



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

INCOME TAX CREDIT FOR ADOPTION EXPENSES

House Bill 4812 (Substitute H-2)
Sponsor: Rep. Michael Switalski

House Bill 4852 (Substitute H-1)
Sponsor: Rep. Gary Woronchak

First Analysis (10-21-99)
Committee: Tax Policy

THE APPARENT PROBLEM:

Many people want to adopt children and many children want and need to be adopted. One potential barrier is cost, particularly the cost of private adoptions. Testimony before the House Tax Policy Committee suggests that adoptions can cost from \$3,000 to \$50,000. (The highest cost adoptions involve adopting in foreign countries.) Prospective parents must pay application and home evaluation fees, lawyer fees, and court costs, among other expenses. Typically, families that “acquire” children biologically have insurance to cover those costs (e.g., maternity coverage), but families adopting children must foot the bills themselves. And some adopted children come with expensive and unanticipated physical and mental health problems. One way to reduce the costs of adoption is through tax credits. The federal income tax law allows adoptive parents to claim a credit for certain adoption expenses, but the state income tax has no such credit. Some people have proposed creating a state income tax credit that would provide some assistance or reward to families adopting children. While such a credit would not provide an incentive to adopt, it would eliminate a barrier by helping with adoption expenses and would make a public policy statement on behalf of the state in favor of encouraging adoptions and providing stable home lives for children.

THE CONTENT OF THE BILLS:

The bills would amend the Income Tax Act (MCL 206.267 and 206.268) to permit a taxpayer to claim a credit for qualified adoption expenses equal to the amount of expenses or \$1,200 per child, whichever was less. The credit would be refundable (meaning that if the credit exceeded a taxpayer’s liability, it would be returned as a refund).

The credit would apply for the 1999 tax year and tax years thereafter and would be available to a person who

had claimed the adoption expenses credit under Section 23 of the federal Internal Revenue Code for the same tax year. The term “qualified adoption expenses” would refer to the expenses used to claim the federal credit.

House Bill 4812 would establish the \$1,200 per child limit. House Bill 4852 would provide the eligibility criteria. The two bills are tie-barred.

BACKGROUND INFORMATION:

The federal Internal Revenue Code provides a tax credit of up to \$5,000 for adopting a child under 18 or a person physically or mentally incapable of self-care. (The maximum is \$6,000 for a “special needs” child.) The federal credit is not refundable but has a five-year carryforward. The credit is phased out for people with adjusted gross incomes between \$75,000 and \$115,000. Qualifying adoption expenses under the federal act include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses directly related to, and whose principal purpose is for, the legal adoption of an eligible child. The credit is not available for surrogate parenting or for adopting a spouse’s child. After 2001, the credit will only be available for “special needs” adoptions. (Information from J.K. Lasser’s Your Income Tax 1999.)

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that overall the impact of the tax credit would be to lower revenues by about \$4.2 million annually. The HFA notes that in

1998, about 5,600 adoptions were completed. Of those, about 40 percent (2,233) were state-funded and required families to pay a \$100 filing fee. The other 60 percent (3,367) were paid for by adoptive parents. The average cost in 1997 for private adoptions was \$7,800. The credit has a \$1,200 maximum. (HFA Fiscal Note dated 10-18-99)

ARGUMENTS:

For:

The bill would encourage adoptions by removing a barrier for prospective adoptive parents. While people would not (and should not) adopt in order to gain a tax credit, the \$1,200 per child income tax credit might make the difference for some financially strapped prospective parents. Even for those who would adopt in any case, the bill would help to defray some of the (sometimes unanticipated) costs of adopting and immediately caring for a child. As noted earlier, adoptions can be expensive, and this legislation will offer some help and reward for socially beneficial behavior. The bill would make a pro-family public policy statement in favor of adoption and contribute to a climate in which more and more children can have a sense of permanency in a loving, stable home.

To the extent that adoptions reduce the number of children in foster care, this bill could reduce state foster care costs. The bill would piggy-back on a similar federal income tax credit.

Against:

Encouraging adoptions is a worthy cause, but the tax code may not be the best mechanism. If the state wants to help with adoption expenses, it would be better accomplished through the appropriations process. There are a great many worthy causes. If each one is addressed in the tax law, it will become increasingly unwieldy.

POSITIONS:

The Michigan Family Forum supports the bill. (10-19-99)

A representative of Forever Families testified in support of the bill. (10-19-99)

The Department of Treasury is opposed to the bill. (10-19-99)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.