

SENATE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 453

AN ACT

To repeal section 135.1150, RSMo, and to enact in lieu thereof two new sections relating to tax credits for certain contributions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Section 135.1150, RSMo, is repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 135.647  
3 and 135.1150, to read as follows:

4           135.647. 1. As used in this section the following terms  
5 shall mean:

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

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

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

13           (2) "Taxpayer", an individual, a firm, a partner in a firm,  
14 corporation, or a shareholder in an S corporation doing business  
15 in this state and subject to the state income tax imposed by  
16 chapter 143, RSMo, excluding withholding tax imposed by sections

1 143.191 to 143.265, RSMo.

2 2. For all tax years beginning on or after January 1, 2007,  
3 any taxpayer who donates cash or food, unless such food is  
4 donated after the food's expiration date, to any local food  
5 pantry shall be allowed a credit against the tax otherwise due  
6 under chapter 143, RSMo, excluding withholding tax imposed by  
7 sections 143.191 to 143.265, RSMo, in an amount equal to fifty  
8 percent of the value of the donations made to the extent such  
9 amounts that have been subtracted from federal adjusted gross  
10 income or federal taxable income are added back in the  
11 determination of Missouri adjusted gross income or Missouri  
12 taxable income before the credit can be claimed. Each taxpayer  
13 claiming a tax credit under this section shall file an affidavit  
14 with the income tax return verifying the amount of their  
15 contributions. The amount of the tax credit claimed shall not  
16 exceed the amount of the taxpayer's state tax liability for the  
17 tax year that the credit is claimed, and shall not exceed two  
18 thousand five hundred dollars per taxpayer claiming the credit.  
19 Any amount of credit that the taxpayer is prohibited by this  
20 section from claiming in a tax year shall not be refundable, but  
21 may be carried forward to any of the taxpayer's three subsequent  
22 taxable years. No tax credit granted under this section shall be  
23 transferred, sold, or assigned. No taxpayer shall be eligible to  
24 receive a credit pursuant to this section if such taxpayer  
25 employs persons who are not authorized to work in the United  
26 States under federal law.

27 3. The cumulative amount of tax credits under this section  
28 which may be allocated to all taxpayers contributing to a local

1 food pantry in any one fiscal year shall not exceed two million  
2 dollars. The director of revenue shall establish a procedure by  
3 which the cumulative amount of tax credits is apportioned among  
4 all taxpayers claiming the credit by April fifteenth of the  
5 fiscal year in which the tax credit is claimed. To the maximum  
6 extent possible, the director of revenue shall establish the  
7 procedure described in this subsection in such a manner as to  
8 ensure that taxpayers can claim all the tax credits possible up  
9 to the cumulative amount of tax credits available for the fiscal  
10 year.

11 4. Any local food pantry may accept or reject any donation  
12 of food made under this section for any reason. For purposes of  
13 this section, any donations of food accepted by a local food  
14 pantry shall be valued at fair market value, or at wholesale  
15 value if the taxpayer making the donation of food is a retail  
16 grocery store, food broker, wholesaler, or restaurant.

17 5. The department of revenue shall promulgate rules to  
18 implement the provisions of this section. Any rule or portion of  
19 a rule, as that term is defined in section 536.010, RSMo, that is  
20 created under the authority delegated in this section shall  
21 become effective only if it complies with and is subject to all  
22 of the provisions of chapter 536, RSMo, and, if applicable,  
23 section 536.028, RSMo. This section and chapter 536, RSMo, are  
24 nonseverable and if any of the powers vested with the general  
25 assembly pursuant to chapter 536, RSMo, to review, to delay the  
26 effective date, or to disapprove and annul a rule are  
27 subsequently held unconstitutional, then the grant of rulemaking  
28 authority and any rule proposed or adopted after August 28, 2007,

1 shall be invalid and void.

2 6. Under section 23.253, RSMo, of the Missouri Sunset Act:

3 (1) The provisions of the new program authorized under this  
4 section shall automatically sunset four years after the effective  
5 date of this section unless reauthorized by an act of the general  
6 assembly; and

7 (2) If such program is reauthorized, the program authorized  
8 under this section shall automatically sunset twelve years after  
9 the effective date of the reauthorization of this section; and

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

13 135.1150. 1. This section shall be known and may be cited  
14 as the "Residential Treatment Agency Tax Credit Act".

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

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

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

20 (3) "Eligible [monetary] donation", donations received from  
21 a taxpayer by an agency that are used solely to provide direct  
22 care services to children who are residents of this state.

