

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB397 creates the next generation trust fund (NGTF) and provides investment of NGTF by the State Investment Officer (SIO).

Section 1 creates the short title of the new act, the “New Mexico Next Generation Act” (NGFA).

Section 2 defines “beneficiary,” “educational expense,” “eligible expenditure” and “parent.”

Section 3 sets forth eligibility for the next generation program.

Section 4 creates the NGTF as a non-reverting fund in the state treasury to establish and grow a source of funding to distribute to the baby bonds fund. The NGTF will consist of distributions, transfers, appropriations, gifts, grants, donations, bequests and income from investment of the fund. The SIO will invest money in the fund according to the Uniform Prudent Investor Act and in consultation with the State Treasurer. Money in the fund is subject to appropriation by the legislature and shall be expended only as provided by NGFA. Starting July 1, 2043 and each July 1 after, a distribution shall be made from the NGTF to the baby bonds fund in an amount determined by DFA in consultation with the SIO.

Section 5 creates the “baby bonds fund” in the state treasury to establish for beneficiaries a resource for educational and housing assistance. The fund consists of distributions made from the NGTF and other distributions, transfers, appropriations, gifts, grants, donations, bequests and income from investment of the fund. No later than May 1, 2043 and each May 1 after DFA in consultation with the Departments of Health and Children, Youth and Families shall project the amount of eligible expenditures required for the next fiscal year and provide the projection to the SIO.

Section 6 establishes information-sharing requirements between the Department of Health, the Children, Youth, and Families Department, and the Department of Finance and Administration (DFA). Beginning July 1, 2025, the vital records and health statistics bureau of the Department of Health and the Children, Youth, and Families Department shall enter into an agreement with DFA to provide any necessary information for determining or verifying the identity and number of beneficiaries eligible for assistance under the NMNGA.

Section 7 provides that DFA shall promulgate rules necessary for the administration of the baby bonds fund and the NMNGA. Rules shall include determining status as a beneficiary, what constitutes eligible expenditures, accounting of benefits available to a beneficiary and any other procedures necessary for administration of the baby bonds funds and the NMNGA.

Section 8 specifies that the provisions of the NMNGA do not guarantee any benefits and shall not be construed to create an enforceable property interest under state law that does not

otherwise exist.

Section 9 states that except as provided by federal law, money in the NGTF and the baby bonds fund shall not be considered an asset for the purposes of determining a beneficiary's eligibility or need-based public assistance programs, grants or aid.

Section 10 exempts money expended on behalf of a beneficiary under the NMNGA from state income taxation. Additionally, it defines "beneficiary" as used in Section 10.

Section 11 creates a new section in the NM Children's Code that allows the Department to provide DFA with information necessary to assist in the determination or verification of the identity or number of beneficiaries that may be eligible the assistance under NMNGA.

Section 12(A) appropriates five hundred million dollars from the general fund to the NGTF for expenditure in FY 2026 and subsequent fiscal years for the purposes of the NMTF. 12(B) appropriates one hundred thousand dollars from the general fund to DFA for expenditure in FY 2026 and subsequent fiscal years for administering the NMNGA. All these appropriations are non-reverting.

Section 13 states the effective date is July 1, 2025.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

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. The authorization to DFA to make expenditures from the baby bonds fund on behalf of beneficiaries, 18 years in the future, for educational expenses and down payments on home purchases, would be inconsistent with the Anti-Donation Clause's constraint on DFA to make those same expenditures. 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 expenditures that SB 397 would authorize from the baby bonds fund are neither within the scholarship exceptions to the Anti Donation Clause (but, to be sure, neither is the lottery scholarship or the opportunity scholarship), nor are they within the affordable housing exception provided in Article IX, Section 14(E)-(F).

This legislation contemplates these expenditures eighteen years in the future. The Legislature could 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. Additionally, HJR 11 seeks to eliminate the Anti-Donation Clause from the NM Constitution if approved by the voters, which if that occurs the Anti-Donation Clause issue would be moot.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 7 is a similar bill entitled “Children’s Future Act.” It also creates a trust fund and benefits to be made to beneficiaries but establishes the administration of the funds in a Children’s Future Task Force rather than in DFA.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS