**SCS Agency**
Franchise Tax Board

# SUMMARY ANALYSIS OF AMENDED BILL

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|---|---|---|---|---|---|
| Author: | Runner | Analyst: | Colin Stevens | Bill Number: | AB 119 |
| Related Bills: | See prior analysis | Telephone: | 845-3036 | Amended Date: | 3/12/97 |
| | | Attorney: | Doug Bramhall | Sponsor: | |

**SUBJECT**: Child Adoption Credit

X DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced January 14, 1997.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _________.

_____ FURTHER AMENDMENTS NECESSARY.

X DEPARTMENT POSITION CHANGED TO Neutral.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 14, 1997 STILL APPLIES.

_____ OTHER - See comments below.

## SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would allow a credit equal to the qualified costs paid or incurred by the taxpayer for the adoption of any qualified minor child, who is adopted by means of an agency adoption or an independent adoption during the taxable year. The credit amount may not exceed $1,000 per eligible qualified minor child.

## SUMMARY OF AMENDMENT

The March 3, 1997, amendments would:

- delete the requirement that the taxpayer claiming the credit adopt the child;
- change the operative date of the bill from January 1, 1997, to January 1, 1998;
- define costs that would qualify for this credit;
- determine the amount of the credit by reference to certain costs incurred in adopting a minor child;
- reduce the amount of other deductions or credits for costs upon which this credit is based;
- deny this credit for the adoption of a natural or adopted child of the spouse of the taxpayer;
- define minor children whose adoption would qualify a taxpayer for credit

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

| Department Director Position: | Agency Secretary Position: | GOVERNOR'S OFFICE USE |
|---|---|---|
| ____ S ____ O<br>____ SA ____ OUA<br>__X_ N ____ NP<br>____ NA ____ NAR<br>________ PENDING | ____ S ____ O<br>____ SA ____ OUA<br>____ N ____ NP<br>____ NA ____ NAR<br>DEFER TO ____________ | Position Approved ____<br>Position Disapproved ____<br>Position Noted ____ |
| Department/Legislative Director Date<br>Johnnie Lou Rosas 4/22/97 | Agency Secretary Date | By: Date: |

under this bill; and

- provide for an unlimited carryover of the credit.

With the exceptions noted below, the department's analysis of the bill as introduced January 14, 1997, still applies.

## EFFECTIVE DATE

This credit would apply to taxable years beginning on or after January 1, 1998.

## SPECIFIC FINDINGS

The discussion of federal and state law in the specific findings in the department's previous analysis of the bill as introduced January 14, 1997, still applies.

**This bill** would provide a credit equal to the qualified costs paid or incurred (not to exceed $1,000 for each minor child adopted) by a taxpayer for the adoption of any qualified minor child who is adopted by means of an agency adoption or in independent adoption, as defined.

**This bill** would define qualified costs as:

- fees for required services of a licensed adoption agency;
- travel and related expenses for the adoptive family that are related to the adoption process;
- medical fees and expenses for the adoptive family that are directly related to the adoption process; and
- attorney and court fees and expenses directly related to the adoption process.

**This bill** would define a qualified minor child as an unmarried minor child under 18 years of age on the date of adoption who is:

- a citizen of the United States who has either been present in California for a period of one year or more, excluding absences not to exceed 30 days, or if under one year of age on the date of adoption, was born in this state; and
- not a natural or adopted child of the spouse of the taxpayer prior to the adoption by the taxpayer.

**This bill** would define "agency adoption" and "independent adoption" by reference to the Family Code.

The credit authorized by this bill would be allowed to be claimed in the taxable year in which the decree or order of adoption is entered, including costs incurred in prior years.

Any deduction or credit otherwise allowed would be reduced by the amount of credit allowed under **this bill**.

In the case where the credit allowed exceeds the amount of net tax, the credit could be carried forward until exhausted.

### Policy Considerations

The March 12, 1997, amendments resolved the majority of the department's policy concerns. The following policy concerns remain unresolved.
Most credits are enacted with a sunset date so the Legislature may review its effectiveness. This credit does not contain a sunset date.

This credit does not limit the number of years the credit may be carried over.

The author's office has indicated that this bill should not allow a credit for costs which qualify for the existing state credit. However, this bill would allow a taxpayer who adopts a minor child to choose between the credit that would be allowed by this bill and the existing state credit.

## FISCAL IMPACT

### Tax Revenue Estimate

This proposal is estimated to impact PIT revenue as shown in the following table.

| Fiscal Year Cash Flow<br>Taxable Years Beginning After December 31, 1997<br>Enactment Assumed After June 30, 1997<br>$ Millions | | | |
|---|---|---|---|
| 1997-8 | 1998-9 | 1999-0 | 2000-01 |
| ($0.5) | ($4) | ($4) | ($5) |

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

### Tax Revenue Discussion

The revenue impact for this bill would be determined by the number of qualified adoptions made during any given taxable year, average qualifying costs, and the tax liabilities of claimants.

This amendment differs from the original version dated January 14, 1997 by eliminating intercountry adoptions. Also, the operative date has been changed to 1/1/98.

This estimate was developed in the following steps. First, the total number of adoptions by California residents was based on information received from Department of Social Services. During fiscal year 1994-5, there were approximately 6,088 adoptions in California, of which 1,850 were independent and 3,592 agency adoptions, for a base year number of 5,442 qualifying adoptions. Second, the total number of adoptions was increased 5% per year from 1994-95 to allow for growth and an incentive effect from both federal and state tax incentives. Third, the total number of adoptions was multiplied by $1,000. Thus, the total credit available would be approximately $6.6 million for fiscal year 1998-9 as projected (6,615 x $1,000). Fourth, it was assumed that, on average, taxpayers would be able to use 90% of the credit amount per year. Fifth, the credit amount applied under current state law for public agency adoptions was calculated to be $2 million for fiscal year 1998-9 (this amount was subtracted from the revenue loss estimated under this bill). These steps resulted in an 1998-9 fiscal year estimate of a $4 million tax revenue loss in addition to losses incurred under the current state adoption credit.

The assumption of a 90% usage rate is based on the assumption that those who adopt children generally have higher tax liabilities. It was also assumed that unapplied carryover credits would be exhausted in the subsequent year. Since taxpayers who qualify for the current law adoption credit of 50% of costs incurred, not to exceed $2,500, have the option of either claiming the proposed credit or the current state credit, it is assumed that taxpayers would claim this credit because current data shows an average credit amount of $700, based on 50% of average costs of $1,400. This bill would allow taxpayers a credit of 100% of costs, not to exceed $1,000. Thus, the average taxpayer would be allowed an additional $300 credit.