

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on January 29, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Bond,
Senator Goodwin, Senator Hardenburger, Senator Harris,
Senator Lee, Senator Praeger, Senator Sallee, and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: Kathy Taylor, Kansas Bankers Association
Shirley Sicilian, Kansas Department of Revenue
Rochelle Chronister, Secretary of SRS
Lori Wilkerson
January Scott, Kansas Children's Service League
Sheila Koelliker
Joan Wagnon, Kansas Families for Kids
Robert Runnels, Jr., Kansas Catholic Conference

Others attending: See attached list

The minutes of the January 28 meeting were approved.

Kathy Taylor, Kansas Bankers Association, requested the introduction of a bill which would amend K.S.A. 79-201j(a), the statute that grants property tax exemption for farm machinery and equipment. (Attachment 1) The amendment would extend the exemption to farm machinery and equipment being acquired under a lease purchase agreement. She requested the bill in conjunction with the Kansas Livestock Association and the Kansas Farm Bureau.

Senator Praeger moved to introduce the bill, seconded by Senator Goodwin. The motion carried.

Senator Langworthy turned the committee's attention to a bill previously heard, **SB 53**, concerning rates of single taxpayers.

Senator Bond moved to report **SB 53** as favorable for passage, seconded by Senator Steineger. The motion carried.

Senator Langworthy discussed another bill previously heard, **SB 51**, providing a tax credit for 10 percent of personal property tax levied against commercial and industrial machinery and equipment. She pointed out that the bill needed a technical amendment on line 20 to replace "or" for "of" between (5) and (6).

Senator Bond moved to report **SB 51** as favorable for passage as so amended, seconded by Senator Praeger.

Senator Corbin recalled that a conferee suggested that the bill include machinery used in oil and gas production. Shirley Sicilian, Kansas Department of Revenue, reported that the fiscal note on the inclusion of machinery used in oil and gas production was not complete. She noted, however, that much of the office equipment and other non-specific equipment to that industry is covered under **SB 51**. Ms. Sicilian indicated that the fiscal note would be completed by January 30 as would the list of the types of machinery included requested by Senator Lee at the hearing. Senator Langworthy reported that the Governor's office had no objection to amending the bill to include machinery used in oil and gas production.

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Senator Bond withdrew his motion on SB 51, pending the committee's receipt of the fiscal note.

SB 41--Income taxation; providing a credit therefrom for certain adoption expenses.

Senator Langworthy called the committee's attention to written testimony in support of SB 41 from Dan Hermes, Director of Governmental affairs in the office of the Governor. (Attachment 2) She quoted the following from the testimony as an important point to emphasize: "The bill...will provide a credit against Kansas income tax of 50 percent of the tax credit allowed under the federal tax guidelines. Given that the state tax rate is currently substantially less than 50 percent below the federal rate, the credit in this bill demonstrates a major state incentive to adopt children."

Rochelle Chronister, Secretary of Social and Rehabilitation Services (SRS), testified in support of SB 41. (Attachment 3) She felt the reduction in the financial burden associated with adoption will encourage families to adopt children and that, consequently, more children will be in a permanent home. She noted that Kansas families would be required to meet the qualifications pursuant to section 23 of the federal internal revenue code to qualify for the tax credit. A copy of section 23 of the federal internal revenue code was attached to her written testimony.

Senator Bond questioned, as a matter of public policy, if the bill should exclude foreign adoptions and be limited to SRS adoptions. Ms. Chronister did not support limitation to SRS adoptions. She had no position on the question of foreign adoptions; however, she basically supported adoption for any child.

Senator Lee discussed federal law regarding emphasis on special needs children and credit for foreign adoptions. Staff explained that, beginning in the year 2002, the federal law will allow credit only for the adoption of special needs children. The definition of "special needs" is defined in the federal law. With regard to foreign adoptions, credit for expenses is allowed only for those that result in an adoption which becomes final.

Lori Wilkerson, a citizen from Kansas City wishing to adopt a child, testified in support of SB 41. (Attachment 4) She believed the bill was a starting point to make adoption affordable for families with an average income. Copies of articles containing information about the federal tax credit for adoptions signed into law last August were attached to her written testimony. She noted that the State of Missouri passed legislation similar to the federal law.

