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SENATE BILL 285

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Pete Campos

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

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1 limited to, [~~five~~] three program divisions and [~~one~~] two
2 administrative [~~division~~] divisions, as follows:

- 3 A. employment security division;
4 [~~B. workers' compensation division;~~
5 ~~C.] B. labor and industrial division;~~
6 [~~D.] C. human rights division;~~
7 [~~E. job training division; and]~~
8 D. information technology services division; and
9 [~~F.] E. administrative services division. "~~

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

12 "9-18-14. [~~ORGANIZATION~~] ORGANIZATIONAL UNITS OF THE
13 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW- ACCESS TO
14 INFORMATION. --

15 A. Those organizational units of the department and
16 the officers of those units specified by law shall have all the
17 powers and duties enumerated in the specific laws assigned to
18 their organizational units for administration. However, the
19 carrying out of those powers and duties shall be subject to the
20 direction and supervision of the secretary and the secretary
21 shall retain the final decision-making authority and
22 responsibility in accordance with the provisions of Subsection
23 B of Section [~~7 of the Labor Department Act~~] 9-18-7 NMSA 1978.
24 The department shall have access to all records, data and
25 information of other departments, agencies and institutions,

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1 including its own organizational units not specifically held
2 confidential by law.

3 B. Subject to the provisions of Subsection B of
4 Section [~~7 of the Labor Department Act~~] 9-18-7 NMSA 1978:

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

10 [~~(2) the workers' compensation division shall~~
11 ~~have all those powers and duties conferred by law upon the~~
12 ~~former workmen's compensation administration and such other~~
13 ~~laws, programs and functions assigned to the division by the~~
14 ~~secretary with the consent of the governor;~~

15 ~~(3)]~~ (2) the labor and industrial division
16 shall have all those powers and duties conferred by law upon
17 the former labor commissioner and such other laws, programs and
18 functions assigned to the division by the secretary with the
19 consent of the governor;

20 [~~(4)~~] (3) the human rights division shall have
21 all those powers and duties conferred by law upon the former
22 executive director of the human rights commission and staff and
23 such other laws, programs and functions assigned to the
24 division by the secretary with the consent of the governor;

25 [~~(5) the job training division shall have all~~

1 ~~those powers and duties conferred upon it by the governor~~
2 ~~pursuant to the Job Training Partnership Act and such other~~
3 ~~laws, programs and functions assigned to the division by the~~
4 ~~secretary with the consent of the governor; and]~~

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

8 [~~(6)~~] (5) the administrative services division
9 shall have all those powers and duties conferred upon it by the
10 secretary [~~of labor~~]. The secretary shall have the power,
11 pursuant to Subsection B of Section [~~7 of the Labor Department~~
12 ~~Act~~] 9-18-7 NMSA 1978, to transfer administrative functions and
13 duties formerly conferred upon the chief administrative officer
14 of any agency or department merged into the labor department by
15 the Labor Department Act. "

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

18 "50-14-1. SHORT TITLE. -- [~~This act~~] Chapter 50, Article 14
19 NMSA 1978 may be cited as the "Workforce Development Act". "

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

22 "50-14-2. DEFINITIONS. -- As used in the Workforce
23 Development Act:

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

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1 B. "chief elected official" means the chief elected
2 executive officer of a unit of general local government in a
3 local area and in a case in which a local area includes more
4 than one unit of general local government, "chief elected
5 official" means the person designated ~~[pursuant to]~~ under the
6 agreement described in Section 117 (c)(1)(B) of the federal
7 Workforce Investment Act of 1998;

8 ~~[C. "job corps" means the job corps provided for in~~
9 ~~the federal Workforce Investment Act of 1998;]~~

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

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

16 ~~[E. "person" means an individual; and~~

17 ~~F. "representative of business" means the person:~~

18 ~~(1) is an owner, chief executive or operating~~
19 ~~officer of a business, or a business executive or employer with~~
20 ~~optimum policymaking or hiring authority, or a member of a~~
21 ~~local board;~~

22 ~~(2) represents businesses with employment~~
23 ~~opportunities that reflect the employment opportunities of the~~
24 ~~state; and~~

