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HOUSE BILL 112

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO ASSET BUILDING FOR WORKING, LOW-INCOME FAMILIES;  
AMENDING THE INDIVIDUAL DEVELOPMENT ACCOUNT ACT TO CHANGE THE  
NAME OF THE ACT, CHANGE THE ELIGIBILITY REQUIREMENTS, ESTABLISH  
CRITERIA FOR PROGRAM ADMINISTRATORS AND INCREASE  
ACCOUNTABILITY; CREATING A FUND; MAKING AN APPROPRIATION.

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

Section 1. Section 58-30-1 NMSA 1978 (being Laws 2003,  
Chapter 362, Section 1) is amended to read:

"58-30-1. SHORT TITLE.--~~[Sections 1 through 12 of this  
act]~~ Chapter 58, Article 30 NMSA 1978 may be cited as the  
~~["Individual Development Account Act"]~~ "Family Opportunity  
Accounts Act"."

Section 2. Section 58-30-2 NMSA 1978 (being Laws 2003,  
Chapter 362, Section 2, as amended) is amended to read:

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1 "58-30-2. DEFINITIONS.--As used in the [~~Individual~~  
2 ~~Development Account Act~~] Family Opportunity Accounts Act:

3 A. "account owner" means the person in whose name  
4 [~~an individual development~~] a family opportunity account is  
5 originally established;

6 B. "allowable use" means a use that complies with  
7 the provisions of the [~~Individual Development Account Act~~]  
8 Family Opportunity Accounts Act, or rules adopted pursuant to  
9 that act;

10 C. "authorized financial institution" means a  
11 financial institution authorized by the office [~~of workforce~~  
12 ~~training and development~~] to hold and manage [~~individual~~  
13 ~~development~~] family opportunity accounts and reserve accounts;

14 D. "director" means the director of the office;

15 E. "earned income" means wages from employment,  
16 payment in lieu of wages, disability payments, tribal  
17 distributions or earnings from self-employment or acquired from  
18 the provision of services, goods or property, production of  
19 goods, management of property or supervision of services;

20 F. "eligible individual" means a person who meets  
21 the criteria for opening [~~an individual development~~] a family  
22 opportunity account;

23 G. "family opportunity account" means an account  
24 established and maintained in an authorized financial  
25 institution by an eligible individual participating in a family

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1 opportunity accounts program pursuant to the provisions of the  
2 Family Opportunity Accounts Act;

3 H. "family opportunity accounts program" means a  
4 program approved by the office to establish and administer  
5 family opportunity accounts and reserve accounts for eligible  
6 individuals and to provide financial training required by the  
7 office for account owners;

8 [~~G.~~] I. "financial institution" means a bank, bank  
9 and trust, savings bank, savings association or credit union  
10 authorized to be a trustee of individual retirement accounts as  
11 defined by federal law, the deposits of which are insured by  
12 the federal deposit insurance corporation or the national  
13 credit union administration;

14 [~~H.~~] ~~"individual development account" means an~~  
15 ~~account established and maintained in an authorized financial~~  
16 ~~institution by an eligible individual participating in an~~  
17 ~~individual development account program pursuant to the~~  
18 ~~provisions of the Individual Development Account Act;~~

19 [~~I.~~] ~~"individual development account program" means a~~  
20 ~~program approved by the office to establish and administer~~  
21 ~~individual development accounts and reserve accounts for~~  
22 ~~eligible individuals and to provide financial training required~~  
23 ~~by the office for account owners;]~~

24 J. "indigent" means an individual who can normally  
25 support himself and his dependents on present income and liquid

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1 assets available to him but, taking into account the present  
2 income and the liquid assets and the requirement for other  
3 necessities of life for himself and his dependents, is unable  
4 to pay the costs of allowable uses as set forth in the Family  
5 Opportunity Accounts Act;

6 [J-] K. "matching funds" means money deposited in a  
7 reserve account to match the withdrawals for allowable uses  
8 from ~~[an individual development]~~ a family opportunity account  
9 according to a proportionate formula that complies with rules  
10 adopted by the director;

