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FISCAL IMPACT REPORT

SPONSOR	Chavez, N./Dixon/Chávez, E.	LAST UPDATED	3/6/2025
		ORIGINAL DATE	2/15/2025
SHORT TITLE	CYFD Community-Based Foster Care Studies	BILL	House Bill
		NUMBER	408/aHHHC
		ANALYST	Garcia

APPROPRIATION* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
None	\$100.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	No fiscal impact	\$100.0	No fiscal impact	\$100.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Duplicates appropriation in the General Appropriation Act

Sources of Information

LFC Files

Senate Memorial 5 Taskforce Briefs

Agency Analysis Received From

Children, Youth and Families Department (CYFD)

Health Care Authority (HCA)

SUMMARY

Synopsis of HHHC Amendments to House Bill 408

The House Health and Human Services Committee amendments to House Bill 408 would:

- Require the rate study be provided to the Legislative Finance Committee by September 1, 2025, and by September 1 of each year it is completed, and
- Add a definition for “treatment foster care services.”

Synopsis of House Bill 408

Beginning in fiscal year 2026 and repeating every five years, House Bill 408 (HB408) would

require the Children, Youth and Families Department (CYFD) to study the costs and reimbursement rates associated with providing community-based foster care placements and foster care treatment for children in foster care.

The bill would require the study consider costs associated with providing for the safety and emotional well-being of the children, payments to reimbursement for the costs of providing food, clothing, shelter, daily supervision, transportation, and other expenses.

The study shall be provided to the Legislative Finance Committee (LFC) by December 1, 2025, and no later than December 1 of each year the study is required.

The bill defines the term “resource family,” as “a person or entity licensed by the department or licensed by another state’s child welfare agency or a licensed child placement agency that provides foster care services, including respite, non-relative, relative, or treatment foster care.”

HB408 appropriates \$100 thousand from the general fund to CYFD in FY26 to conduct a rate study as provided in the bill. Any unexpended or unencumbered balance remaining at the end of fiscal year 2026 shall not revert.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The bill would require CYFD to complete a rate study of foster care and treatment foster care rates every five years and contains a nonrecurring appropriation to fund the first study by December 1, 2025.

The appropriation of \$100 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY2026 shall not revert.

While the study will not likely have a significant fiscal impact on CYFD or the Health Care Authority (HCA), the study may call for future increases to foster care and treatment foster care reimbursement rates in subsequent years. However, the bill does not require the Legislature to adopt any rates recommended through the study.

SIGNIFICANT ISSUES

Foster care is a temporary, court-monitored service provided by states to promote the safety, permanency, and well-being of children in cases when children cannot remain safely at home. The federal government oversees the administration of state foster care services through policy and program funding.

The number of children in foster care in New Mexico steadily declined between 2017 and 2022, and the rate of children in foster care in New Mexico has trended lower than other states. The declining number of children in care reversed in 2023, and the number has continued to grow. In June 2024, 2,072 children were in foster care, an increase of 15 percent over April 2023. Of these children, 43 percent were placed with relatives, 40 percent were placed in non-relative

foster care, and 16 percent were placed in other settings, including residential treatment centers, congregate care settings, semi-independent living, or trial home visits. New Mexico tends to perform better than other states when it comes to placing youth in foster care with relatives or kin, which has been shown to lead to better outcomes in many cases.

The *Kevin S. et al v. Blalock, et al.* case filed in 2018 against CYFD and the Human Services Department (now the Health Care Authority) alleged trauma-impacted youth in New Mexico foster care lacked safe, appropriate, and stable placements and behavioral health services. The settlement agreement committed New Mexico to efforts to build out and expand community-based family placements for youth in care, increase the number of resource (foster) families in the state, increase the use of treatment foster care, an evidence-based practice, and reduce the use of congregate care placements unless medically necessary.

However, New Mexico continues to have shortages of sufficient numbers of foster care placements.

According to an LFC brief prepared for the Senate Memorial 5 Taskforce in June 2023, 1,010 homes were licensed in New Mexico, and 1,013 homes were licensed in June 2024. The number of licensed resource homes in New Mexico experiences some churn; over the last year, an average of 60 homes were licensed and an average of 59 homes stopped accepting placements each month. Monthly maintenance rates vary depending on the child's age and level of care, generally ranging between \$20 and \$29 per day. A preliminary review of foster care rates by the Senate Memorial 5 taskforce indicates New Mexico rates may be lower than some surrounding states. Foster care rates have not increased in several years, and the Senate Memorial 5 task force recommended studying the costs and reimbursement rates associated with providing for the care of foster care.

Federal Title IV-E is the primary funding source for foster care because the federal government allows states to claim reimbursement for a portion of expenditures for eligible children placed in foster care at the federal Medicaid match rate (federal medical assistance percentage or FMAP). In New Mexico, the federal FMAP rate is roughly 76 percent. In FY24, New Mexico spent a total of roughly \$61 million for the care and support (foster care maintenance payments and adoption assistance) of children in CYFD care.

Therapeutic or treatment foster care (TFC) is a practice and clinical intervention that involves placing youth with foster families that have received specialized training for youth with severe behavioral health needs, youth with a developmental delay, or youth that are medically fragile. States contract with private, state-licensed TFC providers who recruit, train, and support TFC foster parents. TFC providers also oversee clinically licensed staff who provide therapeutic services within the foster home setting. TFC services are covered by Medicaid. In recent years and following a Medicaid rate study, TFCs, along with other Medicaid behavioral health services, have increased in recent years.

Currently, the TFCs in New Mexico are reimbursed at a rate of \$197.23 per day. HCA reports TFC rates increased by 85 percent in 2025 and notes new reimbursement methodologies would require a revision to the state Medicaid plan; approval for a plan revision from the federal Centers for Medicare and Medicaid Services would take approximately six months.

ADMINISTRATIVE IMPLICATIONS

The bill calls for the delivery of the rate study report to the LFC by December 1; however, this timeline may be too late to consider rate increases the following fiscal year. By statute, state agencies are required to submit budget requests by September 1 annually. The House Health and Human Services Committee amendment moves the date of study delivery to September 1, addressing this timing concern.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The appropriation contained in this bill duplicates an appropriation within the HAFC substitute for the General Appropriation Act.

For the TFC rate study, requirements of House Bill 408 are similar to the Medicaid cost study requirements in House Bill 400.

TECHNICAL ISSUES

The bill does not define the term “foster care treatment,” which is likely referencing a service that is frequently referenced as “treatment foster care” in New Mexico, which is a service eligible for Medicaid reimbursement. The term “treatment foster care” is also used in the bill and is not defined. The House Health and Human Services Committee amendments address these technical issues.

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