

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Chris S. Runion

3. **Committee** House Finance

4. **Title** Adoption Tax Credit

2. **Bill Number** HB 1500

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would establish a nonrefundable income tax credit for individuals or married couples who finalize a legal adoption during the taxable year. The credit would be equal to qualified adoption expenses up to \$10,000. In the case of an adoption of a child with special needs, taxpayers will be treated as though they incurred \$10,000 in qualified adoption expenses and would be allowed to claim the maximum amount of the credit.

This bill would be effective for taxable years beginning on or after January 1, 2023, but before January 1, 2028.

6. Budget amendment necessary: Yes.

Item(s): Page 1, Revenue Estimates

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2023-24	(\$12.7 million)	GF
2024-25	(\$12.7 million)	GF
2025-26	(\$12.8 million)	GF
2026-27	(\$12.8 million)	GF
2027-28	(\$12.9 million)	GF
2028-29	(\$12.9 million)	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would have an estimated negative General Fund revenue impact of \$12.7 million in Fiscal Years 2024 and 2025, \$12.8 million in Fiscal Years 2026 and 2027 and \$12.9 million in Fiscal Years 2028 and 2029. According to the Children's Bureau of the U.S. Department of Health and Human Services, there were 2,452 children adopted in Virginia in 2019. Based on population growth projections and statistics on utilization of the federal adoption tax credit, it is assumed that approximately 2,500 adoptions will occur in the relevant taxable years and that the average Virginia credit claimed would be the same as the average federal credit amount claimed.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.**11. Other comments:**Sunset Dates for New Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the 2022 Appropriation Act provides that any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 Session, but prior to the 2024 Session, must have a sunset date of not later than June 30, 2025.

Proposed Legislation

This bill would establish a nonrefundable income tax credit for individuals or married couples who finalize a legal adoption during the taxable year. The credit would be equal to qualified adoption expenses up to \$10,000. In the case of an adoption of a child with special needs, taxpayers will be treated as though they incurred \$10,000 in qualified adoption expenses and would be allowed to claim the maximum amount of the credit.

This bill would define "child with special needs" as a child who:

- Virginia has determined cannot or should not be returned to the home of his parents;
- Virginia has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance; and
- Is a citizen or resident of the United States.

This bill would define "eligible child" as any individual who has not attained the age of 18 or is physically or mentally incapable of caring for himself.

This bill would define "qualified adoption expenses" 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 by the taxpayer;
- Not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement;
- Not expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse; and
- Not reimbursed under an employer program or otherwise.

Taxpayers would not be permitted to claim credits in excess of their income tax liability for the taxable year. Any unusable portion of the credit would be permitted to be carried forward by the taxpayer for up to five years or until the total credit amount is taken, whichever is sooner.

The Department would be required to develop guidelines, exempt from the provisions of the Administrative Process Act, implementing the tax credit.

This bill would be effective for taxable years beginning on or after January 1, 2023, but before January 1, 2028.

Similar Legislation

House Bill 1553 would establish a \$4,000 nonrefundable individual income tax credit for nonfamily adoptions.

cc : Secretary of Finance

Date: 1/26/2023 JLOF
HB1500F161