

1 AN ACT

2 RELATING TO PUBLIC ASSISTANCE; CLARIFYING THAT FUNDS IN AN
3 INDIVIDUAL DEVELOPMENT ACCOUNT SHALL NOT BE CONSIDERED IN
4 ELIGIBILITY CALCULATIONS FOR BENEFITS UNDER THE NEW MEXICO
5 WORKS ACT OR THE EDUCATION WORKS ACT; ADDING DEFINITIONS TO
6 THE INDIVIDUAL DEVELOPMENT ACCOUNT ACT; ESTABLISHING LIMITS
7 ON ADMINISTRATIVE EXPENSES AVAILABLE TO A PROGRAM
8 ADMINISTRATOR UNDER THE ACT; ESTABLISHING QUALIFICATIONS FOR
9 MEMBERS OF THE INDIVIDUAL DEVELOPMENT ACCOUNT COUNCIL;
10 ESTABLISHING MINIMUM STATE MATCHING FUNDS; EXPANDING THE
11 ALLOWABLE USES FOR FUNDS IN INDIVIDUAL DEVELOPMENT ACCOUNTS;
12 EXPANDING THE TYPE OF ACCOUNT TO WHICH FUNDS IN AN INDIVIDUAL
13 DEVELOPMENT ACCOUNT MAY BE TRANSFERRED; LISTING THE
14 MEANS-TESTED PROGRAMS FOR WHICH ACCOUNT FUNDS ARE DISREGARDED
15 FOR PURPOSES OF ELIGIBILITY; MAKING AN APPROPRIATION.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 27-2B-8 NMSA 1978 (being Laws 1998,
19 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as
20 amended) is amended to read:

21 "27-2B-8. RESOURCES.--

22 A. Liquid and nonliquid resources owned by the
23 benefit group shall be counted in the eligibility
24 determination.

25 B. A benefit group may at a maximum own the

1 following resources:

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

4 (2) one thousand five hundred dollars
5 (\$1,500) in liquid resources, excluding funds deposited in an
6 individual development account established pursuant to the
7 Individual Development Account Act or a qualified tuition
8 program, as defined in Section 529 of the Internal Revenue
9 Code of 1986;

10 (3) the value of the principal residence of
11 the participant;

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

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

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

19 SECTION 2. Section 27-2D-6 NMSA 1978 (being Laws 2003,
20 Chapter 317, Section 6, as amended) is amended to read:

21 "27-2D-6. RESOURCES.--

22 A. Liquid and nonliquid resources owned by the
23 benefit group shall be counted in the eligibility
24 determination.

25 B. A benefit group may at a maximum own the

1 following resources:

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

4 (2) one thousand five hundred dollars
5 (\$1,500) in liquid resources, excluding funds deposited in an
6 individual development account established pursuant to the
7 Individual Development Account Act or a qualified tuition
8 program, as defined in Section 529 of the Internal Revenue
9 Code of 1986;

10 (3) the value of the principal residence of
11 the participant;

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

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

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

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

21 "58-30-2. DEFINITIONS.--As used in the Individual
22 Development Account Act:

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

25 B. "allowable use" means a lawful use that

1 complies with the provisions of the Individual Development
2 Account Act, or rules adopted pursuant to that act;

3 C. "authorized financial institution" means a
4 financial institution authorized by the office to hold and
5 manage individual development accounts and reserve accounts;

6 D. "department" means the workforce solutions
7 department;

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

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

16 G. "financial institution" means a bank, bank and
17 trust, savings bank, savings association or credit union
18 authorized to be a trustee of individual development
19 accounts, the deposits of which are insured by the federal
20 deposit insurance corporation or the national credit union
21 administration;

22 H. "indigent" means an individual who, taking into
23 account present income, liquid assets and requirements for
24 basic necessities of life for the individual and the
25 individual's dependents, is unable to pay the costs of

1 allowable uses as set forth in the Individual Development
2 Account Act;

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

8 J. "individual development account program" means
9 a program approved by the department to establish and
10 administer individual development accounts and reserve
11 accounts for eligible individuals and to provide financial
12 capability training or financial coaching required by the
13 department for account owners;

