

1 SENATE BILL 231

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 George K. Munoz

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10 AN ACT

11 RELATING TO TAXATION; ENACTING THE FOSTER YOUTH EMPLOYMENT
12 INCOME TAX CREDIT AND THE FOSTER YOUTH EMPLOYMENT CORPORATE
13 INCOME TAX CREDIT.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "[NEW MATERIAL] FOSTER YOUTH EMPLOYMENT INCOME TAX
19 CREDIT.--

20 A. A taxpayer who is not a dependent of another
21 individual and who employs a qualified foster youth in New
22 Mexico is eligible for a credit against the taxpayer's tax
23 liability imposed pursuant to the Income Tax Act in an amount
24 up to one thousand dollars (\$1,000) of the gross wages paid to
25 each qualified foster youth by the taxpayer during the taxable

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1 year for which the return is filed. A taxpayer who employs a
2 qualified foster youth for less than the full taxable year is
3 eligible for a credit amount equal to one thousand dollars
4 (\$1,000) multiplied by the fraction of a full year for which
5 the qualified foster youth was employed. The tax credit
6 provided by this section may be referred to as the "foster
7 youth employment income tax credit".

8 B. The purpose of the foster youth employment
9 income tax credit is to encourage the employment of individuals
10 who as youth were adjudicated as abused or neglected or who
11 were in the legal custody of the children, youth and families
12 department under the Children's Code or in the legal custody of
13 a New Mexico Indian nation, tribe or pueblo or the United
14 States department of the interior bureau of Indian affairs
15 division of human services.

16 C. A taxpayer may claim the foster youth employment
17 income tax credit provided in this section for each taxable
18 year in which the taxpayer employs one or more qualified foster
19 youths; provided that the taxpayer may not claim the foster
20 youth employment income tax credit for any individual qualified
21 foster youth for more than one calendar year from the date of
22 hire.

23 D. That portion of a foster youth employment income
24 tax credit approved by the department that exceeds a taxpayer's
25 income tax liability in the taxable year in which the foster

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1 youth employment income tax credit is claimed shall not be
2 refunded to the taxpayer but may be carried forward for up to
3 three years. The foster youth employment income tax credit
4 shall not be transferred to another taxpayer.

5 E. Married individuals filing separate returns for
6 a taxable year for which they could have filed a joint return
7 may each claim only one-half of the foster youth employment
8 income tax credit that would have been claimed on a joint
9 return.

10 F. A taxpayer may be allocated the right to claim a
11 foster youth employment income tax credit in proportion to the
12 taxpayer's ownership interest if the taxpayer owns an interest
13 in a business entity that is taxed for federal income tax
14 purposes as a partnership or limited liability company and that
15 business entity has met all of the requirements to be eligible
16 for the credit. The total credit claimed by all members of the
17 partnership or limited liability company shall not exceed the
18 allowable credit pursuant to Subsection A of this section.

19 G. The taxpayer shall submit to the department with
20 respect to each employee for whom the foster youth employment
21 income tax credit is claimed information required by the
22 department with respect to the qualified foster youth's
23 employment by the taxpayer during the taxable year for which
24 the foster youth employment income tax credit is claimed,
25 including information establishing that the employee is a

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1 qualified foster youth that can be used to determine that the
2 employee was not also employed in the same taxable year by
3 another taxpayer claiming a foster youth employment income or
4 corporate income tax credit for that employee pursuant to this
5 section or the Corporate Income and Franchise Tax Act.

6 H. The department shall:

7 (1) adopt rules establishing procedures to
8 certify that an employee is a qualified foster youth for
9 purposes of obtaining a foster youth employment income tax
10 credit. The rules shall ensure that not more than one foster
11 youth employment income tax credit per qualified foster youth
12 shall be allowed in a taxable year and that the credits allowed
13 per qualified foster youth are limited to a maximum of one
14 year's employment; and

15 (2) collaborate with the children, youth and
16 families department, the New Mexico Indian nations, tribes and
17 pueblos and the United States department of the interior bureau
18 of Indian affairs division of human services to establish the
19 certification procedures.

20 I. A taxpayer allowed a tax credit pursuant to this
21 section shall report the amount of the credit to the department
22 in a manner required by the department.

23 J. The department shall compile an annual report on
24 the foster youth employment income tax credit that shall
25 include the number of taxpayers approved by the department to

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1 receive the credit, the aggregate amount of credits approved
2 and any other information necessary to evaluate the
3 effectiveness of the credit. The department shall present the
4 annual report to the revenue stabilization and tax policy
5 committee and the legislative finance committee with an
6 analysis of the effectiveness and cost of the tax credit and
7 whether the tax credit is performing the purpose for which it
8 was created.

9 K. As used in this section, "qualified foster
10 youth" means an individual:

11 (1) who:

12 (a) is currently in the legal custody of
13 the children, youth and families department pursuant to the
14 Children's Code or in the legal custody of a New Mexico Indian
15 nation, tribe or pueblo or the United States department of the
16 interior bureau of Indian affairs division of human services;
17 or

18 (b) within the seven years prior to the
19 taxable year for which the tax credit is claimed, was aged
20 fourteen years or older and was in the legal custody of the
21 children, youth and families department pursuant to the
22 Children's Code or in the legal custody of a New Mexico Indian
23 nation, tribe or pueblo or the United States department of the
24 interior bureau of Indian affairs division of human services;

25 (2) who works at least twenty hours per week

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1 during the taxable year for which the foster youth employment
2 income tax credit is claimed; and

3 (3) who was not previously employed by the
4 taxpayer prior to the taxable year for which the foster youth
5 employment income tax credit is claimed."

