

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 308

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO TAXATION; EXPANDING AN INCOME TAX CREDIT FOR THE
ADOPTION OF A SPECIAL NEEDS CHILD TO THE ADOPTION OF ANY CHILD;
DISALLOWING THE CREDIT FOR A TAXPAYER WHO IS A STEPPARENT;
INCREASING THE AMOUNT OF CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2-18.16 NMSA 1978 (being Laws 2007,
Chapter 45, Section 10) is amended to read:

"7-2-18.16. CREDIT--~~[SPECIAL NEEDS]~~ ADOPTED CHILD TAX
CREDIT--CREATED--QUALIFICATIONS--DURATION OF CREDIT.--

A. A taxpayer who files an individual New Mexico
income tax return, who is not a dependent of another individual
and who adopts a ~~[special needs]~~ child ~~[on or after January 1,~~
2007] or has adopted a ~~[special needs]~~ child ~~[prior to January~~
1, 2007] may claim a credit against the taxpayer's tax

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1 liability imposed pursuant to the Income Tax Act; provided that
2 neither the taxpayer nor the taxpayer's spouse is a stepparent
3 of the adopted child. The credit authorized pursuant to this
4 section may be referred to as the "~~[special needs]~~ adopted
5 child tax credit".

6 B. A taxpayer may claim and the department may
7 allow ~~[a special needs]~~ an adopted child tax credit in the
8 ~~[amount of one thousand dollars (\$1,000) to be claimed against~~
9 ~~the taxpayer's tax liability for the taxable year imposed~~
10 ~~pursuant to the Income Tax Act]~~ following amounts:

11 (1) for a child adopted on or after January 1,
12 2023, the following amounts may be claimed for the taxable year
13 that is the first taxable year in which a child is adopted:

14 (a) seven thousand dollars (\$7,000) for
15 an adopted child who is a special needs adopted child; and

16 (b) five thousand dollars (\$5,000) for
17 an adopted child who is not a special needs adopted child; and

18 (2) for all other taxable years:

19 (a) one thousand five hundred dollars
20 (\$1,500) for an adopted child who is a special needs adopted
21 child; and

22 (b) one thousand dollars (\$1,000) for an
23 adopted child who is not a special needs adopted child.

24 C. A taxpayer may claim ~~[a special needs]~~ an
25 adopted child tax credit for each year that the child may be

1 claimed as a dependent for federal taxation purposes by the
2 taxpayer.

3 D. If the amount of the [~~special needs~~] adopted
4 child tax credit due to the taxpayer exceeds the taxpayer's
5 individual income tax liability, the excess shall be refunded.

6 E. [~~A husband and wife~~] Married individuals who
7 file separate returns for a taxable year in which they could
8 have filed a joint return may each claim only one-half of the
9 [~~special needs~~] adopted child tax credit provided in this
10 section that would have been allowed on a joint return.

11 F. A taxpayer allowed a tax credit pursuant to this
12 section shall report the amount of the credit to the department
13 in a manner required by the department.

14 G. The department shall compile an annual report on
15 the credit provided by this section that shall include the
16 number of taxpayers approved by the department to receive the
17 credit, the aggregate amount of credits approved and any other
18 information necessary to evaluate the credit. The department
19 shall present the report to the revenue stabilization and tax
20 policy committee and the legislative finance committee with an
21 analysis of the cost of the tax credit.

22 [~~F.~~] H. As used in this section:

23 (1) "child" means an individual under the age
24 of eighteen who is a resident of New Mexico at the time of
25 adoption;

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1 (2) "special needs adopted child" means an
2 individual who may be over eighteen years of age and who is
3 certified by the children, youth and families department or a
4 licensed child placement agency as meeting the definition of a
5 "difficult to place child" pursuant to the Adoption Act;
6 provided, however, if the classification as a "difficult to
7 place child" is based on a physical or mental impairment or an
8 emotional disturbance the physical or mental impairment or
9 emotional disturbance shall be at least moderately disabling;
10 and

11 (3) "stepparent" means a person who is the
12 spouse of a child's parent after the divorce or separation of
13 the child's parents or the death of a child's parent."

14 SECTION 2. APPLICABILITY.--The provisions of this act
15 apply to taxable years beginning on or after January 1, 2023.

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