administration pursuant to vouchers  
14 signed by the secretary of human services. Money in the fund  
15 shall not revert at the end of the fiscal year but shall  
16 remain to the credit of the fund.

17 B. Money in the fund shall be used to fund cash  
18 assistance and services for recipients. Money from the fund  
19 shall be counted toward the maintenance of effort requirement  
20 of the temporary assistance for needy families block grant.  
21 Money from the fund shall not be used in any manner that  
22 jeopardizes its classification for maintenance of effort.

23 Section 11. APPROPRIATION. --Two million dollars  
24 (\$2,000,000) is appropriated from the general fund to the  
25 education works fund for expenditure in fiscal year 1999 and

1 subsequent fiscal years to carry out the purposes of the  
2 Education Works Act. Any unexpended or unencumbered balance  
3 remaining at the end of a fiscal year shall not revert to the  
4 general fund.

5 Section 12. EMERGENCY.--It is necessary for the public  
6 peace, health and safety that this act take effect  
7 immediately.

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5  
6 February 15, 1999

7  
8 Mr. Speaker:

9  
10 Your EDUCATION COMMITTEE, to whom has been referred

11  
12 HOUSE BILL 93

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

16 1. On page 5, line 25, strike "and has enrolled" and  
17 insert in lieu thereof "or has been determined to be  
18 eligible to enroll".

19  
20 2. On page 6, line 11, strike "first".

21  
22 3. On page 6, line 16, strike Subsection E in its  
23 entirety.

24 4. Reletter the succeeding subsections accordingly.  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HEC/HB 93

Page 18

5. On page 6, strike all of lines 23 through 25 and  
insert in lieu thereof the following:

"G. A recipient may participate in a program for  
no more than two years unless he demonstrates good cause for  
the".

6. On page 7, strike all of line 22 and insert in lieu  
thereof "an amount equal to that received by participants  
pursuant to the New Mexico Works Act.".,

and thence referred to the APPROPRIATIONS AND FINANCE  
COMMI TTEE.

Respectfully submitted,

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Ri ck Mi era, Chai rman

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HEC/HB 93

Page 19

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 14 For 0 Against

Yes: 14

Excused: Macko, Marquardt

Absent: None

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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4 February 19, 1999  
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6  
7 Mr. Speaker:  
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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE BILL 93, 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 1, lines 12 and 13, strike "CREATING THE  
17 EDUCATION WORKS FUND; MAKING AN APPROPRIATION;".

18 2. On pages 15 and 16, strike Sections 10 and 11 in their  
19 entirety.  
20

21 3. Renumber the succeeding Section accordingly.  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3HB 93, aa

Page 21

Respectfully submitted,

Max Coll, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 13 For 1 Against

Yes: 13

No: Pearce

Excused: Marquardt, Parsons, Taylor, JP

Absent: None

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HB 93, aa

Page 22

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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March 11, 1999

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Mr. President:

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11

Your EDUCATION COMMITTEE, to whom has been referred

12

13

HOUSE BILL 93, as amended

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has had it under consideration and reports same with  
recommendation that it DO PASS.

16

17

Respectfully submitted,

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Cynthia Nava, Chairman

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

1 HB 93, aa

Page 23

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Adopted \_\_\_\_\_ Not

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Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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The roll call vote was 6 For 1 Against

10

Yes: 6

11

No: Boitano

12

Excused: Adair, Duran, Gorham,

13

Absent: None

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