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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/07  
 LAST UPDATED 2/26/07      HB 973/HCPACS

SPONSOR HCPAC

SHORT TITLE Special Needs Child Adoption Tax Credit      SB \_\_\_\_\_

ANALYST Francis

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$540.0)	(\$540.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Taxation and Revenue Department

### SUMMARY

#### Synopsis of Bill

The House Consumer and Public Affairs Committee substituted House Bill 973 which enacts a new credit against personal income tax liability for taxpayers who adopt a special needs child up to \$1,000. The credit is refundable meaning if the credit exceeds liability then the excess is refunded to the taxpayer. The credit can be claimed for each year that the taxpayer claims the special needs child as a dependent on their federal income tax return.

A special needs adopted child is an individual (who may be over 18 years old) who is certified by the Children Youth and Families Department (CYFD) as meeting the definition of “difficult to place,” with the caveat that if the classification is based on a physical or mental impairment or an emotional disturbance that impairment or disturbance shall be at least moderately disabling.

The effective date is January 1, 2007.

It appears the substitute was to make the language identical to the executive’s proposal.

## FISCAL IMPLICATIONS

### TRD:

In tax year 2004, exemptions allowed under present law totaling approximately \$1.2 million were claimed on slightly over 300 New Mexico tax returns, and thus averaged approximately \$4,000 per return. Taxpayers claiming the returns were subject to a tax rate of slightly over 5 percent. Hence the resulting "tax cost" to the State of New Mexico General Fund totaled approximately \$60,000 (i.e., \$1,200,000 x .05). The average tax benefit was approximately \$125 per child or 5% of \$2,500.

The recurring impact shown above assumes 350 households with 600 special needs children would get credits totaling \$600 thousand per year for an average benefit of \$1,700 per household. The \$540,000 recurring fiscal impact above is the difference between the estimated \$60,000 impact of the current program and the estimated \$600,000 annual impact of the proposed statute.

## SIGNIFICANT ISSUES

From Special-needs.adoption.com:

Over 100,000 children are waiting to be adopted right now out of the more than half million US children in foster care. The rest will eventually be reunited with birth families or will "age out" of the system while waiting to be reunited. Of the waiting children with special needs who are younger than school age, many are of minority race, and all of them are members of sibling groups, or have mild to severe disabilities, or are at risk of developing disabilities later due to risk factors. Some children have correctable problems. Others will "outgrow" their challenges. A few are remarkably resilient and will not develop expected problems. However, adoptive parents must be ready to face and deal with all types of outcomes, from the bleak to the near-miraculous.

[Cost of adoption]

The cost varies from place to place but the good news is that with careful planning, special needs adoption can be a low-cost or no-cost process. Most expenses involved in most of the authors' domestic special needs adoptions were reimbursed to them.

State or public adoption agencies do not usually charge for any special needs adoption service. Fees at private adoption agencies for adoption services vary widely from no charge at all to several thousand dollars, or more.

When a domestic special needs adoption takes place in a state offering "Purchase of Services", the state with custody of the child may pay some or all of the private adoption expenses for the adoptive parent or parents. This is how a private agency can afford to operate without charging the family a home study or placement fee. Adoptive parents should be sure and ask a private agency about "Purchase of Service adoptions."

In the U.S., up to \$2,000 of a family's one-time special needs adoption expenses are refundable for children who meet the requirements under the federal law. States may allow up to \$2,000 per child, or less, but not more. The expenses are reimbursed after the adoption has been completed. Adoptive parents should keep receipts for all expenses

from the home study to the cost of photo listing book subscriptions. They should be sure their agency participates in this refund program, and then be sure and request the necessary forms after placement has occurred but before the adoption is legally finalized. State and federal programs are also available to help parents with the cost of raising adopted children with special needs.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

It is likely that special-needs adoptions take place without regard to any tax credits or incentives so there is not likely to be a decline of these adoptions. However, the financial burdens are relieved to a small but significant extent with credits like this.

NF/nt