

# DEPARTMENT OF TAXATION

## 2017 Fiscal Impact Statement

1. **Patron** Nicholas J. Freitas

3. **Committee** House Finance

4. **Title** Income Tax; Deduction and Credit for  
Certain Adoption Fees and Expenses

2. **Bill Number** HB 2027

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would create an individual income tax deduction equal to the lesser of \$35,000 or the amount actually paid by the taxpayer for fees and costs, including court costs and legal fees, associated with the legal adoption of a child within the Virginia foster care system. This bill would also create an individual income tax credit for any state-mandated fees paid, excluding any court costs or fees, related to the individual's adoption of a child within the Virginia foster care system.

The bill would be effective for taxable years beginning on or after January 1, 2017.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

## Revenue Impact

This bill would have an unknown negative General Fund revenue impact, beginning in Fiscal Year 2018. Currently, there are more than 5,000 children in Virginia's foster care system, more than 800 of which are currently ready for adoption. In Virginia, more than 60 percent of foster care youth are adopted by their foster parents.

The negative impact of this bill would depend on the number of qualifying adoptions and the expenses associated with such adoptions. There were 753 adoptions from foster care in Virginia in 2013. The impact of this bill would depend on the cost of such adoptions and whether such costs qualify for the tax credit or the deduction. Assuming that state-mandated fees of approximately \$2,500 per adoption cost would qualify for the tax credit, the negative revenue impact of the tax credit portion would be approximately \$1.9 million. The subtraction created under this bill has a cap of \$35,000. Although it is unlikely that an adoption from foster care would reach this cap, the maximum \$35,000 subtraction would have a revenue impact of approximately \$1,866 per taxpayer, or \$1.4 million for 753 adoptions.

### **9. Specific agency or political subdivisions affected:**

Department of Taxation

### **10. Technical amendment necessary: No.**

### **11. Other comments:**

#### Federal Law

Internal Revenue Code Section 23 allows an individual income tax credit for the amount of qualified adoption expenses paid or incurred by the taxpayer. "Qualified adoption expenses" are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child.

An "eligible child" is an individual who is under 18 years old, or is physically or mentally incapable of caring for himself or herself. In addition, the expenses cannot be in connection with the adoption of a spouse's child, nor can the expenses be reimbursed under an employer program or otherwise. Qualified adoption expenses include expenses paid by a registered domestic partner who lives in a state that allows same-sex second parent or co-parent to adopt his or her partner's child, as long as those expenses otherwise qualify for the credit.

For Taxable Year 2016, the maximum amount of the credit is \$13,460 per child. This credit begins to phase out for taxpayers with 2016 federal modified adjusted gross incomes in excess of \$201,920; and it is completely phased out for taxpayers with modified adjusted gross incomes of \$241,920 and greater.

## Proposal

This bill would create an individual income tax deduction equal to the lesser of \$35,000 or the amount actually paid by a taxpayer for fees and costs associated with the legal adoption of a child within the Virginia foster care system. These expenses would include court costs and fees and legal costs incurred by the taxpayer associated with the legal adoption of a child in the Virginia foster care system. For married taxpayers filing separately, the deduction would be allowed on only one return.

This bill would also create an individual income tax credit for any state-mandated fees paid, excluding any court costs or fees, related to the individual's adoption of a child within the Virginia foster care system. The tax credit would be permitted only for the taxable year in which the final order of adoption is entered by the circuit court. For married taxpayers filing separately, the credit would be allowed on only one return.

Taxpayers would not be permitted to claim both the tax credit and the deduction for the same fees and costs.

The bill would be effective for taxable years beginning on or after January 1, 2017.

cc : Secretary of Finance

Date: 1/19/2017 NM  
HB2027F161