11 [K-] L. "nonprofit organization" means an  
12 instrumentality of the state or an organization described in  
13 Section 501(c)(3) of the Internal Revenue Code of 1986 and  
14 exempt from taxation pursuant to Section 501(a) of that code;

15 [L-] M. "office" means the office of workforce  
16 training and development;

17 [M-] N. "program administrator" means a nonprofit  
18 organization or tribe that is ~~[determined by the director to be~~  
19 ~~eligible to offer an individual development account program]~~  
20 selected pursuant to the Family Opportunity Accounts Act to  
21 offer a family opportunity accounts program pursuant to a  
22 contract with the director;

23 [N-] O. "reserve account" means an account  
24 established pursuant to the ~~[Individual Development Account]~~  
25 Family Opportunity Accounts Act in an authorized financial

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1 institution in which matching funds are maintained and  
2 available for payment for a predetermined allowable use  
3 following completion of all program requirements by the account  
4 owner; and

5 [D.] P. "tribe" means an Indian nation, tribe or  
6 pueblo located in whole or in part within New Mexico."

7 Section 3. Section 58-30-3 NMSA 1978 (being Laws 2003,  
8 Chapter 362, Section 3) is amended to read:

9 "58-30-3. [~~INDIVIDUAL DEVELOPMENT ACCOUNTS.--An~~  
10 ~~individual development~~] FAMILY OPPORTUNITY ACCOUNTS.--

11 A. A family opportunity account may be established  
12 for an eligible individual as part of [~~an individual~~  
13 ~~development account~~] a family opportunity accounts program if  
14 the written instrument creating the account sets forth the  
15 following:

16 [A.] (1) the account owner is an eligible  
17 individual according to program requirements at the time the  
18 account is established;

19 [B.] (2) the [~~individual development~~] family  
20 opportunity account is established and maintained in an  
21 authorized financial institution;

22 [C.] (3) deposits to [~~an individual~~  
23 ~~development~~] a family opportunity account shall be made in  
24 accordance with the rules adopted pursuant to the [~~Individual~~  
25 ~~Development Account~~] Family Opportunity Accounts Act;

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1                   ~~[D.]~~ (4) withdrawals from ~~[an individual~~  
2 ~~development]~~ a family opportunity account ~~[may be only for~~  
3 ~~allowable uses, unless approved by the program administrator as~~  
4 ~~set forth in the rules adopted pursuant to the Individual~~  
5 ~~Development Account Act; and]~~ shall only be made in accordance  
6 with the Family Opportunity Accounts Act and rules adopted  
7 pursuant to that act;

8                   (5) the matching amount that will be deposited  
9 in the reserve account for each dollar deposited by the account  
10 owner in the family opportunity account; and

11                   ~~[E.]~~ (6) the financial institution in which  
12 ~~[an individual development]~~ a family opportunity account is  
13 held shall not be liable for withdrawals made for uses other  
14 than allowable uses.

15                   B. For purposes of 42 USCA 604(h), a family  
16 opportunity account shall be deemed to be an individual  
17 development account."

18                   Section 4. Section 58-30-4 NMSA 1978 (being Laws 2003,  
19 Chapter 362, Section 4) is amended to read:

20                   "58-30-4. ELIGIBLE INDIVIDUALS.--

21                   A. Except as set forth in Subsection B of this  
22 section, an eligible individual shall have earned income and  
23 shall be:

- 24                   (1) eighteen years of age or older;
- 25                   (2) a citizen or legal resident of the United

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1 States;

2 (3) a resident of New Mexico; and

3 (4) ~~[a member of a household with earned~~  
4 ~~income that is no more than two hundred percent of the federal~~  
5 ~~poverty guidelines for the size of the household]~~ indigent.

