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SENATE BILL 88

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

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO TAXATION; CREATING THE FOSTER PARENT AND GUARDIAN  
INCOME TAX CREDIT.

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--FOSTER PARENT AND GUARDIAN INCOME  
TAX CREDIT.--

A. A taxpayer who is a resident, who is not a  
dependent of another individual and who is a foster parent or a  
guardian of a child 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 "foster parent and guardian income tax credit".

B. The amount of the tax credit shall be in an

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1 amount equal to five hundred dollars (\$500) for each month the  
2 taxpayer is a foster parent or guardian of a child in the  
3 taxable year in which the tax credit is claimed; provided that  
4 the taxpayer shall be a foster parent or guardian for more than  
5 fifty percent of that month; and provided further that the  
6 maximum amount of credit that may be claimed by a taxpayer in a  
7 taxable year is six thousand dollars (\$6,000).

8 C. A taxpayer shall apply for certification of  
9 eligibility for the tax credit from the children, youth and  
10 families department on forms and in the manner prescribed by  
11 that department. Except as provided in Subsection E of this  
12 section, only one tax credit shall be certified for all  
13 taxpayers in a household per taxable year. If the children,  
14 youth and families department determines that the taxpayer  
15 meets the requirements of this section, that department shall  
16 issue a dated certificate of eligibility to the taxpayer  
17 providing the amount of tax credit for which the taxpayer is  
18 eligible and the taxable years in which the credit may be  
19 claimed. The children, youth and families department shall  
20 provide the taxation and revenue department with the  
21 certificates of eligibility issued pursuant to this subsection  
22 in an electronic format at regularly agreed upon intervals.

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

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

5           F. A taxpayer allowed to claim a tax credit  
6 pursuant to this section shall claim the tax credit in a manner  
7 required by the department. The credit shall be claimed within  
8 one taxable year of the end of the year in which the children,  
9 youth and families department certifies the credit.

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

14           H. As used in this section:

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

17                   (2) "foster parent" means a person licensed or  
18 certified by the children, youth and families department or a  
19 child placement agency to provide care for children in the  
20 custody of that department or agency; and

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

25           SECTION 2. APPLICABILITY.--The provisions of this act

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1 apply to taxable years beginning on or after January 1, 2026.

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