

SENATE AMENDMENT NO. 3

Offered by Williams of 14th

Amend SS/House Bill No. 2400, Page 1, Section A, Line 3,

2 by inserting after all of said line the following:

3 "135.800. 1. The provisions of sections 135.800 to
4 135.830 shall be known and may be cited as the "Tax Credit
5 Accountability Act of 2004".

6 2. As used in sections 135.800 to 135.830, the
7 following terms mean:

8 (1) "Administering agency", the state agency or
9 department charged with administering a particular tax
10 credit program, as set forth by the program's enacting
11 statute; where no department or agency is set forth, the
12 department of revenue;

13 (2) "Agricultural tax credits", the agricultural
14 product utilization contributor tax credit created pursuant
15 to section 348.430, the new generation cooperative incentive
16 tax credit created pursuant to section 348.432, the family
17 farm breeding livestock loan tax credit created under
18 section 348.505, the qualified beef tax credit created under
19 section 135.679, and the wine and grape production tax
20 credit created pursuant to section 135.700;

21 (3) ["All tax credit programs", or "any tax credit
22 program", the tax credit programs included in the
23 definitions of agricultural tax credits, business
24 recruitment tax credits, community development tax credits,
25 domestic and social tax credits, entrepreneurial tax
26 credits, environmental tax credits, financial and insurance

27 tax credits, housing tax credits, redevelopment tax credits,
28 and training and educational tax credits;

29 [(4)] "Business recruitment tax credits", the business
30 facility tax credit created pursuant to sections 135.110 to
31 135.150 and section 135.258, the enterprise zone tax
32 benefits created pursuant to sections 135.200 to 135.270,
33 the business use incentives for large-scale development
34 programs created pursuant to sections 100.700 to 100.850,
35 the development tax credits created pursuant to sections
36 32.100 to 32.125, the rebuilding communities tax credit
37 created pursuant to section 135.535, the film production tax
38 credit created pursuant to section 135.750, the enhanced
39 enterprise zone created pursuant to sections 135.950 to
40 135.970, and the Missouri quality jobs program created
41 pursuant to sections 620.1875 to 620.1900;

42 [(5)] (4) "Community development tax credits", the
43 neighborhood assistance tax credit created pursuant to
44 sections 32.100 to 32.125, the family development account
45 tax credit created pursuant to sections 208.750 to 208.775,
46 the dry fire hydrant tax credit created pursuant to section
47 320.093, and the transportation development tax credit
48 created pursuant to section 135.545;

49 [(6)] (5) "Domestic and social tax credits", the youth
50 opportunities tax credit created pursuant to section 135.460
51 and sections 620.1100 to 620.1103, the shelter for victims
52 of domestic violence created pursuant to section 135.550,
53 the senior citizen or disabled person property tax credit
54 created pursuant to sections 135.010 to 135.035, the
55 adoption tax credit created pursuant to sections 135.325 to
56 135.339, the champion for children tax credit created
57 pursuant to section 135.341, the maternity home tax credit
58 created pursuant to section 135.600, the surviving spouse
59 tax credit created pursuant to section 135.090, the

60 residential treatment agency tax credit created pursuant to
61 section 135.1150, the pregnancy resource center tax credit
62 created pursuant to section 135.630, the food pantry tax
63 credit created pursuant to section 135.647, [the health care
64 access fund tax credit created pursuant to section 135.575,]
65 the residential dwelling access tax credit created pursuant
66 to section 135.562, the developmental disability care
67 provider tax credit created under section 135.1180, the
68 shared care tax credit created pursuant to section 192.2015,
69 the health, hunger, and hygiene tax credit created pursuant
70 to section 135.1125, and the diaper bank tax credit created
71 pursuant to section 135.621;

72 [(7)] (6) "Entrepreneurial tax credits", the capital
73 tax credit created pursuant to sections 135.400 to 135.429,
74 the certified capital company tax credit created pursuant to
75 sections 135.500 to 135.529, the seed capital tax credit
76 created pursuant to sections 348.300 to 348.318, the new
77 enterprise creation tax credit created pursuant to sections
78 620.635 to 620.653, the research tax credit created pursuant
79 to section 620.1039, the small business incubator tax credit
80 created pursuant to section 620.495, the guarantee fee tax
81 credit created pursuant to section 135.766, and the new
82 generation cooperative tax credit created pursuant to
83 sections 32.105 to 32.125;

84 [(8)] (7) "Environmental tax credits", the charcoal
85 producer tax credit created pursuant to section 135.313, the
86 wood energy tax credit created pursuant to sections 135.300
87 to 135.311, and the alternative fuel stations tax credit
88 created pursuant to section 135.710;

89 [(9)] (8) "Financial and insurance tax credits", the
90 bank franchise tax credit created pursuant to section
91 148.030, the bank tax credit for S corporations created
92 pursuant to section 143.471, the exam fee tax credit created

93 pursuant to section 148.400, the health insurance pool tax
94 credit created pursuant to section 376.975, the life and
95 health insurance guaranty tax credit created pursuant to
96 section 376.745, the property and casualty guaranty tax
97 credit created pursuant to section 375.774, and the self-
98 employed health insurance tax credit created pursuant to
99 section 143.119;

100 [(10)] (9) "Housing tax credits", the neighborhood
101 preservation tax credit created pursuant to sections 135.475
102 to 135.487, the low-income housing tax credit created
103 pursuant to sections 135.350 to 135.363, and the affordable
104 housing tax credit created pursuant to sections 32.105 to
105 32.125;

106 [(11)] (10) "Recipient", the individual or entity who
107 both:

108 (a) Is the original applicant for [and who receives
109 proceeds from a tax credit program directly from the
110 administering agency, the person or entity responsible for
111 the reporting requirements established in section 135.805] a
112 tax credit; and

113 (b) Who directly receives a tax credit or the right to
114 transfer a tax credit under a tax credit program, regardless
115 as to whether the tax credit has been used or redeemed; a
116 recipient shall not include the transferee of a transferable
117 tax credit;

118 [(12)] (11) "Redevelopment tax credits", the historic
119 preservation tax credit created pursuant to sections 253.545
120 to 253.559, the brownfield redevelopment program tax credit
121 created pursuant to sections 447.700 to 447.718, the
122 community development corporations tax credit created
123 pursuant to sections 135.400 to 135.430, the infrastructure
124 tax credit created pursuant to subsection 6 of section
125 100.286, the bond guarantee tax credit created pursuant to

126 section 100.297, the disabled access tax credit created
127 pursuant to section 135.490, the new markets tax credit
128 created pursuant to section 135.680, and the distressed
129 areas land assemblage tax credit created pursuant to section
130 99.1205;

131 (12) "Tax credit program", any of the tax credit
132 programs included in the definitions of agricultural tax
133 credits, business recruitment tax credits, community
134 development tax credits, domestic and social tax credits,
135 entrepreneurial tax credits, environmental tax credits,
136 housing tax credits, redevelopment tax credits, and training
137 and educational tax credits;

138 (13) "Training and educational tax credits", the
139 Missouri works new jobs tax credit and Missouri works
140 retained jobs credit created pursuant to sections 620.800
141 to 620.809."

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144 "135.802. 1. Beginning January 1, 2005, all
145 applications for all tax credit programs shall include, in
146 addition to any requirements provided by the enacting
147 statutes of a particular credit program, the following
148 information to be submitted to the department administering
149 the tax credit:

150 (1) Name, address, and phone number of the applicant
151 or applicants, and the name, address, and phone number of a
152 contact person or agent for the applicant or applicants;

153 (2) Taxpayer type, whether individual, corporation,
154 nonprofit or other, and taxpayer identification number, if
155 applicable;

156 (3) Standard industry code, if applicable;

157 (4) Program name and type of tax credit, including the
158 identity of any other state or federal program being
159 utilized for the same activity or project; and

160 (5) Number of estimated jobs to be directly created,
161 as a result of the tax credits, if applicable, separated by
162 construction, part-time permanent, and full-time permanent.

163 2. In addition to the information required by
164 subsection 1 of this section, an applicant for a community
165 development tax credit shall also provide information
166 detailing the title and location of the corresponding
167 project, the estimated time period for completion of the
168 project, and all geographic areas impacted by the project.

169 3. In addition to the information required by
170 subsection 1 of this section, an applicant for a
171 redevelopment tax credit shall also provide information
172 detailing the location and legal description of the
173 property, age of the structure, if applicable, whether the
174 property is residential, commercial, or governmental, and
175 the projected project cost, labor cost, and projected date
176 of completion. Where a redevelopment tax credit applicant
177 is required to submit contemporaneously a federal
178 application for a similar credit on the same underlying
179 project, the submission of a copy of the federal application
180 shall be sufficient to meet the requirements of this
181 subsection.

182 4. In addition to the information required by
183 subsection 1 of this section, an applicant for a business
184 recruitment tax credit shall also provide information
185 detailing the category of business by size, the address of
186 the business headquarters and all offices located within
187 this state, the number of employees at the time of the
188 application, the number of employees projected to increase

189 as a result of the completion of the project, and the
190 estimated project cost.

191 5. In addition to the information required by
192 subsection 1 of this section, an applicant for a training
193 and educational tax credit shall also provide information
194 detailing the name and address of the educational
195 institution to be used, the average salary of workers to be
196 served, the estimated project cost, and the number of
197 employees and number of students to be served.

198 6. In addition to the information required by
199 subsection 1 of this section, an applicant for a housing tax
200 credit also shall provide information detailing the address,
201 legal description, and fair market value of the property,
202 and the projected labor cost and projected completion date
203 of the project. Where a housing tax credit applicant is
204 required to submit contemporaneously a federal application
205 for a similar credit on the same underlying project, the
206 submission of a copy of the federal application shall be
207 sufficient to meet the requirements of this subsection. For
208 the purposes of this subsection, "fair market value" means
209 the value as of the purchase of the property or the most
210 recent assessment, whichever is more recent.

