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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Chávez, E.</u>	<b>LAST UPDATED</b> _____ <b>ORIGINAL DATE</b> <u>2/3/25</u>
<b>SHORT TITLE</b> <u>CYFD Commission</u>	<b>BILL NUMBER</b> <u>House Joint Resolution 5</u>
<b>ANALYST</b> <u>Garcia/Greenham</u>	

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SOS	No fiscal impact	\$35.0 to \$50.0	No fiscal impact	\$35.0 to \$50.0	Nonrecurring	General Fund
CYFD	No fiscal impact	No fiscal impact	Up to \$125.0	Up to \$125.0	Nonrecurring	General Fund
Total	No fiscal impact	\$35.0 to \$50.0	Up to \$125.0	\$160.0 to \$175.0	Nonrecurring	General Fund

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

Conflicts with House Bill 205

### Sources of Information

LFC Files  
 Child Welfare Information Gateway  
 National Conference of State Legislatures

Agency Analysis Received From  
 Office of Family Representation and Advocacy (OFRA)  
 Administrative Office of the Courts (AOC)  
 New Mexico Attorney General (NMAG)  
 Health Care Authority (HCA)

Agency Analysis was Solicited but Not Received From  
 Children, Youth and Families Department (CYFD)  
 Secretary of State (SOS)

## SUMMARY

### Synopsis of House Joint Resolution 5

House Joint Resolution 5 (HJR5) seeks to amend the New Mexico Constitution to restructure the governance of the Children, Youth and Families Department (CYFD) by removing it from the Governor’s Cabinet and establishing an independent Children, Youth and Families Commission.

The commission would consist of five members, each appointed for six-year terms by the governor, the president pro tempore of the Senate, the speaker of the House of Representatives, the minority floor leader of the Senate, and the minority floor leader of the House of Representatives. The appointment terms of the commission would be staggered with the

governor's appointee filling a two-year position and other appointees serving four-year terms. The commission would be responsible for hiring an executive director no later than July 1, 2027, to assume CYFD management and operations and to enforce laws under the jurisdiction of CYFD. HJR5 empowers the Legislature to establish the professional qualifications required for Commission members and the executive director.

As a constitutional amendment, adoption is subject to voter approval at the next general election or special election that may be called for this purpose.

The joint resolution provides 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.

## **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.

Agency analysis notes the implementation of HJR5 may have fiscal and administrative implications from transitioning CYFD's governance to an independent agency, including:

- Administrative restructuring and personnel realignments;
- Legal and regulatory updates;
- Facility and branding modifications;
- Development and approval of a revised Title IV-E state plan to ensure continued federal funding; and
- Potential increases in operational costs if existing administrative supports provided by the executive branch must be separately contracted or recreated.

HJR5 could also result in costs associated with rebranding CYFD's website, media presence, and printed materials, but these are likely minimal. This analysis assumes \$50 thousand in one-time costs in FY27. HJR5 does not expressly note whether members of the commission are eligible for mileage or per diem under the state Per Diem and Mileage Act. The operating budget of the commission would likely include mileage and per diem. Costs would depend on how often the commission meets. This analysis assumes \$75 thousand for these costs in FY27. This analysis does not assume a cost increase to the state associated with hiring an executive director, given CYFD's budget already includes salary costs for a cabinet secretary. Operating costs at CYFD are unlikely to change with a change in governance.

Both the Administrative Office of the Courts (AOC) and Office of Family Representation and Advocacy (OFRA) note potential fiscal impacts related to enforcing the new law and impacts to caseloads, though the direct fiscal impact of the change in CYFD governance for these agencies is likely minimal.

## SIGNIFICANT ISSUES

HJR5 would provide a new governance model and method for selecting leadership for CYFD, which faces significant leadership instability and performance challenges including chronic staff shortages, case backlogs, and an increasing number of abused and neglected children in New Mexico. Notably, CYFD had three different secretaries from 2019 to 2023, and the department will likely have a new secretary appointed by the newly elected governor after the 2026 election. The governance model proposed in HJR5 could stabilize CYFD leadership and lead to performance improvements by insulating the agency from cyclical executive branch leadership changes. Other state agencies, such as OFRA which provides legal representation for children and respondents involved in children’s court cases, have governance structures similar to those proposed in HJR5. AOC notes that the “constitutional amendments proposed by HJR5 would not change New Mexico from a state-administered child welfare system, but it would allow it to be an independent state agency, similar to the Law Offices of the Public Defender.”

