

HOUSE BILL 264

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX DEDUCTION FOR INCOME FROM TIPS, INCOME FROM OVERTIME AND SOCIAL SECURITY INCOME DEDUCTIBLE PURSUANT TO FEDERAL LAW; REPEALING THE WORKING FAMILIES TAX CREDIT AND ENACTING THE EARNED INCOME TAX CREDIT; CREATING THE FOSTER PARENT AND GUARDIAN INCOME TAX CREDIT; AMENDING AND EXPANDING AN INCOME TAX DEDUCTION FOR UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES TO TAXPAYERS OF ALL INCOME LEVELS; EXTENDING A GROSS RECEIPTS TAX DEDUCTION FOR HEALTH CARE PRACTITIONERS AND AMENDING THE DEDUCTION TO INCLUDE COINSURANCE PAID BY A PATIENT.

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] DEDUCTION--INCOME FROM QUALIFIED TIPS.--

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1 A. A taxpayer may claim a deduction from net income
2 in an amount equal to the amount of qualified tips for which
3 the taxpayer is eligible to deduct pursuant to 26 U.S.C. 224,
4 as that section may be amended or renumbered.

5 B. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction to the
7 department in a manner required by the department.

8 C. The deduction provided by this section shall be
9 included in the tax expenditure budget pursuant to Section
10 7-1-84 NMSA 1978, including the annual aggregate cost of the
11 deduction.

12 D. As used in this section, "qualified tips" means
13 "qualified tips" as defined in 26 U.S.C. 224(d)."

14 SECTION 2. A new section of the Income Tax Act is enacted
15 to read:

16 "[NEW MATERIAL] DEDUCTION--QUALIFIED OVERTIME
17 COMPENSATION.--

18 A. A taxpayer may claim a deduction from net income
19 in an amount equal to the amount of qualified overtime
20 compensation for which the taxpayer is eligible to deduct
21 pursuant to 26 U.S.C. 225, as that section may be amended or
22 renumbered.

23 B. A taxpayer allowed a deduction pursuant to this
24 section shall report the amount of the deduction to the
25 department in a manner required by the department.

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1 C. The deduction provided by this section shall be
2 included in the tax expenditure budget pursuant to Section
3 7-1-84 NMSA 1978, including the annual aggregate cost of the
4 deduction.

5 D. As used in this section, "qualified overtime
6 compensation" means "qualified overtime compensation" as
7 defined in 26 U.S.C. 225(c)."

8 SECTION 3. A new section of the Income Tax Act is enacted
9 to read:

10 "[NEW MATERIAL] DEDUCTION--SOCIAL SECURITY INCOME
11 DEDUCTIBLE PURSUANT TO FEDERAL LAW.--

12 A. A taxpayer may claim a deduction from net income
13 in an amount equal to the amount of social security income for
14 which the taxpayer is eligible to deduct pursuant to 26 U.S.C.
15 151, as that section may be amended or renumbered.

16 B. A taxpayer allowed a deduction pursuant to this
17 section shall report the amount of the deduction to the
18 department in a manner required by the department.

19 C. The deduction provided by this section shall be
20 included in the tax expenditure budget pursuant to Section
21 7-1-84 NMSA 1978, including the annual aggregate cost of the
22 deduction."

23 SECTION 4. Section 7-2-18.15 NMSA 1978 (being Laws 2007,
24 Chapter 45, Section 9, as amended) is repealed and a new
25 Section 7-2-18.15 NMSA 1978 is enacted to read:

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1 "7-2-18.15. [NEW MATERIAL] EARNED INCOME TAX CREDIT.--

2 A. The credit provided by this section may be
3 referred to as the "earned income tax credit". A taxpayer who
4 is an eligible individual may claim the earned income tax
5 credit against the taxpayer's tax liability imposed pursuant to
6 the Income Tax Act in an amount equal to the credit percentage
7 of so much of the taxpayer's earned income for the taxable year
8 as does not exceed the earned income amount; provided that the
9 amount of the credit shall not exceed the excess of:

10 (1) the credit percentage of the earned income
11 amount; over

12 (2) the phaseout percentage of so much of the
13 adjusted gross income or, if greater, the earned income of the
14 taxpayer for the taxable year as exceeds the phaseout amount.

