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HOUSE BILL 47

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DAVID M PARSONS

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING CERTAIN SECTIONS OF THE INCOME  
TAX ACT.

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

Section 1. Section 7-2-5.6 NMSA 1978 (being Laws 1995,  
Chapter 93, Section 8) is amended to read:

"7-2-5.6. EXEMPTION--MEDICAL CARE SAVINGS ACCOUNTS. --  
Except as provided in Section [~~6 of this act~~] 59A-23D-6 NMSA  
1978, employer and employee contributions to medical care  
savings accounts established pursuant to the Medical Care  
Savings Account Act, the interest earned on those accounts and  
money reimbursed to an employee for eligible medical expenses  
from those accounts or money advanced to the employee by the  
employer for eligible medical expenses pursuant to that act  
are exempt from taxation."

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1           Section 2. Section 7-2-12 NMSA 1978 (being Laws 1965,  
2 Chapter 202, Section 10, as amended) is amended to read:

3           "7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX. --Every  
4 resident of this state and every individual deriving income  
5 from any business transaction, property or employment within  
6 this state and not exempt from tax under the Income Tax Act  
7 who is required by the laws of the United States to file a  
8 federal income tax return or who files a federal income tax  
9 return shall file a complete tax return with the department in  
10 form and content as prescribed by the secretary. Unless  
11 otherwise required under the Income Tax Act or prescription of  
12 the secretary, in completing a return for a taxable year the  
13 taxpayer shall declare the same filing status and number of  
14 personal exemptions as the taxpayer declared for federal  
15 income tax purposes for that same taxable year or, if the  
16 taxpayer was not required to file a federal income tax return  
17 for the taxable year, the filing status and number of personal  
18 exemptions that would have been required or allowed for that  
19 taxpayer by the Internal Revenue Code and regulations  
20 thereunder. The return required and the tax imposed on  
21 individuals under the Income Tax Act are due and payment is  
22 required on or before the fifteenth day of the fourth month  
23 following the end of the taxable year. "

24           Section 3. Section 7-2-12.1 NMSA 1978 (being Laws 1990,  
25 Chapter 23, Section 1) is amended to read:

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1 "7-2-12.1. LIMITATION ON CLAIMING OF CREDITS AND TAX  
2 REBATES. --

3 A. Except as provided otherwise in this section, a  
4 credit or tax rebate provided in the Income Tax Act that is  
5 claimed shall be disallowed if the claim for the credit or tax  
6 rebate was first made after the end of the third calendar year  
7 following the calendar year in which the return upon which the  
8 credit or tax rebate was first claimable was initially due.

9 B. Subsection A of this section does not apply to  
10 [~~(1)~~] the credit authorized by Section 7-2-13 NMSA 1978 for  
11 income taxes paid another state [~~or~~

12 ~~(2) the credit authorized by Section 7-2-19~~  
13 ~~NMSA 1978 for income taxes paid another state]. "~~

14 Section 4. Section 7-2-18 NMSA 1978 (being Laws 1977,  
15 Chapter 196, Section 1, as amended) is amended to read:

16 "7-2-18. TAX REBATE OF PROPERTY TAX DUE THAT EXCEEDS THE  
17 ELDERLY TAXPAYER'S MAXIMUM PROPERTY TAX LIABILITY--REFUND. --

18 A. Any resident who has attained the age of  
19 sixty-five and files an individual New Mexico income tax  
20 return and is not a dependent of another individual may claim  
21 a tax rebate for the taxable year for which the return is  
22 filed. The tax rebate shall be the amount of property tax due  
23 on the resident's principal place of residence for the taxable  
24 year that exceeds the property tax liability indicated by the  
25 table in Subsection F or G, as appropriate, of this section,

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1 based upon the taxpayer's modified gross income.

