

1 SENATE BILL 676

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Cisco McSorley

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10 AN ACT

11 RELATING TO CHILDREN'S ECONOMIC SECURITY; ENACTING THE  
12 CHILDREN'S DEVELOPMENT ACCOUNT ACT; AMENDING AND ENACTING  
13 SECTIONS OF THE NMSA 1978.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
17 through 10 of this act may be cited as the "Children's  
18 Development Account Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
20 Children's Development Account Act:

21 A. "account owner" means a person in whose name a  
22 children's development account is originally established;

23 B. "allowable use" means a use that complies with  
24 the provisions established by the custodian that establishes  
25 children's development accounts;

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1 C. "authorized financial institution" means a  
2 financial institution that is federally insured;

3 D. "children's development account" means an  
4 account established and maintained in an authorized financial  
5 institution in joint ownership or custodianship between a child  
6 under the age of eighteen and a nonprofit corporation for a  
7 specified use at a specified time;

8 E. "custodial account" means an account created for  
9 the benefit of a child under the age of eighteen, with an  
10 agent, bank, trust company or other organization serving as the  
11 custodian in accordance with applicable state law. The adult  
12 controls the funds until liquidated for an eligible use;

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

19 G. "investment fund" means an account established  
20 in an authorized financial institution in which funds are  
21 maintained and available to match or incentivize the deposits  
22 of the account owner or the account owner's family;

23 H. "matching funds" means money deposited in a  
24 reserve account to match the withdrawals for allowable uses  
25 from a children's development account according to a

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1 proportionate formula that complies with rules adopted by the  
2 treasurer;

3 I. "nonprofit organization" means an organization  
4 described in Section 501(c)(3) of the Internal Revenue Code of  
5 1986 and exempt from taxation pursuant to Section 501(a) of  
6 that code or exempt pursuant to Section 7871 of that code for  
7 Native American tribes;

8 J. "office" means the office of the state  
9 treasurer;

10 K. "treasurer" means the state treasurer; and

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

13 SECTION 3. [NEW MATERIAL] CHILDREN'S DEVELOPMENT

14 ACCOUNT.--A children's development account may be established  
15 for an eligible individual as part of a children's development  
16 account program if the written instrument creating the account  
17 sets forth that the:

18 A. account owner is an eligible individual according  
19 to program requirements at the time the account is established;

20 B. children's development account is established and  
21 maintained in an authorized financial institution;

22 C. matching amount or incentive will be deposited in  
23 the children's development account for each dollar deposited by  
24 the account owner or family in the children's development  
25 account; and

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1           D. financial institution in which a children's  
2 development account is held shall not be liable for withdrawals  
3 made for uses other than allowable uses.

4           SECTION 4. [NEW MATERIAL] ELIGIBLE CHILD.--An eligible  
5 child shall be:

- 6           A. under the age of eighteen; and
- 7           B. a resident of New Mexico.

8           SECTION 5. [NEW MATERIAL] RESPONSIBILITIES OF THE  
9 OFFICE.--

- 10           A. The office shall adopt rules implementing the  
11 provisions of the Children's Development Account Act.
- 12           B. The treasurer shall provide authorization for  
13 applicant organizations that are applying to provide children's  
14 development accounts pursuant to the Children's Development  
15 Account Act."

16           SECTION 6. [NEW MATERIAL] ADMINISTRATION OF CHILDREN'S  
17 DEVELOPMENT ACCOUNT PROGRAMS.--

- 18           A. A children's development account may be  
19 established for an eligible child provided that:
  - 20           (1) the purpose of the account is to increase  
21 the economic security of the child during the transition into  
22 adulthood;
  - 23           (2) the structure of the account includes  
24 financial incentives or funds to match the deposits made into  
25 the account;

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1 (3) the account is held in custodianship or in  
2 joint ownership between the child and the administering  
3 organization;

4 (4) parameters of the use of the account are  
5 designed prior to the opening of the account; and

6 (5) the account is not accessible to the child  
7 or members of the child's family until such time as the account  
8 is liquidated for an eligible use.

9 B. The financial institution shall establish an  
10 investment account sufficient to meet the matching fund  
11 commitments made to all account owners participating in the  
12 children's development account program and shall provide  
13 financial incentives or matching funds at least quarterly to  
14 each account owner.

15 C. The financial institution may provide financial  
16 education and other training that will enhance the child's  
17 economic security.

18 D. An account owner shall complete the requirements  
19 established by the financial institution prior to the  
20 withdrawal of money from the account owner's children's  
21 development account unless written approval is obtained from  
22 the financial institution.

