

1 SENATE BILL 170

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Heather Berghmans

10 AN ACT

11 RELATING TO TAXATION; CREATING THE CHILD CARE FACILITY DONATION
12 INCOME TAX CREDIT AND THE CHILD CARE FACILITY DONATION
13 CORPORATE INCOME TAX CREDIT.

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] CREDIT--CHILD CARE FACILITY DONATION
19 INCOME TAX CREDIT.--

20 A. For taxable years prior to January 1, 2037, a
21 taxpayer who is not a dependent of another individual and who
22 makes a donation to a licensed child care facility may claim a
23 credit against the taxpayer's tax liability imposed pursuant to
24 the Income Tax Act. The credit authorized pursuant to this
25 section may be referred to as the "child care facility donation

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1 income tax credit".

2 B. The amount of the credit shall be in an amount
3 equal to the amount donated in the taxable year, not to exceed
4 five hundred thousand dollars (\$500,000) per taxpayer.

5 C. To be eligible for the tax credit, a donation
6 shall be:

- 7 (1) monetary;
- 8 (2) made to a qualifying child care facility
9 or program that meets the minimum enrollment requirements to
10 receive subsidies from the state;
- 11 (3) used to promote child care in New Mexico
12 for children twelve years of age or younger; and
- 13 (4) certified by the early childhood education
14 and care department.

15 D. A taxpayer shall apply for certification of
16 eligibility for the credit from the early childhood education
17 and care department on forms and in the manner prescribed by
18 that department. Except as provided in Subsections G and H of
19 this section, only one tax credit shall be certified per
20 taxpayer per taxable year. The total annual aggregate amount
21 of child care facility donation income tax credits and child
22 care facility donation corporate income tax credits that may be
23 certified in a calendar year shall not exceed ten million
24 dollars (\$10,000,000). Completed applications shall be
25 considered in the order received. Applications for

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1 certification received after this limitation has been met in a
2 calendar year shall not be approved. The early childhood
3 education and care department shall post monthly on that
4 department's website the aggregate amount of credits claimed
5 per calendar year.

6 E. If the early childhood education and care
7 department determines that a taxpayer meets the requirements of
8 this section, that department shall issue a dated certificate
9 of eligibility to the taxpayer providing the amount of tax
10 credit for which the taxpayer is eligible and the taxable years
11 in which the credit may be claimed. The early childhood
12 education and care department shall provide the department with
13 the certificates of eligibility issued pursuant to this
14 subsection in an electronic format at regularly agreed-upon
15 intervals.

16 F. That portion of the credit that exceeds a
17 taxpayer's income tax liability in the taxable year in which
18 the credit is claimed shall be refunded to the taxpayer.

19 G. Married individuals filing separate returns for
20 a taxable year for which they could have filed a joint return
21 may claim only one-half of the credit that would have been
22 claimed on a joint return.

23 H. A taxpayer may be allocated the right to claim
24 the credit in proportion to the taxpayer's ownership interest
25 if the taxpayer owns an interest in a business entity that is

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1 taxed for federal income tax purposes as a partnership or
2 limited liability company and that business entity has met all
3 of the requirements to be eligible for the credit. The total
4 credit claimed by all members of the partnership or limited
5 liability company shall not exceed the allowable credit
6 pursuant to this section.

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

11 J. As used in this section:

12 (1) "donation" means a monetary donation to a
13 licensed child care facility, but does not include a donation
14 made by a taxpayer:

15 (a) that claims the child care facility
16 donation corporate income tax credit;

17 (b) that is an owner of the licensed
18 child care facility;

19 (c) whose spouse, sibling, parent, aunt,
20 uncle, grandparent, child or grandchild is an owner of the
21 licensed child care facility;

22 (d) that is an investor of the licensed
23 child care facility; or

24 (e) that is otherwise affiliated with
25 the licensed child care facility; and

(2) "licensed child care facility" means a child care center, a group child care home, a family child care home or an out-of-school time program licensed by the early childhood education and care department that provides at least fifty percent of its child care services to children who receive child care assistance pursuant to contracts with the early childhood education and care department."

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

"NEW MATERIAL] CREDIT--CHILD CARE FACILITY DONATION
CORPORATE INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2037, a taxpayer that makes a donation to a licensed child care facility may claim a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act. The credit authorized pursuant to this section may be referred to as the "child care facility donation corporate income tax credit".

B. The amount of the credit shall be in an amount equal to the amount donated in the taxable year, not to exceed five hundred thousand dollars (\$500,000) per taxpayer.

C. To be eligible for the tax credit, a donation shall be:

(1) monetary;

(2) made to a qualifying child care facility

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or program that meets the minimum enrollment requirements to receive subsidies from the state;

(3) used to promote child care in New Mexico for children twelve years of age or younger; and

(4) certified by the early childhood education and care department.

D. A taxpayer shall apply for certification of eligibility for the credit from the early childhood education and care department on forms and in the manner prescribed by that department. The total annual aggregate amount of child care facility donation income tax credits and child care facility donation corporate income tax credits that may be certified in a calendar year shall not exceed ten million dollars (\$10,000,000). Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved. The early childhood education and care department shall post monthly on that department's website the aggregate amount of credits claimed per calendar year.

E. If the early childhood education and care department determines that a taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years

1 in which the credit may be claimed. The early childhood
2 education and care department shall provide the department with
3 the certificates of eligibility issued pursuant to this
4 subsection in an electronic format at regularly agreed-upon
5 intervals.

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

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

13 H. As used in this section:

14 (1) "donation" means a monetary donation to a
15 licensed child care facility, but does not include a donation
16 made by a taxpayer that:

17 (a) claims the child care facility
18 donation income tax credit;

19 (b) is an investor of the licensed child
20 care facility; or

21 (c) is an entity that is otherwise
22 affiliated with the licensed child care facility; and

23 (2) "licensed child care facility" means a
24 child care center, a group child care home, a family child care
25 home or an out-of-school time program licensed by the early

1 childhood education and care department that provides at least
2 fifty percent of its child care services to children who
3 receive child care assistance pursuant to contracts with the
4 early childhood education and care department."

5 **SECTION 3. APPLICABILITY.**--The provisions of this act
6 apply to taxable years beginning on or after January 1, 2026.

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