

LFC Requester:

Carlie Malone

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/21/2026

Check all that apply:

Bill Number: HJR4

Original X

Correction

Amendment

Substitute

Sponsor: Rep. Eleanor Chavez, Rep.
Joseph Franklin Hernandez

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Analysis: Nick Nunez

Short Title: CYFD Commission

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Article V of the New Mexico Constitution grants powers to the executive branch. HJR4 proposes to add a new section to Article V of the New Mexico Constitution that provides for the creation of the Children, Youth and Families Commission to make policy for and direct the operations of the state agency of the executive branch responsible for child welfare.

HJR4 would allow the governor, the speaker of the house of representatives and the president pro tempore of the senate to each appoint one member of the commission. Those appointed must have educational credentials and child welfare and administrative experience as provided by law. The term for each member of the commission shall be for six years. Commission members may be removed exclusively by the supreme court for malfeasance, misfeasance or neglect of duty.

FISCAL IMPLICATIONS: None for the NMDOJ.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None

SIGNIFICANT ISSUES

While an independent commission model may be challenged as violative of the Governor's broad constitutional and statutory authority to appoint cabinet and subordinate officials under N.M. Const. Art. 5, § 5 and NMSA 1978, § 9-1-4, New Mexico law provides substantial authority for the legislature to opt for creating departments independent of governor control and place them under commissions or other governance entities. N.M. Const. Art. 5, § 5 itself states that "The governor shall nominate and, by and with the consent of the senate, appoint all officers *whose appointment or election is not otherwise provided for...*" Unlike constitutionally created executive officers, the legislature retains significant control over statutorily created executive departments (such as CYFD). *State ex rel. Gomez v. Campbell*, 75 N.M. 86 (1965).

Eligibility to receive federal financial participation (FFP) for foster care maintenance payments and adoption assistance under Title IV-E of the Social Security Act requires compliance with a plan submitted by a "title IV-E agency." Further analysis and federal consultation may be

prudent to ensure that structural changes to CYFD’s governance model do not affect the approval of the state’s current plan and federal reimbursement eligibility. See 42 U.S.C. § 620, *et seq.*, 45 CFR § 1356.10-1356.86.

Any change in governance structure removing CYFD as executive level department would need to ensure that the collaboration and consultation between commission leadership and the state’s nations, pueblos, and tribes remains compliant with the State-Tribal Collaboration Act (NMSA 1978, § 11-18-1 to -5), and in alignment with the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 *et seq*) and Indian Family Protection Act (IFPA) (NMSA 1978, § 32A-28-1 to -42).

A commission with an executive director or superintendent in charge of day-to-day operations would need to ensure the Department’s collaboration with co-neutral's overseeing the *Kevin S.* settlement.

PERFORMANCE IMPLICATIONS

None for the NMDOJ.

ADMINISTRATIVE IMPLICATIONS

None for the NMDOJ.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relationship with HB 86, 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 appoint a superintendent.

Relationship with HM 1, which seeks to create 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.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None.