FIRST REGULAR SESSION

[PERFECTED**]**

HOUSE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 824

91ST GENERAL ASSEMBLY

Taken up for Perfection March 28, 2001.

House Substitute for House Committee Substitute for House Bill No. 824 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

1684L.06P

AN ACT

To repeal section 135.095, RSMo 2000, and to enact in lieu thereof three new sections relating to a pharmaceutical investment program for seniors, with an effective date for a certain section.

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

Section A. Section 135.095, RSMo 2000, is repealed and three new sections enacted in lieu thereof, to be known as sections 135.095, 208.550 and 208.800, to read as follows:

135.095. For all tax years beginning on or after January 1, 1999, but before January 1, **[**2005**]** **2002**, a resident individual who has attained sixty-five years of age on or before the last day of the tax year shall be allowed, for the purpose of offsetting the cost of legend drugs, a maximum credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two hundred dollars. An individual shall be entitled to the maximum credit allowed by this section if the individual has a Missouri adjusted gross income of fifteen thousand dollars or less; provided that, no individual who receives full reimbursement for the cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state or federally funded facility shall qualify for the credit allowed pursuant to this section. If an individual's Missouri adjusted gross income is greater than fifteen thousand dollars, such individual shall be entitled to a credit equal to the greater of zero or the maximum credit allowed by this section reduced by two dollars for every hundred dollars such individual's

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

income exceeds fifteen thousand dollars. The credit shall be claimed as prescribed by the director of the department of revenue. Such credit shall be considered an overpayment of tax and shall be refundable even if the amount of the credit exceeds an individual's tax liability.

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

(1) "Department", the department of social services;

(2) "Household income", the amount of income as defined in section 135.010, RSMo. For purposes of this section, household income shall be the household income of the applicant for the previous calendar year;

(3) "Medicaid", the program for medical assistance established pursuant to Title XIX of the federal Social Security Act and administered by the department;

(4) "Missouri resident", an individual who establishes residence for a period of twelve months in a settled or permanent home or domicile within the state of Missouri with the intention of remaining in this state. An individual is a resident of this state until the individual establishes a permanent residence outside this state;

(5) "Prescription drug", a prescription drug as defined in 13 CSR 70-20. The current limitations or restrictions placed on certain pharmaceuticals by the department shall remain and the department may define additional restrictions by rule;

(6) "Program", the pharmaceutical investment program for seniors (PIPS) established pursuant to this section.

2. The department of social services shall establish a "Pharmaceutical Investment Program for Seniors" to help defray the costs of prescription drugs for elderly Missouri residents. The following Missouri residents shall be eligible to participate in the program:

(1) Any person sixty-five years of age or older, with a household income at or below fifteen thousand dollars who is not currently ineligible pursuant to subsection 3 of this section. Such person shall demonstrate that his or her estimated annual prescription drug costs will exceed the total deductible for twelve months outlined in subsections 5 and 6 of this section;

(2) For a married couple in which at least one spouse is sixty-five years of age or older, with an annual household income at or below twenty-five thousand dollars:

(a) If only one spouse is sixty-five years of age or older, such spouse shall be eligible if his or her household income is at or below fifteen thousand dollars, he or she is not ineligible pursuant to subsection 3 of this section, and his or her estimated annual prescription drug costs will exceed the total deductible for twelve months outlined in subsections 5 and 6 of this section;

(b) If both spouses are sixty-five years of age or older, both spouses shall be eligible if their estimated annual prescription drug costs will exceed the total deductible for twelve

months outlined in subsections 5 and 6 of this section. One or both spouses may be currently ineligible pursuant to subsection 3 of this section;

(3) Any person sixty-five years of age or older who does not qualify pursuant to subdivision (1) of this subsection and who is not currently ineligible pursuant to subsection 3 of this section, if such person's estimated annual pharmaceutical costs will exceed ten percent of such person's household income. Such person shall be eligible to participate in the program and receive benefits not to exceed six thousand dollars per year after such person has expended ten percent of his or her household income; or

(4) A married couple in which at least one spouse is sixty-five years of age or older who does not qualify pursuant to subdivision (2) of this subsection and who are not currently ineligible pursuant to subsection 3 of this section, if such couple's estimated annual pharmaceutical costs will exceed ten percent of such couple's household income. Such couple shall be eligible to participate in the program and receive benefits not to exceed twelve thousand dollars per year after such couple has expended ten percent of their family household income.

