

HOUSE BILL 308

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Joshua N. Hernandez and Anthony Allison and Jenifer Jones
and Kathleen Cates and Linda Serrato

AN ACT

RELATING TO TAXATION; EXPANDING AN INCOME TAX CREDIT FOR THE
ADOPTION OF A SPECIAL NEEDS CHILD TO THE ADOPTION OF ANY CHILD;
INCREASING THE AMOUNT OF CREDIT.

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

SECTION 1. Section 7-2-18.16 NMSA 1978 (being Laws 2007,
Chapter 45, Section 10) is amended to read:

"7-2-18.16. CREDIT--~~[SPECIAL NEEDS]~~ ADOPTED CHILD TAX
CREDIT--CREATED--QUALIFICATIONS--DURATION OF CREDIT.--

A. A taxpayer who files an individual New Mexico
income tax return, who is not a dependent of another individual
and who ~~[adopts a special needs child on or after January 1,~~
~~2007 or]~~ has adopted a ~~[special needs]~~ child ~~[prior to January~~
~~1, 2007]~~ may claim a credit against the taxpayer's tax
liability imposed pursuant to the Income Tax Act. The credit

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1 authorized pursuant to this section may be referred to as the
2 "~~[special needs]~~ adopted child tax credit".

3 B. A taxpayer may claim and the department may
4 allow ~~[a special needs]~~ an adopted child tax credit in the
5 ~~[amount of one thousand dollars (\$1,000) to be claimed against~~
6 ~~the taxpayer's tax liability for the taxable year imposed~~
7 ~~pursuant to the Income Tax Act]~~ following amounts:

8 (1) for the adoption of a special needs child,
9 seven thousand dollars (\$7,000); and

10 (2) for the adoption of any other child, five
11 thousand dollars (\$5,000).

12 C. A taxpayer may claim ~~[a special needs]~~ an
13 adopted child tax credit for each year that the child may be
14 claimed as a dependent for federal taxation purposes by the
15 taxpayer.

16 D. If the amount of the ~~[special needs]~~ adopted
17 child tax credit due to the taxpayer exceeds the taxpayer's
18 individual income tax liability, the excess shall be refunded.

19 E. ~~[A husband and wife]~~ Married individuals who
20 file separate returns for a taxable year in which they could
21 have filed a joint return may each claim only one-half of the
22 ~~[special needs]~~ adopted child tax credit provided in this
23 section that would have been allowed on a joint return.

24 F. A taxpayer allowed a tax credit pursuant to this
25 section shall report the amount of the credit to the department

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1 in a manner required by the department.

2 G. The department shall compile an annual report on
3 the credit provided by this section that shall include the
4 number of taxpayers approved by the department to receive the
5 credit, the aggregate amount of credits approved and any other
6 information necessary to evaluate the credit. The department
7 shall present the report to the revenue stabilization and tax
8 policy committee and the legislative finance committee with an
9 analysis of the cost of the tax credit.

10 [~~F-~~] H. As used in this section:

11 (1) "child" means an individual under the age
12 of eighteen; and

13 (2) "special needs adopted child" means an
14 individual who may be over eighteen years of age and who is
15 certified by the children, youth and families department or a
16 licensed child placement agency as meeting the definition of a
17 "difficult to place child" pursuant to the Adoption Act;
18 provided, however, if the classification as a "difficult to
19 place child" is based on a physical or mental impairment or an
20 emotional disturbance, the physical or mental impairment or
21 emotional disturbance shall be at least moderately disabling."

22 **SECTION 2. APPLICABILITY.**--The provisions of this act
23 apply to taxable years beginning on or after January 1, 2023.