

FIRST REGULAR SESSION

SENATE BILL NO. 461

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

1993S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 135.325, 135.326, 135.327, 135.335, 135.800, and 191.975, RSMo, and to enact in lieu thereof seven new sections relating to tax relief for the costs of caring for certain children.

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

Section A. Sections 135.325, 135.326, 135.327, 135.335, 2 135.800, and 191.975, RSMo, are repealed and seven new sections 3 enacted in lieu thereof, to be known as sections 135.325, 4 135.326, 135.327, 135.335, 135.800, 143.1170, and 191.975, to 5 read as follows:

135.325. Sections 135.325 to 135.339 shall be known 2 and may be cited as the "[Special Needs] Adoption Tax Credit 3 Act".

135.326. As used in sections 135.325 to 135.339, the 2 following terms shall mean:

3 (1) "Business entity", person, firm, a partner in a 4 firm, corporation or a shareholder in an S corporation doing 5 business in the state of Missouri and subject to the state 6 income tax imposed by the provisions of chapter 143, or a 7 corporation subject to the annual corporation franchise tax 8 imposed by the provisions of chapter 147, or an insurance 9 company paying an annual tax on its gross premium receipts 10 in this state, or other financial institution paying taxes 11 to the state of Missouri or any political subdivision of 12 this state under the provisions of chapter 148, or an

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

13 express company which pays an annual tax on its gross
14 receipts in this state pursuant to chapter 153;

15 (2) "Child", any individual who:

16 (a) Has not attained an age of at least eighteen
17 years; or

18 (b) Is eighteen years of age or older but is
19 physically or mentally incapable of caring for himself or
20 herself;

21 [(2) "Handicap",] (3) "Disability", a mental,
22 physical, or emotional impairment that substantially limits
23 one or more major life activities, whether the impairment is
24 congenital or acquired by accident, injury or disease, and
25 where the impairment is verified by medical findings;

26 [(3)] (4) "Nonrecurring adoption expenses", reasonable
27 and necessary adoption fees, court costs, attorney fees, and
28 other expenses which are directly related to the legal
29 adoption of a [special needs] child and which are not
30 incurred in violation of federal, state, or local law;

31 [(4)] (5) "Special needs child", a child for whom it
32 has been determined by the children's division, or by a
33 child-placing agency licensed by the state, or by a court of
34 competent jurisdiction to be a child:

35 (a) That cannot or should not be returned to the home
36 of his or her parents; and

37 (b) Who has a specific factor or condition such as
38 [ethnic background,] age, membership in a [minority or]
39 sibling group, medical condition **or diagnosis**, or [handicap]
40 **disability** because of which it is reasonable to conclude
41 that such child cannot be easily placed with adoptive
42 parents;

43 [(5)] (6) "State tax liability", any liability
44 incurred by a taxpayer under the provisions of chapter 143,

45 chapter 147, chapter 148, and chapter 153, exclusive of the
46 provisions relating to the withholding of tax as provided
47 for in sections 143.191 to 143.265 and related provisions.

135.327. 1. Any person residing in this state who
2 legally adopts a special needs child on or after January 1,
3 1988, and before January 1, 2000, shall be eligible to
4 receive a tax credit of up to ten thousand dollars for
5 nonrecurring adoption expenses for each child adopted that
6 may be applied to taxes due under chapter 143. Any business
7 entity providing funds to an employee to enable that
8 employee to legally adopt a special needs child shall be
9 eligible to receive a tax credit of up to ten thousand
10 dollars for nonrecurring adoption expenses for each child
11 adopted that may be applied to taxes due under such business
12 entity's state tax liability, except that only one ten
13 thousand dollar credit is available for each special needs
14 child that is adopted.

