

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE SUBSTITUTE
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FOR
SENATE BILL NO. 1099

1 AN ACT

2 To repeal sections 21.810, 32.057, 173.196,
3 173.796, 620.014, 620.017, and 620.1300,
4 RSMo, and to enact in lieu thereof fifteen
5 new sections relating to tax credits, with
6 penalty provisions.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,**
8 **AS FOLLOWS:**

9 Section A. Sections 21.810, 32.057, 173.196, 173.796,
10 620.014, 620.017, and 620.1300, RSMo, are repealed and fifteen
11 new sections enacted in lieu thereof, to be known as sections
12 21.810, 32.057, 135.800, 135.802, 135.805, 135.810, 135.815,
13 135.825, 135.830, 173.196, 173.796, 610.255, 620.014, 620.017,
14 and 620.1300, to read as follows:

15 21.810. 1. There is established a permanent joint
16 committee of the general assembly to be known as the "Joint

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

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

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

1 (a) Fairness and equity;

2 (b) True economic impact;

3 (c) Burden on individuals and businesses;

4 (d) Effectiveness of tax expenditures;

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

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

10 (g) Compliance with the state and United States
11 Constitution and federal and international law; and

12 (h) The effects of interstate commerce;

13 (2) To make a continuing study and review of the department
14 of revenue, the department of economic development, the state tax
15 commission, and any other state agency, commission, or state
16 executive office responsible for the administration of tax
17 policies;

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

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

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

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

8 3. All state departments, commissions, and offices
9 responsible for the administration of tax policies shall
10 cooperate with and assist the committee in the performance of its
11 duties and shall make available all books, records and
12 information requested, except individually identifiable
13 information regarding a specific taxpayer. The committee may
14 also consult with public and private universities and academies,
15 public and private organizations, and private citizens in the
16 performance of its duties. The committee may contract with
17 public and private entities, within the limits of appropriation,
18 for analysis and study of current or proposed changes to state
19 and local tax policy. The committee shall have the power to
20 subpoena witnesses, take testimony under oath, compel the
21 attendance of witnesses, the giving of testimony and the
22 production of records.

23 32.057. 1. Except as otherwise specifically provided by
24 law, it shall be unlawful for the director of revenue, any

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

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

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

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

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

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

8 (d) To any city officer designated by ordinance of a city
9 within this state to collect a city earnings tax, upon written
10 request of such officer, which request states that the request is
11 made for the purpose of determining or enforcing compliance with
12 such city earnings tax ordinance and provided that such
13 information disclosed shall be limited to that sufficient to
14 identify the taxpayer, and further provided that in no event
15 shall any information be disclosed that will result in the
16 department of revenue being denied such information by the United
17 States or any other state. The city officer requesting the
18 identity of taxpayers filing state returns but not paying city
19 earnings tax shall furnish to the director of revenue a list of
20 taxpayers paying such earnings tax, and the director shall
21 compare the list submitted with the director's records and return
22 to such city official the name and address of any taxpayer who is
23 a resident of such city who has filed a state tax return but who
24 does not appear on the list furnished by such city. The director

1 of revenue may set a fee to reimburse the department for the
2 costs reasonably incurred in providing this information;

3 (e) To any employee of any county or other political
4 subdivision imposing a sales tax which is administered by the
5 state department of revenue whose office is authorized by the
6 governing body of the county or other political subdivision to
7 receive any and all records of the state director of revenue
8 pertaining to the administration, collection and enforcement of
9 its sales tax. The request for sales tax records and reports
10 shall include a description of the type of report requested, the
11 media form including electronic transfer, computer tape or disk,
12 or printed form, and the frequency desired. The request shall be
13 made by annual written application and shall be filed with the
14 director of revenue. The director of revenue may set a fee to
15 reimburse the department for the costs reasonably incurred in
16 providing this information. Such city or county or any employee
17 thereof shall be subject to the same standards for
18 confidentiality as required for the department of revenue in
19 using the information contained in the reports;

