

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 455

102ND GENERAL ASSEMBLY

1760S.03C

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 32.115, 135.327, 135.331, 135.333, and 135.460, RSMo, and to enact in lieu thereof five new sections relating to benevolent tax credits.

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

Section A. Sections 32.115, 135.327, 135.331, 135.333,  
2 and 135.460, RSMo, are repealed and five new sections enacted  
3 in lieu thereof, to be known as sections 32.115, 135.327,  
4 135.331, 135.333, and 135.460, to read as follows:

32.115. 1. The department of revenue shall grant a  
2 tax credit, to be applied in the following order until used,  
3 against:

4 (1) The annual tax on gross premium receipts of  
5 insurance companies in chapter 148;

6 (2) The tax on banks determined pursuant to  
7 subdivision (2) of subsection 2 of section 148.030;

8 (3) The tax on banks determined in subdivision (1) of  
9 subsection 2 of section 148.030;

10 (4) The tax on other financial institutions in chapter  
11 148;

12 (5) The corporation franchise tax in chapter 147;

13 (6) The state income tax in chapter 143; and

14 (7) The annual tax on gross receipts of express  
15 companies in chapter 153.

16 2. For proposals approved pursuant to section 32.110:

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

17           (1) The amount of the tax credit shall not exceed  
18 **[fifty] seventy** percent of the total amount contributed  
19 during the taxable year by the business firm or, in the case  
20 of a financial institution, where applicable, during the  
21 relevant income period in programs approved pursuant to  
22 section 32.110;

23           (2) Except as provided in subsection 2 or 5 of this  
24 section, a tax credit of up to seventy percent may be  
25 allowed for contributions to programs where activities fall  
26 within the scope of special program priorities as defined  
27 with the approval of the governor in regulations promulgated  
28 by the director of the department of economic development;

29           (3) Except as provided in subsection 2 or 5 of this  
30 section, the tax credit allowed for contributions to  
31 programs located in any community shall be equal to seventy  
32 percent of the total amount contributed where such community  
33 is a city, town or village which has fifteen thousand or  
34 less inhabitants as of the last decennial census and is  
35 located in a county which is either located in:

36           (a) An area that is not part of a standard  
37 metropolitan statistical area;

38           (b) A standard metropolitan statistical area but such  
39 county has only one city, town or village which has more  
40 than fifteen thousand inhabitants; or

41           (c) A standard metropolitan statistical area and a  
42 substantial number of persons in such county derive their  
43 income from agriculture.

44 Such community may also be in an unincorporated area in such  
45 county as provided in subdivision (1), (2) or (3) of this  
46 subsection. Except in no case shall the total economic  
47 benefit of the combined federal and state tax savings to the

48 taxpayer exceed the amount contributed by the taxpayer  
49 during the tax year;

50 (4) Such tax credit allocation, equal to seventy  
51 percent of the total amount contributed, shall not exceed  
52 four million dollars in fiscal year 1999 and six million  
53 dollars in fiscal year 2000 and any subsequent fiscal year.  
54 When the maximum dollar limit on the seventy percent tax  
55 credit allocation is committed, the tax credit allocation  
56 for such programs shall then be equal to fifty percent  
57 credit of the total amount contributed. Regulations  
58 establishing special program priorities are to be  
59 promulgated during the first month of each fiscal year and  
60 at such times during the year as the public interest  
61 dictates. Such credit shall not exceed two hundred and  
62 fifty thousand dollars annually except as provided in  
63 subdivision (5) of this subsection. No tax credit shall be  
64 approved for any bank, bank and trust company, insurance  
65 company, trust company, national bank, savings association,  
66 or building and loan association for activities that are a  
67 part of its normal course of business. Any tax credit not  
68 used in the period the contribution was made may be carried  
69 over the next five succeeding calendar or fiscal years until  
70 the full credit has been claimed. Except as otherwise  
71 provided for proposals approved pursuant to section 32.111,  
72 32.112 or 32.117, in no event shall the total amount of all  
73 other tax credits allowed pursuant to sections 32.100 to  
74 32.125 exceed thirty-two million dollars in any one fiscal  
75 year, of which six million shall be credits allowed pursuant  
76 to section 135.460. If six million dollars in credits are  
77 not approved, then the remaining credits may be used for  
78 programs approved pursuant to sections 32.100 to 32.125;

79           (5) The credit may exceed two hundred fifty thousand  
80 dollars annually and shall not be limited if community  
81 services, crime prevention, education, job training,  
82 physical revitalization or economic development, as defined  
83 by section 32.105, is rendered in an area defined by federal  
84 or state law as an impoverished, economically distressed, or  
85 blighted area or as a neighborhood experiencing problems  
86 endangering its existence as a viable and stable  
87 neighborhood, or if the community services, crime  
88 prevention, education, job training, physical revitalization  
89 or economic development is limited to impoverished persons.

