

# DISABILITIES CONCERNS SUBCOMMITTEE 2015 INTERIM SUMMARY

4 meeting days

16 topics

40 presenters/panelists

Roswell, Albuquerque, Santa Fe

## TOPICS INCLUDED:

- ENMU Special Services Program
- Intermediate Care Facilities
- Treatment and Care Venues for Persons with Disabilities Needing Residential or Extended Hospitalization
- Medicaid Home- and Community-Based Services for Persons with Developmental Disabilities (DD)
- Local Services for Persons with DD (Roswell area)
- *Waldrop* Litigation Update
- Abolishing the Marriage Penalty
- Special Needs Planning
- Autism
- Centers for Independent Living
- Project ECHO Adaptive Technology for Persons with Disabilities
- Self-Directed Waiver
- Comparative Cost of New Mexico's DD Waiver Program
- HM 9 Task Force Report
- Medicaid Managed Care Assessments for Community-Based Services
- Program of All Inclusive Care (PACE) for Persons with Disabilities



2016 Legislation

Item No.	Sponsor	Topic	Type	Amount
1	S. Soules	DD waiting list	bill w/approp	\$25,000,000
2	S. Rodriguez	DD waiver provider COLA	approp	\$5,000,000
3	S. Rodriguez	DD general fund provider COLA	approp	\$5,000,000
4	S. Rodriguez	FIT provider COLA	approp	\$5,000,000
5	R. Stapleton	Support accounts (ABLE)	bill	
6	S. Rodriguez	EPSDT services for children w/ASD	bill w/approp	\$11,500,000
7	S. Rodriguez	Project ECHO	approp	\$3,000,000
8	S. Candelaria	Missing Person Info and Reporting	bill	

Items in bold type have been endorsed by LHHS





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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; REQUIRING THE DEPARTMENT OF HEALTH TO PROVIDE AN ANNUAL REPORT ON THE DEVELOPMENTAL DISABILITIES MEDICAID HOME- AND COMMUNITY-BASED WAIVER PROGRAM; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] DEVELOPMENTAL DISABILITIES-- MEDICAID HOME- AND COMMUNITY-BASED SUPPORTS AND SERVICES-- ANNUAL REPORT WITH FIVE-YEAR COST PROJECTIONS.--

A. By October 1, 2016 and by October 1 of each year thereafter, the department of health shall provide a report to the legislative finance committee and the legislative health and human services committee on the supports and services provided pursuant to the developmental disabilities medicaid home- and community-based waiver program. The report shall

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1 include:

2 (1) for each of the five most recent state  
3 fiscal years, the number of individuals who:

4 (a) were served in the developmental  
5 disabilities medicaid home- and community-based waiver program;

6 (b) received developmental disabilities  
7 medicaid home- and community-based waiver services for the  
8 first time that year based on an approved initial service plan,  
9 including information on the average length of time that  
10 individuals for whom services were newly approved during the  
11 fiscal year had awaited allocation on the developmental  
12 disabilities medicaid home- and community-based waiver waiting  
13 list before plan approval;

14 (c) were awaiting allocation at the end  
15 of the fiscal year;

16 (d) were added to the waiting list,  
17 sorted by status category; and

18 (e) were removed from the waiting list  
19 due to reasons other than allocation to the developmental  
20 disabilities medicaid home- and community-based waiver program  
21 services;

22 (2) for each of the five most recent state  
23 fiscal years, the amount of state funds, if any, that the  
24 legislature has appropriated that:

25 (a) exceeds the previous state fiscal

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1 year's allocation of state funds for the purpose of increasing  
2 the number of individuals served in the developmental  
3 disabilities medicaid home- and community-based waiver program  
4 for each state fiscal year; and

5 (b) has reverted at the end of the state  
6 fiscal year;

7 (3) for each of the five most recent state  
8 fiscal years, the amount of state and federal funds expended  
9 for developmental disabilities medicaid home- and community-  
10 based waiver program services;

11 (4) a projection of the number of registrants  
12 who will be in awaiting allocation status at the end of each of  
13 the upcoming five state fiscal years, based on:

14 (a) historical data on the annual  
15 average number of registrations for the developmental  
16 disabilities waiver that were confirmed to meet the eligibility  
17 definition through match determination and moved to awaiting  
18 allocation status; and

19 (b) other relevant program data; and

20 (5) a projection of the amount of additional  
21 state funding required so that by the end of the upcoming  
22 five-year period, individuals on the waiting list awaiting  
23 allocation have a registration date not more than three years  
24 earlier than the date of the end of that five-year period.

