



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 2

TO: MEMBERS OF THE SPECIAL COMMITTEE ON ADOPTION AND TERMINATION OF PARENTAL RIGHTS LAW

FROM: Laura Rose, Deputy Director

RE: 2003-04 Legislation on Adoption Tax Credits

DATE: September 2, 2004

Two bills were introduced in the 2003-04 Legislative Session relating to creating a state adoption tax credit: 2003 Senate Bills 292 and 408. These bills were substantially similar, but only one of the bills, Senate Bill 408, passed the Senate. Therefore, only that bill is described in this Memo.

Senate Bill 408 passed the Senate on March 11, 2004, by a vote of Ayes, 30; and Noes, 2. The bill died in the Assembly. This Memo describes current law, and the version of the bill passed by the Senate.

### **CURRENT LAW**

Under current state law, an adoptive parent may deduct from federal adjusted gross income up to \$5,000 in expenses for adoption fees, and related court costs and legal fees, that are expended during a year and in the preceding two years.

Under current federal law, there is a nonrefundable adoption expenses tax credit. Up to \$10,000 of adoption expenses may be credited against the federal tax imposed. If adoption expenses are paid or incurred during a taxable year before the year when the adoption is finalized, the credit is allowed in the year following the year in which the expenses are paid or incurred. If the expenses are paid or incurred during or after the year when the adoption is finalized, the credit may be claimed in the year the adoption expenses are paid or incurred.

In addition, if the amount of credit for which the person is eligible exceeds the amount of taxes owed, the excess amount of credit may be carried forward for five years.

**2003 SENATE BILL 408**

2003 Senate Bill 408, introduced by Senator Reynolds, creates a \$5,000 adoption expenses state tax credit for qualified adoption expenses, to the extent that those expenses exceed the amount of the credit for which a claimant is eligible and claims under the federal credit in the year to which the claim relates. This credit is nonrefundable, and the unused balance of the credit may be carried forward for up to five years.

This credit applies to taxable years beginning on January 1, 2006.

LR:tlu