Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

F I S C A L I M P A C T R E P O R T

		LAST UPDATED	02/28/25
SPONSOR	Sen. Padilla/Rep. Dow	**ORIGINAL DATE**	02/09/25
SHORT TITLE	Foster Parent and Guardian Tax Credit	**BILL NUMBER**	Senate Bill 335
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
PIT Credit	$0	($13,200-$17,600)	($13,200-$17,600)	($13,200-$17,600)	($13,200-$17,600)	Recurring	General Fund

Parentheses ( ) indicate revenue 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**	**No fiscal impact**	**No fiscal impact**	**No fiscal impact**	Nonrecurring	**General Fund**
CYFD	**No fiscal impact**	**No fiscal impact**	**No fiscal impact**	**No fiscal impact**	Recurring	**General Fund**
TRD	**No fiscal impact**	**$47.0**	**No fiscal impact**	**$47.0**	Nonrecurring	**General Fund**

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

Relates to House Bills 207, 341 and 345 and Senate Bills 272, 284 and 305.
Conflicts with House Bill 225.

Sources of Information

LFC Files

Agency Analysis Received From
Children, Youth and Families Department (CYFD)

Agency Analysis was Solicited but Not Received From
Department of Finance and Administration (DFA)
Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of Senate Bill 335

Senate Bill 335 (SB335) proposes giving a tax credit to foster parents licensed or certified by the Children, Youth and Families Department (CYFD) or a child placement agency and to guardians in an amount equal to 500 dollars for each month in which the taxpayer is a foster parent or guardian for more than 50 percent of that month in the taxable year in which the tax credit is claimed. The maximum amount of credit that may be claimed by a taxpayer in a taxable year is $6,000. This is a refundable credit.

CYFD will issue a dated certificate of eligibility to taxpayers that apply for this tax credit from CYFD if the department determines that the applicant meets the requirements detailed in this bill. The bill requires that the credit shall be claimed within three taxable years of the end of the year in which CYFD certifies the credit.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted. The provisions of the act are applicable to taxable years beginning January 1, 2025. There is no sunset date for the tax credit.

FISCAL IMPLICATIONS

This bill creates a tax expenditure with a significant cost. LFC has serious concerns about the substantial risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or action be postponed until the implications can be more fully studied.

TRD has estimated the fiscal impact of this bill:

> 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 is a household with an associated taxpayer that is eligible under Section 1(H)(2).
>
> To estimate the number of guardians, Tax & Rev used U.S. Census Bureau data for the percent of children in New Mexico that live in a household headed by a non-family member, at 1.6%.[1] Tax & Rev assumes each household is associated with one tax return. Tax & Rev then indexed this percentage to the number of taxpayers who claimed the 2023 New Mexico Child Tax Credit (CTC) to calculate the number of households with a dependent child, resulting in an estimated 3,800 households2. Of these households, Tax & Rev assumed 50% would qualify under Section 1(H)(3), resulting in an estimated 1,900 qualified “guardian” households.
>
> Section 1(B) states that this credit is available for taxpayers at an amount equal to $500 per month. This allows an eligible taxpayer to claim this credit for a partial year or a full year. Tax & Rev presents the fiscal impact as a range with an assumption on the lower end that 50% of eligible foster parents or guardians may receive this credit for 6 months while the remainder are eligible for a full year. The upper end of the range assumes that all foster and guardian households are eligible for a full year of the credit.

A guardian is a person appointed as a guardian by a court or an Indian tribal authority pursuant to the Kinship Guardianship Act but does not include a person appointed as a guardian ad litem.

[1] U.S. Census Bureau, U.S. Department of Commerce. "Children Characteristics." American Community Survey, ACS 5-Year Estimates Subject Tables, Table S0901, 2023.