25 B. As used in this section:

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1 (1) "awaiting allocation" means that an  
2 individual on the waiting list for the developmental  
3 disabilities medicaid home- and community-based waiver program  
4 has been determined by the department of health through match  
5 determination to meet the eligibility definition for the  
6 program;

7 (2) "match determination" means the process to  
8 verify that an individual has a condition that meets the  
9 developmental disabilities medicaid home- and community-based  
10 waiver eligibility definition; and

11 (3) "registration" means the submission of a  
12 registration form to apply for the developmental disabilities  
13 medicaid home- and community-based waiver program.

14 SECTION 2. APPROPRIATION.--Twenty-five million dollars  
15 (\$25,000,000) is appropriated from the general fund to the  
16 department of health for expenditure in fiscal year 2017 to  
17 fund supports and services for individuals enrolled in a  
18 developmental disability medicaid home- and community-based  
19 waiver program and to allow enrollment of eligible individuals  
20 listed on the department of health's central registry who are  
21 currently awaiting allocation of supports and services through  
22 the developmental disability medicaid waiver program. Any  
23 unexpended or unencumbered balance remaining at the end of  
24 fiscal year 2017 shall revert to the general fund.



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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF HEALTH TO  
PARTIALLY RESTORE RATE CUTS TO DEVELOPMENTAL DISABILITY  
MEDICAID WAIVER DIRECT CARE PROVIDERS.

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

SECTION 1. APPROPRIATION.--Five million dollars  
(\$5,000,000) is appropriated from the general fund to the  
department of health for expenditure in fiscal year 2017 to  
partially restore developmental disability medicaid waiver  
direct care provider rate cuts. Any unexpended or unencumbered  
balance remaining at the end of fiscal year 2017 shall revert  
to the general fund.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF HEALTH TO FUND A  
COST-OF-LIVING REIMBURSEMENT INCREASE FOR DIRECT CARE SERVICE  
PROVIDERS FOR THE DEVELOPMENTAL DISABILITY GENERAL FUND  
PROGRAM.

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

SECTION 1. APPROPRIATION.--Five million dollars  
(\$5,000,000) is appropriated from the general fund to the  
department of health for expenditure in fiscal year 2017 to  
fund cost-of-living increases in reimbursements for department  
of health developmental disability general fund program direct  
care service providers. Any unexpended or unencumbered balance  
remaining at the end of fiscal year 2017 shall revert to the  
general fund.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR RATE INCREASES TO FAMILY, INFANT, TODDLER PROGRAM PROVIDERS.

