

FIRST REGULAR SESSION

SENATE BILL NO. 138

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SMITH.

Pre-filed December 18, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0591S.011

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating solely to the creation of an earned income tax credit.

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
2 section, to be known as section 135.760, to read as follows:

**135.760. 1. For all taxable years beginning on or after January
2 1, 2010, a resident individual who is allowed a federal earned income
3 tax credit under Section 32 of the Internal Revenue Code of 1986, as
4 amended, shall be allowed a credit against the tax otherwise due under
5 chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in
6 an amount equal to five percent of the allowable federal earned income
7 tax credit. For all taxable years beginning on or after January 1, 2012,
8 a resident individual who is allowed a federal earned income tax credit
9 under Section 32 of the Internal Revenue Code of 1986, as amended,
10 shall be allowed a credit against the tax otherwise due under chapter
11 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an
12 amount equal to ten percent of the allowable federal earned income tax
13 credit. For all taxable years beginning on or after January 1, 2014, a
14 resident individual who is allowed a federal earned income tax credit
15 under Section 32 of the Internal Revenue Code of 1986, as amended,
16 shall be allowed a credit against the tax otherwise due under chapter
17 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an
18 amount equal to twenty percent of the allowable federal earned income
19 tax credit. The tax credit allowed by this section shall be claimed by
20 such individual at the time such individual files a return and shall be
21 applied against the income tax liability imposed by chapter 143,**

22 RSMo. Where the amount of the credit exceeds the tax liability, the
23 difference shall be refunded to the taxpayer or carried forward into
24 each subsequent taxable year until such credit is fully used.

25 2. The director of the department of revenue shall promulgate
26 rules and regulations to administer the provisions of this section. Any
27 rule or portion of a rule, as that term is defined in section 536.010,
28 RSMo, that is created under the authority delegated in this section
29 shall become effective only if it complies with and is subject to all of
30 the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
31 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
32 of the powers vested with the general assembly pursuant to chapter
33 536, RSMo, to review, to delay the effective date, or to disapprove and
34 annul a rule are subsequently held unconstitutional, then the grant of
35 rulemaking authority and any rule proposed or adopted after August
36 28, 2009, shall be invalid and void.

37 3. Notwithstanding the provision of subsection 4 of section
38 32.057, RSMo, the department of revenue or any duly authorized
39 employee or agent shall determine whether any taxpayer filing a report
40 or return with the department of revenue who has not applied for the
41 credit allowed under this section may qualify for the credit, and shall
42 notify any qualified claimant of the claimant's potential eligibility,
43 where the department determines such potential eligibility exists.

44 4. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

45 (1) The provisions of the new program authorized under this
46 section shall automatically sunset on December thirty-first six years
47 after the effective date of this section unless reauthorized by an act of
48 the general assembly; and

49 (2) If such program is reauthorized, the program authorized
50 under this section shall automatically sunset on December thirty-first
51 twelve years after the effective date of the reauthorization of this
52 section; and

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