

SECOND REGULAR SESSION

# SENATE BILL NO. 756

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SHIELDS.

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Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a small business health insurance tax program, with an expiration date.

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

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Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.920, to read as follows:

**135.920. 1. As used in this section, the following terms mean:**

(1) "Eligible employee", an employee who works on a full-time basis and has an average work week of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary, or substitute basis. For purposes of this section, a person, such person's spouse, and such person's minor children shall constitute only one eligible employee when they are employed by the same small employer; except that, in the case of a person who is a farmer, such person may constitute an eligible employee and such person's spouse, if hired by such person, may constitute a second eligible employee;

(2) "Eligible small employer", any person, firm, corporation, partnership, or association that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed not less than two nor more than twenty-five eligible employees, the majority of whom were employed within this state. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer;

(3) "Farmer", any person who derives at least two-thirds of such person's income from using or cultivating land for the production of agricultural crops,

livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products; provided that, the term shall not include a person who processes farm products or distributes farming supplies by contracting to provide spraying, harvesting, or other farming services; and

(4) "Private health insurance purchasing cooperative", a private cooperative association formed for the purpose of purchasing and providing health care insurance for its members' employees, the members of which consist of any combination of private persons, firms, corporations, partnerships, associations, or other entities at least fifty percent of which are eligible small employers.

2. There is hereby established the "Small Business Health Insurance Assistance Program" for the purpose of encouraging qualifying small businesses to establish or maintain a qualified health insurance program available to eligible employees. The director of the department of revenue shall administer a tax credit program within this state pursuant to the provisions of this act. Tax credits shall be granted pursuant to the provisions of this act up to an aggregate of ten million dollars.

3. The general assembly may reimburse the general revenue fund in an amount equal to the tax credits claimed pursuant to this section from moneys received by the state pursuant to the master settlement agreement entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers, and deposited by the state treasurer to the credit of the tobacco settlement trust fund.

4. For tax years beginning on or after January 1, 2004, an eligible small employer which does not, as of January 1, 2004, pay its employees' health insurance premiums and which first begins to pay health insurance premiums on behalf of such employer's eligible employees during such tax year or thereafter shall be allowed to claim a credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, for health insurance premiums paid on behalf of such employer's eligible employees in an amount as follows:

(1) Fifty percent of the amount paid annually in premiums for the first two years the eligible small employer pays health insurance premiums on behalf of such employer's eligible employees;

(2) Thirty-five percent of the amount paid annually in premiums for the third and fourth years the eligible small employer pays health insurance premiums on behalf of such employer's eligible employees; and

(3) Twenty-five percent of the amount paid annually in premiums for each year subsequent to the fourth year the eligible small employer pays health

insurance premiums on behalf of such employer's eligible employees.

5. For tax years beginning on or after January 1, 2004, an eligible small employer which does not qualify for a tax credit pursuant to subsection 4 of this section because such employer, as of January 1, 2004, was already paying its employees' health insurance premiums, shall be allowed to claim a credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, in an amount equal to twenty-five percent of the amount paid annually in premiums per eligible employee for whom such small employers pays health insurance premiums, if such employer can document a minimum of twenty percent increase in premium costs per eligible employee for comparable health care benefits.

6. The department of revenue is authorized to promulgate any rules necessary to administer the tax credit allowed by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

7. The provisions of this section shall expire on December 31, 2008.

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