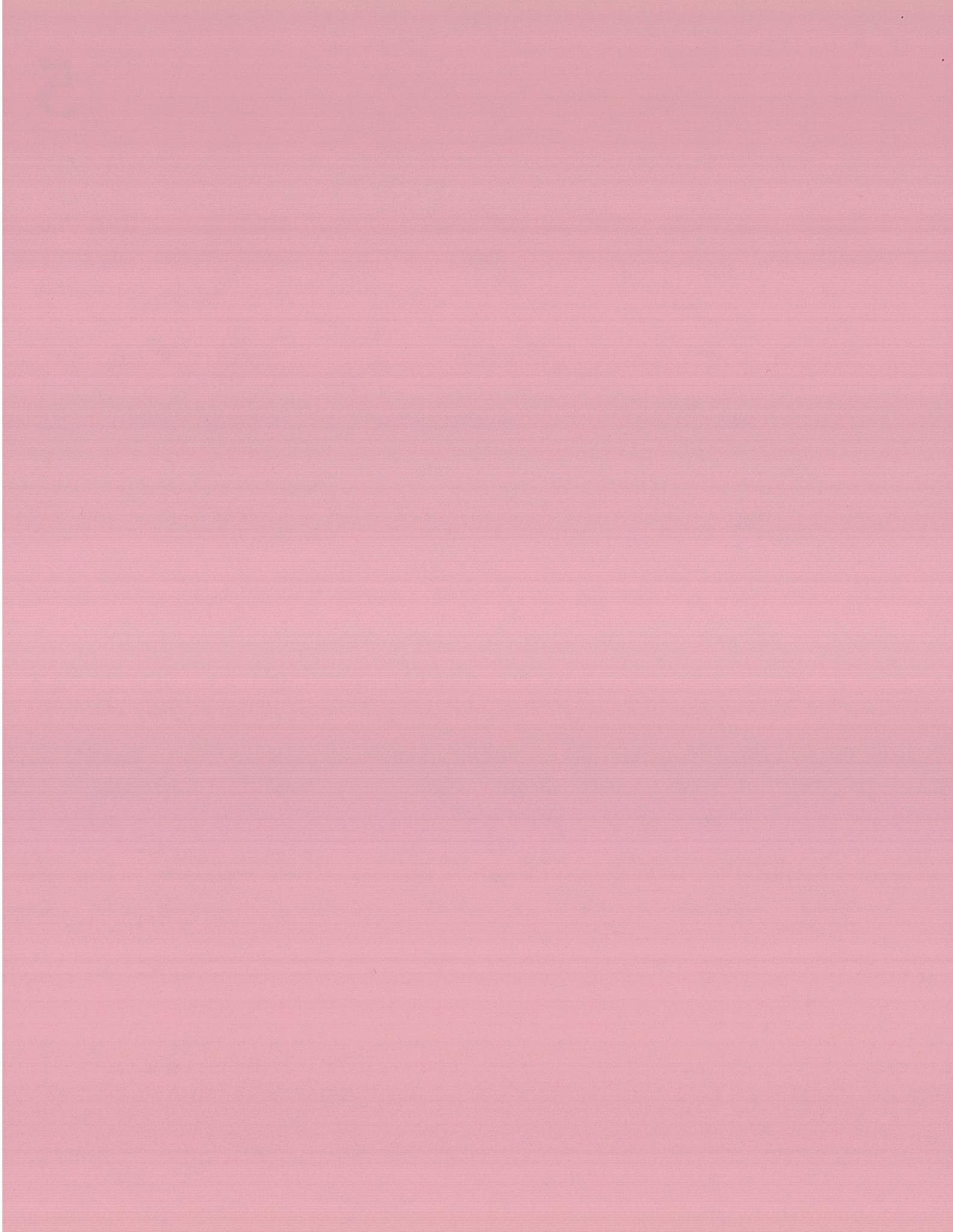
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. APPROPRIATION.--Five million dollars (\$5,000,000) is appropriated from the general fund to the department of health for expenditure in fiscal year 2017 to fund rate increases for family, infant, toddler program providers. Any unexpended or unencumbered balance remaining at the end of fiscal year 2017 shall revert to the general fund.

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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO ACCOUNTS FOR THE SUPPORT OF PERSONS WITH DISABILITIES; CREATING THE ACCOUNTS FOR PERSONS WITH DISABILITIES ACT; ENACTING ENABLING LEGISLATION REQUIRED BY THE FEDERAL ACHIEVING A BETTER LIFE EXPERIENCE ACT OF 2014; REQUIRING THE OFFICE OF THE STATE TREASURER TO ESTABLISH AND MAINTAIN A QUALIFIED PROGRAM FOR SUCH ACCOUNTS; DECLARING AN EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Accounts for Persons with Disabilities Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Accounts for Persons with Disabilities Act:

A. "account" means an individual tax-free savings

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1 account for a designated beneficiary that is established  
2 pursuant to Section 529A of the Internal Revenue Code of 1986,  
3 as amended;

4 B. "account owner" means a person who establishes  
5 and owns an account under the Accounts for Persons with  
6 Disabilities Act and who is one of the following:

7 (1) the designated beneficiary of the account;

8 (2) the parent, guardian or conservator of a  
9 minor designated beneficiary; or

10 (3) the conservator of a designated  
11 beneficiary otherwise incapable of handling such beneficiary's  
12 financial affairs;

13 C. "designated beneficiary" means a person for whom  
14 an account is established under the Accounts for Persons with  
15 Disabilities Act;

16 D. "disability certification" means a certification  
17 deemed sufficient by the United States secretary of the  
18 treasury to establish a certain level of physical or mental  
19 impairment that meets the requirements of Section 529A of the  
20 Internal Revenue Code of 1986, as amended;

21 E. "eligible person" means, for a taxable year, a  
22 person who is either:

23 (1) entitled during that taxable year to  
24 benefits based on blindness or disability under Title 2 or  
25 Title 16 of the federal Social Security Act; provided that such

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1 blindness or disability occurred before the date on which the  
2 individual attained age twenty-six; or

3 (2) the subject of a disability certification  
4 filed with the United States secretary of the treasury;

5 F. "family member" means a sibling, whether by  
6 blood or adoption, including a brother, sister, stepbrother,  
7 stepsister, half-brother or half-sister;

8 G. "fiduciary" means a person authorized to do  
9 business in New Mexico and acting as a fiduciary to manage and  
10 invest an account; provided that such person is bonded and is  
11 not the parent, guardian or conservator of the designated  
12 beneficiary of the account;

13 H. "financial organization" means an organization  
14 that is authorized to do business in New Mexico and is:

15 (1) licensed or chartered by the office of  
16 superintendent of insurance;

17 (2) licensed or chartered by the financial  
18 institutions division of the regulation and licensing  
19 department; or

20 (3) subject to the jurisdiction of the federal  
21 securities and exchange commission;

22 I. "office" means the office of the state  
23 treasurer;

24 J. "qualified disability expenses" means any  
25 expenses, related to the designated beneficiary's blindness or

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1 disability, that include the following:

2 (1) education;

3 (2) housing;

4 (3) transportation;

5 (4) employment training and support;

6 (5) assistive technology and personal support  
7 services;

8 (6) health, prevention and wellness;

9 (7) financial management and administrative  
10 services;

11 (8) legal fees;

12 (9) expenses for oversight and monitoring;

13 (10) funeral and burial expenses; and

14 (11) other expenses approved by the United  
15 States secretary of the treasury; and

16 K. "qualified program" means a program established  
17 and maintained by the state or an agency or instrumentality of  
18 the state pursuant to 26 U.S.C. Section 529A.

19 SECTION 3. [NEW MATERIAL] DUTIES AND AUTHORITY OF THE  
20 OFFICE.--

21 A. The office shall:

22 (1) ensure that an account meets the  
23 requirements of a qualified program; and

24 (2) promulgate rules to implement and  
25 administer the qualified program and other requirements of the

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1 Accounts for Persons with Disabilities Act.

2 B. The office may contract with third parties to:

3 (1) verify the disability certification of  
4 each designated beneficiary under the state's qualified program  
5 and certify whether expenses paid from such account are  
6 qualified disability expenses; and

7 (2) provide such information related to  
8 accounts as the state is required to report to the federal  
9 social security administration.

10 SECTION 4. [NEW MATERIAL] ACCOUNTS.--

11 A. An account owner may:

12 (1) establish an account with a financial  
13 organization or fiduciary;

14 (2) close the account and establish an account  
15 with another financial organization or fiduciary, no more than  
16 twice in any tax year; and

17 (3) change the owner of an account to a family  
18 member of a designated beneficiary; provided that the family  
19 member is an eligible person.

20 B. More than one person may contribute to an  
21 account.

22 C. A person shall not be the designated beneficiary  
23 of more than one account.

24 D. A designated beneficiary for whom an account is  
25 established pursuant to the Accounts for Persons with

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1 Disabilities Act shall be a resident of New Mexico.

2 SECTION 5. [NEW MATERIAL] DUTIES OF FINANCIAL  
3 ORGANIZATION OR FIDUCIARY.--

4 A. If a designated beneficiary incurs a qualified  
5 disability expense, the financial organization or fiduciary  
6 shall pay such expense, or reimburse such expense; provided  
7 that the account balance is sufficient to do so.

8 B. If any person attempts to contribute to an  
9 account and such contribution would exceed the limits on annual  
10 or maximum aggregate contributions to the account pursuant to  
11 26 U.S.C. Section 529A, the financial organization or fiduciary  
12 shall return the amount that exceeds such limits to the  
13 contributor.

14 SECTION 6. [NEW MATERIAL] STATE AS CREDITOR OF ACCOUNT.--

15 Subject to any outstanding payments due for qualified  
16 disability expenses, upon the death of the designated  
17 beneficiary, an amount equal to the total medical assistance  
18 paid for the designated beneficiary after the establishment of  
19 the account shall be distributed to the state from funds  
20 remaining in the account upon filing of a claim for payment by  
21 the state. For purposes of this section, the state shall be a  
22 creditor of an account and not a beneficiary.

