

2003-04 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Health, Children,
Families, Aging and
Long Term Care
(SC-HCFALTC)

Sample:

Record of Comm. Proceedings ... RCP

- 03hrAC-EdR_RCP_pt01a
- 03hrAC-EdR_RCP_pt01b
- 03hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ 03hr_sb0408

➤ Miscellaneous ... Misc

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

History of Senate Bill 408

SENATE BILL 408

An Act to create 71.07 (6e) and 71.10 (4) (ce) of the statutes; relating to: creating a nonrefundable individual income tax credit for certain adoption expenses. (FE)

2004

01-27. S. Introduced by Senator Reynolds.

01-27. S. Read first time and referred to committee on Health, Children, Families, Aging and Long Term Care 572

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**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2003 Senate Bill 408

**Senate Substitute
Amendment 1**

Memo published: February 11, 2004

Contact: Laura Rose, Deputy Director (266-9791)

Senate Substitute Amendment 1 to 2003 Senate Bill 408 relates to creating an income tax credit for adoption expenses.

Current law

Under current state law, an adoptive parent may deduct from federal adjusted gross income (AGI) 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.

Senate Bill 408

The bill creates a \$5,000 adoption expenses 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, 2004.

Senate Substitute Amendment 1

Senate Substitute Amendment 1 ends the current state tax deduction for adoption expenses for taxable years beginning on January 1, 2005, and makes the newly created income tax credit for adoption expenses (which is identical to the credit in the bill) first applicable for taxable years beginning January 1, 2005.

Legislative History

2003 Senate Bill 408 was introduced on January 27, 2004 by Senator Reynolds. Senate Substitute Amendment 1 was introduced on February 10, 2004 by Senator Reynolds.

LR:rv



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 11, 2004

TO: Senator Tom Reynolds
Room 306 South, State Capitol

FROM: Faith Russell and Yvonne Onsager

SUBJECT: Individual Income Tax-- Senate Substitute Amendment 1 to Senate Bill 408

At your request, I am providing information on Senate Substitute Amendment 1 to 2003 Senate Bill 408, which would replace the current state individual income tax deduction for adoption expenses with a state adoption expenses credit patterned after the federal adoption expenses credit. This memorandum provides: (a) descriptions of the current federal adoption expenses credit and the current state deduction for adoption expenses; (b) a description of SSA 1 to SB 408; and (c) a discussion of the fiscal effect of the substitute amendment.

Federal Adoption Expenses Credit

For tax year 2004, federal law allows taxpayers to claim an individual income tax credit of up to \$10,390 for qualified adoption expenses for each eligible child. Taxpayers who adopt a child with special needs may claim an adoption credit of \$10,390 regardless of actual expenses paid or incurred in the year the adoption becomes final. The credit is phased out for taxpayers with modified adjusted gross income (AGI) over \$155,860, and no credit is allowed to taxpayers with a modified AGI of \$195,860 or more. The amount of qualified adoption expenses and the modified AGI amount for the purpose of phasing out the adoption credit are adjusted for inflation each year. The credit is not refundable, but unused credits may be carried forward for up to five years to offset future tax liabilities.

"Qualified adoption expenses" include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of an eligible child. Expenses incurred in violation of state or federal law or in connection with the adoption of a child of the taxpayer's spouse are not eligible for the credit. Costs associated with a surrogate parenting arrangement are also ineligible for the credit.

An "eligible child" is an individual who has not attained the age of 18 as of the time of the adoption or who is physically or mentally incapable of caring for himself. A child with special needs is any child who cannot or should not be returned to the home of his or her parents and a specific factor or condition makes it reasonable to conclude that the child cannot be placed with adoptive parents unless assistance is provided, as determined by a state. Also, to qualify as a child with special needs, the child must be a citizen or resident of the U.S. The qualified adoption expense of a child, regardless of need, who is not a U.S. citizen or resident will not qualify for the adoption credit unless the adoption is final.

If adoption expenses are paid during a tax year prior to the tax year in which the adoption is finalized, the credit is allowed during the year the adoption is finalized. If adoption expenses are paid during or after the tax year in which the adoption is finalized, the credit is allowed for the tax year in which the expense is paid or incurred.

Taxpayers may not claim the credit for any expense for which another deduction or credit is allowed. This includes amounts excluded from gross income that are paid or incurred by an employer for the employee's qualified adoption expenses pursuant to an adoption assistance program. However, any adoption expenses incurred in excess of the amount provided under an employer's adoption assistance program may be used to claim the adoption credit.

Current State Income Tax Deduction for Adoption Expenses

Current state law allows a deduction from AGI under the individual income tax for adoption fees, court costs, or legal fees relating to the adoption of a child, for whom a final order of adoption has been entered in a Wisconsin court during the taxable year. The maximum amount that may be deducted is \$5,000, and the deduction is available for amounts expended during the period that consists of the year to which the claim relates and the prior two taxable years. The deduction only is allowed for full-year residents who are adoptive parents. It is estimated that the deduction reduces state individual income taxes by approximately \$200,000 per year.

Senate Substitute Amendment 1 to Senate Bill 408

SSA 1 to SB 408 would eliminate the current state income tax deduction for adoption expenses for tax years that begin after December 31, 2004.