14 K. "matching funds" means money deposited in a
15 reserve account to match the withdrawals for allowable uses
16 from an individual development account according to a
17 proportionate formula that complies with rules adopted by the
18 secretary;

19 L. "nonprofit organization" means an
20 instrumentality of the state or a local government or an
21 organization described in Section 501(c)(3) of the Internal
22 Revenue Code of 1986 and exempt from taxation pursuant to
23 Section 501(a) of that code;

24 M. "program administrator" means a nonprofit
25 organization or tribe that is selected pursuant to the

1 Individual Development Account Act to offer an individual
2 development account program pursuant to a contract with the
3 secretary;

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

10 O. "secretary" means the secretary of workforce
11 solutions; and

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

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

16 "58-30-3. INDIVIDUAL DEVELOPMENT ACCOUNTS.--An
17 individual development account may be established for an
18 eligible individual as part of an individual development
19 account program if the written instrument creating the
20 account sets forth the following:

21 A. the account owner is an eligible individual
22 according to program requirements at the time the account is
23 established;

24 B. the individual development account is
25 established and maintained in an authorized financial

1 institution;

2 C. deposits to an individual development account
3 shall be made in accordance with the rules adopted pursuant
4 to the Individual Development Account Act;

5 D. withdrawals from an individual development
6 account shall only be made in accordance with the Individual
7 Development Account Act for allowable uses;

8 E. the matching amount that will be deposited in
9 the reserve account for each dollar deposited by the account
10 owner in the individual development account; and

11 F. the financial institution in which an
12 individual development account is held shall not be liable
13 for withdrawals made for uses other than allowable uses."

14 SECTION 5. Section 58-30-4 NMSA 1978 (being Laws 2003,
15 Chapter 362, Section 4, as amended) is amended to read:

16 "58-30-4. ELIGIBLE INDIVIDUALS.--

17 A. Except as set forth in Subsections B and C of
18 this section, an eligible individual shall have earned income
19 and shall be:

20 (1) eighteen years of age or older;

21 (2) a citizen, legal resident, refugee,
22 asylee or person otherwise legally present in the United
23 States at the time the person opens the person's individual
24 development account;

25 (3) a resident of New Mexico; and

1 (4) an indigent.

2 B. A child in foster care is an eligible
3 individual if the child is:

4 (1) fifteen years of age or older;

5 (2) an indigent;

6 (3) a citizen, a legal resident, a refugee
7 or an asylee or is otherwise legally present in the United
8 States at the time the person opens the person's individual
9 development account; and

10 (4) a resident of New Mexico.

11 C. A child is an eligible individual if the child
12 is:

13 (1) at least fifteen years of age and not
14 more than eighteen years of age;

15 (2) a member of a family whose members are
16 all indigents;

17 (3) a citizen, a legal resident, a refugee
18 or an asylee or is otherwise legally present in the United
19 States at the time the person opens the person's individual
20 development account; and

21 (4) a resident of New Mexico."

22 SECTION 6. Section 58-30-5 NMSA 1978 (being Laws 2003,
23 Chapter 362, Section 5, as amended) is amended to read:

24 "58-30-5. RESPONSIBILITIES OF THE DEPARTMENT.--

25 A. The department shall adopt rules implementing

1 the provisions of the Individual Development Account Act.

2 B. The secretary shall make an annual report each
3 November to the governor and to the legislative finance
4 committee.

5 C. The department shall use no more than five
6 percent of the money appropriated to fund the Individual
7 Development Account Act to administer that act, not including
8 the costs of the program administrator.

9 D. A program administrator shall use no more than
10 twelve percent of the funds allocated to the program
11 administrator for implementation and administration of the
12 program."

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

15 "58-30-6. INDIVIDUAL DEVELOPMENT ACCOUNT COUNCIL.--

16 A. The "individual development account council" is
17 created. The council shall:

18 (1) provide oversight of the administration
19 of the Individual Development Account Act;

20 (2) suggest possible changes that benefit
21 account owners or improve the effectiveness of the individual
22 development account programs throughout the state; and

23 (3) obtain subject matter expertise through
24 attendance at conferences and workshops related to proven and
25 promising asset-building strategies.