3. Any person who is receiving Medicaid benefits shall not be eligible to participate in the program, except those Medicaid recipients whose Medicaid coverage does not include pharmacy benefits. The pharmaceutical investment program for seniors is a payer of last resort. If a senior has coverage for pharmaceutical benefits through a health benefit plan, as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare+Choice plan, or through a self-funded employee benefit plan, the pharmaceutical investment program for seniors shall pay only for eligible costs not provided by such coverage and only after the senior has met the deductible required by subsections 5 and 6 of this section.

4. Applicants for the program shall submit an annual application to the department, or the department's designee, that attests to the age, residence, annual household income and estimated annual prescription drug costs for an individual or couple, if married. The department shall prescribe by rule the form of the application for enrollment in the program.

5. Upon notification of eligibility, an enrollee may access the program by meeting the cost-sharing obligation through a monthly deductible calculated and based on one of the following:

(1) If the enrollee's household income is at or below twelve thousand dollars for an individual or twenty thousand dollars for a couple, the monthly deductible is one-twelfth of eight hundred dollars for an individual or one-twelfth of sixteen hundred dollars for a couple; or

(2) If the enrollee's household income is between twelve thousand one dollars and fifteen thousand dollars for an individual or twenty thousand one dollars and twenty-five thousand dollars for a couple, the monthly deductible is one-twelfth of one thousand two hundred dollars for an individual or one-twelfth of twenty-four hundred dollars for a couple.

6. For any month in which the enrollee does not meet the deductible, the difference between the monthly deductible and the actual expenditure on prescription drugs shall be added to the next month's deductible.

7. Nothing in this section shall be construed as requiring an applicant to accept Medicaid benefits in lieu of participation in this program.

8. For prescription drugs, enrollees shall pay a five dollar co-payment for a generic prescription drug or a brand name prescription drug if the brand name prescription drug is less expensive or a fifteen dollar co-payment for a brand name prescription drug or a generic prescription drug if it is more expensive. The department may implement higher co-payments. Such co-payment may be modified annually by the general assembly through the appropriation process. Such co-payment shall be used to reduce the state's cost for the program. In addition, each enrollee shall pay an annual twenty-five dollar co-payment to offset the administrative costs of the program. Nothing in this subsection shall be construed as permitting therapeutic substitutions.

9. In providing program benefits, the department may not enter into a contract with a private individual, corporation or agency to manage the program.

10. The department shall collaborate with the division of aging in the department of health and utilize area agencies on aging, senior citizens centers and other senior focused entities to provide outreach, enrollment referral assistance and education services to potentially eligible seniors for the pharmaceutical investment program for seniors.

11. The department shall submit quarterly reports to the governor, the senate appropriations committee, and the house of representatives budget committee, the speaker of the house of representatives and the president pro tem of the senate, that include:

(1) Quantified data as to the number of program applicants and enrollees subsequently found eligible for Medicaid;

(2) An estimate of whether the current rate of expenditures will exceed the existing appropriation for the program in the current fiscal year; and

(3) Recommendations for changes to the deductibles and co-payments for enrollees in the program.

12. The program established in this section is not an entitlement. Benefits shall be limited to the level supported by the moneys explicitly appropriated pursuant to this

section. If in any fiscal year the department projects that the total cost of the program will exceed the amount currently appropriated for the program, the department shall implement cost control measures to reduce the projected cost. Such cost control measures may include, but are not limited to, increasing the co-payments outlined in subsection 8 of this section or increasing the deductible requirements outlined in subsection 5 of this section. The department may request a supplemental appropriation to meet the projected costs, but must implement cost containment measures to reduce the projected cost to the current appropriated amount. The pharmaceutical investment program for seniors is a payer of last resort. If the federal government establishes a pharmaceutical assistance program that covers program eligible seniors under Medicare or another program, the pharmaceutical insurance program for seniors shall cover only eligible costs not covered by the federal program.

13. The department may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

208.800. The department of social services shall apply to the federal Department of Health and Human Services for a Medicaid waiver amendment to the section 1115 demonstration waiver or any additional Medicaid waivers necessary and desirable to establish a pharmacy discount program that provides discounted prescription drugs to eligible persons.

Section B. Section 208.550 of section A of this act shall become effective July 1, 2002.