25 ~~(3) is appointed from among persons nominated~~

1 ~~by state business organizations and business trade~~
2 ~~associations]~~

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

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

7 "50-14-3. STATE WORKFORCE DEVELOPMENT BOARD. --

8 A. The "state workforce development board" is
9 created. The board consists of members appointed as provided
10 in the federal Workforce Investment Act of 1998. [~~as follows:~~

11 ~~(1) the governor;~~

12 ~~(2) the speaker of the house of~~
13 ~~representatives shall appoint two members from the house of~~
14 ~~representatives;~~

15 ~~(3) the president pro tempore shall appoint~~
16 ~~two members from the senate; and~~

17 ~~(4) the governor shall appoint:~~

18 ~~(a) the secretary of economic~~
19 ~~development or the secretary's designee;~~

20 ~~(b) the secretary of human services or~~
21 ~~the secretary's designee;~~

22 ~~(c) the secretary of labor or the~~
23 ~~secretary's designee;~~

24 ~~(d) the secretary of public education or~~
25 ~~the secretary's designee;~~

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1 ~~[E.] A majority of the members of the board shall be~~
2 ~~representatives of business who are owners of businesses, chief~~
3 ~~executives or operating officers of businesses and other~~
4 ~~business executives or employers with optimum policymaking or~~
5 ~~hiring authority, including members of local boards.~~

6 ~~F.]~~ E. The governor shall appoint one of the
7 business representatives as chairman of the board.

8 ~~[G.]~~ F. The board shall meet at the call of the
9 ~~[chairman]~~ chair.

10 ~~[H.]~~ G. A majority of the board members constitutes
11 a quorum.

12 ~~[I.]~~ H. Members are eligible to be paid pursuant to
13 the Per Diem and Mileage Act.

14 ~~[J.]~~ I. A member of the board may not vote on a
15 matter under consideration by the board relating to provision
16 of services by the member or by the entity the member
17 represents, or that would provide direct financial benefit to
18 the member or ~~[his]~~ the member's immediate family, or ~~[that is~~
19 ~~an]~~ engage in any other activity determined by the governor to
20 be a conflict of interest as provided in the state plan
21 prepared pursuant to the federal Workforce Investment Act of
22 1998. "

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

25 "50-14-4. DUTIES OF THE BOARD. --

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1 A. The board shall assist the governor ~~[to]~~ in:

2 (1) ~~[develop]~~ developing a five-year state
3 plan that shall be updated annually and revised in accordance
4 with the requirements of the federal Workforce Investment Act
5 of 1998;

6 (2) ~~[develop and improve]~~ developing and
7 improving the statewide activities funded pursuant to the
8 workforce investment system and the one-stop delivery system,
9 including development of linkages to ~~[assure]~~ ensure
10 coordination and nonduplication among the programs and
11 activities described in the federal Workforce Investment Act of
12 1998;

13 (3) ~~[review]~~ reviewing local plans;

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

18 (5) ~~[develop]~~ developing allocation formulas
19 for adult and youth employment ~~[and]~~ training ~~[activity]~~
20 program funds to local areas in accordance with the federal
21 Workforce Investment Act of 1998;

22 (6) ~~[develop]~~ developing comprehensive state
23 performance measures to assess the effectiveness of workforce
24 investment activities pursuant to the federal Workforce
25 Investment Act of 1998;

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1 (7) [~~designate~~] designating local workforce
2 development areas;

3 (8) [~~develop~~] developing the statewide
4 employment statistics system; and

5 (9) [~~prepare~~] preparing reports and
6 applications required for submission to the federal government.

7 B. The board shall also:

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

12 (2) develop linkages with the [~~state board of~~]
13 public education department and the commission on higher
14 education to ensure coordination and nonduplication of
15 vocational education, apprenticeship, adult education,
16 employment training programs and vocational rehabilitation
17 programs with other workforce development and training
18 programs; and

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

22 C. To assist the board in fulfilling its duties, it
23 is authorized to establish committees, one of which shall be a
24 "coordination oversight committee". Except as provided for the
25 coordination oversight committee in Subsections D and E of this

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1 section, the board shall appoint committee members and assign
2 duties to committees as the board deems appropriate. The chair
3 of the board shall appoint committee chairs from among members
4 of the board.

5 D. The coordination oversight committee shall
6 consist of the secretaries of economic development, human
7 services, labor and public education; a representative from
8 community colleges; a representative from the commission on
9 higher education; a representative of labor; two legislators
10 from different political parties, one from the senate and one
11 from the house of representatives; the director of the office;
12 and the committee chair.

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

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

21 (2) the secretary of public education and the
22 representative from the commission on higher education shall
23 propose appropriate education plans for secondary education
24 that address the strategic plans proposed by the secretaries of
25 economic development, human services and labor for the

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1 committee's consideration and possible recommendation for
2 approval to the board as part of the state plan;

3 (3) the committee's proposals to the board
4 shall facilitate a career pathways culture and, at a minimum,
5 include reference to foundation skills as developed by the
6 United States secretary of labor's commission on achieving
7 necessary skills, a job analysis that the economic development
8 department shall produce after consultation with incumbent
9 workers and employers, an available skills assessment and
10 training targets;

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

18 (5) the committee shall, after consultation
19 with the state chief information officer, develop and propose
20 strategies for coordination of information technology for the
21 purposes of providing participants access to all appropriate
22 state services; collecting and managing data to allow reporting
23 and analysis of uniform performance data related to all
24 appropriate employment training programs; and sharing and
25 integrating appropriate workforce data across agencies and

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1 appropriate nongovernmental partners for identifying needs,
2 setting policy and coordinating strategies;

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

6 (7) the committee shall recommend for the
7 board's approval the coordination of state agency efforts to
8 progress toward comprehensive, customer-driven one-stop centers
9 through co-location of mandatory and recommended partner
10 service delivery points for workforce development.

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

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

20 "50-14-5. LOCAL WORKFORCE DEVELOPMENT AREAS-- LOCAL
21 BOARDS-- DUTIES AND RESPONSIBILITIES. --

22 A. The governor shall designate specified local
23 workforce development areas based on population and geographic
24 configuration and consistent with provisions of the federal
25 Workforce Investment Act of 1998 upon recommendation of the

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1 board and consideration of needs expressed by chief elected
2 officials, business, labor and other interested parties.

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

7 C. Each local board shall:

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

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

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

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

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

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

25 (7) develop a budget subject to the approval

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1 of the chief elected official;

2 (8) develop and negotiate local performance
3 measurements as described in the federal Workforce Investment
4 Act of 1998 with the chief elected official and the ~~[governor]~~
5 office;

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

8 (10) ensure linkages with economic development
9 activities;

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

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

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

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

25 (a) the local plan;

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- (b) membership;
 - (c) designation and certification of ~~[one-step]~~ one-stop operators; and
 - (d) the award of grants or ~~[contract]~~ 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 ~~[governor]~~ office with a minimum of fifty-one percent of its members coming from the

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1 private sector and shall include representation of education,
2 labor, government, economic development and community-based
3 organizations and others as appropriate and shall be appointed
4 or ratified by the local chief public official.

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

8 F. A member of the local board may not vote on a
9 matter under consideration by the local board relating to
10 provision of services by the member or by the entity the member
11 represents, or that would provide direct financial benefit to
12 the member or ~~[his]~~ the member's immediate family, or ~~[that is]~~
13 engage in an activity determined by the governor to be a
14 conflict of interest as provided in the state plan prepared
15 pursuant to the federal Workforce Investment Act of 1998. "

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

18 "50-14-6. YOUTH COUNCILS--MEMBERSHIP--DUTIES. --

19 A. The provisions of this section apply to the
20 extent required by the federal Workforce Investment Act of
21 1998.

22 ~~[A.]~~ B. The membership of each youth council shall
23 include:

24 (1) members of the local board with interest
25 or expertise in youth policy; representatives of youth service

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1 agencies, including juvenile justice and law enforcement
2 agencies; and representatives of local public housing;

3 (2) parents of eligible youth seeking
4 assistance;

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

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

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

14 [~~B.~~] C. Members of the youth council who are not
15 members of the local board shall be voting members of the youth
16 council and nonvoting members of the local board.

17 [~~C.~~] D. The duties of the youth council shall
18 include:

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

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

24 (3) conducting oversight of eligible providers
25 of youth activities and coordinating youth activities

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1 authorized pursuant to the federal Workforce Investment Act of
2 1998 subject to the approval of the local board; and

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

5 ~~[D-]~~ E. A member of a local board or youth council
6 may not vote on a matter under consideration by the local board
7 regarding the provision of services by the member or by an
8 entity that the member represents or that would provide direct
9 financial benefit to the member or the immediate family of the
10 member engaged in any activity determined by the governor to
11 constitute a conflict of interest as specified in the state
12 plan prepared pursuant to the federal Workforce Investment Act
13 of 1998. "

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

16 "[NEW MATERIAL] PURPOSE. --The purpose of the Workforce
17 Development Act is to coordinate and maximize the effectiveness
18 of workforce programs in New Mexico regardless of funding
19 sources or primary administrative responsibilities. "

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

22 "[NEW MATERIAL] OFFICE OF WORKFORCE TRAINING AND
23 DEVELOPMENT-- CREATION-- DIRECTOR. --

24 A. The "office of workforce training and
25 development" is created as an agency administratively attached

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1 to the office of the governor.

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

6 C. The office shall administer the provisions of
7 the Workforce Development Act and is the governor's designee
8 for the state with authority to administer New Mexico's program
9 pursuant to the federal Workforce Investment Act of 1998. In
10 performance of that duty and the duties set forth in Section 10
11 of this 2005 act, the office has the general power to:

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

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

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

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1 in courts;

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

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

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

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

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

18 "[NEW MATERIAL] OFFICE-- DUTIES-- LIMITATIONS. --

19 A. The office shall:

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

22 (2) develop a unified, comprehensive plan for
23 streamlining and integrating employment training programs,
24 including the consolidation of all employment training
25 programs, into the office. The office shall report annually to

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1 the governor and the legislature generally the progress and
2 effectiveness of the workforce development system no later than
3 September 1;

4 (3) develop a performance-based system of
5 accountability for employment training programs, including the
6 board, local boards, one-stop centers and training providers,
7 which system shall include key performance benchmarks to be
8 used to monitor and assess performance;

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

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

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

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

21 (d) shall issue such corrective action
22 orders as are necessary to enforce compliance, including orders
23 that suspend funding for employment training programs or that
24 transfer the programs to another agency;

25 (5) promote the active participation and

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1 partnership with community colleges wherever possible
2 throughout the state, which shall include the use of community
3 colleges in creating career pathways and the use of available
4 partnership incentives with local boards to use community
5 college facilities for one-stop locations, co-location
6 opportunities and specifically designed training programs; and

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

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

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

23 "[NEW MATERIAL] SKILLS COUNCIL. --The chair of the board
24 and the chairs of each of the local boards shall appoint one
25 member from each of their respective bodies to form an ad hoc

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1 skills council that shall identify state and regional industry
2 clusters for the coordination oversight committee of the board
3 for the purposes of developing coordinated, targeted workforce
4 training programs. "

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

7 "[NEW MATERIAL] COOPERATION WITH FEDERAL GOVERNMENT--
8 AGENCY DESIGNATION. --

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

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

20 C. The governor may designate the office or any
21 agency as the single state agency for the administration of an
22 employment training or public assistance program, either by the
23 governor's own discretion or when the designation is a
24 condition of federal financial or other participation in the
25 program under applicable federal law, rule or order; provided,

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1 however, that no designation of a single state agency under the
2 authority granted in this section shall be made in
3 contravention of state law. "

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

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

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

14 "58-30-2. DEFINITIONS. -- As used in the Individual
15 Development Account Act:

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

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

21 C. "authorized financial institution" means a
22 financial institution authorized by the [~~division~~] office of
23 workforce training and development to hold and manage
24 individual development accounts and reserve accounts;

25 D. "director" means the director of the [~~division~~]

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1 office;

2 [~~E.~~ "~~division~~" means the local government division
3 of the department of finance and administration;

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

9 [~~G.~~ F. "eligible individual" means a person who
10 meets the criteria for opening an individual development
11 account;

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

18 [~~I.~~ H. "individual development account" means an
19 account established and maintained in an authorized financial
20 institution by an eligible individual participating in an
21 individual development account program pursuant to the
22 provisions of the Individual Development Account Act;

23 [~~J.~~ I. "individual development account program"
24 means a program approved by the [~~division~~] office to establish
25 and administer individual development accounts and reserve

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1 accounts for eligible individuals and to provide financial
2 training required by the [~~division~~] office for account owners;

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

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

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

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

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

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

25 Section 16. Section 58-30-5 NMSA 1978 (being Laws 2003,

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1 Chapter 362, Section 5) is amended to read:

2 "58-30-5. RESPONSIBILITIES OF THE ~~[DIVISION]~~ OFFICE. --

3 A. By December 31 following the effective date of
4 the Individual Development Account Act, the director shall
5 adopt rules implementing the provisions of that act.