6 B. A child in foster care is an eligible individual  
7 if ~~[he]~~ the child:

8 (1) is sixteen years of age or older;

9 (2) ~~[has earned income that is no more than~~  
10 ~~two hundred percent of the federal poverty guidelines for a~~  
11 ~~family of one, when the child's income is evaluated separately~~  
12 ~~from the income of his foster household]~~ is indigent;

13 (3) is a citizen or legal resident of the  
14 United States; and

15 (4) is a resident of New Mexico."

16 Section 5. Section 58-30-5 NMSA 1978 (being Laws 2003,  
17 Chapter 362, Section 5, as amended) is amended to read:

18 "58-30-5. RESPONSIBILITIES OF THE OFFICE.--

19 A. ~~[By December 31 following the effective date of~~  
20 ~~the Individual Development Account Act]~~ The ~~[director]~~ office  
21 shall adopt rules implementing the provisions of ~~[that act]~~ the  
22 Family Opportunity Accounts Act.

23 B. The director shall make an annual report each  
24 November to the governor and to ~~[an appropriate interim~~  
25 ~~committee of the legislature]~~ the legislative finance

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1 committee.

2 C. The office shall use no more than ~~[ten]~~ five  
3 percent of the money appropriated to fund the ~~[Individual~~  
4 ~~Development Account Act]~~ Family Opportunity Accounts Act to  
5 administer that act."

6 Section 6. Section 58-30-6 NMSA 1978 (being Laws 2003,  
7 Chapter 362, Section 6, as amended) is amended to read:

8 "58-30-6. ~~[ADVISORY COMMITTEE]~~ FAMILY OPPORTUNITY  
9 ACCOUNTS COUNCIL.--

10 A. ~~[An advisory committee shall be created to]~~ The  
11 "family opportunity accounts council" is created. The council  
12 shall:

13 (1) provide oversight of the administration of  
14 ~~[individual development account programs]~~ the Family  
15 Opportunity Accounts Act; and [to]

16 (2) suggest possible changes that benefit  
17 account owners or improve the effectiveness of the ~~[individual~~  
18 ~~development account]~~ family opportunity accounts programs  
19 throughout the state.

20 B. The ~~[advisory committee]~~ family opportunity  
21 accounts council shall meet at least two times in a calendar  
22 year to ~~[review the implementation of the Individual~~  
23 ~~Development Account Act]~~ perform its duties.

24 C. The ~~[advisory committee]~~ family opportunity  
25 accounts council shall consist of the lieutenant governor or

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1 the lieutenant governor's designee and eight members appointed  
2 by the governor to represent the state geographically. The  
3 director or the director's designee shall serve as an ex-  
4 officio member of the [~~advisory committee~~] council.

5 D. [~~Members of the advisory committee who are~~  
6 ~~account owners~~] Appointed members of the family opportunity  
7 accounts council shall receive per diem and mileage pursuant to  
8 the Per Diem and Mileage Act and shall receive no other  
9 compensation, perquisite or allowance for their participation  
10 on the [~~advisory committee~~] council.

11 E. The office shall provide adequate staff support  
12 and administrative services for the [~~advisory committee~~] family  
13 opportunity accounts council."

14 Section 7. Section 58-30-7 NMSA 1978 (being Laws 2003,  
15 Chapter 362, Section 7, as amended) is amended to read:

16 "58-30-7. ADMINISTRATION OF [~~INDIVIDUAL DEVELOPMENT~~  
17 ~~ACCOUNT~~] FAMILY OPPORTUNITY ACCOUNTS PROGRAMS.--

18 A. [~~An individual development~~] A family opportunity  
19 account may be established for an eligible individual; provided  
20 that the money deposited in the account is expended for  
21 allowable uses for the account owner or the account owner's  
22 spouse or dependents unless otherwise approved by the program  
23 administrator.

24 B. [~~An individual development account~~] A family  
25 opportunity accounts program shall be approved and monitored by

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1 the director for compliance with applicable law, the  
2 [~~Individual Development Account~~] Family Opportunity Accounts  
3 Act and rules adopted pursuant to that act.