211 7. In addition to the information required by
212 subsection 1 of this section, an applicant for an
213 entrepreneurial tax credit shall also provide information
214 detailing the amount of investment and the names of the
215 project, fund, and research project.

216 8. In addition to the information required by
217 subsection 1 of this section, an applicant for an
218 agricultural tax credit shall also provide information
219 detailing the type of agricultural commodity, the amount of
220 contribution, the type of equipment purchased, and the name
221 and description of the facility.

222 9. In addition to the information required by
223 subsection 1 of this section, an applicant for an
224 environmental tax credit shall also include information
225 detailing the type of equipment, if applicable, purchased
226 and any environmental impact statement, if required by state
227 or federal law.

228 10. An administering agency, or the department of
229 economic development with the consent of an administering
230 agency, may, by rule, require additional information to be
231 submitted by an applicant. Any rule or portion of a rule,
232 as that term is defined in section 536.010, that is created
233 pursuant to the authority delegated in this section shall
234 become effective only if it complies with and is subject to
235 all of the provisions of chapter 536 and if applicable,
236 section 536.028. This section and chapter 536 are
237 nonseverable and if any of the powers vested with the
238 general assembly pursuant to chapter 536 to review, to delay
239 the effective date or to disapprove and annul a rule are
240 subsequently held unconstitutional, then the grant of
241 rulemaking authority and any rule proposed or adopted after
242 August 28, 2004, shall be void.

243 11. Where the sole requirement for receiving a tax
244 credit in the enabling legislation of any tax credit is an
245 obligatory assessment upon a taxpayer or a monetary
246 contribution to a particular group or entity, the
247 application requirements provided in this section shall
248 apply to the recipient of such assessment or contribution
249 and shall not apply to the assessed nor the contributor.

250 12. It shall be the duty of each administering agency
251 to provide information to every applicant, at some time
252 prior to authorization of an applicant's tax credit
253 application, wherein the requirements of this section, the
254 annual reporting requirements of section 135.805, and the

255 penalty provisions of section 135.810 are described in
256 detail. Every applicant for a tax credit under a tax credit
257 program, as part of the application process and as a
258 condition of receiving such tax credit, shall sign a
259 statement affirming that the applicant is aware of the
260 reporting requirements of section 135.805 and the penalty
261 provisions of section 135.810.

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264 135.805. 1. A recipient of any tax credit program,
265 except domestic and social tax credits[, environmental tax
266 credits,] or financial and insurance tax credits, shall
267 [annually] on June thirtieth of each year, for a period of
268 three years following the issuance of the tax credits,
269 provide to the administering agency the actual number of
270 jobs directly created that year as of June thirtieth as a
271 result of the tax credits, [at the location on the last day
272 of the annual reporting period,] separated by part-time
273 permanent and full-time permanent for each month of the
274 preceding twelve-month period.

275 2. A recipient of a community development tax credit
276 shall [annually] on June thirtieth of each year, for a
277 period of three years following issuance of tax credits,
278 provide to the administering agency information confirming
279 the title and location of the corresponding project, the
280 estimated and actual project cost, the estimated [or] and
281 actual time period for completion of the project, and all
282 geographic areas impacted by the project.

283 3. A recipient of a redevelopment tax credit shall
284 [annually] on June thirtieth of each year, for a period of
285 three years following issuance of tax credits, provide to
286 the administering agency information confirming whether the
287 property is used for residential, commercial, or

288 governmental purposes, and the projected [or] and actual
289 project cost, labor cost, and date of completion.

290 4. A recipient of a business recruitment tax credit
291 shall [annually] on June thirtieth of each year, for a
292 period of three years following issuance of tax credits,
293 provide to the administering agency information confirming
294 the category of business by size, the address of the
295 business headquarters and all offices located within this
296 state, the number of employees at the time of the annual
297 update, an updated estimate of the number of employees
298 projected to increase as a result of the completion of the
299 project, and the estimated [or] and actual project cost.

300 5. A recipient of a training and educational tax
301 credit shall [annually] on June thirtieth of each year, for
302 a period of three years following issuance of tax credits,
303 provide to the administering agency information confirming
304 the name and address of the educational institution used,
305 the average salary of workers served as of such annual
306 update, the estimated [or] and actual project cost, and the
307 number of employees and number of students served as of such
308 annual update.

309 6. A recipient of a housing tax credit shall
310 [annually] on June thirtieth of each year, for a period of
311 three years following issuance of tax credits, provide to
312 the administering agency information confirming the address
313 of the property, the fair market value of the property, as
314 defined in subsection 6 of section 135.802, and the
315 projected [or] and actual labor [cost] and project costs and
316 completion date of the project.

