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SENATE BILL 395

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

JANICE D. PASTER

AN ACT

RELATING TO TAXATION; ENACTING AN INCOME TAX CREDIT FOR EXPENSES
INCURRED FOR DEPENDENT ADULT DAYCARE OR FOR PROVIDING CERTAIN
ADULT DEPENDENT CARE.

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 FOR EXPENSES FOR DEPENDENT ADULT
DAYCARE OR FOR PROVIDING CERTAIN ADULT DEPENDENT CARE. --

A. As used in this section:

(1) "caregiver" means a corporation or an
individual eighteen years of age or older that receives
compensation from a resident for providing direct care and
supervision to a qualifying dependent of the resident for less
than twenty-four hours daily;

1 (2) "cost of maintaining a household" means
2 actual expenses incurred for the mutual benefit of the occupants
3 of a dwelling by reason of the dwelling's operation as the
4 principal place of abode for those occupants, including property
5 taxes, mortgage interest, rent, utility charges, upkeep and
6 repairs, property insurance and food consumed on the premises.
7 "Cost of maintaining a household" does not include expenses
8 otherwise incurred, including the cost of clothing, education,
9 medical treatment, vacations, life insurance, transportation and
10 mortgages;

11 (3) "dependent" means "dependent" as defined by
12 Section 152 of the Internal Revenue Code, but also includes any
13 minor child or stepchild of the resident who would be a
14 dependent for federal income tax purposes if the public
15 assistance contributing to the support of the child or stepchild
16 was considered to have been contributed by the resident;

17 (4) "incapable of self-care" means that a
18 licensed physician has certified that an individual is
19 incapable, due to physical or mental handicap, of dressing,
20 cleaning or feeding himself or requires the full-time attention
21 of another individual for his own safety or the safety of
22 others; and

23 (5) "qualifying dependent" means a person who
24 is incapable of self-care and is either a resident's dependent
25 fifteen years of age or older at the end of the taxable year or

1 a resident's spouse.

2 B. A resident who files an individual New Mexico
3 income tax return and who is not a dependent of another taxpayer
4 may claim a credit either for dependent adult daycare expenses
5 incurred and paid to a caregiver in New Mexico during the
6 taxable year by the resident or for providing adult daycare to a
7 qualifying dependent in the resident's home during the taxable
8 year if the resident:

9 (1) singly or together with a spouse furnishes
10 over half the cost of maintaining the household for one or more
11 qualifying dependents for any period in the taxable year for
12 which the credit is claimed;

13 (2) either compensates a caregiver for daycare
14 for a qualifying dependent or is both not employed for all or a
15 portion of the taxable year and during that period cares for a
16 qualifying dependent in the resident's home; and

17 (3) has a modified gross income of not more
18 than twenty thousand dollars (\$20,000) if filing as a single
19 individual or head of household and not more than thirty-five
20 thousand dollars (\$35,000) if filing as a married individual.

21 C. The credit provided for in this section shall be:

22 (1) six hundred dollars (\$600) for each
23 qualifying dependent or a total of one thousand two hundred
24 dollars (\$1,200) for all qualifying dependents for a taxable
25 year, if the taxpayer qualifies for the credit by providing care

1 for a qualifying dependent in the resident's home for one-half
2 or more of the taxable year;

3 (2) three hundred dollars (\$300) for each
4 qualifying dependent or a total of six hundred dollars (\$600)
5 for all qualifying dependents for a taxable year, if the
6 taxpayer qualifies for the credit by providing care for a
7 qualifying dependent in the resident's home for less than one-
8 half of the taxable year; or

9 (3) forty percent of the actual compensation
10 paid to a caregiver by the resident for a qualifying dependent
11 not to exceed six hundred dollars (\$600) for each qualifying
12 dependent or a total of one thousand two hundred dollars
13 (\$1,200) for all qualifying dependents for a taxable year. For
14 the purpose of computing the credit in this paragraph, actual
15 compensation shall not exceed eight dollars (\$8.00) per day for
16 each qualifying dependent.

