

HOUSE BILL 239

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

G. Andrés Romero

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO EDUCATION; ENACTING THE CHILDREN'S SAVINGS ACCOUNT ACT; CREATING THE CHILDREN'S SAVINGS ACCOUNT COUNCIL AND THE CHILDREN'S SAVINGS ACCOUNT FUND; MAKING AN APPROPRIATION.

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

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Children's Savings Account Act".

**SECTION 2.** [NEW MATERIAL] PURPOSE OF ACT.--The purpose of the Children's Savings Account Act is to empower New Mexico families to plan and save for their children's higher education

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by providing for the creation and initial funding of children's savings accounts for eligible individuals.

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the Children's Savings Account Act:

A. "account owner" means the person in whose name a children's savings account is originally established;

B. "allowable use" means a use that complies with the provisions of the Children's Savings Account Act or rules promulgated pursuant to that act;

HEC→~~C. "authorized financial institution" means a bank, bank and trust, savings bank, savings association or credit union authorized to be a trustee of individual retirement accounts as defined by federal law, the deposits of which are insured by the federal deposit insurance corporation or the national credit union administration, and that is authorized by the state treasurer to hold and manage children's savings accounts;~~←HEC

HEC→C. "authorized 529 vehicle" means a certified 529 tax advantaged college savings plan designed to make post-secondary education more affordable for families and that is authorized by the state treasurer to hold and manage children's savings accounts;←HEC

D. "children's savings account" means a financial savings account established and maintained in an authorized HEC→~~financial institution~~←HEC HEC→529 vehicle←HEC on behalf

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of an eligible individual; and

E. "eligible individual" means a person who meets the criteria for opening a children's savings account.

SECTION 4. [NEW MATERIAL] CHILDREN'S SAVINGS ACCOUNTS--ESTABLISHMENT--WITHDRAWALS.--

A. A children's savings account shall be established if:

(1) the account owner is an eligible individual at the time the account is established; and

(2) the children's savings account is established and maintained in an authorized HEC→financial institution←HEC HEC→529 vehicle←HEC.

B. Withdrawals from a children's savings account shall only be made in accordance with the Children's Savings Account Act and rules adopted pursuant to that act.

HEC→C. ~~The authorized financial institution in which a children's savings account is held shall not be liable for withdrawals made for uses other than allowable uses.~~←HEC

SECTION 5. [NEW MATERIAL] ELIGIBLE INDIVIDUALS.--An eligible individual is a person who:

- A. is less than six months of age;
- B. is a citizen or legal resident of the United States;
- C. is a resident of New Mexico; and
- D. has a family or household income that does not

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exceed two hundred percent of the federal poverty level.

SECTION 6. [NEW MATERIAL] RESPONSIBILITIES OF THE STATE TREASURER.--The state treasurer shall:

A. implement and administer a program that opens and maintains children's savings accounts pursuant to the Children's Savings Account Act;

B. promulgate rules necessary to implement and administer the provisions of the Children's Savings Account Act;

C. open a children's savings account upon verification that the proposed account owner is an eligible individual;

D. provide financial education and other necessary training pertinent to allowable uses by account owners, develop partnerships with HEC→an←HEC authorized HEC→financial institutions←HEC HEC→529 vehicle←HEC and oversee the management of children's savings accounts established pursuant to the Children's Savings Account Act;

E. make an annual report each November to the governor and to the legislative finance committee; and

F. use no more than five percent of the money appropriated to fund the Children's Savings Account Act to administer that act.

SECTION 7. [NEW MATERIAL] ESTABLISHMENT OF ACCOUNTS--ALLOWABLE USES--WITHDRAWALS FROM CHILDREN'S SAVINGS ACCOUNTS--

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FORFEITURE OF INITIAL DEPOSIT.--

A. The state treasurer shall establish by rule the manner in which eligible individuals may be identified.

B. The state treasurer shall, within three months of the identification of an eligible individual, establish a children's savings account with the eligible individual as the account owner, and shall make an initial deposit from the children's savings account fund into that account in the amount of five hundred dollars (\$500).