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

9 C. The ~~[division]~~ office shall use no more than
10 ~~[five]~~ ten percent of the money appropriated to fund the
11 Individual Development Account Act to administer that act."

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

14 "58-30-6. ADVISORY COMMITTEE. --

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

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

23 C. The advisory committee shall consist of the
24 lieutenant governor and eight members appointed by the governor
25 to represent the state geographically. The director or ~~[his]~~

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1 the director's designee shall serve as an ex-officio member of
2 the advisory committee.

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

8 E. The [~~division~~] office shall provide adequate
9 staff support and administrative services for the advisory
10 committee. "

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

13 "58-30-7. ADMINISTRATION OF INDIVIDUAL DEVELOPMENT
14 ACCOUNT PROGRAMS. --

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

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

24 C. An individual development account program shall
25 establish a reserve account sufficient to meet the matching

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1 fund commitments made to all account owners participating in
2 the individual development account program and shall report at
3 least quarterly to each account owner the amount of money
4 available in the reserve account for use by the program
5 administrator to match withdrawals for allowable uses.

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

12 E. The ~~[division]~~ office shall adopt rules
13 necessary to implement the Individual Development Account Act.

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

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

20 H. An account owner shall complete a financial
21 education program prior to the withdrawal of money from ~~[his]~~
22 the account owner's individual development account. "

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

25 "58-30-9. APPROVAL OF INDIVIDUAL DEVELOPMENT ACCOUNT

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1 PROGRAMS. --

2 A. Annually, the [~~division~~] office shall solicit a
3 request for proposals from nonprofit organizations or tribes
4 interested in establishing an individual development account
5 program.

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

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

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

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

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

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1 act. "

2 Section 20. Section 58-30-10 NMSA 1978 (being Laws 2003,
3 Chapter 362, Section 10) is amended to read:

4 "58-30-10. TERMINATION OF INDIVIDUAL DEVELOPMENT ACCOUNT
5 PROGRAMS. --

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

8 (1) [~~division~~] office determines that the
9 program is not being operated pursuant to the provisions of the
10 Individual Development Account Act or rules adopted pursuant to
11 that act;

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

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

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

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

25 "58-30-11. REPORTING. -- A program administrator operating

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1 an individual development account program pursuant to the
2 Individual Development Account Act shall report at least
3 annually to the director, as set forth in the rules of the
4 [~~division~~] office. Individual account owners shall not be
5 identified in the report. The report shall include:

6 A. the number of eligible individuals making
7 contributions to individual development accounts;

8 B. the total money contributed to each individual
9 development account and deposited into each reserve account;

10 C. the total money in the aggregate deposited in
11 individual development accounts and reserve accounts
12 administered by the individual development account program;

13 D. the amounts withdrawn from individual
14 development accounts for either allowable uses or for uses
15 other than allowable uses and the amounts withdrawn from
16 reserve accounts;

17 E. the balances remaining in individual development
18 accounts and reserve accounts; and

19 F. other information requested by the director to
20 monitor the costs and outcomes of the individual development
21 account program "

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

25 A. all staff positions and all money,

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1 appropriations, records, furniture, equipment, supplies and
2 other property belonging to the labor department or the job
3 training division on the effective date of this act and funded
4 or purchased by federal Workforce Investment Act of 1998 grants
5 are transferred to the office of workforce training and
6 development. The labor department shall produce an accounting
7 of all staff positions funded and property purchased in any
8 part by such grants. For those staff positions and items of
9 property that the grants partially funded or purchased, the
10 labor department shall transfer sufficient full-time-equivalent
11 positions, money or property of sufficient value to the office
12 of workforce training and development to achieve a complete
13 transition to the office of workforce training and development;

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

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

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1 development;

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

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

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

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

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

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

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

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

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

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