January Scott, Kansas Children's Service League, presented her testimony in support of SB 41. (Attachment 5) She emphasized that the bill sends a critical message to the citizens of Kansas about the priority the state has regarding insuring permanency for hundreds of Kansas children. She stressed that all children deserve a permanent home. She believed the bill increases the incentive and options for families wishing and willing to provide a permanent home for a child.

Sheila Koelliker of Lutheran Social Services testified on SB 41 not as a representative of Lutheran Social Services but as an adoptive parent of special needs children. (Attachment 6) She and her husband have adopted special needs children for twenty-six years. In her opinion, the bill, if modeled after the federal tax credit, will not help any of the children in Kansas who are waiting for families or the families that adopt them. Instead, it will help those who adopt newborns from private sources and those who adopt children from overseas. As an adoptive parent of special needs children, she would like to see tax credits for items such as a bed, clothing, or special equipment needed after the child is adopted. She clarified that there are no fees for the adoption of special needs children in Kansas, therefore, the bill would offer no tax relief. Further, attorney fees relating to the adoption are covered up to \$2,000 by a federal fund. Reimbursement for expenses, such as mileage and lodging incurred in making visits prior to the child being placed in one's home, is also included in the \$2,000 allowance.

Joan Wagon, Kansas Families for Kids, testified in support of SB 41. She distributed handouts about the Kansas Adoption Network established in 1996 when SRS turned over the responsibility for finding adoptive families to Lutheran Social Services. Lutheran Social Services subcontracted with thirteen other private agencies from around the state to form the Kansas Adoption Network. She called attention to a poster which was part of the handout package, noting that one needs to look at the children affected when discussing the bill. The special needs of the children pictured were classified as age and sibling groups.

Ms. Wagon stated that, in the eight-year period prior to the system reform effort, there were approximately 10,000 private adoptions in the State of Kansas with approximately 2,000 of those adoptions being special need children. In contrast, 47 adoptions a month of special need children have been finalized in the first quarter of this year. She acknowledged that Ms. Koelliker was correct in stating that there are no fees in the adoption of special needs children and that there are continuing expenses in the adoption of special needs

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children. She concluded that everyone who testified was correct because several different strategies are required to cover all adoption circumstances. She felt a tax credit is one strategy in a comprehensive program designed to see that children do not linger in foster care.

Robert Runnels, Jr., Kansas Catholic Conference, testified in support of **SB 41**. (Attachment 7) He stated that the Catholic Church in the State of Kansas supports the bill as a means to give favorable tax treatment to persons who reach out to give a permanent home to children without parents. Mr. Runnels' testimony concluded the hearing on the bill.

Senator Bond moved to report **SB 41** as favorable for passage, seconded by Senator Praeger. The motion carried.

Shirley Sicilian, Kansas Department of Revenue, reported further on the fiscal impact of **SB 51**. She said the information requested would have to be obtained at the county level and that it would take a long period of time to gather the information. However, the best estimate available at this time is that approximately \$10 million in additional property would be covered for an additional fiscal impact of \$1 million or less in credits for next year. As to the types of property that would be covered, the definition is quite broad. (Attachment 8)

The meeting was adjourned at 11:55 a.m.

The next meeting is scheduled for January 30, 1997.

Be it enacted by the Legislature of the State of Kansas:

KSA 79-201j(a) All farm machinery and equipment. The term "farm machinery and equipment" means that personal property actually and regularly used exclusively in any farming or ranching operation. All property owned or being acquired pursuant to a lease purchase agreement which is used or is to be used for any farming or ranching operation shall be considered to be used exclusively for the purposes of this section.

The term "farming or ranching operation" shall include the operation of a feedlot and the performing of farm or ranch work for hire. The term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by KSA 8-126 and amendments thereto.

Senate Assessment & Taxation
1-29-97
Attachment 1

STATE OF KANSAS



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OFFICE OF THE GOVERNOR

LEGISLATIVE TESTIMONY

TO: Chairperson Audrey Langworthy and Members of the Senate Committee on Assessment and Taxation

FROM: Dan ^{Herms} Herms, Director of Governmental Affairs

DATE: January 29, 1997

BILL: Senate Bill Numbers 41

Tax credit for adoption expenses

Madam Chair and members of the committee, thank you for the opportunity to appear today in support of this portion of the Governor's tax cut package. Senate Bill Number 41 will provide an income tax credit for adopting kids. The federal government enacted a tax credit to provide an incentive to adopt children beginning in tax year 1997 and this state credit significantly enhances this incentive.

The bill in front of you today will provide a credit against Kansas income tax of 50 percent of the tax credit allowed under the federal tax guidelines. Given that the state tax rate is currently substantially less than 50 percent below the federal rate, the credit in this bill demonstrates a major state incentive to adopt children. As the Governor said in his State of the State Message "We need to reduce the financial burden of our young families, our limited income families, and all families who wish to adopt children."

The credit will be driven by the federal guidelines for qualifying for the credit, and therefore, will not require any additional effort by qualifying taxpayers in preparing Kansas income tax returns. The Governor would appreciate your favorable consideration of this measure designed to incent families to provide homes for our most vulnerable constituents, children without a permanent family.

I would be happy to respond to any questions the committee or staff would have related to the bill.

*Senate Assessment & Taxation
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Attachment 2*

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Rochelle Chronister, Secretary

Senate Committee on Assessment and Taxation
Income Tax Credit For Certain Adoption Expenses

January 29, 1997

Madam Chairman and Members of the committee, I am Rochelle Chronister, Secretary of Social and Rehabilitation Services. Thank you for this opportunity to appear before you today in support of Senate Bill 41.

The Department of Social and Rehabilitation Services supports tax credit for adoption expenses incurred by families adopting children. The reduction in the financial burden associated with adoption will encourage families to adopt children. Consequently, more of our children will be with loving and caring parents in a permanent home.

To qualify for the tax credit, Kansas families are required to meet the qualifications pursuant to section 23 of the federal internal revenue code. I have attached a copy of section 23. As per the code, the expenses must be reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are:

- directly related to the legal adoption of an eligible child,
- not incurred in violation of State or Federal law (i.e. carrying out any surrogate parenting arrangement),
- not in connection with the adoption by an individual's spouse (step-parents), and
- not reimbursed otherwise (an employer program).

An eligible child, as defined in section 23, is less than 18 years of age or is physically or mentally incapable of caring for himself.

Children with special needs are also included in the tax credit allowance of the federal code. A child with special needs, as determined by the state is a child who: 1) should not be returned to the home of the parent and 2) is eligible for adoption assistance as a result of factors or conditions (ethnic background, age, minority or sibling group, medical, mental, physical, or emotional handicaps) who can not be placed with adoptive parents without adoption assistance.

Senate Bill 41 creates new hope of permanency for hundreds of children caught, through no fault of their own, in the foster care system. We share a common responsibility to promote the importance of permanency, and to repeat again and again that waiting children need families. We have to let our children and families know, loud and clear, that adoption is a great way to build a family.

Thank you for this opportunity to speak to you today.

Rochelle Chronister
Secretary
Department of SRS
(913) 296-3271

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SEC. 1807. ADOPTION ASSISTANCE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

“SEC. 23. ADOPTION EXPENSES.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.

“(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

“(A) for the taxable year following the taxable year during which such expense is paid or incurred, or

“(B) in the case of an expense which is paid or incurred during the taxable year in which the adoption becomes final, for such taxable year.

“(b) LIMITATIONS.—

“(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed \$5,000 (\$6,000, in the case of a child with special needs).

“(2) INCOME LIMITATION.—

“(A) IN GENERAL.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

“(i) the amount (if any) by which the taxpayer’s adjusted gross income exceeds \$75,000, bears to

“(ii) \$40,000.

“(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

“(i) without regard to sections 911, 931, and 933, and

“(ii) after the application of sections 86, 135, 137, 219, and 469.

“(3) DENIAL OF DOUBLE BENEFIT.—

“(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

“(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

“(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED ADOPTION EXPENSES.—The term ‘qualified adoption expenses’ means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

“(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer,

“(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement,

“(C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual’s spouse, and

“(D) which are not reimbursed under an employer program or otherwise.

“(2) ELIGIBLE CHILD.—The term ‘eligible child’ means any individual—

“(A) who—

“(i) has not attained age 18, or

“(ii) is physically or mentally incapable of caring for himself, and

“(B) in the case of qualified adoption expenses paid or incurred after December 31, 2001, who is a child with special needs.

“(3) CHILD WITH SPECIAL NEEDS.—The term ‘child with special needs’ means any child if—

“(A) a State has determined that the child cannot or should not be returned to the home of his parents,

“(B) such State 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

“(C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

“(e) SPECIAL RULES FOR FOREIGN ADOPTIONS.—In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—

“(1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and

“(2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

“(f) FILING REQUIREMENTS.—

“(1) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

“(2) TAXPAYER MUST INCLUDE TIN.—

“(A) IN GENERAL.—No credit shall be allowed under this section with respect to any eligible child unless the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

“(B) OTHER METHODS.—The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

“(g) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section and section 137, including regulations which treat unmarried individuals who pay or incur qualified adoption expenses with respect to the same child as 1 taxpayer for purposes of applying the dollar limitation in subsection (b)(1) of this section and in section 137(b)(1).”

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

“SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

“(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

“(b) LIMITATIONS.—

“(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed \$5,000 (\$6,000, in the case of a child with special needs).

“(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

“(A) the amount (if any) by which the taxpayer's adjusted gross income exceeds \$75,000, bears to
“(B) \$40,000.

“(3) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of paragraph (2), adjusted gross income shall be determined—

“(A) without regard to this section and sections 911, 931, and 933, and

“(B) after the application of sections 86, 135, 219, and 469.

“(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees—

“(1) under which the employer provides such employees with adoption assistance, and

“(2) which meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

“(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term ‘qualified adoption expenses’ has the meaning given such term by section 23(d) (determined without regard to reimbursements under this section).

“(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e), (f), and (g) of section 23 shall apply for purposes of this section.

“(f) TERMINATION.—This section shall not apply to amounts paid or expenses incurred after December 31, 2001.”

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 25(e)(1) is amended by inserting “and section 23” after “this section”.

(2) Sections 86(b)(2)(A) and 135(c)(4)(A) are each amended by inserting “137,” before “911”.

(3) Clause (i) of section 219(g)(3)(A) is amended by inserting “, 137,” before “and 911”.

(4) Clause (ii) of section 469(i)(3)(E) is amended to read as follows:

“(ii) the amounts excludable from gross income under sections 135 and 137.”

(5) Subsection (a) of section 1016 is amended by striking “and” at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting “, and”, and by adding at the end the following new paragraph:

“(26) to the extent provided in sections 23(g) and 137(e).”

(6) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

“Sec. 23. Adoption expenses.”

(7) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

“Sec. 137. Adoption assistance programs.
“Sec. 138. Cross reference to other Acts.”

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(d) **STUDY AND REPORT.**—The Secretary of the Treasury shall study the effect on adoptions of the tax credit and gross income exclusion established by the amendments made by this section and shall submit a report regarding the study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 2000.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1808. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.

(a) **STATE PLAN REQUIREMENTS.**—Section 471(a) of the Social Security Act (42 U.S.C 671(a)) is amended—

(1) by striking “and” at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting “; and”; and

(3) by adding at the end the following:

“(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

“(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

“(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.”

(b) **ENFORCEMENT.**—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

“(d)(1) If, during any quarter of a fiscal year, a State’s program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated section 471(a)(18) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

“(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

“(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

“(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

“(2) Any other entity which is in a State that receives funds under this part and which violates section 471(a)(18) during a

fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

“(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

“(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

“(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.”

(c) **CIVIL RIGHTS.**—

(1) **PROHIBITED CONDUCT.**—A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) **ENFORCEMENT.**—Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964.

