

# STATE OF NEW YORK

6592

2023-2024 Regular Sessions

## IN SENATE

April 27, 2023

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the state finance law, in relation to establishing the New York children's COVID-19 fund program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new article 19-I to read as follows:

### ARTICLE 19-I

#### NEW YORK COVID-19 CHILDREN'S FUND PROGRAM

##### Section 535. Definitions.

535-a. New York COVID-19 children's fund program board.

535-b. New York COVID-19 children's fund program.

§ 535. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Board" shall mean the New York COVID-19 children's fund program board established pursuant to section five hundred thirty-five-a of this article.

2. "Program" shall mean the New York COVID-19 children's fund program established pursuant to section five hundred thirty-five-b of this article.

3. "Fund" shall mean the New York COVID-19 children's fund established pursuant to section seventy-eight-c of the state finance law.

4. "Eligible child" shall mean any child who is a minor resident of New York who is under eighteen years of age, has not emancipated from their parent, custodian, or legal guardian, and meets one of the following qualifications: (i) they reside in New York and their parent, custodian, legal guardian, or related adult household member, died during the federally declared COVID-19 public health emergency and the cause of death is listed as COVID-19 on their death certificate or they died as a consequence of having long-term COVID-19 and (ii) the eligible child's

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 family household has an annual household income of less than five  
2 hundred percent of the federal poverty level.

3 5. "Household income" shall mean the sum of the adjusted gross incomes  
4 of the eligible child's birth parents. Such gross income amounts shall  
5 be calculated based on information from the most recent taxable year  
6 available as provided and certified by the department of taxation and  
7 finance.

8 6. "Qualified expenses" shall mean expenses for the education of the  
9 account holder, ownership of a home by the account holder, and costs  
10 associated with establishing or otherwise building a business.

11 § 535-a. New York COVID-19 children's fund program board. 1. (a) There  
12 is hereby established the New York COVID-19 children's fund program  
13 board to administer the New York COVID-19 children's fund program estab-  
14 lished pursuant to section five hundred thirty-five-b of this article.  
15 Such board shall consist of nine members, as follows: (i) the comp-  
16 troller, or their designee, who shall serve as the chair, (ii) the  
17 commissioner of taxation and finance, or their designee, (iii) the  
18 inspector general, or their designee, (iv) an individual with expertise  
19 in poverty alleviation and the racial wealth gap appointed by the tempo-  
20 rary president of the senate, (v) an individual with investment exper-  
21 tise appointed by the speaker of the assembly, (vi) an individual with  
22 expertise on financial empowerment and consumer protection appointed by  
23 the governor, (vii) a public member who has experienced childhood pover-  
24 ty appointed by the governor, and (viii) two additional nonvoting  
25 members appointed by the governor.

26 (b) The comptroller shall, on behalf of the board, appoint an execu-  
27 tive director, who shall not be a member of the board and who shall  
28 serve at the pleasure of the comptroller. The comptroller shall deter-  
29 mine the duties of the executive director and other staff, as appropri-  
30 ate, and set their compensation. The board may authorize the executive  
31 director to enter into contracts on behalf of the board or conduct any  
32 business necessary for the efficient operation of the board.

33 (c) Members of the board appointed by the governor, the temporary  
34 president of the senate, and the speaker of the assembly shall serve at  
35 the pleasure of the appointing authority. All members of the board shall  
36 serve without compensation. Members of the board shall be reimbursed for  
37 necessary travel expenses incurred in connection with their board  
38 duties. Board members and other staff of the board shall not do any of  
39 the following:

40 (i) Directly or indirectly have any interest in the making of any  
41 investment made for the program, or in the gains or profits accruing  
42 from any investment made for the program;

43 (ii) Borrow any funds or deposits of the fund's trust accounts, or use  
44 those funds or deposits in any manner, for themselves or as an agent or  
45 partner of others; or

46 (iii) Become an endorser, surety, or obligor on investments by the  
47 board.

48 (d) The board and staff, including any contracted administrators and  
49 consultants, shall discharge their duties as fiduciaries with respect to  
50 the fund's trust accounts solely in the interest of the program enrol-  
51 lees as follows:

52 (i) For the exclusive purposes of providing benefits to program enrol-  
53 lees and defraying reasonable expenses of administering the program; and

54 (ii) By investing with the care, skill, prudence, and diligence under  
55 the circumstances then prevailing that a prudent person acting in a like

1 capacity and familiar with those matters would use in the conduct of an  
2 enterprise of a like character and with like aims.

3 (e) The board, subject to its authority and fiduciary duty, shall  
4 administer the program and the funds appropriated for the program in  
5 alignment with the intent of the legislature to create opportunities,  
6 economic autonomy, and hope, and to promote wealth and asset building  
7 for an eligible child and eligible youth to address New York's record  
8 levels of inequality.

9 (f) To achieve the functions specified in this section, the board  
10 shall have the power and authority to do all of the following:

11 (i) Make and enter into contracts necessary for the administration of  
12 the program;

13 (ii) Adopt a seal and change and amend it from time to time;

14 (iii) Cause moneys in the fund's trust accounts to be held and  
15 invested and reinvested;

16 (iv) (1) Accept any grants, gifts, legislative appropriation, and  
17 other moneys from the state, any unit of federal, state, or local  
18 government, or any other person, firm, partnership, philanthropic enti-  
19 ty, or corporation for deposit to the fund;

20 (2) The board shall provide a way for grants, gifts, appropriations or  
21 other moneys to the fund to be made in any amount and with the ability  
22 to have the funds targeted to specific subgroups, as defined by the  
23 entity giving, granting, or appropriating the funds, provided that they  
24 are not limited in such a way that would conflict with the intent of the  
25 legislature in establishing the program;

26 (v) Make provisions for the payment of costs of administration and  
27 operation of the program;

28 (vi) Employ staff;

29 (vii) Retain and contract with private financial institutions, other  
30 financial and service providers, consultants, actuaries, counsel, audi-  
31 tors, third-party administrators, and other professionals, as necessary;

32 (viii) Procure insurance against any loss in connection with the prop-  
33 erty, assets, or activities of the trust;

34 (ix) Procure insurance indemnifying each member of the board from  
35 personal loss or liability resulting from a member's action or inaction  
36 as a member of the board;

37 (x) Cause expenses incurred to initiate, implement, maintain, and  
38 administer the program to be paid from deposits to, or investment  
39 returns or assets of, the program or arrangements established under the  
40 program, to the extent permitted under state and federal law;

41 (xi) Carry out the duties and obligations of the program pursuant to  
42 this chapter and exercise any and all other powers as appropriate for  
43 the effectuation of the purposes, objectives, and provisions of this  
44 chapter pertaining to the program; and

45 (xii) Adopt rules and regulations to implement the provisions of this  
46 article.

47 § 535-b. New York COVID-19 children's fund program. 1. There is hereby  
48 established the New York COVID-19 children's fund program to provide  
49 assistance to children whose parent, custodian, legal guardian, or  
50 related adult household member died as a result of contracting COVID-19,  
51 regardless of immigration status of such children utilizing the monies  
52 available in the New York COVID-19 children's fund established pursuant  
53 to section seventy-eight-c of the state finance law.

54 2. (a) The program shall provide for the deposit of (i) one thousand  
55 dollars into an individual trust account in the fund for each eligible  
56 child within six months of receipt of an application to the program for

1 such child, and (ii) one thousand dollars each year thereafter of eligi-  
2 bility. Monies within each trust account shall be invested in a manner  
3 that generates a rate of return at least equal to the rate of return  
4 earned on a thirty-year treasury bond. The board, in consultation with  
5 the department of health, shall promulgate application forms to be  
6 submitted to the comptroller to determine the eligibility of a child  
7 whose parent, custodian, legal guardian, or related adult household  
8 member died as a result of contracting COVID-19, regardless of the immi-  
9 gration status of such child.

10 (b) Monies in each account shall be identified by a unique identifica-  
11 tion number and may only be accessed by the eligible child for which the  
12 account was originally created. In order to access such funds, the  
13 eligible child shall be at least eighteen years old. Such monies shall  
14 only be utilized for qualified expenses.

15 3. (a) Within one hundred twenty days of the effective date of this  
16 section, the board shall convene an advisory workgroup to work in coor-  
17 ordination with the board on the program design, including, but not limit-  
18 ed to, data sharing with relevant governmental agencies and departments,  
19 outreach to families of an eligible child and to eligible children  
20 directly, and the process for program enrollment and continuous measure-  
21 ment of outcomes of the individual trust accounts established pursuant  
22 to subdivision two of this section.

23 (b) The advisory workgroup shall invite participation in the workgroup  
24 from the following entities:

25 (i) Representatives from the office of children and family services,  
26 the department of social services, the department of public health and  
27 the department of corrections and community supervision; and

28 (ii) Community stakeholders with knowledge and experience in poverty  
29 alleviation, youth development, access to banking for underbanked indi-  
30 viduals, asset building, race-wealth gap, consumer protections, and  
31 wealth coaching.

