

SECOND REGULAR SESSION

HOUSE BILL NO. 1370

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEMPSEY (Sponsor), COOPER (120), HANAWAY, BEARDEN,
SMITH (14), JETTON, PEARCE AND SUTHERLAND (Co-sponsors).

Read 1st time February 4, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4248L.011

AN ACT

To repeal sections 21.810, 32.057, 620.014, and 620.1300, RSMo, and to enact in lieu thereof eleven new sections relating to tax credit accountability, with penalty provisions.

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

Section A. Sections 21.810, 32.057, 620.014, and 620.1300, RSMo, are repealed and
2 eleven new sections enacted in lieu thereof, to be known as sections 21.810, 32.057, 135.800,
3 135.802, 135.805, 135.810, 135.815, 135.830, 620.012, 620.014, and 620.1300, to read as
4 follows:

21.810. 1. There is established a permanent joint committee of the general assembly to
2 be known as the "Joint Committee on Tax Policy" which shall be composed of five members of
3 the senate, appointed by the president pro tem of the senate, and five members of the house of
4 representatives, appointed by the speaker of the house of representatives. A majority of the
5 members of the committee shall constitute a quorum. The members shall annually select one of
6 the members to be the chair and one of the members to be the vice chair. The speaker of the
7 house of representatives and the president pro tem of the senate shall appoint the respective
8 majority members. The minority leader of the house and the minority leader of the senate shall
9 appoint the respective minority members. The members shall receive no additional
10 compensation, but shall be reimbursed for actual and necessary expenses incurred by them in the
11 performance of their duties. No major party shall be represented on the committee by more than
12 three members from the senate nor by more than three members from the house. The committee
13 is authorized to meet and act year round and to employ the necessary personnel within the limits
14 of appropriations. The staff of the committee on legislative research, house research, and senate

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

15 research shall provide necessary clerical, research, fiscal, and legal services to the committee,
16 as the committee may request.

17 2. It shall be the duty of the committee:

18 (1) To make a continuing study and analysis of the current and proposed tax policy of
19 this state as it relates to:

20 (a) Fairness and equity;

21 (b) True economic impact;

22 (c) Burden on individuals and businesses;

23 (d) Effectiveness of tax expenditures;

24 (e) Impact on political subdivisions of this state;

25 (f) Agreements and contracts with the federal government, other states and territories,
26 political subdivisions, and private entities relating to the collection and administration of state
27 and local taxes and fees;

28 (g) Compliance with the state and United States Constitution and federal and
29 international law; and

30 (h) The effects of interstate commerce;

31 (2) To make a continuing study and review of the department of revenue, the department
32 of economic development, the state tax commission, and any other state agency, commission,
33 or state executive office responsible for the administration of tax policies;

34 (3) To study the effects of the coupling or decoupling with the federal income tax code
35 as it relates to the state income tax;

36 (4) To make recommendations, as and when the committee deems fit, to the general
37 assembly for legislative action or to report findings and to the departments, commissions, and
38 offices for administrative or procedural changes; [and]

39 (5) To study the effects of a sales tax holiday; **and**

40 **(6) To examine and assess the public benefit of any tax credit program that is the**
41 **subject of an audit by the state auditor pursuant to section 620.1300, RSMo, and provide**
42 **a report to the general assembly and the governor with the committee's findings and**
43 **recommendations regarding such tax credit program within six months of receiving the**
44 **audit report.**

45 3. All state departments, commissions, and offices responsible for the administration of
46 tax policies shall cooperate with and assist the committee in the performance of its duties and
47 shall make available all books, records and information requested, except individually
48 identifiable information regarding a specific taxpayer. The committee may also consult with
49 public and private universities and academies, public and private organizations, and private
50 citizens in the performance of its duties. The committee may contract with public and private

51 entities, within the limits of appropriation, for analysis and study of current or proposed changes
52 to state and local tax policy. The committee shall have the power to subpoena witnesses, take
53 testimony under oath, compel the attendance of witnesses, the giving of testimony and the
54 production of records.