4 C. [~~An individual development account program~~] The  
5 program administrator shall establish a reserve account  
6 sufficient to meet the matching fund commitments made to all  
7 account owners participating in the [~~individual development~~  
8 ~~account~~] family opportunity accounts program and shall report  
9 at least quarterly to each account owner the amount of money  
10 available in the reserve account for use by the program  
11 administrator to match withdrawals for allowable uses.  
12 Notwithstanding any matching commitment otherwise required, the  
13 amount of state funds deposited in a reserve account during a  
14 calendar year to match deposits from any single account owner  
15 shall not exceed the higher of:

16 (1) two thousand dollars (\$2,000); or

17 (2) an amount determined by rule of the  
18 office.

19 D. [~~An individual development account program~~] The  
20 program administrator shall provide financial education and  
21 other necessary training pertinent to allowable uses by account  
22 owners, develop partnerships with financial institutions,  
23 develop matching funds and manage the operations of [~~an~~  
24 ~~individual development~~] a family opportunity account that is  
25 established within the program.

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1           ~~[E. The office shall adopt rules necessary to~~  
2 ~~implement the Individual Development Account Act.~~

3           F.] E. An eligible individual may open [~~an~~  
4 ~~individual development~~] a family opportunity account upon  
5 verification by the program administrator that the individual  
6 maintains no other [~~individual development~~] family opportunity  
7 account.

8           ~~[G.] F.~~ More than one eligible individual per  
9 household may hold [~~an individual development~~] a family  
10 opportunity account.

11           ~~[H.] G.~~ An account owner shall complete a financial  
12 education program prior to the withdrawal of money from the  
13 account owner's [~~individual development~~] family opportunity  
14 account unless written approval is obtained from the program  
15 administrator."

16           Section 8. Section 58-30-8 NMSA 1978 (being Laws 2003,  
17 Chapter 362, Section 8) is amended to read:

18           "58-30-8. ALLOWABLE USES--WITHDRAWALS FROM [~~INDIVIDUAL~~  
19 ~~DEVELOPMENT~~] FAMILY OPPORTUNITY ACCOUNTS--FORFEITURE OF  
20 MATCHING FUNDS FROM RESERVE ACCOUNT--LOSS OF ELIGIBLE  
21 INDIVIDUAL STATUS.--

22           A. Allowable uses of the money withdrawn from [~~an~~  
23 ~~individual development~~] a family opportunity account are  
24 limited to the following:

25                   (1) expenses to attend an approved post-

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1 secondary or vocational educational institution, including  
2 payment for tuition, books, supplies and equipment required for  
3 courses;

4 (2) costs to acquire or construct a principal  
5 residence as defined in rules adopted pursuant to the  
6 [~~Individual Development Account~~] Family Opportunity Accounts  
7 Act that is the first principal residence acquired or  
8 constructed by the account owner;

9 (3) costs of major home improvements or  
10 repairs on the home of the account owner;

11 (4) capitalization or costs to start or expand  
12 a business, including capital, plant, equipment, operational  
13 and inventory expenses, attorney and accountant fees and other  
14 costs normally associated with starting or expanding a  
15 business;

16 (5) acquisition of a vehicle necessary to  
17 obtain or maintain employment by an account owner or the spouse  
18 of an account owner; and

19 (6) in the case of a deceased account owner,  
20 amounts deposited by the account owner and held in [~~an~~  
21 ~~individual development~~] a family opportunity account shall be  
22 distributed directly to the account owner's spouse, or if the  
23 spouse is deceased or there is no spouse, to a dependent or  
24 other named beneficiary of the deceased or if the recipient is  
25 eligible to maintain the account, the account and matching

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1 funds designated for that account from a reserve [~~fund~~] account  
2 may be transferred and maintained in the name of the surviving  
3 spouse, dependent or beneficiary.

