F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	1/19/2016		
SPONSOR	Stapleton/James	**LAST UPDATED**	2/8/2016	**HB**	61/aHWMC
SHORT TITLE	Accounts for Persons with Disabilities Act			**SB**	
				ANALYST	Mulligan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Estimated Up To $2 Million*	Estimated Up To $2 Million*	Estimated Up To $4 Million*	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

*See Fiscal Implications below

Relates to Appropriation in the General Appropriation Act

- Sec. 4 Appropriation to the State Treasurer's Office

SOURCES OF INFORMATION
LFC Files

Responses Received From
Governor's Commission on Disability (GCD)
Department of Health (DOH)
Human Services Department (HSD)
State Treasurer's Office (STO)

SUMMARY

Synopsis of HWC Amendment

The House Ways and Means Committee (HWMC) amendment to HB 61 makes three changes to the original bill:

- authorizes the State Treasurer's Office (STO) to allow contractors to "administer and manage" accounts under the Act and report account activity to STO on an annual or other basis determined by STO;
- strikes language requiring account owners to be residents of New Mexico; and
- adds language that excludes the state from liability for financial losses suffered by account owners.

The new language regarding contractors authorizes, but does not require, STO to contract with a third party to administer and manage the program and its accounts on behalf of STO (rather than manage accounts on behalf of account owners) and would represent a shift in any administrative costs associated with this new program from personnel services/employee benefits to contractual services.

Synopsis of Original Bill

HB 61 is sponsored by the House Revenue Stabilization and Tax Policy Committee. The bill has an emergency clause.

The bill would enact state law allowing for the creation of savings accounts exempt from means testing by individuals with disabilities under the federal Achieving a Better Life Experience (ABLE) Act of 2014 (26 U.S.C. 429a) as required by the federal act. The intent of the federal law is to allow individuals with disabilities to accumulate financial resources in excess of the $2,000 limit allowed under federal means-tested programs, including the disabilities programs of the U.S. Social Security Administration.

The stated purpose of the federal law is "(1) to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life, and (2) to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under title XIX of the Social Security Act, the supplemental security income program under title XVI of such Act, the beneficiary's employment, and other sources." See attached summary of the ABLE act from the National Down Syndrome Society.

The bill would require the State Treasurer's Office (STO) to promulgate rules governing the program and to verify certificates of eligibility, among other administrative functions.

FISCAL IMPLICATIONS

The federal law authorizing the ABLE accounts essentially requires states to "establish and maintain" a program authorizing such accounts within certain limitations. Aside from the State Treasurer's Office, the bill appears to have little affect upon the finances of any state agency.

The State Treasurer's Office (STO) indicates that they believe the fiscal impact may approach $2 million annually, which could be partially or wholly off-set by assessing a nominal annual fee to administer the program (see details below). According to STO, the State of Ohio, with a population of 11 million compared to New Mexico's 2 million, is in the process of implementing a similar program and estimates their start-up costs to be about $4 million. Administration and maintenance costs will vary based on the number of participants, and data from the Social Security Administration's website indicates 64,694 disabled individuals, as of December 2014, receiving Supplemental Security Income ("SSI"). Assuming that 50% of the individuals receiving SSI participate (32,000) and assuming a cost to the State to administer the program of $60 per participant per year, the estimated ongoing costs would be $1,920,000 rounded up to $2,000,000. During the start-up phase, the cost-per-account could be significantly higher. STO indicates that start-up costs could include but not be limited to legal analysis, RFP costs, creation and updating of marketing materials, development of disclosure documents, website design, investment management fees and account administration set-up.

The State could elect to pass all or a portion of these costs along to the participants as an administrative fee to off-set the costs of administering the program; the amount of general fund necessary could be reduced or eliminated, depending upon the fee amount, if an administrative fee was imposed.

The Human Services Department indicates that the enactment of the bill would create additional workload under the Estate Recovery Program and caseworkers who are responsible for making eligibility determinations. It could also take more time to make determinations (approvals, closures, or denials) in cases where the applicant/recipient has this type of account because additional steps will be required to ensure that HSD is correctly excluding only those accounts that meet the requirements of the bill.

SIGNIFICANT ISSUES

The bill appears to implement required aspects of the federal law regarding allowable levels of financial resources of individuals with disabilities, and appears to accomplish the goals of the federal act at the state level.

The Department of Health notes that thousands of New Mexicans with disabilities and their families depend on a variety of public benefits for income, health care, food, and housing assistance, and that eligibility for these public benefits require meeting a "means" or "resource" test and that workers with disabilities do not have the opportunity to save their earnings because of the $2,000 asset limit. HB61 would allow eligible individuals and families to establish savings accounts that would not affect their eligibility for Social Security Income, Medicaid, or other public benefits. Individuals with disabilities in New Mexico could save up to $100,000 in total or $14,000 per year before their public benefits would be reduced. These savings could be used to purchase goods or services relating to their disabilities.

PERFORMANCE IMPLICATIONS

As noted, the State Treasurer's Office may not be able to carry out the functions required by the legislation without an appropriation.

ADMINISTRATIVE IMPLICATIONS

The bill does not provide for an appropriation to the State Treasurer's Office to administer provisions of the act, which may be significant for STO and which include requirements to issue (promulgate) rules under the program, to verify the disability certification of each designated beneficiary under the program, to certify that expenses from the accounts are qualified disability expenses, and to report to the Social Security Administration. The bill also authorizes STO to contract with a third party to verify disability certifications. It is expected that the work that would be required by the bill will require expenditures for salary, contractual, and operating costs that are not currently included in the appropriation to the State Treasurer's Office in Sec. 4 of the General Appropriation Act.

It may be more feasible, if allowed under the federal act, to charge another state agency, other than STO, that has more staff and financial resources with the administrative responsibilities contained in the bill.

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