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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Soules</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>02/17/2025</u>
	<b>BILL</b> <u>Senate Joint</u>
<b>SHORT TITLE</b> <u>Rights of Children, CA</u>	<b>NUMBER</b> <u>Resolution 8</u>
	<b>ANALYST</b> <u>Chilton</u>

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>SOS</b>	No fiscal impact	\$30.0 to \$50.0	No fiscal impact	\$30.0 to \$50.0	Nonrecurring	Election Fund
<b>Legal Costs if Enacted</b>		See Fiscal Implications				
<b>Reforms if Enacted</b>		See Fiscal Implications				

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

Duplicates appropriation in the General Appropriation Act  
 Relates to appropriation in the General Appropriation Act

### Sources of Information

LFC Files

#### Agency Analysis Received From

Secretary of State (SOS)  
 Early Childhood Education and Care Department (ECECD)  
 Public Education Department (PED)  
 Health Care Authority (HCA)  
 Department of Health (DOH)

## SUMMARY

### Synopsis of Senate Joint Resolution 8

Senate Joint Resolution 8 (SJR8) would add a section to the Bill of Rights, Article II of the New Mexico Constitution, enumerating the following list of rights for children:

- A. Right to timely, accessible healthcare;
- B. Right to solution-focused, culturally sensitive behavioral healthcare for the child and family;
- C. The right to nutritious and adequate food;
- D. The right to safe shelter, with plumbing, heating, electricity, and internet service;
- E. The right to transportation;
- F. The right to be in a community with home visitation services beginning at birth;
- G. The right to early learning programs;

- H. The right to community schools, including school-based medical, dental and mental health services;
- I. The right to youth mentorship programs;
- J. The right to appropriate training for eventual employment.

The joint resolution provides that 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. The provisions of SJR8 would not take effect until the Legislature enacts laws to implement the amendment.

## 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.

The constitutional amendment proposed by SJR8 would contain unusual language that would make it ineffective without additional legislative action. This restriction means the constitutional amendment, even if adopted by voters, should have no fiscal impact on its own. However, it could trigger an avalanche of litigation focused on the legitimacy of the limiting language and remedies for providing the enumerated rights, with or without the enactment of additional laws. This litigation could cost the state billions of dollars. The Public Education Department spends about \$500 thousand a year on litigation related to the *Martinez-Yazzie* lawsuit over the constitutional right to a free and sufficient education. The rights that would be provided in SJR8 would involve at least seven state agencies.

Providing the rights themselves would come with a much higher price tag. Public school reforms related to the *Martinez-Yazzie* lawsuit have increased spending by about \$1.6 billion so far. The Children, Youth and Families Department (CYFD) comments on the high cost of implementing these rights, giving the example of just one portion of the right delineated in Subsection D:

In 2022, there were approximately 527,861 children in New Mexico. The average number of children per household is 1.94, so there were approximately 272,093 households with children in New Mexico in 2022. If internet access in a home costs \$50/month, that would be a cost of \$163 million annually to ensure childhood access to internet in addition to costs for building additional infrastructure needed to obtain internet access.

## SIGNIFICANT ISSUES

The Health Care Authority discusses the difference between rights and entitlements and notes the proposed constitution would create ongoing obligations that could not be changed even if other circumstances change:

Rights are generally understood as being inherent in personhood or citizenship that the state cannot restrict or take away (e.g. freedom of speech, due process of law, etc.). Entitlements, however, are established by legislation and must be provided by the state or some other entity (e.g., healthcare, education, etc.) Entitlements, because they are created and provided by the state, do not usually get constitutional protection. The "rights" enumerated in this resolution may be entitlements programs and services. Once such legislation is passed, however, the rights would exist in perpetuity. Any future attempt by the Legislature to alter how those rights are provided or funded may potentially face a constitutional challenge, making it difficult to respond to changes in economic or social conditions that the proposed bill cannot anticipate.

The Early Childhood Education and Care Department notes the enumerated rights would make a long-term difference:

Improving the quality of life for every New Mexican begins with a world-class cradle-to-career education system. Investments in early childhood education and care yield substantial long-term benefits for individuals and society—a 13 percent annual return on investment through improved outcomes in education, health, and economic productivity.

The Public Education Department (PED) challenges the conclusion that the rights would result in better outcomes:

The presence of these as rights in SJR8 assumes that these specific programs will have a positive effect upon children's lives, an assumption which may warrant further examination. Their presence also assumes that they have been selected from among other specific programs because the positive effects of these outweigh the potential good of other potential programs. Other potentially beneficial programs have not been included among the rights in SJR8 and included programs may prove less effective than anticipated.

CYFD agrees the rights enumerated in SJR8 could improve the lives of New Mexico children but, as written, could be ineffective:

Ensuring the basic necessities set out in the Bill of Rights is key to the success of children in New Mexico, but the amendment is far too broad and lacks the necessary enforcement mechanism to do anything but cause confusion. Without these necessary pieces, SJR8 would likely not achieve its desired outcomes.

PED suggests SJR8, given it could not take effect without additional legislative action, creates a framework for rights:

Gaps are substantial between current provisions in law for New Mexico children and the vision for laws supporting children as articulated in the joint resolution. Unlike [previous similar proposed constitutional amendments], SJR8 would not immediately grant new rights to children upon passage. Instead, it would create a framework for rights that will only take effect once the legislature enacts detailed implementation laws. This would allow lawmakers to control the timing and scope of implementation.

However, PED notes the proposed right to “acquire all the skills needed to maintain quality employment” is focused on an outcome of a sufficient education, already a constitutional right, and could require adjudication to resolve.

In the 2024 *New Mexico Kids Count Data Book*, which catalogues measures affecting children’s health in New Mexico and compares them with U.S. rates, the Annie E. Casey Foundation concludes:

State lawmakers have made ... policy changes that will benefit New Mexico’s children and families. These include a statewide paid sick leave policy so parents can stay home to take care of a sick child, an historic expansion of childcare assistance so parents have safe, affordable environments in which to leave their children while they work, and the extension of postpartum healthcare through Medicaid to help support new parents during some of the most important months in their new child’s life. New Mexico also continues to expand early childhood care and education services such as home visiting and prekindergarten.

In addition to expansions in early childhood care and education services, our cradle-to-career educational system can be improved. We need to ensure that our K–12 student population—which is one of the most racially and ethnically diverse in the nation—is receiving culturally appropriate education. Studies show that when children are connected to their cultures and communities through their curriculum, they are more engaged in school, which leads to better outcomes. And while the state has made college education much more affordable, we still fall behind much of the nation in directing more of our financial aid to those students with the most need.

**New Mexico vs. United States on Key Indicators**

Measure	New Mexico Rate	U.S. rate
Children living in household having difficulty paying for usual expenses.	51%	47%
Households with uncertainty about ability to pay the next rent or mortgage payment.	16%	18%
Households with children and 29% of US households had children eating insufficient food because it could not be afforded	35%	29%
Children living in federally-defined poverty	24%	17%
Children in families where no parent had stable employment	32%	26%
Teens neither in school nor working	12%	7%
Three- and four-year-olds not in school setting	55%	52%
4 <sup>th</sup> graders not reading proficiently (NAEP testing)	79%	68%
High school students not graduating on time	25%	14%
Low birthweight babies	8.9%	8.2%
Children without health insurance	6%	5%
Child/teen death rates	37/100,000	28/100,000
Children obese or overweight	34%	32%
Children in single-parent families	44%	34%
Children living in high-poverty areas	20%	9%
Teen birth rate	22/1000	15/1000

Source: Casey Foundation