Instead, beginning in tax year 2005, the substitute amendment would create a state adoption expenses credit under the individual income tax. The credit would be available to individuals who are eligible for, and claim, the federal tax credit for adoption expenses.

The state credit would be allowed 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. However, the amount claimed for the state credit could not exceed \$5,000. The credit would not be refundable. However, unused credits could be carried forward for up to five years to offset future income tax liabilities.

No credit would be allowed unless it is claimed within four years of the unextended due date of the tax return relating to the year for which the credit is claimed. The credit would be prorated for nonresidents and part-year residents based on the ratio of the taxpayer's Wisconsin AGI to federal AGI. Federal provisions relating to the adoption expenses credit would also apply to the state credit, unless the state provisions explicitly provide otherwise.

The Department of Revenue would be authorized to enforce the state adoption credit and could take any action, conduct any proceeding, and proceed as it is authorized in respect to income taxes. The income tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties would also apply to the adoption credit.

Fiscal Effect

According to the Department of Health and Family Services (DHFS), there were approximately 500 international adoptions by Wisconsin residents in 2002, at an average cost of \$18,000 to \$30,000. In addition, there were an estimated 746 domestic adoptions by Wisconsin parents, which are estimated to cost in excess of \$15,000. Therefore, it is estimated that 1,246 adoptions would have qualified for the \$5,000 maximum state credit in that year. Staff at DHFS believes that international adoptions will increase by about 10% annually, assuming continued access by Americans to children in foreign countries. The number of domestic adoptions is expected to remain steady. There were also over 1,000 public adoptions (children who were in foster care and adopted) and step-parent adoptions in Wisconsin in 2002. However, out-of-pocket costs associated with public adoptions are estimated to be well below the \$10,390 amount allowed under the federal credit, and step-parent adoptions are not eligible for the federal credit. Therefore, these types of adoptions would not be eligible for a state credit under the substitute amendment.

Based on this data, it is estimated that the substitute amendment would reduce individual income tax revenues by \$6.8 million in 2005-06. Over the next four years, the estimated cost of the credit would increase to \$7.1 million in 2006-07, \$7.5 million in 2007-08, \$7.9 million in 2008-09, and \$8.3 million in 2009-10. These estimates assume that 75% of the total allowable credits would be claimed in the year in which the adoption was finalized and that the remaining 25% would be claimed in the following year. They also account for anticipated growth in international adoptions.

We hope this information is helpful. Please contact us if you have additional questions

FR/YMO/lah

SB408

Halbur, Jennifer

From: Seaquist, Sara
Sent: Wednesday, February 11, 2004 4:12 PM
To: Halbur, Jennifer
Subject: FW: Pro-LifeWisconsinPressRelease: Senate Committee to Hear Adoption Tax Credit CR email...

-----Original Message-----

From: Prolifewis@aol.com [mailto:Prolifewis@aol.com]
Sent: Wednesday, February 11, 2004 3:50 PM
To: info@prolifewisconsin.org
Subject: Pro-LifeWisconsinPressRelease: Senate Committee to Hear Adoption Tax Credit Bill

PRO-LIFE WISCONSIN
 State Office, P. O. Box 221
 Brookfield, WI 53008
www.prolifewisconsin.org

FOR IMMEDIATE RELEASE
 February 11, 2004

Contacts: Peggy Hamill, State Director
 Matt Sande, Legislative Affairs Director
 (262) 796-1111 or info@prolifewisconsin.org

Senate Committee to Hear Adoption Tax Credit Bill
Bill would increase adoptions and save lives,
says Pro-Life Wisconsin

The Senate Health Committee will hold a public hearing Thursday at the State Capitol on legislation that creates an individual income tax credit for adoption expenses. When added to the existing federal credit, Senate Bill (SB) 408 could provide prospective adoptive families with up to \$15,000 for qualified adoption expenses.

The costs of adoption are often prohibitive for families in Wisconsin and across the nation. The *National Adoption Information Clearinghouse (NAIC)* reports that adoption expenses can range from **zero to \$30,000** depending on the method of adoption.

"It is no exaggeration to say that the fate of SB 408 could financially make or break the decision of many families in Wisconsin to adopt a child," said Matt Sande, Pro-Life Wisconsin's director of legislative affairs. "Pro-Life Wisconsin enthusiastically supports all efforts to facilitate the life-saving alternative of adoption. SB 408 is another big step in the right direction."

The bill, authored by State Senator Tom Reynolds (R-West Allis), creates a nonrefundable individual state income tax credit for qualified adoption expenses (up to \$5,000) incurred by an individual who claims the federal credit to \$10,000). Ingrid Schlueter, a program coordinator for *Sunshine Adoption, Inc.* in Elm Grove, Wis., and founder of the *For the Children Adoption Information* website, plans to testify along with Sande in support of SB 408. Schlueter and her husband are parents of two adopted children.

"The costs of adoption, both domestic and international, often create a chasm that is unbridgeable between children who need families and families who want them so desperately," said Schlueter. "Without a doubt, the creation of a state tax-credit would open the door of opportunity for children and families in a new way."