(3) **NO EFFECT ON THE INDIAN CHILD WELFARE ACT OF 1978.**—This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(d) **CONFORMING AMENDMENT.**—Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) is repealed.

SEC. 1809. 6-MONTH DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT.

Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.

42 USC 1996b.

26 USC 6302 note.

**TESTIMONY FOR SENATE SUBCOMMITTEE
TAX CREDITS FOR ADOPTION
JANUARY 29, 1997**

My name is Lori Wilkerson. I am here this morning to speak on Senate Bill No. 41 (House Bill No. 2036), an act relating to tax credits for adoption expenses.

First, allow me to say that I am pleased to see the Kansas government addressing tax credits for adoption expenses in this legislative session.

Children are our most precious resources and each and every one of them has a **right** to be raised in a loving, nurturing home. Anyone who takes on the responsibility of raising a child has an **obligation** to ensure that kind of environment. We as a society share in that **obligation** by finding loving, nurturing homes for those children that don't have them.

Unfortunately, many people who are able and willing to provide these kind of homes are unable to have a child. This means they must look for an alternative route, in many cases that route is adoption. However, adoptions can be very expensive, costing families anywhere from \$10,000 to \$25,000, and although many people are able to simply sit down and write a check to cover the expenses, many, many more cannot.

To cover those expenses those families may have to borrow from friends or other family members. They may have to take a personal loan at their bank or get a second mortgage on their home. The last thing they need as they take on the responsibility of raising a child is added debt. They will have plenty of additional expenses after they bring the child into their home.

The bill you are considering is an excellent starting point, but I hope you have plans to make it even better. I have attached several articles that contain information about the Federal Tax Credit for Adoptions that President Clinton signed into law last August. One is from the newsletter of the National Council for Single Adoptive Parents and the other is from *Money* magazine. The federal tax credit provides for up to \$5,000 for families adopting a U.S. or foreign-born child and up to \$6,000 for families adopting a U.S. born child with special needs. The amount of the tax credit is tied directly into income levels, with reductions adjusted beginning at incomes of \$75,000 and above. It also allows for any "leftover" credit to be carried over to the following tax year. I understand the tax credit for adoption passed last year by the state of Missouri is similar to the one passed by the Federal government. This means the total amount of tax relief available to a resident of the state of Missouri is \$10,000.

Senate Assessment & Taxation
1-29-97
Attachment 4

My hope is that the tax credit finally approved by the state of Kansas will assist someone like myself in paying adoption expenses. In part (a) of the bill before you, only 50% of the amount allowed by the federal government will be allowed by the state of Kansas. That means the most a family could receive would be \$2,500. In part (b) families are limited to the amount of actual income tax paid to the state in that year. My understanding of the bill means that no amount of "leftover credit" may be carried over to the following year. My concern is that this bill does little to assist the families who need it the most.

In the world today, there are millions of children sitting in orphanages right now, waiting for a family to love them. But the high cost of adoption prohibits so many good families from coming forward. During my years as an elementary school teacher, I discovered that the happiest, most well-adjusted children were those that lived in good, solid homes, not necessarily the wealthiest. Those were the parents that made time for their children, that attended parent-teacher conferences, that came to watch school programs, that made arrangements to take a few hours off of work and drive on a field trip.

In today's economy, most families would not be able to cover the normal adoption expenses without incurring serious debt, debt that families who give birth to a child don't have. Families who can't afford adoption won't be there to watch their daughter play the part of a molar in the school play celebrating *Dental Health Week*, to watch their son score yet another goal in a soccer game, or to read their daughter a bedtime story and then kiss her goodnight. Those families have to figure how to save money for their retirement plans, pay the mortgage and buy groceries. They don't have an extra \$17,000 sitting around in their savings accounts to pay for adoption expenses as well.

Speaking for myself, I am considering adopting a child. The adoption expenses are my biggest obstacle. I have a full-time job as a director of education for a financial corporation and I am planning to take on a part-time job as well. A tax credit for adoption will make it easier for families like myself, of moderate means, to adopt a child.

I am willing to answer any questions the committee may have. Again, I would like to thank you for this opportunity to speak with you this morning.