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

24 (g) To any employee of any political subdivision, such

1 records of the director of revenue pertaining to the
2 administration, collection and enforcement of the tax imposed in
3 chapter 149, RSMo, as are necessary for ensuring compliance with
4 any cigarette or tobacco tax imposed by such political
5 subdivision. The request for such records shall be made in
6 writing to the director of revenue, and shall include a
7 description of the type of information requested and the desired
8 frequency. The director of revenue may charge a fee to reimburse
9 the department for costs reasonably incurred in providing such
10 information;

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

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

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

21 (3) The director of revenue from permitting the Secretary
22 of the Treasury of the United States or the Secretary's
23 delegates, the proper officer of any state of the United States
24 imposing a tax equivalent to any of the taxes administered by the

1 department of revenue of the state of Missouri or the appropriate
2 representative of the multistate tax commission to inspect any
3 return or report required by the respective tax provision of this
4 state, or may furnish to such officer an abstract of the return
5 or report or supply the officer with information contained in the
6 return or disclosed by the report of any authorized
7 investigation. Such permission, however, shall be granted on
8 condition that the corresponding revenue statute of the United
9 States or of such other state, as the case may be, grants
10 substantially similar privileges to the director of revenue and
11 on further condition that such corresponding statute gives
12 confidential status to the material with which it is concerned;

13 (4) The disclosure of information, returns, reports, or
14 facts shown thereby, by any person on behalf of the director of
15 revenue, in any action or proceeding to which the director is a
16 party or on behalf of any party to any action or proceeding
17 pursuant to the revenue laws of this state when such information
18 is directly involved in the action or proceeding, in either of
19 which events the court may require the production of, and may
20 admit in evidence, so much of such information as is pertinent to
21 the action or proceeding and no more;

22 (5) The disclosure of information, returns, reports, or
23 facts shown thereby, by any person to a state or federal
24 prosecuting official, including, but not limited to, the state

1 and federal attorneys general, or the official's designees[, or
2 other persons officially] involved in any criminal [or],
3 quasi-criminal, or civil investigation, action or proceeding
4 pursuant to the laws of this state or of the United States when
5 such information is pertinent to an investigation, action or
6 proceeding involving the administration of the revenue laws or
7 duties of public office or employment connected therewith;

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

14 (7) The disclosure of records which identify all companies
15 licensed by this state pursuant to the provisions of subsections
16 1 and 2 of section 149.035, RSMo. The director of revenue may
17 charge a fee to reimburse the department for the costs reasonably
18 incurred in providing such records;

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

24 3. Any person violating any provision of subsection 1 or 2

1 of this section shall, upon conviction, be guilty of a class D
2 felony.

3 4. The state auditor or the auditor's duly authorized
4 employees who have taken the oath of confidentiality required by
5 section 29.070, RSMo, shall have the right to inspect any report
6 or return filed with the department of revenue if such inspection
7 is related to and for the purpose of auditing the department of
8 revenue; except that, the state auditor or the auditor's duly
9 authorized employees shall have no greater right of access to,
10 use and publication of information, audit and related activities
11 with respect to income tax information obtained by the department
12 of revenue pursuant to chapter 143, RSMo, or federal statute than
13 specifically exists pursuant to the laws of the United States and
14 of the income tax laws of the state of Missouri.

15 135.800. 1. The provisions of sections 135.800 to 135.830
16 shall be known and may be cited as the "Tax Credit Accountability
17 Act of 2004".