"Making adoption a viable alternative for families promotes the culture of life," added Sande. "If a young woman

struggling with an unplanned pregnancy knows that adoption is a readily available option for many families, she is ever more likely to spare her baby from abortion. Perhaps she is aware that there are married couples within her own circle of family and friends who are already processed and desperately waiting for a child. Such awareness could greatly encourage her to share the gift of life with someone close to her."

Pro-Life Wisconsin is encouraging the Senate and Assembly to quickly pass SB 408 before the close of the 2003-04 legislative session.

-30-

SB 408

Halbur, Jennifer

From: Seaquist, Sara
Sent: Wednesday, February 11, 2004 5:52 PM
To: Halbur, Jennifer
Subject: FW: WI. Right to Life News Release
 CR email...

-----Original Message-----

From: Legislative [mailto:legis@wrtl.org]
Sent: Wednesday, February 11, 2004 5:46 PM
To: Legislative
Subject: WI. Right to Life News Release

This news release is meant for release to the media on Thursday, February 12.

Wisconsin Right to Life NEWS RELEASE

10625 W. North Avenue, Milwaukee, WI 53226
 414-778-5780 or toll free: 877-855-5007

For immediate release: Thursday, February 12, 2004

Contact: Susan Armacost, Legislative Director

Sen. Reynold's Adoption Tax Credit Bill Has Great Merit

Will Receive Public Hearing Today

Senator Tom Reynolds (R-West Allis) has authored legislation (SB 408) that would provide an individual income tax credit for adoption expenses. The Reynolds measure will receive a public hearing today before the Senate Health Committee.

"When Senator Reynolds contacted us last year about his plans to draft this legislation, we were extremely enthusiastic," said Susan Armacost, Legislative Director for Wisconsin Right to Life. **"There is much work that needs to be done in the area of adoption, not only from the perspective of those who wish to adopt a child but also from the perspective of the other parties involved in the adoption process. Senator Reynold's legislation addresses one of the many important adoption-related issues that need resolution."**

Last year, Armacost represented Wisconsin Right to Life as a member of a special study committee that examined a number of issues surrounding the adoption process. Wisconsin Right to Life has long promoted adoption as a loving and compassionate alternative to abortion and has supported numerous proposals throughout the years to enhance the adoption process.

The Reynolds proposal would create a nonrefundable individual state income tax credit up to \$5,000.00 for those who also claim a federal credit. The federal credit can amount to as much as \$10,000.

"Adoption can be extremely expensive," said Armacost. **"Senate Bill 408 would be of great benefit to those going through the adoption process."**

02/12/2004

AB 560

Halbur, Jennifer

From: Seaquist, Sara
Sent: Thursday, February 12, 2004 9:40 AM
To: Halbur, Jennifer
Subject: phone call

Importance: High

Robert Phillips, #715-615-7098. Please call w/ ?s. He called re: AB 560.

From Marshfield Clinic- they have a health plan. They are appreciate of amendment from Vukmir to allow delay til 2008. They would like to eliminate on page 3, section 2c...

pharmaceutical co require DEA #. If they can't use this #, it will interfere w/ indigent drugs (?)

Jennifer, I have NO idea what he was talking about...he went on and on about this bill and I truly didn't have any idea what he was saying...so I suggest you call him if his message is important (sorry!).

JH called 2/12/04

Senate Bill 408

RELATING TO CREATING A NONREFUNDABLE INDIVIDUAL INCOME TAX CREDIT FOR CERTAIN ADOPTION EXPENSES.

- This bill creates a nonrefundable individual income tax credit for adoption expenses incurred by an individual who is eligible for, and claims, the federal credit.
- The credit may be claimed for an amount of qualified adoption expenses, up to \$5,000.
- Senator Reynolds will testify.
- If you choose to exec this bill today, Senator Reynolds has given me an amendment that he would like introduced. The amendment changes the effective date of the bill so that the credit could not be claimed until the next biennium.

Sen Reynolds has submitted the amendment, therefore the committee needs to vote for adoption - not introduction of adoption.

His amendment is located right after the bill in binder

SB408

Subst. amend

credit to adoption
go back to the orig Sub B4 the comm.
deframp cost

Sen. subst. 1 16-0

delay effect date

starting in 2006

deduct. not avail start in 2006

provide ind vic. for \$,000 for
adoption - expenses that not
exceed ~~for~~ claims for fed
tax credits

existing deduct. through 2005, then
credit starts in 2006

credit based on tot cost of adoption

WI residents

tax credit avail for all domestic intl
can't use entire credit - up to 5 yrs
to apply liability

~~20,000~~ 5,000 total - 5,000 1st year
1,000 for 5 years

special needs

Vote Record

Committee on Health, Children, Families, Aging and Long Term Care

Date: 2/12

Moved by: JW

Seconded by: CR

Bull SB 408

AB _____ SB _____ Clearinghouse Rule _____

AJR _____ SJR _____ Appointment _____

AR _____ SR _____ Other _____

as amended amended

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Carol Roessler, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Welch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Judith Robson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Charles Chvala	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Jauch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>4</u>	_____	_____

Motion Carried

Motion Failed

Vote Record

Committee on Health, Children, Families, Aging and Long Term Care

Date: 2/12

Moved by: Schultz

Seconded by: CK

83

408

Sub amendment

adoption

AB _____ SB _____ Clearinghouse Rule _____

AJR _____ SJR _____ Appointment _____

AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

Passage Adoption Confirmation Concurrence Indefinite Postponement

Introduction Rejection Tabling Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Senator Carol Roessler, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Welch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Dale Schultz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Judith Robson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Charles Chvala	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Jauch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	9	0	_____	_____

Motion Carried Motion Failed

Pro-Life Wisconsin



Defending them all...