23 SECTION 7. [NEW MATERIAL] TREATMENT OF ACCOUNTS UNDER  
24 FEDERAL MEANS-TESTED PROGRAMS.--

25 A. Notwithstanding any other provision of federal

1 law that requires consideration of one or more financial  
2 circumstances of a person when determining eligibility to  
3 receive benefits or determining the amount of assistance, such  
4 provisions shall not apply to a designated beneficiary except  
5 that, in the case of the supplemental security income program  
6 under Title 16 of the federal Social Security Act:

7 (1) a distribution for housing expenses shall  
8 be allowed; and

9 (2) any amount in an account established  
10 pursuant to the Accounts for Persons with Disabilities Act,  
11 including earnings on investment of the account, in excess of  
12 one hundred thousand dollars (\$100,000) shall be considered an  
13 excess resource of the designated beneficiary.

14 B. The benefits of a designated beneficiary under  
15 the supplemental security income program under Title 16 of the  
16 federal Social Security Act shall not be terminated, but shall  
17 be suspended, by reason of excess resources of the designated  
18 beneficiary attributable to an amount in the account, within  
19 the meaning of Section 529A of the Internal Revenue Code of  
20 1986, as amended.

21 SECTION 8. A new section of Chapter 6, Article 8 NMSA  
22 1978 is enacted to read:

23 "[NEW MATERIAL] ACCOUNTS FOR SUPPORT OF PERSONS WITH  
24 DISABILITIES.--The state treasurer shall establish and maintain  
25 the program established pursuant to 26 U.S.C. Section 529A and

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1 the Accounts for Persons with Disabilities Act."

2 SECTION 9. APPLICABILITY.--The provisions of this act  
3 apply to taxable years beginning on or after January 1, 2016.

4 SECTION 10. EMERGENCY.--It is necessary for the public  
5 peace, health and safety that this act take effect immediately.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO AUTISM SPECTRUM DISORDER; ENSURING THAT EVERY CHILD  
DIAGNOSED WITH AUTISM SPECTRUM DISORDER HAS ACCESS TO MEDICAID  
EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT SERVICES;  
MAKING APPROPRIATIONS TO INCREASE CAPACITY AND EXPERTISE IN THE  
DIAGNOSIS AND TREATMENT OF AUTISM SPECTRUM DISORDER AND TO  
INCREASE ACCESS TO SERVICES FOR PERSONS WITH AUTISM SPECTRUM  
DISORDER.

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

SECTION 1. Section 28-16A-13 NMSA 1978 (being Laws 1993,  
Chapter 50, Section 13) is amended to read:

"28-16A-13. AUTHORIZATION FOR PROVIDING [~~COMMUNITY-BASED~~]  
SUPPORT AND SERVICES FOR PERSONS WITH DEVELOPMENTAL  
DISABILITIES.--

A. Subject to the availability of appropriations

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1 provided expressly for this purpose, the department may:

2 (1) acquire, provide or coordinate support and  
3 services for persons with developmental disabilities;

4 (2) enter into contracts and provider  
5 agreements with agencies and individuals capable of providing  
6 support and services to persons with developmental disabilities  
7 that promote the objectives of the department's state plan,  
8 prepared pursuant to Section ~~[5 of the Developmental~~  
9 ~~Disabilities Act]~~ 28-16A-5 NMSA 1978; and

10 (3) establish advisory councils and task  
11 forces as necessary to guide the development and review of  
12 support and services to persons with developmental  
13 disabilities.

14 B. Support and services shall be provided based on  
15 individual support and service plans developed by an  
16 interdisciplinary team. The team is responsible for  
17 collectively evaluating the child's or adult's needs and  
18 developing an individual support and service plan to meet the  
19 needs.

