

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1485
93RD GENERAL ASSEMBLY

4494S.04T

2006

AN ACT

To repeal sections 135.327 and 135.333, RSMo, and to enact in lieu thereof three new sections relating to tax credits for contributions to centers providing social services.

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

Section A. Sections 135.327 and 135.333, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 135.327, 135.333, and 135.630, to read as
3 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 special**
3 **advocate fund established under section 476.777, RSMo;**
- 4 (2) **"Child advocacy centers", the regional child assessment centers listed in**
5 **subsection 2 of section 210.001, RSMo;**
- 6 (3) **"Contribution", amount of donation to qualified agency;**
- 7 (4) **"Crisis care", temporary care for children whose age ranges from birth through**
8 **seventeen years of age whose parents or guardian are experiencing an unexpected and**
9 **unstable or serious condition that requires immediate action resulting in short term care,**
10 **usually three to five continuous, uninterrupted days, for children who may be at risk for**
11 **child abuse, neglect, or in an emergency situation;**
- 12 (5) **"Department", the department of revenue;**
- 13 (6) **"Director", the director of the department of revenue;**
- 14 (7) **"Qualified agency", CASA, child advocacy centers, or a crisis care center;**

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.

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

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

25 **[2.] 3.** Any person residing in this state who proceeds in good faith with the adoption
26 of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up
27 to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied
28 to taxes due under chapter 143, RSMo; provided, however, that beginning on or after July 1,
29 2004, [a minimum of fifty percent] **two million dollars** of the tax credits allowed shall be
30 allocated for the adoption of special needs children who are residents or wards of residents of
31 this state at the time the adoption is initiated. Any business entity providing funds to an
32 employee to enable that employee to proceed in good faith with the adoption of a special needs
33 child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring
34 adoption expenses for each child that may be applied to taxes due under such business entity's
35 state tax liability, except that only one ten thousand dollar credit is available for each special
36 needs child that is adopted.

37 **[3.] 4.** Individuals and business entities may claim a tax credit for their total
38 nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty
39 percent of the credit shall be allowed when the child is placed in the home. A claim for the
40 remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits
41 shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount
42 of tax credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption
43 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars [and
44 shall not exceed four million dollars]. **The cumulative amount of tax credits that may be**
45 **claimed by taxpayers claiming the credit for nonrecurring adoption expenses shall not be**
46 **less than four million dollars but may be increased by appropriation** in any one fiscal year
47 beginning on or after July 1, 2004; provided, however, that [in the first ninety days] **by**
48 **December thirty-first** following each July [first], if less than two million dollars in credits have
49 been issued for adoption of special needs children who are not residents or wards of residents
50 of this state at the time the adoption is initiated, the remaining amount of the [four million dollar]

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

60 [4.] **5.** Notwithstanding any provision of law to the contrary, any individual or business
61 entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits
62 claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of
63 the amount sold.

64 [5.] **6.** The director of revenue shall establish a procedure by which, for each fiscal year,
65 the cumulative amount of tax credits authorized in this section is equally apportioned among all
66 taxpayers within the two categories specified in subsection 2 of this section claiming the credit
67 in that fiscal year. To the maximum extent possible, the director of revenue shall establish the
68 procedure described in this subsection in such a manner as to ensure that taxpayers within each
69 category can claim all the tax credits possible up to the cumulative amount of tax credits
70 available for the fiscal year.

71 [6. The director of revenue shall submit to the general assembly, by January 1, 2005, and
72 each succeeding year, information by income levels of those individual taxpayers who have
73 qualified and claimed the credit authorized in this section, regardless of whether those taxpayers
74 have assigned, transferred, or sold such credits. The information shall indicate the number of
75 such taxpayers with federal adjusted gross income in the immediately preceding tax year of less
76 than one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and including
77 one hundred ninety thousand dollars, and of more than one hundred ninety thousand dollars.]

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

86 the credit, and the date the contribution was made. The tax credit provided under this
87 subsection shall be initially filed in the year in which the verified contribution is made.

88 **8. The cumulative amount of the tax credits redeemed shall not exceed the**
89 **unclaimed portion of the resident adoption category allocation as described in this section.**
90 **The director of revenue shall determine the unclaimed portion available. The amount**
91 **available shall be equally divided among the agencies meeting the definition of qualified**
92 **agency to be used towards tax credits issued. In the event tax credits claimed under one**
93 **agency do not total the allocated amount for that agency, the unused portion for that**
94 **agency will be made available to the remaining agencies as needed. In the event the total**
95 **amount of tax credits claimed exceeds the amount available, the amount redeemed will be**
96 **apportioned equally to all eligible taxpayers claiming the credit. After all children in crisis**
97 **tax credits have been claimed, any remaining unclaimed portion of the reserved allocation**
98 **for adoptions of special needs children who are residents or wards of residents of this state**
99 **shall then be made available for adoption tax credit claims of special needs children who**
100 **are not residents or wards of residents of this state at the time the adoption is initiated.**

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

111 **10. The tax credits provided under this section shall be subject to the provisions of**
112 **section 135.333.**

113 **11. (1) In the event a credit denial, due to lack of available funds, causes a balance**
114 **due notice to be generated by the department of revenue, or any other redeeming agency,**
115 **the taxpayer will not be held liable for any penalty or interest, provided the balance is paid,**
116 **or approved payment arrangements have been made, within sixty days from the notice of**
117 **denial.**

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

121 **12. The director shall calculate the level of appropriation necessary to issue all tax**
122 **credits for non-resident special needs adoptions applied for under this section and provide**
123 **such calculation to the speaker of the house of representatives, the president pro tempore**
124 **of the senate, and the director of the office of budget and planning in the office of**
125 **administration by January thirty-first of each year.**

126 **13. The department may promulgate such rules or regulations as are necessary to**
127 **administer the provisions of this section. Any rule or portion of a rule, as that term is**
128 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
129 **section shall become effective only if it complies with and is subject to all of the provisions**
130 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
131 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
132 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
133 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
134 **authority and any rule proposed or adopted after August 28, 2006, shall be invalid and**
135 **void.**

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

137 **(1) The provisions of the new program authorized under subsections 7 to 12 of this**
138 **section shall automatically sunset six years after the effective date of this section unless**
139 **reauthorized by an act of the general assembly; and**

140 **(2) If such program is reauthorized, the program authorized under this section**
141 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
142 **section; and**

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

135.333. 1. Any amount of tax credit which exceeds the tax due **or which is applied**
2 **for and otherwise eligible for issuance but not issued** shall not be refunded but may be carried
3 over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may
4 be taken for each child adopted.

5 2. Tax credits that are assigned, transferred or sold as allowed in section 135.327 may
6 be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

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

2 **(1) "Contribution", a donation of cash, stock, bonds, or other marketable**
3 **securities, or real property;**

4 **(2) "Director", the director of the department of social services;**

5 **(3) "Pregnancy resource center", a nonresidential facility located in this state:**

6 (a) Established and operating primarily to provide assistance to women with crisis
7 pregnancies or unplanned pregnancies by offering pregnancy testing, counseling,
8 emotional and material support, and other similar services to encourage and assist such
9 women in carrying their pregnancies to term; and

10 (b) Where childbirths are not performed; and

11 (c) Which does not perform, induce, or refer for abortions and which does not hold
12 itself out as performing, inducing, or referring for abortions; and

13 (d) Which provides direct client services at the facility, as opposed to merely
14 providing counseling or referral services by telephone; and

15 (e) Which provides its services at no cost to its clients; and

16 (f) When providing medical services, such medical services must be performed in
17 accordance with Missouri statute; and

18 (g) Which is exempt from income taxation pursuant to the Internal Revenue Code
19 of 1986, as amended;

20 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by
21 such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo,
22 excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an
23 individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of
24 chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

25 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder
26 in an S corporation doing business in the state of Missouri and subject to the state income
27 tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual
28 corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance
29 company paying an annual tax on its gross premium receipts in this state, or other
30 financial institution paying taxes to the state of Missouri or any political subdivision of this
31 state pursuant to the provisions of chapter 148, RSMo, or an express company which pays
32 an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an
33 individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

34 2. For all tax years beginning on or after January 1, 2007, a taxpayer shall be
35 allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal
36 to fifty percent of the amount such taxpayer contributed to a pregnancy resource center.

37 3. The amount of the tax credit claimed shall not exceed the amount of the
38 taxpayer's state tax liability for the taxable year for which the credit is claimed, and such
39 taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per
40 taxable year. However, any tax credit that cannot be claimed in the taxable year the

41 contribution was made may be carried over to the next four succeeding taxable years until
42 the full credit has been claimed.

43 **4. Except for any excess credit which is carried over pursuant to subsection 3 of this**
44 **section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such**
45 **taxpayer's contribution or contributions to a pregnancy resource center or centers in such**
46 **taxpayer's taxable year has a value of at least one hundred dollars.**

47 **5. The director shall determine, at least annually, which facilities in this state may**
48 **be classified as pregnancy resource centers. The director may require of a facility seeking**
49 **to be classified as a pregnancy resource center whatever information which is reasonably**
50 **necessary to make such a determination. The director shall classify a facility as a**
51 **pregnancy resource center if such facility meets the definition set forth in subsection 1 of**
52 **this section.**

53 **6. The director shall establish a procedure by which a taxpayer can determine if**
54 **a facility has been classified as a pregnancy resource center. Pregnancy resource centers**
55 **shall be permitted to decline a contribution from a taxpayer. The cumulative amount of**
56 **tax credits which may be claimed by all the taxpayers contributing to pregnancy resource**
57 **centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be**
58 **issued in the order contributions are received.**

59 **7. The director shall establish a procedure by which, from the beginning of the**
60 **fiscal year until some point in time later in the fiscal year to be determined by the director,**
61 **the cumulative amount of tax credits are equally apportioned among all facilities classified**
62 **as pregnancy resource centers. If a pregnancy resource center fails to use all, or some**
63 **percentage to be determined by the director, of its apportioned tax credits during this**
64 **predetermined period of time, the director may reapportion these unused tax credits to**
65 **those pregnancy resource centers that have used all, or some percentage to be determined**
66 **by the director, of their apportioned tax credits during this predetermined period of time.**
67 **The director may establish more than one period of time and reapportion more than once**
68 **during each fiscal year. To the maximum extent possible, the director shall establish the**
69 **procedure described in this subsection in such a manner as to ensure that taxpayers can**
70 **claim all the tax credits possible up to the cumulative amount of tax credits available for**
71 **the fiscal year.**

72 **8. Each pregnancy resource center shall provide information to the director**
73 **concerning the identity of each taxpayer making a contribution to the pregnancy resource**
74 **center who is claiming a tax credit pursuant to this section and the amount of the**
75 **contribution. The director shall provide the information to the director of revenue. The**

76 director shall be subject to the confidentiality and penalty provisions of section 32.057,
77 RSMo, relating to the disclosure of tax information.

78 9. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

79 (1) Any new program authorized under this section shall automatically sunset six
80 years after the effective date of this section, unless reauthorized by an act of the general
81 assembly; and

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

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

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