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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Joint Resolution 4

**SHORT TITLE:** CYFD Commission, CA

**SPONSOR:** Chávez, E/Martinez, J/Dixon

**LAST UPDATE:** \_\_\_\_\_      **ORIGINAL DATE:** 1/27/2026      **ANALYST:** Malone

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SOS	No fiscal impact	\$35.0-\$50.0	No fiscal impact	\$35.0-\$50.0	Nonrecurring	General Fund
CYFD	No fiscal impact	No fiscal impact	Up to \$75.0	Up to \$75.0	Nonrecurring	General Fund
<b>Total</b>	No fiscal impact	\$35.0-\$50.0	Up to \$75.0	\$110.0-\$125.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Is a companion to House Bill 86

Relates to House Memorial 1

Conflicts with Senate Bill 56

### Sources of Information

LFC Files

Child Welfare Information Gateway

National Conference of State Legislatures

### Agencies Providing Analysis

Children, Youth and Families Department

Secretary of State

Office of Family Representation and Advocacy

Administrative Office of the Courts

New Mexico Attorney General

Health Care Authority

## SUMMARY

### Synopsis of House Joint Resolution 4

House Joint Resolution 4 (HJR4) seeks to amend the New Mexico Constitution by adding a new section to Article V creating a Children, Youth and Families Commission to make policy and direct the operations of “a state agency of the executive branch responsible for child welfare.”

The commission would consist of three members, with an appointment from the governor, the

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speaker of the House, and the president pro tem of the Senate. Members must have educational credentials and child welfare and administrative experience. Members serve for six years with staggered terms and may be removed for malfeasance, misfeasance, or neglect by the Supreme Court.

HJR4 provides the amendment be put before the voters at the next general election (November 2026) or a special election called for the purpose of considering the amendment. The amendment would only be effective if approved by voters.

## FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment in both Spanish and English in an amount equal to 10 percent of the registered voters in the state. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$35 thousand to \$50 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

HJR4 does not expressly note whether members of the commission are eligible for mileage or per diem under the state Per Diem and Mileage Act. The operating budget of the commission would likely include mileage and per diem. Costs would depend on how often the commission meets. This analysis assumes \$75 thousand for these costs in FY28. Operating costs at the Children, Youth and Families Department (CYFD) are unlikely to change with a change in governance.

The Administrative Office of the Courts (AOC) notes potential fiscal impacts related to enforcing the new law and impacts to caseloads or other litigation, though the direct fiscal impact of the change in CYFD governance for the agency is likely minimal.

HJR4 may have fiscal and administrative implications from transitioning CYFD's governance to be commission led, including:

- Administrative restructuring and personnel realignments;
- Legal and regulatory updates;
- Development and approval of a revised Title IV-E state plan to ensure continued federal funding; and
- Potential increases in operational costs if existing administrative supports provided by the executive branch must be separately contracted or recreated.

## SIGNIFICANT ISSUES

HJR4 would provide a partial new governance model for CYFD, removing policy direction and operations from the executive and granting authority to the newly created independent commission. As AOC notes, however, the proposed constitutional amendment does not explicitly make CYFD an independent agency. A companion bill, House Bill 86 (HB86), would do so if passed. In the event that HJR4 is passed and the constitutional amendment approved by voters without passage of HB86, AOC observes the amendment may pose a separation of powers issue.

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Article 5, Section 4 of the New Mexico Constitution provides, “The supreme executive power of the state shall be vested in the governor, who shall take care that the laws be faithfully executed.”

Directing the policy and operations of a state agency may be considered execution or enforcement of the laws; therefore, this commission would be executing laws under the executive branch. If passed in isolation, CYFD also notes that HJR4 could conflict directly with statute currently granting the governor authority over CYFD, Section 9-2A NMSA 1978. Further, if passed in isolation, direction from the newly created commission and from an executive appointed agency leader may conflict, creating additional challenges with regard to agency operations and coordination with other executive agencies.

If HJR4 is implemented in conjunction with HB86 the result would be an independent child welfare agency in New Mexico. CYFD faces significant leadership instability and performance challenges, including chronic staff shortages, case backlogs, and an increasing number of abused and neglected children in New Mexico. Notably, CYFD had four different secretaries from 2019 to 2025, and the department will likely have a new secretary appointed by the newly elected governor after the 2026 election. The governance model proposed could stabilize CYFD policy and operations and lead to performance improvements by partially insulating the agency from cyclical executive branch leadership changes.