P.O. Box 221, Brookfield, WI 53008-0221
Phone (262) 796-1111 Fax (262) 796-1115
info@prolifewisconsin.org www.prolifewisconsin.org

Testimony in Support of SB 408: Adoption Expenses Tax Credit
Senate Health, Children, Families, Aging and Long-Term Care Committee
By Matt Sande, Director of Legislative Affairs

February 12, 2004

Good morning Chairperson Roessler and Committee members. My name is Matt Sande and I serve as legislative affairs director for Pro-Life Wisconsin. With me is Ingrid Schlueter, a program coordinator for *Sunshine Adoption, Inc.* in Elm Grove, Wisconsin. She is also creator of the *For the Children Adoption Information* website.

Thank you for this opportunity to speak in favor of Senate Bill (SB) 408, legislation that would create a nonrefundable individual state income tax credit for adoption expenses. When added to the existing federal credit, SB 408 could provide prospective adoptive families up to \$15,000 for qualified adoption expenses. It is no exaggeration to say that the fate of SB 408 could financially make or break the decision of many families in Wisconsin to adopt a child. **Pro-Life Wisconsin enthusiastically supports all efforts to facilitate the life-saving alternative of adoption. SB 408 is another big step in the right direction.**

The costs of adoption are often prohibitive for families in Wisconsin and across the nation. The *National Adoption Information Clearinghouse (NAIC)* reports that adoption expenses can range from **zero to \$30,000** depending on the method of adoption:

Domestic Public Agency Adoptions

Most public agencies place only children with special needs, which is defined differently in each state. Up-front fees and expenses range from **zero to \$2,500**, including travel and attorney's fees.

Domestic Private Agency Adoptions

Licensed private agencies charge fees ranging from **\$4,000 to \$30,000**, which includes the costs for birth parent counseling, adoptive parent home study and preparation, child's birth expenses, post-placement supervision until the adoption is finalized, and a portion of agency costs for overhead and operating expenses.

Domestic Independent Adoptions

Adoptive families who pursue independent adoptions report spending **\$8,000 to \$30,000** and more depending on several factors. Costs for advertising for birth parents can be in the \$5,000 range. Adoptive parents may find that they pay birth parent expenses for birth parents who then change their mind and that money is not reimbursed.

(over)

Intercountry Private Agency or Independent Adoptions

Fees for intercountry adoption range from \$7,000 to \$25,000, including agency fees, dossier and immigration processing fees, and court costs. Additional costs may include: 1) child foster care; 2) parents' travel and in-country stay to process the adoption abroad; 3) escorting fees, charged when parents do not travel, but instead hire escorts to accompany the child on the flight to the parents' country; and 4) child's medical care and treatment.

Making adoption a viable alternative for families promotes the culture of life. For example, if a young woman struggling with an unplanned pregnancy knows that adoption is a readily available alternative for many families, she is ever more likely to spare her baby from abortion. Perhaps she is aware that there are married couples within her own circle of family and friends who are already processed and desperately waiting for a child. Such awareness, again, could greatly encourage her to share the gift of life with someone close to her. Put simply, the more adoptive families that are out there, the more lives that will be saved.

Pro-Life Wisconsin is very confident that SB 408 will dramatically increase the number of adoptive families in Wisconsin, and we urge you to quickly pass this bill before the legislative session concludes. Now I would like to introduce Ingrid Schlueter who has been a long time advocate for waiting children and whose professional and personal experience as an adoptive parent will help to shed some light on the often frustrating adoption process.

Thank you for your consideration of this important legislation, and we would both be happy to answer any questions upon the conclusion of Ingrid's testimony.



Sunshine Adoption, Inc.

A licensed, non-profit child placement agency

910 Elmgrove Road, Suite 34 Elmgrove, WI 53122
Phone 262-796-9898 Fax 262-796-9897
Email sunshineadopt@sbcglobal.net

Testimony in Support of SB 408: Adoption Expenses Tax Credit
Senate Health, Children, Families, Aging and Long-Term Care Committee
By Ingrid Schlueter, Sunshine Adoption, Inc.

February 12, 2004

Good morning, Chairperson Roessler and Committee members. My name is Ingrid Schlueter and I am a program coordinator for *Sunshine Adoption, Inc.* in Elm Grove Wisconsin. I am also founder of the *For the Children Adoption Information* website which offers an array of information for families on their adoption journeys. My husband and I are the parents of two adopted children. As an adoptive parent, I am excited and encouraged by the introduction of SB 408 which would provide a state tax credit for adoptive families.

