

**AMENDMENTS TO INDIVIDUAL INCOME TAX
CREDIT FOR SPECIAL NEEDS ADOPTIONS**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Parley G. Hellewell

LONG TITLE

General Description:

This bill modifies the Individual Income Tax Act relating to a tax credit for special needs adoptions.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "child who has a special need";
- ▶ provides that a taxpayer may not claim a tax credit if the taxpayer adopts a child of the taxpayer's spouse;
- ▶ grants rulemaking authority to the State Tax Commission to define "child of the taxpayer's spouse"; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for taxable years beginning on or after January 1, 2005.

Utah Code Sections Affected:

AMENDS:

59-10-133, as last amended by Chapter 63, Laws of Utah 2003



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **59-10-133** is amended to read:

30 **59-10-133. Tax credits for special needs adoptions.**

31 (1) ~~[For purposes of]~~ As used in this section, a "child who has a special need" means a
 32 child ~~[(a) for whom permanent custody has been awarded to the Utah Division of Child and
 33 Family Services; (b) who cannot or should not be returned to the home of the child's biological
 34 parents; and (c)]~~ who meets at least one of the following conditions:

35 ~~[(i)]~~ (a) the child is five years of age or older;

36 ~~[(ii)]~~ (b) the child:

37 (i) is under the age of 18 ~~[with]; and~~

38 (ii) has a physical, emotional, or mental disability; or

39 ~~[(iii)]~~ (c) the child is a member of a sibling group placed together for adoption.

40 (2) ~~[For]~~ Except as provided in Subsection (3), for taxable years beginning on or after
 41 January 1, ~~[2001]~~ 2005, a taxpayer who adopts a child who has a special need may claim on the
 42 taxpayer's individual income tax return for the taxable year a refundable credit of \$1,000
 43 against taxes otherwise due under this chapter for:

44 (a) adoptions for which a court issues an order granting the adoption on or after
 45 January 1, ~~[2001]~~ 2005;

46 (b) the taxable year during which a court issues an order granting the adoption; and

47 (c) each child who has a special need whom the taxpayer adopts.

48 (3) (a) Notwithstanding Subsection (2), a taxpayer may not claim a tax credit under this
 49 section if the taxpayer adopts a child of the taxpayer's spouse.

50 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 51 commission may by rule define "child of the taxpayer's spouse."

52 ~~[(3)]~~ (4) The credit provided for in this section may not be carried forward or carried
 53 back.

54 ~~[(4)]~~ (5) Nothing in this section shall affect the ability of any taxpayer who adopts a
 55 child who has a special need to receive adoption assistance under Section 62A-4a-907.

56 Section 2. **Retrospective operation.**

57 This bill has retrospective operation for taxable years beginning on or after January 1,
 58 2005.

Legislative Review Note

as of 12-16-04 12:11 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0125

Amendments to Individual Income Tax Credit for Special Needs Adoptions 24-Jan-05
8:59 AM

State Impact

Passage of this bill should have no fiscal impact as it reflects current practice.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst