

1 HOUSE BILL 118

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 D. Wonda Johnson

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9  
10 AN ACT

11 RELATING TO TAXATION; ADDING HOMELESS YOUTHS TO THE FOSTER  
12 YOUTH EMPLOYMENT INCOME TAX CREDIT AND THE FOSTER YOUTH  
13 EMPLOYMENT CORPORATE INCOME TAX CREDIT; ALLOWING A CREDIT TO BE  
14 TAKEN FOR EACH YEAR AN EMPLOYER EMPLOYS A FOSTER OR HOMELESS  
15 YOUTH; AMENDING THE DEFINITION OF "QUALIFIED FOSTER YOUTH".

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 7-2-18.30 NMSA 1978 (being Laws 2018,  
19 Chapter 36, Section 1) is amended to read:

20 "7-2-18.30. FOSTER AND HOMELESS YOUTH EMPLOYMENT INCOME  
21 TAX CREDIT.--

22 A. A taxpayer who is not a dependent of another  
23 individual and who employs a [~~qualified~~] foster youth or  
24 homeless youth in New Mexico is eligible for a credit against  
25 the taxpayer's tax liability imposed pursuant to the Income Tax

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1 Act in an amount up to one thousand dollars (\$1,000) of the  
2 gross wages paid to each ~~[qualified]~~ foster youth or homeless  
3 youth by the taxpayer during the taxable year for which the  
4 return is filed. A taxpayer who employs a ~~[qualified]~~ foster  
5 youth or homeless youth for less than the full taxable year is  
6 eligible for a credit amount equal to one thousand dollars  
7 (\$1,000) multiplied by the fraction of a full year for which  
8 the ~~[qualified]~~ foster youth or homeless youth was employed.  
9 The tax credit provided by this section may be referred to as  
10 the "foster and homeless youth employment income tax credit".

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

19 ~~G.]~~ B. A taxpayer may claim the foster and homeless  
20 youth employment income tax credit provided in this section for  
21 each taxable year in which the taxpayer employs one or more  
22 ~~[qualified]~~ foster youths ~~[provided that the taxpayer may not~~  
23 ~~claim the foster youth employment income tax credit for any~~  
24 ~~individual qualified foster youth for more than one calendar~~  
25 ~~year from the date of hire]~~ or homeless youths.

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1           ~~[D.]~~ C. That portion of a foster and homeless youth  
2 employment income tax credit approved by the department that  
3 exceeds a taxpayer's income tax liability in the taxable year  
4 in which the ~~[foster youth employment income]~~ tax credit is  
5 claimed shall not be refunded to the taxpayer but may be  
6 carried forward for up to three years. The foster and homeless  
7 youth employment income tax credit shall not be transferred to  
8 another taxpayer.

9           ~~[E.]~~ D. Married individuals filing separate returns  
10 for a taxable year for which they could have filed a joint  
11 return may each claim only one-half of the foster and homeless  
12 youth employment income tax credit that would have been claimed  
13 on a joint return.

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

24           ~~[G.]~~ F. The taxpayer shall submit to the department  
25 with respect to each employee for whom the foster and homeless

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1 youth employment income tax credit is claimed information  
2 required by the department with respect to the [~~qualified~~]  
3 foster youth's or homeless youth's employment by the taxpayer  
4 during the taxable year for which the [~~foster youth employment~~  
5 ~~income~~] tax credit is claimed, including [~~information~~] the  
6 annual certification establishing that the employee is a  
7 [~~qualified~~] foster youth [~~that can be used to determine that~~  
8 ~~the employee was not also employed in the same taxable year by~~  
9 ~~another taxpayer claiming a foster youth employment income or~~  
10 ~~corporate income tax credit for that employee pursuant to this~~  
11 ~~section or the Corporate Income and Franchise Tax Act] or  
12 homeless youth issued pursuant to Subsection G of this section.~~

