

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 7, 2025

Bill: HB-207

Sponsors: Representatives Rebecca Dow, Tara L. Lujan, Jenifer Jones and Harlan Vincent

Short Title: Adoption of Special Needs Child Tax Credit

Description: This bill amends Section 7-2-18.16 NMSA 1978, the special needs adopted child tax credit, to strike all references to “special needs”, thereby expanding its applicability to all adopted individuals under age 18.

The bill also increases the amount of the credit from \$1,500 to \$7,000 per child. This credit would remain refundable where the credit due exceeds the taxpayer’s individual income tax liability.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). Applicable to taxable years beginning on or after January 1, 2025.

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	(\$9,200)	(\$9,500)	(\$9,800)	(\$10,100)	R	General Fund

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Striking all references to “special needs” in Section 7-2-18.16, NMSA 1978 makes parents of all adopted children eligible for this credit. The Taxation and Revenue Department (Tax & Rev) used children’s adoption data by age in New Mexico from 2018 to 2022 to estimate the cost of expanding the credit to include any adopted child and increasing the credit from \$1,500 to \$7,000 per child.¹ Tax & Rev identified 564 adopted children who would be 18 or under in 2024 and applied the growth rate of adopted children from 2018 to 2022 to increase the population of adopted children. Then, Tax & Rev employed the 2024 Tax Expenditure Report² and added the number of adopted children in the State to the 849 claims of the special needs child tax credit in FY2024 to calculate the fiscal impact. Tax & Rev assumes that all taxpayers currently eligible for the “special needs adopted child credit” remain eligible for this credit (see technical issues.)

Policy Issues: The increment in the adopted child tax credit will 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 children they adopt. While most adoption tax benefits go to affluent families, children from lower-income families are more likely to benefit from adoption.

The adopted child tax credit helps taxpayers offset some of the costs of adopting a child. The credit amount increased in 2024 from \$1,000 to \$1,500, providing inflation relief for the families. An increase of more than 300%, as this bill proposes, might merely impact the general fund and have little or no effect

¹ <https://cwoutcomes.acf.hhs.gov/cwodatasite/adopted/index/>

² New Mexico Taxation and Revenue Department, 2024 Tax Expenditure Report, <https://www.tax.newmexico.gov/forms-publications/>, 2024.

on adoptions. There is little evidence that adoption tax benefits are an effective policy tool to increase adoptions. Instead, data suggest that adoption tax benefits are often a windfall to families that would have adopted in their absence.³

The social benefits of adoption have been well documented. For example, adopted people are less likely to engage in criminal behavior, become homeless, become addicted to drugs, and are more likely to have better health, pursue an education, and secure a job. As well as being a moral good, keeping 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. In this sense, the bill is expected to have a positive future social impact. If the purpose of the tax credit is to increase the number of New Mexican children being adopted, there should be language distinguishing that it was an adoption of a child in New Mexico.

Technical Issues: The current special needs adopted child tax credit can be claimed by non-residents who have income sourced to New Mexico to receive the credit. Hence, this credit could be claimed by adopting parents for children who do not reside in New Mexico. Adding language that requires the credit to be apportioned or available only for adopted children who reside in New Mexico would prevent non-residents who do not have income in New Mexico from filing for the tax credit while not allocating or apportioning income to New Mexico.

Subsection C on page 2, states an adopted child tax credit may be claimed for each tax year the child may be claimed as a dependent. But the definition of a “child”, in subsection H, on page 3 lines 10-19, conflicts with that subsection, as individuals over eighteen years of age may still be claimed as a dependent if they have special needs. Under the current language of the bill, taxpayers who adopted special needs children who can be claimed as dependent for life but are over the age of 18 will no longer qualify for this tax credit. Tax & Rev suggests maintaining in Subsection A, “special needs” so that on lines 22 and 23 it reads: “and who adopts a special needs child or child on or after January 1, 2007 or has adopted a special needs child prior to January 1,…” Then maintain the current definition of “special needs child” under subsection H, and amend the definition of “child” in a new subsection I, “As used in this section ‘child’ means an individual, other than a special needs child, under the age of eighteen.”

Under subsection H., Tax & Rev suggests the following definition of “dependent” be added to clarify this credit, “As used in this section, “dependent” means” dependent” as defined in Section 152 of the Internal Revenue Code.” On page 2, lines 11 and 12, then delete after dependent, “for federal taxation purposes by the taxpayer.”

Tax & Rev suggests for clarity of credit eligibility, that a definition of “adopted” be included under subsection H on page 3.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. This implementation will be included in the annual tax year changes.

This bill will have an impact on Tax & Rev’s Information Technology Division (ITD) of approximately two months for an estimated staff workload cost of \$19,992. Tax & Rev’s Revenue Processing Division (RPD) anticipates this bill will require a new FTE to review the credit given the increase in credit claims. The FTE is based on a pay band 65.

³ <https://crsreports.congress.gov/product/pdf/R/R44745>

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$85	\$85	\$170	R	Tax & Rev's RPD - FTE
--	\$19.9	--	\$19.9	NR	Tax & Rev's ITD - Staff workload costs

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