

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Gallegos **ORIGINAL DATE** 1/26/24

**BILL**

**SHORT TITLE** Special Needs Adopted Child Tax Credit **NUMBER** Senate Bill 117

**ANALYST** Graeser

### REVENUE\* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
TRD/PIT		(\$800.0)	(\$800.0)	(\$800.0)	(\$800.0)	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	No fiscal impact	\$16.6	No fiscal impact	\$16.6	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Taxation and Revenue Department (TRD)

Children, Youth and Families Department (CYFD)

## SUMMARY

### Synopsis of Senate Bill 117

Senate Bill 117 amends Section 7-2-18.16 NMSA 1978 to increase the special needs adopted child tax credit from \$1,000 to \$1,500. The bill also requires TRD to include the utilization data in the annual Tax Expenditure Report. The bill also requires separate reporting which is current practice.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted. The increase in credit is applicable for tax years beginning January 1, 2024.

## FISCAL IMPLICATIONS

This bill expands a tax expenditure with a cost that is significant. LFC has serious concerns about the substantial risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base.

The current cost of \$1,000 per child tax credit is published in the annual Tax Expenditure Report.

TRD averaged the amount of credits claimed for the last three fiscal years as reported in the 2023 Tax Expenditure Report<sup>1</sup>. This average was then increased by the 50 percent increase in the credit amount.

## SIGNIFICANT ISSUES

TRD notes the following policy issues:

The increase to the special needs adopted tax credit will continue to erode horizontal equity in the state income taxes. By basing the credit on the number of qualifying children, taxpayers with the same level of income are no longer treated equally. Thus, two New Mexico residents who earn the same salary may have different tax liability given the number of special needs children they adopt.

However, the special needs adopted tax credit provides economic aid to families whose adopted children may require specialized long-term care and supports those children remaining in a family setting. In addition, as the definition of special needs adopted child includes “difficult to place child,” this credit may incentivize more individuals to adopt children who need more specialized attention. The credit amount has not been increased since it was enacted in 2007, thus the increase to \$1,500 from \$1,000 per child provides some inflation relief for the cost of raising special needs children. As well as being a moral good, keeping special needs children in a family setting may reduce social costs over the long-term by reducing social, economic, and psychological problems that children who remain unadopted, or in foster care, may experience.

LFC also note that that the credit has not been increased since 2007 and that the Legislature might consider indexing the benefit to account for annual inflation.

CYFD supports the tax credit and the collateral reporting requirement:

This bill benefits families who adopt special needs children by increasing the resources available to them for their commitment to providing permanency for children and youth. Meanwhile, the annual report produced by tax and revenue will provide CYFD with a valuable resource for monitoring the successes of placing children for adoption with special needs and will further validate the importance of having this resource available to adoptive parents and their families. This bill supports CYFD’s efforts to recruit, retain, and support resource parents by ensuring that adoptive parents who encounter unexpected costs due to their child’s needs will receive sufficient support to meet those needs.

---

<sup>1</sup> New Mexico Taxation and Revenue Department, 2023 Tax Expenditure Report, <https://www.tax.newmexico.gov/forms-publications/>, 2023.

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill’s requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the credit and other information to determine whether the credit is meeting its purpose.

CYFD has performance measurements concerning the recruitment of resource families and placement stability for children which may be positively affected by this bill.

## ADMINISTRATIVE IMPLICATIONS

TRD notes a low IT and administrative impact:

TRD will make information system changes and update forms, instructions, publications. These changes will be included in annual tax year changes. This bill will have a low impact on TRD’s Information Technology Division (ITD), approximately 300 hours or about 2 months for an estimated staff workload cost of \$16,650.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY24	FY25	FY26	3 Year Total Cost		
--	\$16.6	--	\$16.6	NR	TRD - ITD

\* In thousands of dollars. Parentheses ( ) indicate a cost saving. \*\* Recurring (R) or Non-Recurring (NR).

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 117 is a duplicate of SB277 (2023 Regular Session).

## TECHNICAL ISSUES

The requirement that the credit be separately reported and for TRD to include utilization data in the annual Tax Expenditure Report may be superfluous. TRD recognizes this credit as a tax expenditure and is now required by statute to assemble and publish an annual tax expenditure report.

The Legislature may want to consider indexing this tax credit to account for inflation and the cost of raising a child.

## OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy:** Revenue should be adequate to fund needed government services.
- **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity:** Different taxpayers should be treated fairly.
- **Simplicity:** Collection should be simple and easily understood.
- **Accountability:** Preferences should be easy to monitor and evaluate.



In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	Met?	Comments
<b>Vetted:</b> The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.	✓	Tax credit has been in statute since 2007 and is overdue for an increase.
<b>Targeted:</b> The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals. Clearly stated purpose Long-term goals Measurable targets	✗ ✗ ✗	
<b>Transparent:</b> The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	
<b>Accountable:</b> The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date. Public analysis Expiration date	✓ ✗	
<b>Effective:</b> The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure. Fulfills stated purpose Passes “but for” test	✗ ✗	No data are available indicating if more children are adopted with the credit than without.
<b>Efficient:</b> The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met ✗ Not Met ? Unclear		

LG/al/ne