32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the
2 director of revenue, any officer, employee, agent or deputy or former director, officer, employee,
3 agent or deputy of the department of revenue, any person engaged or retained by the department
4 of revenue on an independent contract basis, any person to whom authorized or unauthorized
5 disclosure is made by the department of revenue, or any person who lawfully or unlawfully
6 inspects any report or return filed with the department of revenue or to whom a copy, an abstract
7 or a portion of any report or return is furnished by the department of revenue to make known in
8 any manner, to permit the inspection or use of or to divulge to anyone any information relative
9 to any such report or return, any information obtained by an investigation conducted by the
10 department in the discharge of official duty, or any information received by the director in
11 cooperation with the United States or other states in the enforcement of the revenue laws of this
12 state. Such confidential information is limited to information received by the department in
13 connection with the administration of the tax laws of this state.

14 2. Nothing in this section shall be construed to prohibit:

15 (1) The disclosure of information, returns, reports, or facts shown thereby, as described
16 in subsection 1 of this section, by any officer, clerk or other employee of the department of
17 revenue charged with the custody of such information:

18 (a) To a taxpayer or the taxpayer's duly authorized representative under regulations
19 which the director of revenue may prescribe;

20 (b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue
21 laws of this state;

22 (c) To the state auditor or the auditor's duly authorized employees as required by
23 subsection 4 of this section;

24 (d) To any city officer designated by ordinance of a city within this state to collect a city
25 earnings tax, upon written request of such officer, which request states that the request is made
26 for the purpose of determining or enforcing compliance with such city earnings tax ordinance
27 and provided that such information disclosed shall be limited to that sufficient to identify the
28 taxpayer, and further provided that in no event shall any information be disclosed that will result
29 in the department of revenue being denied such information by the United States or any other
30 state. The city officer requesting the identity of taxpayers filing state returns but not paying city
31 earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax,
32 and the director shall compare the list submitted with the director's records and return to such

33 city official the name and address of any taxpayer who is a resident of such city who has filed
34 a state tax return but who does not appear on the list furnished by such city. The director of
35 revenue may set a fee to reimburse the department for the costs reasonably incurred in providing
36 this information;

37 (e) To any employee of any county or other political subdivision imposing a sales tax
38 which is administered by the state department of revenue whose office is authorized by the
39 governing body of the county or other political subdivision to receive any and all records of the
40 state director of revenue pertaining to the administration, collection and enforcement of its sales
41 tax. The request for sales tax records and reports shall include a description of the type of report
42 requested, the media form including electronic transfer, computer tape or disk, or printed form,
43 and the frequency desired. The request shall be made by annual written application and shall be
44 filed with the director of revenue. The director of revenue may set a fee to reimburse the
45 department for the costs reasonably incurred in providing this information. Such city or county
46 or any employee thereof shall be subject to the same standards for confidentiality as required for
47 the department of revenue in using the information contained in the reports;

48 (f) To the director of the department of economic development or the director's duly
49 authorized employees in discharging the director's official duties to certify taxpayers eligibility
50 to claim state tax credits as prescribed by statutes;

51 (g) To any employee of any political subdivision, such records of the director of revenue
52 pertaining to the administration, collection and enforcement of the tax imposed in chapter 149,
53 RSMo, as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by
54 such political subdivision. The request for such records shall be made in writing to the director
55 of revenue, and shall include a description of the type of information requested and the desired
56 frequency. The director of revenue may charge a fee to reimburse the department for costs
57 reasonably incurred in providing such information;

58 (2) The publication by the director of revenue or of the state auditor in the audit reports
59 relating to the department of revenue of:

60 (a) Statistics, statements or explanations so classified as to prevent the identification of
61 any taxpayer or of any particular reports or returns and the items thereof;

62 (b) The names and addresses without any additional information of persons who filed
63 returns and of persons whose tax refund checks have been returned undelivered by the United
64 States Post Office;

