

AN ACT

RELATING TO LABOR; CREATING THE OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT; PROVIDING FOR THE OVERSIGHT AND COORDINATION OF WORKFORCE PROGRAMS; TRANSFERRING THE ADMINISTRATION OF THE WORKFORCE DEVELOPMENT ACT FROM THE LABOR DEPARTMENT AND THE ADMINISTRATION OF THE INDIVIDUAL DEVELOPMENT ACCOUNT ACT FROM THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO THE OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 9-18-4 NMSA 1978 (being Laws 1987, Chapter 342, Section 4) is amended to read:

"9-18-4. LABOR DEPARTMENT ESTABLISHED.--There is created in the executive branch the "labor department". The department shall be a cabinet department and shall consist of, but not be limited to, three program divisions and two administrative divisions, as follows:

- A. employment security division;
- B. labor and industrial division;
- C. human rights division;
- D. information technology services division; and
- E. administrative services division."

Section 2. Section 9-18-14 NMSA 1978 (being Laws 1987, Chapter 342, Section 14) is amended to read:

"9-18-14. ORGANIZATIONAL UNITS OF THE DEPARTMENT--
POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

A. Those organizational units of the department and the officers of those units specified by law shall have all the powers and duties enumerated in the specific laws assigned to their organizational units for administration. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary and the secretary shall retain the final decision-making authority and responsibility in accordance with the provisions of Subsection B of Section 9-18-7 NMSA 1978. The department shall have access to all records, data and information of other departments, agencies and institutions, including its own organizational units not specifically held confidential by law.

B. Subject to the provisions of Subsection B of Section 9-18-7 NMSA 1978:

(1) the employment security division shall have all those powers and duties conferred by law upon the former employment security department and such other laws, programs and functions assigned to the division by the secretary with the consent of the governor;

(2) the labor and industrial division shall have all those powers and duties conferred by law upon the former labor commissioner and such other laws, programs and

functions assigned to the division by the secretary with the consent of the governor;

(3) the human rights division shall have all those powers and duties conferred by law upon the former executive director of the human rights commission and staff and such other laws, programs and functions assigned to the division by the secretary with the consent of the governor;

(4) the information technology services division shall have all those powers and duties conferred upon it by the secretary with the consent of the governor; and

(5) the administrative services division shall have all those powers and duties conferred upon it by the secretary. The secretary shall have the power, pursuant to Subsection B of Section 9-18-7 NMSA 1978, to transfer administrative functions and duties formerly conferred upon the chief administrative officer of any agency or department merged into the labor department by the Labor Department Act."

Section 3. Section 50-14-1 NMSA 1978 (being Laws 1999, Chapter 260, Section 1) is amended to read:

"50-14-1. SHORT TITLE.--Chapter 50, Article 14 NMSA 1978 may be cited as the "Workforce Development Act"."

Section 4. Section 50-14-2 NMSA 1978 (being Laws 1999, Chapter 260, Section 2) is amended to read:

"50-14-2. DEFINITIONS.--As used in the Workforce Development Act:

A. "board" means the state workforce development board;

B. "chief elected official" means the chief elected executive officer of a unit of general local government in a local area and in a case in which a local area includes more than one unit of general local government, "chief elected official" means the person designated under the agreement described in Section 117 (c)(1)(B) of the federal Workforce Investment Act of 1998;

C. "employment training program" means a program or a part of a program, regardless of which state or local agency administers it, that has as its primary purpose assisting persons in obtaining or enhancing employment;

D. "local board" means a local workforce development board; and

E. "office" means the office of workforce training and development."

Section 5. Section 50-14-3 NMSA 1978 (being Laws 1999, Chapter 260, Section 3, as amended) is amended to read:

"50-14-3. STATE WORKFORCE DEVELOPMENT BOARD.--

A. The "state workforce development board" is created. The board consists of members appointed as provided in the federal Workforce Investment Act of 1998.

