

FIRST REGULAR SESSION

# HOUSE BILL NO. 428

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

1205H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for contributions to school foundations.

*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 135.1910, to read as follows:

**135.1910. 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 elementary and secondary education;**
- (3) "Qualified organization", an organization that provides funding for unmet health, hunger, and hygiene needs for children in school;**
- (4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, excluding sections 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer under the provisions of chapter 143, excluding sections 143.191 to 143.265 and related provisions;**
- (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other**

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.

18 financial institution paying taxes to the state of Missouri or any political subdivision of this  
19 state under the provisions of chapter 148, or an express company which pays an annual tax  
20 on its gross receipts in this state pursuant to chapter 153, or an individual subject to the  
21 state income tax imposed by the provisions of chapter 143, or any charitable organization  
22 which is exempt from federal income tax and whose Missouri unrelated business taxable  
23 income, if any, would be subject to the state income tax imposed under chapter 143.

24         2. For all tax years beginning on or after January 1, 2016, a taxpayer shall be  
25 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal  
26 to fifty percent of the taxpayer's contribution to a qualified organization.

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

33         4. Except for any excess credit which is carried over under subsection 3 of this  
34 section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such  
35 taxpayer's contribution or contributions to a qualified organization or organizations in  
36 such taxpayer's taxable year has a value of at least one hundred dollars.

37         5. The director shall determine, at least annually, which organizations in this state  
38 may be classified as qualified organizations. The director may require of an organization  
39 seeking to be classified as a qualified organization whatever information which is  
40 reasonably necessary to make such a determination. The director shall classify an  
41 organization as a qualified organization if such organization meets the definition set forth  
42 in subsection 1 of this section.

43         6. The director shall establish a procedure by which a taxpayer can determine if  
44 an organization has been classified as a qualified organization. Qualified organizations  
45 shall be permitted to decline a contribution from a taxpayer. The cumulative amount of  
46 tax credits which may be claimed by all the taxpayers contributing to qualified  
47 organizations in any one fiscal year shall not exceed two million five hundred thousand  
48 dollars for all fiscal years beginning on or after July 1, 2016. Tax credits shall be issued  
49 in the order contributions are received.

50         7. The director shall establish a procedure by which, from the beginning of the  
51 fiscal year until some point in time later in the fiscal year to be determined by the director,  
52 the cumulative amount of tax credits are equally apportioned among all organizations  
53 classified as qualified organizations. If a qualified organization fails to use all, or some

54 percentage to be determined by the director, of its apportioned tax credits during this  
55 predetermined period of time, the director may reapportion these unused tax credits to  
56 those qualified organizations that have used all, or some percentage to be determined by  
57 the director, of their apportioned tax credits during this predetermined period of time.  
58 The director may establish more than one period of time and reapportion more than once  
59 during each fiscal year. To the maximum extent possible, the director shall establish the  
60 procedure described in this subsection in such a manner as to ensure that taxpayers can  
61 claim all the tax credits possible up to the cumulative amount of tax credits available for  
62 the fiscal year.

63       **8. Each qualified organization shall provide information to the director concerning**  
64 **the identity of each taxpayer making a contribution to the qualified organization who is**  
65 **claiming a tax credit under this section and the amount of the contribution. The director**  
66 **shall provide the information to the director of revenue. The director shall be subject to**  
67 **the confidentiality and penalty provisions of section 32.057 relating to the disclosure of tax**  
68 **information.**

69       **9. The provisions of this section shall not be construed to limit or in any way impair**  
70 **the department's ability to issue tax credits authorized on or before the date the program**  
71 **authorized under this section expires or a taxpayer's ability to redeem such tax credits.**

72       **10. Under section 23.253 of the Missouri sunset act:**

73       **(1) The program established under this section shall automatically expire on**  
74 **December 31, 2021, unless reauthorized by an act of the general assembly;**

75       **(2) If such program is reauthorized, the program authorized under this section**  
76 **shall automatically sunset twelve years after the effective date of the reauthorization of this**  
77 **section; and**

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

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