65 (3) The director of revenue from permitting the Secretary of the Treasury of the United
66 States or the Secretary's delegates, the proper officer of any state of the United States imposing
67 a tax equivalent to any of the taxes administered by the department of revenue of the state of
68 Missouri or the appropriate representative of the multistate tax commission to inspect any return

69 or report required by the respective tax provision of this state, or may furnish to such officer an
70 abstract of the return or report or supply the officer with information contained in the return or
71 disclosed by the report of any authorized investigation. Such permission, however, shall be
72 granted on condition that the corresponding revenue statute of the United States or of such other
73 state, as the case may be, grants substantially similar privileges to the director of revenue and on
74 further condition that such corresponding statute gives confidential status to the material with
75 which it is concerned;

76 (4) The disclosure of information, returns, reports, or facts shown thereby, by any person
77 on behalf of the director of revenue, in any action or proceeding to which the director is a party
78 or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state
79 when such information is directly involved in the action or proceeding, in either of which events
80 the court may require the production of, and may admit in evidence, so much of such information
81 as is pertinent to the action or proceeding and no more;

82 (5) The disclosure of information, returns, reports, or facts shown thereby, by any person
83 to a state or federal prosecuting official, **including, but not limited to, the state and federal**
84 **attorneys general, or** the official's designees[, or other persons officially] involved in any
85 criminal [or], quasi-criminal, **or civil** investigation, action or proceeding pursuant to the laws of
86 this state or of the United States when such information is pertinent to an investigation, action
87 or proceeding involving the administration of the revenue laws or duties of public office or
88 employment connected therewith;

89 (6) Any school district from obtaining the aggregate amount of the financial institution
90 tax paid pursuant to chapter 148, RSMo, by financial institutions located partially or exclusively
91 within the school district's boundaries, provided that the school district request such disclosure
92 in writing to the department of revenue;

93 (7) The disclosure of records which identify all companies licensed by this state pursuant
94 to the provisions of subsections 1 and 2 of section 149.035, RSMo. The director of revenue may
95 charge a fee to reimburse the department for the costs reasonably incurred in providing such
96 records;

97 (8) The disclosure to the commissioner of administration pursuant to section 34.040,
98 RSMo, of a list of vendors and their affiliates who meet the conditions of section 144.635,
99 RSMo, but refuse to collect the use tax levied pursuant to chapter 144, RSMo, on their sales
100 delivered to this state.

101 3. Any person violating any provision of subsection 1 or 2 of this section shall, upon
102 conviction, be guilty of a class D felony.

103 4. The state auditor or the auditor's duly authorized employees who have taken the oath
104 of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report

105 or return filed with the department of revenue if such inspection is related to and for the purpose
106 of auditing the department of revenue; except that, the state auditor or the auditor's duly
107 authorized employees shall have no greater right of access to, use and publication of information,
108 audit and related activities with respect to income tax information obtained by the department
109 of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to
110 the laws of the United States and of the income tax laws of the state of Missouri.

**135.800. The provisions of sections 135.800 to 135.830 shall be known and may be
2 cited as the "Tax Credit Accountability Act of 2004".**

135.802. 1. As used in sections 135.800 to 135.830, the following terms mean:

2 **(1) "Administering agency", the state agency or department charged with**
3 **administering a particular tax credit program, as set forth by the program's enacting**
4 **statute; where no department or agency is set forth, the department of revenue;**

5 **(2) "Agricultural tax credits", the agricultural product utilization contributor tax**
6 **credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive**
7 **tax credit created pursuant to section 348.432, RSMo, and the wine and grape production**
8 **tax credit created pursuant to section 135.700;**

9 **(3) "All tax credit programs", the tax credit programs included in the definitions**
10 **of agricultural tax credits, business recruitment tax credits, community development tax**
11 **credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax**
12 **credits, financial institutions tax credits, housing tax credits, redevelopment tax credits,**
13 **and training and educational tax credits;**

14 **(4) "Business recruitment tax credits", the business facility tax credit created**
15 **pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits**
16 **created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale**
17 **development program created pursuant to sections 100.700 to 100.850, RSMo, the**
18 **development tax credits created pursuant to sections 32.100 to 32.125, RSMo, the**
19 **rebuilding communities tax credit created pursuant to section 135.535, and the film**
20 **production tax credit created pursuant to section 135.750;**

21 **(5) "Community development tax credits", the youth opportunities tax credit**
22 **created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the**
23 **neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo,**
24 **the family development account tax credit created pursuant to sections 208.750 to 208.775,**
25 **RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo, and the**
26 **transportation development tax credit created pursuant to section 135.545;**

27 **(6) "Domestic and social tax credits", the shelter for victims of domestic violence**
28 **created pursuant to section 135.550, the senior citizen or disabled person property tax**

29 credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit
30 created pursuant to sections 135.325 to 135.339, the maternity home tax credit created
31 pursuant to section 135.600, and the shared care tax credit created pursuant to section
32 660.055, RSMo;

33 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections
34 135.400 to 135.429, the certified capital company tax credit created pursuant to sections
35 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to
36 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635
37 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the
38 small business incubator tax credit created pursuant to section 620.495, RSMo, the
39 guarantee fee tax credit created pursuant to section 135.766, and the new generation
40 cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

41 (8) "Environmental tax credits", the charcoal producer tax credit created pursuant
42 to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to
43 135.311, and the manufacturing and recycling flexible cellulose casing tax credit created
44 pursuant to section 260.285, RSMo;

45 (9) "Financial institutions tax credits", the Missouri property and casualty
46 guaranty association tax credit created pursuant to section 375.774, RSMo, the
47 examination fee tax credit created pursuant to section 148.400, RSMo, the health insurance
48 pool tax credit created pursuant to section 376.975, RSMo, the Missouri life and health
49 insurance guaranty association tax credit created pursuant to section 376.745, RSMo, the
50 bank franchise for S corporations tax credit created pursuant to section 148.064, RSMo,
51 and the bank tax credit created pursuant to section 148.030, RSMo;

52 (10) "Housing tax credits", the neighborhood preservation tax credit created
53 pursuant to sections 135.475 to 135.487, the low income housing tax credit created
54 pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created
55 pursuant to sections 32.105 to 32.125, RSMo;

56 (11) "Redevelopment tax credits", the historic preservation tax credit created
57 pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax
58 credit created pursuant to sections 447.700 to 447.718, RSMo, the community development
59 corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure
60 tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee
61 tax credit created pursuant to section 100.297, RSMo, and the disabled access tax credit
62 created pursuant to section 135.490;

63 (12) "Training and educational tax credits", the community college new jobs tax
64 credit created pursuant to sections 178.892 to 178.896, RSMo, the skills development

65 account tax credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature
66 worker tax credit created pursuant to section 620.1560, RSMo, the sponsorship and
67 mentoring tax credit created pursuant to section 135.348, the higher education scholarship
68 fund contribution tax credit created pursuant to section 173.196, RSMo, and the advantage
69 Missouri tax credit created pursuant to sections 173.775 to 173.796, RSMo.

70 2. Beginning January 1, 2005, all applications for all tax credit programs shall
71 include, in addition to any requirements provided by the enacting statutes of a particular
72 credit program, the following information to be submitted to the department administering
73 the tax credit:

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

76 (2) Taxpayer type, whether individual, corporation, nonprofit or other, and
77 taxpayer identification number, if applicable;

78 (3) Standard industry code, if applicable; and

79 (4) Program name and type of tax credit, including the identity of any other state
80 or federal program being utilized for the same activity or project.

81 3. In addition to the information required by subsection 2 of this section, an
82 applicant for a community development tax credit shall also provide information detailing
83 the title and location of the corresponding project, the estimated time period for completion
84 of the project, and all geographic areas impacted by the project.

85 4. In addition to the information required by subsection 2 of this section, an
86 applicant for a redevelopment tax credit shall also provide information detailing the
87 location and legal description of the property, age of the structure, if applicable, whether
88 the property is residential, commercial, or governmental, and the projected project cost,
89 labor cost, and projected date of completion. Where a redevelopment tax credit applicant
90 is required to submit contemporaneously a federal application for a similar credit on the
91 same underlying project, the submission of a copy of the federal application shall be
92 sufficient to meet the requirements of this subsection.