15 B. The credit percentage and the phaseout
16 percentage shall be determined as follows:

In the case of a taxpayer with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	11.55%	4.55%
2 qualifying children	13.6%	6.15%
3 or more qualifying children	15.3%	6.15%
No qualifying children	2.6%	2.1%.

23 C. Except as provided in Subsections E and F of
24 this section, the earned income amount and the phaseout amount
25 shall be determined as follows:

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1 In the case of a taxpayer The earned The phaseout
2 with: income amount amount is:
3 is:
4 1 qualifying child \$11,000 \$36,000
5 2 or more qualifying children \$15,000 \$40,000
6 No qualifying children \$8,000 \$25,000.

7 D. For married individuals filing joint returns,
8 the phaseout amount shall be increased by five thousand dollars
9 (\$5,000).

10 E. Except as provided in Subsection F of this
11 section, if the greater of an eligible individual's earned
12 income or adjusted gross income is less than the earned income
13 amount and the amount of credit is less than one hundred
14 dollars (\$100), the amount of the credit shall be one hundred
15 dollars (\$100).

16 F. For the 2027 taxable year and each subsequent
17 taxable year, the earned income amounts and phaseout amounts
18 shown in the table in Subsection C of this section, the amount
19 of credit provided in Subsection E of this section and the
20 phaseout amount provided in Subsection D of this section shall
21 be adjusted to account for inflation. The department shall
22 make the adjustment by multiplying each amount of credit by a
23 fraction, the numerator of which is the consumer price index
24 ending during the prior taxable year and the denominator of
25 which is the consumer price index ending in taxable year 2026.

1 The result of the multiplication shall be rounded to the
2 nearest ten dollars (\$10.00), except that if the result would
3 be an amount less than the corresponding amount for the
4 preceding taxable year, then no adjustment shall be made.

5 G. The secretary shall reflect the provisions of
6 Subsections B and C of this section in tables that shall have
7 income brackets of not greater than fifty dollars (\$50.00) each
8 for:

9 (1) earned income between zero and the amount
10 of earned income at which the credit is phased out under
11 Subsection C of this section; and

12 (2) adjusted gross income between the dollar
13 amount at which the phaseout begins under Subsection C of this
14 section and the amount of adjusted gross income at which the
15 credit is phased out under that subsection.

16 H. That portion of credit that exceeds a taxpayer's
17 tax liability in the taxable year in which the credit is
18 claimed shall be refunded to the taxpayer. A refund made to a
19 taxpayer pursuant to this section shall not be treated as
20 income.

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

24 J. The credit provided by this section shall be
25 included in the tax expenditure budget pursuant to Section

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1 7-1-84 NMSA 1978, including the total annual aggregate cost of
2 the credit.

3 K. As used in this section:

4 (1) "earned income" means "earned income" as
5 defined in 26 U.S.C. 32(c)(2);

6 (2) "eligible individual" means a resident who
7 is an "eligible individual" pursuant to the federal earned
8 income tax credit who is eligible to claim the federal earned
9 income tax credit in the taxable year;

10 (3) "federal earned income tax credit" means
11 the federal tax credit allowed pursuant to 26 U.S.C. 32, as
12 that section may be amended or renumbered; and

13 (4) "qualifying child" means "qualifying
14 child" as defined by Section 152(c) of the Internal Revenue
15 Code, as that section may be amended or renumbered, but
16 includes any minor child or stepchild of the taxpayer who would
17 be a qualifying child for federal income tax purposes if the
18 public assistance contributing to the support of the child or
19 stepchild was considered to have been contributed by the
20 taxpayer."

21 SECTION 5. A new section of the Income Tax Act is enacted
22 to read:

23 "[NEW MATERIAL] CREDIT--FOSTER PARENT AND GUARDIAN INCOME
24 TAX CREDIT.--

25 A. For taxable years ending prior to January 1,
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1 2032, a taxpayer who is a resident, who is not a dependent of
2 another individual and who is a foster parent or guardian of a
3 child may claim a credit against the taxpayer's tax liability
4 imposed pursuant to the Income Tax Act. The credit authorized
5 pursuant to this section may be referred to as the "foster
6 parent and guardian income tax credit".