17 D. A taxpayer who is eligible for a credit pursuant
18 to more than one paragraph under Subsection C of this section
19 shall claim the credit only pursuant to the paragraph that
20 provides the greater credit.

21 E. The caregiver shall furnish the resident with a
22 signed statement of compensation paid by the resident to the
23 caregiver for daycare services. Such statements shall specify
24 the dates and the total number of days for which payment has
25 been made.

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1 F. If the resident taxpayer has a federal tax
2 liability, the taxpayer shall claim from the state not more than
3 the difference between the amount of the dependent adult daycare
4 credit for which he is eligible and the federal dependent care
5 credit he is able to deduct from federal tax liability for the
6 same taxable year for the same qualifying dependent.

7 G. The credit provided for in this section may be
8 deducted from the taxpayer's New Mexico income tax liability for
9 the taxable year. If the credit exceeds the taxpayer's income
10 tax liability, the excess shall be refunded to the taxpayer.

11 H. A husband and wife maintaining a household for
12 one or more qualifying dependents and filing separate returns
13 for a taxable year for which they could have filed a joint
14 return:

15 (1) may each claim only one-half of the credit
16 that would have been claimed on a joint return; and

17 (2) are eligible for the credit provided in
18 this section only if their joint modified gross income is not
19 more than thirty-five thousand dollars (\$35,000).

20 I. The taxpayer claiming the credit pursuant to this
21 section shall submit with the application a copy of the written
22 certification from a licensed physician that the qualifying
23 dependent is in the physician's opinion incapable of self-care
24 as that term is defined in this section. "

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

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apply to taxable years beginning on or after January 1, 1996.

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1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 JANUARY 29, 1996
6

7 Mr. Presi dent:
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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
10

11 SENATE BILL 395
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUI ONAL PROVISIONS, and thence referred to the WAYS AND
15 MEANS COMMI TTEE.
16

17 Respectfully submi tted,
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22 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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SB 395/a

5 February 9, 1996
6

7 Mr. President:
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9 Your WAYS AND MEANS COMMITTEE, to whom has been referred
10

11 SENATE BILL 395
12

13 has had it under consideration and reports same with recommendation that
14 it DO PASS, amended as follows:
15

16 1. On page 2, line 12, strike the comma and the remainder of the
17 line, strike lines 13 through 16 and insert in lieu thereof a semicolon.
18

19 2. On page 2, line 22, after "others" insert ", but does not
20 include such incapacity resulting from a short-term injury or illness".
21

22 3. On page 3, line 17, strike "a modified" and insert in lieu
23 thereof "an adjusted".
24

25 4. On page 3, strike lines 22 through 25 and on page 4, strike
lines 1 through 8 and insert in lieu thereof:

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"(1) if the taxpayer qualifies for the credit by providing care for a qualifying dependent in the taxpayer's home for one-half or more of the taxable year, an amount equal to eight dollars (\$8.00) for each day of care provided, not to exceed six hundred dollars (\$600) for each qualifying dependent or a total of one thousand two hundred dollars (\$1,200) for all qualifying dependents for the taxable year;

(2) if the taxpayer qualifies for the credit by providing care for a qualifying dependent in the taxpayer's home for less than one-half of the taxable year, an amount equal to eight dollars (\$8.00) for each day of care provided, not to exceed three hundred dollars (\$300) for each qualifying dependent or a total of six hundred dollars (\$600) for all qualifying dependents for the taxable year; or".

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5. Renumber succeeding paragraphs accordingly.

6. On page 5, line 18, strike "modified" and insert in lieu thereof "adjusted".,

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

TITO D. CHAVEZ, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 3 For 2 Against

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Page 12

Yes: 3

No: Chavez, Weiner

Excused: Rawson, Riley, Rhodes

Absent: None

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