317 7. A recipient of an entrepreneurial tax credit shall
318 [annually] on June thirtieth of each year, for a period of
319 three years following issuance of tax credits, provide to
320 the administering agency information confirming the amount

321 of investment and the names of the project, fund, and
322 research project.

323 8. A recipient of an agricultural tax credit shall
324 [annually] on June thirtieth of each year, for a period of
325 three years following issuance of tax credits, provide to
326 the administering agency information confirming the type of
327 agricultural commodity, the amount of contribution, the type
328 of equipment purchased, and the name and description of the
329 facility, except that if the agricultural credit is issued
330 as a result of a producer member investing in a new
331 generation processing entity or new generation cooperative
332 then the new generation processing entity or new generation
333 cooperative, and not the recipient, shall [annually] on June
334 thirtieth of each year, for a period of three years
335 following issuance of tax credits, provide to the
336 administering agency information confirming the type of
337 agricultural commodity, the amount of contribution, the type
338 of equipment purchased, and the name and description of the
339 facility.

340 9. A recipient of an environmental tax credit shall
341 [annually] on June thirtieth of each year, for a period of
342 three years following issuance of tax credits, provide to
343 the administering agency information detailing any change to
344 the type of equipment purchased, if applicable, and any
345 change to any environmental impact statement, if such
346 statement is required by state or federal law.

347 10. [The reporting requirements established in this
348 section shall be due annually on June thirtieth of each
349 year.] No person or entity shall be required to make an
350 annual report until at least one [year] month after the
351 credit issuance date.

352 11. Where the sole requirement for receiving a tax
353 credit in the enabling legislation of any tax credit is an

354 obligatory assessment upon a taxpayer or a monetary
355 contribution to a particular group or entity, the reporting
356 requirements provided in this section shall apply to the
357 recipient of such assessment or contribution and shall not
358 apply to the assessed nor the contributor.

359 12. Where the enacting statutes of a particular tax
360 credit program or the rules of a particular administering
361 agency require reporting of information that includes the
362 information required in sections 135.802 to 135.810, upon
363 reporting of the required information, the applicant shall
364 be deemed to be in compliance with the requirements of
365 sections 135.802 to 135.810. The administering agency shall
366 notify in writing the department of economic development of
367 the administering agency's status as custodian of any
368 particular tax credit program and that all records
369 pertaining to the program are available at the administering
370 agency's office or electronically for review by the
371 department of economic development.

372 13. The provisions of subsections 1 to 10 of this
373 section shall apply beginning on June 30, 2005.

374 14. Notwithstanding provisions of law to the contrary,
375 every agency of this state charged with administering a tax
376 credit program authorized under the laws of this state shall
377 make available for public inspection the name of each tax
378 credit recipient and the amount of tax credits issued to
379 each such recipient. An administering agency may satisfy
380 this requirement by making such information available to the
381 public through the department of economic development's
382 website or the Missouri accountability portal.

383 15. The department of economic development shall make
384 all information provided under the provisions of this
385 section available for public inspection on the department's
386 website and the Missouri accountability portal.

387 16. The administering agency of any tax credit program
 388 for which reporting requirements are required under the
 389 provisions of subsection 1 of this section shall publish
 390 guidelines and may promulgate rules to implement the
 391 provisions of such subsection. Any rule or portion of a
 392 rule, as that term is defined in section 536.010, that is
 393 created under the authority delegated in this section shall
 394 become effective only if it complies with and is subject to
 395 all of the provisions of chapter 536 and, if applicable,
 396 section 536.028. This section and chapter 536 are
 397 nonseverable and if any of the powers vested with the
 398 general assembly pursuant to chapter 536 to review, to delay
 399 the effective date, or to disapprove and annul a rule are
 400 subsequently held unconstitutional, then the grant of
 401 rulemaking authority and any rule proposed or adopted after
 402 August 28, 2009, shall be invalid and void.

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405 135.810. 1. After credits have been issued, any
 406 failure to meet the annual reporting requirements
 407 established in section 135.805 or any determination of fraud
 408 in the application or reporting process shall result in
 409 penalties as follows:

410 (1) Failure to file the first annual report due under
 411 section 135.805 for more than [six] three months [but less
 412 than one year] shall result in a penalty equal to [two] one
 413 percent of the value of the credits issued for each month of
 414 delinquency [during such time period], provided such penalty
 415 shall not exceed a maximum of ten percent of the value of
 416 the credits issued;

417 (2) Failure to [report] file the second or third
 418 annual reports due under section 135.805 for more than [one
 419 year] three months shall result in a penalty equal to [ten]

420 one and one-half percent of the value of the credits issued
421 for each month of delinquency [during such time period] up
422 to [one hundred percent of the value of the credit issued is
423 assessed by way of penalty] a maximum of twenty percent, per
424 report, of the value of the credits issued;

425 (3) Fraud in the application or reporting process
426 shall result in a penalty equal to [one] two hundred percent
427 of the credits issued. No [taxpayer] recipient shall be
428 deemed to have committed fraud in the application or
429 reporting process for any credit unless such conclusion has
430 been reached by [a court of competent jurisdiction or] the
431 administrative hearing commission. The department of
432 revenue, the department of economic development, or the
433 administering agency may, by filing a complaint, submit to
434 the administrative hearing commission the question of
435 whether fraud in the application or reporting process for
436 any credit has occurred. The burden of proof shall be on
437 the governmental agency in such disputes. The issue shall
438 be decided by the administrative hearing commission under
439 the same procedural and evidentiary rules as ordinary
440 contested cases before it.