15 2. Any person residing in this state who proceeds in
16 good faith with the adoption of a special needs child on or
17 after January 1, 2000, **and before January 1, 2022**, shall be
18 eligible to receive a tax credit of up to ten thousand
19 dollars for nonrecurring adoption expenses for each child
20 that may be applied to taxes due under chapter 143;
21 provided, however, that beginning on March 29, 2013, the tax
22 credits shall only be allocated for the adoption of special
23 needs children who are residents or wards of residents of
24 this state at the time the adoption is initiated. Any
25 business entity providing funds to an employee to enable
26 that employee to proceed in good faith with the adoption of
27 a special needs child shall be eligible to receive a tax
28 credit of up to ten thousand dollars for nonrecurring
29 adoption expenses for each child that may be applied to

30 taxes due under such business entity's state tax liability,
31 except that only one ten thousand dollar credit is available
32 for each special needs child that is adopted.

33 **3. Any person residing in this state who proceeds in**
34 **good faith with the adoption of a child on or after January**
35 **1, 2022, regardless of whether such child is a special needs**
36 **child, shall be eligible to receive a tax credit of up to**
37 **ten thousand dollars for nonrecurring adoption expenses for**
38 **each child that may be applied to taxes due under chapter**
39 **143. The tax credit shall be allowed regardless of whether**
40 **the child adopted is a resident or ward of a resident of**
41 **this state at the time the adoption is initiated; however,**
42 **priority shall be given to applications to claim the tax**
43 **credit for special needs children who are residents or wards**
44 **of residents of this state at the time the adoption is**
45 **initiated. Any business entity providing funds to an**
46 **employee to enable that employee to proceed in good faith**
47 **with the adoption of a child shall be eligible to receive a**
48 **tax credit of up to ten thousand dollars for nonrecurring**
49 **adoption expenses for each child that may be applied to**
50 **taxes due under such business entity's state tax liability;**
51 **except that, only one credit, up to ten thousand dollars,**
52 **shall be available for each child who is adopted.**

53 **4. Individuals and business entities may claim a tax**
54 **credit for their total nonrecurring adoption expenses in**
55 **each year that the expenses are incurred. A claim for fifty**
56 **percent of the credit shall be allowed when the child is**
57 **placed in the home. A claim for the remaining fifty percent**
58 **shall be allowed when the adoption is final. The total of**
59 **these tax credits shall not exceed the maximum limit of ten**
60 **thousand dollars per child. The cumulative amount of tax**
61 **credits which may be claimed by taxpayers claiming the**

62 credit for nonrecurring adoption expenses in any one fiscal
63 year prior to July 1, 2004, shall not exceed two million
64 dollars. The cumulative amount of tax credits that may be
65 claimed by taxpayers claiming the credit for nonrecurring
66 adoption expenses shall not be more than two million dollars
67 but may be increased by appropriation in any fiscal year
68 beginning on or after July 1, 2004. For all fiscal years
69 beginning on or after July 1, 2006, applications to claim
70 the adoption tax credit [for special needs children who are
71 residents or wards of residents of this state at the time
72 the adoption is initiated] shall be filed between July first
73 and April fifteenth of each fiscal year.

74 [4.] 5. Notwithstanding any provision of law to the
75 contrary, any individual or business entity may assign,
76 transfer or sell tax credits allowed in this section. Any
77 sale of tax credits claimed pursuant to this section shall
78 be at a discount rate of seventy-five percent or greater of
79 the amount sold.

135.335. In the year of adoption and in any year
2 thereafter in which the credit is carried forward pursuant
3 to section 135.333, the credit shall be reduced by an amount
4 equal to the state's cost of providing care, treatment,
5 maintenance and services when:

6 (1) The [special needs] child is placed, with no
7 intent to return to the adoptive home, in foster care or
8 residential treatment licensed or operated by the children's
9 division, the division of youth services or the department
10 of mental health; or

11 (2) A juvenile court temporarily or finally relieves
12 the adoptive parents of custody of the [special needs] child.

135.800. 1. The provisions of sections 135.800 to
2 135.830 shall be known and may be cited as the "Tax Credit
3 Accountability Act of 2004".

