

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 437

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

AN ACT

RELATING TO TAXATION; CREATING THE QUALIFYING FOSTER CARE
ORGANIZATION INCOME TAX CREDIT; PROVIDING A DELAYED REPEAL.

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. For taxable years beginning prior to January 1,
2031, 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

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underscored material = new
[bracketed material] = delete

1 tax credit".

2 B. The amount of the credit shall be in an amount
3 equal to the amount contributed to the qualifying foster care
4 organization, not to exceed:

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

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

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

19 (1) documentation that demonstrates to the
20 department that the organization has been granted exemption
21 from the federal income tax by the United States commissioner
22 of internal revenue as an organization described in Section
23 501(c)(3) of the Internal Revenue Code;

24 (2) financial data indicating the
25 organization's budget for the organization's prior operating

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1 year and the amount of that budget spent on foster care
2 services; and

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

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

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

16 F. For a contribution for which the credit is
17 claimed and that is made on or before the fifteenth day of the
18 fourth month following the close of the taxable year, the
19 credit may be applied to either the current or preceding
20 taxable year and is considered to have been made on the last
21 day of that taxable year.

22 G. A taxpayer who claims a deduction pursuant to
23 the Income Tax Act for the same contribution for which the tax
24 credit provided by this section is allowed shall not be
25 eligible for the tax credit provided by this section for the

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1 amount deducted.

2 H. The credit provided by this section shall be in
3 lieu of a deduction pursuant to Section 170 of the Internal
4 Revenue Code and taken for purposes of the tax imposed pursuant
5 to the Income Tax Act.

6 I. The credit provided by this section shall be
7 included in the tax expenditure budget pursuant to Section
8 7-1-84 NMSA 1978, including the total annual aggregate cost of
9 the credit.

10 J. As used in this section:

11 (1) "foster care services" means cash
12 assistance, medical care, child care, behavioral health
13 services, food, snacks at the qualifying foster care
14 organization's foster youth events, clothing, shelter,
15 character education programs, workforce development programs,
16 secondary education student retention programs, housing or
17 financial literacy services, activities to support, train and
18 retain foster parents licensed or certified by the children,
19 youth and families department or a child placement agency to
20 provide care for children in the custody of the department or
21 agency in their role as a foster parent and activities to
22 support caregivers and guardians pursuant to the Kinship
23 Guardianship Act or any other assistance that is reasonably
24 necessary to meet basic needs or provide normalcy and that is
25 provided and used in New Mexico. As used in this paragraph,

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1 "normalcy" means the condition of experiencing a typical
2 childhood by participating in activities that are age or
3 developmentally appropriate, as defined in 42 U.S.C. 675;

4 (2) "qualifying foster care organization"
5 means an organization that:

6 (a) has been granted exemption from the
7 federal income tax by the United States commissioner of
8 internal revenue as an organization described in Section
9 501(c)(3) of the Internal Revenue Code; and

10 (b) each operating year, provides foster
11 care services to at least two hundred qualified individuals in
12 New Mexico and spends at least fifty percent of its budget on
13 foster care services to qualified individuals in New Mexico;
14 and

15 (3) "qualified individual" means:

16 (a) a foster child. As used in this
17 subparagraph, "foster child" means: 1) a child in the custody
18 of the children, youth and families department or a child
19 placement agency that may be placed with a person licensed or
20 certified by that department or agency to provide care for the
21 child; or 2) a participant in the fostering connections program
22 pursuant to the Fostering Connections Act; or

23 (b) a person who is under twenty-seven
24 years of age and whose reason for leaving foster care is: 1)
25 reaching eighteen years of age; 2) adoption or legal

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1 guardianship after reaching fifteen years of age; or 3)
2 reunification after reaching fourteen years of age."

3 SECTION 2. DELAYED REPEAL.--Section 1 of this act is
4 repealed effective January 1, 2031.

5 SECTION 3. APPLICABILITY.--The provisions of this act
6 apply to taxable years beginning on or after January 1, 2025.