CYFD originally expected significant administrative expenses. On review, they now expect to accomplish this change within current resources:

> The fiscal impact associated with implementing SB335 will be minimized by leveraging CYFD's existing resources, infrastructure, and future hiring plans. While initial estimates projected the need for five additional IT positions and $938.6 thousand in funding for system development, CYFD needs to clarify that these responsibilities would be integrated into positions the agency is already planning to hire and fill. Additionally, existing staff will address technical needs by utilizing current infrastructure, interfaces, contracts, and methodologies to ensure compliance with IRS and State of New Mexico Taxation and Revenue Department (TRD) requirements. Rather than requiring a wholly new system, CYFD will build upon its current IT environment, which already aligns with FISMA/NIST 800-53 and IRS Publication 1075 standards. This strategic approach ensures that compliance, data retention, and scalability for new and existing foster parents can be managed within CYFD's existing framework. The agency will also assess whether an interface with SHARE is necessary for fiscal reporting and transactions, but any additional software implementation and maintenance costs—previously estimated at $750.0 thousand per year—will be significantly mitigated by maximizing current resources and streamlining processes within CYFD's operational capacity.

TRD will need to update forms, instructions, and publications and make information system changes. TRD will also need to establish a memorandum of understanding (MOU) and data exchange to receive tax credit certifications from CYFD. This implementation will be included in the annual tax year changes. TRD's Administrative Services Division will test credit sourcing and perform other systems testing. It is anticipated this work will take approximately 40 hours split between 2 FTE of a pay band 70 and a pay band 80 at a cost of approximately $2,500. Pay band 70 hours are estimated at time and ½ due to extra hours worked required for implementation. This bill will have a moderate impact on TRD's Information Technology Division of approximately 680 hours or about four months for an estimated staff workload cost of $45.3 thousand.

SIGNIFICANT ISSUES

CYFD supports the provisions of this bill:

> Senate Bill 335 provides a direct and immediate benefit to foster families by providing financial relief through a refundable tax credit, helping offset the costs associated with fostering.
>
> 1. Immediate Support: SB335 provides an immediate financial benefit through a refundable tax credit, putting money directly into the hands of foster parents without bureaucratic delays.
> 2. Support for All Foster Families and Guardians: A key distinction of SB335 is that it extends financial relief not just to foster parents licensed through CYFD but also to guardians who are not part of the CYFD system, such as grandparents and other kinship caregivers raising their grandchildren. Many of these caregivers do not receive foster care maintenance payments and often live on fixed or limited incomes, making the cost of raising a child—covering food, housing, healthcare, and education—especially burdensome. Unlike an increase in maintenance payments which only benefits families

caring for children formally placed through CYFD, this tax credit provides direct financial assistance to guardians who have taken on the responsibility of raising children outside of the formal foster care system.

3. Retention & Recruitment Impact: While raising maintenance rates is important, financial incentives like tax credits are proven tools for retention and recruitment. A refundable credit allows foster families to recover costs that are not covered by maintenance payments, such as transportation, extracurricular activities, and other quality-of-life expenses for children in care. This flexibility makes fostering more financially sustainable.
4. Complementary, Not Redundant: The bill does not preclude the state from simultaneously increasing maintenance rates in the future. Instead, it provides an additional, efficient way to supplement financial support for foster parents without being dependent on federal approval processes.
5. Maximizing State Investment: While Title IV-E reimbursement brings in federal dollars, it does not cover the full cost of fostering, nor does it provide direct, discretionary income to foster families. SB 335 ensures that state funds go directly to the individuals providing care, rather than being tied up in administrative processes or limited by federal eligibility rules.

The LFC Program Evaluation Unit prepared a brief during the 2024/2025 interim to support Senate Memorial 5 (SM5) CYFD Restructuring Task Force.[2] The brief informs this tax credit proposal. Information extracted from the SM5 evaluation follows:

- The state averages 2,200 children per month in foster care, with an average of four different foster homes a year per child.
- Licensed foster parents (also known as resource homes) receive a non-taxable, monthly maintenance payment as reimbursement for providing for children in their care. These monthly maintenance payments are established by CYFD to cover typical, everyday expenses, such as food, transportation, personal care, clothing, etc. and vary depending on the child's age and level of care.
- In FY 24, New Mexico spent roughly $61 million for the care and support of foster children (foster care maintenance payments and adoption assistance) in CYFD care.
- New Mexico could choose to increase foster care maintenance rates but would likely need to have increased rates approved by the federal Administration for Children and Families in the state's federal Title IV-E plan.
- The LFC budget recommendation includes a $100 thousand non-recurring appropriation to study foster care maintenance payment rates, as recommended by the Senate Memorial 5 Taskforce.

