

LFC Requester:

Rachel Mercer-Garcia

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original x **Amendment**
Correction **Substitute**

Date Prepared: 1/26/24

Bill No: HB 254

Sponsor: Reps. Jaramillo, Chavez,
 H. Garcia, Little, Figueroa

Short Title: CYFD & Federal Benefits

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

Person Writing Analysis: AAG Zachary Shandler

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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: HB 254 would direct NM CYFD to apply for and use the federal benefits owed to a child in state foster care custody for that child’s use and benefit.

Section 3 requires NM CYFD to apply for the federal benefits. (An example of these federal benefits are “Supplemental Security Income” benefits under Title XVI of the Social Security Administration Act.) The NM CYFD shall be the party managing the receipt of these benefits, unless NM CYFD can identify another child’s representative, such as an attorney, custodian, guardian, guardian ad litem or Indian tribe, to serve in this role.

Section 4 requires NM CYFD to hold onto the federal benefits in an account and use them in the “child’s best interest.”

Section 5 prohibits NM CYFD from using the federal benefits “to pay for or reimburse the department for any of the costs of the child’s care.”

Section 6 requires NM CYFD to release the balance of the funds to the child when the child leaves state foster care custody.

FISCAL IMPLICATIONS

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.

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

None identified.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

In 2023, CYFD implemented the proposed statutory directives through a written directive. See Albuquerque Journal, “Unprecedented’: New Mexico foster children will now be allowed to keep federal benefits owed to them” (11/8/23). The requirements of the directive are set to expire in March 2024. Adoption of HB 254 will ensure current practice continues and is insulated from potential legal challenge to CYFD’s authority to implement the requirements through a directive.

AMENDMENTS

N/A