

FIRST REGULAR SESSION

SENATE BILL NO. 146

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DEMPSEY.

Pre-filed January 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

0799S.01I

AN ACT

To repeal sections 135.535 and 135.562, RSMo, and to enact in lieu thereof two new sections relating to tax relief for persons assisting seniors or disabled citizens.

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

Section A. Sections 135.535 and 135.562, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 135.535 and
3 135.562, to read as follows:

135.535. 1. A corporation, limited liability corporation, partnership or
2 sole proprietorship, which moves its operations from outside Missouri or outside
3 a distressed community into a distressed community, or which commences
4 operations in a distressed community on or after January 1, 1999, and in either
5 case has more than seventy-five percent of its employees at the facility in the
6 distressed community, and which has fewer than one hundred employees for
7 whom payroll taxes are paid, and which is a manufacturing, biomedical, medical
8 devices, scientific research, animal research, computer software design or
9 development, computer programming, including Internet, web hosting, and other
10 information technology, wireless or wired or other telecommunications or a
11 professional firm shall receive a forty percent credit against income taxes owed
12 pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant
13 to sections 143.191 to 143.265, RSMo, for each of the three years after such move,
14 if approved by the department of economic development, which shall issue a
15 certificate of eligibility if the department determines that the taxpayer is eligible
16 for such credit. The maximum amount of credits per taxpayer set forth in this
17 subsection shall not exceed one hundred twenty-five thousand dollars for each of
18 the three years for which the credit is claimed. The department of economic

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 development, by means of rule or regulation promulgated pursuant to the
20 provisions of chapter 536, RSMo, shall assign appropriate North American
21 Industry Classification System numbers to the companies which are eligible for
22 the tax credits provided for in this section. Such three-year credits shall be
23 awarded only one time to any company which moves its operations from outside
24 of Missouri or outside of a distressed community into a distressed community or
25 to a company which commences operations within a distressed community. A
26 taxpayer shall file an application for certification of the tax credits for the first
27 year in which credits are claimed and for each of the two succeeding taxable years
28 for which credits are claimed.

29 2. Employees of such facilities physically working and earning wages for
30 that work within a distressed community whose employers have been approved
31 for tax credits pursuant to subsection 1 of this section by the department of
32 economic development for whom payroll taxes are paid shall also be eligible to
33 receive a tax credit against individual income tax, imposed pursuant to chapter
34 143, RSMo, equal to one and one-half percent of their gross salary paid at such
35 facility earned for each of the three years that the facility receives the tax credit
36 provided by this section, so long as they were qualified employees of such
37 entity. The employer shall calculate the amount of such credit and shall report
38 the amount to the employee and the department of revenue.

39 3. A tax credit against income taxes owed pursuant to chapter 143, 147
40 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to
41 143.265, RSMo, in lieu of the credit against income taxes as provided in
42 subsection 1 of this section, may be taken by such an entity in a distressed
43 community in an amount of forty percent of the amount of funds expended for
44 computer equipment and its maintenance, medical laboratories and equipment,
45 research laboratory equipment, manufacturing equipment, fiber optic equipment,
46 high speed telecommunications, wiring or software development expense up to a
47 maximum of seventy-five thousand dollars in tax credits for such equipment or
48 expense per year per entity and for each of three years after commencement in
49 or moving operations into a distressed community.

50 4. A corporation, partnership or sole partnership, which has no more than
51 one hundred employees for whom payroll taxes are paid, which is already located
52 in a distressed community and which expends funds for such equipment pursuant
53 to subsection 3 of this section in an amount exceeding its average of the prior two
54 years for such equipment, shall be eligible to receive a tax credit against income

55 taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to
56 the lesser of seventy-five thousand dollars or twenty-five percent of the funds
57 expended for such additional equipment per such entity. Tax credits allowed
58 pursuant to this subsection or subsection 1 of this section may be carried back to
59 any of the three prior tax years and carried forward to any of the five tax years.

60 5. An existing corporation, partnership or sole proprietorship that is
61 located within a distressed community and that relocates employees from another
62 facility outside of the distressed community to its facility within the distressed
63 community, and an existing business located within a distressed community that
64 hires new employees for that facility may both be eligible for the tax credits
65 allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,
66 such a business, during one of its tax years, shall employ within a distressed
67 community at least twice as many employees as were employed at the beginning
68 of that tax year. A business hiring employees shall have no more than one
69 hundred employees before the addition of the new employees. This subsection
70 shall only apply to a business which is a manufacturing, biomedical, medical
71 devices, scientific research, animal research, computer software design or
72 development, computer programming or telecommunications business, or a
73 professional firm.

74 6. Tax credits shall be approved for applicants meeting the requirements
75 of this section in the order that such applications are received. Certificates of tax
76 credits issued in accordance with this section may be transferred, sold or assigned
77 by notarized endorsement which names the transferee.