As Matt Sande has articulated so well, the costs of adoption can be staggering. Our family was confronted with these costs when we sought to adopt our two children. In 1998, there was a \$5,000 federal tax credit available to adoptive families, and I remember so clearly the role that that tax credit played in the life of our family. My husband had just returned from Romania with our toddler daughter in June of that year. It was an enormous struggle to come up with the money necessary to complete her adoption. Our desire had been to adopt two children. Shortly after my husband's return from Romania, we learned of a 12-year-old boy in Bulgaria who was in urgent need of a family. This young boy had suffered all of his life from brittle bone disease and had undergone numerous fractures and surgeries. He would repeatedly stand outside the orphanage director's office when the adoption attorney would come, hoping that someone had chosen him at long last. But no one had ever come for him. When we learned this boy's time was running out to find a family, we prayed about whether we should add him to our family. But our finances were strained due to our other adoption and we didn't know how to make it happen.

Then our adoption agency reminded us of the \$5,000 federal tax credit that would apply to his adoption, and when we found out the fees for adoption were reduced our decision was made.

In October of 1998, the day for which Jonathan had waited for so long finally came and his new Dad arrived at the orphanage. Jonathan reached out and took hold of my husband's hand that day at the orphanage and a new life for this wonderful boy began. Today, Jonathan is a hard working high-school student, a part-time employee and an American citizen who is looking forward to voting for the first time in the next election. He is a computer whiz and his future is a bright one. Jonathan's journey from hopelessness and

despair to love and hope for a future was possible because we were able to adopt him and share what God has given us. The help afforded by the tax credit available at that time made it all possible.

I have spoken with countless other couples over the years who long to make the same difference in the life of a child. But the costs of adoption, both domestic and international, often create a chasm that is unbridgeable between children who need families and families who want them so desperately. **Without a doubt, the creation of a state tax-credit would open the door of opportunity for children and families in a new way.** Coupled with the federal tax credit which is now \$10,000, the Wisconsin tax credit would allow many families who have previously been unable to consider adoption, to reach out and build their families in this way. The combined federal/state tax credit of \$15,000 will help make adoption a reality for many more families and children.

Each child that is brought into a loving family represents hope for our society. By passing SB 408, that hope will be greatly strengthened here in Wisconsin.

Thank you.

Ingrid Schlueter
Bulgarian Program Coordinator
Sunshine Adoption, Inc.

Testimony of Senator Tom Reynolds
Before the Senate Committee on Health, Children, Families, Aging and Long Term Care
On Senate Bill 408, Nonrefundable Adoption Expenses Tax Credit
February 12, 2004

Thank you Madam Chair and Members.

According to the Department of Health and Family Services, Wisconsin families adopted more than 1,250 children in 2002. Nearly 750 of those children were adopted domestically – many from birthparents in Wisconsin. The average cost to those families of an international adoption ranged from \$18,000 to a stunning \$30,000. Adoptions of US-born children were a relative bargain, with costs exceeding \$15,000 each.

Rightfully, the adoption of children in this state is not an easy process. Prospective adoptive parents are rigorously screened in a process called the “home study.” Their physical and emotional health are scrutinized. Their relationships with each other, and with members of their extended family are studied. They undergo drug tests. Their financial fitness is examined, much as it might be if they were applying for a mortgage. And the structure they intend to use as the “forever home” for their new son or daughter is checked for safety and suitability.

All of this is done for one reason: to assure that the child who is eventually placed with that family will grow in a loving, stable, and safe home with sufficient resources to provide for the child’s needs.

Adoption should never be so easy that it can be entered into flippantly. It is, however, in the interest of these children that adoption not become too great a financial burden for families to bear. Wisely, lawmakers in the past provided a state income tax deduction of up to \$5,000 to help defray a small portion of the significant cost of adoption. This met the need at a time when the average adoption costs were a fraction of today’s expenses. Under the current law, however, a taxpayer claiming the maximum benefit under the current deduction would get a tax break of about \$350.

The substitute amendment before you today, Senate Substitute Amendment 1, improves upon this by replacing the existing deduction with a state income tax credit of up to \$5,000 for adoption expenses. Put simply, this allows the average adoptive parent (or couple filing jointly) to offset, on a dollar-for-dollar basis, up to \$5,000 of the cost of their adoption of a child. This credit, combined with the \$10,000 federal adoption tax credit, provides real relief for folks who have undertaken the difficult, expensive and sometimes heart-rending process of adopting a child.

~~*~~ The state credit piggy-backs on the federal one. This means that an adoption costing \$13,000 would be eligible for \$10,000 of federal credit, and \$3,000 in state income tax credit. The definitions of qualified adoption expenses and other issues of eligibility in the

bill are borrowed directly from the federal tax law. This makes compliance easy for adoptive parents, and simplifies administration of the new tax law for the state.

It is important to point out that the state adoption tax credit in this bill is nonrefundable. In this bill, we're not paying people out of the GPR fund to adopt children. But, as with the federal law, adoptive parents may carry unused portions of the credit forward for up to five years. So, if an adoptive couple has a \$1,000 state income tax liability in every tax year and an adoption that cost \$15,000, they can claim \$1,000 of the credit for each of the five successive tax years. This avoids the outright subsidy of private adoptions, while providing the full measure of tax relief available to adoptive parents.

Speaking of budgetary issues, there had been some serious concern about the impact of the original bill, which would have applied the new credit to the 2004 tax year.