23 Eligible donations may include cash, publicly-traded stocks and  
24 bonds, and real estate that will be valued and documented  
25 according to rules promulgated by the department of social  
26 services. For purposes of this section, "direct care services"

27 include but are not limited to increasing the quality of care and  
28 service for children through improved employee compensation and

1 training;

2 (4) "Qualified residential treatment agency" or "agency", a  
3 residential care facility that is licensed under section 210.484,  
4 RSMo, accredited by the Council on Accreditation (COA), the Joint  
5 Commission on Accreditation of Healthcare Organizations (JCAHO),  
6 or the Commission on Accreditation of Rehabilitation Facilities  
7 (CARF), and is under contract with the Missouri department of  
8 social services to provide treatment services for children who  
9 are residents or wards of residents of this state, and that  
10 receives eligible monetary donations. Any agency that operates  
11 more than one facility or at more than one location shall be  
12 eligible for the tax credit under this section only for any  
13 eligible monetary donations made to facilities or locations of  
14 the agency which are licensed and accredited;

15 (5) "Taxpayer", any of the following individuals or  
16 entities who make an eligible [monetary donations] donation to an  
17 agency:

18 (a) A person, firm, partner in a firm, corporation, or a  
19 shareholder in an S corporation doing business in the state of  
20 Missouri and subject to the state income tax imposed in chapter  
21 143, RSMo;

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

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

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

1 (e) An individual subject to the state income tax imposed  
2 in chapter 143, RSMo.

3 3. For all taxable years beginning on or after January 1,  
4 2007, any taxpayer shall be allowed a credit against the taxes  
5 otherwise due under chapter 147, 148, or 143, RSMo, excluding  
6 withholding tax imposed by sections 143.191 to 143.265, RSMo, in  
7 an amount equal to fifty percent of the amount of an eligible  
8 monetary donation, subject to the restrictions in this section.  
9 The amount of the tax credit claimed shall not exceed the amount  
10 of the taxpayer's state income tax liability in the tax year for  
11 which the credit is claimed. Any amount of credit that the  
12 taxpayer is prohibited by this section from claiming in a tax  
13 year shall not be refundable, but may be carried forward to any  
14 of the taxpayer's four subsequent taxable years.

15 4. To claim the credit authorized in this section, an  
16 agency may submit to the department an application for the tax  
17 credit authorized by this section on behalf of taxpayers. The  
18 department shall verify that the agency has submitted the  
19 following items accurately and completely:

20 (1) A valid application in the form and format required by  
21 the department;

22 (2) A statement attesting to the eligible [monetary]  
23 donation received, which shall include the name and taxpayer  
24 identification number of the individual making the eligible  
25 [monetary] donation, the amount of the eligible [monetary]  
26 donation, and the date the eligible [monetary] donation was  
27 received by the agency; and

28 (3) Payment from the agency equal to the value of the tax

1 credit for which application is made.

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3 If the agency applying for the tax credit meets all criteria  
4 required by this subsection, the department shall issue a  
5 certificate in the appropriate amount.

6 5. An agency may apply for tax credits in an aggregate  
7 amount that does not exceed forty percent of the payments made by  
8 the department to the agency in the preceding twelve months.

9 6. Tax credits issued under this section may be assigned,  
10 transferred, sold, or otherwise conveyed, and the new owner of  
11 the tax credit shall have the same rights in the credit as the  
12 taxpayer. Whenever a certificate is assigned, transferred, sold,  
13 or otherwise conveyed, a notarized endorsement shall be filed  
14 with the department specifying the name and address of the new  
15 owner of the tax credit or the value of the credit.

16 7. The department shall promulgate rules to implement the  
17 provisions of this section. Any rule or portion of a rule, as  
18 that term is defined in section 536.010, RSMo, that is created  
19 under the authority delegated in this section shall become  
20 effective only if it complies with and is subject to all of the  
21 provisions of chapter 536, RSMo, and, if applicable, section  
22 536.028, RSMo. This section and chapter 536, RSMo, are  
23 nonseverable and if any of the powers vested with the general  
24 assembly pursuant to chapter 536, RSMo, to review, to delay the  
25 effective date, or to disapprove and annul a rule are  
26 subsequently held unconstitutional, then the grant of rulemaking  
27 authority and any rule proposed or adopted after August 28, 2006,  
28 shall be invalid and void.

1           8. Under section 23.253, RSMo, of the Missouri sunset act:

2           (1) The provisions of the new program authorized under this  
3 section shall automatically sunset six years after August 28,  
4 2006, unless reauthorized by an act of the general assembly; and

5           (2) If such program is reauthorized, the program authorized  
6 under this section shall automatically sunset twelve years after  
7 the effective date of the reauthorization of this section; and

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

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