

LFC Requester:	Torres
-----------------------	---------------

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: Feb. 13, 2025 *Check all that apply:*
Bill Number: House Bill 7 Original Correction
 Amendment Substitute

Sponsor: Rep. J. Martinez & Rep. Serrato **Agency Name and Code** State Ethics Commission (410)
Short Title: Children's Future Act & Fund **Number:** _____
Person Writing Caroline "KC" Chato
Phone: 362-9617 **Email** caroline.chato@sec.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$5,000	Nonrecurring	General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 creates the short title of a new act, the Children's Future Act.

Section 2 defines "beneficiary" and "department" for purposes of the Children's Future Act.

Section 3 creates the Children's Future Fund, provides the purpose of the fund, investment rules for the fund, and provides that the department of finance and administration shall be appropriated money in the fund to the department of finance and administration for the purposes specified in the fund, shall administer the fund, shall make expenditures from the fund only on warrant of the secretary of finance and administration, and may expend no more than three percent of the balance of the fund at the end of a fiscal year for administration costs.

Section 4 provides that the provisions of the Children's Future Act do not guarantee any benefits and shall not be construed to create an interest in property that does not otherwise exist or is enforceable under state law.

Section 5 specifies the fiduciary relationship to beneficiaries of a person who receives, collects, disburses, expends or invests money from the children's future fund or for a beneficiary pursuant to the Children's Future Act.

Section 6 provides that money transferred to or spent on behalf of a beneficiary pursuant to the Children's Future Act is exempt from state income tax.

Section 7 is a temporary provision which creates a Children's Future Task Force. The task force is composed of specific statutory members as well as five members of the public appointed by the governor and by leadership in the house and senate. Appointments must be made by July 1, 2025, and appointed members of the task force are entitled to receive per diem and mileage. The task force is required to meet at least once per month and a quorum of members constitutes a quorum. The main responsibility of the task force is to research and produce a report with advice and recommendations on the implementation of the Children's Future Act, specifically, the design and administration of the program to implement the provisions of the Act, a financial plan for financing the Act within five years of the effective date, eligibility requirements and determination of eligibility for beneficiaries to use money from the fund, the application process for eligible beneficiaries, mechanisms for transferring and expending money on behalf of beneficiaries, the creation and administration of investment and retirement accounts, conditions for and limitations on the use of money in the fund for an investment account, third parties with whom to contract to assist in the administration of the provisions of the Act and the responsibilities of those parties, measures for ensuring fairness and equity for designated beneficiaries born in different years, decisions of investment risk and asset allocation for the fund, and other matters as determined by the task force.

Section 8 provides a \$5,000,000 appropriation from the general fund for expenditure in fiscal year 2026 and subsequent fiscal years for the purposes of the children’s fund, the balance of which shall not revert to the general fund at the end of a fiscal year.

FISCAL IMPLICATIONS

The Commission could see a marginal increase in workload to the extent questions arise concerning the application and enforcement of the Anti-Donation Clause under the Children’s Future Act, but it is not anticipated to create significant fiscal implications for the Commission.

SIGNIFICANT ISSUES

Article IX, Section 14 of the New Mexico Constitution (the “Anti-Donation Clause”) prohibits the State from giving public funds to private persons. While the purpose of the Children’s Future Act is ultimately to provide public funds to private beneficiaries, it does not on its face violate the Anti-Donation Clause because it leaves up to the task force how this assistance will be accomplished. The Anti-Donation Clause contains several exceptions that could allow for this assistance, for instance, if the public assistance is limited to beneficiaries falling under a certain income threshold or who are sick it would fall under the first exception to the Anti-Donation Clause. The task force will need to be cognizant of the restrictions in and exceptions to the Anti-Donation Clause in implementing the Act. The Legislature could also consider putting forth to the New Mexico public for its review and approval a constitutional amendment containing a specific exception to the Anti-Donation Clause to provide for the outright public assistance to all children born in New Mexico after January 1, 2025 whose primary residence since birth is continually in the State.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

The State Ethics Commission has jurisdiction to investigate and adjudicate administrative complaints alleging violations of the Anti-Donation Clause, to enforce the Anti-Donation Clause, and to issue advisory opinions regarding the Anti-Donation Clause. If questions arise concerning the applicability of the Anti-Donation Clause to the Children’s Future Act and the payments made under it, these amendments could marginally increase the Commission’s workload relating to this work.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Sections 6 and 7 each separately include the same definition of “beneficiary” for purposes of the section, which definition is different from the definition of “beneficiary” in Section 2’s definitions of beneficiary under the Children’s Future Act. Since Section 6 provides a tax exemption and Section 7 outlines the task force responsible for providing research and recommendations on the implementation of the Children’s Act and many of those provisions include responsibilities related to “beneficiaries,” by creating a separate definition between the Act and the recommendations of the task force, this could create an issue in taxation requirements for different individuals under the two definitions of “beneficiary” and for final implementation of the Act.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
AMENDMENTS**