

LFC Requester:

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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}*

*Check all that apply:*

**Original**            **Amendment**

**Date** 2025-02-28

**Correction**            **Substitute** **X**  
**n**

**Prepared:**  
**Bill No:** SB304

**Sponsor(s)** Nicole Tobiassen  
**:**

**Agency Name** CYFD 69000  
**and Code**  
**Number:**

**Person** Aaron Salas

**Writing**  
**Analysis:**  
**Phone:**

**Short** FOSTER CARE  
**Title:** ORGANIZATION TAX  
CREDIT

**Email:** Aaron.salas@cyfd.nm.gov

**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)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

This bill, if enacted, proposes a tax credit for NM residents who make a contribution to a qualifying foster care organization. Under this bill a NM resident who meets this qualification may claim a credit against their tax liability imposed pursuant to the Income Tax Act effective 1/1/25.

The bill defines the following:

- \* The amount of the credit shall be in an amount equal to:
  - \* for single individuals, married individuals filing separate returns, heads of household and surviving spouses, five hundred dollars (\$500)
  - \* for married individuals filing joint returns, one thousand dollars (\$1,000)
- \* a taxpayer shall provide to the department the name of the qualifying foster care organization to which a contribution is made and the amount of contribution made.
- \* The foster care organizations need to:
  - \* provide verification of the services they provide and the funding they spend on qualified individuals and
  - \* provide foster care services to at least two hundred qualified individuals in New Mexico and
  - \* spend at least fifty percent of its budget on foster care services to qualified individuals in New Mexico.
- \* Qualified individuals are defined as:
  - \* a foster child. a child in the custody of the children, youth and families department or a child placement agency that may be placed with a person licensed or certified by that department or agency to provide care for the child.
  - \* a participant in the fostering connections program pursuant to the Fostering Connections Act.
  - \* a person who is under twenty-seven years of age and whose reason for

leaving foster care in reaching eighteen years of age; adoption or legal guardianship after reaching fifteen years of age; or reunification after reaching fourteen years of age."

#### ANALYSIS OF SB 304 SUBSTITUTE:

The substitute bill introduces several modifications to eligibility, tax credit rules, and oversight mechanisms. Below are the details of the changes:

##### Addition of an Expiration Date for the Tax Credit

- \* Original SB 304: The tax credit was permanent with no expiration date.
- \* Committee Substitute SB 304: Adds a delayed repeal date of January 1, 2031.
- \* This proposes that the tax credit is temporary, allowing lawmakers to review its effectiveness before deciding whether to extend or modify it.

##### Change in Tax Credit Eligibility Timing

- \* Original SB 304: Taxpayers could claim the credit only in the year they made the donation.
- \* Committee Substitute SB 304: Allows contributions made by April 15 of the following year to be applied to either the current or prior taxable year and provides more flexibility for taxpayers to take advantage of the credit when filing tax returns.

##### Restrictions on Double Deductions

- \* Original SB 304: Allowed taxpayers to claim both the state tax credit and a federal deduction for the same donation.
- \* Committee Substitute SB 304: Prohibits taxpayers from claiming both—if they take the state credit, they cannot also deduct the donation from their federal taxable income which helps prevent double-dipping tax benefits and aligns with tax policy best practices.

##### Clarifications on Credit Carryforward Rules

- \* Original SB 304: Allowed unused credits to be carried forward for up to five years but was vague about refund eligibility.
- \* Committee Substitute SB 304: Specifies that the credit is non-refundable but can still carry forward for five years.

##### Compliance & Oversight Measures

- \* Original SB 304: Required foster care organizations to submit basic financial documentation to qualify.
- \* Committee Substitute SB 304:
- \* Requires organizations to certify under penalty of perjury that they meet

eligibility requirements.

\* Ensures that organizations spend at least 50% of their budget on foster care services.

\* Mandates reporting of tax credit expenditures in the state's Tax Expenditure Budget.

## **FISCAL IMPLICATIONS**

No Fiscal impact for CYFD as this is based on contributions made by NM residents to agencies that provide services to qualified individuals defined in this bill.

ANALYSIS OF SB 304:

No change in original analysis.

## **SIGNIFICANT ISSUES**

None identified as the process is independent of CYFD processes.

The bill does not identify or define who "the department" is in this bill

ANALYSIS OF SB304 SUBSTITUTE:

The substitute bill does not cause the department any significant issues but some areas to note in the changes are:

\* The requirement to serve 200+ youth annually may exclude smaller community-based organizations from eligibility.

\* Some nonprofits may struggle to meet the 50% budget threshold for direct foster care services.

## **PERFORMANCE IMPLICATIONS**

None

identified.

## **ADMINISTRATIVE IMPLICATIONS**

None identified.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None, status quo.

## **AMENDMENTS**

The Substitution Bill introduces several changes compared to the Original Bill regarding the qualifying foster care organization income tax credit. Below is a detailed comparison of the changes:

1. Expiration Date

\* Original Bill: The bill does not specify an expiration date for the credit.

\* Substitution Bill: Includes a delayed repeal clause. The credit will expire on January 1, 2031.

2. Credit Application for Prior Tax Year

\* Original Bill: Does not include any provisions regarding applying the credit to a prior taxable year.

\* Substitution Bill: Introduces a provision allowing taxpayers to apply the credit to either the current or preceding taxable year for contributions made on or before the 15th day of the fourth month following the close of the taxable year. This allows flexibility in claiming the credit.

3. Interaction with Tax Deductions

\* Original Bill: Does not explicitly address the interaction between the credit and tax deductions.

\* Substitution Bill: States that a taxpayer who claims a deduction for the same contribution under the Income Tax Act is not eligible for the credit on the amount deducted. This clarifies that the tax credit cannot be claimed alongside a tax deduction for the same contribution.

4. 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 in the year the credit is claimed.

\* Substitution Bill: The carry-forward provision remains the same. No changes are made to this aspect in the Substitution Bill.

5. Additional Procedural Details

\* Original Bill: Describes the general procedure for applying for certification of the credit, but there is no specific guidance on retroactive applications or how contributions made in one taxable year may be applied to another year.

\* Substitution Bill: The Substitution Bill provides additional procedural details, particularly regarding the retroactive application of the credit and further clarifications about the certification process, including how taxpayers can apply the credit to the preceding taxable year for certain contributions.