18 2. As used in sections 135.800 to 135.830, the following
19 terms mean:

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

24 (2) "Agricultural tax credits", the agricultural product

1 utilization contributor tax credit created pursuant to section
2 348.430, RSMo, the new generation cooperative incentive tax
3 credit created pursuant to section 348.432, RSMo, and the wine
4 and grape production tax credit created pursuant to section
5 135.700;

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

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

22 (5) "Community development tax credits", the neighborhood
23 assistance tax credit created pursuant to sections 32.100 to
24 32.125, RSMo, the family development account tax credit created

1 pursuant to sections 208.750 to 208.775, RSMo, the dry fire
2 hydrant tax credit created pursuant to section 320.093, RSMo, and
3 the transportation development tax credit created pursuant to
4 section 135.545;

5 (6) "Domestic and social tax credits", the youth
6 opportunities tax credit created pursuant to section 135.460 and
7 sections 620.1100 to 620.1103, RSMo, the shelter for victims of
8 domestic violence created pursuant to section 135.550, the senior
9 citizen or disabled person property tax credit created pursuant
10 to sections 135.010 to 135.035, the special needs adoption tax
11 credit created pursuant to sections 135.325 to 135.339, the
12 maternity home tax credit created pursuant to section 135.600,
13 and the shared care tax credit created pursuant to section
14 660.055, RSMo;

15 (7) "Entrepreneurial tax credits", the capital tax credit
16 created pursuant to sections 135.400 to 135.429, the certified
17 capital company tax credit created pursuant to sections 135.500
18 to 135.529, the seed capital tax credit created pursuant to
19 sections 348.300 to 348.318, RSMo, the new enterprise creation
20 tax credit created pursuant to sections 620.635 to 620.653, RSMo,
21 the research tax credit created pursuant to section 620.1039,
22 RSMo, the small business incubator tax credit created pursuant to
23 section 620.495, RSMo, the guarantee fee tax credit created
24 pursuant to section 135.766, and the new generation cooperative

1 tax credit created pursuant to sections 32.105 to 32.125, RSMo;

2 (8) "Environmental tax credits", the charcoal producer tax
3 credit created pursuant to section 135.313, the wood energy tax
4 credit created pursuant to sections 135.300 to 135.311, and the
5 manufacturing and recycling flexible cellulose casing tax credit
6 created pursuant to section 260.285, RSMo;

7 (9) "Housing tax credits", the neighborhood preservation
8 tax credit created pursuant to sections 135.475 to 135.487, the
9 low income housing tax credit created pursuant to sections
10 135.350 to 135.363, and the affordable housing tax credit created
11 pursuant to sections 32.105 to 32.125, RSMo;

12 (10) "Recipient", the individual or entity who is the
13 original applicant for and who receives proceeds from a tax
14 credit program directly from the administering agency, the person
15 or entity responsible for the reporting requirements established
16 in section 135.805;

17 (11) "Redevelopment tax credits", the historic preservation
18 tax credit created pursuant to sections 253.545 to 253.561, RSMo,
19 the brownfield redevelopment program tax credit created pursuant
20 to sections 447.700 to 447.718, RSMo, the community development
21 corporations tax credit created pursuant to sections 135.400 to
22 135.430, the infrastructure tax credit created pursuant to
23 subsection 6 of section 100.286, RSMo, the bond guarantee tax
24 credit created pursuant to section 100.297, RSMo, and the

1 disabled access tax credit created pursuant to section 135.490;

2 (12) "Training and educational tax credits", the community
3 college new jobs tax credit created pursuant to sections 178.892
4 to 178.896, RSMo, the skills development account tax credit
5 created pursuant to sections 620.1400 to 620.1460, RSMo, the
6 mature worker tax credit created pursuant to section 620.1560,
7 RSMo, the sponsorship and mentoring tax credit created pursuant
8 to section 135.348, the higher education scholarship fund
9 contribution tax credit created pursuant to section 173.196,
10 RSMo, and the advantage Missouri tax credit created pursuant to
11 sections 173.775 to 173.796, RSMo.

12 135.802. 1. Beginning January 1, 2005, all applications
13 for all tax credit programs shall include, in addition to any
14 requirements provided by the enacting statutes of a particular
15 credit program, the following information to be submitted to the
16 department administering the tax credit:

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

20 (2) Taxpayer type, whether individual, corporation,
21 nonprofit or other, and taxpayer identification number, if
22 applicable;

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

24 (4) Program name and type of tax credit, including the

1 identity of any other state or federal program being utilized for
2 the same activity or project.