B. Appointments of members shall have taken into consideration gender, ethnicity and geographic diversity.

C. A vacancy on the board shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

D. All terms of the public members shall be for four years.

E. The governor shall appoint one of the business representatives as chairman of the board.

F. The board shall meet at the call of the chair.

G. A majority of the board members constitutes a quorum.

H. Members are eligible to be paid pursuant to the Per Diem and Mileage Act.

I. A member of the board may not vote on a matter under consideration by the board relating to provision of services by the member or by the entity the member represents, or that would provide direct financial benefit to the member or the member's immediate family, or engage in any other activity determined by the governor to be a conflict of interest as provided in the state plan prepared pursuant to the federal Workforce Investment Act of 1998."

Section 6. Section 50-14-4 NMSA 1978 (being Laws 1999, Chapter 260, Section 4) is amended to read:

"50-14-4. DUTIES OF THE BOARD.--

A. The board shall assist the governor in:

(1) developing a five-year state plan that

shall be updated annually and revised in accordance with the requirements of the federal Workforce Investment Act of 1998;

(2) developing and improving the statewide activities funded pursuant to the workforce investment system and the one-stop delivery system, including development of linkages to ensure coordination and nonduplication among the programs and activities described in the federal Workforce Investment Act of 1998;

(3) reviewing local plans;

(4) commenting annually on the measures taken pursuant to Section 113(b)(14) of the federal Carl D. Perkins Vocational and Applied Technology Education Act;

(5) developing allocation formulas for adult and youth employment training program funds to local areas in accordance with the federal Workforce Investment Act of 1998;

(6) developing comprehensive state performance measures to assess the effectiveness of workforce investment activities pursuant to the federal Workforce Investment Act of 1998;

(7) designating local workforce development areas;

(8) developing the statewide employment statistics system; and

(9) preparing reports and applications required for submission to the federal government.

B. The board shall also:

(1) review, evaluate and report annually on the performance of all workforce development activities administered by state agencies involved with workforce development;

(2) develop linkages with the public education department and the commission on higher education to ensure coordination and nonduplication of vocational education, apprenticeship, adult education, employment training programs and vocational rehabilitation programs with other workforce development and training programs; and

(3) provide policy advice regarding the application of federal or state law that pertains to workforce development.

C. To assist the board in fulfilling its duties, it is authorized to establish committees, one of which shall be a "coordination oversight committee". Except as provided for the coordination oversight committee in Subsections D and E of this section, the board shall appoint committee members and assign duties to committees as the board deems appropriate. The chair of the board shall appoint committee chairs from among members of the board.

D. The coordination oversight committee shall consist of the secretaries of economic development, human services, labor and public education; a representative from

community colleges; a representative from the commission on higher education; a representative of labor; two legislators from different political parties, one from the senate and one from the house of representatives; the director of the office; and the committee chair.

E. The duties of the coordination oversight committee include the following:

(1) the secretaries of economic development, labor and human services shall propose five-, ten- and fifteen-year regional and statewide strategic plans for employment growth and training in New Mexico for the committee's consideration and possible recommendation for approval to the board as part of the state plan;

(2) the secretary of public education and the representative from the commission on higher education shall propose appropriate education plans for secondary education that address the strategic plans proposed by the secretaries of economic development, human services and labor for the committee's consideration and possible recommendation for approval to the board as part of the state plan;

(3) the committee's proposals to the board shall facilitate a career pathways culture and, at a minimum, include reference to foundation skills as developed by the United States secretary of labor's commission on achieving necessary skills, a job analysis that the economic development

department shall produce after consultation with incumbent workers and employers, an available skills assessment and training targets;

(4) the board member from the community colleges shall solicit input from the community college constituency and work with regional and statewide businesses and other partners and the economic development department to create career pathways and align curriculum and facilitate plans with the economic development department, human services department and labor department strategic plans;

(5) the committee shall, after consultation with the state chief information officer, develop and propose strategies for coordination of information technology for the purposes of providing participants access to all appropriate state services; collecting and managing data to allow reporting and analysis of uniform performance data related to all appropriate employment training programs; and sharing and integrating appropriate workforce data across agencies and appropriate nongovernmental partners for identifying needs, setting policy and coordinating strategies;

(6) the committee shall recommend for the board's approval the coordination of program designs to avoid duplication or unproductive segmentation of services; and

(7) the committee shall recommend for the board's approval the coordination of state agency efforts to

progress toward comprehensive, customer-driven one-stop centers through co-location of mandatory and recommended partner service delivery points for workforce development.