90           3. For proposals approved pursuant to section 32.111:

91           (1) The amount of the tax credit shall not exceed  
92 ~~[fifty-five]~~ **seventy** percent of the total amount invested in  
93 affordable housing assistance activities or market rate  
94 housing in distressed communities as defined in section  
95 135.530 by a business firm. Whenever such investment is  
96 made in the form of an equity investment or a loan, as  
97 opposed to a donation alone, tax credits may be claimed only  
98 where the loan or equity investment is accompanied by a  
99 donation which is eligible for federal income tax charitable  
100 deduction, and where the total value of the tax credits  
101 herein plus the value of the federal income tax charitable  
102 deduction is less than or equal to the value of the  
103 donation. Any tax credit not used in the period for which  
104 the credit was approved may be carried over the next ten  
105 succeeding calendar or fiscal years until the full credit  
106 has been allowed. If the affordable housing units or market  
107 rate housing units in distressed communities for which a tax  
108 is claimed are within a larger structure, parts of which are  
109 not the subject of a tax credit claim, then expenditures  
110 applicable to the entire structure shall be reduced on a

111 prorated basis in proportion to the ratio of the number of  
112 square feet devoted to the affordable housing units or  
113 market rate housing units in distressed communities, for  
114 purposes of determining the amount of the tax credit. The  
115 total amount of tax credit granted for programs approved  
116 pursuant to section 32.111 for the fiscal year beginning  
117 July 1, 1991, shall not exceed two million dollars, to be  
118 increased by no more than two million dollars each  
119 succeeding fiscal year, until the total tax credits that may  
120 be approved reaches ten million dollars in any fiscal year;

121 (2) For any year during the compliance period  
122 indicated in the land use restriction agreement, the owner  
123 of the affordable housing rental units for which a credit is  
124 being claimed shall certify to the commission that all  
125 tenants renting claimed units are income eligible for  
126 affordable housing units and that the rentals for each  
127 claimed unit are in compliance with the provisions of  
128 sections 32.100 to 32.125. The commission is authorized, in  
129 its discretion, to audit the records and accounts of the  
130 owner to verify such certification;

131 (3) In the case of owner-occupied affordable housing  
132 units, the qualifying owner occupant shall, before the end  
133 of the first year in which credits are claimed, certify to  
134 the commission that the occupant is income eligible during  
135 the preceding two years, and at the time of the initial  
136 purchase contract, but not thereafter. The qualifying owner  
137 occupant shall further certify to the commission, before the  
138 end of the first year in which credits are claimed, that  
139 during the compliance period indicated in the land use  
140 restriction agreement, the cost of the affordable housing  
141 unit to the occupant for the claimed unit can reasonably be  
142 projected to be in compliance with the provisions of

143 sections 32.100 to 32.125. Any succeeding owner occupant  
144 acquiring the affordable housing unit during the compliance  
145 period indicated in the land use restriction agreement shall  
146 make the same certification;

147 (4) If at any time during the compliance period the  
148 commission determines a project for which a proposal has  
149 been approved is not in compliance with the applicable  
150 provisions of sections 32.100 to 32.125 or rules promulgated  
151 therefor, the commission may within one hundred fifty days  
152 of notice to the owner either seek injunctive enforcement  
153 action against the owner, or seek legal damages against the  
154 owner representing the value of the tax credits, or  
155 foreclose on the lien in the land use restriction agreement,  
156 selling the project at a public sale, and paying to the  
157 owner the proceeds of the sale, less the costs of the sale  
158 and less the value of all tax credits allowed herein. The  
159 commission shall remit to the director of revenue the  
160 portion of the legal damages collected or the sale proceeds  
161 representing the value of the tax credits. However, except  
162 in the event of intentional fraud by the taxpayer, the  
163 proposal's certificate of eligibility for tax credits shall  
164 not be revoked.

165 4. For proposals approved pursuant to section 32.112,  
166 the amount of the tax credit shall not exceed [fifty-five]  
167 **seventy** percent of the total amount contributed to a  
168 neighborhood organization by business firms. Any tax credit  
169 not used in the period for which the credit was approved may  
170 be carried over the next ten succeeding calendar or fiscal  
171 years until the full credit has been allowed. The total  
172 amount of tax credit granted for programs approved pursuant  
173 to section 32.112 shall not exceed one million dollars for  
174 each fiscal year.