3 2. In addition to the information required by subsection 1
4 of this section, an applicant for a community development tax
5 credit shall also provide information detailing the title and
6 location of the corresponding project, the estimated time period
7 for completion of the project, and all geographic areas impacted
8 by the project.

9 3. In addition to the information required by subsection 1
10 of this section, an applicant for a redevelopment tax credit
11 shall also provide information detailing the location and legal
12 description of the property, age of the structure, if applicable,
13 whether the property is residential, commercial, or governmental,
14 and the projected project cost, labor cost, and projected date of
15 completion. Where a redevelopment tax credit applicant is
16 required to submit contemporaneously a federal application for a
17 similar credit on the same underlying project, the submission of
18 a copy of the federal application shall be sufficient to meet the
19 requirements of this subsection.

20 4. In addition to the information required by subsection 1
21 of this section, an applicant for a business recruitment tax
22 credit shall also provide information detailing the category of
23 business by size, the address of the business headquarters and
24 all offices located within this state, the number of employees at

1 the time of the application, the number of employees projected to
2 increase as a result of the completion of the project, and the
3 estimated project cost.

4 5. In addition to the information required by subsection 1
5 of this section, an applicant for a training and educational tax
6 credit shall also provide information detailing the name and
7 address of the educational institution to be used, the average
8 salary of workers to be served, the estimated project cost, and
9 the number of employees and number of students to be served.

10 6. In addition to the information required by subsection 1
11 of this section, an applicant for a housing tax credit also shall
12 provide information detailing the address, legal description, and
13 fair market value of the property, and the projected labor cost
14 and projected completion date of the project. Where a housing
15 tax credit applicant is required to submit contemporaneously a
16 federal application for a similar credit on the same underlying
17 project, the submission of a copy of the federal application
18 shall be sufficient to meet the requirements of this subsection.
19 For the purposes of this subsection, "fair market value" means
20 the value as of the purchase of the property or the most recent
21 assessment, whichever is more recent.

22 7. In addition to the information required by subsection 1
23 of this section, an applicant for an entrepreneurial tax credit
24 shall also provide information detailing the amount of investment

1 and the names of the project, fund, and research project.

2 8. In addition to the information required by subsection 1
3 of this section, an applicant for an agricultural tax credit
4 shall also provide information detailing the type of agricultural
5 commodity, the amount of contribution, the type of equipment
6 purchased, and the name and description of facility.

7 9. In addition to the information required by subsection 1
8 of this section, an applicant for an environmental tax credit
9 shall also include information detailing the type of equipment,
10 if applicable, purchased and any environmental impact statement,
11 if required by state or federal law.

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

1 11. Where the sole requirement for receiving a tax credit
2 in the enabling legislation of any tax credit is an obligatory
3 assessment upon a taxpayer or a monetary contribution to a
4 particular group or entity, the application requirements provided
5 in this section shall apply to the recipient of such assessment
6 or contribution and shall not apply to the assessed nor the
7 contributor.

8 12. It shall be the duty of each administering agency to
9 provide information to every applicant, at some time prior to
10 authorization of an applicant's tax credit application, wherein
11 the requirements of this section, the annual reporting
12 requirements of section 135.805, and the penalty provisions of
13 section 135.810 are described in detail.

14 135.805. 1. A recipient of a community development tax
15 credit shall annually, for a period of three years following
16 issuance of tax credits, provide to the administering agency
17 information confirming the title and location of the
18 corresponding project, the estimated or actual time period for
19 completion of the project, and all geographic areas impacted by
20 the project.

21 2. A recipient of a redevelopment tax credit shall
22 annually, for a period of three years following issuance of tax
23 credits, provide to the administering agency information
24 confirming whether the property is used for residential,

1 commercial, or governmental purposes, and the projected or actual
2 project cost, labor cost, and date of completion.

