

SECOND REGULAR SESSION

# SENATE BILL NO. 471

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4196S.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.

*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Section A. Section 135.327, RSMo, is repealed and one new section  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, including an association  
4 based in this state, affiliated with a national association, organized to provide  
5 support to entities receiving funding from the court-appointed special advocate  
6 fund;

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

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

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

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

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

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

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. Any business entity providing funds to an employee to enable that employee  
27 to legally adopt a special needs child shall be eligible to receive a tax credit of up  
28 to ten thousand dollars for nonrecurring adoption expenses for each child adopted  
29 that may be applied to taxes due under such business entity's state tax liability,  
30 except that only one ten thousand dollar credit is available for each special needs  
31 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 provided, however, that beginning on or after July 1, 2004, two million dollars of  
37 the tax credits allowed shall be allocated for the adoption of special needs  
38 children who are residents or wards of residents of this state at the time the  
39 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 more than  
55 four million dollars but may be increased by appropriation in any fiscal year

56 beginning on or after July 1, 2004; provided, however, that by December  
57 thirty-first following each July, if less than two million dollars in credits have  
58 been issued for adoption of special needs children who are not residents or wards  
59 of residents of this state at the time the adoption is initiated, the remaining  
60 amount of the cap shall be available for the adoption of special needs children  
61 who are residents or wards of residents of this state at the time the adoption is  
62 initiated. For all fiscal years beginning on or after July 1, 2006, applications to  
63 claim the adoption tax credit for special needs children who are residents or  
64 wards of residents of this state at the time the adoption is initiated shall be filed  
65 between July first and April fifteenth of each fiscal year. For all fiscal years  
66 beginning on or after July 1, 2006, applications to claim the adoption tax credit  
67 for special needs children who are not residents or wards of residents of this state  
68 at the time the adoption is initiated shall be filed between July first and  
69 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, excluding sections  
87 143.191 to 143.265. A contribution verification shall be issued to the taxpayer by  
88 the agency receiving the contribution. Such contribution verification shall include  
89 the taxpayer's name, Social Security number, amount of tax credit, amount of  
90 contribution, the name and address of the agency receiving the credit, and the  
91 date the contribution was made. The tax credit provided under this subsection

92 shall be initially filed for the year in which the verified contribution is made.

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

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

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

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

127           (2) In the event the balance is not paid within sixty days from the notice

128 of denial, the remaining balance shall be due and payable under the provisions  
129 of chapter 143.

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

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

146           14. [Pursuant to section 23.253 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,](1) The program authorized under  
151 [this 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] **subsections 7 to 12 of this section shall expire on**  
156 **August 28, 2018;**

157           (2) **Subsections 7 to 12 of this section shall terminate on**  
158 **September 1, 2019.**

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