

114TH CONGRESS  
1ST SESSION

# S. 664

To amend the Internal Revenue Code of 1986 to create a tax credit for foster families.

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IN THE SENATE OF THE UNITED STATES

MARCH 4, 2015

Ms. HEITKAMP (for herself and Mr. KAINE) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to create  
a tax credit for foster families.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foster Care Tax Cred-  
5 it Act”.

6 **SEC. 2. FOSTER CARE TAX CREDIT.**

7 (a) IN GENERAL.—Subpart A of part IV of sub-  
8 chapter A of chapter 1 of the Internal Revenue Code of  
9 1986 is amended by inserting after section 25D the fol-  
10 lowing new section:

1 **“SEC. 25E. FOSTER CARE TAX CREDIT.**

2       “(a) ALLOWANCE OF CREDIT.—With respect to each  
3 qualifying foster child of an eligible taxpayer, for each cal-  
4 endar month occurring during the taxable year that such  
5 child resides in the home of such taxpayer, there shall be  
6 allowed as a credit against the tax imposed by this chapter  
7 for the taxable year an amount equal to  $\frac{1}{12}$  of the amount  
8 determined under subsection (b).

9       “(b) AMOUNT DETERMINED.—

10           “(1) IN GENERAL.—The amount determined  
11 under this subsection with respect to an eligible tax-  
12 payer and a taxable year is—

13                   “(A) \$1,000, reduced by

14                   “(B) \$50 for each \$1,000 (or fraction  
15 thereof) by which the eligible taxpayer’s modi-  
16 fied adjusted gross income exceeds the thresh-  
17 old amount.

18 For purposes of the preceding sentence, the term  
19 ‘modified adjusted gross income’ means adjusted  
20 gross income increased by any amount excluded  
21 from gross income under section 911, 931, or 933.

22           “(2) THRESHOLD AMOUNT.—For purposes of  
23 paragraph (1), the term ‘threshold amount’ has the  
24 meaning given such term by section 24(b)(2).

25       “(c) QUALIFYING FOSTER CHILD.—For purposes of  
26 this section, the term ‘qualifying foster child’ means an

1 eligible foster child (within the meaning of section  
2 152(f)(1)(C)) of the eligible taxpayer—

3 “(1) who has not attained age 17,

4 “(2) who is a citizen, national, or resident of  
5 the United States,

6 “(3) who resides in the home of the eligible tax-  
7 payer for not less than 1 calendar month during the  
8 taxable year, and

9 “(4) with respect to whom the credit under sec-  
10 tion 24 is not allowable to the eligible taxpayer or  
11 any other taxpayer who would be an eligible tax-  
12 payer but for paragraph (3) of subsection (d).

13 “(d) ELIGIBLE TAXPAYER.—For purposes of this  
14 section, the term ‘eligible taxpayer’ means any taxpayer,  
15 except that—

16 “(1) no single household shall include more  
17 than 1 eligible taxpayer,

18 “(2) married individuals filing a joint return  
19 shall be treated as 1 eligible taxpayer, and

20 “(3) in the case of individuals not described in  
21 paragraph (2) who are members of the same house-  
22 hold, only the taxpayer with the highest adjusted  
23 gross income for the taxable year shall be treated as  
24 an eligible taxpayer.

1       “(e) CALENDAR MONTH.—For purposes of this sec-  
2 tion, if a foster child resides in the home of the taxpayer  
3 for more than 15 consecutive days of a calendar month  
4 but fewer than the total number of days in such calendar  
5 month, such foster child shall be treated as residing in  
6 the home of the taxpayer for the full calendar month.

7       “(f) PORTION OF CREDIT REFUNDABLE.—

8               “(1) IN GENERAL.—The aggregate credits al-  
9 lowed to a taxpayer under subpart C shall be in-  
10 creased by the lesser of—

11                       “(A) the credit which would be allowed  
12 under this section without regard to this sub-  
13 section and the limitation under section 26(a)  
14 (determined after any reduction of the credit  
15 under section 24(a) by reason of section 24(d)),  
16 or

17                       “(B) the amount by which the aggregate  
18 amount of credits allowed by this subpart (de-  
19 termined without regard to this subsection, and  
20 after any reduction of the credit under section  
21 24(a) by reason of section 24(d)) would in-  
22 crease if the limitation imposed by section 26(a)  
23 were increased by the greater of—

24                               “(i) 15 percent of so much of the tax-  
25 payer’s earned income (within the meaning

1 of section 32) which is taken into account  
2 in computing taxable income for the tax-  
3 able year as exceeds \$10,000, or

4 “(ii) in the case of a taxpayer with 3  
5 or more qualifying foster children residing  
6 in the home of the taxpayer for all months  
7 in the taxable year (without regard to  
8 whether the same 3 children reside in the  
9 home of the taxpayer for all such months),  
10 the excess (if any) of—

11 “(I) the taxpayer’s social security  
12 taxes for the taxable year, over

13 “(II) the credit allowed under  
14 section 32 for the taxable year.

15 The amount of the credit allowed under  
16 this subsection shall not be treated as a  
17 credit allowed under this subpart and shall  
18 reduce the amount of credit otherwise al-  
19 lowable under subsection (a) without re-  
20 gard to section 26(a). For purposes of sub-  
21 paragraph (B), any amount excluded from  
22 gross income by reason of section 112 shall  
23 be treated as earned income which is taken  
24 into account in computing taxable income  
25 for the taxable year.

1           “(2) SOCIAL SECURITY TAXES.—For purposes  
2 of paragraph (1), the term ‘social security taxes’ has  
3 the same meaning as when used in section 24(d)(1).

4           “(3) INFLATION ADJUSTMENT.—In the case of  
5 any taxable year beginning in a calendar year after  
6 2001, the \$10,000 amount contained in paragraph  
7 (1)(B)(i) shall be adjusted in the same manner as  
8 the \$10,000 amount under section 24(d)(1)(B) is  
9 adjusted under section 24(d)(3).

10          “(g) IDENTIFICATION REQUIREMENT.—No credit  
11 shall be allowed under this section to an eligible taxpayer  
12 with respect to any qualifying foster child unless the tax-  
13 payer includes the name and taxpayer identification num-  
14 ber of such qualifying foster child on the return of tax  
15 for the taxable year.”.

16          (b) CLERICAL AMENDMENT.—The table of sections  
17 for subpart A of part IV of subchapter A of chapter 1  
18 of the Internal Revenue Code of 1986 is amended by in-  
19 serting after the item relating to section 25D the following  
20 new item:

“Sec. 25E. Foster care tax credit.”.

21          (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to calendar months beginning after  
23 December 31, 2015, in taxable years beginning after such  
24 date.

1           (d) EDUCATION.—The Secretary of Health and  
2 Human Services (or the Secretary's delegate), in coordina-  
3 tion with the Secretary of the Treasury or such Sec-  
4 retary's delegate, shall identify provisions in the Internal  
5 Revenue Code of 1986 that can be used by or can benefit  
6 foster families, and shall increase outreach efforts to pro-  
7 vide information and educational materials regarding such  
8 provisions to State and Indian tribal foster care agencies  
9 and to foster families.

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