

SECOND REGULAR SESSION

HOUSE BILL NO. 2146

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor), KOENIG AND RUESTMAN (Co-sponsors).

3942L.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for certain educational expenses.

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 section, to be known as section 135.038, to read as follows:

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

- (1) "Dependent", any dependent of a taxpayer claiming a credit under this section who is in grades kindergarten through twelve and who is home schooled or attends a private or parochial elementary or secondary school in this state;
- (2) "Educational expenses", fees, tuition, and any other amount expended for the taxpayer's dependent to be home schooled or to attend a private or parochial elementary or secondary school in this state;
- (3) "Special emotional and physical needs", any medical or psychological condition diagnosed by the appropriate licensed health care professional, including autism that requires or would benefit from service or equipment not supplied to the taxpayer's dependent by the school district in which the taxpayer resides;
- (4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265;
- (5) "Taxpayer", any parent or guardian of a dependent who is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.
- 2. For all taxable years beginning on or after January 1, 2010, a taxpayer shall be allowed a tax credit for educational expenses incurred for a taxpayer's dependent. The**

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.

18 amount of the tax credit issued to each taxpayer under this section shall not exceed one
19 thousand dollars, unless the dependent has special emotional and physical needs, in which
20 case the amount issued shall not exceed two thousand dollars. The amount of the tax credit
21 issued shall not exceed the amount of the taxpayer's state tax liability for the tax year for
22 which the credit is claimed. No amount of credit that the taxpayer is prohibited by this
23 section from claiming in a tax year shall be refundable, nor shall any tax credit issued
24 under this section be carried back or forward to any of the taxpayer's previous or
25 subsequent taxable years. The tax credits issued under this section shall be issued on a
26 first-come, first-served filing basis.

27 3. Tax credits issued under this section may be assigned, transferred, sold, or
28 otherwise conveyed for no less than ninety percent of the amount of the credit, and the new
29 owner of the tax credit shall have the same rights in the tax credit as the original taxpayer.
30 Whenever a tax credit is assigned, transferred, sold, or otherwise conveyed, a notarized
31 endorsement shall be filed with the department of revenue, specifying the name and
32 address of the new owner of the tax credit or the value of the tax credit.

33 4. The tax credit authorized in this section shall be claimed at the time the taxpayer
34 files a Missouri income tax return. To claim the tax credit allowed under this section, the
35 taxpayer shall submit to the department any documentation and information required by
36 the department to prove the educational expenses incurred. All required information
37 obtained by the organization shall be confidential and not disclosed except by court order,
38 subpoena, or as otherwise provided by law.

39 5. The department of revenue may promulgate rules to implement the provisions
40 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
41 is created under the authority delegated in this section shall become effective only if it
42 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
43 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
44 vested with the general assembly under chapter 536 to review, to delay the effective date,
45 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
46 of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be
47 invalid and void.

48 6. Under section 23.253 of the Missouri sunset act:

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

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

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

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