23 SECTION 7. [NEW MATERIAL] APPROVAL OF CHILDREN'S  
24 DEVELOPMENT ACCOUNT PROGRAMS.--

25 A. The office shall accept applications from

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1 eligible program administrators to establish a children's  
2 development account program pursuant to the Children's  
3 Development Account Act. An application shall:

4 (1) describe the geographic area to be served  
5 and the potential individuals who will be assisted by the  
6 program;

7 (2) state the amount, if any, of requested  
8 distributions of state money;

9 (3) describe the source and the amount of  
10 private or other public funds, if any, that will be used to  
11 match or incentivize the children's development account;

12 (4) describe the program administrator's  
13 administration of the accounts, the frequency of deposits and  
14 the requirements of the eligible account owner;

15 (5) describe the expertise, experience and  
16 other qualifications of the program administrator and the  
17 program administrator's employees; and

18 (6) contain other information that is deemed to  
19 be relevant by the program administrator.

20 B. The treasurer shall determine if an interested  
21 nonprofit organization or a tribe is eligible to be an  
22 authorized program administrator under the Children's  
23 Development Account Act, and if so, the treasurer shall provide  
24 a letter of authorization to the program administrator that  
25 declares that the proposed program falls under the authority of

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1 the Children's Development Account Act.

2 SECTION 8. [NEW MATERIAL] LOSS OF AUTHORIZATION UNDER  
3 THE CHILDREN'S DEVELOPMENT ACCOUNT ACT.--

4 A. A children's development account program shall  
5 be terminated if the:

6 (1) office determines that the program is not  
7 being operated pursuant to the provisions of the authorization  
8 by the office;

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

11 (3) program administrator chooses to cease  
12 providing a children's development account program.

13 B. Upon loss of authorization of a children's  
14 development account program, the treasurer shall administer the  
15 program until a qualified program administrator is selected to  
16 administer the program. If, after a reasonable period, the  
17 treasurer is unable to identify and certify a program  
18 administrator to assume the authority to continue to operate a  
19 children's development account program, money in a reserve  
20 account shall be deposited into the children's development  
21 account of the account owners for whom the proportionate share  
22 of the reserve account was established as of the first day of  
23 termination of the program.

24 SECTION 9. [NEW MATERIAL] REPORTING.--A program  
25 administrator operating a children's development account

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1 program pursuant to the Children's Development Account Act  
2 shall report at least annually to the treasurer, as set forth  
3 by the office. Children's development account owners shall not  
4 be identified in the report. The report shall include the:

5 A. number of eligible individuals making  
6 contributions to children's development accounts;

7 B. total money contributed by the program  
8 administrator to each children's development account; and

9 C. number of children's development accounts that  
10 have been liquidated.

11 SECTION 10. [NEW MATERIAL] ACCOUNT FUNDS DISREGARDED FOR  
12 PURPOSES OF CERTAIN MEANS-TESTED PROGRAMS.--

13 A. Money deposited into a children's development  
14 account, interest earned on that account and interest and  
15 matching funds deposited into the account for the benefit of  
16 the account owners shall be disregarded for the purposes of  
17 determining eligibility for benefits and for determining  
18 benefit amounts pursuant to the New Mexico Works Act.

19 B. When determining eligibility for benefits and  
20 determining benefit amounts due under the federal supplemental  
21 nutrition assistance program and medicaid, the human services  
22 department shall, pursuant to the authority granted by 7 USCA  
23 2014 (d) and (g), disregard money deposited into a children's  
24 development account, interest earned on that account and  
25 interest and matching funds deposited in a reserve account for

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1 the benefit of the account owners.

2 C. Money withdrawn from a children's development  
3 account for a purpose other than an allowable use shall be  
4 counted as a resource for purposes of the New Mexico Works Act  
5 or medicaid unless the withdrawal is approved by the program  
6 administrator.

7 SECTION 11. Section 27-2B-7 NMSA 1978 (being Laws 1998,  
8 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as  
9 amended) is amended to read:

10 "27-2B-7. FINANCIAL STANDARD OF NEED.--

11 A. The secretary shall adopt a financial standard  
12 of need based upon the availability of federal and state funds  
13 and based upon appropriations by the legislature of the  
14 available federal temporary assistance for needy families grant  
15 made pursuant to the federal act in the following categories:

- 16 (1) cash assistance;
- 17 (2) child care services;
- 18 (3) other services; and
- 19 (4) administrative costs.

