

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.

FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 02/14/25

SPONSOR Tobiassen

BILL
NUMBER Senate Bill 304

SHORT TITLE Foster Care Organization Tax Credit

ANALYST Graeser

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
PIT	\$0	(\$11,000.0)	(\$11,000.0)	(\$11,000.0)	(\$11,000.0)	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
TRD	No fiscal impact	\$19.9	No fiscal impact	\$19.9	Nonrecurring	General Fund
TRD	No fiscal impact	\$85.0	\$85.0	\$170.0	Recurring	General Fund
Total	No fiscal impact	\$104.9	\$85.0	\$199.9		General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 225

Sources of Information

LFC Files

Agency Analysis Received From

Children, Youth and Families Department (CYFD)

Agency Analysis was Solicited but Not Received From

Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of Senate Bill 304

Senate Bill 304 (SB304) creates the qualifying foster care organization income tax credit, which allows an income tax credit of \$500 for a single or head of household taxpayer or \$1,000 for a married taxpayer for any donation to a foster parent organization. Any tax credit in excess of the taxpayer's liability may be carried forward for 5-years.

The bill defines "qualifying foster care organization" to mean an organization that: (a) has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code; and (b) each operating year, provides foster care services to at least 200 qualified individuals in New Mexico and spends at least 50 percent of its budget on foster care services to qualified individuals in New Mexico.

The bill defines "foster care services" to mean cash assistance, medical care, child care, behavioral health services, food, snacks at the qualifying foster care organization's foster youth events, clothing, shelter, character education programs, workforce development programs, secondary education student retention programs, housing or financial literacy services, activities to support, train and retain foster parents licensed or certified by the Children, Youth and Families Department (CYFD) or a child placement agency to provide care for children in the custody of the department or agency in their role as a foster parent and activities to support caregivers and guardians pursuant to the Kinship Guardianship Act or any other assistance that is reasonably necessary to meet basic needs or provide normalcy and that is provided and used in New Mexico.

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 bill are applicable to tax years beginning January 1, 2025. There is no sunset date.

FISCAL IMPLICATIONS

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.

There is one substantial technical issue standing in the way of estimating the fiscal impact of the provisions of this bill; the tax credit is granted for any individual who donates money to the foster care organization, but the size of the donation is not referenced in establishing the value of the credit for each donor. Because of this lack of specificity, a \$1 donation could qualify a married couple to \$1,000 of tax credit. The credits may be granted annually.

Recently, the number of children in foster care has been about 2,200. Before the Covid-19 pandemic, 2,500 children were consistently in foster care. Other estimates expect that 2,300 children on average will be in foster care. However, nothing in the provisions of this bill is tied to the number of children in foster care.

LFC staff estimate the fiscal impact for House Bill 225, which would provide a tax credit to the foster parents of \$100 per week, at an annual general fund cost of \$11.4 million. Because the technical defects of this bill render the fiscal impact indeterminate and the benefits to foster children minimal, LFC staff is scoring the provisions of this bill in the same range as the fiscal impact of House Bill 225. LFC staff assume that SB304 will have a similar fiscal impact on TRD as House Bill 225.

SIGNIFICANT ISSUES

The bill requires that a qualified foster care organization must demonstrate that it is planning to spend 50 percent of its budget on providing services to at least 200 foster children each year. This could be minimal benefits. Typical non-profit organizations spend over 85 percent on program costs and less than 15 percent on fund raising and administration costs.

It is unusual for donations to a 501(c)(3) organization to generate a tax credit without instructions on whether those donations that generate the tax credit can also be claimed as a federal and state charitable tax deduction for individuals that itemize deductions or the special New Mexico provisions that allow non-itemizers to deduct donations to non-profits.

The percentage of donation eligible for the proposed tax credit should be specified to align with typical state practice for tax credits, even if that percentage is 100 percent.

The bill does not contain usual guardrails, such as a not-to-exceed aggregate cap, contain a sunset date so that the effectiveness of the bill in accomplishing stated goals can be reviewed and a requirement that the costs, coverage and benefits of the tax credit be included in TRD's annual tax expenditure report.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met because TRD is required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose. This parallels the statutory requirement of 7-1-84 NMSA which requires TRD to prepare a comprehensive tax expenditure budget annually.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Bill 225, which would create a \$100 a week tax credit for foster families.

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.	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 Long-term goals Measurable targets	X X X	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	Required in the bill; TR will analyze annually pursuant to 7-1-84 NMSA 1978.
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 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. Fulfills stated purpose Passes “but for” test	X X	
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	X	
Key: ✓ Met * Not Met ? Unclear		

LG/hj