LFC Requester:	

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(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}

Check all that apply:

Original **Amendment**
Correction **Substitute** **X**

Date Prepared: 2025-02-28
Bill No: HB437

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Short Title: FOSTER CARE ORGANIZATION TAX CREDIT

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

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

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

SECTION III: NARRATIVE

BILL SUMMARY

HB 437 proposes the Qualifying Foster Care Organization Income Tax Credit, which
provides tax incentives for individuals who donate to foster care organizations.
The bill outlines:

* Tax credits of $500 for single filers and $1,000 for joint filers who donate to a qualified foster care organization.
* Organizations must:
  * Be 501(c)(3) organizations
  * Serve at least 200 foster youth annually
  * Spend at least 50% of their budget on foster care services
  * Provide to the department the name of the qualifying foster care organization to which a contribution is made and the amount of contribution made. In addition, the organization shall provide to the department written documentation that the organization meets the requirements to be considered a qualifying foster care organization
* The credit can be carried forward for five years if not fully utilized.

ANALYSIS OF HB 437 SUSTITUTE:

The House Health and Human Services Committee Substitute for HB 437 retains the core purpose of the original bill which creates an income tax credit for donations to qualifying foster care organizations but modifies several aspects of the bill to refine eligibility criteria, funding scope, and oversight mechanisms. Changes include:

* Expiration Date for the Tax Credit
* Original HB 437: Did not specify an expiration date for the tax credit.

* Substitute HB 437: Adds a repeal date of January 1, 2031, meaning the tax credit will automatically expire unless renewed.
* This makes the tax credit temporary, allowing lawmakers to reassess its effectiveness before making it permanent.
* Stricter Qualification Requirements for Foster Care Organizations
* Original HB 437: Allowed any 501(c)(3) nonprofit that provides foster care services to qualify.
* Substitute HB 437: Requires organizations to:
1. Serve at least 200 foster youth annually in New Mexico.
2. Spend at least 50% of their budget on direct foster care services.
3. Provide documentation verifying eligibility, signed under penalty of perjury
* This narrows the pool of eligible organizations to larger, more established foster care providers and reduces the risk of abuse by ensuring funds go to organizations with a substantial foster care impact.
* Expanded Definition of Foster Care Services
* Original HB 437: Defined "foster care services" broadly but lacked specific examples.
* Substitute HB 437: Provides detailed examples of covered services, including:
* Cash assistance, medical care, child care, and behavioral health services.
* Housing support, workforce development, education retention, and normalcy activities.
* Support and training for foster parents and kinship caregivers.
* This clarifies what donations can be used for, ensuring tax-deductible contributions directly benefit foster youth rather than administrative expenses.
* Extended Eligibility for Foster Youth
* Original HB 437: Limited benefits to foster youth currently in the system.
* Substitute HB 437: Expands eligibility to former foster youth up to age 27 who:
* Aged out of foster care.
* Were adopted or placed in legal guardianship after age 15.
* Reunified with family after age 14.
* This aligns with federal fostering connections policies and supports youth transitioning out of care, reducing homelessness and unemployment risks.

FISCAL IMPLICATIONS

No fiscal impact for CYFD

SIGNIFICANT ISSUES

If HB 437 is enacted, the credit primarily helps higher-income individuals who can afford to donate, leaving out lower-income taxpayers who may still support foster care in other ways. Wealthier donors may influence how foster care organizations operate, prioritizing services that align with donor preferences rather than urgent needs of the community.

There is no clarification regarding how organizations would determine whether they meet the 200 youth service threshold.

ANALYSIS FOR HB 437 SUBSTITUTE:

* Increased private donations could reduce reliance on state-funded foster care programs.
* Supporting foster youth beyond age 18 could lower long-term costs associated with homelessness, incarceration, and unemployment.
* The 200-youth annual service requirement may exclude smaller, community-based nonprofits from eligibility.
* Some organizations may struggle to meet the 50% spending requirement, especially those providing wraparound services.

PERFORMANCE IMPLICATIONS

If enacted, the tax credit may encourage more private donations to foster care nonprofits, reducing reliance on state funds and enabling organizations to expand services they offer to foster youth and families.

ANALYSIS OF HB 437 SUBSTITUTE:

Overall, the substitute bill makes the tax credit more structured, accountable, and targeted at high-impact foster care organizations.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without tax incentives, people may be less motivated to donate, reducing funding for foster care services and nonprofits could struggle to expand programs that help foster youth.

HB 437 SUBSTITUTE: No change in analysis for this section.

AMENDMENTS

The Substitution Bill introduces several key changes compared to the Original Bill. These changes include modifications related to the duration of the tax credit, the calculation of the credit amount, the interaction with tax deductions, and other procedural adjustments. Below is a detailed breakdown of the specific changes:

1. EXPIRATION DATE AND REPEAL CLAUSE

* Original Bill:
* No expiration or repeal date is specified. The credit is intended to be permanent unless changed by future legislation.
* Substitution Bill:
* Introduces a delayed repeal clause, specifying that Section 1 of the act will be repealed effective January 1, 2031. This means the credit will expire after this date.

2. CALCULATION OF THE CREDIT AMOUNT

* Original Bill:
* The credit amount is fixed:
* $500 for single individuals, heads of household, surviving spouses, and married individuals filing separately.
* $1,000 for married individuals filing jointly.
* Substitution Bill:

* The credit amount is based on the contribution made by the taxpayer, but still capped at:
* $500 for single individuals, heads of household, surviving spouses, and married individuals filing separately.
* $1,000 for married individuals filing jointly.
* The credit is now tied directly to the amount contributed to the qualifying foster care organization, but it cannot exceed the capped amounts.

3. RETROACTIVE CREDIT APPLICATION

* Original Bill:
* Does not include any provisions regarding applying the credit to a prior taxable year.
* Substitution Bill:
* Adds a provision allowing contributions made on or before the fifteenth day of the fourth month following the close of the taxable year to be applied to either the current or preceding taxable year. This provides flexibility to taxpayers in choosing which year to apply the credit to.

4. INTERACTION WITH TAX DEDUCTIONS

* Original Bill:
* Does not address the interaction between the credit and any potential deductions.
* Substitution Bill:
* Introduces a clear provision that if a taxpayer claims a deduction under the Income Tax Act for the same contribution for which the tax credit is being claimed, the taxpayer is not eligible for the credit for the amount deducted. The Substitution Bill further clarifies that the credit is provided in lieu of a deduction under Section 170 of the Internal Revenue Code.

5. CREDIT CARRY FORWARD

* Original Bill:
* The credit can be carried forward for five consecutive taxable years if it exceeds the taxpayer’s income tax liability.
* Substitution Bill:
* The carry-forward provision remains the same. However, no substantive changes are made to this provision, except for the additional retroactive application provision for certain contributions.

6. MINOR CHANGES TO PROCEDURAL DETAILS

* Original Bill:
* The taxpayer applies for certification of the credit with the necessary documentation, but no specific timing is mentioned.
* Substitution Bill:
* While the procedural details for certification remain similar to the original bill, the Substitution Bill provides further clarity regarding the timing of contributions and retroactive application of the credit.

SUMMARY OF CHANGES:

1. Expiration Date:

* The Substitution Bill includes a sunset provision, which will repeal the credit on January 1, 2031.

2. Credit Calculation:

* The Substitution Bill ties the credit amount to the actual contribution made (up to the cap), while the Original Bill had a fixed amount.

3. Retroactive Application:

* The Substitution Bill allows taxpayers to apply the credit to either the current or preceding taxable year for contributions made before the fifteenth day of the fourth month following the close of the taxable year.

4. Interaction with Deductions:

* The Substitution Bill clarifies that taxpayers claiming a deduction for the same contribution cannot also claim the tax credit for the amount deducted.

5. Reaffirmation of Credit Carry Forward:

* The Substitution Bill maintains the same carry-forward provision as the Original Bill with no changes.