 Substitute Amendment 1 defers the onset of the new credit to tax year 2005. The impact of the foregone tax revenue will not be felt by the treasury until 2006, according to the Fiscal Bureau. This allows the Legislature to work on the next budget with the impact of the bill included in the revenue projections, instead of hitting the current budget with a shortfall. Common sense also tells us that children who are adopted into well-screened, homes that have been verified for financial stability are less likely to require costly social services and subsidies. While the value of these forgone programs is impossible to quantify, one can presume that this would work to offset, to some degree, the fiscal impact of the legislation.

Chair Roessler and members, the biennium is growing short. As you know, this legislation will have to go to the Finance Committee before it can be considered by the full Legislature. This legislation is supported by Lutheran Social Services of Wisconsin, Wisconsin Right to Life, and Pro-Life Wisconsin, among others. I would encourage this committee to act quickly to adopt Senate Substitute Amendment 1 and to recommend SB 408 for passage as amended. Thank you for your time.

03-08-2004

Senate Bill 408... relating to: relating to: creating a nonrefundable individual income tax credit for certain adoption expenses. (FE)

BILL SPONSORS

Introduced by Senator **Reynolds**.

BILL HISTORY

Senate Bill 408 was introduced and referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care on January 27, 2004. A public hearing and executive session were held on February 12, 2004. The Committee adopted and introduced Senate Substitute Amendment 1 on a vote of 9-0.

The Committee recommended passage of SB 408, as amended, 5-4 (Brown, Robson, Chvala, and Jauch).

LRB ANALYSIS

Current Law:

In calculating an individual's Wisconsin adjusted gross income (AGI), an adoptive parent may generally, under current law, deduct from federal AGI up to \$5,000 that is expended during the year to which the claim relates and the preceding two years for adoption fees, court costs, or legal fees relating to the adoption of a child.

Under federal law, there is a nonrefundable adoption expenses tax credit, under which amounts of up to \$10,000 of qualified adoption expenses may, generally, be credited against the federal tax that is imposed. The Internal Revenue Code (IRC) defines qualified adoption expenses to mean, generally, reasonable and necessary adoption fees, court costs, attorney fees, and other costs that are directly related to the legal adoption of an eligible child by the taxpayer, and defines eligible child to mean an individual under age 18 or physically or mentally incapable of caring for himself.

Federal law provides that, if adoption expenses are paid or incurred during a taxable year before the taxable year in which the adoption is finalized, the credit for those expenses is allowed during the year following the year during which the expenses are paid or incurred, and, if the expenses are paid or incurred during or after the year in which the adoption becomes final, the credit for those expenses may be claimed for the year in which they are paid or incurred.

If the amount of the federal credit for which a taxpayer is eligible exceeds the amount of taxes owed, the excess amount of credit may be carried forward for up to five years. The \$10,000 limit is for each child adopted and is a cumulative limit. The amount of the credit that may be claimed is phased out to zero as the claimant's modified federal AGI income rises from \$150,001 to \$190,000. With regard to the adoption of a child who is not a citizen or resident of the United States at the time that the adoption proceedings commence, the credit may be claimed only upon the adoption becoming final.

Proposed Changes:

This bill creates a nonrefundable individual income tax credit for adoption expenses incurred by an individual who is eligible for, and claims, the federal credit. The credit may be claimed for an amount of qualified adoption expenses, up to \$5,000, to the extent that the expenses exceed the amount that the claimant is eligible for, and claims, under the federal credit. For claimants who are nonresidents or part-year residents of Wisconsin, the credit that may be claimed is prorated based on the ratio of

	<p>the claimant's Wisconsin AGI to federal AGI.</p> <p>If the credit amount that the claimant is eligible for exceeds the claimant's taxes due, the claimant may carry forward the unused credit for up to five years. Generally, under the bill, the provisions of the federal credit, including the definitions of qualified adoption expenses and eligible child, the maximum income phase out provisions, the determination of the years in which the credit may be claimed for expenses paid or incurred, and the provisions relating to foreign adoptions apply to the credit created in the bill.</p> <p>Major Impact: The bill creates a \$5,000 adoption expenses 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.</p>
AMENDMENT	<p>Senate Substitute Amendment 1 to SB 408: Senate Substitute Amendment 1 ends the current state tax deduction for adoption expenses for taxable years beginning on January 1, 2005, and makes the newly created income tax credit for adoption expenses (which is identical to the credit in the bill) first applicable for taxable years beginning January 1, 2005.</p>
FISCAL IMPACT	<p>Department of Revenue The DOR would incur one-time costs of \$18,700 for computer programming. The Department indicates on the fiscal note that it can absorb this cost. Revenue loss in FY05 on tax year 2004 claims is estimated to be \$5.1million. The revenue loss in FY 06, on 2005 claims plus carry over credits from 2004, would be \$7.0 million.</p> <p><i>This fiscal estimate does not recognize Senate Substitute Amendment 1, adopted by the Senate Committee on Health, Children, Families, Aging and Long Term Care.</i></p>
SUPPORT	<p>The following people appeared in favor of this bill: (1) Steve Krieser, Senator Tom Reynold's Office, Madison; (2) Matt Sande, Pro-Life Wisconsin, Cambridge; and (3) Ingrid Schlueter, Sunshine Adoption, Inc, Wauwatosa.</p> <p>The following people registered in favor of this bill: (1) Katherine Ribnek, Pro Life Wisconsin, Brookfield; (2) Liz Buchen, Lutheran Social Services, Madison; (3) Kathy Markeland, Wisconsin Catholic Conference, Madison; and (4) Susan Armacost, Wisconsin Right to Life, Milwaukee.</p>
OPPOSITION	<p>No one appeared or registered in opposition to this bill.</p>
CONTACT	<p>Jennifer Halbur, Senator Carol Roessler, 266-5300</p>
DATE	<p>March 8, 2004</p>

