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| LFC Requester: | Klundt, Kelly |
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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: 02/13/2025 *Check all that apply:*
Bill Number: HB 7 Original Correction
 Amendment Substitute

Sponsor: Linda Serrato, Javier Martinez **Agency Name and Code:** NMSTO 39400
Short Title: CHILDREN'S FUTURE ACT & FUND **Person Writing:** Treasurer Laura M. Montoya
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY25 | FY26 | | |
| \$5 mil | | recurring | 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

1. Establishment of the Children's Future Fund:
 - The bill creates the "Children's Future Fund" as a nonreverting fund within the state treasury.
 - The fund aims to assist individuals (referred to as "beneficiaries") born in New Mexico after January 1, 2025, primarily to support education, housing, entrepreneurship, and retirement opportunities.
 - The fund's money will come from various sources, including transfers, gifts, and investments, with the goal of providing long-term financial support for beneficiaries.
2. Investment Strategy:
 - In accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act and in consultation with the secretary of finance and administration or the designee, money in the children's future fund shall be invested in a unique investment strategy where two-thirds of the funds will be invested by the state investment officer for 18 years and then that two-thirds will be invested by the State Treasurer and one third shall be invested by the state investment officer.
 - The department may expend no more than 3% of the balance of the children's future fund at the end of the fy for costs.
3. Tax Exemption:
 - Money spent on behalf of beneficiaries, including any transfers or distributions from the Children's Future Fund, will be exempt from state income taxes.
4. No Guarantee of Benefits:
 - The bill explicitly states that the program does not guarantee any benefits or create enforceable property rights for the beneficiaries. It outlines that there is no guarantee of how much will be available for any individual at the time they wish to access the fund.
5. Fiduciary Duty:
 - Those involved in managing, disbursing, or investing the fund will have a fiduciary duty to act in the best interest of the beneficiaries.
6. Creation of the Children's Future Task Force:
 - A task force will be established to study and recommend the optimal design and administration of the program.
 - The task force will include representatives from various state agencies, including the State Treasurer's office, and will also include members with professional investment experience and from community-based organizations focused on financial well-being.
 - The task force's report will include a financial plan for implementing the program, recommendations on eligibility, the application process, and strategies for equitable implementation.
7. Appropriation:
 - An appropriation of \$5 million from the state's general fund is made for the fund in fiscal year 2026 and subsequent years. Unspent funds will not revert to the general fund.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

I agree with the analysis that the SIC presented and can not support this legislation in its current form.

There are potential structural, legal and logistical challenges around the proposal, including a permanent funding source, potential conflict with the state's anti-donation clause, and uncertain costs around the long-term administration of the makeup of this program.

Eligibility includes "born in NM after January 1, 2025." The bill, if passed, doesn't go into effect until July 1, 2025. How do they expect to get the data formulated for babies already born if there is not a data sharing process already in place or in the bill? New Mexico laws are not retroactive.

The point of baby bonds is to bridge the wealth divide and assist all babies born in New Mexico with having a trust fund in their name. Defining a beneficiary as "a person born in NM on or after January 1, 2025 and whose primary residence since birth is continuously in NM" eliminates a lot of the children that baby bonds is intended to assist. What if a child needs to leave because their parent is in the military or medical field and has to leave for a few years or they decide to go out of state for a few years for college? They would no longer qualify under the current legislation. This bill does not limit the amount of non – New Mexicans who can come into our state and claim this trust because they were born here. That also defeats the purpose and who this was intended for.

Section 2 also requires "to assist beneficiaries who graduate from a high school in New Mexico?" What if the beneficiary drops out? Baby bonds should not be limited to only high school graduates. The bill is also missing the financial literacy component approved by the Treasurer's office in order to be qualified to tap into their baby bond account after the age of 18 which is critical for the program and the child to be successful.

Page 2, Section 3, Subsection A: beneficiaries "pursuing education, housing, entrepreneurship, retirement and investment opportunities" are not all items that currently comply within the realms of the NM Anti-donation Clause. There is also no clear definition for what "entrepreneurship," or "investment opportunities" include.

Page 2, Section 3 B. DFA has nothing to do with the prudent investor rule set forth in the Uniform Prudent Investor Act and the secretary makes no decisions on investments of funds. DFA does not invest funds. The State Treasurer and the State Investment Council invest funds. The State Treasurer invests short term, highly liquid assets and the SIC invests more long-term strategies for our trusts. Trusts are made up of more than \$5 million. That is not a trust, that is a bank account.

