

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE NO. 2 FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 86

94TH GENERAL ASSEMBLY  
2007

0519S.06T

---

---

## 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 for a certain section.

---

---

*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Section A. Sections 135.327 and 135.1150, RSMo, are repealed and two  
2 new sections enacted in lieu thereof, to be known as sections 135.327 and  
3 135.1150, 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;

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

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

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

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.

135.1150. 1. This section shall be known and may be cited as the

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

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

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

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

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

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

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

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

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

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

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

53           (2) A statement attesting to the eligible [monetary] donation received,  
54 which shall include the name and taxpayer identification number of the  
55 individual making the eligible [monetary] donation, the amount of the eligible  
56 [monetary] donation, and the date the eligible [monetary] donation was received  
57 by the agency; and

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

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

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

65           6. Tax credits issued under this section may be assigned, transferred,  
66 sold, or otherwise conveyed, and the new owner of the tax credit shall have the  
67 same rights in the credit as the taxpayer. Whenever a certificate is assigned,  
68 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed  
69 with the department specifying the name and address of the new owner of the tax  
70 credit or the value of the credit.

71           7. The department shall promulgate rules to implement the provisions of  
72 this section. Any rule or portion of a rule, as that term is defined in section  
73 536.010, RSMo, that is created under the authority delegated in this section shall

74 become effective only if it complies with and is subject to all of the provisions of  
75 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
76 chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
77 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective  
78 date, or to disapprove and annul a rule are subsequently held unconstitutional,  
79 then the grant of rulemaking authority and any rule proposed or adopted after  
80 August 28, 2006, shall be invalid and void.

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

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

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

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

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

✓  
Copy