4 2. As used in sections 135.800 to 135.830, the
5 following terms mean:

6 (1) "Administering agency", the state agency or
7 department charged with administering a particular tax
8 credit program, as set forth by the program's enacting
9 statute; where no department or agency is set forth, the
10 department of revenue;

11 (2) "Agricultural tax credits", the agricultural
12 product utilization contributor tax credit created pursuant
13 to section 348.430, the new generation cooperative incentive
14 tax credit created pursuant to section 348.432, the family
15 farm breeding livestock loan tax credit created under
16 section 348.505, the qualified beef tax credit created under
17 section 135.679, and the wine and grape production tax
18 credit created pursuant to section 135.700;

19 (3) "All tax credit programs", or "any tax credit
20 program", the tax credit programs included in the
21 definitions of agricultural tax credits, business
22 recruitment tax credits, community development tax credits,
23 domestic and social tax credits, entrepreneurial tax
24 credits, environmental tax credits, financial and insurance
25 tax credits, housing tax credits, redevelopment tax credits,
26 and training and educational tax credits;

27 (4) "Business recruitment tax credits", the business
28 facility tax credit created pursuant to sections 135.110 to
29 135.150 and section 135.258, the enterprise zone tax
30 benefits created pursuant to sections 135.200 to 135.270,
31 the business use incentives for large-scale development
32 programs created pursuant to sections 100.700 to 100.850,

33 the development tax credits created pursuant to sections
34 32.100 to 32.125, the rebuilding communities tax credit
35 created pursuant to section 135.535, the film production tax
36 credit created pursuant to section 135.750, the enhanced
37 enterprise zone created pursuant to sections 135.950 to
38 135.970, and the Missouri quality jobs program created
39 pursuant to sections 620.1875 to 620.1900;

40 (5) "Community development tax credits", the
41 neighborhood assistance tax credit created pursuant to
42 sections 32.100 to 32.125, the family development account
43 tax credit created pursuant to sections 208.750 to 208.775,
44 the dry fire hydrant tax credit created pursuant to section
45 320.093, and the transportation development tax credit
46 created pursuant to section 135.545;

47 (6) "Domestic and social tax credits", the youth
48 opportunities tax credit created pursuant to section 135.460
49 and sections 620.1100 to 620.1103, the shelter for victims
50 of domestic violence created pursuant to section 135.550,
51 the senior citizen or disabled person property tax credit
52 created pursuant to sections 135.010 to 135.035, the
53 [special needs] adoption tax credit created pursuant to
54 sections 135.325 to 135.339, the champion for children tax
55 credit created pursuant to section 135.341, the maternity
56 home tax credit created pursuant to section 135.600, the
57 surviving spouse tax credit created pursuant to section
58 135.090, the residential treatment agency tax credit created
59 pursuant to section 135.1150, the pregnancy resource center
60 tax credit created pursuant to section 135.630, the food
61 pantry tax credit created pursuant to section 135.647, the
62 health care access fund tax credit created pursuant to
63 section 135.575, the residential dwelling access tax credit
64 created pursuant to section 135.562, the developmental

65 disability care provider tax credit created under section
66 135.1180, the shared care tax credit created pursuant to
67 section 192.2015, and the diaper bank tax credit created
68 pursuant to section 135.621;

69 (7) "Entrepreneurial tax credits", the capital tax
70 credit created pursuant to sections 135.400 to 135.429, the
71 certified capital company tax credit created pursuant to
72 sections 135.500 to 135.529, the seed capital tax credit
73 created pursuant to sections 348.300 to 348.318, the new
74 enterprise creation tax credit created pursuant to sections
75 620.635 to 620.653, the research tax credit created pursuant
76 to section 620.1039, the small business incubator tax credit
77 created pursuant to section 620.495, the guarantee fee tax
78 credit created pursuant to section 135.766, and the new
79 generation cooperative tax credit created pursuant to
80 sections 32.105 to 32.125;