78 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this
79 section shall be for an amount of no more than ten million dollars for each year
80 beginning in 1999. To the extent there are available tax credits remaining under
81 the ten million dollar cap provided in this section, [up to one hundred thousand
82 dollars in the] **such** remaining credits shall first be used for tax credits
83 authorized under section 135.562. The total maximum credit for all entities
84 already located in distressed communities and claiming credits pursuant to
85 subsection 4 of this section shall be seven hundred and fifty thousand
86 dollars. The department of economic development in approving taxpayers for the
87 credit as provided for in subsection 6 of this section shall use information
88 provided by the department of revenue regarding taxes paid in the previous year,
89 or projected taxes for those entities newly established in the state, as the method
90 of determining when this maximum will be reached and shall maintain a record

91 of the order of approval. Any tax credit not used in the period for which the
92 credit was approved may be carried over until the full credit has been allowed.

93 8. A Missouri employer relocating into a distressed community and having
94 employees covered by a collective bargaining agreement at the facility from which
95 it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this
96 section, and its employees shall not be eligible for the credit in subsection 2 of
97 this section if the relocation violates or terminates a collective bargaining
98 agreement covering employees at the facility, unless the affected collective
99 bargaining unit concurs with the move.

100 9. Notwithstanding any provision of law to the contrary, no taxpayer shall
101 earn the tax credits allowed in this section and the tax credits otherwise allowed
102 in section 135.110, or the tax credits, exemptions, and refund otherwise allowed
103 in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same
104 business for the same tax period.

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty
2 thousand dollars or less incurs costs for the purpose of making all or any portion
3 of such taxpayer's principal dwelling accessible to an individual with a disability
4 **or a senior** who permanently resides with the taxpayer, such taxpayer shall
5 receive a tax credit against such taxpayer's Missouri income tax liability in an
6 amount equal to the lesser of one hundred percent of such costs or two thousand
7 five hundred dollars per taxpayer, per tax year. **For purposes of this section,**
8 **"disability" shall have the same meaning as such term is defined in**
9 **section 135.010 and "senior" shall mean a person sixty-five years of age**
10 **or older.**

11 2. Any taxpayer with a federal adjusted gross income greater than thirty
12 thousand dollars but less than sixty thousand dollars who incurs costs for the
13 purpose of making all or any portion of such taxpayer's principal dwelling
14 accessible to an individual with a disability **or senior** who permanently resides
15 with the taxpayer shall receive a tax credit against such taxpayer's Missouri
16 income tax liability in an amount equal to the lesser of fifty percent of such costs
17 or two thousand five hundred dollars per taxpayer per tax year. No taxpayer
18 shall be eligible to receive tax credits under this section in any tax year
19 immediately following a tax year in which such taxpayer received tax credits
20 under the provisions of this section.

21 3. Tax credits issued pursuant to this section may be refundable in an
22 amount not to exceed two thousand five hundred dollars per tax year.

- 23 4. Eligible costs for which the credit may be claimed include:
- 24 (1) Constructing entrance or exit ramps;
- 25 (2) Widening exterior or interior doorways;
- 26 (3) Widening hallways;
- 27 (4) Installing handrails or grab bars;
- 28 (5) Moving electrical outlets and switches;
- 29 (6) Installing stairway lifts;
- 30 (7) Installing or modifying fire alarms, smoke detectors, and other alerting
- 31 systems;
- 32 (8) Modifying hardware of doors; [or]
- 33 (9) Modifying bathrooms; or
- 34 **(10) Constructing additional rooms in the dwelling or structures**
- 35 **on the property for the purpose of accommodating the senior or person**
- 36 **with disability.**
- 37 5. The tax credits allowed, including the maximum amount that may be
- 38 claimed, pursuant to this section shall be reduced by an amount sufficient to
- 39 offset any amount of such costs a taxpayer has already deducted from such
- 40 taxpayer's federal adjusted gross income or to the extent such taxpayer has
- 41 applied any other state or federal income tax credit to such costs.
- 42 6. A taxpayer shall claim a credit allowed by this section in the same
- 43 taxable year as the credit is issued, and at the time such taxpayer files his or her
- 44 Missouri income tax return; provided that such return is timely filed.
- 45 7. The department may, in consultation with the department of social
- 46 services, promulgate such rules or regulations as are necessary to administer the
- 47 provisions of this section. Any rule or portion of a rule, as that term is defined
- 48 in section 536.010, RSMo, that is created under the authority delegated in this
- 49 section shall become effective only if it complies with and is subject to all of the
- 50 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
- 51 section and chapter 536, RSMo, are nonseverable and if any of the powers vested
- 52 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
- 53 effective date or to disapprove and annul a rule are subsequently held
- 54 unconstitutional, then the grant of rulemaking authority and any rule proposed
- 55 or adopted after August 28, 2007, shall be invalid and void.
- 56 8. The provisions of this section shall apply to all tax years beginning on
- 57 or after January 1, 2008.
- 58 9. The provisions of this section shall expire December 31, 2013.

59 10. In no event shall the aggregate amount of all tax credits allowed
60 pursuant to this section exceed [one hundred thousand dollars] **the amount of**
61 **tax credits remaining unused under the program authorized under**
62 **section 135.535** in any given fiscal year. The tax credits issued pursuant to this
63 section shall be on a first-come, first-served filing basis.

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Bill

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