Page 2, Subsection B, Sections (1) and (2) make zero sense. "2/3 to the children's future fund shall be invested by the SIC for 18 years and then that same 2/3 and the income shall be invested by the state treasurer; and one third shall be invested by the SIC." This makes no sense! There needs to be two accounts, one being the trust that the SIC manages and will continuously manage farther out than 18 years IF there is actually real money placed in the trust. The second account will be held at the State Treasurer's Office (STO) and will be for operations which would be a minimal cost for the first 18 years. "The department may expend no more than 3% of the balance

of the fund at the end of the FY for costs incurred to administer the act.” There are no costs and if there were, 3% of \$5 million is \$150,000. What costs are there to incur if this is only a taskforce and has no trust money set up. If it is expected for SIC to manage \$5 million dollars for a “trust” that is supposed to assist more than 22,000 babies born per year, this would not work and in fact would be a waste of the expertise of the SIC and the amazing work they do in managing over \$59 billion.

Page 4, Section 7, Subsection A: Children’s Future Task Force is created. Creating a task force when there is no trust or data sharing to place all babies born into a secured software platform is a waste of time and money. Requiring “staff and administrative support for the task force shall be provided by the State Investment Council” is completely unnecessary and an unfunded mandate. The SIC manages \$59 billion and is the second largest wealth fund in the US. They are also understaffed by over 30 employees, yet, this legislation is requiring the SIC to chair a task force and the State Treasurer to Vice Chair along with someone from DFA, an appointment from the Governor and four public members. At least two appointed members shall have at a minimum five years of professional investment or financial expertise and at least two members shall be representatives of community based organizations focused on family and financial and economic well being.” My biggest question is WHY? We don’t need a task force to determine asset allocation or how to manage the funds. One because there are no funds to manage and 2, because we are all experts in what we do. SIC gets money and based on goals, when money is needed, ect... they determine the asset allocation. The Treasurer’s office works closely with DFA and SIC whenever any monies are flowing in or out of either agency. The only “working group” needed is between DFA, CYFD and DOH to discuss what data sharing is necessary to carry out the functions and the rules promulgated to make the program function. No outside community members can assist with that as it is an internal government function. “Decisions of investment risk and asset allocation of the fund” is very concerning as task forces are not fiduciaries or experts in long-term investing. Why would we put that burden on a task force when we already have experts at SIC that do that for a living.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

This draft causes complications for DFA, SIC, STO and does not consider any data sharing with DOH or CYFD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

There needs to be two accounts, a trust account and a bank account. A task force is not necessary to carry out the baby bonds program. There is no way to retrieve data for all babies born as of January 1, 2025 when the bill, if passed, wouldn’t go into effect until July 1, 2025 and there is no data sharing with state agencies to retrieve this information. \$5 million dollars is not enough money to call it a “trust” and especially if it is supposed to be used for 22,000 babies being born each year. The breakdown of where the funds go does not make logical sense. The definition of “beneficiary” allows anyone born in NM to qualify and removes qualification if you move out of state at any point in your life. The uses are vague, and several violate the anti-donation clause.

The bill appropriates \$5 million to the children’s future fund in FY26, which would be deposited on or after July 1, 2025. Therefore, the fund balance at the end of FY25 (June 30, 2025) would be \$0, which would presumably mean no administrative funding would be available for FY26. If administrative funding from the Children’s Future Funds is not available until FY27, the fund would be unable “to support per diem and mileage” for the Task Force (which is only in effect July to December 2025) or any other administrative costs incurred during the 2026 fiscal year.

“Requiring SIC to staff the Task Force would likely create significant administrative burdens related to creating the required report – including conducting policy research, gathering data, writing policy documents and administrative rules, drafting financial plans, and designing application processes. SIC is currently staffed with investment professionals, investment accountants, legal staff, and administrative staff. However, SIC does not currently have staff that are well-versed in this type of policy and procedural design. Therefore, SIC would need likely to hire additional qualified people to staff the Task Force during the 6 month project period.”

The legislature does not directly fund the SIC and I do not believe they can use the permanent funds to hire staff to support the Children’s Future Task Force. As a member of the SIC, and knowing the responsibilities they currently have on their plate, I can not support them taking on this task from July 1 to December 31st as presented in the current bill.

OTHER SUBSTANTIVE ISSUES

SIC is required to take on responsibilities and not given any funding to do so. The State Treasurer is independently elected and does not agree to be on an unnecessary task force.

ALTERNATIVES

The State Treasurer’s baby bond bill be considered for passage. STO recommends the bill be restructured to create two separate and distinct funds – one to act as a trust fund with a long-term investment horizon, and a separate expenditure fund that could be appropriated to DFA for administration of the Children’s Future Act. No task force.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS