

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 86
94TH GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, March 8, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0519S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 135.327, RSMo, and to enact in lieu thereof one new section relating to the children in crisis tax credit program, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.327, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 135.327, to read as follows:

135.327. 1. As used in this section, the following terms shall mean:

2 (1) "CASA", an entity which receives funding from the court-appointed
3 special advocate fund established under section 476.777, RSMo, **including an**
4 **association based in this state, affiliated with a national association,**
5 **organized to provide support to entities receiving funding from the**
6 **court appointed special advocate fund;**

7 (2) "Child advocacy centers", the regional child assessment centers listed
8 in subsection 2 of section 210.001, RSMo;

9 (3) "Contribution", amount of donation to qualified agency;

10 (4) "Crisis care **center**", **entities contracted with this state which**
11 **provide** temporary care for children whose age ranges from birth through
12 seventeen years of age whose parents or guardian are experiencing an unexpected
13 and unstable or serious condition that requires immediate action resulting in
14 short term care, usually three to five continuous, uninterrupted days, for children
15 who may be at risk for child abuse, neglect, or in an emergency situation;

16 (5) "Department", the department of revenue;

17 (6) "Director", the director of the department of revenue;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care
19 center;

20 (8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes
21 withheld under sections 143.191 to 143.265, RSMo.

22 2. Any person residing in this state who legally adopts a special needs
23 child on or after January 1, 1988, and before January 1, 2000, shall be eligible to
24 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
25 expenses for each child adopted that may be applied to taxes due under chapter
26 143, RSMo. Any business entity providing funds to an employee to enable that
27 employee to legally adopt a special needs child shall be eligible to receive a tax
28 credit of up to ten thousand dollars for nonrecurring adoption expenses for each
29 child adopted that may be applied to taxes due under such business entity's state
30 tax liability, except that only one ten thousand dollar credit is available for each
31 special needs child that is adopted.

32 3. Any person residing in this state who proceeds in good faith with the
33 adoption of a special needs child on or after January 1, 2000, shall be eligible to
34 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
35 expenses for each child that may be applied to taxes due under chapter 143,
36 RSMo; provided, however, that beginning on or after July 1, 2004, two million
37 dollars of the tax credits allowed shall be allocated for the adoption of special
38 needs children who are residents or wards of residents of this state at the time
39 the adoption is initiated. Any business entity providing funds to an employee to
40 enable that employee to proceed in good faith with the adoption of a special needs
41 child shall be eligible to receive a tax credit of up to ten thousand dollars for
42 nonrecurring adoption expenses for each child that may be applied to taxes due
43 under such business entity's state tax liability, except that only one ten thousand
44 dollar credit is available for each special needs child that is adopted.

45 4. Individuals and business entities may claim a tax credit for their total
46 nonrecurring adoption expenses in each year that the expenses are incurred. A
47 claim for fifty percent of the credit shall be allowed when the child is placed in
48 the home. A claim for the remaining fifty percent shall be allowed when the
49 adoption is final. The total of these tax credits shall not exceed the maximum
50 limit of ten thousand dollars per child. The cumulative amount of tax credits
51 which may be claimed by taxpayers claiming the credit for nonrecurring adoption
52 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million
53 dollars. The cumulative amount of tax credits that may be claimed by taxpayers

54 claiming the credit for nonrecurring adoption expenses shall not be [less] **more**
55 than four million dollars but may be increased by appropriation in any [one]
56 fiscal year beginning on or after July 1, 2004; provided, however, that by
57 December thirty-first following each July, if less than two million dollars in
58 credits have been issued for adoption of special needs children who are not
59 residents or wards of residents of this state at the time the adoption is initiated,
60 the remaining amount of the cap shall be available for the adoption of special
61 needs children who are residents or wards of residents of this state at the time
62 the adoption is initiated. For all fiscal years beginning on or after July 1, 2006,
63 applications to claim the adoption tax credit for special needs children who are
64 residents or wards of residents of this state at the time the adoption is initiated
65 shall be filed between July first and April fifteenth of each fiscal year. For all
66 fiscal years beginning on or after July 1, 2006, applications to claim the adoption
67 tax credit for special needs children who are not residents or wards of residents
68 of this state at the time the adoption is initiated shall be filed between July first
69 and December thirty-first of each fiscal year.

70 5. Notwithstanding any provision of law to the contrary, any individual
71 or business entity may assign, transfer or sell tax credits allowed in this
72 section. Any sale of tax credits claimed pursuant to this section shall be at a
73 discount rate of seventy-five percent or greater of the amount sold.

74 6. The director of revenue shall establish a procedure by which, for each
75 fiscal year, the cumulative amount of tax credits authorized in this section is
76 equally apportioned among all taxpayers within the two categories specified in
77 subsection 3 of this section claiming the credit in that fiscal year. To the
78 maximum extent possible, the director of revenue shall establish the procedure
79 described in this subsection in such a manner as to ensure that taxpayers within
80 each category can claim all the tax credits possible up to the cumulative amount
81 of tax credits available for the fiscal year.