SB408



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

March 9, 2004

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Substitute Amendment 1 to Senate Bill 408: Adoption Tax Credit

Senate Bill 408 would provide a credit against the individual income tax for certain adoption expenses. SB 408 was introduced on January 27, 2004, and referred to the Senate Committee on Health, Children, Families, Aging, and Long Term Care. On February 17, 2004, that Committee recommended passage of Senate Substitute Amendment 1 to SB 408 on a vote of 5 to 4. The substitute amendment was referred to the Joint Committee on Finance on February 26, 2004.

BACKGROUND

Federal Adoption Expenses Credit

For tax year 2004, federal law allows taxpayers to claim an individual income tax credit of up to \$10,390 for qualified adoption expenses for each eligible child. Taxpayers who adopt a child with special needs may claim an adoption credit of \$10,390 regardless of actual expenses paid or incurred in the year the adoption becomes final. The credit is phased out for taxpayers with modified adjusted gross income (AGI) over \$155,860, and no credit is allowed to taxpayers with a modified AGI of \$195,860 or more. The amount of qualified adoption expenses and the modified AGI amount for the purpose of phasing out the adoption credit are adjusted for inflation each year. The credit is not refundable, but unused credits may be carried forward for up to five years to offset future tax liabilities.

"Qualified adoption expenses" include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of an eligible child. Expenses incurred in violation of state or federal law or in connection with the adoption of a child

of the taxpayer's spouse are not eligible for the credit. Costs associated with a surrogate parenting arrangement are also ineligible for the credit.

An "eligible child" is an individual who has not attained the age of 18 as of the time of the adoption or who is physically or mentally incapable of caring for himself. A child with special needs is any child who cannot or should not be returned to the home of his or her parents and a specific factor or condition makes it reasonable to conclude that the child cannot be placed with adoptive parents unless assistance is provided, as determined by a state. Also, to qualify as a child with special needs, the child must be a citizen or resident of the U.S. The qualified adoption expense of a child, regardless of need, who is not a U.S. citizen or resident will not qualify for the adoption credit unless the adoption is final.

If adoption expenses are paid during a tax year prior to the tax year in which the adoption is finalized, the credit is allowed during the year the adoption is finalized. If adoption expenses are paid during or after the tax year in which the adoption is finalized, the credit is allowed for the tax year in which the expense is paid or incurred.

Taxpayers may not claim the credit for any expense for which another deduction or credit is allowed. This includes amounts excluded from gross income that are paid or incurred by an employer for the employee's qualified adoption expenses pursuant to an adoption assistance program. However, any adoption expenses incurred in excess of the amount provided under an employer's adoption assistance program may be used to claim the adoption credit.

Current State Income Tax Deduction for Adoption Expenses

Current state law allows a deduction from AGI under the individual income tax for adoption fees, court costs, or legal fees relating to the adoption of a child, for whom a final order of adoption has been entered in a Wisconsin court during the taxable year. The maximum amount that may be deducted is \$5,000, and the deduction is available for amounts expended during the period that consists of the year to which the claim relates and the prior two taxable years. The deduction only is allowed for full-year residents who are adoptive parents. It is estimated that the deduction reduces state individual income taxes by approximately \$200,000 per year.

SUMMARY OF SUBSTITUTE AMENDMENT 1

SSA 1 to SB 408 would eliminate the current state income tax deduction for adoption expenses for tax years that begin after December 31, 2004.

Instead, beginning in tax year 2005, the substitute amendment would create a state adoption expenses credit under the individual income tax. The credit would be available to individuals who are eligible for, and claim, the federal tax credit for adoption expenses.

The state credit would be allowed 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. However, the amount claimed for the state credit could not exceed \$5,000. The credit would not be refundable, but unused credits could be carried forward for up to five years to offset future income tax liabilities.

No credit would be allowed unless it is claimed within four years of the unextended due date of the tax return relating to the year for which the credit is claimed. The credit would be prorated for nonresidents and part-year residents based on the ratio of the taxpayer's Wisconsin AGI to federal AGI. Federal provisions relating to the adoption expenses credit would also apply to the state credit, unless the state provisions explicitly provide otherwise.

The Department of Revenue would be authorized to enforce the state adoption credit and could take any action, conduct any proceeding, and proceed as it is authorized in respect to income taxes. The income tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties would also apply to the adoption credit.