20 C. The department shall:

21 (1) solicit the involvement of consumers,  
22 providers, parents, professional organizations and other  
23 governmental organizations prior to the adoption or revision of  
24 any policies or regulations concerning the provision of  
25 support, services, standards or funding systems. Participants

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1 shall be selected in a manner that reflects geographical,  
2 cultural, organizational and professional representation across  
3 the state;

4 (2) develop policies, procedures, rules and  
5 regulations that, to the extent possible, will promote  
6 uniformity in reimbursement and quality assurance systems  
7 regardless of the source of funding; ~~[and]~~

8 (3) convene and maintain a family infant  
9 toddler inter-agency coordinating council and a statewide adult  
10 support and services task force that shall, at a minimum,  
11 address quality assurance; and

12 (4) ensure that every child with a diagnosis  
13 of autism spectrum disorder has access to medicaid early  
14 periodic screening, diagnosis and treatment services."

15 SECTION 2. APPROPRIATION.--

16 A. The following amounts are appropriated from the  
17 general fund to the following agencies for expenditure in  
18 fiscal year 2017 as follows:

19 (1) to the department of health:

20 (a) one million dollars (\$1,000,000) to  
21 build agency expertise in autism spectrum disorders, to develop  
22 a state autism spectrum disorder registry and to engage  
23 community stakeholders in planning future autism spectrum  
24 disorder initiatives;

25 (b) one million dollars (\$1,000,000) to

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1 develop and implement community access programs for adults with  
2 autism spectrum disorder who are not receiving services  
3 pursuant to the developmental disabilities waiver;

4 (c) one million dollars (\$1,000,000) to  
5 develop and implement model residential support services for  
6 adults with autism spectrum disorder and challenging behaviors  
7 who are enrolled in the developmental disabilities waiver  
8 program;

9 (d) one million dollars (\$1,000,000) to  
10 contract with the university of New Mexico health sciences  
11 center's department of psychiatry to develop and implement  
12 residential treatment for children with autism spectrum  
13 disorder and challenging behaviors who meet criteria for high  
14 levels of care;

15 (e) one million dollars (\$1,000,000) to  
16 contract with the university of New Mexico's center for  
17 development and disability to develop and implement a satellite  
18 diagnostic clinic that offers multidisciplinary evaluations and  
19 utilizes the project ECHO model for technical support and  
20 supervision;

21 (f) one million dollars (\$1,000,000) to  
22 contract with the university of New Mexico's center for  
23 development and disability to expand the parent home training  
24 program to include older children receiving a new diagnosis of  
25 autism spectrum disorder;

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1 (g) one million dollars (\$1,000,000) to  
2 contract with the university of New Mexico health sciences  
3 center to develop and implement adult diagnostic evaluations  
4 for autism spectrum disorder; and

5 (h) five hundred thousand dollars  
6 (\$500,000) to contract with the university of New Mexico health  
7 sciences center to develop behavioral health models, including  
8 comprehensive community support services, and psychosocial  
9 rehabilitation programs specific to adults with autism spectrum  
10 disorder and to provide training, technical assistance and  
11 mentoring to local community providers statewide;

12 (2) to the public education department:

13 (a) two million dollars (\$2,000,000) to  
14 contract with autism programs at New Mexico post-secondary  
15 educational institutions to assist school districts in the  
16 development and implementation of evidence-based practices in  
17 classrooms for students with autism spectrum disorder and to  
18 build in-state autism spectrum disorder expertise and capacity;  
19 and

20 (b) one million dollars (\$1,000,000) to  
21 its vocational rehabilitation division to develop and implement  
22 employment programs specific to the needs of persons with  
23 autism spectrum disorder; and

24 (3) one million dollars (\$1,000,000) to the  
25 higher education department to develop and implement evidence-