This proposal may not be the most efficient means of increasing payments to resource homes.

From the SM5 brief:

> 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 medical assistance percentage rate.

[2] https://www.nmlegis.gov/Entity/LFC/Documents/SM5%20Brief-Access%20to%20Community-Based%20Services.pdf

> This rate is roughly 75 percent in New Mexico, meaning the state should receive roughly $3 in federal revenue for every $1 in state revenue.

Because almost 75 percent of the state's overall costs of foster care is met through the Federal Title IV-E program, the tax credit proposal must be characterized as inefficient. The increased reimbursement rates implicit in the proposal cost the general fund three times as much as an increased reimbursement rate. This is not applicable to providing a tax credit for guardians who are not currently paid.

LFC encourages proposers of tax expenditures to provide goals and benchmarks, as well as a sunset date where the effectiveness of the tax credit can be evaluated and kept, repealed or modified.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement for TRD to include in the annual tax expenditure report (Section 7-1-84 NMSA 1978) the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

CYFD has revisited its administrative burden:

> The fiscal impact associated with implementing SB 335 will be minimized by leveraging CYFD's existing resources, infrastructure, and future hiring plans. While initial estimates projected the need for five additional IT positions and $938.6 thousand in funding for system development, CYFD needs to clarify that these responsibilities would be integrated into positions the agency is already planning to hire and fill. Additionally, existing staff will address technical needs by utilizing current infrastructure, interfaces, contracts, and methodologies to ensure compliance with IRS and TRD requirements.
>
> Rather than requiring a wholly new system, CYFD will build upon its current IT environment, which already aligns with FISMA/NIST 800-53 and IRS Publication 1075 standards. This strategic approach ensures that compliance, data retention, and scalability for new and existing foster parents can be managed within CYFD's existing framework. The agency will also assess whether an interface with SHARE is necessary for fiscal reporting and transactions, but any additional software implementation and maintenance costs—previously estimated at $750.0 thousand per year—will be significantly mitigated by maximizing current resources and
> streamlining processes within CYFD's operational capacity.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Several bills have been introduced seeking to improve the services provided by CYFD in a similar manner to this bill:

- House Bill 207, which would expand the Special Needs Adopted Child Tax Credit to all adopted children;
- House Bill 225, which is similar to this bill although does not include guardians and

provides the credit at $100/week per child.

- House Bill 341, which would require CYFD to issue identification cards to foster parents;
- House Bill 345, which would require CYFD to conduct a child an adolescent needs and strengths trauma assessment when placing a child into foster care;
- Senate Bill 272, which would exempt foster parents or grandparent guardians/adoptive parents from the personal income tax;
- Senate Bill 284, which would change Insurance Code to prevent the disqualification of foster children from coverage under homeowners insurance;
- Senate Bill 304, which would create the Qualifying Foster care Organization Income Tax Credit; and
- Senate Bill 305, which would establish the Quality Foster Parent Recruitment and Retention Task Force.

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy**: Revenue should be adequate to fund needed government services.
- **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity**: Different taxpayers should be treated fairly.
- **Simplicity**: Collection should be simple and easily understood.
- **Accountability**: Preferences should be easy to monitor and evaluate

Tax Expenditure Policy Principle	Met?	Comments
Vetted: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.	X	
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.		
Clearly stated purpose	X	
Long-term goals	X	
Measurable targets	X	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	: ✓	
Accountable: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.		
Public analysis	?	
Expiration date	X	
Effective: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure.		No goals stated
Fulfills stated purpose	?	
Passes “but for” test	?	
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	X	See note on increasing

		reimbursement rates rather than providing a tax credit
Key: ✓ Met ✗ Not Met ? Unclear		

LG/hj/SL2