2 B. Any resident otherwise qualified under this  
3 section who rents a principal place of residence from another  
4 person may calculate the amount of property tax due by  
5 multiplying the gross rent for the taxable year by six  
6 percent. The tax rebate shall be the amount of property tax  
7 due on the taxpayer's principal place of residence for the  
8 taxable year that exceeds the property tax liability  
9 indicated by the table in Subsection F or G, as appropriate,  
10 of this section, based upon the taxpayer's modified gross  
11 income.

12 C. As used in this section, "principal place of  
13 residence" means the resident's dwelling, whether owned or  
14 rented, and so much of the land surrounding it, not to exceed  
15 five acres, as is reasonably necessary for use of the dwelling  
16 as a home and may consist of a part of a multi-dwelling or a  
17 multi-purpose building and a part of the land upon which it is  
18 built.

19 D. No claim for the tax rebate provided in this  
20 section shall be allowed a resident who was an inmate of a  
21 public institution for more than six months during the taxable  
22 year or who was not physically present in New Mexico for at  
23 least six months during the taxable year for which the tax  
24 rebate could be claimed.

25 E. A husband and wife who file separate returns

1 for a taxable year in which they could have filed a joint  
 2 return may each claim only one-half of the tax rebate that  
 3 would have been allowed on a joint return.

4 F. For taxpayers whose principal place of  
 5 residence is in a county that does not have in effect for the  
 6 taxable year a resolution in accordance with Subsection J of  
 7 this section, the tax rebate provided for in this section may  
 8 be claimed in the amount of the property tax due each taxable  
 9 year that exceeds the amount shown as property tax liability  
 10 in the following table:

11 **ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY TABLE**

Taxpayer's Modified Gross Income	Property Tax Liability	
But Not		
Over	Over	
\$ 0	\$ 1,000	\$20
1,000	2,000	25
2,000	3,000	30
3,000	4,000	35
4,000	5,000	40
5,000	6,000	45
6,000	7,000	50
7,000	8,000	55
8,000	9,000	60
9,000	10,000	75

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1	10, 000	11, 000	90
2	11, 000	12, 000	105
3	12, 000	13, 000	120
4	13, 000	14, 000	135
5	14, 000	15, 000	150
6	15, 000	16, 000	180.

7                   G. For taxpayers whose principal place of  
8 residence is in a county that has in effect for the taxable  
9 year a resolution in accordance with Subsection J of this  
10 section, the tax rebate provided for in this section may be  
11 claimed in the amount of the property tax due each taxable  
12 year that exceeds the amount shown as property tax liability  
13 in the following table:

14                   **ELDERLY HOMEOWNERS' MAXIMUM PROPERTY TAX LIABILITY TABLE**

15		Property Tax	
16		Liability	
17		But Not	
18	Over	Over	
19	\$ 0	\$ 1, 000	\$ 20
20	1, 000	2, 000	25
21	2, 000	3, 000	30
22	3, 000	4, 000	35
23	4, 000	5, 000	40
24	5, 000	6, 000	45
25	6, 000	7, 000	50

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1	7, 000	8, 000	55
2	8, 000	9, 000	60
3	9, 000	10, 000	75
4	10, 000	11, 000	90
5	11, 000	12, 000	105
6	12, 000	13, 000	120
7	13, 000	14, 000	135
8	14, 000	15, 000	150
9	15, 000	16, 000	165
10	16, 000	17, 000	180
11	17, 000	18, 000	195
12	18, 000	19, 000	210
13	19, 000	20, 000	225
14	20, 000	21, 000	240
15	21, 000	22, 000	255
16	22, 000	23, 000	270
17	23, 000	24, 000	285
18	24, 000	25, 000	300.

19           H. If a taxpayer's modified gross income is zero,  
20 the taxpayer may claim a tax rebate based upon the amount  
21 shown in the first row of the appropriate table. The tax  
22 rebate provided for in this section shall not exceed two  
23 hundred fifty dollars (\$250) per return, and, if a return is  
24 filed separately that could have been filed jointly, the tax  
25 rebate shall not exceed one hundred twenty-five dollars

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1 (\$125). No tax rebate shall be allowed any taxpayer whose  
2 modified gross income exceeds sixteen thousand dollars  
3 (\$16,000) for taxpayers whose principal place of residence is  
4 in a county that does not have in effect for the taxable year  
5 a resolution in accordance with Subsection J of this section  
6 and twenty-five thousand dollars (\$25,000) for all other  
7 taxpayers.

