

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 19, 2025

Bill: SB-272

Sponsor: Senator Crystal Brantley

Short Title: Foster Parent & Guardian Income Tax

Description: This bill adds a new section to the Income Tax Act providing an exemption for the income of an individual who, during the entire tax year, is a foster parent of a child, a guardian of the individual’s grandchild, or has adopted the individual’s grandchild, provided that the child has not reached 18 years of age in the taxable year.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). Applicable to taxable years beginning on or after January 1, 2025.

Taxation and Revenue Department Analyst: Sara Grubbs

| Estimated Revenue Impact* | | | | | R or NR** | Fund(s) Affected |
|---------------------------|-------------------------|-----------------------|-------------------------|-------------------------|-----------|------------------|
| FY2025 | FY2026 | FY2027 | FY2028 | FY2029 | | |
| -- | (\$19,000- \$20,200) | (\$19,800- 21,100) | (\$20,500- \$21,900) | (\$21,300- \$22,700) | R | General Fund |

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: To estimate the number of eligible foster parents, the Taxation and Revenue Department (Tax & Rev) used data from the New Mexico Children, Youth, and Families Department (CYFD). In 2024 there were 1,029 foster homes registered with CYFD. Tax & Rev assumes each home represents a taxpayer that is eligible under Section 1(C)(1). Because Tax & Rev cannot determine if each licensed foster parent will qualify for a full taxable year, Tax & Rev provides a range in the fiscal impact, with all licensed foster parents claiming this exemption and with 50% claiming this exemption.

To estimate the number of grandparent guardians, Tax & Rev used U.S. Census Bureau data for the number of households with a grandparent responsible for own grandchildren in New Mexico, at 14,815 households¹. Tax & Rev assumes each household represents a taxpayer that is eligible under Section 1(C)(2). Tax & Rev has no straightforward way of determining how many grandparent taxpayers would claim this exemption. Therefore, Tax & Rev assumes a 50% of potentially eligible grandparents would qualify for a full taxable year, resulting in an estimated 7,400 qualified “guardian” grandparents.

Tax & Rev then indexed the number of eligible taxpayers to the distribution of the 2023 New Mexico Child Tax Credit (CTC) claims by adjusted gross income and filing status (married filing joint, head of household, or single) to calculate the fiscal impact of this income tax exemption.

It is unknown if this bill will incentivize additional taxpayers to become foster parents or guardians, under the definitions described in Section 1(C)(1) and (2). As a result, Tax & Rev held the number of eligible foster parents or grandparents flat in the fiscal impact outlook.

¹ U.S. Census Bureau, U.S. Department of Commerce. "Households With Grandparents Living With Own Grandchildren Under 18 Years by Responsibility for Own Grandchildren and Presence of Parent of Grandchildren." American Community Survey, ACS 5-Year Estimates Detailed Tables, Table B10063, 2023.,

Using the University of New Mexico's Bureau of Business and Economic Research (BBER) January 2025 forecast, the Taxation and Revenue Department (Tax & Rev) grew the estimate annually by BBER's New Mexico's wage and salary growth.

Policy Issues: PIT represents a consistent source of revenue for many states. For New Mexico, PIT is approximately 16 percent of the state's recurring general fund revenue. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of taxable income and ties to other statutes in the federal tax code. This is referred to as "conformity" to the federal tax code. PIT is an important tax policy tool that has the potential to further both horizontal equity by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay. This credit erodes horizontal equity, thus taxpayers in similar economic circumstances are no longer treated equally.

The proposed bill extends income tax exemptions to foster parents but only to grandparents who adopt or are guardians of their grandchildren. The eligible categories do not apply to all guardians and adopters. If the scope of the bill were to include all legal guardians and adoptive parents, such as aunts, uncles, older siblings, etc., and not just grandparents, this would align the treatment of all guardians and adoptive parents with that of foster parents, ensuring that all caregivers are fairly considered. Additionally, this change will ease the complexity in implementation and return review, making the process more straightforward for both taxpayers and the tax department.

New Mexico has a dire shortage of foster parents who can help support children facing upheaval in their homes. A foster parent or guardian must support the financial, social and psychological needs of foster children, which come at a cost. It is a moral good to support foster and guardian parent households. Furthermore, keeping at-risk children in a home environment may reduce social costs over the long-term by reducing social, economic, and psychological problems that children who lack stable care and experience trauma may experience. The proposed credit is expected to have a positive future social, and therefore fiscal, impact.

New Mexico has recently shown dramatic improvement in eradicating poverty, especially child poverty, as evidenced by the Supplemental Poverty Measure issued by the U.S. Census Bureau. This proposal may continue that progress by providing significant tax relief to families who commit to fostering or becoming a guardian for a vulnerable child.

This proposal provides a 100% income tax exemption for the eligible foster parents and guardians. Although the costs of supporting a foster child or being a guardian are similar regardless of an individual's income level, the tax relief provided by this exemption will vary depending on taxpayer income level. Higher-income taxpayers will receive more tax relief than lower-income taxpayers for engaging in the same behavior. As an alternative, SB335 provides an income tax credit of \$500 per month that a taxpayer fosters or is a guardian for more than half of the days of the month. SB335 provides more equitable tax relief to families, regardless of their income level.

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions and publications and make information system changes. Staff training to administer the credit will need to take place. This

implementation will be included in the annual tax year changes.

For Tax & Rev’s Audit and Compliance Division (ACD), this exemption of all income from income tax may need to be audited as there is not any qualifying agency or qualification before taking this exemption. Depending on how many taxpayers will qualify for this exemption, this may require the Tax & Rev to reduce the forced vacancy rate.

For Tax & Rev’s Information Technology Division (ITD), implementing this proposal will have a low impact, requiring approximately 220 hours or about one and a half months at a staff workload cost of \$14,661.

| Estimated Additional Operating Budget Impact* | | | | R or NR** | Fund(s) or Agency Affected |
|--|---------------|---------------|--------------------------|------------------|-----------------------------------|
| FY2025 | FY2026 | FY2027 | 3 Year Total Cost | | |
| -- | \$14.7 | -- | \$14.7 | NR | ITD – Staff workload |

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Similar to HB-225 (2025 Regular Session), SB-304 (2025 Regular Session), SB-335 (2025 Regular Session)