

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

Reported from the Committee on Ways and Means April 26, 2007 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 86 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0519L.04C

AN ACT

To repeal sections 135.327 and 135.1150, RSMo, and to enact in lieu thereof two new sections relating to tax credits, with an emergency clause.

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

Section A. Sections 135.327 and 135.1150, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.327 and 135.1150, to read as follows:

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14 (5) "Department", the department of revenue;
15 (6) "Director", the director of the department of revenue;
16 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;
17 (8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes withheld under
18 sections 143.191 to 143.265, RSMo.

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

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

38 4. Individuals and business entities may claim a tax credit for their total nonrecurring
39 adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the
40 credit shall be allowed when the child is placed in the home. A claim for the remaining fifty
41 percent shall be allowed when the adoption is final. The total of these tax credits shall not
42 exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax
43 credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption
44 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars. The
45 cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for
46 nonrecurring adoption expenses shall not be [less] **more** than four million dollars but may be
47 increased by appropriation in any [one] fiscal year beginning on or after July 1, 2004; provided,
48 however, that by December thirty-first following each July, if less than two million dollars in
49 credits have been issued for adoption of special needs children who are not residents or wards

50 of residents of this state at the time the adoption is initiated, the remaining amount of the cap
51 shall be available for the adoption of special needs children who are residents or wards of
52 residents of this state at the time the adoption is initiated. For all fiscal years beginning on or
53 after July 1, 2006, applications to claim the adoption tax credit for special needs children who
54 are residents or wards of residents of this state at the time the adoption is initiated shall be filed
55 between July first and April fifteenth of each fiscal year. For all fiscal years beginning on or
56 after July 1, 2006, applications to claim the adoption tax credit for special needs children who
57 are not residents or wards of residents of this state at the time the adoption is initiated shall be
58 filed between July first and December thirty-first of each fiscal year.

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

63 6. The director of revenue shall establish a procedure by which, for each fiscal year, the
64 cumulative amount of tax credits authorized in this section is equally apportioned among all
65 taxpayers within the two categories specified in subsection 3 of this section claiming the credit
66 in that fiscal year. To the maximum extent possible, the director of revenue shall establish the
67 procedure described in this subsection in such a manner as to ensure that taxpayers within each
68 category can claim all the tax credits possible up to the cumulative amount of tax credits
69 available for the fiscal year.

70 7. For all tax years beginning on or after January 1, 2006, a tax credit may be claimed
71 in an amount equal to up to fifty percent of a verified contribution to a qualified agency and shall
72 be named the children in crisis tax credit. The minimum amount of any tax credit issued shall
73 not be less than fifty dollars and shall be applied to taxes due under chapter 143, RSMo,
74 excluding sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to the
75 taxpayer by the agency receiving the contribution. Such contribution verification shall include
76 the taxpayer's name, Social Security number, amount of tax credit, amount of contribution, the
77 name and address of the agency receiving the credit, and the date the contribution was made.
78 The tax credit provided under this subsection shall be initially filed [in] for the year in which the
79 verified contribution is made.

80 8. The cumulative amount of the tax credits redeemed shall not exceed the unclaimed
81 portion of the resident adoption category allocation as described in this section. The director of
82 revenue shall determine the unclaimed portion available. The amount available shall be equally
83 divided among the [agencies meeting the definition of qualified agency] **three qualified**
84 **agencies: CASA, child advocacy centers, or crisis care centers** to be used towards tax credits
85 issued. In the event tax credits claimed under one agency do not total the allocated amount for

86 that agency, the unused portion for that agency will be made available to the remaining agencies
87 [as needed] **equally**. In the event the total amount of tax credits claimed **for any one agency**
88 exceeds the amount available **for that agency**, the amount redeemed shall and will be
89 apportioned equally to all eligible taxpayers claiming the credit **under that agency**. After all
90 children in crisis tax credits have been claimed, any remaining unclaimed portion of the reserved
91 allocation for adoptions of special needs children who are residents or wards of residents of this
92 state shall then be made available for adoption tax credit claims of special needs children who
93 are not residents or wards of residents of this state at the time the adoption is initiated.

94 9. Prior to December thirty-first of each year, the entities listed under the definition of
95 qualified agency shall apply to the department of social services in order to verify their qualified
96 agency status. Upon a determination that the agency is eligible to be a qualified agency, the
97 department of social services shall provide a letter of eligibility to such agency. No later than
98 February first of each year, the department of social services shall provide a list of qualified
99 agencies to the department of revenue. All tax credit applications to claim the children in crisis
100 tax credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall
101 apply for the children in crisis tax credit by attaching a copy of the contribution verification
102 provided by a qualified agency to such taxpayer's income tax return.