93 5. In addition to the information required by subsection 2 of this section, an
94 applicant for a business recruitment tax credit shall also provide information detailing the
95 category of business by size, the address of the business headquarters and all offices located
96 within this state, the number of employees at the time of the application, the number of
97 employees projected to increase as a result of the completion of the project, and the
98 estimated project cost.

99 6. In addition to the information required by subsection 2 of this section, an
100 applicant for a training and educational tax credit shall also provide information detailing

the name and address of the educational institution to be used, the average salary of workers to be served, the estimated project cost, and the number of employees and number of students to be served.

7. In addition to the information required by subsection 2 of this section, an applicant for a housing tax credit also shall provide information detailing the address, legal description, and fair market value of the property, and the projected labor cost and projected completion date of the project. Where a housing tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection. For the purposes of this subsection, "fair market value" means the value as of the purchase of the property or the most recent assessment, whichever is more recent.

8. In addition to the information required by subsection 2 of this section, an applicant for an entrepreneurial tax credit shall also provide information detailing the amount of investment and the names of the project, fund, and research project.

9. In addition to the information required by subsection 2 of this section, an applicant for an agricultural tax credit shall also provide information detailing the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of facility.

10. In addition to the information required by subsection 2 of this section, an applicant for an environmental tax credit shall also include information detailing the type of equipment, if applicable, purchased and any environmental impact statement, if required by state or federal law.

11. An administering agency may, by rule, require additional information to be submitted by an applicant. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be void.

12. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is a monetary contribution to a particular group or entity, the application requirements provided in this section shall apply to the recipient of such contribution and shall not apply to the contributor.

137 **13. It shall be the duty of each administering agency to provide information to**
138 **every applicant, at some time prior to approval of an applicant's tax credit application,**
139 **wherein the requirements of this section, the annual reporting requirements of section**
140 **135.805, and the penalty provisions of section 135.810 are described in detail.**

135.805. 1. A recipient of a community development tax credit shall annually, for
2 **a period of three years following issuance of tax credits, provide to the administering**
3 **agency information confirming the title and location of the corresponding project, the**
4 **estimated or actual time period for completion of the project, and all geographic areas**
5 **impacted by the project.**

6 **2. A recipient of a redevelopment tax credit shall annually, for a period of three**
7 **years following issuance of tax credits, provide to the administering agency information**
8 **confirming whether the property is used for residential, commercial, or governmental**
9 **purposes, and the projected or actual project cost, labor cost, and date of completion.**

10 **3. A recipient of a business recruitment tax credit shall annually, for a period of**
11 **three years following issuance of tax credits, provide to the administering agency**
12 **information confirming the category of business by size, the address of the business**
13 **headquarters and all offices located within this state, the number of employees at the time**
14 **of the annual update, an updated estimate of the number of employees projected to**
15 **increase as a result of the completion of the project, and the estimated or actual project**
16 **cost.**

17 **4. A recipient of a training and educational tax credit shall annually, for a period**
18 **of three years following issuance of tax credits, provide to the administering agency**
19 **information confirming the name and address of the educational institution used, the**
20 **average salary of workers served as of such annual update, the estimated or actual project**
21 **cost, and the number of employees and number of students served as of such annual**
22 **update.**

23 **5. A recipient of a housing tax credit shall annually, for a period of three years**
24 **following issuance of tax credits, provide to the administering agency information**
25 **confirming the address of the property, the fair market value of the property, as defined**
26 **in subsection 7 of section 135.802, and the projected or actual labor cost and completion**
27 **date of the project.**

28 **6. A recipient of an entrepreneurial tax credit shall annually, for a period of three**
29 **years following issuance of tax credits, provide to the administering agency information**
30 **confirming the amount of investment and the names of the project, fund, and research**
31 **project.**

32 **7. A recipient of an agricultural tax credit shall annually, for a period of three years**

33 following issuance of tax credits, provide to the administering agency information
34 confirming the type of agricultural commodity, the amount of contribution, the type of
35 equipment purchased, and the name and description of facility.