FISCAL EFFECT

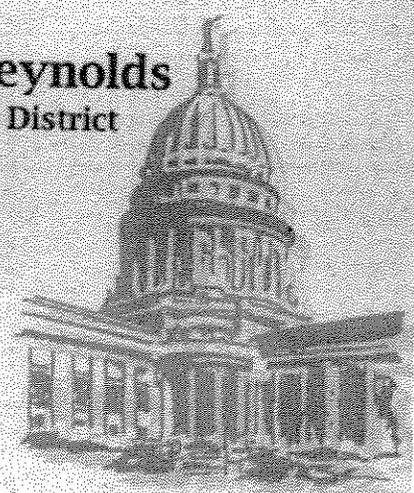
According to the Department of Health and Family Services (DHFS), there were approximately 500 international adoptions by Wisconsin residents in 2002, at an average cost of \$18,000 to \$30,000. In addition, there were an estimated 746 domestic adoptions by Wisconsin parents, which are estimated to cost in excess of \$15,000. Therefore, it is estimated that 1,246 adoptions would have qualified for the \$5,000 maximum state credit in that year. Staff at DHFS believes that international adoptions will increase by about 10% annually, assuming continued access by Americans to children in foreign countries. The number of domestic adoptions is expected to remain steady. There were also over 1,000 public adoptions (children who were in foster care and adopted) and step-parent adoptions in Wisconsin in 2002. However, out-of-pocket costs associated with public adoptions are estimated to be well below the \$10,390 amount allowed under the federal credit, and step-parent adoptions are not eligible for the federal credit. Therefore, these types of adoptions would not be eligible for a state credit under the substitute amendment.

Based on this data, it is estimated that the substitute amendment would reduce individual income tax revenues by \$6.8 million in 2005-06. Over the next four years, the estimated cost of the credit would increase to \$7.1 million in 2006-07, \$7.5 million in 2007-08, \$7.9 million in 2008-09, and \$8.3 million in 2009-10. These estimates assume that 75% of the total allowable credits would be claimed in the year in which the adoption was finalized and that the remaining 25% would be claimed in the following year. They also account for anticipated growth in international adoptions.

Prepared by: Faith Russell and Yvonne Onsager

SB408

State Senator Tom Reynolds
5th Senate District



MEMO

To: Legislative Colleagues
From: Senator Tom Reynolds
Date: March 10, 2004
Re: Adoption Tax Credit (Amended SSA1 to SB408)

Description of SSA1 to SB408

Currently, adoptive parents in Wisconsin can deduct up to \$5,000 of eligible adoption expenses on their state income tax return. The practical maximum tax reduction available to adoptive parents under the existing law, therefore, is roughly \$350.

The bill, as amended and approved by the Senate Health committee, does the following:

- Provides a state income tax credit of up to \$5,000 for qualified adoption expenses incurred in tax years starting January 1, 2005 and after.
- Credit applies only to those expenses beyond \$10,000, as the first \$10K is eligible for a federal income tax credit. This avoids a "double credit" for the same expenses.
- Permits adoptive parents claiming the credit to carry unused portions of the credit forward for up to five tax years. This is identical to the federal credit.

Who the Bill Includes

- Single filers and married couples filing jointly, who claim the federal adoption expenses tax credit. They may claim expenses *exceeding those they may claim under the federal credit.*
- Adoptive parents adopting internationally, once their adoptions are finalized. This is identical to federal law.
- Adoptive parents adopting domestically, in the tax year following the year in which they first incur adoption expenses. This is identical to federal law.

Who the Bill Excludes

- Special Needs Adoptions (generally): Already subsidized by the state, and costs rarely exceed \$10,000. A taxpayer who adopts a special-needs child where the costs exceed ~ \$10,000 would be eligible under the sub for the state credit.
- Step-Parent Adoptions: Not eligible under federal law, and costs rarely exceed \$10,000.
- Taxpayers whose AGI exceeds ~\$150,000, because federal phase-out begins at that point.

Actions of Joint Finance Committee

On March 9, 2004, the Joint Committee on Finance endorsed the bill, as amended by SSA1, on a unanimous 16-0 vote. **The Finance committee amended the legislation to delay the effective date until January 1, 2006.** In the mean time, the existing income tax deduction for adoption expenses will continue to be available to taxpayers.

Rationale for SSA1 as Amended by JFC

- Adoptions are increasingly expensive.
 - Average Domestic Adoption: \$15,000
 - Average International Adoption: \$18,000 to \$30,000
- Promotion of Adoption is Good Public Policy
 - Adoptive parents are heavily screened:
 - Medical Fitness
 - Drug and Alcohol Abuse
 - Stability of Marriage (as applicable)
 - Financial Stability
 - Adoption creates loving, stable homes for children.
 - Common Sense: Children adopted domestically are less likely to end up on social service programs than if they had not been placed.
- Bill Piggybacks on Federal Adoption Expenses Credit
 - Ease of Administration for DOR
 - Ease of Compliance by Taxpayers
 - Prevents "double credit" for the same expenses - only those expenses that exceed the \$10K claim under the federal credit are eligible.
- Implementation of New Credit in Tax Year 2006
 - Prevents putting current budget out of balance.
 - Impact of claims not felt until fiscal year 06-07.

By the Numbers

- In 2002, there were 1,246 adoptions in Wisconsin that would have qualified for the credit in the bill.
 - 746 of those were domestic.
 - 500 were international.
- Growth in Adoption:
 - International: 10% annually
 - Domestic: Stable – not growing.
- Fiscal Impact: **Foregone Revenue – Not Spending Increases**
 - \$5.3 million in 2006-2007 (2nd yr. of 05-07 budget), per most recent LFB figures.
 - \$7.5 million in 2007-2008