175           5. The total amount of tax credits used for market  
176 rate housing in distressed communities pursuant to sections  
177 32.100 to 32.125 shall not exceed thirty percent of the  
178 total amount of all tax credits authorized pursuant to  
179 sections 32.111 and 32.112.

          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.

          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 **for tax years ending on or before December 31, 2023,**  
43 priority shall be given to applications to claim the tax  
44 credit for special needs children who are residents or wards  
45 of residents of this state at the time the adoption is  
46 initiated. Any business entity providing funds to an  
47 employee to enable that employee to proceed in good faith  
48 with the adoption of a child shall be eligible to receive a  
49 tax credit of up to ten thousand dollars for nonrecurring  
50 adoption expenses for each child that may be applied to  
51 taxes due under such business entity's state tax liability;  
52 except that, only one credit, up to ten thousand dollars,  
53 shall be available for each child who is adopted.

54 4. Individuals and business entities may claim a tax  
55 credit for their total nonrecurring adoption expenses in  
56 each year that the expenses are incurred. A claim for fifty  
57 percent of the credit shall be allowed when the child is  
58 placed in the home. A claim for the remaining fifty percent  
59 shall be allowed when the adoption is final. The total of



60 these tax credits shall not exceed the maximum limit of ten  
61 thousand dollars per child. The cumulative amount of tax  
62 credits which may be claimed by taxpayers claiming the  
63 credit for nonrecurring adoption expenses in any one fiscal  
64 year prior to July 1, 2004, shall not exceed two million  
65 dollars. The cumulative amount of tax credits that may be  
66 claimed by taxpayers claiming the credit for nonrecurring  
67 adoption expenses shall not be more than two million dollars  
68 but may be increased by appropriation in any fiscal year  
69 beginning on or after July 1, 2004, and ending on or before  
70 June 30, 2021. The cumulative amount of tax credits that  
71 may be claimed by taxpayers claiming the credit for  
72 nonrecurring adoption expenses shall not exceed six million  
73 dollars in any fiscal year beginning on or after July 1,  
74 2021, **and ending on or before June 30, 2023. For all fiscal**  
75 **years beginning on or after July 1, 2023, there shall be no**  
76 **limit imposed on the cumulative amount of tax credits that**  
77 **may be claimed by taxpayers claiming the credit for**  
78 **nonrecurring adoption expenses.** For all fiscal years  
79 beginning on or after July 1, 2006, applications to claim  
80 the adoption tax credit shall be filed between July first  
81 and April fifteenth of each fiscal year.

82 5. Notwithstanding any provision of law to the  
83 contrary, any individual or business entity may assign,  
84 transfer or sell tax credits allowed in this section. Any  
85 sale of tax credits claimed pursuant to this section shall  
86 be at a discount rate of seventy-five percent or greater of  
87 the amount sold.

135.331. No credit shall be allowable for the adoption  
2 of any child who has attained the age of eighteen, unless it  
3 has been determined that the child has a medical condition

4 or [handicap] **disability** that would limit the child's  
5 ability to live independently of the adoptive parents.

135.333. 1. **(1) For all tax years ending on or**  
2 **before December 31, 2023,** any amount of tax credit which  
3 exceeds the tax due or which is applied for and otherwise  
4 eligible for issuance but not issued shall not be refunded  
5 but may be carried over to any subsequent taxable year, not  
6 to exceed a total of five years for which a tax credit may  
7 be taken for each child adopted.

8 **(2) For all tax years beginning on or after January 1,**  
9 **2024, any amount of tax credit that is issued and which**  
10 **exceeds the tax due shall be refunded to the taxpayer.**

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

135.460. 1. This section and sections 620.1100 and  
2 620.1103 shall be known and may be cited as the "Youth  
3 Opportunities and Violence Prevention Act".

4 2. As used in this section, the term "taxpayer" shall  
5 include corporations as defined in section 143.441 or  
6 143.471, any charitable organization which is exempt from  
7 federal income tax and whose Missouri unrelated business  
8 taxable income, if any, would be subject to the state income  
9 tax imposed under chapter 143, and individuals, individual  
10 proprietorships and partnerships.