7 B. The amount of the tax credit shall be in an
8 amount equal to two hundred fifty dollars (\$250) for each month
9 the taxpayer is a foster parent or guardian of a child in the
10 taxable year in which the tax credit is claimed; provided that
11 the taxpayer shall be a foster parent or guardian for more than
12 fifty percent of that month; and provided further that the
13 maximum amount of credit that may be claimed by a taxpayer in a
14 taxable year is three thousand dollars (\$3,000).

15 C. A taxpayer shall apply for certification of
16 eligibility for the tax credit from the children, youth and
17 families department on forms and in the manner prescribed by
18 that department. Except as provided in Subsection E of this
19 section, only one tax credit shall be certified per taxpayer
20 per taxable year. If the children, youth and families
21 department determines that the taxpayer meets the requirements
22 of this section, that department shall issue a dated
23 certificate of eligibility to the taxpayer providing the amount
24 of tax credit for which the taxpayer is eligible and the
25 taxable years in which the credit may be claimed. The

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1 children, youth and families department shall provide the
2 department with the certificates of eligibility issued pursuant
3 to this subsection in an electronic format at regularly agreed-
4 upon intervals.

5 D. That portion of the tax credit that exceeds a
6 taxpayer's income tax liability in the taxable year in which
7 the credit is claimed shall be refunded to the taxpayer.

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

12 F. A taxpayer allowed to claim a tax credit
13 pursuant to this section shall claim the tax credit in a manner
14 required by the department. The credit shall be claimed within
15 one taxable year of the end of the year in which the children,
16 youth and families department certifies the credit.

17 G. The credit provided by this section shall be
18 included in the tax expenditure budget pursuant to Section
19 7-1-84 NMSA 1978, including the annual aggregate cost of the
20 credit.

21 H. As used in this section:

22 (1) "child" means an unemancipated individual
23 who has not reached eighteen years of age;

24 (2) "foster parent" means a person licensed or
25 certified by the children, youth and families department or a

1 child placement agency to provide care for children in the
2 custody of that department or the agency; and

3 (3) "guardian" means a person appointed as a
4 guardian by a court or an Indian tribal authority pursuant to
5 the Kinship Guardianship Act, but does not include a person
6 appointed as a guardian ad litem."

7 **SECTION 6.** Section 7-2-37 NMSA 1978 (being Laws 2015 (1st
8 S.S.), Chapter 2, Section 3) is amended to read:

9 **"7-2-37. DEDUCTION--UNREIMBURSED OR UNCOMPENSATED MEDICAL
10 CARE EXPENSES.--**

11 A. ~~Prior to January 1, 2025~~ A taxpayer may claim
12 a deduction from net income in an amount ~~determined pursuant~~
13 ~~to Subsection B of this section for medical care~~ equal to
14 medical expenses paid during the taxable year for medical care
15 of the taxpayer, the taxpayer's spouse or a dependent if the
16 expenses are not reimbursed or compensated for by insurance or
17 otherwise and have not been included in the taxpayer's itemized
18 deductions, as defined in Section 63 of the Internal Revenue
19 Code, for the taxable year.

20 ~~B. The deduction provided in Subsection A of this
21 section may be claimed in an amount equal to the following
22 percentage of medical care expenses paid during the taxable
23 year based on the taxpayer's filing status and adjusted gross
24 income as follows:~~

25 ~~(1) for surviving spouses and married~~

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1 individuals filing joint returns:

2 If adjusted gross income is: The following percent of
3 medical care expenses
4 paid may be deducted:

5 Not over \$30,000 25 percent

6 More than \$30,000 but not
7 more than \$70,000 15 percent

8 Over \$70,000 10 percent;

9 (2) for single individuals and married

10 individuals filing separate returns:

11 If adjusted gross income is: The following percent of
12 medical care expenses
13 paid may be deducted:

14 Not over \$15,000 25 percent

15 More than \$15,000 but not more than
16 \$35,000 15 percent

17 Over \$35,000 10 percent; and

18 (3) for heads of household:

19 If adjusted gross income is: The following percent of
20 medical care expenses
21 paid may be deducted:

22 Not over \$20,000 25 percent

23 More than \$20,000 but not more than
24 \$50,000 15 percent

25 Over \$50,000 10 percent.]

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1 B. A taxpayer allowed a deduction pursuant to this
2 section shall report the amount of the deduction to the
3 department in a manner required by the department.