4 B. Except as provided in Subsection C of this  
5 section, if an account owner withdraws money from [~~his~~  
6 ~~individual development~~] a family opportunity account for a use  
7 other than an allowable use, [~~he~~] the account owner forfeits a  
8 proportionate amount of matching funds from the reserve  
9 account, as set forth in the agreement between the program  
10 administrator and the account owner [~~unless an amount equal to~~  
11 ~~the withdrawn money is redeposited to his individual~~  
12 ~~development account within the twelve months following the~~  
13 ~~withdrawal~~].

14 C. The program administrator may approve a  
15 withdrawal by an account owner from [~~his individual~~  
16 ~~development~~] a family opportunity account to be used for a  
17 purpose other than an allowable use only for serious  
18 emergencies as specified in the rules adopted by the [~~director~~]  
19 office. For such an approved withdrawal, the proportionate  
20 matching funds in the reserve account shall remain in the  
21 reserve account for twelve months following the withdrawal and,  
22 if an amount equal to the withdrawn money is redeposited in the  
23 family opportunity account within the twelve months, the  
24 matching funds shall again be available to match withdrawals  
25 for allowable uses.

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1 D. At the request of the account owner and with the  
2 written approval of the program administrator, amounts may be  
3 withdrawn from the account owner's [~~individual development~~]  
4 family opportunity account and deposited in another [~~individual~~  
5 ~~development~~] family opportunity account established for an  
6 eligible individual who is the account owner's spouse or  
7 dependent."

8 Section 9. Section 58-30-9 NMSA 1978 (being Laws 2003,  
9 Chapter 362, Section 9, as amended) is amended to read:

10 "58-30-9. APPROVAL OF [~~INDIVIDUAL DEVELOPMENT ACCOUNT~~]  
11 FAMILY OPPORTUNITY ACCOUNTS PROGRAMS.--

12 A. [~~Annually~~] The office shall [~~solicit~~] issue a  
13 request for proposals from nonprofit organizations or tribes  
14 interested in establishing [~~an individual development account~~  
15 ~~program~~] a family opportunity accounts program. A proposal  
16 submitted in response to the request shall:

17 (1) describe the geographic area to be served  
18 and the potential individuals who will be assisted by the  
19 program;

20 (2) state the amount, if any, of requested  
21 distributions of state money from the family opportunity fund;

22 (3) describe the source and the amount of  
23 private or federal funds, if any, that will be used to  
24 supplement the requested distributions from the family  
25 opportunity fund;

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1                   (4) state the amount, not to be less than one  
2 dollar (\$1.00), that will be deposited in the reserve account  
3 for each dollar deposited in a family opportunity account;

4                   (5) describe the expertise, experience and  
5 other qualifications of the proposer and its employees; and

6                   (6) contain such other information as required  
7 in the request for proposals and rules of the director.

8                   B. The director shall determine if an interested  
9 nonprofit organization or tribe is eligible to be a program  
10 administrator, determine the legal sufficiency of submitted  
11 proposals, evaluate the proposals and, after consulting with  
12 the family opportunity accounts council, select the program  
13 administrators.

14                   ~~[C. Eligible program administrators shall develop~~  
15 ~~individual development account programs that are subject to~~  
16 ~~review and approval by the director.]~~

17                   C. In selecting program administrators, the  
18 director shall:

19                   (1) ensure that geographically diverse  
20 populations throughout New Mexico will be served by family  
21 opportunity accounts programs; and

22                   (2) give priority to those proposals that:  
23                   (a) have a source of federal or private  
24 funds that will ensure the highest possible match to reserve  
25 accounts for each dollar deposited in a family opportunity

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1 account; or

2 (b) will benefit families in which one  
3 or more children are living with their biological or adoptive  
4 mother or father, or with their legal guardian.

5 D. The director shall enter into contracts with the  
6 selected program administrators.

7 ~~[D.] E.~~ The director shall approve ~~[an individual~~  
8 ~~development account]~~ a family opportunity accounts program  
9 submitted by a program administrator before the program  
10 establishes ~~[individual development]~~ family opportunity  
11 accounts or reserve accounts or provides services required by  
12 the ~~[Individual Development Account]~~ Family Opportunity  
13 Accounts Act to eligible individuals.