441 2. [Ninety] Thirty days after the annual report is
442 past due, the administering agency shall send notice by
443 registered or certified mail to the last known address of
444 the person or entity obligated to complete the annual
445 reporting informing such person or entity of the past-due
446 annual report and describing in detail the pending penalties
447 and their respective deadlines. [Six] Three months after
448 the annual report is past due, the administering agency
449 shall notify the department of revenue of any [taxpayer]
450 recipient subject to penalties. The [taxpayer shall be
451 liable for any penalties as of December thirty-first of any
452 tax year and such liability] payment of a penalty under this

453 section shall be due as of the filing date of the
454 [taxpayer's] recipient's next income tax return. If the
455 [taxpayer] recipient is not required to file an income tax
456 return, the [taxpayer's] recipient's liability for penalties
457 shall be due as of the next April fifteenth[of each year].
458 The director of the department of revenue shall prepare
459 forms and promulgate rules to allow for the reporting and
460 satisfaction of liability for such penalties, and, for
461 valuable consideration, may enter into agreements to
462 compromise or abate some or all of the penalty amount. The
463 director of the department of revenue shall offset any
464 credits claimed on a contemporaneously filed tax return
465 against an outstanding penalty before applying such credits
466 to the tax year against which they were originally claimed.
467 Any nonpayment of liability for penalties by the date due
468 under this subsection shall be subject to the same
469 provisions of law as a liability for unpaid income taxes,
470 including[, but not limited to, interest and penalty
471 provisions] underpayment interest provisions but excluding
472 income tax penalty and addition to tax provisions.

473 3. Penalties shall remain the liability of the person
474 or entity obligated to complete the annual reporting,
475 without regard to any transfer of the credits.

476 4. Any person or entity obligated to complete the
477 annual reporting requirements provided in section 135.805
478 shall provide the proper administering agency with notice of
479 change of address when [necessary] a change of address
480 occurs. The administering agency shall notify the department
481 of revenue and the department of economic development of
482 such change of address.

483 5. An administering agency may promulgate rules in
484 order to implement the provisions of this section. Any rule
485 or portion of a rule, as that term is defined in section

486 536.010, that is created under the authority delegated in
487 this section shall become effective only if it complies with
488 and is subject to all of the provisions of chapter 536 and,
489 if applicable, section 536.028. This section and chapter
490 536 are nonseverable and if any of the powers vested with
491 the general assembly pursuant to chapter 536 to review, to
492 delay the effective date, or to disapprove and annul a rule
493 are subsequently held unconstitutional, then the grant of
494 rulemaking authority and any rule proposed or adopted after
495 August 28, 2004, shall be invalid and void.

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498 135.815. 1. Prior to authorization of any tax credit
499 application, an administering agency shall verify through
500 the department of revenue that the tax credit applicant does
501 not owe any delinquent income, sales, or use taxes, or
502 interest, additions, or penalties on such taxes, and through
503 the department of commerce and insurance that the applicant
504 does not owe any delinquent insurance taxes. Such
505 delinquency shall not affect the authorization of the
506 application for such tax credits, except that the amount of
507 credits issued shall be reduced by the applicant's tax
508 delinquency. If the department of revenue or the department
509 of commerce and insurance concludes that a taxpayer is
510 delinquent after June fifteenth but before July first of any
511 year, and the application of tax credits to such delinquency
512 causes a tax deficiency on behalf of the taxpayer to arise,
513 then the taxpayer shall be granted thirty days to satisfy
514 the deficiency in which interest, penalties, and additions
515 to tax shall be tolled. After applying all available
516 credits towards a tax delinquency, the administering agency
517 shall notify the appropriate department, and that department
518 shall update the amount of outstanding delinquent tax owed

519 by the applicant. If any credits remain after satisfying
520 all insurance, income, sales, and use tax delinquencies, the
521 remaining credits shall be issued to the applicant, subject
522 to the restrictions of other provisions of law.