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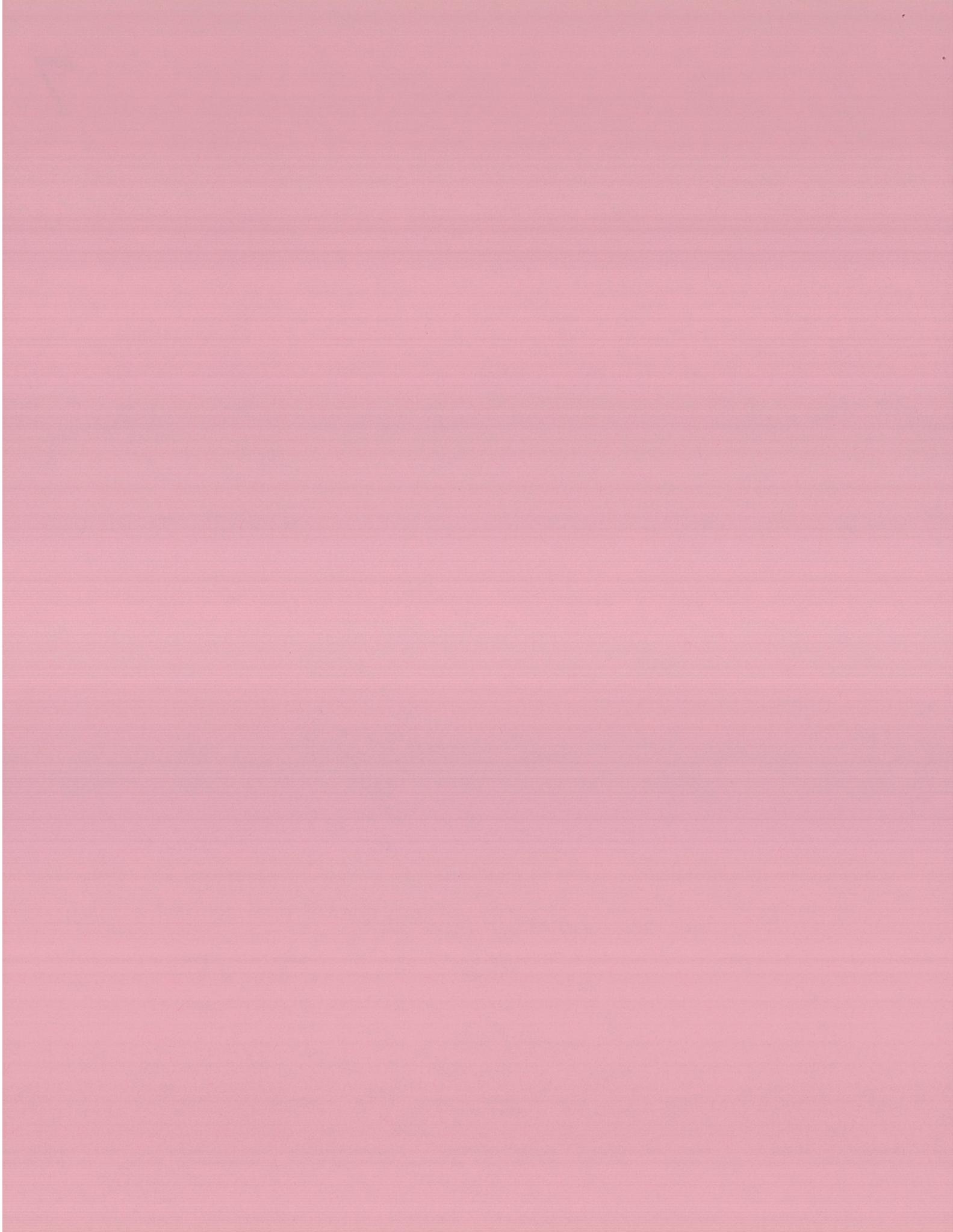
1 based peer mentoring programs for students with autism spectrum  
2 disorder who are enrolled in post-secondary educational  
3 institutions.

4 B. Any unexpended or unencumbered balance remaining  
5 at the end of fiscal year 2017 shall revert to the general  
6 fund.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE UNIVERSITY OF NEW MEXICO SCHOOL OF MEDICINE TO MAINTAIN AND EXPAND THE PROJECT ECHO PROGRAM TO IMPROVE HEALTH OUTCOMES FOR RURAL AND UNDERSERVED NEW MEXICANS.

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

SECTION 1. APPROPRIATION.--Three million dollars (\$3,000,000) is appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal year 2017 for the school of medicine to maintain and expand the project ECHO program to improve health outcomes for rural and underserved New Mexicans. Any unexpended or unencumbered balance remaining at the end of fiscal year 2017 shall revert to the general fund.

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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO ENDANGERED PERSONS; CREATING A BRITTANY ALERT  
PROCEDURE FOR THE DEPARTMENT OF PUBLIC SAFETY.