14 ~~[E. An individual development]~~

15 F. A family opportunity account and a reserve  
16 account may be established only in an authorized financial  
17 institution.

18 ~~[F.] G.~~ The director shall monitor all ~~[individual~~  
19 ~~development account]~~ family opportunity accounts programs to  
20 ensure that ~~[individual development]~~ family opportunity  
21 accounts and reserve accounts are being operated according to  
22 the contract provisions, federal law, the provisions of the  
23 ~~[Individual Development Account Act]~~ Family Opportunity  
24 Accounts Act and rules adopted pursuant to that act."

25 Section 10. Section 58-30-10 NMSA 1978 (being Laws 2003,  
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1 Chapter 362, Section 10, as amended) is amended to read:

2 "58-30-10. TERMINATION OF [~~INDIVIDUAL DEVELOPMENT~~  
3 ~~ACCOUNT~~] FAMILY OPPORTUNITY ACCOUNTS PROGRAMS.--

4 A. [~~An individual development account~~] A family  
5 opportunity accounts program shall be terminated if the:

6 (1) office determines that the program is not  
7 being operated pursuant to the provisions of the [~~Individual~~  
8 ~~Development Account Act~~] contract between the program  
9 administrator and the director, the Family Opportunity Accounts  
10 Act or rules adopted pursuant to that act;

11 (2) provider of the program no longer retains  
12 its status as a program administrator; or

13 (3) program administrator chooses to cease  
14 providing [~~an individual development account~~] a family  
15 opportunity accounts program.

16 B. [~~If~~] Upon termination of a family opportunity  
17 accounts program, the director shall administer the program  
18 until a qualified program administrator is selected to  
19 administer the program. If, after a reasonable period, the  
20 director is unable to identify and certify a program  
21 administrator to assume the authority to continue to operate a  
22 terminated [~~individual development account~~] family opportunity  
23 accounts program, money in a reserve account shall be deposited  
24 into the [~~individual development~~] family opportunity accounts  
25 of the account owners for whom the proportionate share of the

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1 reserve account was established as of the first day of  
2 termination of the program."

3 Section 11. Section 58-30-11 NMSA 1978 (being Laws 2003,  
4 Chapter 362, Section 11, as amended) is amended to read:

5 "58-30-11. REPORTING.--A program administrator operating  
6 [~~an individual development account~~] a family opportunity  
7 accounts program pursuant to the [~~Individual Development~~  
8 ~~Account~~] Family Opportunity Accounts Act shall report at least  
9 annually to the director, as set forth in the rules of the  
10 office. Individual account owners shall not be identified in  
11 the report. The report shall include:

12 A. the number of eligible individuals making  
13 contributions to [~~individual development~~] family opportunity  
14 accounts;

15 B. the total money contributed to each [~~individual~~  
16 ~~development~~] family opportunity account and deposited into each  
17 reserve account;

18 C. the total money in the aggregate deposited in  
19 [~~individual development~~] family opportunity accounts and  
20 reserve accounts administered by the [~~individual development~~  
21 ~~account~~] family opportunity accounts program;

22 D. the amounts withdrawn from [~~individual~~  
23 ~~development~~] family opportunity accounts for either allowable  
24 uses or for uses other than allowable uses and the amounts  
25 withdrawn from reserve accounts;

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1 E. the balances remaining in [~~individual~~  
2 ~~development account~~] family opportunity accounts and reserve  
3 accounts; and

4 F. other information requested by the director to  
5 monitor the costs and outcomes of the [~~individual development~~  
6 ~~account~~] family opportunity accounts program."

7 Section 12. Section 58-30-12 NMSA 1978 (being Laws 2003,  
8 Chapter 362, Section 12) is amended to read:

9 "58-30-12. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF  
10 CERTAIN MEANS-TESTED PROGRAMS.--

11 A. Money deposited into [~~an individual development~~]  
12 a family opportunity account, interest earned on that account  
13 and interest and matching funds deposited in a reserve account  
14 for the benefit of the account owners shall be disregarded for  
15 the purposes of determining eligibility for benefits and for  
16 determining benefit amounts pursuant to the New Mexico Works  
17 Act.