6 SECTION 2. A new section of the Corporate Income and
7 Franchise Tax Act is enacted to read:

8 "[NEW MATERIAL] FOSTER YOUTH EMPLOYMENT CORPORATE INCOME
9 TAX CREDIT.--

10 A. A taxpayer that employs a qualified foster youth
11 in New Mexico is eligible for a credit against the taxpayer's
12 tax liability imposed pursuant to the Corporate Income and
13 Franchise Tax Act in an amount up to one thousand dollars
14 (\$1,000) of the gross wages paid to each qualified foster youth
15 by the taxpayer during the taxable year for which the return is
16 filed. A taxpayer that employs a qualified foster youth for
17 less than the full taxable year is eligible for a credit amount
18 equal to one thousand dollars (\$1,000) multiplied by the
19 fraction of a full year for which the qualified foster youth
20 was employed. The tax credit provided by this section may be
21 referred to as the "foster youth employment corporate income
22 tax credit".

23 B. The purpose of the foster youth employment
24 corporate income tax credit is to encourage the employment of
25 individuals who as youth were adjudicated as abused or

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1 neglected or who were in the legal custody of the children,
2 youth and families department under the Children's Code or in
3 the legal custody of a New Mexico Indian nation, tribe or
4 pueblo or the United States department of the interior bureau
5 of Indian affairs division of human services.

6 C. A taxpayer may claim the foster youth employment
7 corporate income tax credit provided in this section for each
8 taxable year in which the taxpayer employs one or more
9 qualified foster youths; provided that the taxpayer may not
10 claim the foster youth employment corporate income tax credit
11 for any individual qualified foster youth for more than one
12 calendar year from the date of hire.

13 D. That portion of a foster youth employment
14 corporate income tax credit approved by the department that
15 exceeds a taxpayer's corporate income tax liability in the
16 taxable year in which the foster youth employment corporate
17 income tax credit is claimed shall not be refunded to the
18 taxpayer but may be carried forward for up to three years. The
19 foster youth employment corporate income tax credit shall not
20 be transferred to another taxpayer.

21 E. The taxpayer shall submit to the department with
22 respect to each employee for whom the foster youth employment
23 corporate income tax credit is claimed information required by
24 the department with respect to the qualified foster youth's
25 employment by the taxpayer during the taxable year for which

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1 the foster youth employment corporate income tax credit is
2 claimed, including information establishing that the employee
3 is a qualified foster youth that can be used to determine that
4 the employee was not also employed in the same taxable year by
5 another taxpayer claiming a foster youth employment income or
6 corporate income tax credit for that employee pursuant to this
7 section or the Income Tax Act.

8 F. The department shall:

9 (1) adopt rules establishing procedures to
10 certify that an employee is a qualified foster youth for
11 purposes of obtaining a foster youth employment corporate
12 income tax credit. The rules shall ensure that not more than
13 one foster youth employment corporate income tax credit per
14 qualified foster youth shall be allowed in a taxable year and
15 that the credits allowed per qualified foster youth are limited
16 to a maximum of one year's employment; and

17 (2) collaborate with the children, youth and
18 families department, the New Mexico Indian nations, tribes and
19 pueblos and the United States department of the interior bureau
20 of Indian affairs division of human services to establish the
21 certification procedures.

22 G. A taxpayer allowed a tax credit pursuant to this
23 section shall report the amount of the credit to the department
24 in a manner required by the department.

25 H. The department shall compile an annual report on

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1 the foster youth employment corporate income tax credit that
2 shall include the number of taxpayers approved by the
3 department to receive the credit, the aggregate amount of
4 credits approved and any other information necessary to
5 evaluate the effectiveness of the credit. The department shall
6 present the annual report to the revenue stabilization and tax
7 policy committee and the legislative finance committee with an
8 analysis of the effectiveness and cost of the tax credit and
9 whether the tax credit is performing the purpose for which it
10 was created.

11 I. As used in this section, "qualified foster
12 youth" means an individual:

13 (1) who:

14 (a) is currently in the legal custody of
15 the children, youth and families department pursuant to the
16 Children's Code or in the legal custody of a New Mexico Indian
17 nation, tribe or pueblo or the United States department of the
18 interior bureau of Indian affairs division of human services;
19 or

20 (b) within the seven years prior to the
21 taxable year for which the tax credit is claimed, was aged
22 fourteen years or older and was in the legal custody of the
23 children, youth and families department pursuant to the
24 Children's Code or in the legal custody of a New Mexico Indian
25 nation, tribe or pueblo or the United States department of the

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1 interior bureau of Indian affairs division of human services;
2 (2) who works at least twenty hours per week
3 during the taxable year for which the foster youth employment
4 corporate income tax credit is claimed; and
5 (3) who was not previously employed by the
6 taxpayer prior to the taxable year for which the foster youth
7 employment corporate income tax credit is claimed."

8 SECTION 3. APPLICABILITY.--The provisions of this act
9 apply to taxable years beginning on or after January 1, 2018.