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FISCAL IMPACT REPORT

SPONSOR <u>Block/Johnson</u>	LAST UPDATED _____
	ORIGINAL DATE <u>02/01/2023</u>
SHORT TITLE <u>CYFD Indian Foster Families</u>	BILL NUMBER <u>House Bill 211</u>
	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but moderate	Indeterminate but moderate	Indeterminate but moderate	Indeterminate but moderate	Recurring	General Fund
Total						

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

Sources of Information

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
 Indian Affairs Department (IAD)
 Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of House Bill 211

House Bill 211, CYFD Indian Foster Families, establishes the requirement that CYFD actively recruit Indian families to act as foster families and requires extensive reporting on these and related efforts.

Section 1 of the bill establishes the requirement and defines “Indian family” as one in which at least one parent is Native American.

Section 2 requires CYFD to make an annual report to the Legislature on its actions relative to Section 1 of the bill. It is to be submitted through “appropriate” interim committees by October 1 of each year. Required components of the report are spelled out as follows:

- A. Active recruiting efforts made;
- B. Number of current foster homes including at least one Native American parent;
- C. The number of foster placements in each Native American home;
- D. How many Native American homes can take more children;
- E. How many Native American children are in CYFD care and how will they be transferred into permanent situations;

- F. How many Native American children had been removed to a 48-hour hold;
- G. How many Native American children had been subject to repeat maltreatment;
- H. How many Native American children are not placed with a Native American family, and why, and what efforts is CYFD making to put them in a preferred Native American family;
- I. How many Native American children are placed in nonrelative homes and for what duration have they been placed;
- J. How many Native American sibling groups are in CYFD custody and how many are placed together and how many separately.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 211. CYFD indicates it would require additional resources to recruit Native American foster families, and to collect the data the bill would require. No estimate was made of the cost of those extra resources.

SIGNIFICANT ISSUES

CYFD indicates it has in place an enhanced program to actively recruit Native American families to serve as foster parents, and many of the reporting requirements of this bill are already in place as part of the *Kevin S. Settlement*¹. Efforts to recruit and support Native American families in serving as foster parents will include, CYFD states, surveying families that have ceased being foster families to determine what additional supports or alterations might have been made to maintain their status as foster parents.

As noted by IAD:

In 1978, Congress passed the Indian Child Welfare Act (ICWA). In enacting the federal ICWA, Congress found that many Indian children were being placed at a significantly high rate with non-Indian foster and adoptive homes and not being placed within their family, their tribe, or another tribe. The federal ICWA addressed this finding by setting forth minimum federal standards for the removal of Indian children from their families and the placement of them in foster or adoptive homes and confirmed Tribal jurisdiction over child-custody proceedings that include Indian children (25 U.S.C. 1902). Although there are federal minimum standards in place, the state enacted additional requirements to strengthen case and court processes in which Indian children are involved through HB 135 (2022).

The enactment of HB 135 (2022) addressed the concern about the high number of Indian children being placed outside their family or their tribe. CYFD reports that American Indian/Alaskan Native children are four times more likely to be removed from their families. The removal of American Indian/Alaskan Native children usually results in a

¹ The *Kevin S. Settlement* responded to allegations that trauma-affected New Mexico children lacked effective and safe placements and services when placed in foster care. Details of the settlement are available at https://cyfd.org/docs/2020_02_06-kevin_s_agreement_final.pdf.

disconnect from their extended families, their tribal communities, and their cultural identity.

TECHNICAL ISSUES

In Section 1, “Indian family” is defined as one in which at least one parent is Indian. It does not define “Indian,” and one might consider this to mean, alternatively, “a member of an Indian tribe or nation or a specific blood quantum of Native American.” The Indian Family Protection Act does contain a definition of Indian as a person who is either a member of an Indian tribe or is eligible for membership in a tribe (Section 32A-1-4N NMSA 1978)

LAC/rl/hg