18 B. When determining eligibility for benefits and  
19 determining benefit amounts due under the food stamp program  
20 and medicaid, the human services department shall, pursuant to  
21 the authority granted by 7 USCA 2014 (d) and (g), disregard  
22 money deposited into [~~an individual development~~] a family  
23 opportunity account, interest earned on that account and  
24 interest and matching funds deposited in a reserve account for  
25 the benefit of the account owners.

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1           C. Money withdrawn from [~~an individual development~~]  
2 a family opportunity account for a purpose other than an  
3 allowable use shall be counted as a resource for purposes of  
4 the New Mexico Works Act or medicaid unless the withdrawal is  
5 approved by the program administrator and an amount equal to  
6 the amount withdrawn is replaced within the twelve-month  
7 allowable time period pursuant to Subsection C of Section  
8 58-30-8 NMSA 1978."

9           Section 13. A new section of the Family Opportunity  
10 Accounts Act is enacted to read:

11           "[NEW MATERIAL] FUND CREATED.--The "family opportunity  
12 fund" is created in the state treasury. The fund shall consist  
13 of appropriations, gifts, grants, donations and bequests made  
14 to the fund. Income from the fund shall be credited to the  
15 fund, and money in the fund shall not be transferred to any  
16 other fund at the end of a fiscal year. Money in the fund is  
17 appropriated to the office of workforce training and  
18 development for the purposes of carrying out the provisions of  
19 the Family Opportunity Accounts Act. Expenditures shall be  
20 made on warrant of the secretary of finance and administration  
21 on vouchers signed by the director of the office of workforce  
22 training and development."

23           Section 14. Section 27-2B-7 NMSA 1978 (being Laws 1998,  
24 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as  
25 amended) is amended to read:

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1 "27-2B-7. FINANCIAL STANDARD OF NEED.--

2 A. The secretary shall adopt a financial standard  
3 of need based upon the availability of federal and state funds  
4 and based upon appropriations by the legislature of the  
5 available federal temporary assistance for needy families grant  
6 made pursuant to the federal act in the following 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  
12 each 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 following income sources are exempt from the  
16 gross income test, the net income test and the cash payment  
17 calculation:

- 18 (1) medicaid;
- 19 (2) food stamps;
- 20 (3) government-subsidized foster care payments  
21 if the child for whom the payment is received is also excluded  
22 from the benefit group;
- 23 (4) supplemental security income;
- 24 (5) government-subsidized housing or housing  
25 payments;

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- 1 (6) federally excluded income;
- 2 (7) educational payments made directly to an
- 3 educational institution;
- 4 (8) government-subsidized child care;
- 5 (9) earned income that belongs to a person
- 6 seventeen years of age or younger who is not the head of
- 7 household;
- 8 (10) fifty dollars (\$50.00) of collected child
- 9 support passed through to the participant by the department's
- 10 child support enforcement program; ~~and~~
- 11 (11) earned income deposited in ~~[an individual~~
- 12 ~~development]~~ a family opportunity account by a member of the
- 13 benefit group or money received as matching funds for allowable
- 14 uses by the owner of the ~~[individual development]~~ family
- 15 opportunity account pursuant to the ~~[Individual Development~~
- 16 ~~Account]~~ Family Opportunity Accounts Act; and
- 17 (12) other income sources as determined by the
- 18 department.

19 C. The total countable gross earned and unearned

20 income of the benefit group cannot exceed eighty-five percent

21 of the federal poverty guidelines for the size of the benefit

22 group.