523 2. Any applicant of a tax credit program [contained in
524 the definition of the term "all tax credit programs"] who
525 [purposely and directly] knowingly employs unauthorized
526 aliens shall forfeit any tax credits issued to such
527 applicant which have not been redeemed, and shall repay the
528 amount of any tax credits redeemed by such applicant during
529 the period of time such unauthorized alien was employed by
530 the applicant. Such forfeiture and repayment shall be
531 additional to, and not in lieu of, any penalties imposed
532 pursuant to section 135.810. As used in this subsection,
533 the term "unauthorized alien" shall mean an alien who does
534 not have the legal right or authorization under federal law
535 to work in the United States, as defined under Section 8
536 U.S.C. 1324a(h)(3). The amount of tax credits required to
537 be repaid under this subsection, but which are not repaid by
538 the applicant, shall be subject to the same procedure and
539 provisions of law as a liability for unpaid income tax
540 arising on the date that the department of revenue became
541 aware of the violation of this provision."

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543

544 "135.825. 1. The administering agencies for all tax
545 credit programs shall, in cooperation with the department of
546 revenue and the department of economic development,
547 implement a system for tracking the amount of tax credits
548 authorized, issued, and redeemed. Any such agency may
549 promulgate rules for the implementation of this section.

550 2. The provisions of this section shall not apply to
551 any credit that is issued and redeemed simultaneously.

552 3. Any rule or portion of a rule, as that term is
553 defined in section 536.010, that is created under the
554 authority delegated in this section shall become effective
555 only if it complies with and is subject to all of the
556 provisions of chapter 536 and, if applicable, section
557 536.028. This section and chapter 536 are nonseverable and
558 if any of the powers vested with the general assembly
559 pursuant to chapter 536 to review, to delay the effective
560 date, or to disapprove and annul a rule are subsequently
561 held unconstitutional, then the grant of rulemaking
562 authority and any rule proposed or adopted after August
563 28, 2004, shall be invalid and void."

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565

566 "143.119. 1. A self-employed taxpayer, as such term
567 is used in the federal internal revenue code, who is
568 otherwise ineligible for the federal income tax health
569 insurance deduction under Section 162 of the federal
570 internal revenue code shall be entitled to a credit against
571 the tax otherwise due under this chapter, excluding
572 withholding tax imposed by sections 143.191 to 143.265, in
573 an amount equal to the portion of such taxpayer's federal
574 tax liability incurred due to such taxpayer's inclusion of
575 such payments in federal adjusted gross income. To be
576 eligible for a credit under this section, the self-employed
577 taxpayer shall have a Missouri income tax liability, before
578 any other tax credits, of less than three thousand dollars.
579 The tax credits authorized under this section shall be
580 nontransferable, nonrefundable, and shall not be carried
581 back or forward to any other tax year. [To the extent tax
582 credit issued under this section exceeds a taxpayer's state
583 income tax liability, such excess shall be considered an
584 overpayment of tax and shall be refunded to the taxpayer.]

585 A self-employed taxpayer shall not claim both a tax credit
586 under this section and a subtraction under section 143.113,
587 for the same tax year.

588 2. The director of the department of revenue shall
589 promulgate rules and regulations to administer the
590 provisions of this section. Any rule or portion of a rule,
591 as that term is defined in section 536.010, that is created
592 under the authority delegated in this section shall become
593 effective only if it complies with and is subject to all of
594 the provisions of chapter 536 and, if applicable, section
595 536.028. This section and chapter 536 are nonseverable and
596 if any of the powers vested with the general assembly
597 pursuant to chapter 536 to review, to delay the effective
598 date, or to disapprove and annul a rule are subsequently
599 held unconstitutional, then the grant of rulemaking
600 authority and any rule proposed or adopted after August 28,
601 2007, shall be invalid and void.

602 3. Pursuant to section 23.253 of the Missouri sunset
603 act:

604 (1) The provisions of this section shall sunset
605 automatically on December 31, 2028, unless reauthorized by
606 an act of the general assembly; and

607 (2) If such program is reauthorized, this section
608 shall sunset automatically December thirty-first six years
609 after the effective date of the reauthorization of this
610 section; and

611 (3) This section shall terminate on September first of
612 the calendar year immediately following the calendar year in
613 which the program authorized under this section is sunset;
614 and

615 (4) The provisions of this subsection shall not be
616 construed to limit or in any way impair the department's
617 ability to redeem tax credits authorized on or before the

618 date the program authorized pursuant to this section
619 expires, or a taxpayer's ability to redeem such tax
620 credits."; and

621 Further amend said bill, page 5, Section 285.730,
622 line 143, by inserting after all of said line the following:

623 "620.1039. 1. As used in this section, the **[term]**
624 following terms shall mean:

625 (1) "Additional qualified research expenses", the
626 difference between qualified research expenses, as certified
627 by the director of economic development, incurred in a tax
628 year subtracted by the average of the taxpayer's qualified
629 research expenses incurred in the three immediately
630 preceding tax years;

631 (2) "Minority business enterprise", a business that is:

632 (a) A sole proprietorship owned and controlled by a
633 minority;

634 (b) A partnership or joint venture owned and
635 controlled by minorities in which at least fifty-one percent
636 of the ownership interest is held by minorities and the
637 management and daily business operations of which are
638 controlled by one or more of the minorities who own it; or

