

LFC Requester:

Brendon Gray

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/6/2025

Check all that apply:

Bill Number: HB 14

Original Correction
Amendment Substitute

Sponsor: Rep. Derrick J. Lente, Rep. Javier Martínez

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Earned Income Tax Credit

Person Writing Analysis: Lawrence M. Marcus
Phone: 505-537-7676
Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1: This bill repeals and replaces the “Working Families Tax Credit,” NMSA 1978, Section 7-2-18.15, which allows a New Mexico taxpayer a credit, on a state tax return, of 25% of the federal earned income tax credit for which the taxpayer was eligible, or would have been eligible but for a lack of social security number and/or the fact that they were under the age of 25 (as long as they were over 18). Essentially, the “Working Families Tax Credit” is a New Mexico version of the earned income tax credit, incorporating federal parameters to calculate the credit.

1A. The bill replaces the “Working Families Tax Credit,” with an explicit New Mexico earned income tax credit with its own parameters. Both the federal (as incorporated in the Working Families Tax Credit) and proposed New Mexico earned income tax credits allow credit for a percentage (“credit percentage”) of earned income up to a certain amount (“earned income amount”). As the taxpayer’s income increases above the earned income amount, the credit remains stable until the taxpayer’s earned income (or adjusted gross income, if greater) reaches the “phaseout amount,” at which point the credit begins to drop by a certain percentage (“phaseout percentage”) until it reaches zero. This would have the effect of providing a tax credit for relatively low-income earners.

1B&C. These sections provide the parameters for calculating the New Mexico earned income tax credit, in the form of tables for the “credit percentage,” “earned income amount,” “phaseout percentage,” and “phaseout amounts.” These are somewhat comparable to the federal parameters utilized by the current “Working Families Tax Credit,” although there are some slight differences. *See* the tables in 26 U.S.C. § 32 (b), for the corresponding numbers for the federal earned income tax credit, while noting that the current NM Working Families Tax Credit is a quarter of the federal credit. Also, the federal tables for the earned income and phaseout amounts are outdated. Pursuant to the inflation adjustments described to 26 U.S.C. § 32(j), the IRS has issued new amounts listed in Revenue Procedure 2024-40, §2.06.

Essentially, while there may be subtle differences in the amount of tax credit for any

individual taxpayer, the major change between the NM Earned Income Tax Credit and the prior Working Families Tax Credit is that the NM credit is no longer tied directly to the federal parameters.

1D. Allows an increase of \$5,000 in the “phaseout amount” for married couples filing jointly. This is identical to the original increased federal “phaseout amount” for joint filing. However, because of inflation adjustments, the increase in the federal phaseout amount for joint filing is now \$7,120, an amount that is reflected in the current Working Families Tax Credit.

1E. Provides a minimum credit of \$100 for those individuals whose earned income or adjusted gross income is less than the “earned income amount.” There does not appear to be an analogous provision in the federal earned income credit statute or the NM Working Families Tax Credit.

1F. Allows for an adjustment due to inflation every year beginning with the 2026 tax year, based on the consumer price index (“CPI”). This is analogous to the 26 U.S.C. § 32(j) federal adjustments.

1G. Requires the Secretary of Taxation and Revenue to create tables that calculate the tax credits, reflecting the various “credit percentages,” “earned income amounts,” “phaseout amounts,” and “phaseout percentages.” These tables are required to have income brackets of no greater than \$50.

1H. Requires that, if the credit exceeds the tax liability, it shall be refunded. This provision is also found in the Working Families Tax Credit Statute, except the new bill clarifies that this refund shall not be taxed as income. NMSA 1978, § 7-2-18.15(D).

1I. Requires a taxpayer who is allowed a credit to report the credit to the Department of Taxation and Revenue in a manner required by Department.

1J. Requires that this credit be included in the tax expenditure budget, along with other types of tax breaks and other tax expenditures.

1K. This is a definitional subsection, defining “earned income,” “eligible individual,” “federal earned income tax credit,” and “qualifying child.” All of these incorporate the federal definitions, except that the definition of “eligible individual” includes those eligible for the federal earned income tax credit, as well as those who are ineligible due to a lack of a social security number or due to being under the age of 25. This is analogous to the provisions of the current Working Families Tax Credit. NMSA 1978, § 7-2-18.15(A)&(B). The term “adjusted gross income” is not defined in the section, but because the section is part of the NM Income Tax Act, it utilizes the definition in NMSA 1978, § 7-2-2(A), which also incorporates the federal definition.

Section 2: The Credit goes into effect for the 2025 tax year.

FISCAL IMPLICATIONS

There is no apparent fiscal impact on the NM Department of Justice

SIGNIFICANT ISSUES

None apparent

PERFORMANCE IMPLICATIONS

None apparent

ADMINISTRATIVE IMPLICATIONS

None apparent

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No direct conflicts. May have subtle conflicts with other tax bills.

TECHNICAL ISSUES

None apparent

OTHER SUBSTANTIVE ISSUES

As noted above, the impact of the changed calculation parameters, both on the public fisc and on the typical individual/family eligible for an earned income tax credit, is not entirely clear. The tax and revenue department may need to do an accounting in order to estimate this impact, perhaps through the advance preparation of the tables required by Section 1G.

While the proposed bill would result in a New Mexico Earned Income Tax Credit that is not tethered to federal parameters for the calculation of the credit, as was the Working Families Tax Credit, it is still tethered (subject to the age and ID exceptions that already exist for the Working Families Credit) to federal rules for eligibility. Thus, if the federal government were to change the rules for eligibility (such has been proposed in the current U.S. Senate Bill 62) in other ways, this would affect eligibility for the New Mexico Credit, as well.

Tax credits are potentially subject to New Mexico's anti-donation clause. *Cf. Chronis v. State ex rel. Rodriguez*, 1983-NMSC-081, ¶ 30, 100 N.M. 342 (deeming a tax credit that reduced liquor retailers' gross receipts tax obligation an unconstitutional subsidy to the liquor industry in violation of the anti-donation clause because the provision required neither an exchange nor consideration).

ALTERNATIVES

None apparent

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None yet.