23 D. For a benefit group to be eligible to

24 participate:

- 25 (1) gross countable income that belongs to the

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1 benefit group must not exceed eighty-five percent of the  
2 federal poverty guidelines for the size of the benefit group;  
3 and

4 (2) net countable income that belongs to the  
5 benefit group must not equal or exceed the financial standard  
6 of need after applying the disregards set out in Paragraphs (1)  
7 through (4) of Subsection E of this section.

8 E. Subject to the availability of state and federal  
9 funds, the department shall determine the cash payment of the  
10 benefit group by applying the following disregards to the  
11 benefit group's earned [~~gross~~] income and then subtracting that  
12 amount from the benefit group's financial standard of need:

13 (1) for the first two years of receiving cash  
14 assistance or services, if a participant works over the work  
15 requirement rate set by the department pursuant to the New  
16 Mexico Works Act, one hundred percent of the income earned by  
17 the participant beyond that rate;

18 (2) for the first two years of receiving cash  
19 assistance or services, for a two-parent benefit group in which  
20 one parent works over thirty-five hours per week and the other  
21 works over twenty-four hours per week, one hundred percent of  
22 income earned by each participant beyond the work requirement  
23 rate set by the department;

24 (3) one hundred twenty-five dollars (\$125) of  
25 monthly earned income and one-half of the remainder, or for a

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1 two-parent family, two hundred twenty-five dollars (\$225) of  
2 monthly earned income and one-half of the remainder for each  
3 parent;

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

8 (5) costs of self-employment income; and

9 (6) business expenses.

10 F. The department may recover overpayments of cash  
11 assistance on a monthly basis not to exceed fifteen percent of  
12 the financial standard of need applicable to the benefit  
13 group."

14 Section 15. Section 27-2B-8 NMSA 1978 (being Laws 1998,  
15 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as  
16 amended by Laws 2003, Chapter 311, Section 4 and Laws 2003,  
17 Chapter 432, Section 4) is amended to read:

18 "27-2B-8. RESOURCES.--

19 A. Liquid and nonliquid resources owned by the  
20 benefit group shall be counted in the eligibility  
21 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~~] family  
8 opportunity accounts; and

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

11 C. Vehicles owned by the benefit group shall not be  
12 considered in the determination of resources attributed to the  
13 benefit group."

14 Section 16. Section 27-2B-10 NMSA 1978 (being Laws 1998,  
15 Chapter 8, Section 10 and Laws 1998, Chapter 9, Section 10, as  
16 amended) is amended to read:

17 "27-2B-10. [~~INDIVIDUAL DEVELOPMENT~~] FAMILY OPPORTUNITY  
18 ACCOUNTS--A participant may establish [~~an individual~~  
19 ~~development~~] a family opportunity account pursuant to the  
20 [~~Individual Development Account~~] Family Opportunity Accounts  
21 Act."

22 Section 17. Section 27-2D-6 NMSA 1978 (being Laws 2003,  
23 Chapter 317, Section 6) is amended to read:

24 "27-2D-6. RESOURCES.--

25 A. Liquid and nonliquid resources owned by the

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1 benefit group shall be counted in the eligibility  
2 determination.

3 B. A benefit group may at a maximum own the  
4 following resources:

5 (1) two thousand dollars (\$2,000) in nonliquid  
6 resources;

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

9 (3) the value of the principal residence of  
10 the recipient;

11 (4) the value of burial plots and funeral  
12 contracts for family members;

13 (5) [~~individual development~~] family  
14 opportunity accounts; and

15 (6) the value of work-related equipment up to  
16 one thousand dollars (\$1,000).

17 C. Vehicles owned by the benefit group shall not be  
18 considered in the determination of resources attributed to the  
19 benefit group."

20 Section 18. APPROPRIATION.--Two million dollars  
21 (\$2,000,000) is appropriated from the general fund to the  
22 family opportunity fund for expenditure in fiscal year 2007 and  
23 subsequent fiscal years for the purposes of carrying out the  
24 provisions of the Family Opportunity Accounts Act. Any  
25 unexpended or unencumbered balance remaining at the end of a

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1 fiscal year shall not revert.

2 Section 19. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2006.

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