4 C. The deduction provided by this section shall be
5 included in the tax expenditure budget pursuant to Section
6 7-1-84 NMSA 1978, including the annual aggregate cost of the
7 deduction.

8 [6.] D. As used in this section:

9 (1) "dependent" means "dependent" as defined
10 in Section 152 of the Internal Revenue Code;

11 (2) "health care facility" means a hospital,
12 outpatient facility, diagnostic and treatment center,
13 rehabilitation center, free-standing hospice or other similar
14 facility at which medical care is provided;

15 (3) "medical care" means the diagnosis, cure,
16 mitigation, treatment or prevention of disease or for the
17 purpose of affecting any structure or function of the body;

18 (4) "medical care expenses" means amounts paid
19 for:

20 (a) the diagnosis, cure, mitigation,
21 treatment or prevention of disease or for the purpose of
22 affecting any structure or function of the body, excluding
23 cosmetic surgery, if provided by a physician or in a health
24 care facility;

25 (b) prescribed drugs or insulin;

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(c) qualified long-term care services as defined in Section 7702B(c) of the Internal Revenue Code;

(d) insurance covering medical care, including amounts paid as premiums under Part B of Title 18 of the federal Social Security Act or for a qualified long-term care insurance contract defined in Section 7702B(b) of the Internal Revenue Code, if the insurance or other amount is paid from income included in the taxpayer's adjusted gross income for the taxable year;

(e) nursing services, regardless of where the services are rendered, if provided by a practical nurse or a professional nurse licensed to practice in the state pursuant to the Nursing Practice Act;

(f) specialized treatment or the use of special therapeutic devices if the treatment or device is prescribed by a physician and the patient can show that the expense was incurred primarily for the prevention or alleviation of a physical or mental defect or illness; and

(g) care in an institution other than a hospital, such as a sanitarium or rest home, if the principal reason for the presence of the person in the institution is to receive the medical care available; provided that if the meals and lodging are furnished as a necessary part of such care, the cost of the meals and lodging are "medical care expenses":

(5) "physician" means a medical doctor,

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1 osteopathic physician, dentist, [podiatrist] podiatric
2 physician, chiropractic physician or psychologist licensed or
3 certified to practice in New Mexico; and

4 (6) "prescribed drug" means a drug or
5 biological that requires a prescription of a physician for its
6 use by an individual."

7 SECTION 7. Section 7-9-93 NMSA 1978 (being Laws 2004,
8 Chapter 116, Section 6, as amended) is amended to read:

9 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
10 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF
11 HEALTH CARE PRACTITIONERS.--

12 A. Receipts of a health care practitioner or an
13 association of health care practitioners for commercial
14 contract services or medicare part C services paid by a managed
15 care organization or health care insurer may be deducted from
16 gross receipts if the services are within the scope of practice
17 of the health care practitioner providing the service.
18 Receipts from fee-for-service payments by a health care insurer
19 may not be deducted from gross receipts.

20 B. Prior to July 1, [2028] 2032, receipts from
21 coinsurance, a copayment or deductible paid by an insured or
22 enrollee to a health care practitioner or an association of
23 health care practitioners for commercial contract services
24 pursuant to the terms of the insured's health insurance plan or
25 enrollee's managed care health plan may be deducted from gross

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1 receipts if the services are within the scope of practice of
2 the health care practitioner providing the service.

3 C. The deductions provided by this section shall be
4 applied only to gross receipts remaining after all other
5 allowable deductions available under the Gross Receipts and
6 Compensating Tax Act have been taken.

7 D. A taxpayer allowed a deduction pursuant to this
8 section shall report the amount of the deduction separately in
9 a manner required by the department.

10 E. The deductions provided by this section shall be
11 included in the tax expenditure budget pursuant to Section
12 7-1-84 NMSA 1978 with an analysis of the cost of the
13 deductions.