1 B. The individual development account council
2 shall meet at least two times in a calendar year to perform
3 its duties.

4 C. The individual development account council
5 shall consist of the lieutenant governor or the lieutenant
6 governor's designee and eight members appointed by the
7 governor to represent the state geographically; provided that
8 the members shall include representatives of a participating
9 financial institution, a philanthropic institution, a
10 community college and a nonprofit workforce entrepreneurial
11 training provider and at least one representative from a
12 nonprofit or educational institution providing financial
13 coaching within a service area containing fewer than twenty
14 thousand persons, as shown by the most recent decennial
15 census. The secretary or the secretary's designee shall
16 serve as an ex-officio member of the council.

17 D. Appointed members of the individual development
18 account council shall receive per diem and mileage pursuant
19 to the Per Diem and Mileage Act for attendance at required
20 meetings and at authorized conferences and workshops and
21 shall receive no other compensation, perquisite or allowance
22 for their participation on the council.

23 E. The department shall provide adequate staff
24 support and administrative services for the individual
25 development account council."

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

3 "58-30-7. ADMINISTRATION OF INDIVIDUAL DEVELOPMENT
4 ACCOUNT PROGRAMS.--

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

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

15 C. The program administrator shall establish a
16 reserve account sufficient to meet the matching fund
17 commitments made to all account owners participating in the
18 individual development account program and shall report at
19 least quarterly to each account owner the amount of money
20 available in the reserve account for use by the program
21 administrator to match withdrawals for allowable uses. The
22 amount of state funds deposited in a reserve account during a
23 calendar year to match deposits from any single account owner
24 shall not exceed the higher of:

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

1 (2) an amount determined by rule; provided
2 that the cumulative reserve account deposits shall total not
3 less than one hundred twenty-five percent of the prior
4 calendar year match to deposits beginning in the second year
5 of the individual development account program; and further
6 provided that the state shall match deposits of every account
7 owner dollar-for-dollar up to two thousand dollars (\$2,000)
8 in a calendar year.

9 D. The program administrator shall provide
10 financial education, including financial coaching and other
11 necessary guidance and electronic reminders to encourage
12 deposits and to achieve goals of allowable uses by account
13 owners, develop partnerships with financial institutions,
14 distribute matching funds and manage the operations of an
15 individual development account that is established within the
16 program.

17 E. An eligible individual may open an individual
18 development account upon verification by the program
19 administrator that the individual maintains no other
20 individual development account.

21 F. More than one eligible individual per household
22 may hold an individual development account.

23 G. An account owner shall complete a tested
24 financial education program, including financial coaching,
25 prior to the withdrawal of money from the account owner's

1 individual development account for allowable uses unless
2 written approval is obtained from the program administrator."

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

5 "58-30-8. ALLOWABLE USES--WITHDRAWALS FROM INDIVIDUAL
6 DEVELOPMENT ACCOUNTS--FORFEITURE OF MATCHING FUNDS FROM
7 RESERVE ACCOUNT--LOSS OF ELIGIBLE INDIVIDUAL STATUS.--

8 A. Allowable uses of the money withdrawn from an
9 individual development account are limited to the following:

10 (1) expenses to attend an approved post-
11 secondary or vocational educational institution, including
12 payment for tuition, books, supplies and equipment required
13 for courses;

14 (2) costs to acquire or construct a
15 principal residence as defined in rules adopted pursuant to
16 the Individual Development Account Act that is the first
17 principal residence acquired or constructed by the account
18 owner within the previous five years;

19 (3) costs of major home improvements or
20 repairs on the home of the account owner;

21 (4) capitalization or costs to start or
22 expand a business, including capital, plant, equipment,
23 operational and inventory expenses, attorney and accountant
24 fees and other costs normally associated with starting or
25 expanding a business;

1 (5) acquisition or repair of a vehicle
2 necessary to obtain or maintain employment by an account
3 owner or the spouse of an account owner; and

4 (6) in the case of a deceased account owner,
5 amounts deposited by the account owner and held in an
6 individual development account shall be distributed directly
7 to the account owner's spouse, or if the spouse is deceased
8 or there is no spouse, to a dependent or other named
9 beneficiary of the deceased or if the recipient is eligible
10 to maintain the account, the account and matching funds
11 designated for that account from a reserve account may be
12 transferred and maintained in the name of the surviving
13 spouse, dependent or beneficiary.

14 B. Unless otherwise approved by the program
15 administrator pursuant to the provisions of Subsection D of
16 this section, account owners qualifying as eligible
17 individuals pursuant to the provisions of Subsection B or C
18 of Section 58-30-4 NMSA 1978 shall not be permitted to
19 withdraw money from an individual development account until
20 such time as the account owners have completed a high school
21 curriculum at a public or accredited private New Mexico high
22 school or received a general educational development
23 certificate.

24 C. Except as provided in Subsection D of this
25 section, if an account owner withdraws money from an

1 individual development account for a use other than an
2 allowable use, the account owner forfeits a proportionate
3 amount of matching funds from the reserve account, as set
4 forth in the agreement between the program administrator and
5 the account owner.

6 D. The program administrator may approve a
7 withdrawal by an account owner from an individual development
8 account to be used for a purpose other than an allowable use
9 only for serious emergencies as specified in the rules
10 adopted by the department. For such an approved withdrawal,
11 the proportionate matching funds in the reserve account shall
12 remain in the reserve account for twelve months following the
13 withdrawal and, if an amount equal to the withdrawn money is
14 redeposited in the individual development account within the
15 twelve months, the matching funds shall again be available to
16 match withdrawals for allowable uses.

17 E. At the request of the account owner and with
18 the written approval of the program administrator, amounts
19 may be withdrawn from the account owner's individual
20 development account and deposited in another individual
21 development account or a qualified tuition program, as
22 defined in Section 529 of the Internal Revenue Code of 1986,
23 established for an eligible individual who is the account
24 owner's spouse or dependent."

1 Chapter 362, Section 9, as amended) is amended to read:

2 "58-30-9. APPROVAL OF INDIVIDUAL DEVELOPMENT ACCOUNT
3 PROGRAMS.--

4 A. The department shall issue a request for
5 proposals from nonprofit organizations or tribes interested
6 in establishing an individual development account program. A
7 proposal submitted in response to the request shall:

8 (1) describe the geographic area to be
9 served and the potential individuals who will be assisted by
10 the program;

11 (2) state the amount, if any, of requested
12 distributions of state money from the individual development
13 fund;

14 (3) describe the source and the amount of
15 any private or other public funds, if any, that will be used
16 to supplement the requested distributions from the individual
17 development fund;

18 (4) state the amount, not to be less than
19 one dollar (\$1.00), that will be deposited in the reserve
20 account for each dollar deposited in an individual
21 development account;

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

24 (6) contain such other information as
25 required in the request for proposals and rules of the

1 secretary.

2 B. The secretary shall issue a request for
3 proposals to determine if an interested nonprofit
4 organization or tribe is eligible to be a program
5 administrator, determine the legal sufficiency of submitted
6 proposals, evaluate the proposals and, after consulting with
7 the individual development account council, select the
8 program administrators.

9 C. In selecting program administrators, the
10 secretary shall:

11 (1) ensure that geographically diverse
12 populations throughout New Mexico will be served by
13 individual development account programs; and

14 (2) ensure that a substantial number of
15 individual development accounts will serve families in which
16 one or more children are living with their biological or
17 adoptive mother or father, or with their legal guardian.

18 D. The secretary shall enter into contracts with
19 the selected program administrators.

20 E. The secretary shall approve an individual
21 development account program submitted by a program
22 administrator before the program establishes individual
23 development accounts or reserve accounts or provides services
24 required by the Individual Development Account Act to
25 eligible individuals.

1 F. An individual development account and a reserve
2 account may be established only in an authorized financial
3 institution.

4 G. The secretary shall monitor all individual
5 development account programs to ensure that individual
6 development accounts and reserve accounts are being operated
7 according to the contract provisions, federal law, the
8 provisions of the Individual Development Account Act and
9 rules adopted pursuant to that act."