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

SECTION 1. Section 29-15-2 NMSA 1978 (being Laws 1995,  
Chapter 146, Section 2, as amended) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons  
Information and Reporting Act:

A. "Brittany alert" means a notification relating  
to an endangered person:

(1) who is a missing person; and

(2) about whom there is a clear indication  
that the person has a developmental disability as defined in  
Subsection A of Section 28-16A-6 NMSA 1978 and that the  
person's health or safety is at risk;

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1           ~~[A-]~~ B. "child" means ~~[an individual]~~ a person  
2 under the age of eighteen years who is not emancipated;

3           ~~[B-]~~ C. "clearinghouse" means the missing persons  
4 information clearinghouse;

5           ~~[C-]~~ D. "custodian" means a parent, guardian or  
6 other person who exercises legal physical control, care or  
7 custody of a child or of an adult with a developmental  
8 disability; or a person who performs one or more activities of  
9 daily living for an adult;

10           ~~[D-]~~ E. "endangered person" means a missing person  
11 who:

12                   (1) is in imminent danger of causing harm to  
13 the person's self;

14                   (2) is in imminent danger of causing harm to  
15 another;

16                   (3) is in imminent danger of being harmed by  
17 another or who has been harmed by another;

18                   (4) has been a victim of a crime as provided  
19 in the Crimes Against Household Members Act or in Section  
20 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any  
21 other jurisdiction;

22                   (5) is or was protected by an order of  
23 protection pursuant to the Family Violence Protection Act; ~~[or]~~

24                   (6) has Alzheimer's disease, dementia or  
25 another degenerative brain disorder or a brain injury; or

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1                    (7) has a developmental disability as defined  
2 in Subsection A of Section 28-16A-6 NMSA 1978 and that person's  
3 health or safety is at risk;

4                    [~~E.~~] F. "immediate family member" means the spouse,  
5 nearest relative or close friend of a person;

6                    [~~F.~~] G. "law enforcement agency" means a law  
7 enforcement agency of the state, a state agency or a political  
8 subdivision of the state;

9                    [~~G.~~] H. "lead station" means an AM radio station  
10 that has been designated as the "state primary station" by the  
11 federal communications commission for the emergency alert  
12 system;

13                    [~~H.~~] I. "missing person" means a person whose  
14 whereabouts are unknown to the person's custodian or immediate  
15 family member and the circumstances of whose absence indicate  
16 that:

17                    (1) the person did not leave the care and  
18 control of the custodian or immediate family member voluntarily  
19 and the taking of the person was not authorized by law; or

20                    (2) the person voluntarily left the care and  
21 control of the custodian without the custodian's consent and  
22 without intent to return;

23                    [~~I.~~] J. "missing person report" means information  
24 that is:

25                    (1) given to a law enforcement agency on a

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1 form used for sending information to the national crime  
2 information center; and

3 (2) about a person whose whereabouts are  
4 unknown to the reporter and who is alleged in the form  
5 submitted by the reporter to be missing;

6 [~~J~~] K. "person" means an individual, regardless of  
7 age;

8 [~~K~~] L. "possible match" means the similarities  
9 between unidentified human remains and a missing person that  
10 would lead one to believe they are the same person;

11 [~~L~~] M. "reporter" means the person who reports a  
12 missing person;

13 [~~M~~] N. "silver alert" means a notification  
14 relating to an endangered person:

15 (1) who is a missing person;

16 (2) who is fifty years or older; and

17 (3) about whom there is a clear indication  
18 that the individual has an irreversible deterioration of  
19 intellectual faculties;

20 [~~N~~] O. "state agency" means an agency of the  
21 state, a political subdivision of the state or a public post-  
22 secondary educational institution; and

23 [~~O~~] P. "state registrar" means the employee so  
24 designated by the public health division of the department of  
25 health pursuant to the Vital Statistics Act."

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underscoring material = new  
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SECTION 2. A new section of the Missing Persons

Information and Reporting Act is enacted to read:

"[NEW MATERIAL] BRITTANY ALERT ADVISORY.--

A. The department of public safety shall issue a Brittany alert if, after review and investigation of a missing person report of a person subject to the alert, the department makes an independent determination that the missing person is a person subject to the alert.

B. The department shall develop and implement Brittany alert procedures for the purpose of disseminating, as rapidly as possible, information about a person subject to the alert. The procedures shall include:

(1) notification to the lead station of the Brittany alert;

(2) notification to other public and private media sources and members of the public as necessary; and

(3) the provision of information about the subject of the Brittany alert, including all identifying information, to the lead station and other media sources."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