81 (8) "Environmental tax credits", the charcoal producer
82 tax credit created pursuant to section 135.313, the wood
83 energy tax credit created pursuant to sections 135.300 to
84 135.311, and the alternative fuel stations tax credit
85 created pursuant to section 135.710;

86 (9) "Financial and insurance tax credits", the bank
87 franchise tax credit created pursuant to section 148.030,
88 the bank tax credit for S corporations created pursuant to
89 section 143.471, the exam fee tax credit created pursuant to
90 section 148.400, the health insurance pool tax credit
91 created pursuant to section 376.975, the life and health
92 insurance guaranty tax credit created pursuant to section
93 376.745, the property and casualty guaranty tax credit
94 created pursuant to section 375.774, and the self-employed
95 health insurance tax credit created pursuant to section
96 143.119;

97 (10) "Housing tax credits", the neighborhood
98 preservation tax credit created pursuant to sections 135.475
99 to 135.487, the low-income housing tax credit created
100 pursuant to sections 135.350 to 135.363, and the affordable
101 housing tax credit created pursuant to sections 32.105 to
102 32.125;

103 (11) "Recipient", the individual or entity who is the
104 original applicant for and who receives proceeds from a tax
105 credit program directly from the administering agency, the
106 person or entity responsible for the reporting requirements
107 established in section 135.805;

108 (12) "Redevelopment tax credits", the historic
109 preservation tax credit created pursuant to sections 253.545
110 to 253.559, the brownfield redevelopment program tax credit
111 created pursuant to sections 447.700 to 447.718, the
112 community development corporations tax credit created
113 pursuant to sections 135.400 to 135.430, the infrastructure
114 tax credit created pursuant to subsection 6 of section
115 100.286, the bond guarantee tax credit created pursuant to
116 section 100.297, the disabled access tax credit created
117 pursuant to section 135.490, the new markets tax credit
118 created pursuant to section 135.680, and the distressed
119 areas land assemblage tax credit created pursuant to section
120 99.1205;

121 (13) "Training and educational tax credits", the
122 Missouri works new jobs tax credit and Missouri works
123 retained jobs credit created pursuant to sections 620.800 to
124 620.809.

143.1170. 1. As used in this section, the following
2 **terms mean:**

3 (1) "Deduction", an amount subtracted from a
4 taxpayer's Missouri adjusted gross income to determine the
5 taxpayer's Missouri taxable income for a given tax year;

6 (2) "Foster parent", the same definition as provided
7 under section 210.566;

8 (3) "Taxpayer", any individual who is a resident of
9 this state and subject to the income tax imposed under this
10 chapter, excluding withholding tax imposed under sections
11 143.191 to 143.265.

12 2. (1) For all tax years beginning on or after
13 January 1, 2022, a taxpayer shall be allowed a deduction for
14 expenses incurred directly by the taxpayer in providing care
15 as a foster parent to one or more children in this state.

16 (2) The amount of the deduction shall be equal to the
17 amount of expenses directly incurred by the taxpayer in
18 providing such care; provided that:

19 (a) If the taxpayer provides care as a foster parent
20 for at least six months during the tax year, the total
21 amount of the deduction claimed under this section shall not
22 exceed two thousand five hundred dollars per taxpayer, or
23 five thousand dollars if married and filing a combined
24 return; and

25 (b) If the taxpayer provides care as a foster parent
26 for less than six months during the tax year, the maximum
27 deduction limits described in paragraph (a) of this
28 subdivision shall apply, but such limits shall be reduced on
29 a pro rata basis.

30 3. The department of revenue shall collaborate with
31 the children's division of the department of social services
32 in order to establish and implement a procedure to verify
33 that a taxpayer claiming the deduction authorized under this
34 section is a foster parent.

35 4. Each taxpayer claiming the deduction authorized
36 under this section shall file an affidavit with such
37 taxpayer's income tax return. The affidavit shall affirm
38 that the taxpayer is a foster parent and that the taxpayer
39 is entitled to the deduction in the amount claimed on his or
40 her tax return.