32 (c) The workgroup shall specifically focus on, but need not be limited  
33 to, all of the following:

34 (i) Who is included as an "eligible child" under this article, includ-  
35 ing the ability to include individuals without social security numbers  
36 or individual tax identification numbers, the responsible agency for  
37 determining eligibility, and estimates of likely program enrollees by  
38 year;

39 (ii) Necessary available data and data sharing agreements needed  
40 between government entities to meet the requirements of this article;

41 (iii) Application of appropriate privacy protections under state and  
42 federal law in the identification of, and outreach to, an eligible  
43 child;

44 (iv) Acceptable investment products, strategies, risk guidelines, and  
45 management requirements to ensure a balance between safety of the prin-  
46 cipal, liquidity, and expected yield or return for moneys of the fund;

47 (v) Actuarial estimates of the amount of investment per program enrol-  
48 lee and the range of financial outcomes;

49 (vi) Effective outreach strategies to ensure accounts are established  
50 for the maximum amount of children who may be an eligible child and  
51 moneys are drawn down when available;

52 (vii) Determination of necessary administrative components, such as  
53 information technology services, recordkeeping, and other services, as  
54 well as the ability to use state agency resources or the need for third-  
55 party administrators;

(viii) Additional areas determined as critical to the implementation of the program, as identified during the course of the workgroup; and  
(ix) Timelines for implementation of this article.

(d) The advisory workgroup may consult with additional experts, as necessary, to inform their recommendations.

4. On or before the first of February next succeeding the effective date of this section, the board shall submit a report to the comptroller and the legislature, that includes, at a minimum, recommendations of the board on all of the following:

(a) A detailed plan for implementing the program and establishing and maintaining the individual trust accounts in the fund for an eligible child that maximizes their participation and their autonomous wealth-building capacity;

(b) The anticipated number of individual trust accounts to be opened and initial deposit amounts;

(c) A description of the efforts to be used to solicit philanthropic or nonstate moneys to support the program; and

(d) Further statutory and budget allocations.

§ 2. The state finance law is amended by adding a new section 78-c to read as follows:

§ 78-c. New York COVID-19 children's fund. 1. There is hereby established in the joint custody of the comptroller, the commissioner of taxation and finance and the commissioner of health a fund to be known as the New York COVID-19 children's fund. Such fund shall be utilized for the purposes of the New York COVID-19 children's fund program pursuant to the provisions of section five hundred thirty-five-b of the executive law.

2. The New York COVID-19 children's fund shall consist of moneys transferred to the fund by the comptroller from the general fund and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained herein shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

3. (a) The comptroller may invest moneys in the fund that are not required for current needs of the fund in the eligible securities pursuant to the provisions of this chapter and subdivision two of section five hundred thirty-five-b of the executive law.

(b) Notwithstanding any provision of law to the contrary, all interest or other increment resulting from the investment or deposit of moneys of the fund shall be deposited in the fund.

4. (a) Of the total moneys of the fund, five percent shall be available to administer the New York COVID-19 children's fund program, pursuant to the provisions of section five hundred thirty-five-b of the executive law.

(b) The New York COVID-19 children's fund program board, established pursuant to section five hundred thirty-five-a of the executive law, shall submit a written annual expenditure plan detailing proposed uses of funding to the division of the budget, the senate finance committee and the assembly ways and means committee by October first of every year. To the extent the board's administrative costs will or are projected to exceed five percent, the board shall submit a written request, in addition to the annual expenditure plan, for the release of additional funding for administrative costs and the necessity to exceed five percent to the division of the budget, the senate finance committee and the assembly ways and means committee. The comptroller may provide

1 funds for administration of the program that exceed five percent, not  
2 sooner than thirty days after notifying, in writing, the division of the  
3 budget, the senate finance committee and the assembly ways and means  
4 committee, or any lesser time determined by the director of the budget,  
5 or the director's designee.

6 5. (a) All assets of the fund and moneys allocated to individual trust  
7 accounts established pursuant to subdivision two of section five hundred  
8 thirty-five-b of the executive law shall be considered to be owned by  
9 the state until an eligible child withdraws or transfers money from  
10 their individual trust account.

11 (b) To the extent allowed under federal law, because it shall be  
12 considered an asset of the state until withdrawn or transferred by an  
13 eligible child, all of the following apply to funds deposited and  
14 investment returns accrued in an individual trust account of the fund:

15 (i) It is nontransferable to any person other than the eligible child,  
16 and only as permitted pursuant to this chapter;

17 (ii) It shall not be pledged as collateral for any loan; and

18 (iii) It may be subject to a lien.

19 6. Monies of the fund shall be expended by the comptroller solely for  
20 the purpose of administering the provisions of this section and the New  
21 York COVID-19 children's fund program.

22 7. As used in this section, the term "eligible child" shall have the  
23 same meaning as such term is defined in section five hundred thirty-five  
24 of the executive law.

25 § 3. This act shall take effect on the one hundred twentieth day after  
26 it shall have become a law. Effective immediately, the addition, amend-  
27 ment and/or repeal of any rule or regulation necessary for the implemen-  
28 tation of this act on its effective date are authorized to be made and  
29 completed on or before such effective date.