

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 71
95TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, February 25, 2009, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0326S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for contributions made to developmental disability care providers.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.1180, to read as follows:

135.1180. 1. This section shall be known and may be cited as the "Developmental Disability Care Provider Tax Credit Program".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible donation", donations received, by a provider, from a taxpayer that are used solely to provide direct care services to persons with developmental disabilities who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include, but are not limited to, increasing the quality of care and service for persons with developmental disabilities through improved employee compensation and training;

(4) "Qualified developmental disability care provider" or "provider", a care provider that provides assistance to persons with developmental disabilities, and is under contract with the Missouri department of social services or department of mental health to provide treatment services for such persons, and that receives eligible

21 donations. Any provider that operates more than one facility or at
22 more than one location shall be eligible for the tax credit under this
23 section only for any eligible donation made to facilities or locations of
24 the provider which are licensed and accredited;

25 (5) "Taxpayer", any of the following individuals or entities who
26 make an eligible donation to a provider:

27 (a) A person, firm, partner in a firm, corporation, or a
28 shareholder in an S corporation doing business in the state of Missouri
29 and subject to the state income tax imposed in chapter 143, RSMo;

30 (b) A corporation subject to the annual corporation franchise tax
31 imposed in chapter 147, RSMo;

32 (c) An insurance company paying an annual tax on its gross
33 premium receipts in this state;

34 (d) Any other financial institution paying taxes to the state of
35 Missouri or any political subdivision of this state under chapter 148,
36 RSMo;

37 (e) An individual subject to the state income tax imposed in
38 chapter 143, RSMo;

39 (f) Any charitable organization which is exempt from federal
40 income tax and whose Missouri unrelated business taxable income, if
41 any, would be subject to the state income tax imposed under chapter
42 143, RSMo.

43 3. For all taxable years beginning on or after January 1, 2010,
44 any taxpayer shall be allowed a credit against the taxes otherwise due
45 under chapter 143, 147, or 148, RSMo, excluding withholding tax
46 imposed by sections 143.191 to 143.265, RSMo, in an amount equal to
47 fifty percent of the amount of an eligible donation, subject to the
48 restrictions in this section. The amount of the tax credit claimed shall
49 not exceed the amount of the taxpayer's state income tax liability in the
50 tax year for which the credit is claimed. Any amount of credit that the
51 taxpayer is prohibited by this section from claiming in a tax year shall
52 not be refundable, but may be carried forward to any of the taxpayer's
53 four subsequent taxable years.

54 4. To claim the credit authorized in this section, a provider may
55 submit to the department an application for the tax credit authorized
56 by this section on behalf of taxpayers. The department shall verify that
57 the provider has submitted the following items accurately and

58 **completely:**

59 **(1) A valid application in the form and format required by the**
60 **department;**

61 **(2) A statement attesting to the eligible donation received, which**
62 **shall include the name and taxpayer identification number of the**
63 **individual making the eligible donation, the amount of the eligible**
64 **donation, and the date the eligible donation was received by the**
65 **provider; and**

66 **(3) Payment from the provider equal to the value of the tax**
67 **credit for which application is made.**

68 **If the provider applying for the tax credit meets all criteria required**
69 **by this subsection, the department shall issue a certificate in the**
70 **appropriate amount.**

71 **5. Tax credits issued under this section may be assigned,**
72 **transferred, sold, or otherwise conveyed, and the new owner of the tax**
73 **credit shall have the same rights in the credit as the**
74 **taxpayer. Whenever a certificate is assigned, transferred, sold, or**
75 **otherwise conveyed, a notarized endorsement shall be filed with the**
76 **department specifying the name and address of the new owner of the**
77 **tax credit or the value of the credit.**

78 **6. The department shall promulgate rules to implement the**
79 **provisions of this section. Any rule or portion of a rule, as that term is**
80 **defined in section 536.010, RSMo, that is created under the authority**
81 **delegated in this section shall become effective only if it complies with**
82 **and is subject to all of the provisions of chapter 536, RSMo, and, if**
83 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo,**
84 **are nonseverable and if any of the powers vested with the general**
85 **assembly pursuant to chapter 536, RSMo, to review, to delay the**
86 **effective date, or to disapprove and annul a rule are subsequently held**
87 **unconstitutional, then the grant of rulemaking authority and any rule**
88 **proposed or adopted after August 28, 2009, shall be invalid and void.**

89 **7. Under section 23.253, RSMo, of the Missouri sunset act:**

90 **(1) The provisions of the new program authorized under this**
91 **section shall automatically sunset six years after August 28, 2009,**
92 **unless reauthorized by an act of the general assembly; and**

93 **(2) If such program is reauthorized, the program authorized**
94 **under this section shall automatically sunset twelve years after the**

95 **effective date of the reauthorization of this section; and**

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

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