F. All state agencies involved in workforce development activities shall annually submit to the board for its review and potential inclusion in the five-year plan their goals, objectives and policies. The plan shall include recommendations to the legislature on the modification, consolidation, initiation or elimination of workforce training and education programs in the state."

Section 7. Section 50-14-5 NMSA 1978 (being Laws 1999, Chapter 260, Section 5) is amended to read:

"50-14-5. LOCAL WORKFORCE DEVELOPMENT AREAS--LOCAL BOARDS--DUTIES AND RESPONSIBILITIES.--

A. The governor shall designate specified local workforce development areas based on population and geographic configuration and consistent with provisions of the federal Workforce Investment Act of 1998 upon recommendation of the board and consideration of needs expressed by chief elected officials, business, labor and other interested parties.

B. The chief elected officials of each workforce development area shall establish a local board and appoint members based on the criteria established by the governor, the board and the federal Workforce Investment Act of 1998.

C. Each local board shall:

(1) advise the board on issues relating to regional and local workforce development needs;

(2) develop and submit to the board and the office a local five-year workforce plan that shall be updated and revised annually in accordance with requirements of the federal Workforce Investment Act of 1998;

(3) designate or certify one-stop program operators in accordance with the federal Workforce Investment Act of 1998;

(4) terminate, for cause, the eligibility of one-stop operators;

(5) select and provide grants to youth activity providers in accordance with the federal Workforce Investment Act of 1998;

(6) identify eligible training and intensive service providers in accordance with the federal Workforce Investment Act of 1998;

(7) develop a budget subject to the approval of the chief elected official;

(8) develop and negotiate local performance measurements as described in the federal Workforce Investment Act of 1998 with the chief elected official and the office;

(9) assist in development of an employment statistics system;

(10) ensure linkages with economic

development activities;

(11) encourage employer participation and assist employers in meeting hiring needs;

(12) in partnership with the chief elected official, conduct oversight of local programs of youth activities authorized pursuant to the federal Workforce Investment Act of 1998 and employment and training activities pursuant to that act, and the one-stop delivery system in the local area;

(13) if required by the federal Workforce Investment Act of 1998, or if not required, at the local board's discretion, establish as a subgroup a youth council, appointed by the local board in cooperation with the chief elected official;

(14) prior to submission of the local plan, provide information regarding the following:

(a) the local plan;

(b) membership;

(c) designation and certification of one-stop operators; and

(d) the award of grants or contracts to eligible providers of youth activities;

(15) approve employment training programs directly linked to occupations in demand in the local area in order to provide for self-sufficiency;

(16) approve employment training programs linked to sectors of the economy or industry clusters that have a high potential for sustained demand or growth;

(17) annually review the performance of employment training programs for the purposes of renewing or canceling their certifications;

(18) report to the office and the board quarterly on the progress and overall effectiveness of one-stop operator performance as set forth in rules promulgated by the office; and

(19) report to the office and the board quarterly on the progress and effectiveness of the provision of services to employers, including a needs assessment for local business communities.

D. The local board shall be appointed in accordance with criteria established by the office with a minimum of fifty-one percent of its members coming from the private sector and shall include representation of education, labor, government, economic development and community-based organizations and others as appropriate and shall be appointed or ratified by the local chief public official.

E. Nothing in the Workforce Development Act shall be construed to provide a local board with the authority to mandate curricula for schools.

F. A member of the local board may not vote on a

matter under consideration by the local board relating to provision of services by the member or by the entity the member represents, or that would provide direct financial benefit to the member or the member's immediate family, or engage in an activity determined by the governor to be a conflict of interest as provided in the state plan prepared pursuant to the federal Workforce Investment Act of 1998."