639 (c) A corporation or other entity whose management and
640 daily business operations are controlled by one or more
641 minorities who own it and that is at least fifty-one percent
642 owned by one or more minorities or, if stock is issued, at
643 least fifty-one percent of the stock is owned by one or more
644 minorities;

645 (3) "Missouri qualified research and development
646 equipment", tangible personal property that has not
647 previously been used in this state for any purpose and is
648 acquired by the purchaser for the purpose of research and
649 development activities devoted to experimental or laboratory

650 research and development for new products, new uses of
651 existing products, or improving or testing existing products;

652 (4) "Qualified research expenses", for expenses within
653 this state, the same meaning as prescribed in 26 U.S.C. 41;

654 (5) "Small business", a corporation, partnership, sole
655 proprietorship or other business entity, including its
656 affiliates, that:

657 (a) Is independently owned and operated; and

658 (b) Employs fifty or fewer full-time employees;

659 (6) "Taxpayer" [means], an individual, a partnership,
660 or any charitable organization which is exempt from federal
661 income tax and whose Missouri unrelated business taxable
662 income, if any, would be subject to the state income tax
663 imposed under chapter 143, or a corporation as described in
664 section 143.441 or 143.471, or section 148.370[, and the
665 term "qualified research expenses" has the same meaning as
666 prescribed in 26 U.S.C. 41];

667 (7) "Women's business enterprise", a business that is:

668 (a) A sole proprietorship owned and controlled by a
669 woman;

670 (b) A partnership or joint venture owned and
671 controlled by women in which at least fifty-one percent of
672 the ownership interest is held by women and the management
673 and daily business operations of which are controlled by one
674 or more of the women who own it; or

675 (c) A corporation or other entity whose management and
676 daily business operations are controlled by one or more
677 women who own it and that is at least fifty-one percent
678 owned by women or, if stock is issued, at least fifty-one
679 percent of the stock is owned by one or more women.

680 2. (1) For tax years beginning on or after January 1,
681 2001, and ending before January 1, 2005, the director of the
682 department of economic development may authorize a taxpayer

683 to receive a tax credit against the tax otherwise due
684 pursuant to chapter 143, or chapter 148, other than the
685 taxes withheld pursuant to sections 143.191 to 143.265, in
686 an amount up to six and one-half percent of the excess of
687 the taxpayer's qualified research expenses, as certified by
688 the director of the department of economic development,
689 within this state during the taxable year over the average
690 of the taxpayer's qualified research expenses within this
691 state over the immediately preceding three taxable years;
692 except that, no tax credit shall be allowed on that portion
693 of the taxpayer's qualified research expenses incurred
694 within this state during the taxable year in which the
695 credit is being claimed, to the extent such expenses exceed
696 two hundred percent of the taxpayer's average qualified
697 research expenses incurred during the immediately preceding
698 three taxable years.

699 (2) For all tax years beginning on or after January 1,
700 2023, the director of economic development may authorize a
701 taxpayer to receive a tax credit against the tax otherwise
702 due under chapters 143 and 148, other than the taxes
703 withheld under sections 143.191 to 143.265 in an amount
704 equal to the greater of:

705 (a) Fifteen percent of the taxpayer's additional
706 qualified research expenses; or

707 (b) If such qualified research expenses relate to
708 research conducted in conjunction with a public or private
709 college or university located in this state, twenty percent
710 of the taxpayer's additional qualified research expenses.

711 However, in no case shall a tax credit be allowed for any
712 portion of qualified research expenses that exceed two
713 hundred percent of the taxpayer's average qualified research
714 expenses incurred during the three immediately preceding tax
715 years.

716 3. The director of economic development shall
717 prescribe the manner in which the tax credit may be applied
718 for. The tax credit authorized by this section may be
719 claimed by the taxpayer to offset the tax liability imposed
720 by chapter 143 or chapter 148 that becomes due in the tax
721 year during which such qualified research expenses were
722 incurred. For tax years ending before January 1, 2005,
723 where the amount of the credit exceeds the tax liability,
724 the difference between the credit and the tax liability may
725 only be carried forward for the next five succeeding taxable
726 years or until the full credit has been claimed, whichever
727 first occurs. For all tax years beginning on or after
728 January 1, 2023, where the amount of the credit exceeds the
729 tax liability, the difference between the credit and the tax
730 liability may only be carried forward for the next twelve
731 succeeding tax years or until the full credit has been
732 claimed, whichever occurs first. The application for tax
733 credits authorized by the director pursuant to subsection 2
734 of this section shall be made no later than the end of the
735 taxpayer's tax period immediately following the tax period
736 for which the credits are being claimed.