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

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

19 5. A recipient of a housing tax credit shall annually, for
20 a period of three years following issuance of tax credits,
21 provide to the administering agency information confirming the
22 address of the property, the fair market value of the property,
23 as defined in subsection 6 of section 135.802, and the projected
24 or actual labor cost and completion date of the project.

1 6. A recipient of an entrepreneurial tax credit shall
2 annually, for a period of three years following issuance of tax
3 credits, provide to the administering agency information
4 confirming the amount of investment and the names of the project,
5 fund, and research project.

6 7. A recipient of an agricultural tax credit shall
7 annually, for a period of three years following issuance of tax
8 credits, provide to the administering agency information
9 confirming the type of agricultural commodity, the amount of
10 contribution, the type of equipment purchased, and the name and
11 description of facility, except that if the agricultural credit
12 is issued as a result of a producer member investing in a new
13 generation processing entity then the new generation processing
14 entity, and not the recipient, shall annually, for a period of
15 three years following issuance of tax credits, provide to the
16 administering agency information confirming the type of
17 agricultural commodity, the amount of contribution, the type of
18 equipment purchased, and the name and description of facility.

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

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

5 10. Where the sole requirement for receiving a tax credit
6 in the enabling legislation of any tax credit is an obligatory
7 assessment upon a taxpayer or a monetary contribution to a
8 particular group or entity, the reporting requirements provided
9 in this section shall apply to the recipient of such assessment
10 or contribution and shall not apply to the assessed nor the
11 contributor.

12 11. Where the enacting statutes of a particular tax credit
13 program or the rules of a particular administering agency require
14 reporting of information that includes the information required
15 in sections 135.802 to 135.810, upon reporting of the required
16 information, the applicant shall be deemed to be in compliance
17 with the requirements of sections 135.802 to 135.810. The
18 administering agency shall notify in writing the department of
19 economic development of the administering agency's status as
20 custodian of any particular tax credit program and that all
21 records pertaining to the program are available at the
22 administering agency's office for review by the department of
23 economic development.

24 12. The provisions of subsections 1 to 10 of this section

1 shall apply beginning on June 30, 2005.

2 135.810. 1. After credits have been issued, any failure to
3 meet the annual reporting requirements established in section
4 135.805 or any determination of fraud in the application process
5 shall result in penalties as follows:

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

10 (2) Failure to report for more than one year shall result
11 in a penalty equal to ten percent of the value of the credits
12 issued for each month of delinquency during such time period up
13 to one hundred percent of the value of the credit issued is
14 assessed by way of penalty;

15 (3) Fraud in the application process shall result in a
16 penalty equal to one hundred percent of the credits issued. No
17 taxpayer shall be deemed to have committed fraud in the
18 application process for any credit unless such conclusion has
19 been reached by a court of competent jurisdiction or the
20 administrative hearing commission.

21 2. Ninety days after the annual report is past due, the
22 administering agency shall send notice by registered mail to the
23 last known address of the person or entity obligated to complete
24 the annual reporting informing such person or entity of the past-

1 due annual report and describing in detail the pending penalties
2 and their respective deadlines. Six months after the annual
3 report is past due, the administering agency shall notify the
4 department of revenue of any taxpayer subject to penalties. The
5 taxpayer shall be liable for any penalties as of December thirty-
6 first of any tax year and such liability shall be due as of the
7 filing date of the taxpayer's next income tax return. If the
8 taxpayer is not required to file an income tax return, the
9 taxpayer's liability for penalties shall be due as of April
10 fifteenth of each year. The director of the department of
11 revenue shall prepare forms and promulgate rules to allow for the
12 reporting and satisfaction of liability for such penalties. The
13 director of the department of revenue shall offset any credits
14 claimed on a contemporaneously filed tax return against an
15 outstanding penalty before applying such credits to the tax year
16 against which they were originally claimed. Any nonpayment of
17 liability for penalties shall be subject to the same provisions
18 of law as a liability for unpaid income taxes, including, but not
19 limited to, interest and penalty provisions.

20 3. Penalties shall remain the liability of the person or
21 entity obligated to complete the annual reporting, without regard
22 to any transfer of the credits.

23 4. Any person or entity obligated to complete the annual
24 reporting requirements provided in section 135.805 shall provide

1 the proper administering agency with notice of change of address
2 when necessary.

3 5. An administering agency may promulgate rules in order to
4 implement the provisions of this section. Any rule or portion of
5 a rule, as that term is defined in section 536.010, RSMo, that is
6 created under the authority delegated in this section shall
7 become effective only if it complies with and is subject to all
8 of the provisions of chapter 536, RSMo, and, if applicable,
9 section 536.028, RSMo. This section and chapter 536, RSMo, are
10 nonseverable and if any of the powers vested with the general
11 assembly pursuant to chapter 536, RSMo, to review, to delay the
12 effective date, or to disapprove and annul a rule are
13 subsequently held unconstitutional, then the grant of rulemaking
14 authority and any rule proposed or adopted after August 28, 2004,
15 shall be invalid and void.

16 135.815. Prior to authorization of any tax credit
17 application, an administering agency shall verify through the
18 department of revenue that the tax credit applicant does not owe
19 any delinquent income, sales, or use taxes, or interest or
20 penalties on such taxes, and through the department of insurance
21 that the applicant does not owe any delinquent insurance taxes.
22 Such delinquency shall not affect the authorization of the
23 application for such tax credits, except that the amount of
24 credits issued shall be reduced by the applicant's tax

1 delinquency. If the department of revenue or the department of
2 insurance concludes that a taxpayer is delinquent after June
3 fifteenth but before July first of any year, and the application
4 of tax credits to such delinquency causes a tax deficiency on
5 behalf of the taxpayer to arise, then the taxpayer shall be
6 granted thirty days to satisfy the deficiency in which interest,
7 penalties, and additions to tax shall be tolled. After applying
8 all available credits towards a tax delinquency, the
9 administering agency shall notify the appropriate department, and
10 that department shall update the amount of outstanding delinquent
11 tax owed by the applicant. If any credits remain after
12 satisfying all insurance, income, sales, and use tax
13 delinquencies, the remaining credits shall be issued to the
14 applicant, subject to the restrictions of other provisions of
15 law.

16 135.825. 1. The administering agencies for all tax credit
17 programs shall, in cooperation with the department of revenue,
18 implement a system for tracking the amount of tax credits
19 authorized, issued, and redeemed. Any such agency may promulgate
20 rules for the implementation of this section.

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

23 3. Any rule or portion of a rule, as that term is defined
24 in section 536.010, RSMo, that is created under the authority

1 delegated in this section shall become effective only if it
2 complies with and is subject to all of the provisions of chapter
3 536, RSMo, and, if applicable, section 536.028, RSMo. This
4 section and chapter 536, RSMo, are nonseverable and if any of the
5 powers vested with the general assembly pursuant to chapter 536,
6 RSMo, to review, to delay the effective date, or to disapprove
7 and annul a rule are subsequently held unconstitutional, then the
8 grant of rulemaking authority and any rule proposed or adopted
9 after August 28, 2004, shall be invalid and void.

10 135.830. The provisions of sections 135.800 to 135.830
11 shall be construed, wherever necessary, to be in addition to
12 existing requirements, duties, or obligations present in other
13 provisions of law, with regard to all tax credit programs.

14 173.196. 1. Any business firm, as defined in section
15 32.105, RSMo, may make a donation to the "Missouri Higher
16 Education Scholarship Donation Fund", which is hereby created in
17 the state treasury. A donating business firm shall receive a tax
18 credit as provided in this section equal to fifty percent of the
19 amount of the donation, except that tax credits shall be awarded
20 each fiscal year in the order donations are received and the
21 amount of tax credits authorized shall total no more than two
22 hundred and fifty thousand dollars for each fiscal year.

23 2. The department of revenue shall grant tax credits
24 approved under this section which shall be applied in the order

1 specified in subsection 1 of section 32.115, RSMo, until used.
2 The tax credits provided under this section shall be refundable,
3 and any tax credit not used in the fiscal year in which approved
4 may be carried over the next five succeeding calendar or fiscal
5 years until the full credit has been claimed.

6 3. No tax credit authorized under this section may be
7 applied against any tax applied in a tax year beginning prior to
8 January 1, 1995.

9 4. All revenues credited to the fund shall be used, subject
10 to appropriations, to provide scholarships authorized under
11 sections 173.197 to 173.199, and for no other purpose.

12 5. For all tax years beginning on or after January 1, 2005,
13 no tax credits shall be authorized, awarded, or issued to any
14 person or entity claiming any tax credit under this section.

15 173.796. 1. As used in this section, the term "taxpayer"
16 means an individual, a partnership, or a corporation as described
17 in section 143.441 or 143.471, RSMo.

18 2. Any taxpayer may make a contribution to the fund.
19 Within the limits specified in subsection 3 of this section, a
20 taxpayer shall be allowed a credit against the taxes imposed
21 pursuant to chapter 143, RSMo, except for sections 143.191 to
22 143.265, RSMo, on that individual or entity of up to fifty
23 percent of the total amount contributed to the fund, not to
24 exceed one hundred thousand dollars per taxpayer.

1 3. The department of revenue shall administer the tax
2 credits pursuant to this section, and shall certify eligibility
3 for the tax credits in the order applications are received. The
4 total amount of tax credits certified in any one calendar year
5 shall not exceed five million dollars annually. Contributions of
6 up to one hundred thousand dollars per annum per taxpayer may be
7 certified by the department of revenue as a qualified
8 contribution for purposes of receiving a tax credit under this
9 program.

10 4. If the amount of tax credit exceeds the total tax
11 liability for the year in which the tax credit is claimed, the
12 amount that exceeds the state tax liability may be carried
13 forward for credit against the taxes imposed pursuant to chapter
14 143, RSMo, except for sections 143.191 to 143.265, RSMo, for the
15 succeeding ten years, or until the full credit is used, whichever
16 occurs first.

17 5. For all tax years beginning on or after January 1, 2005,
18 no tax credits shall be authorized, awarded, or issued to any
19 person or entity claiming any tax credit under this section.

20 6. The provisions of this section shall become effective
21 January 1, 1999.

22 610.255. 1. Records and documents relating to tax credits
23 submitted as part of the application for all tax credits to any
24 department of this state, board, or commission authorized to

1 issue or authorize or recommend the authorization of tax credits
2 shall be deemed closed records until such time as the information
3 submitted does not concern a pending application, and except as
4 limited by other provision of law concerning closed records. For
5 the purposes of this subsection, a "pending application" shall
6 mean any application for credits that has not yet been
7 authorized. In the case of partial authorization of credits, the
8 completed authorization of a single credit shall be sufficient to
9 constitute full authorization to the extent that the authorized
10 credit or credits relate to the same application as the credits
11 that have not yet been authorized.

12 2. Upon a request for opening of records and documents
13 relating to all tax credit programs, as defined in section
14 135.800, RSMo, submitted in accordance with the provisions of
15 this chapter, except as limited by the provision of subsection 1
16 of this section, the agency that is the recipient of the open
17 records request shall make information available consistent with
18 the provisions of this chapter. Where a single record or
19 document contains both open and closed records, the agency shall
20 make a redacted version of such record or document available in
21 order to protect the information that would otherwise make the
22 record or document a closed record. Staff time required for such
23 redaction shall constitute an activity for which a fee can be
24 collected pursuant to section 610.026.

1 3. As used in this section "closed record" shall mean
2 closed record as defined in section 610.010.

3 620.014. Records and documents submitted to the department
4 of economic development, to the Missouri economic development,
5 export and infrastructure board, or to a regional planning
6 commission formed pursuant to chapter 251, RSMo, relating to
7 financial investments in a business, or sales projections or
8 other business plan information which may endanger the
9 competitiveness of a business[, or records and documents
10 submitted to the department of economic development, or to a
11 regional planning commission formed pursuant to chapter 251,
12 RSMo, relating to tax credits except for the amount and recipient
13 of any tax credits that are awarded] may be deemed a "closed
14 record" as such term is defined in section 610.010, RSMo.

15 620.017. 1. The department of economic development shall
16 require that any contract or agreement with any party which
17 provides grants, loans, tax credits, other financial assistance
18 or services, to which a monetary value can be assigned, to such
19 party through a program administered by the department of
20 economic development shall:

21 (1) Specify that such party shall use the proceeds of any
22 such grant, loan, other financial assistance or the benefits of
23 any services solely as required by that program through which the
24 loan, grant, financial assistance or service is provided;

1 (2) Describe the economic incentive, including the amount
2 and type of economic incentive;

3 (3) State why the economic incentive is needed;

4 (4) State the public purpose or purposes for the economic
5 incentive;

6 (5) State the goals for the economic incentive and the time
7 periods by which these goals will be met;

8 (6) Describe the financial obligation of the party if the
9 requirements of the contract or agreement are not met;

10 (7) State the name and address of the parent corporation of
11 the recipient, if any; and

12 (8) State all other financial assistance known by the
13 department that was received by the recipient for the same
14 project.

15 2. In addition, such a contract or agreement shall require
16 that any recipient which uses the proceeds or services for any
17 other purpose or fails to comply with any requirement established
18 by the program through which the loan, grant, tax credit,
19 financial assistance or service is provided shall return any
20 remaining proceeds to the department and shall also require that
21 any proceeds expended or the value of any incentives or services
22 to which a monetary value can be assigned received by the party
23 shall be repaid to the department as required by the contract.

24 3. The contracts or agreements required by this section

1 shall be governed by and enforceable through the applicable
2 provisions of contract law.

3 4. The department of economic development shall prepare an
4 annual report regarding all economic incentives administered in
5 the previous calendar year and submit such report to the
6 governor, the president pro tem of the senate, and the speaker of
7 the house of representatives by July first of each year. The
8 annual report shall be made available to the public and shall
9 include, but not be limited to, the following elements:

10 (1) The total amount of economic incentives awarded by
11 industry;

12 (2) The distribution of economic incentives by type and
13 public purpose;

14 (3) The distribution of economic incentives by the size of
15 all business recipients; and

16 (4) A reporting of any legal action taken by the department
17 or the state with any parties which have failed to comply with a
18 contract or agreement pursuant to this section.

19 620.1300. A cost benefit analysis shall be prepared to
20 evaluate the effectiveness of all tax credit programs, as defined
21 by section 135.800, RSMo, and all programs operated by the
22 department of economic development for which the department
23 approves tax credits, loans, loan guarantees, or grants. Each
24 analysis shall be conducted by the state auditor, and shall

1 include, but not be limited to, the costs for each program, the
2 direct state and indirect state benefits and the direct local and
3 indirect local benefits associated with each program, the
4 safeguards to protect noneconomic influences in the award of
5 programs administered by the department, and the likelihood of
6 the economic activity taking place without the program. The
7 result of each analysis shall be published and distributed, by
8 January 1, 2001, and at least every [two] four years thereafter,
9 to the governor, the speaker of the house of representatives, the
10 president pro tem of the senate, the chairman of the house budget
11 committee, the chairman of the senate appropriations committee,
12 the joint committee on tax policy, and the joint committee on
13 economic development policy and planning.