

FIRST REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 100**  
96TH GENERAL ASSEMBLY

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Reported from the Committee on Ways and Means and Fiscal Oversight, March 31, 2011, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 100, adopted April 6, 2011.

Taken up for Perfection April 6, 2011. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0725S.02P

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**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:*

Section A. Section 135.1150, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.1150 and 135.1180, to read as follows:

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

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 from a taxpayer by an agency that are used solely to provide direct care services to children 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 children through improved employee compensation and training;

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, accredited by the Council on

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

15 Accreditation (COA), the Joint Commission on Accreditation of Healthcare  
16 Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation  
17 Facilities (CARF), and is under contract with the Missouri department of social  
18 services to provide treatment services for children who are residents or wards of  
19 residents of this state, and that receives eligible donations. Any agency that  
20 operates more than one facility or at more than one location shall be eligible for  
21 the tax credit under this section only for any eligible donation made to facilities  
22 or locations of the agency which are licensed and accredited;

23 (5) "Taxpayer", any of the following individuals or entities who make an  
24 eligible donation to an agency:

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

28 (b) A corporation subject to the annual corporation franchise tax imposed  
29 in chapter 147;

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

32 (d) Any other financial institution paying taxes to the state of Missouri  
33 or any political subdivision of this state under chapter 148;

34 (e) An individual subject to the state income tax imposed in chapter 143;

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

38 3. For all taxable years beginning on or after January 1, 2007, any  
39 taxpayer shall be allowed a credit against the taxes otherwise due under chapter  
40 147, 148, or 143, excluding withholding tax imposed by sections 143.191 to  
41 143.265, in an amount equal to fifty percent of the amount of an eligible donation,  
42 subject to the restrictions in this section. The amount of the tax credit claimed  
43 shall not exceed the amount of the taxpayer's state income tax liability in the tax  
44 year for which the credit is claimed. Any amount of credit that the taxpayer is  
45 prohibited by this section from claiming in a tax year shall not be refundable, but  
46 may be carried forward to any of the taxpayer's four subsequent taxable years.

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

- 51 (1) A valid application in the form and format required by the department;
- 52 (2) A statement attesting to the eligible donation received, which shall  
53 include the name and taxpayer identification number of the individual making  
54 the eligible donation, the amount of the eligible donation, and the date the  
55 eligible donation was received by the agency; and
- 56 (3) Payment from the agency equal to the value of the tax credit for which  
57 application is made. If the agency applying for the tax credit meets all criteria  
58 required by this subsection, the department shall issue a certificate in the  
59 appropriate amount.
- 60 5. An agency may apply for tax credits in an aggregate amount that does  
61 not exceed [forty percent of] the payments made by the department to the agency  
62 in the preceding twelve months.
- 63 6. Tax credits issued under this section may be assigned, transferred,  
64 sold, or otherwise conveyed, and the new owner of the tax credit shall have the  
65 same rights in the credit as the taxpayer. Whenever a certificate is assigned,  
66 transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed  
67 with the department specifying the name and address of the new owner of the tax  
68 credit or the value of the credit.
- 69 7. The department shall promulgate rules to implement the provisions of  
70 this section. Any rule or portion of a rule, as that term is defined in section  
71 536.010, that is created under the authority delegated in this section shall  
72 become effective only if it complies with and is subject to all of the provisions of  
73 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
74 nonseverable and if any of the powers vested with the general assembly pursuant  
75 to chapter 536 to review, to delay the effective date, or to disapprove and annul  
76 a rule are subsequently held unconstitutional, then the grant of rulemaking  
77 authority and any rule proposed or adopted after August 28, 2006, shall be  
78 invalid and void.
- 79 8. [Under section 23.253 of the Missouri sunset act:
- 80 (1) The provisions of the new program authorized under this section shall  
81 automatically sunset six years after August 28, 2006, unless reauthorized by an  
82 act of the general assembly; and
- 83 (2) If such program is reauthorized, the program authorized under this  
84 section shall automatically sunset twelve years after the effective date of the  
85 reauthorization of this section; and
- 86 (3) This section shall terminate on September first of the calendar year

87 immediately following the calendar year in which the program authorized under  
88 this section is sunset.] Pursuant to section 23.253 of the Missouri sunset  
89 act, the provisions of the program authorized under this section are  
90 hereby reauthorized and shall automatically sunset on August 28, 2015.

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

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

- 4 (1) "Certificate", a tax credit certificate issued under this section;
- 5 (2) "Department", the Missouri department of social services;
- 6 (3) "Eligible donation", donations received, by a provider, from  
7 a taxpayer that are used solely to provide direct care services to  
8 persons with developmental disabilities who are residents of this  
9 state. Eligible donations may include cash, publicly traded stocks and  
10 bonds, and real estate that will be valued and documented according  
11 to rules promulgated by the department of social services. For  
12 purposes of this section, "direct care services" include, but are not  
13 limited to, increasing the quality of care and service for persons with  
14 developmental disabilities through improved employee compensation  
15 and training;
- 16 (4) "Qualified developmental disability care provider" or  
17 "provider", a care provider that provides assistance to persons with  
18 developmental disabilities, and is under contract with the Missouri  
19 department of social services or department of mental health to provide  
20 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;
- 30 (b) A corporation subject to the annual corporation franchise tax  
31 imposed in chapter 147;
- 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 (e) An individual subject to the state income tax imposed in  
37 chapter 143;

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

42 3. For all taxable years beginning on or after January 1, 2011,  
43 any taxpayer shall be allowed a credit against the taxes otherwise due  
44 under chapter 143, 147, or 148 excluding withholding tax imposed by  
45 sections 143.191 to 143.265 in an amount equal to fifty percent of the  
46 amount of an eligible donation, subject to the restrictions in this  
47 section. The amount of the tax credit claimed shall not exceed the  
48 amount of the taxpayer's state income tax liability in the tax year for  
49 which the credit is claimed. Any amount of credit that the taxpayer is  
50 prohibited by this section from claiming in a tax year shall not be  
51 refundable, but may be carried forward to any of the taxpayer's four  
52 subsequent taxable years.

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

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

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

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

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

70 5. Tax credits issued under this section may be assigned,

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

77       6. The department shall promulgate rules to implement the  
78 provisions of this section. Any rule or portion of a rule, as that term is  
79 defined in section 536.010, that is created under the authority delegated  
80 in this section shall become effective only if it complies with and is  
81 subject to all of the provisions of chapter 536, and, if applicable, section  
82 536.028. This section and chapter 536, are nonseverable and if any of  
83 the powers vested with the general assembly pursuant to chapter 536,  
84 to review, to delay the effective date, or to disapprove and annul a rule  
85 are subsequently held unconstitutional, then the grant of rulemaking  
86 authority and any rule proposed or adopted after August 28, 2011, shall  
87 be invalid and void.

88       7. Under section 23.253 of the Missouri sunset act:

89       (1) The provisions of the new program authorized under this  
90 section shall automatically sunset four years after August 28, 2011,  
91 unless reauthorized by an act of the general assembly; and

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

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

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