Research indicates that turnover among child welfare staff negatively impacts service delivery and child outcomes. If the constitutional amendment is adopted in conjunction with HB86, the proposed commission’s authority could mitigate the frequent turnover that has characterized CYFD in recent years. However, in response to a similar proposal during the 2025 legislative session, the Office of Family Representation and Advocacy (OFRA) raised concerns about whether a small, politically appointed commission could introduce new administrative challenges, including potential deadlock in hiring decisions or ideological conflicts among commissioners. OFRA suggested that a larger commission that includes ex officio members with lived experience in the child welfare system might be more effective. Additionally, CYFD, OFRA and the Health Care Authority (HCA) note that the governance change could introduce challenges for coordination of efforts to comply with the requirements of the *Kevin S.* settlement agreement and other necessary coordination with executive agencies.

Moving CYFD outside of the executive branch could impede collaboration with other state agencies that perform critical child-welfare-related functions, including the Early Childhood Education and Care Department (ECECD) and the Health Care Authority (HCA), which are part of the governor’s cabinet. Interagency coordination could become more complicated, leading to difficulties in aligning broader child welfare, education, and healthcare initiatives across the state; however, none of the agencies that provided analyses cited specific examples of problems that could arise due to complicated interagency coordination.

Both CYFD and the New Mexico Attorney General (NMAG) note that the restructuring may affect New Mexico’s eligibility for federal funding, particularly under Title IV-E of the Social Security Act. Title IV-E provides funding for foster care, adoption assistance, and kinship care programs and requires states to maintain an approved plan with the U.S. Department of Health and Human Services. Changes to CYFD’s governance structure could require revisions to New Mexico’s Title IV-E plan and necessitate federal approval to avoid funding disruptions. Additionally, both agencies note the potential impact of the proposed structural governance changes on New Mexico’s compliance with the federal Indian Child Welfare Act and the state

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Indian Family Protection Act. These laws govern child welfare proceedings involving Native American children and prioritize tribal involvement in decisions affecting their placement. The potential impact of a CYFD governance change on compliance with these laws should be carefully examined to ensure that the transition to a commission-led structure does not disrupt existing protections for Indigenous children and families.

According to LFC analysis of the oversight functions in other states, child welfare commissions are typically long-term bodies with appointed members who work to address broad child welfare issues while providing stability and leadership across changing executive administrations. Alternatively, some states have created child welfare commissions for short-term oversight and governance functions with identified sunset dates. Child welfare commissions may be tasked with permanent and direct oversight of the state child welfare agency's leadership, such as Oklahoma's model, or they may have limited functions, such as a focused investigation into a specific issue of concern. Additionally, commissions can include representation from the child protective agency while maintaining an external oversight status (e.g., New York's 2021 Blue Ribbon Commission on Forensic Custody Evaluations), while other commission models provide direct governance of the state child welfare agency.

While research about child welfare outcomes associated with different governance models is limited, studies of child welfare workforce retention emphasize that professional qualifications, supervisory support, and manageable caseloads are key factors in improving child welfare outcomes. According to a systematic literature review conducted by the Institute for the Advancement of Social Work and Research at the University of Maryland, professional commitment and the level of education are the most consistent personal factors, and supervisory support and workload are the most consistent retention factors related to child welfare workers.<sup>1</sup> In addition, child welfare workers who possess social work degrees are linked to improved outcomes for children and families, and to the retention of child welfare staff. CYFD notes that the proposed governance changes do not directly address the systemic challenges the agency faces.

HJR4 does not mention whether the commission would be subject to the Per Diem and Mileage Act, the Governmental Conduct Act, the Inspection of Public Records Act, the Financial Disclosure Act, or the Open Meetings Act.

## PERFORMANCE IMPLICATIONS

HJR4 could have performance implications for other agencies, including OFRA and the courts because both agencies measure outputs that include case filings and time to certain proceedings in abuse and neglect cases.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR4 relates to HB86, which affirmatively creates an independent commission governance model. HB 86 creates the “children, youth and families commission” to establish operational policy for the department and appoints a superintendent.

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<sup>1</sup> DePanfilis, D., & Zlotnik, J. L. (2008). Retention of front-line staff in child welfare: A systematic review of research. *Children and Youth Services Review*, 30(9), 995-1008.

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Relates to House Memorial 1, which creates a task force to study restructuring CYFD from being a secretary-led, governor-appointed executive department to an independent commission model with an executive director overseeing day-to-day operations.

Conflicts with Senate Bill 56, which creates a Child Welfare Authority led by a superintendent to replace the existing CYFD governance structure.

CEM/sgs/hg/sgs