

FIRST REGULAR SESSION

# HOUSE BILL NO. 288

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MCCAHERTY (Sponsor), SOLON, HIGDON, MCKENNA,  
SHUMAKE, ROWLAND, CRAWFORD, LAUER, RICHARDSON AND CROSS (Co-sponsors).

0220H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 135.630 and 135.647, RSMo, and to enact in lieu thereof two new sections relating to tax credits for donated food and pregnancy care center contributions.

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

- Section A. Sections 135.630 and 135.647, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.630 and 135.647, to read as follows:
- 135.630. 1. As used in this section, the following terms mean:
- (1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;
  - (2) "Director", the director of the department of social services;
  - (3) "Pregnancy resource center", a nonresidential facility located in this state:
    - (a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and
    - (b) Where childbirths are not performed; and
    - (c) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions; and
    - (d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and
    - (e) Which provides its services at no cost to its clients; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (f) When providing medical services, such medical services must be performed in  
17 accordance with Missouri statute; and

18 (g) Which is exempt from income taxation pursuant to the Internal Revenue Code of  
19 1986, as amended;

20 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such  
21 taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding sections  
22 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability  
23 incurred by such taxpayer pursuant to the provisions of chapter 143, excluding sections 143.191  
24 to 143.265 and related provisions;

25 (5) "Taxpayer", a person, firm, a 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 income tax imposed  
27 by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax  
28 imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its  
29 gross premium receipts in this state, or other financial institution paying taxes to the state of  
30 Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, or  
31 an express company which pays an annual tax on its gross receipts in this state pursuant to  
32 chapter 153, or an individual subject to the state income tax imposed by the provisions of chapter  
33 143, or any charitable organization which is exempt from federal income tax and whose Missouri  
34 unrelated business taxable income, if any, would be subject to the state income tax imposed  
35 under chapter 143.

36 2. For all tax years beginning on or after January 1, 2007, a taxpayer shall be allowed to  
37 claim a tax credit against the taxpayer's state tax liability in an amount equal to fifty percent of  
38 the amount such taxpayer contributed to a pregnancy resource center.

39 3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's  
40 state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not  
41 be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However,  
42 any tax credit that cannot be claimed in the taxable year the contribution was made may be  
43 carried over to the next four succeeding taxable years until the full credit has been claimed.

44 4. Except for any excess credit which is carried over pursuant to subsection 3 of this  
45 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such  
46 taxpayer's contribution or contributions to a pregnancy resource center or centers in such  
47 taxpayer's taxable year has a value of at least one hundred dollars.

48 5. The director shall determine, at least annually, which facilities in this state may be  
49 classified as pregnancy resource centers. The director may require of a facility seeking to be  
50 classified as a pregnancy resource center whatever information which is reasonably necessary

51 to make such a determination. The director shall classify a facility as a pregnancy resource  
52 center if such facility meets the definition set forth in subsection 1 of this section.

53         6. The director shall establish a procedure by which a taxpayer can determine if a facility  
54 has been classified as a pregnancy resource center. Pregnancy resource centers shall be permitted  
55 to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be  
56 claimed by all the taxpayers contributing to pregnancy resource centers in any one fiscal year  
57 shall not exceed two million dollars. Tax credits shall be issued in the order contributions are  
58 received.

59         7. The director shall establish a procedure by which, from the beginning of the fiscal year  
60 until some point in time later in the fiscal year to be determined by the director, the cumulative  
61 amount of tax credits are equally apportioned among all facilities classified as pregnancy  
62 resource centers. If a pregnancy resource center fails to use all, or some percentage to be  
63 determined by the director, of its apportioned tax credits during this predetermined period of  
64 time, the director may reapportion these unused tax credits to those pregnancy resource centers  
65 that have used all, or some percentage to be determined by the director, of their apportioned tax  
66 credits during this predetermined period of time. The director may establish more than one  
67 period of time and reapportion more than once during each fiscal year. To the maximum extent  
68 possible, the director shall establish the procedure described in this subsection in such a manner  
69 as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of  
70 tax credits available for the fiscal year.

71         8. Each pregnancy resource center shall provide information to the director concerning  
72 the identity of each taxpayer making a contribution to the pregnancy resource center who is  
73 claiming a tax credit pursuant to this section and the amount of the contribution. The director  
74 shall provide the information to the director of revenue. The director shall be subject to the  
75 confidentiality and penalty provisions of section 32.057 relating to the disclosure of tax  
76 information.

77         [9. Notwithstanding any other law to the contrary, any tax credits granted under this  
78 section may be assigned, transferred, sold, or otherwise conveyed without consent or approval.  
79 Such taxpayer, hereinafter the assignor for purposes of this section, may sell, assign, exchange,  
80 or otherwise transfer earned tax credits:

81             (1) For no less than seventy-five percent of the par value of such credits; and

82             (2) In an amount not to exceed one hundred percent of annual earned credits.

83         10. Pursuant to section 23.253 of the Missouri sunset act:

84             (1) Any new program authorized under this section shall automatically sunset six years  
85 after August 28, 2006, unless reauthorized by an act of the general assembly; and

86 (2) If such program is reauthorized, The program authorized under this section shall  
87 automatically sunset twelve years after the effective date of the reauthorization of this section;  
88 and

89 (3) This section shall terminate on September first of the calendar year immediately  
90 following the calendar year in which a program authorized under this section is sunset.]

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

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

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

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

8 (2) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or a shareholder  
9 in an S corporation doing business in this state and subject to the state income tax imposed by  
10 chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.

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

27 3. The cumulative amount of tax credits under this section which may be allocated to all  
28 taxpayers contributing to a local food pantry in any one fiscal year shall not exceed two million  
29 dollars. The director of revenue shall establish a procedure by which the cumulative amount of  
30 tax credits is apportioned among all taxpayers claiming the credit by April fifteenth of the fiscal  
31 year in which the tax credit is claimed. To the maximum extent possible, the director of revenue

32 shall establish the procedure described in this subsection in such a manner as to ensure that  
33 taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits  
34 available for the fiscal year.

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

39 5. The department of revenue shall promulgate rules to implement the provisions of this  
40 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
41 under the authority delegated in this section shall become effective only if it complies with and  
42 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
43 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
44 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule  
45 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
46 proposed or adopted after August 28, 2007, shall be invalid and void.

47 [6. Under section 23.253 of the Missouri sunset act:

48 (1) The provisions of the new program authorized under this section shall automatically  
49 sunset four years after August 28, 2007, unless reauthorized by an act of the general assembly;  
50 and

51 (2) If such program is reauthorized, The program authorized under this section shall  
52 automatically sunset twelve years after the effective date of the reauthorization of this section;  
53 and

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

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