36 8. A recipient of an environmental tax credit shall annually, for a period of three
37 years following issuance of tax credits, provide to the administering agency information
38 detailing any change to the type of equipment purchased, if applicable, and any change to
39 any environmental impact statement, if such statement is required by state or federal law.

40 9. The reporting requirements established in this section shall be due annually on
41 June thirtieth of each year. No person or entity shall be required to make an annual report
42 until at least one year after the credit issuance date.

43 10. Where the sole requirement for receiving a tax credit in the enabling legislation
44 of any tax credit is a monetary contribution to a particular group or entity, the reporting
45 requirements provided in this section shall apply to the recipient of such contribution and
46 shall not apply to the contributor.

47 11. Where the enacting statutes of a particular tax credit program or the rules of
48 a particular administering agency require reporting of information that includes the
49 information required in section 135.802 to 135.810, and upon reporting of the required
50 information, the applicant shall be deemed to be in compliance with the requirements of
51 section 135.802 to 135.810.

52 12. The provisions of subsections 1 to 12 of this section shall apply beginning on
53 June 30, 2005.

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

4 (1) Failure to report for more than six months but less than one year shall result
5 in a penalty equal to two percent of the value of the credits issued for each month of
6 delinquency during such time period;

7 (2) Failure to report for more than one year shall result in a penalty equal to ten
8 percent of the value of the credits issued for each month of delinquency during such time
9 period until all value has been recaptured;

10 (3) Fraud in the application process shall result in a penalty equal to one hundred
11 percent of the credits issued.

12 2. Ninety days after the annual report is past due, the administering agency shall
13 send notice by registered mail to the last known address of person or entity obligated to
14 complete the annual reporting informing such person or entity of the past-due annual
15 report and describing in detail the pending penalties and their respective deadlines. Six

16 months after the annual report is past due, the administering agency shall notify the
17 department of revenue of any taxpayer subject to penalties. The taxpayer shall be liable
18 for any penalties as of December thirty-first of any tax year and such liability shall be due
19 as of the filing date of the taxpayer's next income tax return. If the taxpayer is not
20 required to file an income tax return, the taxpayer's liability for penalties shall be due as
21 of April fifteenth of each year. The director of the department of revenue shall prepare
22 forms and promulgate rules to allow for the reporting and satisfaction of liability for such
23 penalties. The director of the department of revenue shall offset any credits claimed by the
24 applicant on the applicant's contemporaneously filed tax return against an outstanding
25 penalty before applying such credits to the tax year against which they were originally
26 claimed. Any nonpayment of liability for penalties shall be subject to the same provisions
27 of law as a liability for unpaid income taxes, including, but not limited to, interest and
28 penalty provisions.

29 3. No taxpayer shall be deemed to have committed fraud in the application process
30 for any credit unless such conclusion has been reached by a court of competent
31 jurisdiction.

32 4. Penalties shall remain the liability of the person or entity obligated to complete
33 the annual reporting, without regard to any transfer of the credits.

34 5. Any person or entity obligated to complete the annual reporting requirements
35 provided in section 135.805 shall provide the proper administering agency with notice of
36 change of address when necessary.

37 6. An administering agency may promulgate rules in order to implement the
38 provisions of this section. Any rule or portion of a rule, as that term is defined in section
39 536.010, RSMo, that is created under the authority delegated in this section shall become
40 effective only if it complies with and is subject to all of the provisions of chapter 536,
41 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
42 nonseverable and if any of the powers vested with the general assembly pursuant to
43 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
44 are subsequently held unconstitutional, then the grant of rulemaking authority and any
45 rule proposed or adopted after August 28, 2004, shall be invalid and void.