Section 8. Section 50-14-6 NMSA 1978 (being Laws 1999, Chapter 260, Section 6) is amended to read:

"50-14-6. YOUTH COUNCILS--MEMBERSHIP--DUTIES.--

A. The provisions of this section apply to the extent required by the federal Workforce Investment Act of 1998.

B. The membership of each youth council shall include:

(1) members of the local board with interest or expertise in youth policy; representatives of youth service agencies, including juvenile justice and law enforcement agencies; and representatives of local public housing;

(2) parents of eligible youth seeking assistance;

(3) persons, including former participants as defined pursuant to the New Mexico Works Act, and representatives of organizations, that have experience relating to youth activities;

(4) representatives of job corps, as appropriate; and

(5) other persons that the chairman of the local board, in cooperation with the chief elected official, determines to be appropriate.

C. Members of the youth council who are not members of the local board shall be voting members of the youth council and nonvoting members of the local board.

D. The duties of the youth council shall include:

(1) developing the portions of the local plan relating to eligible youth, as determined by the chairman of the local board;

(2) recommending eligible youth providers to the local board;

(3) conducting oversight of eligible providers of youth activities and coordinating youth activities authorized pursuant to the federal Workforce Investment Act of 1998 subject to the approval of the local board; and

(4) performing other duties as determined to be appropriate by the chairman of the local board.

E. A member of a local board or youth council may not vote on a matter under consideration by the local board regarding the provision of services by the member or by an entity that the member represents or that would provide direct

financial benefit to the member or the immediate family of the member engaged in any activity determined by the governor to constitute a conflict of interest as specified in the state plan prepared pursuant to the federal Workforce Investment Act of 1998."

Section 9. A new section of the Workforce Development Act is enacted to read:

"PURPOSE.--The purpose of the Workforce Development Act is to coordinate and maximize the effectiveness of workforce programs in New Mexico regardless of funding sources or primary administrative responsibilities."

Section 10. A new section of the Workforce Development Act is enacted to read:

"OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT--CREATION--DIRECTOR.--

A. The "office of workforce training and development" is created as an agency administratively attached to the office of the governor.

B. The office shall be the recipient of all grants from the United States pursuant to the federal Workforce Investment Act of 1998 and shall disburse those grants consistent with that act and the Workforce Development Act.

C. The office shall administer the provisions of the Workforce Development Act and is the governor's designee for the state with authority to administer New Mexico's

program pursuant to the federal Workforce Investment Act of 1998. In performance of that duty and the duties set forth in Section 11 of this 2005 act, the office has the general power to:

(1) sue and, subject to the provisions of the Tort Claims Act, be sued;

(2) enter into contracts, joint powers agreements and other contracts for workforce development services and administer related programs with other state agencies; local governments; state institutions of higher learning; Indian nations, tribes or pueblos; regional provider networks; and corporations authorized to do business in the state;

(3) take administrative action by issuing orders and instructions, not inconsistent with law, to ensure implementation of and compliance with the provisions of law for which the office is responsible and to enforce those orders and instructions by appropriate administrative actions or actions in courts;

(4) promulgate, following the procedure in Subsection E of Section 9-1-5 NMSA 1978, reasonable rules necessary to carry out the duties of the office; and

(5) take all other actions necessary to meet the purposes of the Workforce Development Act.

D. The governor shall appoint, with the advice and
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consent of the senate, a director of the office who shall be the administrative head of the office and exempt from the provisions of the Personnel Act.

E. The director of the office may, within the limits of available appropriations and pursuant to the provisions of the Personnel Act, employ such technical and administrative staff as are necessary to carry out the duties of the office."

Section 11. A new section of the Workforce Development Act is enacted to read:

"OFFICE--DUTIES--LIMITATIONS.--

A. The office shall:

(1) provide technical, administrative and fiscal agent support to the board;

(2) develop a unified, comprehensive plan for streamlining and integrating employment training programs, including the consolidation of all employment training programs, into the office. The office shall report annually to the governor and the legislature generally the progress and effectiveness of the workforce development system no later than September 1;

(3) develop a performance-based system of accountability for employment training programs, including the board, local boards, one-stop centers and training providers, which system shall include key performance benchmarks to be

used to monitor and assess performance;

(4) monitor compliance with performance-based and coordination standards, including such standards as the office establishes by rule, with approval of the board, or the board has adopted in the state plan, for the state's employment training programs regardless of funding source or the administrative agency that receives the funds. In performing this duty, the office:

(a) may issue subpoenas to appear and answer questions or produce documents;

(b) may investigate substantial allegations of improper financial or program activities;

(c) shall submit compliance reports to the governor; and

(d) shall, with approval of the governor, issue such corrective action orders as are necessary to enforce compliance, including orders that suspend funding for employment training programs or that transfer the programs to another agency;

(5) promote the active participation and partnership with community colleges wherever possible throughout the state, which shall include the use of community colleges in creating career pathways and the use of available partnership incentives with local boards to use community college facilities for one-stop locations, co-location

opportunities and specifically designed training programs; and

(6) provide oversight and technical support for local boards to assist them in achieving independence and meeting performance standards while implementing statewide goals and directions.

B. The office shall not compete for a contract to provide one-stop services, act as a one-stop operator, accept revenues for one-stop contractor services for a local area of the state or receive funding from residual set-aside funds other than for usual and customary office activities; provided, however, that the office may, in its discretion and consistent with the state plan, promote and fund the establishment of all required and allowable statewide investment activities consistent with Section 134 of the federal Workforce Investment Act of 1998 and in cooperation with local boards.

C. Nothing in the Workforce Development Act shall be construed to provide the office with authority to administer the unemployment compensation program, programs under 29 U.S.C. Sections 49 through 49c or a program currently administered by the labor department."

Section 12. A new section of the Workforce Development Act is enacted to read:

"SKILLS COUNCIL.--The chair of the board and the chairs of each of the local boards shall appoint one member from each

of their respective bodies to form an ad hoc skills council that shall identify state and regional industry clusters for the coordination oversight committee of the board for the purposes of developing coordinated, targeted workforce training programs."

Section 13. A new section of the Workforce Development Act is enacted to read:

"COOPERATION WITH FEDERAL GOVERNMENT--AGENCY DESIGNATION.--

A. The office may cooperate with the federal government in the administration of employment training and public assistance programs in which financial or other participation by the federal government is authorized or mandated under federal laws, rules or orders.

B. The office, on behalf of the governor, may enter into agreements with agencies of the federal government to implement employment training and public assistance programs subject to availability of appropriated state funds and any provisions of state laws applicable to the agreements or participation by the state.

C. The governor may designate the office or any agency as the single state agency for the administration of an employment training program, either by the governor's own discretion or when the designation is a condition of federal financial or other participation in the program under

applicable federal law, rule or order; provided, however, that no designation of a single state agency under the authority granted in this section shall be made in contravention of state law."

Section 14. A new section of the Workforce Development Act is enacted to read:

"AGENCY COOPERATION.--Notwithstanding any other provision of law, all agencies, institutions and political subdivisions of the state that administer employment training or public assistance programs shall, consistent with state and federal statutes, cooperate with the office in the exercise of its coordination and inspection authority."

Section 15. Section 58-30-2 NMSA 1978 (being Laws 2003, Chapter 362, Section 2) is amended to read:

"58-30-2. DEFINITIONS.--As used in the Individual Development Account Act:

A. "account owner" means the person in whose name an individual development account is originally established;

B. "allowable use" means a use that complies with the provisions of the Individual Development Account Act, or rules adopted pursuant to that act;

C. "authorized financial institution" means a financial institution authorized by the office of workforce training and development to hold and manage individual development accounts and reserve accounts;

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

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

F. "eligible individual" means a person who meets the criteria for opening an individual development account;

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

H. "individual development account" means an account established and maintained in an authorized financial institution by an eligible individual participating in an individual development account program pursuant to the provisions of the Individual Development Account Act;

I. "individual development account program" means a program approved by the office to establish and administer individual development accounts and reserve accounts for eligible individuals and to provide financial training required by the office for account owners;

J. "matching funds" means money deposited in a

reserve account to match the withdrawals for allowable uses from an individual development account according to a proportionate formula that complies with rules adopted by the director;

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

L. "office" means the office of workforce training and development;

M. "program administrator" means a nonprofit organization or tribe that is determined by the director to be eligible to offer an individual development account program;

N. "reserve account" means an account established pursuant to the Individual Development Account Act in an authorized financial institution in which matching funds are maintained and available for payment for a predetermined allowable use following completion of all program requirements by the account owner; and

O. "tribe" means an Indian nation, tribe or pueblo located in whole or in part within New Mexico."

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

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

A. By December 31 following the effective date of

the Individual Development Account Act, the director shall adopt rules implementing the provisions of that act.

