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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/08

SPONSOR Boitano LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Adoptive Parent Tax Credit SB 313

ANALYST Francis

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(1,125.0)	(750.0)	Recurring	General fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		10.0	10.0	20.0	Recurring	General Fund - CYFD

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Children Youth and Families Department (CYFD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 313 creates a new personal income tax credit of a maximum of \$500 for five years for taxpayers who adopt a child. The credit only applies to the taxpayer's current year liability. The adopted child must be 18 years or younger in the year the credit is claimed. The credit can be claimed for children adopted within the last five years.

The credit is available for tax years beginning on or after January 1, 2008.

## **FISCAL IMPLICATIONS**

### **TRD:**

The US Department of Health and Human Services reports that 289 children were adopted in New Mexico in 2005, 264 in 2004, 219 in 2003 and 274 in 2002. An average of 300 adoptions per year was used for these estimates. The credit is \$500 for each child adopted within the prior five tax years, which would result in a maximum of  $\$500 \times 300 \times 5 = \$750$  thousand claimed for tax year 2008 and each subsequent tax year. Tax year 2008 liability changes were assumed to affect only FY 2009 revenues. Tax year 2009 and subsequent year changes in liabilities were assumed to be evenly split across the two fiscal years included in the calendar year.

## **SIGNIFICANT ISSUES**

### **CYFD:**

The bill potentially impacts CYFD adoptive families. Although the bill adds a new section to the Income Tax Act it is unclear whether it will complement, change, or work with the Special Needs Adopted Child Tax Credit passed in the 2007 legislative session. The current special needs credit is more beneficial for families that adopt special needs children than the one proposed in this bill, while this credit appears to be for all adoptions, including private adoptions and adoptions by relatives or stepparents.

The special needs credit gives adoptive parents a \$1000 tax credit as long as the special needs adopted child is claimed on the taxpayer's New Mexico state taxes, and allows for a refund up to \$1,000 if the taxpayer has no state income tax liability. The special needs credit can be claimed as long as the adopted child is claimed as a dependent for federal income tax purposes.

This bill provides only a \$500 tax credit, but is applicable to all adoptions, including, but not limited to, private, grandparent, and stepparent adoptions. It only lasts for five tax years, if the child is eighteen or under during the aforementioned tax years. It is unclear whether families that adopt special needs children will be eligible for this \$500 per year for up to five years on top of the \$1,000 credit already contained within the tax code, whether the tax credit being proposed will replace or lower the benefits of the special needs tax credit, or whether this bill limits its benefits to non-special needs adoptions.

## **PERFORMANCE IMPLICATIONS**

TRD reports that the credit would be in addition to the special needs adoption credit of \$1000. CYFD reports most families who adopt children through CYFD Protective Services qualify for the special needs tax credit. The special needs adoption credit provides additional support to adoptive families and assists CYFD in improving placement stability and increasing the percentage of adoptions within 24 months. If this bill were construed to diminish the benefits to families who adopt special needs children, it would adversely impact performance measures related to adoption and placement stability.

## **ADMINISTRATIVE IMPLICATIONS**

CYFD would have some administrative impact as they update and prepare forms and educational

material. The agency estimates a \$10,000 administrative impact. TRD reports only minimal administrative impact.

**TECHNICAL ISSUES**

The credit is for “a maximum of \$500” but there is no qualifying expenditure so it is unclear how it could be less than \$500.

NF/mt