

FIRST REGULAR SESSION

# HOUSE BILL NO. 323

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES SUTHERLAND (Sponsor), JONES (89), WASSON, WILSON (119), FUNDERBURK, NANCE, DUSENBERG, SCHAAF, MEADOWS, SCHAD, ZIMMERMAN, SCHARNHORST, SPRENG, GRISAMORE AND PACE (Co-sponsors).

0839L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 135.535 and 135.562, RSMo, and to enact in lieu thereof two new sections relating to tax credits for disability home remodeling.

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Section A. Sections 135.535 and 135.562, RSMo, are repealed and two new sections  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

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

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.

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

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

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

43         4. A corporation, partnership or sole partnership, which has no more than one hundred  
44 employees for whom payroll taxes are paid, which is already located in a distressed community  
45 and which expends funds for such equipment pursuant to subsection 3 of this section in an  
46 amount exceeding its average of the prior two years for such equipment, shall be eligible to  
47 receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo,  
48 in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the  
49 funds expended for such additional equipment per such entity. Tax credits allowed pursuant to  
50 this subsection or subsection 1 of this section may be carried back to any of the three prior tax  
51 years and carried forward to any of the **next** five tax years.

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

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

67           7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall  
68 be for an amount of no more than ten million dollars for each year beginning in 1999. To the  
69 extent there are available tax credits remaining under the ten million dollar cap provided in this  
70 section, [up to one hundred thousand dollars in the] **such** remaining credits shall first be used for  
71 tax credits authorized under section 135.562. The total maximum credit for all entities already  
72 located in distressed communities and claiming credits pursuant to subsection 4 of this section  
73 shall be seven hundred and fifty thousand dollars. The department of economic development in  
74 approving taxpayers for the credit as provided for in subsection 6 of this section shall use  
75 information provided by the department of revenue regarding taxes paid in the previous year, or  
76 projected taxes for those entities newly established in the state, as the method of determining  
77 when this maximum will be reached and shall maintain a record of the order of approval. Any  
78 tax credit not used in the period for which the credit was approved may be carried over until the  
79 full credit has been allowed.

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

86           9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
87 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the

88 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and  
89 135.245, respectively, for the same business for the same tax period.

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand  
2 dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's  
3 principal dwelling accessible to an individual with a disability who permanently resides with the  
4 taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax  
5 liability in an amount equal to the lesser of one hundred percent of such costs or two thousand  
6 five hundred dollars per taxpayer, per tax year.

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

15 3. [Tax credits issued pursuant to this section may be refundable in an amount not to  
16 exceed two thousand five hundred dollars per tax year] **The amount of the tax credit issued  
17 shall not exceed the amount of the taxpayer's state tax liability for the tax year for which  
18 the credit is claimed. If the amount of the tax credit issued exceeds the amount of the  
19 taxpayer's state tax liability for the tax year for which the credit is claimed, the difference  
20 shall not be refundable but may be carried forward to any of the taxpayer's five  
21 subsequent taxable years. No amount of credit that the taxpayer is prohibited by this  
22 section from claiming in a tax year shall be refundable, nor shall any tax credit issued  
23 under this section be transferred, sold, or assigned.**

24 4. Eligible costs for which the credit may be claimed include:

- 25 (1) Constructing entrance or exit ramps;
- 26 (2) Widening exterior or interior doorways;
- 27 (3) Widening hallways;
- 28 (4) Installing handrails or grab bars;
- 29 (5) Moving electrical outlets and switches;
- 30 (6) Installing stairway lifts;
- 31 (7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;
- 32 (8) Modifying hardware of doors; [or]
- 33 (9) Modifying bathrooms;
- 34 **(10) Modifying kitchens;**

35           **(11) Constructing an additional room in the taxpayer's existing home to allow a**  
36 **disabled family member to move into the taxpayer's home.**

37           5. The tax credits allowed, including the maximum amount that may be claimed,  
38 pursuant to this section shall be reduced by an amount sufficient to offset any amount of such  
39 costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to  
40 the extent such taxpayer has applied any other state or federal income tax credit to such costs.

41           6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the  
42 credit is issued, and at the time such taxpayer files his or her Missouri income tax return[;] ,  
43 provided that such return is timely filed.

44           7. The department may, in consultation with the department of social services,  
45 promulgate such rules or regulations as are necessary to administer the provisions of this section.  
46 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
47 under the authority delegated in this section shall become effective only if it complies with and  
48 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
49 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested  
50 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date  
51 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
52 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid  
53 and void.

54           8. The provisions of this section shall apply to all tax years beginning on or after January  
55 1, 2008.

56           9. The provisions of this section shall expire December 31, 2013.

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

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