B. The director shall make an annual report each November to the governor and to an appropriate interim committee of the legislature.

C. The office shall use no more than ten percent of the money appropriated to fund the Individual Development Account Act to administer that act."

Section 17. Section 58-30-6 NMSA 1978 (being Laws 2003, Chapter 362, Section 6) is amended to read:

"58-30-6. ADVISORY COMMITTEE.--

A. An advisory committee shall be created to provide oversight of the administration of individual development account programs and to suggest possible changes that benefit account owners or improve the effectiveness of the individual development account programs throughout the state.

B. The advisory committee shall meet at least two times in a calendar year to review the implementation of the Individual Development Account Act.

C. The advisory committee shall consist of the lieutenant governor and eight members appointed by the governor to represent the state geographically. The director or the director's designee shall serve as an ex-officio member of the advisory committee.

D. Members of the advisory committee who are account owners shall receive per diem and mileage pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance for their participation on the advisory committee.

E. The office shall provide adequate staff support and administrative services for the advisory committee."

Section 18. Section 58-30-7 NMSA 1978 (being Laws 2003, Chapter 362, Section 7) is amended to read:

"58-30-7. ADMINISTRATION OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. An individual development account may be established for an eligible individual; provided that the money deposited in the account is expended for allowable uses for the account owner or the account owner's spouse or dependents, unless otherwise approved by the program administrator.

B. An individual development account program shall be approved and monitored by the director for compliance with applicable law, the Individual Development Account Act and rules adopted pursuant to that act.

C. An individual development account program shall establish a reserve account sufficient to meet the matching fund commitments made to all account owners participating in the individual development account program and shall report at

least quarterly to each account owner the amount of money available in the reserve account for use by the program administrator to match withdrawals for allowable uses.

D. An individual development account program shall provide financial education and other necessary training pertinent to allowable uses by account owners, develop partnerships with financial institutions, develop matching funds and manage the operations of an individual development account that is established within the program.

E. The office shall adopt rules necessary to implement the Individual Development Account Act.

F. An eligible individual may open an individual development account upon verification by the program administrator that the individual maintains no other individual development account.

G. More than one eligible individual per household may hold an individual development account.

H. An account owner shall complete a financial education program prior to the withdrawal of money from the account owner's individual development account."

Section 19. Section 58-30-9 NMSA 1978 (being Laws 2003, Chapter 362, Section 9) is amended to read:

"58-30-9. APPROVAL OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. Annually, the office shall solicit a request

for proposals from nonprofit organizations or tribes interested in establishing an individual development account program.

B. The director shall determine if an interested nonprofit organization or tribe is eligible to be a program administrator.

C. Eligible program administrators shall develop individual development account programs that are subject to review and approval by the director.

D. The director shall approve an individual development account program submitted by a program administrator before the program establishes individual development accounts or reserve accounts or provides services required by the Individual Development Account Act to eligible individuals.

E. An individual development account and a reserve account may be established only in an authorized financial institution.

F. The director shall monitor all individual development account programs to ensure that individual development accounts and reserve accounts are being operated according to federal law, the provisions of the Individual Development Account Act and rules adopted pursuant to that act."

2003, Chapter 362, Section 10) is amended to read:

"58-30-10. TERMINATION OF INDIVIDUAL DEVELOPMENT
ACCOUNT PROGRAMS.--

A. An individual development account program shall
be terminated if the:

(1) office determines that the program is
not being operated pursuant to the provisions of the
Individual Development Account Act or rules adopted pursuant
to that act;

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

(3) program administrator chooses to cease
providing an individual development account program.

B. If the director is unable to identify and
certify a program administrator to assume the authority to
continue to operate a terminated individual development
account program, money in a reserve account shall be deposited
into the individual development accounts of the account owners
for whom the proportionate share of the reserve account was
established as of the first day of termination of the
program."