82 7. For all tax years beginning on or after January 1, 2006, a tax credit
83 may be claimed in an amount equal to up to fifty percent of a verified
84 contribution to a qualified agency and shall be named the children in crisis tax
85 credit. The minimum amount of any tax credit issued shall not be less than fifty
86 dollars and shall be applied to taxes due under chapter 143, RSMo, excluding
87 sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to
88 the taxpayer by the agency receiving the contribution. Such contribution
89 verification shall include the taxpayer's name, Social Security number, amount

90 of tax credit, amount of contribution, the name and address of the agency
91 receiving the credit, and the date the contribution was made. The tax credit
92 provided under this subsection shall be initially filed [in] for the year in which
93 the verified contribution is made.

94 8. The cumulative amount of the tax credits redeemed shall not exceed the
95 unclaimed portion of the resident adoption category allocation as described in this
96 section. The director of revenue shall determine the unclaimed portion
97 available. The amount available shall be equally divided among the [agencies
98 meeting the definition of qualified agency] **three qualified agencies: CASA,**
99 **child advocacy centers, or crisis care centers** to be used towards tax credits
100 issued. In the event tax credits claimed under one agency do not total the
101 allocated amount for that agency, the unused portion for that agency will be made
102 available to the remaining agencies [as needed] **equally**. In the event the total
103 amount of tax credits claimed **for any one agency** exceeds the amount available
104 **for that agency**, the amount redeemed shall and will be apportioned equally to
105 all eligible taxpayers claiming the credit **under that agency**. After all children
106 in crisis tax credits have been claimed, any remaining unclaimed portion of the
107 reserved allocation for adoptions of special needs children who are residents or
108 wards of residents of this state shall then be made available for adoption tax
109 credit claims of special needs children who are not residents or wards of residents
110 of this state at the time the adoption is initiated.

111 9. Prior to December thirty-first of each year, the entities listed under the
112 definition of qualified agency shall apply to the department of social services in
113 order to verify their qualified agency status. Upon a determination that the
114 agency is eligible to be a qualified agency, the department of social services shall
115 provide a letter of eligibility to such agency. No later than February first of each
116 year, the department of social services shall provide a list of qualified agencies
117 to the department of revenue. All tax credit applications to claim the children in
118 crisis tax credit shall be filed between July first and April fifteenth of each fiscal
119 year. A taxpayer shall apply for the children in crisis tax credit by attaching a
120 copy of the contribution verification provided by a qualified agency to such
121 taxpayer's income tax return.

122 10. The tax credits provided under this section shall be subject to the
123 provisions of section 135.333.

124 11. (1) In the event a credit denial, due to lack of available funds, causes
125 a balance-due notice to be generated by the department of revenue, or any other

126 redeeming agency, the taxpayer will not be held liable for any penalty or interest,
127 provided the balance is paid, or approved payment arrangements have been
128 made, within sixty days from the notice of denial.

129 (2) In the event the balance is not paid within sixty days from the notice
130 of denial, the remaining balance shall be due and payable under the provisions
131 of chapter 143, RSMo.

132 12. The director shall calculate the level of appropriation necessary to
133 issue all tax credits for nonresident special needs adoptions applied for under this
134 section and provide such calculation to the speaker of the house of
135 representatives, the president pro tempore of the senate, and the director of the
136 division of budget and planning in the office of administration by January
137 thirty-first of each year.

138 13. The department may promulgate such rules or regulations as are
139 necessary to administer the provisions of this section. Any rule or portion of a
140 rule, as that term is defined in section 536.010, RSMo, that is created under the
141 authority delegated in this section shall become effective only if it complies with
142 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
143 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
144 and if any of the powers vested with the general assembly pursuant to chapter
145 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
146 rule are subsequently held unconstitutional, then the grant of rulemaking
147 authority and any rule proposed or adopted after August 28, 2006, shall be
148 invalid and void.

149 14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

150 (1) The provisions of the new program authorized under subsections 7 to
151 12 of this section shall automatically sunset six years after August 28, 2006,
152 unless reauthorized by an act of the general assembly; and

153 (2) If such program is reauthorized, the program authorized under this
154 section shall automatically sunset twelve years after the effective date of the
155 reauthorization of this section; and

156 (3) This section shall terminate on September first of the calendar year
157 immediately following the calendar year in which the program authorized under
158 this section is sunset.

Section B. Because of the need to ensure the appropriate allocation of the
2 tax credits under the children in crisis tax credit program, section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare,

4 peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and section A of this act shall be in full force and
6 effect upon its passage and approval.

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Unofficial

Bill

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