

LFC Requester: _____

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/11/2025 *Check all that apply:*
Bill Number: SB 335 Original Correction
 Amendment Substitute

Sponsor: Michael Padilla **Agency Name and Code Number:** Aging and Long-Term Services Department 62400
Foster Parent & Guardian Tax Credit **Person Writing:** Craig Hay
Short Title: _____ **Phone:** 505-603-9431 : **Email:** Craig.hay@altsd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	NA

(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)

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 335 (SB 335) proposes to add a new section to the Income Tax Act allowing an income tax credit for foster parents and guardians. Specifically, SB 335 allows for a tax credit of \$500 per month, for a maximum credit of \$6,000 that can be claimed by either foster parents or guardians. To qualify for the credit contained within SB 335, a taxpayer must apply for certification of eligibility from the Children, Youth, and Families Department (CYFD). Once approved for the tax credit, the credit may be claimed within one year after CYFD certifies the credit. Further, SB 335 defines “guardian” as an individual who has been appointed as a guardian by a court or Indian tribal authority pursuant to the Kinship Guardianship Act. A child must reside with the foster parent or guardian for more than 50 percent of the month in order for the taxpayer to be eligible for the tax credit.

FISCAL IMPLICATIONS

No identified fiscal implications for the Aging and Long-Term Services Department (ALTSD).

SIGNIFICANT ISSUES

A kinship caregiver is a person raising and supporting a child, when that person is also the grandparent or relative of the child, or person with whom the child has an emotionally significant relationship. Since 2020, kinship caregiving in New Mexico has increased, even though the rate of kinship caregiving is decreasing nationally.ⁱ Between 2022 and 2024, New Mexico had the highest percentage of children in kinship care (9 percent) of any state, which was triple the national average (3 percent).ⁱⁱ Additionally, between 2017 and 2024, the number of children in both formal and informal kinship care in New Mexico increased from an estimated 30,000 to an estimated 40,000.ⁱⁱⁱ

The foster parent and guardian tax credit would be available to kinship caregivers who have been granted a legal guardianship pursuant to the Kinship Guardianship Act. Kinship guardianship is a legal arrangement that transfers many parental rights to the kinship guardian. The creation of a kinship guardianship can benefit many of the children subject to the guardianship as kinship guardians are able to access many social services, communicate with schools, and advocate for the children in their care in ways that are unavailable to the kinship caregiver without the creation of a legal, kinship guardianship.

Therefore, the financial incentive provided by the tax credit provided in HB335, may encourage kinship caregivers to pursue legal kinship guardianship. Providing income support to kinship caregivers is important specifically for grandparents who are raising grandchildren who are often on a fixed income and are unable to supplement their income. A New Mexico Voices for children study found that, in 2022, 25.6% of New Mexican grandparents who are responsible for their own grandchildren were living in poverty.^{iv}

New Mexico needs more qualified foster parents.^v As of December 2024, over 2,100 children are in the state’s care, according to CYFD data, but the CYFD has only 1,085 resource and foster homes.^{vi} This statistic indicates that there is a significant need for additional qualified foster parents. Foster parent applicants must provide CYFD with a financial statement to show that the foster parent applicant has “the income or resources necessary to make timely payments for shelter, food, utility costs, clothing and other household expenses prior to the addition of a foster child.”^{vii} To meet this requirement, CYFD requires applicants to prove that they have sufficient financial

resources to provide care for a foster child without being reliant on the monthly reimbursement CYFD provides to foster parents.^{viii} In New Mexico, there is a correlation between poverty and neglect cases.^{ix} As of 2023, the Annie E. Casey Foundation's 2024 Kids COUNT data book listed New Mexico's child poverty rate, according to the Official Poverty Measure, at 27.4%.^x

If CYFD determines that a child cannot safely remain in their home and elects to place a child in foster care, CYFD is required to give preference to relatives when making placement decisions.^{xi} Unfortunately, there may be situations where a relative placement is not feasible as the relative does not have the sufficient income or resources to care for the child. This foster care income tax credit may provide additional income support to these relatives, which would make them eligible to become foster parents as determined by CYFD.

PERFORMANCE IMPLICATIONS

ALTSD will need to ensure that grandparents raising grandchildren are aware of HB 335 as it provides much needed financial support. As part of the education and outreach related to HB 335 it will be important for ALTSD constituents to understand that in order to receive the benefits of HB 335 there will need to be a formal kinship guardianship established which may require legal services referrals.

ADMINISTRATIVE IMPLICATIONS

None identified for ALTSD.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

None identified for ALTSD.

OTHER SUBSTANTIVE ISSUES

With the increase in requests for the creation of Kinship Guardianships, there will also be an increase in the need for legal assistance. Non-profit agencies that provide free legal assistance services for kinship caregivers are already over capacity and managing waitlists for services. As of November 2023, Pegasus Legal Services for Children stated that it had a seven-month waitlist for kinship guardianship services.^{xii}

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of not enacting this bill will mean that grandparents raising grandchildren will continue to grapple with financial instability related to raising a child(ren). Grandparents, and other kinship caregivers, who are not licensed by CYFD as foster parents are not eligible for monthly stipends through CYFD. It is a benefit to the children and the state for children to remain out of CYFD custody, but a consequence of children avoiding being taken into CYFD custody is that there is no eligibility for the CYFD monthly stipends provided to foster families. As indicated above, 25.6% of New Mexican grandparents who are responsible for their own grandchildren were living in poverty.^{xiii} This tax credit could encourage more grandparents to pursue a legal kinship

guardianship, and this would provide income support to grandparents who desperately need financial assistance to raise their grandchildren in a healthy and stable home.

AMENDMENTS

ⁱ “Resilient Families: Helping Grandparents and Kin Raise Children in New Mexico,” LANL Foundation Report (Jan. 2024), 1, <https://lanlfoundation.org/research/resilient-families-helping-grandparents-and-kin-raise-children-in-new-mexico/>

ⁱⁱ Annie E. Casey Foundation Kids Count Data Center, 2022-2024. “Children in kinship care in the United States.” Last Updated September 2024. <https://datacenter.aecf.org/data/tables/10455-children-in-kinship-care?loc=1&loct=2#ranking/2/any/true/2638/any/20161>

ⁱⁱⁱ *Id.*

^{iv} Annie E. Casey Foundation Kids Count Data Center, 2022. “Grandparents Who Are Responsible for Own Grandchildren and are Living in Poverty in New Mexico.”

^v Candelaria, Esteban, “CYFD still struggling with workforce, foster families data shows,” Santa Fe New Mexican, December 18, 2024.

^{vi} *Id.*

^{vii} NMAC 8.26.4.8

^{viii} *See* “Resource Foster Family FAQ.” <https://www.cyfd.nm.gov/protective-services/foster/resource-foster-family-faq/>

^{ix} “Disentangling Poverty and Neglect in the Child Welfare System: In New Mexico and Beyond,” New Mexico Administrative Office of the Courts (Sept. 2023).

^x Annie E. Casey Foundation “Kids COUNT Data Book 2024,” New Mexico Voices for Children, 9.

^{xi} NMAC 8.10.8.10(B)(1).

^{xii} “Resilient Families: Helping Grandparents and Kin Raise Children in New Mexico,” LANL Foundation Report (Jan. 2024), 12, <https://lanlfoundation.org/research/resilient-families-helping-grandparents-and-kin-raise-children-in-new-mexico/>

^{xiii} Annie E. Casey Foundation Kids Count Data Center, 2022. “Grandparents Who Are Responsible for Own Grandchildren and are Living in Poverty in New Mexico.”