ADOPTION TAX CREDIT PASSED BY CONGRESS

On August 20 the President signed Public Law 104-188, the Minimum Wage law, which contains a tax credit to encourage adoption. This is a credit against income tax of \$5,000 for families who adopt a U.S.- or foreign-born child, and \$6,000 for families who adopt a U.S.-born child with special needs. These provisions will go into effect on January 1, 1997. This means that a single taxpayer, or a couple filing a joint return, can deduct the amount of the credit from income used to calculate tax owed.

Qualifications:

Reductions from this credit start at \$75,000 adjusted gross income, and are phased out completely from adopters with a gross AGI of \$100,000. The credit for adoption of foreign-born children, or healthy U.S.-born children, ends on December 31, 2001; but the \$6,000 tax credit for the adoption of a U.S.-born special-needs child continues without a termination date. "Double dipping" is not permitted: If the adoptive family's employer is providing financial assistance toward adoption expenses, or if the family is receiving financial aid for adoption costs from a federal, state, or local program, this dollar aid is deducted from the tax credit.

Qualified Adoption Expenses:

Adoption expenses under this bill mean "reasonable and necessary" adoption fees, court costs, attorney fees and other expenditures directly related to the adoption of a child, provided that no surrogate parenting arrangement is involved, and that it is not a step-parent adoption.

Special Rule for Foreign Adoptions:

The tax credit may not be taken until the foreign-born child has been adopted. Most adoptions of foreign-born children take place before the child comes home to the U.S., but some countries--Korea and India are examples--grant only guardianship to the adoptive parent(s), and the legal adoption must be completed in the U.S. Certain Latin American countries, also, grant what is called a "simple adoption," in which the parental rights of the birth parents are not completely severed. Families adopting under such a decree often choose to re-adopt in the United States.

Taken from The National Council for Single Adoptive Parents Newsletter, January 1997.

GRAB SERIOUS SAVINGS WITH EIGHT NEW TAX BREAKS
THAT WILL ARRIVE ON JANUARY 1, 1997

An adoption tax credit:

Starting in 1997, people with legitimate adoption expenses will be able to claim a new tax credit of up to \$5,000 per adopted child, and as much as \$6,000 if the child is otherwise unlikely to be adopted because of physical, emotional or mental handicaps or other special needs. The tax credit begins phasing out for people with adjusted gross incomes topping \$75,000 and disappears if your income is \$115,000 or more. If your tax bill is so low that the amount of your credit would be more than the taxes you owe, you carry forward the unused portion of the credit for up to five years.

Adoption expenses that will qualify for the credit include attorneys' fees, court costs, certain expenses for a birth mother's prenatal care and other costs that are directly related to a legal adoption. Even home construction and renovation costs will be eligible if a state agency requires you to add on to your house to adopt a child. Expenses that won't qualify for the credit include costs related to surrogate parent arrangements or adopting your spouse's child.

Taken from Money magazine, December 1996.



**TESTIMONY
SENATE COMMITTEE ON ASSESSMENT AND TAXATION**

**Submitted by: Kansas Children's Service League
January 29, 1997**

KANSAS CHILDREN'S SERVICE LEAGUE is a statewide not-for-profit agency whose mission is to "promote the well-being of children by strengthening the quality of their family life through the provision of prevention, early intervention, treatment, advocacy and placement services.¹" As such, as part of our commitment to ensure laws and policies positively impact children and families, our agenda includes initiatives such as this one, which emphasize permanency and security in a child's life.

We stand in support of **Senate Bill 41** which would allow a tax credit for adoption expenses. This proposal sends a critical message to the citizens of Kansas about the priority this state has regarding ensuring permanency for hundreds of Kansas children.

WHAT WE KNOW

Too many children in Kansas are waiting for a permanent home. However, over the past three and a half years, Kansas Children's Service League has been a part of what continues to be positive reform of the adoption system. Historically, lengthy processes to terminate parental rights, lack of financial resources for adoption, excessive caseloads and difficulty in recruiting foster and adoptive families contributed to the slow adoption of many children in the adoption system. However, through a public/private partnership with SRS, the business community, the court system, the service provider community, and the W.K. Kellogg Foundation, the League helped to establish **Kansas Families for Kids** which has leveraged significant funding and organized efforts to move children into permanent homes. Children whom have been waiting too long for a family.