20 The legislature shall determine the actual percentage of  
21 each category to be used annually of the federal temporary  
22 assistance for needy families grant made pursuant to the  
23 federal act. Within the New Mexico works program, the  
24 department may provide cash assistance or services to specific  
25 categories of benefit groups from general funds appropriated to

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1 cash assistance or services. The department may exclude these  
2 funds from temporary assistance for needy families maintenance  
3 of effort. The department shall identify alternative state  
4 spending to claim as maintenance of effort and make necessary  
5 arrangements to allow reporting of that spending.

6 B. The following income sources are exempt from the  
7 gross income test, the net income test and the cash payment  
8 calculation:

9 (1) medicaid;

10 (2) ~~[food stamps]~~ the federal supplemental  
11 nutrition assistance program;

12 (3) government-subsidized foster care payments  
13 if the child for whom the payment is received is also excluded  
14 from the benefit group;

15 (4) supplemental security income;

16 (5) government-subsidized housing or housing  
17 payments;

18 (6) federally excluded income;

19 (7) educational payments made directly to an  
20 educational institution;

21 (8) government-subsidized child care;

22 (9) earned income that belongs to a person  
23 seventeen years of age or younger who is not the head of  
24 household;

25 (10) child support passed through to the

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1 participant by the child support enforcement division of the  
2 department in the following amounts:

3 (a) fifty dollars (\$50.00) per month  
4 through December 31, 2008; and

5 (b) no later than January 1, 2009, a  
6 minimum of one hundred dollars (\$100) for one child and two  
7 hundred dollars (\$200) for two or more children as based on the  
8 availability of state or federal funds;

9 (11) earned income deposited in an individual  
10 development account by a member of the benefit group or money  
11 received as matching funds for allowable uses by the owner of  
12 the individual development account pursuant to the Individual  
13 Development Account Act; ~~and~~

14 (12) savings in a children's development  
15 account by a member of the benefit group or money received as  
16 matching funds for allowable uses by the owner of the  
17 children's development account pursuant to the Children's  
18 Development Account Act; and

19 [~~(12)~~] (13) other income sources as determined  
20 by the department.

21 C. The total countable gross earned and unearned  
22 income of the benefit group cannot exceed eighty-five percent  
23 of the federal poverty guidelines for the size of the benefit  
24 group.

25 D. For a benefit group to be eligible to

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1 participate:

2 (1) gross countable income that belongs to the  
3 benefit group must not exceed eighty-five percent of the  
4 federal poverty guidelines for the size of the benefit group;  
5 and

6 (2) net countable income that belongs to the  
7 benefit group must not equal or exceed the financial standard  
8 of need after applying the disregards set out in Paragraphs (1)  
9 through (4) of Subsection E of this section.

10 E. Subject to the availability of state and federal  
11 funds, the department shall determine the cash payment of the  
12 benefit group by applying the following disregards to the  
13 benefit group's earned income and then subtracting that amount  
14 from the benefit group's financial standard of need:

15 (1) one hundred twenty-five dollars (\$125) of  
16 monthly earned income and one-half of the remainder, or for a  
17 two-parent family, two hundred twenty-five dollars (\$225) of  
18 monthly earned income and one-half of the remainder for each  
19 parent;

20 (2) monthly payments made for child care at a  
21 maximum of two hundred dollars (\$200) for a child under two  
22 years of age and at a maximum of one hundred seventy-five  
23 dollars (\$175) for a child two years of age or older;

24 (3) costs of self-employment income; and

25 (4) business expenses.

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1           F. In addition to the disregards specified in  
2 Subsection E of this section, and between June 28, 2007 and  
3 June 30, 2008, or until implementation of the employment  
4 retention and advancement bonus program described in Subsection  
5 G of this section, the department shall apply the following  
6 income disregards to the benefit group's earned income and then  
7 subtract that amount from the benefit group's financial  
8 standard of need:

9           (1) for the first two years of receiving cash  
10 assistance or services, if a participant works over the work  
11 requirement rate set by the department pursuant to the New  
12 Mexico Works Act, one hundred percent of the income earned by  
13 the participant beyond that rate; and

14           (2) for the first two years of receiving cash  
15 assistance or services, for a two-parent benefit group in which  
16 one parent works more than thirty-five hours per week and the  
17 other works more than twenty-four hours per week, one hundred  
18 percent of income earned by each participant beyond the work  
19 requirement rate set by the department.

