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SENATE BILL 304

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Nicole Tobiassen

AN ACT

RELATING TO TAXATION; CREATING THE QUALIFYING FOSTER CARE ORGANIZATION INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Income Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ CREDIT--QUALIFYING FOSTER CARE ORGANIZATION INCOME TAX CREDIT.--

A. A taxpayer who is a resident, who is not a dependent of another individual and who makes a contribution to a qualifying foster care organization may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The credit authorized pursuant to this section may be referred to as the "qualifying foster care organization income tax credit".

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1 B. The amount of the credit shall be in an amount
2 equal to:

3 (1) for single individuals, married
4 individuals filing separate returns, heads of household and
5 surviving spouses, five hundred dollars (\$500); and

6 (2) for married individuals filing joint
7 returns, one thousand dollars (\$1,000).

8 C. To be eligible for a credit, a taxpayer shall
9 provide to the department the name of the qualifying foster
10 care organization to which a contribution is made and the
11 amount of contribution made. In addition, the organization
12 shall provide to the department written documentation that the
13 organization meets the requirements to be considered a
14 qualifying foster care organization pursuant to this section.
15 The documentation shall be signed by an officer of the
16 organization under penalty of perjury and shall include:

17 (1) documentation that demonstrates to the
18 department that the organization has been granted exemption
19 from the federal income tax by the United States commissioner
20 of internal revenue as an organization described in Section
21 501(c)(3) of the Internal Revenue Code;

22 (2) financial data indicating the
23 organization's budget for the organization's prior operating
24 year and the amount of that budget spent on foster care
25 services; and

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1 (3) a statement that the organization plans to
2 continue spending at least fifty percent of the organization's
3 budget on foster care services.

4 D. A taxpayer shall apply for certification of
5 eligibility for the credit from the department on forms and in
6 the manner prescribed by the department but shall include the
7 information described in Subsection C of this section. Only
8 one tax credit shall be certified per taxpayer per taxable
9 year.

10 E. That portion of the credit that exceeds a
11 taxpayer's income tax liability in the taxable year in which
12 the credit is claimed shall not be refunded to the taxpayer but
13 may be carried forward for five consecutive taxable years.

14 F. The credit provided by this section shall be
15 included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978, including the total annual aggregate cost of
17 the credit.

18 G. As used in this section:

19 (1) "foster care services" means cash
20 assistance, medical care, child care, behavioral health
21 services, food, snacks at the qualifying foster care
22 organization's foster youth events, clothing, shelter,
23 character education programs, workforce development programs,
24 secondary education student retention programs, housing or
25 financial literacy services, activities to support, train and

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1 retain foster parents licensed or certified by the children,
2 youth and families department or a child placement agency to
3 provide care for children in the custody of the department or
4 agency in their role as a foster parent and activities to
5 support caregivers and guardians pursuant to the Kinship
6 Guardianship Act or any other assistance that is reasonably
7 necessary to meet basic needs or provide normalcy and that is
8 provided and used in New Mexico. As used in this paragraph,
9 "normalcy" means the condition of experiencing a typical
10 childhood by participating in activities that are age or
11 developmentally appropriate, as defined in 42 U.S.C. 675;

12 (2) "qualifying foster care organization"
13 means an organization that:

14 (a) has been granted exemption from the
15 federal income tax by the United States commissioner of
16 internal revenue as an organization described in Section
17 501(c)(3) of the Internal Revenue Code; and

18 (b) each operating year, provides foster
19 care services to at least two hundred qualified individuals in
20 New Mexico and spends at least fifty percent of its budget on
21 foster care services to qualified individuals in New Mexico;
22 and

23 (3) "qualified individual" means:

24 (a) a foster child. As used in this
25 subparagraph, "foster child" means: 1) a child in the custody

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1 of the children, youth and families department or a child
2 placement agency that may be placed with a person licensed or
3 certified by that department or agency to provide care for the
4 child; or 2) a participant in the fostering connections program
5 pursuant to the Fostering Connections Act; or

6 (b) a person who is under twenty-seven
7 years of age and whose reason for leaving foster care is: 1)
8 reaching eighteen years of age; 2) adoption or legal
9 guardianship after reaching fifteen years of age; or 3)
10 reunification after reaching fourteen years of age."

11 SECTION 2. APPLICABILITY.--The provisions of this act
12 apply to taxable years beginning on or after January 1, 2025.