As part of those efforts a Governor's Task Force on Adoption Reform issued a report in 1994. Among the participants on this Task Force were foster and adoptive parents whose personal experience with our adoption system created the foundation for many of the changes we have witnessed in our adoption system today. Barriers to adoption identified by the task force included: Adoptive service to families is a low priority in most SRS areas; adoptive services are not uniform across the state, and not surprisingly, inadequate resources for recruitment and placement.²

Since the report, aggressive efforts through the public/private partnership, have resulted in major changes in the adoption system and we are beginning to see the positive results of those efforts. The foundation was set for privatization of the adoption system in the state.

This proposal builds on that foundation by increasing the incentive and options for families wishing and willing to provide a permanent home for a child.

FISCAL IMPACT

The dollars the Governor is asking this state to invest in order to create this option for adoptive parents is minimal by comparison to other major initiatives such as the juvenile justice system. We firmly believe this investment will have a positive payoff long after the tax credit is accessed during any one year for a family. We know too well the financial and emotional costs when children lack permanency

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- EMPORIA
- GARDEN CITY
- JUNCTION CITY
- KANSAS CITY
- LEOTI
- LIBERAL
- MANHATTAN
- SCOTT CITY
- ULYSSES

100 YEARS
OF SERVICE
TO CHILDREN



¹ The League is a Charter member of the Child Welfare League of America, is accredited by the Council on Accreditation of Service for Children and Families, a member of the National Committee for the Prevention of Child Abuse, the Children's Alliance of Kansas, the Coalition for America's Children and a founding member of the Children's Coalition.

² **Governor's Task Force on Adoption Reform 1994**, pages 13, 21, 22.

*Senate Assessment & Taxation
1-29-97
Attachment 5*

RECOMMENDATION

Although the Governor, in his state of the state message emphasized a commitment to encouraging families to adopt *all* children in need of a family, this proposal we believe will have a profoundly positive effect in assisting those families desiring to adopt children with special needs where the financial burden of adopting a child can be especially great. No child should be unfamiliar with what it means to be a part of a family.

We urge the passage of this proposal.

Presented by: January H. Scott, Director of Programs

January 29, 1997

Senator Audrey Langworthy and
Members of the Senate Committee on Assessment and Taxation

My name is Sheila Koelliker and I live at Horton, Kansas. I am appearing here today because I am an adoptive parent and I thought I might be able to share with you some of the areas where a tax credit would be really helpful. My husband Stan and I have been adopting special needs children for twenty six years. We are the parents of fourteen adopted children and four birth children. Our children range in age from thirty to seven. We have adopted children who were eighteen at the time of the adoption, we have adopted children who were as young as two weeks, and we have adopted many children between those two ages. We are also raising our three year old granddaughter. We still have eight children living in our home. That is the background from which I speak.

I think it is nice that you are considering tax credits for adoption. If you model it after the federal tax credit you will not be helping any of the children in Kansas who are waiting for families or the families that adopt them. You will be helping those people who adopt newborns from private sources or private agencies and those people who adopt children from overseas. I am asking today if there is a way to help the Kansas children who are waiting and those families willing to take them. In Kansas there are no fees for special needs adoption. There is even a fund that takes care of lawyer fees at finalization. For a family adopting a special needs child, the expenses occur after the child comes to your home, not in getting the child to your home.

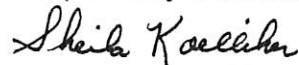
Many of you may be hearing "special needs adoption" for the first time. I would like to explain to you what that means. In Kansas it may mean adopting a child that is older, seven to eighteen years of age or it could mean adopting a child that has been physically, emotionally or sexually abused. These children will have behaviors to deal with because of the abuse. It may also mean adopting a sibling group of two, three, four, or even more. It can also mean adopting African American children because African American children wait longer in the system before getting adopted. It may also mean adopting a child who is physically handicapped in some way. There are many more things I could add here but I think you probably have a basic understanding of what a "special needs adoption" now means.