737 4. (1) Certificates of tax credit issued pursuant to
738 this section may be transferred, sold or assigned by filing
739 a notarized endorsement thereof with the department which
740 names the transferee and the amount of tax credit
741 transferred. The director of economic development may allow
742 a taxpayer to transfer, sell or assign up to forty percent
743 of the amount of the certificates of tax credit issued to
744 and not claimed by such taxpayer pursuant to this section
745 during any tax year commencing on or after January 1, 1996,
746 and ending not later than December 31, 1999. Such taxpayer
747 shall file, by December 31, 2001, an application with the
748 department which names the transferee, the amount of tax

749 credit desired to be transferred, and a certification that
750 the funds received by the applicant as a result of the
751 transfer, sale or assignment of the tax credit shall be
752 expended within three years at the state university for the
753 sole purpose of conducting research activities agreed upon
754 by the department, the taxpayer and the state university.
755 Failure to expend such funds in the manner prescribed
756 pursuant to this section shall cause the applicant to be
757 subject to the provisions of section 620.017.

758 (2) Up to one hundred percent of tax credits provided
759 under this program may be transferred, sold, or assigned by
760 filing a notarized endorsement thereof with the department
761 that names the transferee, the amount of tax credit
762 transferred, and the value received for the credit, as well
763 as any other information reasonably requested by the
764 department. For a taxpayer with flow-through tax treatment
765 to its members, partners, or shareholders, the tax credit
766 shall be allowed to members, partners, or shareholders in
767 proportion to their share of ownership on the last day of
768 the taxpayer's tax period.

769 5. [No rule or portion of a rule promulgated under the
770 authority of this section shall become effective unless it
771 has been promulgated pursuant to the provisions of chapter
772 536. All rulemaking authority delegated prior to June 27,
773 1997, is of no force and effect and repealed; however,
774 nothing in this section shall be interpreted to repeal or
775 affect the validity of any rule filed or adopted prior to
776 June 27, 1997, if such rule complied with the provisions of
777 chapter 536. The provisions of this section and chapter 536
778 are nonseverable and if any of the powers vested with the
779 general assembly pursuant to chapter 536, including the
780 ability to review, to delay the effective date, or to
781 disapprove and annul a rule or portion of a rule, are

782 subsequently held unconstitutional, then the purported grant
783 of rulemaking authority and any rule so proposed and
784 contained in the order of rulemaking shall be invalid and
785 void.] Purchases of Missouri qualified research and
786 development equipment are hereby specifically exempted from
787 all state and local sales and use tax including, but not
788 limited to, sales and use tax authorized or imposed under
789 section 32.085 and chapter 144.

790 6. The department may adopt such rules, statements of
791 policy, procedures, forms, and guidelines as may be
792 necessary to carry out the provisions of this section. Any
793 rule or portion of a rule, as that term is defined in
794 section 536.010, that is created under the authority
795 delegated in this section shall become effective only if it
796 complies with and is subject to all of the provisions of
797 chapter 536 and, if applicable, section 536.028. This
798 section and chapter 536 are nonseverable and if any of the
799 powers vested with the general assembly pursuant to chapter
800 536 to review, to delay the effective date, or to disapprove
801 and annul a rule are subsequently held unconstitutional,
802 then the grant of rulemaking authority and any rule proposed
803 or adopted after August 28, 2022, shall be invalid and void.

804 7. (1) For tax years ending before January 1, 2005,
805 the aggregate of all tax credits authorized pursuant to this
806 section shall not exceed nine million seven hundred thousand
807 dollars in any year.

808 (2) (a) For all tax years beginning on or after
809 January 1, 2023, the aggregate of all tax credits authorized
810 under this section shall not exceed ten million dollars in
811 any year.

812 (b) Five million dollars of such ten million dollars
813 shall be reserved for minority business enterprises, women's
814 business enterprises, and small businesses. Any reserved

815 amount not issued or awarded to a minority business
816 enterprise, women's business enterprise, or small business
817 by November first of the tax year may be issued to any
818 taxpayer otherwise eligible for a tax credit under this
819 section.

820 (c) No single taxpayer shall be issued or awarded more
821 than three hundred thousand dollars in tax credits under
822 this section in any year.

823 (d) In the event that total eligible claims for
824 credits received in a calendar year exceed the annual cap,
825 each eligible claimant shall be issued credits based upon a
826 pro-rata basis, given that all new businesses, defined as a
827 business less than five years old, are issued full tax
828 credits first.

829 [7. For all tax years beginning on or after January 1,
830 2005, no tax credits shall be approved, awarded, or issued
831 to any person or entity claiming any tax credit under this
832 section.]

833 8. Under section 23.253 of the Missouri sunset act:

834 (1) The provisions of the program authorized under
835 this section shall automatically sunset December thirty-
836 first, six years after the effective date of this section;

837 (2) If such program is reauthorized, the program
838 authorized under this section shall automatically sunset
839 December thirty-first, twelve years after the effective date
840 of the reauthorization of this section; and

841 (3) This section shall terminate on December thirty-
842 first of the calendar year immediately following the
843 calendar year in which the program authorized under this
844 section is sunset."; and

845 Further amend the title and enacting clause accordingly.