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FISCAL IMPACT REPORT

SPONSOR Lujan, B. **ORIGINAL DATE** 02/20/11
LAST UPDATED _____ **HB** 453
SHORT TITLE Child Support Set Aside For Future Needs **SB** _____
ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$20,000.0	\$20,000.0	\$40,000.0	Recurring	Federal IV-D

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
Human Services Department (HSD)
Children, Youth & Families Department (CYFD)
State Personnel Board
Department of Health (DOH)
Health Policy Commission (HPC)
Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 453 amends Section 40-4-11.1 NMSA 1978 (Child Support Guidelines) to state that twenty-percent of the basic child support obligation shall be deposited in a trust account or other account designated by the court, with the child as a beneficiary, to be available to the child upon termination of each parent's support obligation.

FISCAL IMPLICATIONS

HSD reports that adding a non-federally recognized obligation type in the distribution of paid child support may result in the Child Support Enforcement Division (CSED) being out of compliance with its Title IV-D of the Social Security Act.

CSED is eligible for federal incentive money based on the amount of collections each year. The decrease in collections could result in a loss of federal incentive payments.

The state also receives an assignment of support rights. CSED collects assigned support and retains the state portion. If the diversion payment is applied against the state's assignment, it could reduce the amount of revenue collected by the state for use in CSED operations.

The basic child support obligation is the amount of support required based on the combined gross incomes of the parents and the number of children. The automatic removal of 20% of the monthly payment means that custodial parents would have to reduce expenditures for the child to provide for the care, maintenance and education of the child. At the lower income levels, the extra 20% could be critical for the child's well being.

SIGNIFICANT ISSUES

The current child support guideline calculations are not "per child" based. If there are multiple children, there is no guidance on the amount to be set aside for each child.

There are no standards for the establishment of the trust. The funds are available to the child upon emancipation, but there is no instruction on when and how the distributions will be made, and if the child is eligible for the funds upon the age of eighteen or a later age. Children do not always survive to emancipation. There is no provision for what happens in these circumstances.

There is no guidance on what happens if partial payments are received. Several laws indicate the priority of how payments are distributed when only partial payments are received or when there is additional money to be applied to past due support.

The family and specifically the child could be considered ineligible to receive public assistance due to excess countable resources. This could seriously impact children with disabilities that would otherwise be eligible for public assistance benefits such as the waiver programs. When the child emancipates, the trust fund may be considered countable and may disqualify him/her for future public assistance benefits.

PERFORMANCE IMPLICATIONS

CSED asserts that the bill could put the division at risk for not meeting current mandates in relation to its core mission of establishing paternity and support orders and enforcing support orders for families.

ADMINISTRATIVE IMPLICATIONS

AOC notes that if the courts were required to collect the diversion payment through an income withholding, then new procedures, mechanisms and equipment would need to be developed. Additional hearings may also be required to enforce the provisions of collecting the diversion payment, including if the obligor fails to make payments after the child's emancipation despite the parents' written agreement.

OTHER SUBSTANTIVE ISSUES

Federal law requires states to update their guidelines at least once every four years to ensure the adequacy of support awards, while ensuring fairness to obligors and efficient actions by the courts in making awards. The schedule is used to provide for the current support of the child, to

assist custodial parents in providing for the child's well being, and only provides a minimum amount for such support.

ALTERNATIVES

The obligation to support a child could be extended beyond the current limitation of up to nineteen years of age if attending high school. Other states provide for a support obligation until a child reaches the age of twenty one.

It could be left at the court's discretion to set aside a portion of child support based on factual findings suggesting that the custodial parent was incapable or unwilling to wisely spend the money on the child.

AHO/svb