FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Padilla	**ORIGINAL DATE**	3/3/2025
SHORT TITLE	Children's Benefits Account Act	**BILL NUMBER**	Senate Bill 333
		ANALYST	Hernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	No fiscal impact	At least $198.5	At least $198.5	At least $397.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

<u>Agency Analysis Received From</u>
Health Care Authority (HCA)
Children, Youth, and Families Department (CYFD)
NM Attorney General
Office of Family Representation and Advocacy (OFRA)

SUMMARY

Synopsis of Senate Bill 333

Senate Bill 333 (SB333) requires that the Children, Youth and Families Department (CYFD) request to be appointed to receive and manage social security or Supplemental Security Income (SSI) payments for children in CYFD custody. CYFD must establish and administer no-cost benefits account for each child who is eligible. Once a child beneficiary turns 17, CYFD must determine whether the child should continue to have their benefits received and managed by a different representative or whether the child is capable of managing their own benefits; in the latter case, CYFD must provide assistance to the beneficiary in managing their benefits. Finally, the department must keep all benefits accounts confidential; the bill also notes that CYFD is not liable for federal delays in processing and disbursing the beneficiary's benefits.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

CYFD has historically used social security and SSI benefits received by children and youth in custody to pay for their care. However, as of FY25, CYFD's base budget includes a $1.6 million appropriation to replace federal benefit revenue with general fund revenue within the Protective Services Program at CYFD.

CYFD analysis for House Bill 254 (HB254), a similar bill to HB364 introduced in the second session of the fifty-sixth legislature, noted that it would need two FTE to complete reporting functions outlined in HB254 and estimated operational costs associated with implementation to be $198.5 thousand. However, LFC staff estimate the department would need to track benefits for roughly 150 children in custody and is already required by federal law to perform this function if holding funds in trust. Thus, the estimated need for 2 additional FTE may be higher than true additional costs.

SIGNIFICANT ISSUES

When a social security and SSI beneficiary is unable to manage or direct their own benefits, the federal Social Security Administration (SSA) appoints a payee to manage or direct the management for the beneficiary. In general, children under the age of 18 must have a payee. If a child's parent, legal guardian, or other close relative or friend are unable or unwilling to serve, an organization, such as a state or tribal child welfare agency, may be designated the payee. All designated payees must use social security and SSI benefits for the "use and benefit" of the beneficiary, which generally means the beneficiary's "current maintenance," such as food, clothing, shelter, and medical needs. A payee must conserve any benefits not needed for current maintenance for the beneficiary's future needs. In FY23, benefits averaged roughly $914 per month.

CYFD previously noted the department cannot control payments made by SSA, and in the event overpayments occur, the department must return funds to SSA. Additionally, SSA has the sole authority to determine who is the representative payee. However, the federal Administration for Children and Families (ACF) noted that in general, a single person becomes ineligible for SSI if they have more than $2,000 in "countable resources." Some resources do not count toward this federal limit, such as achieving a better life experience or ABLE Account. In an August 2023 communication, ACF encouraged child welfare agencies to consider using "all of the tools at their disposal when conserving youth's federal benefits."

In August 2023, ACF reminded states about how state and tribal agencies that serve as representative payees for children receiving social security or SSI benefits must manage these funds and encouraged state and tribal agencies to work with youth and young adults to understand their benefits, particularly as they transition from foster care.

ACF encourages state and tribal welfare agencies to act within their authority and capacity to make the best decision for using each child's social security benefits. SSA monitors and reviews payments made to payees to prevent misuse.

AEH/hj/SL2