13 [~~H.~~] G. The workforce solutions department, in  
14 collaboration with the children, youth and families department  
15 and New Mexico Indian nations, tribes and pueblos, shall [~~(1)~~]  
16 adopt rules establishing procedures to annually certify that an  
17 employee is a [~~qualified~~] foster youth or a homeless youth for  
18 purposes of obtaining a foster and homeless youth employment  
19 income tax credit. [~~The rules shall ensure that not more than~~  
20 ~~one foster youth employment income tax credit per qualified~~  
21 ~~foster youth shall be allowed in a taxable year and that the~~  
22 ~~credits allowed per qualified foster youth are limited to a~~  
23 ~~maximum of one year's employment; and~~

24 (2) ~~collaborate with the children, youth and~~  
25 ~~families department, the New Mexico Indian nations, tribes and~~

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1 ~~pueblos and the United States department of the interior bureau~~  
2 ~~of Indian affairs division of human services to establish the~~  
3 ~~certification procedures.~~

4 ~~F.]~~ H. A taxpayer allowed a tax credit pursuant to  
5 this section shall report the amount of the credit to the  
6 department in a manner required by the department.

7 ~~J.]~~ I. The department shall compile an annual  
8 report on the foster and homeless youth employment income tax  
9 credit that shall include the number of taxpayers approved by  
10 the department to receive the credit, the aggregate amount of  
11 credits approved and any other information necessary to  
12 evaluate the effectiveness of the credit. The department shall  
13 present the annual report to the revenue stabilization and tax  
14 policy committee and the legislative finance committee with an  
15 analysis of the effectiveness and cost of the tax credit and  
16 whether the tax credit is performing the purpose for which it  
17 was created.

18 ~~K.]~~ J. As used in this section:

19 (1) "~~[qualified]~~ foster youth" means an  
20 individual:

21 ~~(1)]~~ (a) who: ~~(a)]~~ 1) is currently in  
22 the legal custody of the children, youth and families  
23 department pursuant to the Children's Code or in the legal  
24 custody of a New Mexico Indian nation, tribe or pueblo or the  
25 United States department of the interior bureau of Indian

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1 affairs division of human services; or ~~[(b)]~~ 2) within the  
2 seven years prior to the taxable year for which the tax credit  
3 is claimed, was aged fourteen years or older and was in the  
4 legal custody of the children, youth and families department  
5 pursuant to the Children's Code or in the legal custody of a  
6 New Mexico Indian nation, tribe or pueblo or the United States  
7 department of the interior bureau of Indian affairs division of  
8 human services; and

9 ~~[(2)]~~ (b) who works at least nine  
10 hundred twenty hours ~~[per week]~~ during the taxable year for  
11 which the foster and homeless youth employment income tax  
12 credit is claimed, prorated accordingly if the foster youth  
13 works less than one year for the taxpayer; and

14 ~~[(3) who was not previously employed by~~  
15 ~~the taxpayer prior to the taxable year for which the foster~~  
16 ~~youth employment income tax credit is claimed;]~~

17 (2) "homeless youth" means an individual who:

18 (a) meets the definition of "homeless  
19 children and youths" pursuant to 42 U.S.C. Section 11434a, as  
20 that section may be amended or renumbered, as determined by the  
21 rules for certification pursuant to Subsection G of this  
22 section;

23 (b) is aged twenty-five years or younger  
24 in the taxable year for which the tax credit is claimed; and

25 (c) works at least nine hundred twenty

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1 hours during the taxable year for which the tax credit is  
2 claimed, prorated accordingly if the homeless youth works less  
3 than one year for the taxpayer."