*Senate Assessment & Taxation
1-29-97
Attachment 6*

As an adoptive parent of special needs children I would like to see tax credits for things like buying a bed, a dresser, or clothing when that new child comes in. I would like to see tax credits for the repairs needed to your house after one of your special needs children had an angry, destructive outburst. A tax credit for those 120 mile round trip weekly visits to the nearest therapist who really understands and can help your child with all those abuse and loss issues would also be helpful. Could there be a tax credit for mileage for all those shaken babies and medically fragile children who have medical needs that can only be taken care of by driving long distances to other cities and a tax credit for lodging so you as a parent can stay nearby and be with your child while they have medical tests and surgeries. Could a tax credit be offered for special equipment needed to raise a physically handicapped child? Equipment like wheelchairs, special feeding tables, special car seats, special vehicles to accommodate a handicapped child, could a tax credit be given for these items? Families like ours could really use a tax credit to buy a larger vehicles as the family expands. These are just a few ideas of where tax credits could be of real use to families like mine who adopt the children in Kansas that are waiting.

I thank you for the opportunity to come here today and to be able to tell you some of my ideas. I hope you could hear what I was saying. Are there any questions?

Respectfully Submitted,



Sheila Koelliker

TESTIMONY

S.B. 41

Senate Assessment and Taxation Committee
January 29, 1997 - 11:00 a.m. - 519S

KANSAS CATHOLIC CONFERENCE
Robert Runnels, Jr., Executive Director

The Catholic Church in the State of Kansas supports Senate Bill 41 and House Bill 2036 designed to give state tax credits to persons who adopt children.

We are involved in the adoption of infants and children. We identify and assist persons who wish to adopt an infant or child. We work with women who are pregnant and who wish to place their children for adoption. We subcontract with Lutheran Social services in identifying and training persons who wish to adopt children placed in the custody of the state. During 1996 over 400 couples, infants or children were involved in services provided by the various Catholic Social Services agencies throughout the State of Kansas.

Finding permanent homes for children without parents should be a priority. Giving favorable tax treatment to persons who reach out in a loving way makes sense psychologically, socially, and financially for all concerned.

Senate Assessment + Taxation

1-29-97

Attachment 7

STATE OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REVENUE
John D. LaFaver, Secretary

Shirley K. Sicilian, Director
 Office of Policy & Research
 915 SW Harrison St.
 Topeka, KS 66612-1588



(913) 296-3081
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Office of Policy & Research

To: Senator Audrey Langworthy, Chairwoman
 Senate Assessment and Taxation Committee

From: Shirley Sicilian, Director
 Office of Policy & Research

Date: January 29, 1997

RE: Information Regarding Senate Bill 51

Below is a partial list of the types of machinery and equipment subject to the 10% credit in senate bill 51.

Computers	Phone Systems
Desks	Chairs
Forklifts	Auto Diagnostic Computer
Laths	Presses
welders	Freezers
Refridgerators	Stoves
Ovens	Cash Registers
Coolers	Gas Pumps
Pool Tables	Televisions
Stereo Equipment	Boilers
Cameras	Saws

Including machinery and equipment found in subclass (2) of class 2 would add about \$1.0 million to the fiscal impact of senate bill 51. PVD does not have any reliable information to accurately estimate the cost of adding this type of property to the bill. However, they would assume the value of the minerals would be far greater than the machinery and equipment and their best estimate is that machinery and equipment at the well head would make up about \$10 million of the total \$113.0 million collected in 1995 from this class of property. The actual information is contained on rendition sheets which are received by each county appraiser. Any business equipment located away from the wellhead is already subject to the credit in the original version of senate bill 51.

LLC's and sub-chapter S filers would be eligible for the 10% credit. The credit is allocated to the shareholders either by percentage ownership or by agreement.

Not for profit entities would not be eligible because they are not subject to income taxes.

Privilege tax and insurance premiums taxpayers are not eligible for the credit because they do not pay an income tax.

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Attachment 8