14 F. As used in this section:

15 (1) "association of health care practitioners"
16 means a corporation, an unincorporated business entity or other
17 legal entity organized by, owned by or employing one or more
18 health care practitioners; provided that the entity is not:

19 (a) an organization granted exemption
20 from the federal income tax by the United States commissioner
21 of internal revenue as organizations described in Section
22 501(c)(3) of the United States Internal Revenue Code of 1986,
23 as that section may be amended or renumbered; or

24 (b) a health maintenance organization, a
25 hospital, a hospice, a nursing home or an entity that is solely

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1 an outpatient facility or intermediate care facility licensed
2 pursuant to the ~~Public Health Act~~ Health Care Code;

3 (2) "commercial contract services" means
4 health care services performed by a health care practitioner
5 pursuant to a contract with a managed care organization or
6 health care insurer other than those health care services
7 provided for medicare patients pursuant to Title 18 of the
8 federal Social Security Act or for medicaid patients pursuant
9 to Title 19 or Title 21 of the federal Social Security Act;

10 (3) "copayment" or "coinsurance" means ~~[a~~
11 ~~fixed dollar]~~ an amount that a health care insurer or managed
12 care health plan requires an insured or enrollee to pay upon
13 incurring an expense for receiving medical services;

14 (4) "deductible" means the amount of covered
15 charges an insured or enrollee is required to pay in a plan
16 year for commercial contract services before the insured's
17 health insurance plan or enrollee's managed care health plan
18 begins to pay for applicable covered charges;

19 (5) "fee-for-service" means payment for health
20 care services by a health care insurer for covered charges
21 under an indemnity insurance plan;

22 (6) "health care insurer" means a person that:
23 (a) has a valid certificate of authority
24 in good standing pursuant to the New Mexico Insurance Code to
25 act as an insurer, a health maintenance organization or a

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1 nonprofit health care plan or prepaid dental plan; and
2 (b) contracts to reimburse licensed
3 health care practitioners for providing basic health services
4 to enrollees at negotiated fee rates;
5 (7) "health care practitioner" means:
6 (a) a chiropractic physician licensed
7 pursuant to the provisions of the Chiropractic Physician
8 Practice Act;
9 (b) a dentist or dental hygienist
10 licensed pursuant to the Dental Health Care Act;
11 (c) a doctor of oriental medicine
12 licensed pursuant to the provisions of the Acupuncture and
13 Oriental Medicine Practice Act;
14 (d) an optometrist licensed pursuant to
15 the provisions of the Optometry Act;
16 (e) an osteopathic physician licensed
17 pursuant to the provisions of the Medical Practice Act;
18 (f) a physical therapist licensed
19 pursuant to the provisions of the Physical Therapy Act;
20 (g) a physician or physician assistant
21 licensed pursuant to the provisions of the Medical Practice
22 Act;
23 (h) a podiatric physician licensed
24 pursuant to the provisions of the Podiatry Act;
25 (i) a psychologist licensed pursuant to

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the provisions of the Professional Psychologist Act;

(j) a registered lay midwife registered by the department of health;

(k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;

(l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act;

(m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act;

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(o) a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act; and

(q) a clinical laboratory that is accredited pursuant to 42 U.S.C. Section 263a but that is not a

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1 laboratory in a physician's office or in a hospital defined
2 pursuant to 42 U.S.C. Section 1395x;

3 (8) "managed care health plan" means a health
4 care plan offered by a managed care organization that provides
5 for the delivery of comprehensive basic health care services
6 and medically necessary services to individuals enrolled in the
7 plan other than those services provided to medicare patients
8 pursuant to Title 18 of the federal Social Security Act or to
9 medicaid patients pursuant to Title 19 or Title 21 of the
10 federal Social Security Act;

11 (9) "managed care organization" means a person
12 that provides for the delivery of comprehensive basic health
13 care services and medically necessary services to individuals
14 enrolled in a plan through its own employed health care
15 providers or by contracting with selected or participating
16 health care providers. "Managed care organization" includes
17 only those persons that provide comprehensive basic health care
18 services to enrollees on a contract basis, including the
19 following:

- 20 (a) health maintenance organizations;
21 (b) preferred provider organizations;
22 (c) individual practice associations;
23 (d) competitive medical plans;
24 (e) exclusive provider organizations;
25 (f) integrated delivery systems;

(g) independent physician-provider organizations;

(h) physician hospital-provider organizations; and

(i) managed care services organizations;

and

(10) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

SECTION 8. APPLICABILITY.--The provisions of Sections 1 through 6 of this act apply to taxable years beginning on or after January 1, 2026.

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of Section 7 of this act is July 1, 2026.

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