11 3. A taxpayer shall be allowed a tax credit against  
12 the tax otherwise due pursuant to chapter 143, excluding  
13 withholding tax imposed by sections 143.191 to 143.265,  
14 chapter 147, chapter 148, or chapter 153 in an amount equal  
15 to thirty percent for property contributions and [fifty]  
16 **seventy** percent for monetary contributions of the amount

17 such taxpayer contributed to the programs described in  
18 subsection 5 of this section, not to exceed two hundred  
19 thousand dollars per taxable year, per taxpayer; except as  
20 otherwise provided in subdivision (5) of subsection 5 of  
21 this section. The department of economic development shall  
22 prescribe the method for claiming the tax credits allowed in  
23 this section. No rule or portion of a rule promulgated  
24 under the authority of this section shall become effective  
25 unless it has been promulgated pursuant to the provisions of  
26 chapter 536. All rulemaking authority delegated prior to  
27 June 27, 1997, is of no force and effect and repealed;  
28 however, nothing in this section shall be interpreted to  
29 repeal or affect the validity of any rule filed or adopted  
30 prior to June 27, 1997, if such rule complied with the  
31 provisions of chapter 536. The provisions of this section  
32 and chapter 536 are nonseverable and if any of the powers  
33 vested with the general assembly pursuant to chapter 536,  
34 including the ability to review, to delay the effective  
35 date, or to disapprove and annul a rule or portion of a  
36 rule, are subsequently held unconstitutional, then the  
37 purported grant of rulemaking authority and any rule so  
38 proposed and contained in the order of rulemaking shall be  
39 invalid and void.

40 4. The tax credits allowed by this section shall be  
41 claimed by the taxpayer to offset the taxes that become due  
42 in the taxpayer's tax period in which the contribution was  
43 made. Any tax credit not used in such tax period may be  
44 carried over the next five succeeding tax periods.

45 5. The tax credit allowed by this section may only be  
46 claimed for monetary or property contributions to public or  
47 private programs authorized to participate pursuant to this  
48 section by the department of economic development and may be

49 claimed for the development, establishment, implementation,  
50 operation, and expansion of the following activities and  
51 programs:

52 (1) An adopt-a-school program. Components of the  
53 adopt-a-school program shall include donations for school  
54 activities, seminars, and functions; school-business  
55 employment programs; and the donation of property and  
56 equipment of the corporation to the school;

57 (2) Expansion of programs to encourage school dropouts  
58 to reenter and complete high school or to complete a  
59 graduate equivalency degree program;

60 (3) Employment programs. Such programs shall  
61 initially, but not exclusively, target unemployed youth  
62 living in poverty and youth living in areas with a high  
63 incidence of crime;

64 (4) New or existing youth clubs or associations;

65 (5) Employment/internship/apprenticeship programs in  
66 business or trades for persons less than twenty years of  
67 age, in which case the tax credit claimed pursuant to this  
68 section shall be equal to one-half of the amount paid to the  
69 intern or apprentice in that tax year, except that such  
70 credit shall not exceed ten thousand dollars per person;

71 (6) Mentor and role model programs;

72 (7) Drug and alcohol abuse prevention training  
73 programs for youth;

74 (8) Donation of property or equipment of the taxpayer  
75 to schools, including schools which primarily educate  
76 children who have been expelled from other schools, or  
77 donation of the same to municipalities, or not-for-profit  
78 corporations or other not-for-profit organizations which  
79 offer programs dedicated to youth violence prevention as  
80 authorized by the department;

81           (9) Not-for-profit, private or public youth activity  
82 centers;

83           (10) Nonviolent conflict resolution and mediation  
84 programs;

85           (11) Youth outreach and counseling programs.

86           6. Any program authorized in subsection 5 of this  
87 section shall, at least annually, submit a report to the  
88 department of economic development outlining the purpose and  
89 objectives of such program, the number of youth served, the  
90 specific activities provided pursuant to such program, the  
91 duration of such program and recorded youth attendance where  
92 applicable.

93           7. The department of economic development shall, at  
94 least annually submit a report to the Missouri general  
95 assembly listing the organizations participating, services  
96 offered and the number of youth served as the result of the  
97 implementation of this section.

98           8. The tax credit allowed by this section shall apply  
99 to all taxable years beginning after December 31, 1995.

100           9. For the purposes of the credits described in this  
101 section, in the case of a corporation described in section  
102 143.471, partnership, limited liability company described in  
103 section 347.015, cooperative, marketing enterprise, or  
104 partnership, in computing Missouri's tax liability, such  
105 credits shall be allowed to the following:

106           (1) The shareholders of the corporation described in  
107 section 143.471;

108           (2) The partners of the partnership;

109           (3) The members of the limited liability company; and

110           (4) Individual members of the cooperative or marketing  
111 enterprise.

112 Such credits shall be apportioned to the entities described  
113 in subdivisions (1) and (2) of this subsection in proportion  
114 to their share of ownership on the last day of the  
115 taxpayer's tax period.

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