FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Block/Mejia/Dow	**ORIGINAL DATE**	3/6/25
SHORT TITLE	Childbirth Income Tax Credit	**BILL NUMBER**	House Bill 542
		ANALYST	Torres

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
PIT		($138,000) to ($150,500)	($136,000) to ($150,500)	($133,300) to ($150,500)	($128,000) to ($150,500)	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
State Ethics Commission (SEC)
Early Childhood Education and Care Department (ECECD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 542

House Bill 542 establishes the Childbirth Income Tax Credit, providing a $7,000 refundable income tax credit to New Mexico residents who give birth to a child during the taxable year. The credit is available to individual taxpayers who are not claimed as dependents on another tax return and applies for taxable years beginning on or after January 1, 2025.

To claim the credit, a taxpayer must obtain certification from the Children, Youth, and Families Department (CYFD), which will verify eligibility and issue certificates of qualification. CYFD must also electronically report all issued certifications to the Taxation and Revenue Department (TRD) at regular intervals. Only one credit may be issued per taxpayer per taxable year.

If the credit amount exceeds a taxpayer's total income tax liability, the excess will be refunded. The bill allows taxpayers to claim the credit within three taxable years following the year in which the birth occurred and certification was granted. Additionally, the fiscal impact of the credit must be reported annually.

FISCAL IMPLICATIONS

House Bill 542 introduces a new refundable tax credit, which will reduce state personal income tax (PIT) revenue. Because the credit is refundable, eligible taxpayers will receive the full $7,000 benefit regardless of their income tax liability, creating a direct cost to the general fund.

The total fiscal impact will depend on the number of births in New Mexico each year. Based on recent birth rate data, New Mexico records approximately 21.5 thousand babies born each year. If all eligible births result in a claimed credit, the total annual cost to the state could be $150.5 million.

According to the Taxation and Revenue Department (TRD), the number of births from 2016 to 2023 has fallen by an average of 2.7 percent per year and could continue to fall at this rate. Under this assumption and using linear and logarithmic regressions, TRD estimated costs reflected by the lower bound estimate on page 1.

There may be additional administrative costs for CYFD and TRD because CYFD will be responsible for processing applications and issuing certifications, while TRD must verify claims, process refunds, and track the fiscal impact of the credit. These costs are expected to be moderate and recurring as long as the credit remains in effect.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. 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.

SIGNIFICANT ISSUES

The Childbirth Income Tax Credit is intended to provide financial relief to new parents, recognizing the economic costs associated with childbirth and early child-rearing. By making the credit fully refundable, the bill ensures that families, including those with little or no state tax liability, receive the full benefit of the credit.

However, the bill does not include income eligibility limits, meaning all taxpayers who give birth—regardless of income level—are eligible for the same $7,000 benefit. This differs from many existing child-related tax credits, which often phase out at higher income levels to target low- and middle-income families.

Another policy consideration is the bill's potential impact on birth rates. While the credit may encourage higher birth rates, its effectiveness in doing so is uncertain. Studies on financial incentives and birth rates have produced mixed results, and other socioeconomic factors, such as housing costs, access to childcare, and healthcare availability, also influence reproductive decisions.

According to the Taxation and Revenue Department:

> Personal income tax (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 statues 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.
>
> The proposed child tax credit will erode horizontal and vertical equity in the personal income tax. By basing the credit on giving birth to a child, taxpayers with the same level of income are no longer treated equally, thus eroding horizontal equity. The bill also creates inequity for taxpayers who adopt children or choose surrogacy. The credit also erodes vertical equity by maintaining the same level of credit regardless of income. This credit is in part duplicative of the Child Income Tax Credit, which provides a credit to every taxpayer with a dependent child every year, including newborn infants. This proposal would represent an additional form of a child tax credit. Child tax credits can be an important tool to provide economic aid to families with children and is particularly helpful to lower income families.

The State Ethics Commission adds concerns related to violations of the Anti-Donation Clause, finding:

> HB542 potentially implicates Article IX, Section 14, of the New Mexico Constitution (the Anti-Donation Clause) by, in effect, creating circumstances where the state may directly pay public funds to families when a child is born.
>
> Whether the proposed tax credit is constitutional under the Anti-Donation Clause requires a relatively straight-forward test derived by the courts: First, has the state made a donation or pledged its credit in aid of any person, association, or corporation? Second, if "yes", does an enumerated exception apply? Insofar as HB542 is concerned, the answers will likely be "yes" and "no," respectively.
>
> First, generally, refundable tax credits raise concerns under the Anti-Donation Clause because a refundable tax credit can cause the state to make a payment to a private individual or corporation, potentially resulting in an unconstitutional subsidy. See *Chronis v. State ex rel. Rodriguez*, 1983-NMSC-081, ¶ 30 (finding a tax credit given to the liquor industry an unconstitutional subsidy). Since the proposed tax credit here operates as a kind of gift to a taxpayer, as there is no clear action under the terms of the bill under which the credit could be viewed as an offer in exchange for the credit (if the state receives something of value in exchange for the transfer of funds, it is not a donation), the proposed tax credit likely constitutes a donation, satisfying the first part of the above test.
>
> As to the second question, under the terms of HB542, it is not clear that any of the enumerated exceptions to the Anti-Donation Clause would apply. The Anti-Donation

Clause does contain an exception for the care and maintenance of sick or indigent individuals, see N.M. Const. art. IX, § 14(A), however, while the tax refund may result in a donation going to indigent residents or sick residents, HB542 is not drafted in a manner so as to specifically provide for the care and maintenance of such individuals. As such, the proposed credit would likely run afoul of the Anti-Donation Clause because it creates a donation on behalf of the State and there are no applicable exceptions to the clause.

Outside from any Anti-Donation Clause implications, the tax credit is only applicable once per year. This means that if an individual gives birth to twins, triplets, etc., or more than one child in a year they would still only receive a tax credit calculated for one child.

TECHNICAL ISSUES

As written, the baby born does not have to be in New Mexico, only that the taxpayer giving birth is a New Mexico resident.

TRD notes:

This bill, as written, is only available to a taxpayer "who gives birth to a child." This language is ambiguous for several reasons.

1. Requirement for Physical Childbirth:

   The current language of the bill specifies that the taxpayer must physically give birth to a child to claim credit, potentially excluding parents who become legal parents through surrogacy or adoption unless the language is amended to include these scenarios (see Other Issues).

2. Taxpayer who gives birth to a child does not claim the credit:

   In a situation where the taxpayer who gave birth to the child does not claim the credit (such as a death of a parent), the child may live with their other parent who did not give birth. This parent who did not give birth but has guardianship would not receive the benefit of this credit.

3. Taxpayer Claiming Child as Dependent:

   For unmarried parents, the bill should specify that the taxpayer who claims the child as a dependent for federal tax purposes is eligible for the full credit. This avoids potential disputes about who can claim the credit. Also, language concerning married filing separate filers is not included but may be necessary.

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

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

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.	×	
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 Long-term goals Measurable targets	 × × ×	
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	 ? ×	
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. Fulfills stated purpose Passes "but for" test	 × ×	
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met × Not Met ? Unclear		

IT/hj/hg