

FIRST REGULAR SESSION

# SENATE BILL NO. 86

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAMPION.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0519S.011

## 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.

*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Section A. Section 135.327, RSMo, is repealed and one new section  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;

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

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

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

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

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

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

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

19 2. Any person residing in this state who legally adopts a special needs

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

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

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

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

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

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

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

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

91 8. The cumulative amount of the tax credits redeemed shall not exceed the

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

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

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

121           11. (1) In the event a credit denial, due to lack of available funds, causes  
122 a balance-due notice to be generated by the department of revenue, or any other  
123 redeeming agency, the taxpayer will not be held liable for any penalty or interest,  
124 provided the balance is paid, or approved payment arrangements have been  
125 made, within sixty days from the notice of denial.

126           (2) In the event the balance is not paid within sixty days from the notice  
127 of denial, the remaining balance shall be due and payable under the provisions

128 of chapter 143, RSMo.

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

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

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

147           (1) The provisions of the new program authorized under subsections 7 to  
148 12 of this section shall automatically sunset six years after August 28, 2006,  
149 unless reauthorized by an act of the general assembly; and

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

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

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