Research indicates that turnover among child welfare staff negatively impacts service delivery and child outcomes. The proposed Commission’s authority could mitigate the frequent turnover that has characterized CYFD in recent years. However, OFRA’s raises concerns about whether a small, politically appointed commission could introduce new administrative challenges, including potential deadlock in hiring decisions or ideological conflicts among commissioners. OFRA suggests that a larger Commission that includes ex officio members with lived experience in the child welfare system might be more effective. OFRA and the Health Care Authority (HCA) also note that the bill does not define the role of the commission in agency operations, nor does it specify a term length for the executive director; ambiguity in these areas could lead to operational inefficiencies or leadership gaps, particularly if the commission experiences delays in selecting an executive director.

Moving CYFD outside of the executive branch could impede collaboration with other state agencies that perform critical child welfare-related functions, including the Early Childhood Education and Care Department (ECECD) and the Health Care Authority (HCA), which are part of the governor’s cabinet. Inter-agency coordination could become more complicated, leading to difficulties in aligning broader child welfare, education, and healthcare initiatives across the state; however, none of the agencies that provided analyses cited specific examples of problems that could arise due to complicated inter-agency coordination.

Both OFRA and the New Mexico Attorney General (NMAG) note that the restructuring may affect New Mexico’s eligibility for federal funding, particularly under Title IV-E of the Social Security Act. Title IV-E provides funding for foster care, adoption assistance, and kinship care programs and requires states to maintain an approved plan with the U.S. Department of Health and Human Services. Changes to CYFD’s governance structure could require revisions to New Mexico’s Title IV-E plan and necessitate federal approval to avoid funding disruptions. Additionally, NMAG notes the potential impact of the proposed structural governance changes on New Mexico’s compliance with the federal Indian Child Welfare Act and the state Indian Family Protection Act. These laws govern child welfare proceedings involving Native American children and prioritize tribal involvement in decisions affecting their placement. The potential impact of CYFD’s governance change on compliance with these laws should be carefully examined to ensure that the transition to a commission-led structure does not disrupt existing protections for Indigenous children and families.

According to LFC analysis of the oversight functions in other states, child welfare commissions are typically long-term bodies with appointed members who work to address broad child welfare issues while providing stability and leadership across changing executive administrations. Alternatively, some states have created child welfare commissions for short-term oversight and governance functions with identified sunset dates. Child welfare commissions may be tasked with permanent and direct oversight of the state child welfare agency’s leadership, such as Oklahoma’s model, or they may have limited functions, such as a focused investigation into a specific issue of concern. Additionally, commissions can include representation from the child protective agency while maintaining an external oversight status (e.g., New York’s 2021 Blue Ribbon Commission on Forensic Custody Evaluations) while other commission models provide direct governance of the state child welfare agency.

While research about child welfare outcomes associated with different governance models is limited, studies of child welfare workforce retention emphasize that professional qualifications, supervisory support, and manageable caseloads are key factors in improving child welfare outcomes. According to a systematic literature review conducted by the Institute for the Advancement of Social Work and Research at the University of Maryland, professional commitment and the level of education are the most consistent personal factors, and supervisory support and workload are the most consistent retention factors related to child welfare workers.<sup>1</sup> In addition, child welfare workers who possess social work degrees are linked to improved outcomes for children and families, and to the retention of child welfare staff. Leadership criteria established by the proposed Commission could result in the hiring of a CYFD executive director with child welfare expertise, which could translate to a strengthened child welfare workforce.

The Attorney General indicates that implementing HJR5 would likely necessitate updates to New Mexico’s Children’s Code (NMSA 1978, Chapter 32A), the CYFD Act (NMSA 1978, Chapter 9, Article 2A), and related provisions of the New Mexico Administrative Code.

HJR5 does not mention whether the commission would be subject to the Per Diem and Mileage Act, the Governmental Conduct Act, the Inspection of Public Records Act, the Financial Disclosure Act, or the Open Meetings Act.

## **PERFORMANCE IMPLICATIONS**

HJR5 could have performance implications for other agencies, including OFRA and the Courts, as both agencies measure outputs which include case filings and time to certain proceeding in abuse and neglect cases.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflicts with House Bill 205, which would create a nominating committee to provide a list of potential CYFD cabinet secretary candidates to the Governor but would not change governance of CYFD.

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<sup>1</sup> DePanfilis, D., & Zlotnik, J. L. (2008). Retention of front-line staff in child welfare: A systematic review of research. *Children and Youth Services Review*, 30(9), 995-1008.