

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide for a refundable adoption tax credit.

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IN THE SENATE OF THE UNITED STATES

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Mr. CASEY (for himself, Mr. CRAMER, Mr. BROWN, Mrs. CAPITO, Ms. DUCKWORTH, Mrs. FEINSTEIN, Mr. FETTERMAN, Mr. HAWLEY, Mrs. HYDE-SMITH, Mr. KELLY, Ms. KLOBUCHAR, Mr. LANKFORD, Mr. LUJÁN, Mr. RISCH, Mr. ROUNDS, Mr. RUBIO, Mr. SCOTT of South Carolina, Ms. STABENOW, Mr. VAN HOLLEN, Mr. WARNER, Ms. WARREN, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Internal Revenue Code of 1986 to provide for a refundable adoption tax credit.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Adoption Tax Credit  
5 Refundability Act of 2023”.

6 **SEC. 2. REFUNDABLE ADOPTION TAX CREDIT.**

7 (a) CREDIT MADE REFUNDABLE.—

1           (1) CREDIT MOVED TO SUBPART RELATING TO  
2 REFUNDABLE CREDITS.—The Internal Revenue  
3 Code of 1986 is amended—

4           (A) by redesignating section 23 as section  
5 36C, and

6           (B) by moving section 36C (as so redesignig-  
7 nated) from subpart A of part IV of subchapter  
8 A of chapter 1 to the location immediately be-  
9 fore section 37 in subpart C of part IV of sub-  
10 chapter A of chapter 1.

11           (2) CONFORMING AMENDMENTS.—

12           (A) Section 25(e)(1)(C) of such Code is  
13 amended by striking “sections 23 and 25D”  
14 and inserting “section 25D”.

15           (B) Section 36C of such Code, as so redesi-  
16 gnated, is amended—

17           (i) in subsection (b)(2)(A), by striking  
18 “(determined without regard to subsection  
19 (c))”,

20           (ii) by striking subsection (c), and

21           (iii) by redesignating subsections (d)  
22 through (i) as subsections (e) through (h),  
23 respectively.

24           (C) Section 137 of such Code is amend-  
25 ed—

1 (i) in subsection (d), by striking “sec-  
2 tion 23(d)” and inserting “section  
3 36C(e)”, and

4 (ii) in subsection (e), by striking “sub-  
5 sections (e), (f), and (g) of section 23” and  
6 inserting “subsections (d), (e), and (f) of  
7 section 36C”.

8 (D) Section 1016(a)(26) of such Code is  
9 amended by striking “23(g)” and inserting  
10 “36C(f)”.

11 (E) Section 6211(b)(4)(A) of such Code is  
12 amended by inserting “36C,” after “36B,”.

13 (F) The table of sections for subpart A of  
14 part IV of subchapter A of chapter 1 of such  
15 Code is amended by striking the item relating  
16 to section 23.

17 (G) Paragraph (2) of section 1324(b) of  
18 title 31, United States Code, is amended by in-  
19 serting “36C,” after “36B,”.

20 (H) Paragraph (33) of section 471(a) of  
21 the Social Security Act (42 U.S.C. 671(a)) is  
22 amended by striking “section 23” and inserting  
23 “section 36C”.

24 (I) The table of sections for subpart C of  
25 part IV of subchapter A of chapter 1 of the In-

1           ternal Revenue Code of 1986 is amended by in-  
2           serting after the item relating to section 36B  
3           the following new item:

“Sec. 36C. Adoption expenses.”.

4           (b) **THIRD-PARTY AFFIDAVITS.**—Section 36C(h) of  
5 the Internal Revenue Code of 1986, as redesignated and  
6 moved by subsection (a), is amended—

7           (1) by striking “such regulations” and inserting  
8           “such regulations and guidance”,

9           (2) by striking “including regulations which  
10          treat” and inserting “including regulations and  
11          guidance which—

12           “(1) treat”,

13           (3) by striking the period at the end and insert-  
14          ing “, and”, and

15           (4) by adding at the end the following:

16           “(2) provide for a standardized third-party affi-  
17          davit for purposes of verifying a legal adoption—

18           “(A) of a type with respect to which quali-  
19          fied adoption expenses may be paid or incurred,  
20          or

21           “(B) involving a child with special needs  
22          for purposes of subsection (a)(3).”.

23           (c) **EFFECTIVE DATE.**—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2022.

1           (d) TRANSITIONAL RULE TO TREAT CARRYFORWARD  
2 AS REFUNDABLE CREDIT.—In the case of any excess de-  
3 scribed in section 23(c) of the Internal Revenue Code of  
4 1986 with respect to any taxpayer for the taxable year  
5 which precedes the first taxable year to which the amend-  
6 ments made by this section apply, such excess shall be  
7 added to the credit allowable under section 36C(a) of such  
8 Code with respect to such taxpayer for such first taxable  
9 year.