

SECOND REGULAR SESSION

# HOUSE BILL NO. 2589

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHIELDS.

5365H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 135.341 and 135.647, RSMo, and to enact in lieu thereof two new sections relating to tax credits.

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

Section A. Sections 135.341 and 135.647, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 135.341 and 135.647, to read as follows:

135.341. 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, including an association based in this state,  
4 affiliated with a national association, organized to provide support to entities receiving  
5 funding from the court-appointed special advocate fund;
- 6 (2) "Child advocacy centers", the regional child assessment centers listed in  
7 subsection 2 of section 210.001, including an association based in this state, affiliated with a  
8 national association, and organized to provide support to entities listed in subsection 2 of  
9 section 210.001;
- 10 (3) "Contribution", the amount of donation to a qualified agency;
- 11 (4) "Crisis care center", entities contracted with this state which provide temporary  
12 care for children whose age ranges from birth through seventeen years of age whose parents  
13 or guardian are experiencing an unexpected and unstable or serious condition that requires  
14 immediate action resulting in short-term care, usually three to five continuous, uninterrupted  
15 days, for children who may be at 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;

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.

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

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

21 2. For all tax years beginning on or after January 1, 2013, a tax credit may be claimed  
22 in an amount equal to up to fifty percent of a verified contribution to a qualified agency and  
23 shall be named the champion for children tax credit. The minimum amount of any tax credit  
24 issued shall not be less than fifty dollars and shall be applied to taxes due under chapter 143,  
25 excluding sections 143.191 to 143.265. A contribution verification shall be issued to the  
26 taxpayer by the agency receiving the contribution. Such contribution verification shall  
27 include the taxpayer's name, Social Security number, amount of tax credit, amount of  
28 contribution, the name and address of the agency receiving the credit, and the date the  
29 contribution was made. The tax credit provided under this subsection shall be initially filed  
30 for the year in which the verified contribution is made.

31 3. The cumulative amount of the tax credits redeemed shall not exceed one million  
32 dollars for all fiscal years ending on or before June 30, 2019, and one million five hundred  
33 thousand dollars for all fiscal years beginning on or after July 1, 2019. The amount available  
34 shall be equally divided among the three qualified agencies: CASA, child advocacy centers,  
35 or crisis care centers, to be used towards tax credits issued. In the event tax credits claimed  
36 under one agency do not total the allocated amount for that agency, the unused portion for that  
37 agency will be made available to the remaining agencies equally. In the event the total  
38 amount of tax credits claimed for any one agency exceeds the amount available for that  
39 agency, the amount redeemed shall and will be apportioned equally to all eligible taxpayers  
40 claiming the credit under that agency.

41 4. Prior to December thirty-first of each year, each qualified agency shall apply to the  
42 department of social services in order to verify their qualified agency status. Upon a  
43 determination that the agency is eligible to be a qualified agency, the department of social  
44 services shall provide a letter of eligibility to such agency. No later than February first of  
45 each year, the department of social services shall provide a list of qualified agencies to the  
46 department of revenue. All tax credit applications to claim the champion for children tax  
47 credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall  
48 apply for the champion for children tax credit by attaching a copy of the contribution  
49 verification provided by a qualified agency to such taxpayer's income tax return.

50 5. Any amount of tax credit which exceeds the tax due or which is applied for and  
51 otherwise eligible for issuance but not issued shall not be refunded but may be carried over to  
52 any subsequent tax year, not to exceed a total of five years.

53 6. Tax credits may not be assigned, transferred or sold.

54 7. ~~[(1)]~~ In the event a **full or partial** credit denial, due to ~~[lack of available funds]~~ **the**  
55 **cumulative maximum amount of credits being redeemed for the fiscal year**, causes ~~[a~~  
56 ~~balance due notice]~~ **an income tax balance due** to be ~~[generated by the department of~~  
57 ~~revenue, or any other redeeming agency]~~ **owed to the state by the taxpayer**, the taxpayer  
58 ~~[will]~~ **shall** not be held liable for any **addition to tax**, penalty, or interest **on that income tax**  
59 **balance due**, provided the balance is paid, or approved payment arrangements have been  
60 made, within sixty days from **issuance of** the notice of **credit** denial.

61 ~~[(2) In the event the balance is not paid within sixty days from the notice of denial,~~  
62 ~~the remaining balance shall be due and payable under the provisions of chapter 143.]~~

63 8. The department may promulgate such rules or regulations as are necessary to  
64 administer the provisions of this section. Any rule or portion of a rule, as that term is defined  
65 in section 536.010, that is created under the authority delegated in this section shall become  
66 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
67 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
68 powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
69 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then  
70 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,  
71 shall be invalid and void.

72 9. Pursuant to section 23.253, of the Missouri sunset act:

73 (1) The program authorized under this section shall be reauthorized as of December  
74 31, 2019, and shall expire on December 31, 2025, unless reauthorized by the general  
75 assembly; and

76 (2) This section shall terminate on September first of the calendar year immediately  
77 following the calendar year in which the program authorized under this section is sunset; and

78 (3) The provisions of this subsection shall not be construed to limit or in any way  
79 impair the department's ability to redeem tax credits authorized on or before the date the  
80 program authorized under this section expires or a taxpayer's ability to redeem such credits.

81 10. Beginning on March 29, 2013, any verified contribution to a qualified agency  
82 made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

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

2 (1) "Local food pantry", any food pantry that is:

3 (a) Exempt from taxation under section 501(c)(3) of the Internal Revenue Code of  
4 1986, as amended; and

5 (b) Distributing emergency food supplies to Missouri low-income people who would  
6 otherwise not have access to food supplies in the area in which the taxpayer claiming the tax  
7 credit under this section resides;

8 (2) "Local homeless shelter", any homeless shelter that is:

9 (a) Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of  
10 1986, as amended; and

11 (b) Providing temporary living arrangements, in the area in which the taxpayer  
12 claiming the tax credit under this section resides, for individuals and families who otherwise  
13 lack a fixed, regular, and adequate nighttime residence and lack the resources or support  
14 networks to obtain other permanent housing;

15 (3) "Local soup kitchen", any soup kitchen that is:

16 (a) Exempt from taxation under section 501(c)(3) of the Internal Revenue Code of  
17 1986, as amended; and

18 (b) Providing prepared meals through an established congregate feeding operation to  
19 needy, low-income persons including, but not limited to, homeless persons in the area in  
20 which the taxpayer claiming the tax credit under this section resides;

21 (4) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or a shareholder  
22 in an S corporation doing business in this state and subject to the state income tax imposed by  
23 chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.

24 2. (1) Beginning on March 29, 2013, any donation of cash or food made to a local  
25 food pantry on or after January 1, 2013, unless such food is donated after the food's expiration  
26 date, shall be eligible for tax credits as provided by this section.

27 (2) Beginning on August 28, 2018, any donation of cash or food made to a local soup  
28 kitchen or local homeless shelter on or after January 1, 2018, unless such food is donated after  
29 the food's expiration date, shall be eligible for a tax credit as provided under this section.

30 (3) Any taxpayer who makes a donation that is eligible for a tax credit under this  
31 section shall be allowed a credit against the tax otherwise due under chapter 143, excluding  
32 withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent  
33 of the value of the donations made to the extent such amounts that have been subtracted from  
34 federal adjusted gross income or federal taxable income are added back in the determination  
35 of Missouri adjusted gross income or Missouri taxable income before the credit can be  
36 claimed. Each taxpayer claiming a tax credit under this section shall file an affidavit with the  
37 income tax return verifying the amount of their contributions. The amount of the tax credit  
38 claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year that  
39 the credit is claimed and shall not exceed two thousand five hundred dollars per taxpayer  
40 claiming the credit. Any amount of credit that the taxpayer is prohibited by this section from  
41 claiming in a tax year shall not be refundable, but may be carried forward to any of the  
42 taxpayer's three subsequent tax years. No tax credit granted under this section shall be  
43 transferred, sold, or assigned. No taxpayer shall be eligible to receive a credit pursuant to this  
44 section if such taxpayer employs persons who are not authorized to work in the United States

45 under federal law. No taxpayer shall be able to claim more than one credit under this section  
46 for a single donation.

47       3. **(1)** The cumulative amount of tax credits under this section which may be  
48 allocated to all taxpayers contributing to a local food pantry, local soup kitchen, or local  
49 homeless shelter in any one fiscal year shall not exceed one million seven hundred fifty  
50 thousand dollars. The director of revenue shall establish a procedure by which the cumulative  
51 amount of tax credits is apportioned among all taxpayers claiming the credit by April fifteenth  
52 of the fiscal year in which the tax credit is claimed. To the maximum extent possible, the  
53 director of revenue shall establish the procedure described in this subsection in such a manner  
54 as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount  
55 of tax credits available for the fiscal year.

56       **(2) In the event a full or partial credit denial, due to the cumulative maximum**  
57 **amount of credits being claimed for the fiscal year, causes a tax balance due to be owed**  
58 **to the state by the taxpayer, the taxpayer shall not be held liable for any addition to tax,**  
59 **penalty, or interest on that tax balance due, provided the balance is paid, or approved**  
60 **payment arrangements have been made, within sixty days from issuance of the notice of**  
61 **credit denial.**

62       4. Any local food pantry, local soup kitchen, or local homeless shelter may accept or  
63 reject any donation of food made under this section for any reason. For purposes of this  
64 section, any donations of food accepted by a local food pantry, local soup kitchen, or local  
65 homeless shelter shall be valued at fair market value, or at wholesale value if the taxpayer  
66 making the donation of food is a retail grocery store, food broker, wholesaler, or restaurant.

67       5. The department of revenue shall promulgate rules to implement the provisions of  
68 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
69 created under the authority delegated in this section shall become effective only if it complies  
70 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
71 This section and chapter 536 are nonseverable and if any of the powers vested with the  
72 general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
73 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
74 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid  
75 and void.

76       6. Under section 23.253 of the Missouri sunset act:

77       (1) The program authorized under this section shall be reauthorized as of August 28,  
78 2018, and shall expire on December 31, 2026, unless reauthorized by the general assembly;  
79 and

80       (2) This section shall terminate on September first of the calendar year immediately  
81 following the calendar year in which the program authorized under this section is sunset; and

82           (3) The provisions of this subsection shall not be construed to limit or in any way  
83 impair a taxpayer's ability to redeem tax credits authorized on or before the date the program  
84 authorized under this section expires.

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