Section 21. Section 58-30-11 NMSA 1978 (being Laws
2003, Chapter 362, Section 11) is amended to read:

"58-30-11. REPORTING.--A program administrator
operating an individual development account program pursuant

to the Individual Development Account Act shall report at least annually to the director, as set forth in the rules of the office. Individual account owners shall not be identified in the report. The report shall include:

- A. the number of eligible individuals making contributions to individual development accounts;
- B. the total money contributed to each individual development account and deposited into each reserve account;
- C. the total money in the aggregate deposited in individual development accounts and reserve accounts administered by the individual development account program;
- D. the amounts withdrawn from individual development accounts for either allowable uses or for uses other than allowable uses and the amounts withdrawn from reserve accounts;
- E. the balances remaining in individual development accounts and reserve accounts; and
- F. other information requested by the director to monitor the costs and outcomes of the individual development account program."

Section 22. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, APPROPRIATIONS, EQUIPMENT, SUPPLIES, RECORDS, MONEY AND CONTRACTS.--On the effective date of this act:

- A. all staff positions and all money, appropriations, records, furniture, equipment, supplies and

other property belonging to the labor department or the job training division on the effective date of this act and funded or purchased by federal Workforce Investment Act of 1998 grants are transferred to the office of workforce training and development. The labor department shall produce an accounting of all staff positions funded and property purchased in any part by such grants. For those staff positions and items of property that the grants partially funded or purchased, the labor department shall transfer sufficient full-time-equivalent positions, money or property of sufficient value to the office of workforce training and development to achieve a complete transition to the office of workforce training and development;

B. all existing contracts, agreements and other obligations in effect for the labor department or the job training division and funded by federal Workforce Investment Act of 1998 grants shall be binding on the office of workforce training and development;

C. all pending cases, legal actions, appeals and other legal proceedings and all pending administrative proceedings that involve the labor department or the job training division and arise out of administration or enforcement of the federal Workforce Investment Act of 1998 or the Workforce Development Act shall be unaffected and shall continue in the name of the office of workforce training and

development;

D. all rules, orders and other official acts of the labor department or the job training division arising out of the administration and enforcement of the federal Job Training Partnership Act, the federal Workforce Investment Act of 1998 and the Workforce Development Act shall continue in effect until amended, replaced or repealed by the office of workforce training and development; and

E. all references in law, rules, orders and other official acts to the labor department or the job training division and related to the administration and enforcement of the federal Workforce Investment Act of 1998 or the Workforce Development Act shall be construed to be references to the office of workforce training and development.

Section 23. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, APPROPRIATIONS, EQUIPMENT, SUPPLIES, RECORDS, MONEY AND CONTRACTS FOR THE INDIVIDUAL DEVELOPMENT ACCOUNT ACT.--

A. On July 1, 2005, all staff positions and all money, appropriations, records, furniture, equipment, supplies and other property of the local government division of the department of finance and administration used to administer the Individual Development Account Act are transferred to the office of workforce training and development. All federal program grants and fund allocations or other payments made to the local government division for the Individual Development

Account Act shall be transferred to the office of workforce training and development and shall not be commingled with other funds of the office or be used for any other purpose except for administration of the programs for which these funds were granted.

B. All existing contracts and agreements in effect pertaining to the local government division of the department of finance and administration's administration of the Individual Development Account Act shall be binding and effective on the office of workforce training and development.

C. The rules, orders and decisions of the local government division of the department of finance and administration pertaining to the Individual Development Account Act in effect on June 30, 2005 shall remain in effect until repealed or amended.

Section 24. REPEAL.--Section 50-14-7 NMSA 1978 (being Laws 1999, Chapter 260, Section 7) is repealed.

Section 25. DELAYED REPEAL.--The office of workforce training and development is terminated on July 1, 2011 pursuant to the Sunset Act. The office shall continue to operate according to the provisions of the Workforce Development Act until July 1, 2012. Effective July 1, 2012, the Workforce Development Act is repealed.

Section 26. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect

immediately. _____

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