

**John R. Ashcroft**

**Secretary of State  
Administrative Rules Division**

**RULE TRANSMITTAL**

Administrative Rules Stamp

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FEB 01 2019

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**COPY**

Rule Number 13 CSR 10-3.060

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Peggy Landwehr Phone (573) 526-0414 FAX (573) 522-6092

Email address peggy.landwehr@dss.mo.gov

Data Entry Aaron Mealy Phone (573) 526-0414 FAX (573) 522-6092

Email address aaron.mealy@dss.mo.gov

Interagency mailing address DLS, Broadway Bldg, 221 W High Street, Room 230

**TYPE OF RULEMAKING ACTION TO BE TAKEN**

Emergency Rulemaking \_\_ Rule \_\_ Amendment \_\_ Rescission \_\_ Termination

Effective Date for the Emergency \_\_\_\_\_

Proposed Rulemaking X Rule \_\_ Amendment \_\_ Rescission

Rule Action Notice  In Addition  Rule Under Consideration

Request for Non-Substantive Change

Statement of Actual Cost

Order of Rulemaking \_\_ Withdrawal \_\_ Adopt \_\_ Amendment \_\_ Rescission

Effective Date for the Order \_\_\_\_\_

Statutory 30 days OR Specific date \_\_\_\_\_

Does the Order of Rulemaking contain changes to the rule text?  NO

YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory  
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

FEB 01 2019

ADMINISTRATIVE RULES

STATE CAPITOL  
201 W. CAPITOL AVENUE, ROOM 216  
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222  
WWW.GOVERNOR.MO.GOV

*Michael L. Parson*

GOVERNOR  
STATE OF MISSOURI

January 29, 2019

Mark Gutchen  
General Counsel  
Missouri Department of Social Services  
Broadway State Office Building  
Jefferson City, MO 65102

Dear Mark:

This office has received your proposed rule 13 CSR 10-3.060 Diaper Bank Tax Credit.

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review, we approve the submission of this rule to JCAR and the Secretary of State.

Sincerely,

A handwritten signature in cursive script that reads "Jessie Eiler".

Jessie Eiler  
Deputy Counsel

*Missouri Department of*  
**SOCIAL SERVICES**  
*Your Potential. Our Support.*

MICHAEL L. PARSON, GOVERNOR • STEVE CORSI, Psy.D., DIRECTOR

MARK A. GUTCHEN, DIRECTOR  
DIVISION OF LEGAL SERVICES  
P.O. BOX 1527 • BROADWAY STATE OFFICE BUILDING • JEFFERSON CITY, MO 65102-1527  
WWW.DSS.MO.GOV • 573-751-3229 • 573-522-6092 FAX

February 1, 2019

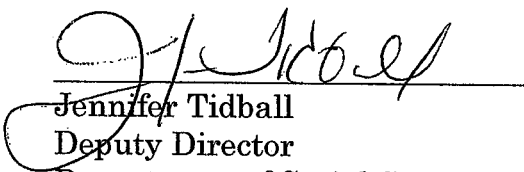
Waylene W. Hiles, Director  
Joint Committee on Administrative Rules  
Capitol Building, Room B-8  
Jefferson City, MO 65101

Dear Ms. Hiles:

**RE: 13 CSR 10-3.060 Diaper Bank Tax Credit**

Attached is an accurate and complete copy of the proposed order regarding the proposed rule of 13 CSR 10-3.060. This proposed order will be filed concurrently with the Secretary of State.

Statutory authority: sections 135.621 and 660.017, RSMo.

  
Jennifer Tidball  
Deputy Director  
Department of Social Services

Attachment

AUXILIARY AIDS AND SERVICES ARE AVAILABLE UPON REQUEST TO INDIVIDUALS WITH DISABILITIES  
TDD / TTY: 800-735-2966  
RELAY MISSOURI: 711

*Missouri Department of*  
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February 1, 2019

John R. Ashcroft  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

RE: 13 CSR 10-3.060 Diaper Bank Tax Credit

Dear Secretary of State Ashcroft:

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Division of Finance and Administrative Services, Department of Social Services.

The Division of Finance and Administrative Services, Department of Social Services further certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section § 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law.

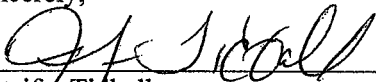
The Division of Finance and Administrative Services, Department of Social Services has determined and hereby also certifies that if the proposed rulemaking does affect small business pursuant to sections 536.300 to 536.310, RSMo, a small business impact statement has been filed as required by those sections. If no small business impact statement has been filed the proposed rulemaking either does not affect small business or the small business requirements do not apply pursuant to section 536.300.4, RSMo.

Statutory Authority: sections 135.621 and 660.017, RSMo.

If there are any questions regarding the content of this proposed rulemaking, please contact:

Peggy Landwehr  
221 West High Street, Room 230  
Jefferson City, MO 65102  
573-526-0414  
[peggy.landwehr@dss.mo.gov](mailto:peggy.landwehr@dss.mo.gov)

Sincerely,

  
Jennifer Tidball  
Deputy Director  
Department of Social Services

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TDD / TTY: 800-735-2966

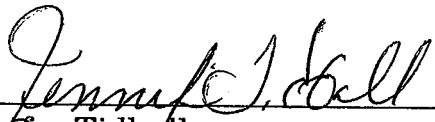
RELAY MISSOURI: 711

**AFFIDAVIT**

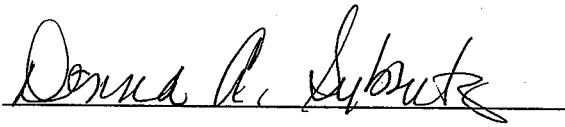
**PUBLIC COST**

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF COLE     )

I, Jennifer Tidball, Deputy Director of the Department of Social Services, first being duly sworn, on my oath, state that it is my opinion that the cost of the proposed rule, 13 CSR 10-3.060, is less than five hundred dollars (\$500) in the aggregate to this agency, any other agency of state government, or any political subdivision thereof.

  
\_\_\_\_\_  
Jennifer Tidball  
Deputy Director  
Department of Social Services

Subscribed and sworn to before me this 31<sup>st</sup> day of January, 2019. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on March 5, 2019.

  
\_\_\_\_\_  
Notary Public

DONNA A. SYBOUTS  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Cole County  
My Commission Expires: March 05, 2019  
Commission Number: 15633724

**COPY**

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 10—Finance and Administrative Services  
Chapter 3—Diaper Bank Tax Credit**

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

**PROPOSED RULE**

**13 CSR 10-3.060 Diaper Bank Tax Credit**

*PURPOSE: This rule describes the procedures for the implementation of section 135.621, RSMo, Contributions to Diaper Banks Tax Credit.*

(1) A diaper bank may apply for tax credits on behalf of taxpayers who make contributions to the agency. The amount of tax credit issued may be equivalent to up to fifty percent (50%) of the contribution to the agency. Initial credits issued cannot be less than fifty dollars (\$50). The amount of credit claimed by a taxpayer cannot exceed the amount of the taxpayer's state tax liability for the taxable year the credit is claimed and cannot exceed fifty thousand dollars (\$50,000) per taxable year. The total amount of tax credits issued under this rule cannot exceed the amount stated in section 135.621, RSMo. in a fiscal year.

(2) Definitions of terms.

(A) "Director," means the director of the Department of Social Services (DSS) or designee.

(B) "Qualified Diaper Bank," for the purpose of the Diaper Bank Tax Credit, means a diaper bank that meets the definition state in section 135.621, RSMo.

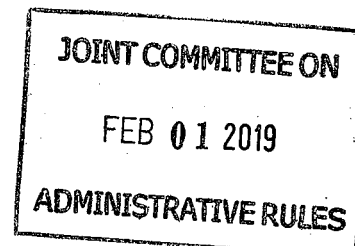
(3) The director will annually develop and maintain a list of centers which are qualified for the Diaper Bank Tax Credit. A copy of the diaper bank listing is posted on the DSS website: [www.dss.mo.gov/dfas/taxcredit/index](http://www.dss.mo.gov/dfas/taxcredit/index).

(4) Annually, the director of the Department of Social Services will determine which facilities in Missouri may be classified as diaper banks for purposes of the Diaper Bank Tax Credit. To be a qualified diaper bank for the purpose of the Diaper Bank Tax Credit, a facility must meet the definition set forth in section 135.621 RSMo.

(A) In order for the director to make such determinations, diaper banks seeking qualification should submit the following information:

1. A complete and accurate application. The process to be followed is found on the Diaper Bank Tax Credit Application for Agency Eligibility Verification form which is incorporated by reference and made a part of this rule as published by the Department of Social Services, Division of Finance and Administrative Services, 221 West High Street, Jefferson City, MO 65101, and is available on the DSS website at [www.dss.mo.gov/dfas/taxcredit/index](http://www.dss.mo.gov/dfas/taxcredit/index), or by writing to the address below. This does not incorporate any subsequent amendments or additions.

Department of Social Services  
Attn: Diaper Bank Tax Credit Program  
P.O. Box 853



Jefferson City, MO 65102-0853;

2. A copy of the articles of incorporation;
3. Verification of Internal Revenue Service (IRS) tax exempt status; and
4. A brief program description including the primary business function as it relates to the mission of helping persons in need of diapers and hygiene products for infants, children and incontinent adults, the number served annually, and a list of the schools, health care facilities, governmental agencies or other non-profit entities which received diapers and hygiene products from the diaper bank in the last calendar year.

(B) All information should be submitted to the address referenced in paragraph (4) (A) 1. of this subsection.

(5) All diaper banks must establish their eligibility for the Diaper Bank Tax Credit Program on a prospective basis by submitting an application for eligibility along with the required documentation as stated in subsection (4) (A) of this rule no later than June 1.

(6) By August 1, the director will make a determination of qualification and notify the diaper bank of the determination in writing.

(7) Qualified diaper banks must contact the Department of Social Services within thirty (30) days of any changes in business functions that could impact their qualifying status. The department will review the agency's eligibility for participation in this tax credit program and notify the agency of the determination in writing.

(8) A qualified diaper bank shall report the receipt of any contribution it believes qualifies for the tax credit on a form provided by the Department of Social Services. This form is known as the Diaper Bank Tax Credit Application for Claiming Tax Credits.

(A) Diaper banks may request the tax credit application at the Department of Social Services website [www.dss.mo.gov/dfas/taxcredit/index](http://www.dss.mo.gov/dfas/taxcredit/index) or by writing to the address referenced in paragraph (4) (A) 1. of this rule.

(B) Diaper banks are permitted to decline a contribution from a taxpayer.

(C) The tax credit application shall be submitted to the Department of Social Services, by the diaper bank, within one (1) calendar year of the receipt of the contribution. Tax credit applications submitted more than one (1) year following the date of the contribution will be void and the right to the tax credit will be forfeited.

(D) Verifying documentation must be attached to the tax credit application when submitted by the Diaper Bank. The type of documentation necessary will depend on the type of donation. Necessary documentation includes the following:

1. Cash—legible receipt from the diaper bank, which indicates the name and address of the diaper bank; name, address, and telephone number of the contributor; amount of the cash donation and the date the contribution was received; and a signature of a representative of the diaper bank receiving the contribution;

2. Check—photocopy of the canceled check, front and back—if not possible then copy of the original check and a receipt from the diaper bank including the same information needed for a cash donation as described in paragraph 1. of this subsection;

3. Credit card—legible transaction receipt with the name and address of the diaper bank; name, address, and telephone number of the contributor; amount and date the contribution was received; and a signature of a representative of the diaper bank receiving the contribution. Receipts should have the credit card account number redacted;

4. Money order or cashier's check—legible copy of the original document with the name and address of the diaper bank; name, address, and telephone number of the contributor; amount of the cash donation and the date the contribution was received; and a signature of a representative of the diaper bank receiving the contribution;

5. Stocks and bonds—the amount of the contribution is the fair market value of the item as of the date of the donation. Information needed when submitting applications for tax credit shall include the source, date and number of shares of stock which was donated and confirmation documentation of the transfer from the contributor's account to the diaper bank;

6. Real estate—the fair market value of the real estate within three (3) months prior of the date of the donation. The fair market value is the lower of at least two (2) qualified independent appraisals for commercial, vacant, or residential property that has been determined to have a value of over fifty thousand dollars (\$50,000). Commercial, vacant, or residential property having a value of fifty thousand dollars (\$50,000) or less will require only one (1) appraisal. The appraisals will be conducted by two (2) different, licensed real estate appraisers; and

7. Contributions that include a benefit to the donor—in addition to the documentation necessary in paragraphs (8) (D)1-6, the diaper bank shall provide written documentation of the type of function or event from which the benefit was received, description of the benefit received (if an auction item, identify the item received), gross amount of the contribution, fair market value of the benefit, and how the fair market value of the benefit was determined.

(9) The director will verify with the Department of Revenue any outstanding balances due from the taxpayer's prior year's state tax liability. If a balance due is outstanding, the amount of tax credit issued under this rule will be reduced by that amount. The director is subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

(10) Within forty-five (45) days of receipt of the tax credit application, the director will provide written notification of its decision to approve or deny the application to the following parties:

(A) Taxpayer (notification to the taxpayer will include the amount of tax credit that was approved); and

(B) Missouri Department of Revenue.



(11) Each eligible diaper bank determination shall be final after receipt of written notice from the department of social services, unless the diaper bank files a protest with the director setting forth the grounds on which the protest is based, within thirty days from the date of receipt of written notice from the department of social services to the diaper bank. If a timely protest is filed, the director shall reconsider the determination the diaper bank has so requested. The director shall issue a final decision within forty-five days of protest from the diaper bank.

(12) The director shall equally apportion the total available tax credits among all qualified diaper banks and the apportionment will be effective the first day of each state fiscal year (FY).

(A) The director shall inform each qualified diaper bank of its share of the apportioned credits no later than thirty (30) days following July 1 of each fiscal year.

(B) The director will, no less than quarterly, review the cumulative amount of apportioned tax credits being utilized by each qualified diaper bank. Upon request by the director, diaper banks will provide in writing the amount their agency plans to utilize in tax credits for the fiscal year along with supporting documentation. Diaper banks seeking additional apportionment shall submit requests and supporting documentation to the director in writing. If a diaper bank fails to use all or a portion of their available tax credits throughout the fiscal year, the director may reapportion any unused tax credits to maximize the amount of tax credits available to taxpayers.

(C) Within thirty (30) days of any reapportionment, the director shall notify those diaper banks in writing that would be affected by the reapportioned tax credit. The director will consider comments the diaper banks submit concerning planned future uses of the agency's tax credit allocation prior to the end of the thirty (30) day period. The director's decision regarding reapportionment shall be final.

*AUTHORITY: sections 135.621 and 660.017, RSMo. Original rule filed February 1, 2019.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, P.O. Box 1527, Jefferson City, MO 65102-1527, or by email to [Rules.Comment@dss.mo.gov](mailto:Rules.Comment@dss.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*