20           G. No later than July 1, 2008, New Mexico  
21 employment incentives shall be as follows:

22           (1) the department shall implement an  
23 employment retention and advancement bonus program based on  
24 availability of state or federal funds that includes financial  
25 incentives to encourage a participant to:

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1 (a) leave the New Mexico works program  
2 and move into an employment retention and advancement bonus  
3 incentive program;

4 (b) maintain a minimum of thirty hours  
5 per week employment; and

6 (c) leave the employment retention and  
7 advancement bonus incentive program due to increased earnings  
8 above the income eligibility standard and continue employment;

9 (2) the employment retention and advancement  
10 bonus incentive program shall provide a cash bonus and  
11 employment services to a former participant who, upon  
12 application:

13 (a) is currently engaged in paid work  
14 for a minimum of thirty hours per week;

15 (b) has received cash assistance for at  
16 least three months and one of the last three months;

17 (c) has had a gross income of less than  
18 one hundred fifty percent of the federal poverty guidelines;  
19 and

20 (d) has participated in the employment  
21 retention and advancement bonus incentive program for no longer  
22 than eighteen months;

23 (3) for continued eligibility in the  
24 employment retention and advancement bonus incentive program, a  
25 participant shall:

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1 (a) be engaged in paid work for thirty  
2 hours per week for at least one of the past three months;

3 (b) be engaged in paid work for thirty  
4 hours per week for at least four of the past six months;

5 (c) have had gross income less than one  
6 hundred fifty percent of the federal poverty guidelines; and

7 (d) have participated in the program no  
8 more than eighteen months;

9 (4) the department shall provide employment  
10 services to assist participants in gaining access to available  
11 work supports, maintain employment and advance to higher-paying  
12 employment; and

13 (5) the department shall:

14 (a) establish the amount of bonus to be  
15 paid to participants in the employment retention and  
16 advancement bonus program based on availability of state and  
17 federal funds;

18 (b) propose rules to implement the  
19 employment retention and advancement bonus incentive program of  
20 this subsection no later than January 1, 2008; and

21 (c) begin implementation of the  
22 employment retention and advancement bonus incentive program of  
23 this subsection no later than July 1, 2008.

24 H. The department may recover overpayments of cash  
25 assistance on a monthly basis not to exceed fifteen percent of

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1 the financial standard of need applicable to the benefit group.

2 I. Based upon the availability of funds and in  
3 accordance with the federal act, the secretary may establish a  
4 separate temporary assistance for needy families cash  
5 assistance program that may waive certain New Mexico Works Act  
6 requirements due to a specific situation.

7 J. Subject to the availability of state and federal  
8 funds, the department may limit the eligibility of benefit  
9 groups that are eligible because a legal guardian is not  
10 included in the benefit group."

11 SECTION 12. Section 27-2B-8 NMSA 1978 (being Laws 1998,  
12 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as  
13 amended) is amended to read:

14 "27-2B-8. RESOURCES.--

15 A. Liquid and nonliquid resources owned by the  
16 benefit group shall be counted in the eligibility  
17 determination.

18 B. A benefit group may at a maximum own the  
19 following resources:

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

22 (2) one thousand five hundred dollars (\$1,500)  
23 in liquid resources;

24 (3) the value of the principal residence of  
25 the participant;

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1 (4) the value of burial plots and funeral  
2 contracts for family members;  
3 (5) children's development accounts;  
4 ~~[(5)]~~ (6) individual development accounts; and  
5 ~~[(6)]~~ (7) the value of work-related equipment  
6 up to one thousand dollars (\$1,000).

7 C. Vehicles owned by the benefit group shall not be  
8 considered in the determination of resources attributed to the  
9 benefit group."

10 SECTION 13. Section 27-2D-6 NMSA 1978 (being Laws 2003,  
11 Chapter 317, Section 6, as amended) is amended to read:

12 "27-2D-6. RESOURCES.--

13 A. Liquid and nonliquid resources owned by the  
14 benefit group shall be counted in the eligibility  
15 determination.

16 B. A benefit group may at a maximum own the  
17 following resources:

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

20 (2) one thousand five hundred dollars (\$1,500)  
21 in liquid resources;

22 (3) the value of the principal residence of  
23 the participant;

24 (4) the value of burial plots and funeral  
25 contracts for family members;

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(5) children's development accounts;  
~~(5)~~ (6) individual development accounts; and  
~~(6)~~ (7) the value of work-related equipment  
up to one thousand dollars (\$1,000).

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

SECTION 14. EFFECTIVE DATE.--The effective date of the  
provisions of this act is July 1, 2015.