41 5. The department of revenue may promulgate all
42 necessary rules and regulations for the administration of
43 this section. Any rule or portion of a rule, as that term
44 is defined in section 536.010, that is created under the
45 authority delegated in this section shall become effective
46 only if it complies with and is subject to all of the
47 provisions of chapter 536 and, if applicable, section
48 536.028. This section and chapter 536 are nonseverable, and
49 if any of the powers vested with the general assembly
50 pursuant to chapter 536 to review, to delay the effective
51 date, or to disapprove and annul a rule are subsequently
52 held unconstitutional, then the grant of rulemaking
53 authority and any rule proposed or adopted after August 28,
54 2021, shall be invalid and void.

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

56 (1) The provisions of this section shall automatically
57 sunset on December thirty-first six years after the
58 effective date of this section, unless reauthorized by an
59 act of the general assembly;

60 (2) If the provisions of this section are
61 reauthorized, the provisions shall automatically sunset on
62 December thirty-first twelve years after the effective date
63 of their reauthorization; and

64 (3) This section shall terminate on September first of
65 the calendar year immediately following the calendar year in
66 which the provisions of this section are sunset.

191.975. 1. This section shall be known and may be
2 cited as the "Adoption Awareness Law".

3 2. To raise public awareness and to educate the
4 public, the department of social services, with the
5 assistance of the department of health and senior services,
6 shall be responsible for:

7 (1) Collecting and distributing resource materials to
8 educate the public about foster care and adoption;

9 (2) Developing and distributing educational materials,
10 including but not limited to videos, brochures and other
11 media as part of a comprehensive public relations campaign
12 about the positive option of adoption and foster care. The
13 materials shall include, but not be limited to, information
14 about:

15 (a) The benefits of adoption and foster care;

16 (b) Adoption and foster care procedures;

17 (c) Means of financing the cost of adoption and foster
18 care[,] including, but not limited to, adoption subsidies,
19 foster care payments, and [special needs] adoption tax
20 credits;

21 (d) Options for birth parents in choosing adoptive
22 parents;

23 (e) Protection for and rights of birth parents and
24 adoptive parents prior to and following the adoption;

25 (f) Location of adoption and foster care agencies;

26 (g) Information regarding various state health and
27 social service programs for pregnant women and children,
28 including but not limited to medical assistance programs and
29 temporary assistance for needy families (TANF); and

30 (h) Referrals to appropriate counseling services,
31 including but not be limited to counseling services for
32 parents who are considering retaining custody of their

33 children, placing their children for adoption, or becoming
34 foster or adoptive parents; but excluding any referrals for
35 abortion or to abortion facilities;

36 (3) Making such educational materials available
37 through state and local public health clinics, public
38 hospitals, family planning clinics, abortion facilities as
39 defined in section 188.015, maternity homes as defined in
40 section 135.600, child-placing agencies licensed pursuant to
41 sections 210.481 to 210.536, attorneys whose practice
42 involves private adoptions, in vitro fertilization clinics
43 and private physicians for distribution to their patients
44 who request such educational materials. Such materials
45 shall also be available to the public through the department
46 of social services' internet website;

47 (4) Establishing a toll-free telephone number for
48 information on adoption and foster care, and to answer
49 questions and assist persons inquiring about becoming
50 adoptive or foster parents.

51 3. In addition, the department may establish and
52 implement an ongoing advertising campaign for the
53 recruitment of adoptive and foster care families, with a
54 special emphasis on the recruitment of qualified adoptive
55 and foster care families for special needs children. Such
56 advertising campaign may utilize, but shall not be limited
57 to, the following media: television, radio, outdoor
58 advertising, newspaper, magazines and other print media,
59 websites, and the internet. The department may contract
60 with professional advertising agencies or other professional
61 entities to conduct such advertising campaign on behalf of
62 the department.

63 4. The provisions of this section shall be subject to
64 appropriations.

65 5. The department of social services shall promulgate
66 rules for the implementation of this section in accordance
67 with chapter 536.

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