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

105 11. (1) In the event a credit denial, due to lack of available funds, causes a balance-due
106 notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer
107 will not be held liable for any penalty or interest, provided the balance is paid, or approved
108 payment arrangements have been made, within sixty days from the notice of denial.

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

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

116 13. The department may promulgate such rules or regulations as are necessary to
117 administer the provisions of this section. Any rule or portion of a rule, as that term is defined
118 in section 536.010, RSMo, that is created under the authority delegated in this section shall
119 become effective only if it complies with and is subject to all of the provisions of chapter 536,
120 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
121 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,

122 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
123 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
124 after August 28, 2006, shall be invalid and void.

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

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

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

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

135.1150. 1. This section shall be known and may be cited as the "Residential
2 Treatment Agency Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Certificate", a tax credit certificate issued under this section;

5 (2) "Department", the Missouri department of social services;

6 (3) "Eligible [monetary] donation", donations received from a taxpayer by an agency that
7 are used solely to provide direct care services to children who are residents of this state. **Eligible**
8 **donations may include cash, publicly traded stocks and bonds, and real estate that will be**
9 **valued and documented according to rules promulgated by the department of social**
10 **services.** For purposes of this section, "direct care services" include but are not limited to
11 increasing the quality of care and service for children through improved employee compensation
12 and training;

13 (4) "Qualified residential treatment agency" or "agency", a residential care facility that
14 is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA),
15 the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the
16 Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with
17 the Missouri department of social services to provide treatment services for children who are
18 residents or wards of residents of this state, and that receives eligible [monetary] donations. Any
19 agency that operates more than one facility or at more than one location shall be eligible for the
20 tax credit under this section only for any eligible [monetary donations] **donation** made to
21 facilities or locations of the agency which are licensed and accredited;

22 (5) "Taxpayer", any of the following individuals or entities who make **an** eligible
23 [monetary donations] **donation** to an agency:

24 (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation
25 doing business in the state of Missouri and subject to the state income tax imposed in chapter
26 143, RSMo;

27 (b) A corporation subject to the annual corporation franchise tax imposed in chapter 147,
28 RSMo;

29 (c) An insurance company paying an annual tax on its gross premium receipts in this
30 state;

31 (d) Any other financial institution paying taxes to the state of Missouri or any political
32 subdivision of this state under chapter 148, RSMo;

33 (e) An individual subject to the state income tax imposed in chapter 143, RSMo.

34 3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be
35 allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo,
36 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal
37 to fifty percent of the amount of an eligible [monetary] donation, subject to the restrictions in this
38 section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state
39 income tax liability in the tax year for which the credit is claimed. Any amount of credit that the
40 taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may
41 be carried forward to any of the taxpayer's four subsequent taxable years.

42 4. To claim the credit authorized in this section, an agency may submit to the department
43 an application for the tax credit authorized by this section on behalf of taxpayers. The
44 department shall verify that the agency has submitted the following items accurately and
45 completely:

46 (1) A valid application in the form and format required by the department;

47 (2) A statement attesting to the eligible [monetary] donation received, which shall
48 include the name and taxpayer identification number of the individual making the eligible
49 [monetary] donation, the amount of the eligible [monetary] donation, and the date the eligible
50 [monetary] donation was received by the agency; and

51 (3) Payment from the agency equal to the value of the tax credit for which application
52 is made.

53

54 If the agency applying for the tax credit meets all criteria required by this subsection, the
55 department shall issue a certificate in the appropriate amount.

56 5. An agency may apply for tax credits in an aggregate amount that does not exceed forty
57 percent of the payments made by the department to the agency in the preceding twelve months.

58 6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise
59 conveyed, and the new owner of the tax credit shall have the same rights in the credit as the

60 taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a
61 notarized endorsement shall be filed with the department specifying the name and address of the
62 new owner of the tax credit or the value of the credit.

63 7. The department shall promulgate rules to implement the provisions of this section.
64 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created
65 under the authority delegated in this section shall become effective only if it complies with and
66 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
67 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested
68 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
69 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
70 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid
71 and void.

72 8. Under section 23.253, RSMo, of the Missouri sunset act:

73 (1) The provisions of the new program authorized under this section shall automatically
74 sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

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

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

Section B. Because immediate action is necessary to ensure the appropriate allocation
2 of the tax credits under the children in crisis tax credit program, the repeal and reenactment of
3 section A of this act is deemed necessary for the immediate preservation of the public health,
4 welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of
5 the constitution, and the repeal and reenactment of section A of this act shall be in full force and
6 effect upon its passage and approval.

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