

FIRST REGULAR SESSION

# SENATE BILL NO. 71

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0326S.011

## AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for contributions made to mentally retarded and developmental type 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 "Mentally Retarded and Developmental Type 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 the mentally retarded and persons with developmental type 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 the mentally retarded and persons with developmental type disabilities through improved employee compensation and training;**

**(4) "Qualified mentally retarded and developmental type disability care provider" or "provider", a care provider that provides assistance to the mentally retarded or persons with developmental type disabilities, and is under contract with the Missouri department of**

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

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

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

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

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

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

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

40 (f) Any charitable organization which is exempt from federal  
41 income tax and whose Missouri unrelated business taxable income, if  
42 any, would be subject to the state income tax imposed under chapter  
43 143, RSMo.

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

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

58 the provider has submitted the following items accurately and  
59 completely:

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

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

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

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

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

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

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

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

94 (2) If such program is reauthorized, the program authorized

95 under this section shall automatically sunset twelve years after the  
96 effective date of the reauthorization of this section; and

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

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