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FISCAL IMPACT REPORT

SPONSOR <u>Lopez/Jaramillo</u>	LAST UPDATED _____
	ORIGINAL DATE <u>3/2/2023</u>
SHORT TITLE <u>CYFD Kinship Caregiver Payments</u>	BILL NUMBER <u>Senate Bill 424</u>
	ANALYST <u>Chenier</u>

APPROPRIATION* (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	\$3,000.0	Recurring	General Fund

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

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$326.0	\$326.0	\$652.0	Recurring	General Fund

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

Relates House Bill 324

Sources of Information

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
Human Services Department (HSD)
Early Childhood Education and Care Department (ECECD)
Attorney General's Office (NMAG)

SUMMARY

Synopsis of Senate Bill 424

Senate Bill 424 appropriates \$3 million from the general fund to the Children, Youth and Families Department (CYFD) for kinship caregiver foster maintenance payments.

The bill requires CYFD to establish a two-year demonstration project to provide kinship

caregivers with maintenance payments for the children placed in their care. The payments would be limited by available appropriations. To be eligible, the children would need to have been in the caregiver's custody for at least six months and the parents could not be living in the home except under specific conditions. The bill also allows for the waiver of some of these eligibility criteria by the secretary under certain circumstances. Participation in the demonstration could be ended if the department determines the caregiver no longer meets eligibility criteria or if there are substantiated finding of child abuse.

The bill also requires the department to establish rules and procedures for fair hearings and penalties for false statements. The department would also be required to collect data on the demonstration project, including the number of applicants, number of approved applications, number of applicants denied, and several other data points.

The effective date of this bill is June 1, 2024.

FISCAL IMPLICATIONS

The appropriation of \$3 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY26 shall revert to the general fund.

CYFD said that there are no funds available for FTE to support this project. CYFD anticipates an eligible population of 7,750 children and families, based on March 2021 estimates that 31 thousand children are living in a relative's home with no parent present, and presuming the 25 percent U.S. Census Bureau rate for New Mexicans in poverty applies. The appropriation is not sufficient to cover this entire population, or the FTE and other costs (data tracking, background checks) associated with this program. Presuming project maintenance costs would be equivalent to foster care costs at an average of \$600 per month, a two-year project with a \$3 million budget would be able to serve at most 208 children per month, requiring a minimum of 5 FTE at \$65,200 per FTE. CYFD cannot absorb this fiscal impact with existing resources.

SIGNIFICANT ISSUES

CYFD provided the following:

As a time-limited (two year) demonstration project, promulgation of new rules seems inappropriate, as rules are typically not promulgated for temporary programs.

This bill does not include tribal specifications.

This is a one-time appropriation to support families. CYFD would need to finance the program past the two-year demonstration to maintain it without recurring appropriations.

Currently, CYFD has an established kinship guardianship program that supports both state and federal Title IV-E guardianships which supports children who have been removed through an abuse or neglect program. The guidelines established for this program can be expanded to include items in this bill without requiring promulgation of regulation. However, as the Income Support Division of HSD is already equipped to work with a population such as is described in this bill, HSD may be a more appropriate

home for this project, particularly as additional services to these families, including TANF and behavioral health support, are already administered by that agency; and the bill requires prospective caregivers to have already applied for TANF prior to applying for caregiver payments.

In addition, the bill does not include any mention of tribal specifications; and the language used throughout this bill refers to payments as “maintenance payments.” “Maintenance payments” refers to foster care “maintenance payments.” Payments in the established CYFD guardianship program are referred to as “subsidies” or “subsidy.”

HSD said that, according to the Annie E. Casey Foundation, kinship care has many benefits for children unable to live with their parents, as opposed to foster care with unrelated parties. Children in kinship care adjust better to their new environment, are more likely to stay at the same school, and have fewer behavioral health issues. Overall, kinship care is a more stable option for system-involved children. Supporting kinship placements with maintenance payments will increase the likelihood of their success and overall increase the stability and mental wellness of system involved children.

NMAG said the bill might conflict with Section 32A-3B-20 of state statute concerning parental responsibility. Section 32A-3B-20 requires that parents remain responsible for support and maintenance costs associated with their child or children. Because SB424 does not explicitly say parents would be held harmless for amounts received by kinship caregivers through the proposed demonstration project, it is possible this statute would be creating another financial obligation for parents without also giving them proper notice and the opportunity to be heard.

TECHNICAL ISSUES

NMAG suggest adding a comma after “committee on page 5, line 13, and adding a comma after “policy” on page 7, line 1.

EC/al/hg