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

13 J. The board of county commissioners may adopt a  
14 resolution authorizing otherwise qualified taxpayers whose  
15 principal place of residence is in the county to claim the  
16 rebate provided by this section in the amounts set forth in  
17 Subsection G of this section. The resolution must also  
18 provide that the county will reimburse the state for the  
19 additional amount of tax rebates paid to such taxpayers over  
20 the amount that would have been paid to such taxpayers under  
21 Subsection F of this section. The resolution may apply to one  
22 or more taxable years. If a county adopts such a resolution,  
23 the county must adopt the resolution and notify the department  
24 of the adoption by no later than September 1 of the taxable  
25 year to which the resolution first applies. The department



Underscored material = new  
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1 shall determine the additional amounts paid to taxpayers of  
2 the county for each taxable year and shall bill the county for  
3 the amount at the time and in the manner determined by the  
4 department. If the county fails to pay any bill within thirty  
5 days, the department may deduct the amount due from any amount  
6 to be transferred or distributed to the county by the state,  
7 other than debt interceptions. "

8 Section 5. Section 7-2-18.1 NMSA 1978 (being Laws 1981,  
9 Chapter 170, Section 1, as amended) is amended to read:

10 "7-2-18.1. CREDIT FOR EXPENSES FOR DEPENDENT CHILD DAY  
11 CARE NECESSARY TO ENABLE GAINFUL EMPLOYMENT TO PREVENT  
12 INDIGENCY. --

13 A. As used in this section:

14 (1) "caregiver" means a corporation or an  
15 individual eighteen years of age or over who receives  
16 compensation from the resident for providing direct care,  
17 supervision and guidance to a qualifying dependent of the  
18 resident for less than twenty-four hours daily and includes  
19 related individuals of the resident but does not include a  
20 dependent of the resident;

21 (2) "cost of maintaining a household" means  
22 the expenses incurred for the mutual benefit of the occupants  
23 thereof by reason of its operation as the principal place of  
24 abode of such occupants, including property taxes, mortgage  
25 interest, rent, utility charges, upkeep and repairs, property

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1 insurance and food consumed on the premises. "Cost of  
2 maintaining a household" shall not include expenses otherwise  
3 incurred, including cost of clothing, education, medical  
4 treatment, vacations, life insurance, transportation and  
5 mortgages;

6 (3) "dependent" means "dependent" as defined  
7 by Section 152 of the Internal Revenue Code, as that section  
8 may be amended or renumbered, but also includes any minor  
9 child or stepchild of the resident who would be a dependent  
10 for federal income tax purposes if the public assistance  
11 contributing to the support of the child or stepchild was  
12 considered to have been contributed by the resident;

13 (4) "disabled person" means a person who has  
14 a medically determinable physical or mental impairment, as  
15 certified by a licensed physician, that renders such person  
16 unable to engage in gainful employment;

17 (5) "gainfully employed" means working for  
18 remuneration for others, either full time or part time, or  
19 self-employment in a business or partnership; and

20 (6) "qualifying dependent" means a dependent  
21 under the age of fifteen at the end of the taxable year who  
22 receives the services of a caregiver.

23 B. Any resident who files an individual New Mexico  
24 income tax return and who is not a dependent of another  
25 taxpayer may claim a credit for child day care expenses

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1 incurred and paid to a caregiver in New Mexico during the  
2 taxable year by such resident if the resident:

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

7 (2) is gainfully employed for any period for  
8 which the credit is claimed or, if a joint return is filed,  
9 both spouses are gainfully employed or one is disabled for any  
10 period for which the credit is claimed;

11 (3) compensates a caregiver for child  
12 day care for a qualifying dependent to enable such resident  
13 together with his spouse, if any and if not disabled, to be  
14 gainfully employed;

15 (4) is not a recipient of public assistance  
16 under a program of aid to families with dependent children,  
17 temporary assistance to needy families or any successor  
18 program during any period for which the credit provided by  
19 this section is claimed; and

20 (5) has a modified gross income, including  
21 child support payments, if any, of not more than the annual  
22 income that would be derived from earnings at double the  
23 federal minimum wage.