4 SECTION 2. Section 7-2A-29 NMSA 1978 (being Laws 2018,  
5 Chapter 36, Section 2) is amended to read:

6 "7-2A-29. FOSTER AND HOMELESS YOUTH EMPLOYMENT CORPORATE  
7 INCOME TAX CREDIT.--

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

22 ~~[B. The purpose of the foster youth employment~~  
23 ~~corporate income tax credit is to encourage the employment of~~  
24 ~~individuals who as youth were adjudicated as abused or~~  
25 ~~neglected or who were in the legal custody of the children,~~

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

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

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

21 ~~[E.]~~ D. The taxpayer shall submit to the department  
22 with respect to each employee for whom the foster and homeless  
23 youth employment corporate income tax credit is claimed  
24 information required by the department with respect to the  
25 [~~qualified~~] foster youth's or homeless youth's employment by

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1 the taxpayer during the taxable year for which the ~~[foster~~  
2 ~~youth employment corporate income]~~ tax credit is claimed,  
3 including ~~[information]~~ the annual certification establishing  
4 that the employee is a ~~[qualified]~~ foster youth ~~[that can be~~  
5 ~~used to determine that the employee was not also employed in~~  
6 ~~the same taxable year by another taxpayer claiming a foster~~  
7 ~~youth employment income or corporate income tax credit for that~~  
8 ~~employee pursuant to this section or the Income Tax Act]~~ or  
9 homeless youth issued pursuant to Subsection E of this section.

10 ~~[F.]~~ E. The workforce solutions department, in  
11 collaboration with the children, youth and families department  
12 and New Mexico Indian nations, tribes and pueblos, shall ~~(1)~~  
13 adopt rules establishing procedures to annually certify that an  
14 employee is a ~~[qualified]~~ foster youth or a homeless youth for  
15 purposes of obtaining a foster and homeless youth employment  
16 corporate income tax credit. ~~[The rules shall ensure that not~~  
17 ~~more than one foster youth employment corporate income tax~~  
18 ~~credit per qualified foster youth shall be allowed in a taxable~~  
19 ~~year and that the credits allowed per qualified foster youth~~  
20 ~~are limited to a maximum of one year's employment; and~~

21 ~~(2) collaborate with the children, youth and~~  
22 ~~families department, the New Mexico Indian nations, tribes and~~  
23 ~~pueblos and the United States department of the interior bureau~~  
24 ~~of Indian affairs division of human services to establish the~~  
25 ~~certification procedures.~~

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1           ~~G.~~ F. A taxpayer allowed a tax credit pursuant to  
2 this section shall report the amount of the credit to the  
3 department in a manner required by the department.

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

15           ~~F.~~ H. As used in this section:

16                   (1) "~~qualified~~ foster youth" means an  
17 individual:

18                               ~~(1)~~ (a) who: ~~(a)~~ 1) is currently in  
19 the legal custody of the children, youth and families  
20 department pursuant to the Children's Code or in the legal  
21 custody of a New Mexico Indian nation, tribe or pueblo or the  
22 United States department of the interior bureau of Indian  
23 affairs division of human services; or ~~(b)~~ 2) within the  
24 seven years prior to the taxable year for which the tax credit  
25 is claimed, was aged fourteen years or older and was in the

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

6 ~~[(2)]~~ (b) who works at least nine  
7 hundred twenty hours ~~[per week]~~ during the taxable year for  
8 which the foster and homeless youth employment corporate income  
9 tax credit is claimed, prorated accordingly if the homeless  
10 youth works less than one year for the taxpayer; and

11 ~~[(3) who was not previously employed by~~  
12 ~~the taxpayer prior to the taxable year for which the foster~~  
13 ~~youth employment corporate income tax credit is claimed;]~~

14 (2) "homeless youth" means an individual who:

15 (a) meets the definition of "homeless  
16 children and youths" pursuant to 42 U.S.C. Section 11434a, as  
17 that section may be amended or renumbered, as determined by the  
18 rules for certification pursuant to Subsection E of this  
19 section;

20 (b) is aged twenty-five years or younger  
21 in the taxable year for which the tax credit is claimed; and

22 (c) works at least nine hundred twenty  
23 hours during the taxable year for which the tax credit is  
24 claimed, prorated accordingly if the homeless youth works less  
25 than one year for the taxpayer."

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SECTION 3. APPLICABILITY.--The provisions of this act  
apply to taxable years beginning on and after January 1, 2021.