10 SECTION 11. Section 58-30-10 NMSA 1978 (being Laws
11 2003, Chapter 362, Section 10, as amended) is amended to
12 read:

13 "58-30-10. TERMINATION OF INDIVIDUAL DEVELOPMENT
14 ACCOUNT PROGRAMS.--

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

17 (1) department determines that the program
18 is not being operated pursuant to the provisions of the
19 contract between the program administrator and the secretary,
20 the Individual Development Account Act or rules adopted
21 pursuant to that act;

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

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

1 B. Upon termination of an individual development
2 account program, the secretary shall administer the program
3 until a qualified program administrator is selected to
4 administer the program. If, after a reasonable period, the
5 secretary is unable to identify and certify a program
6 administrator to assume the authority to continue to operate
7 a terminated individual development account program, money in
8 a reserve account shall be deposited into the individual
9 development accounts of the account owners for whom the
10 proportionate share of the reserve account was established as
11 of the first day of termination of the program."

12 SECTION 12. Section 58-30-11 NMSA 1978 (being Laws
13 2003, Chapter 362, Section 11, as amended) is amended to
14 read:

15 "58-30-11. REPORTING.--A program administrator
16 operating an individual development account program pursuant
17 to the Individual Development Account Act shall report at
18 least annually to the secretary, as set forth in the rules of
19 the department. Individual account owners shall not be
20 identified in the report. The report shall include:

21 A. the number of eligible individuals making
22 contributions to individual development accounts;

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

25 C. the total money in the aggregate deposited in

1 individual development accounts and reserve accounts
2 administered by the individual development account program;

3 D. the amounts withdrawn from individual
4 development accounts identifying the allowable uses and uses
5 other than allowable uses and the amounts withdrawn from
6 reserve accounts;

7 E. the balances remaining in individual
8 development accounts and reserve accounts; and

9 F. other information requested by the secretary to
10 monitor the costs and outcomes of the individual development
11 account program."

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

15 "58-30-12. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF
16 CERTAIN MEANS-TESTED PROGRAMS.--

17 A. Money deposited into an individual development
18 account, interest earned on that account and interest and
19 matching funds deposited in a reserve account for the benefit
20 of the account owners shall be disregarded for the purposes
21 of determining eligibility for benefits and for determining
22 benefit amounts pursuant to the New Mexico Works Act.

23 B. When determining eligibility for benefits and
24 determining benefit amounts due under the supplemental
25 nutrition assistance program, children's health insurance

1 program, child care and development block grant and medicaid,
2 the human services department shall, pursuant to the
3 authority granted by 7 USCA 2014 (d) and (g), disregard money
4 deposited into an individual development account, interest
5 earned on that account and interest and matching funds
6 deposited in a reserve account for the benefit of the account
7 owners.

8 C. Money withdrawn from an individual development
9 account for a purpose other than an allowable use shall be
10 counted as a resource for purposes of the New Mexico Works
11 Act or medicaid unless the withdrawal is approved by the
12 program administrator and an amount equal to the amount
13 withdrawn is replaced within the twelve-month allowable time
14 period pursuant to Subsection D of Section 58-30-8 NMSA
15 1978."

16 SECTION 14. Section 58-30-13 NMSA 1978 (being Laws
17 2006, Chapter 96, Section 13, as amended) is amended to read:

18 "58-30-13. INDIVIDUAL DEVELOPMENT FUND CREATED.--The
19 "individual development fund" is created in the state
20 treasury. The fund shall consist of appropriations, gifts,
21 grants, donations and bequests made to the fund. Income from
22 the fund shall be credited to the fund, and money in the fund
23 shall not be transferred to any other fund at the end of a
24 fiscal year. Money in the fund is appropriated to the
25 department for the purposes of carrying out the provisions of

1 the Individual Development Account Act. Expenditures shall
2 be made on warrant of the secretary of finance and
3 administration pursuant to vouchers signed by the secretary
4 of workforce solutions or the secretary's designee."

5 SECTION 15. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is January 1, 2020. _____

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