24 C. The credit provided for in this section shall  
25 be forty percent of the actual compensation paid to a

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1 caregiver by the resident for a qualifying dependent not to  
2 exceed four hundred eighty dollars (\$480) for each qualifying  
3 dependent or a total of one thousand two hundred dollars  
4 (\$1,200) for all qualifying dependents for a taxable year.  
5 For the purposes of computing the credit, actual compensation  
6 shall not exceed eight dollars (\$8.00) per day for each  
7 qualifying dependent.

8 D. The caregiver shall furnish the resident with a  
9 signed statement of compensation paid by the resident to the  
10 caregiver for day care services. Such statements shall  
11 specify the dates and the total number of days for which  
12 payment has been made.

13 E. If the resident taxpayer has a federal tax  
14 liability, the taxpayer shall claim from the state not more  
15 than the difference between the amount of the state child care  
16 credit for which the taxpayer is eligible and the federal  
17 credit for child and dependent care expenses the taxpayer is  
18 able to deduct from federal tax liability for the same taxable  
19 year; provided, for first year residents only, the amount of  
20 the federal credit for child and dependent care expenses may  
21 be reduced to an amount equal to the amount of federal credit  
22 for child and dependent care expenses the resident is able to  
23 deduct from federal tax liability multiplied by the ratio of  
24 the number of days of residence in New Mexico during the  
25 resident's taxable year to the total number of days in the

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1 resident's taxable year.

2 F. The credit provided for in this section may be  
3 deducted from the taxpayer's New Mexico income tax liability  
4 for the taxable year. If the credit exceeds the taxpayer's  
5 income tax liability, the excess shall be refunded to the  
6 taxpayer.

7 G. A husband and wife maintaining a household for  
8 one or more qualifying dependents and filing separate returns  
9 for a taxable year for which they could have filed a joint  
10 return:

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

13 (2) are eligible for the credit provided in  
14 this section only if their joint modified gross income,  
15 including child support payments, if any, is not more than the  
16 annual income that would be derived from earnings at double  
17 the federal minimum wage. "

18 Section 6. APPLICABILITY. --The provisions of this act  
19 are applicable to taxable years beginning on or after January  
20 1, 1998.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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4  
5  
6 February 10, 1998

7  
8 Mr. Speaker:

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10 Your TAXATION AND REVENUE COMMITTEE, to whom has  
11 been referred

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13 HOUSE BILL 47

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

17 1. On page 11, line 15, after "assistance" insert "or  
18 cash assistance and services".

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20 2. On page 11, line 17, after "families" insert ", the  
21 New Mexico Works Act".

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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htrc/hb 47

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Respectfully submitted,

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Jerry W. Sandel, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Lovejoy

Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

1 htrc/hb 47

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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February 16, 1998, 1998

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Mr. President:

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Your WAYS AND MEANS COMMITTEE, to whom has been  
referred

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HOUSE BILL 47, as amended

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has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
FINANCE COMMITTEE.

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Respectfully submitted,

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Carlos R. Cisneros, Chairman

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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Adopted \_\_\_\_\_ Not

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Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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The roll call vote was 7 For 0 Against

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Yes: 7

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No: 0

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Excused: McSorley, Nava

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Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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February 18, 1998

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Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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HOUSE BILL 47, as amended

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has had it under consideration and reports same with  
recommendation that it DO PASS.

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Respectfully submitted,

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Ben D. Altamirano, Chairman

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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Adopted \_\_\_\_\_ Not

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Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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The roll call vote was 6 For 0 Against

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Yes: 6

12

No: None

13

Excused: Carraro, Eisenstadt, Ingle, Lyons, McKibben

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Absent: None

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