C. More than one eligible individual per household may hold a children's savings account.

D. Allowable uses of the money withdrawn from a children's savings account are limited to the following:

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

(2) expenses to participate in programs administered by the workforce solutions department; and

(3) other uses specified by rule promulgated by the state treasurer.

E. In the case of a deceased account owner, amounts deposited by the state and held in a children's savings account shall revert back to the state and be paid to the state treasurer.

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F. In the case of a deceased account owner, amounts deposited by the account owner and held in a children's savings account shall be distributed directly to the account owner's spouse or, if the spouse is deceased or there is no spouse, to a dependent or other named beneficiary of the deceased. If the recipient is an eligible individual, the account may be transferred and maintained in the name of the surviving spouse, dependent or beneficiary.

G. Account owners qualifying as eligible individuals pursuant to the provisions of Section 5 of the Children's Savings Account Act shall not be permitted to withdraw money from a children's savings account until such time as the account owner has HEC→:←HEC

HEC→(1)←HEC completed a financial education program prior to the withdrawal of money from the account owner's children's savings account unless written approval is obtained from the state treasurer; and←HEC

HEC→(2)←HEC completed a high school curriculum at a public or accredited private New Mexico high school or received a high school equivalency credential.

H. If an account owner withdraws money from a children's savings account for a use other than an allowable use, the account owner forfeits the amount of the initial deposit provided by the state, as set forth in the agreement between the state treasurer and the account owner.

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I. If an account owner fails to withdraw, for the purposes set forth in Subsection D of this section, the entire balance of a children's savings account by the day the account owner reaches twenty-six years of age:

(1) amounts deposited by the state and held in that children's savings account shall revert back to the state and be paid to the state treasurer; and

(2) the account owner may use the balance remaining in that children's savings account without restrictions set forth in this section.

J. At the request of the account owner and with the written approval of the state treasurer, amounts may be withdrawn from the account owner's children's savings account and deposited in another children's savings account established for an eligible individual.

**SECTION 8. [NEW MATERIAL] CHILDREN'S SAVINGS ACCOUNT COUNCIL.--**

A. The "children's savings account council" is created. The council shall:

(1) provide oversight of the administration of the Children's Savings Account Act;

(2) suggest possible changes that benefit account owners or improve the effectiveness of the children's savings account programs throughout the state; and

(3) obtain subject matter expertise through

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attendance at conferences and workshops related to asset-building strategies.

B. The children's savings account council shall meet at least two times per calendar year to perform its duties.

C. The children's savings account council shall consist of the lieutenant governor or the lieutenant governor's designee and eight members appointed by the governor to represent the state geographically. The state treasurer or the state treasurer's designee shall serve as an ex-officio member of the council.

D. Appointed members of the children's savings account council shall receive per diem and mileage pursuant to the Per Diem and Mileage Act for attendance at required meetings and at authorized conferences and workshops and shall receive no other compensation, perquisite or allowance for their participation on the council.

E. The state treasurer shall provide adequate staff support and administrative services for the children's savings account council.

**SECTION 9. [NEW MATERIAL] CHILDREN'S SAVINGS ACCOUNT FUND--CREATED.--**The "children's savings account fund" is created in the state treasury. The fund shall consist of appropriations by the legislature, gifts, grants, donations and bequests made to the fund. Income from the fund shall be .210945.4



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credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the office of the state treasurer for the purposes of implementing the provisions of the Children's Savings Account Act. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the state treasurer.

**SECTION 10. APPROPRIATION.**--Seven million five hundred thousand dollars (\$7,500,000) is appropriated from the general fund to the office of the state treasurer for expenditure in fiscal year 2020 and subsequent fiscal years to carry out the provisions of the Children's Savings Account Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

**SECTION 11. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2019.