135.815. Prior to approval of any tax credit application, an administering agency
2 shall verify through the department of revenue that the tax credit applicant does not owe
3 any delinquent income, sales, or use taxes, or interest or penalties on such taxes, and
4 through the department of insurance that the applicant does not owe any delinquent
5 insurance taxes. Such delinquency shall not affect the approval of the application for such
6 tax credits, except that the amount of credits shall be reduced by the applicant's tax

7 delinquency. After applying all available credits towards a tax delinquency, the
8 administering agency shall notify the appropriate department, and that department shall
9 update the amount of outstanding delinquent tax owed by the applicant. If any credits
10 remain after satisfying all insurance, income, sales, and use tax delinquencies, the
11 remaining credits shall be issued to the applicant, subject to the restrictions of other
12 provisions of law.

135.830. No taxpayer shall be permitted to redeem any tax credit or group of
2 credits against a tax liability imposed pursuant to chapter 143, excluding withholding tax
3 imposed by sections 143.191 to 143.265, RSMo, for a taxable year in excess of one million
4 dollars unless such taxpayer files a form with the department of revenue, at least two
5 months prior to assessment of the taxpayer's tax liability, indicating the taxpayer's intent
6 to claim the tax credit. For the purposes of this section, filing a tax return at least two
7 months prior to the assessment date shall be considered adequate notice of intent to claim
8 more than one million dollars of credits. The director of the department of revenue shall
9 create necessary forms to enable taxpayer's to file a notice of intent to redeem more than
10 one million dollars of tax credits.

620.012. 1. Records and documents relating to tax credits submitted to any
2 department of this state, board, or commission authorized to approve or recommend the
3 approval of tax credits shall be deemed "closed records" as such term is defined in section
4 610.010, RSMo, until such time as the information submitted does not concern a pending
5 application. For the purposes of this subsection, a "pending application" shall mean any
6 application for credits that has not yet been approved. For such purposes, approval shall
7 be deemed to occur when credits are issued, or two years after credits are approved to be
8 issued, whichever is earlier. In the case of partial or incomplete issuance of credits, the
9 issuance or approval of a single credit shall be sufficient to constitute full issuance or
10 approval to the extent that the issued or approved credit or credits relate to the same
11 application as the credits that have not yet been issued or approved.

12 2. Notwithstanding the provisions of subsection 1 of this section, any documents or
13 information submitted for the purposes of the special needs adoption tax credit created
14 pursuant to sections 135.325 to 135.339, except for the amount and name of the recipient
15 of any tax credits that are awarded, and documents relating to the transfer of credits shall
16 be deemed a "closed record" as such term is defined in section 610.010, RSMo.

620.014. Except as provided in section 620.012, records and documents submitted to
2 the department of economic development, to the Missouri economic development, export and
3 infrastructure board, or to a regional planning commission formed pursuant to chapter 251,
4 RSMo, relating to financial investments in a business, or sales projections or other business plan

5 information which may endanger the competitiveness of a business[, or records and documents
6 submitted to the department of economic development, or to a regional planning commission
7 formed pursuant to chapter 251, RSMo, relating to tax credits except for the amount and
8 recipient of any tax credits that are awarded] may be deemed a "closed record" as such term is
9 defined in section 610.010, RSMo.

620.1300. A cost benefit analysis shall be prepared to evaluate the effectiveness of **all**
2 **tax credit programs, as defined by section 135.802, and** all programs operated by the
3 department of economic development for which the department approves tax credits, loans, loan
4 guarantees, or grants. Each analysis shall be conducted by the state auditor, and shall include,
5 but not be limited to, the costs for each program, the direct state and indirect state benefits and
6 the direct local and indirect local benefits associated with each program, the safeguards to protect
7 noneconomic influences in the award of programs administered by the department, and the
8 likelihood of the economic activity taking place without the program. The result of each analysis
9 shall be published and distributed, by January 1, 2001, and **at least** every [two] **four** years
10 thereafter, to the governor, the speaker of the house of representatives, the president pro tem of
11 the senate, the chairman of the house budget committee, the chairman of the senate
12 appropriations committee, **the joint committee on tax policy** and the joint committee on
13 economic development policy and planning.