

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Bill No. 652, Page 1, Section A, Line 3, by inserting after all of said section and  
2 line the following:

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

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

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

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

15 (3) [~~"All tax credit programs", or "any tax credit program", the tax credit programs included~~  
16 ~~in the definitions of agricultural tax credits, business recruitment tax credits, community~~  
17 ~~development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental~~  
18 ~~tax credits, financial and insurance tax credits, housing tax credits, redevelopment tax credits, and~~  
19 ~~training and educational tax credits;~~

20 (4) "Business recruitment tax credits", the business facility tax credit created pursuant to  
21 sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to  
22 sections 135.200 to 135.270, the business use incentives for large-scale development programs  
23 created pursuant to sections 100.700 to 100.850, the development tax credits created pursuant to  
24 sections 32.100 to 32.125, the rebuilding communities tax credit created pursuant to section  
25 135.535, the film production tax credit created pursuant to section 135.750, the enhanced enterprise  
26 zone created pursuant to sections 135.950 to 135.970, and the Missouri quality jobs program created  
27 pursuant to sections 620.1875 to 620.1900;

28 [(5)] (4) "Community development tax credits", the neighborhood assistance tax credit  
29 created pursuant to sections 32.100 to 32.125, the family development account tax credit created  
30 pursuant to sections 208.750 to 208.775, the dry fire hydrant tax credit created pursuant to section

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320.093, and the transportation development tax credit created pursuant to section 135.545;

~~[(6)]~~ (5) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the adoption tax credit created pursuant to sections 135.325 to 135.339, the champion for children tax credit created pursuant to section 135.341, the maternity home tax credit created pursuant to section 135.600, the surviving spouse tax credit created pursuant to section 135.090, the residential treatment agency tax credit created pursuant to section 135.1150, the pregnancy resource center tax credit created pursuant to section 135.630, the food pantry tax credit created pursuant to section 135.647, ~~[the health care access fund tax credit created pursuant to section 135.575,]~~ the residential dwelling access tax credit created pursuant to section 135.562, the developmental disability care provider tax credit created under section 135.1180, the shared care tax credit created pursuant to section 192.2015, the health, hunger, and hygiene tax credit created pursuant to section 135.1125, and the diaper bank tax credit created pursuant to section 135.621;

~~[(7)]~~ (6) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, the research tax credit created pursuant to section 620.1039, the small business incubator tax credit created pursuant to section 620.495, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125;

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

~~[(9)]~~ (8) "Financial and insurance tax credits", the bank franchise tax credit created pursuant to section 148.030, the bank tax credit for S corporations created pursuant to section 143.471, the exam fee tax credit created pursuant to section 148.400, the health insurance pool tax credit created pursuant to section 376.975, the life and health insurance guaranty tax credit created pursuant to section 376.745, the property and casualty guaranty tax credit created pursuant to section 375.774, and the self-employed health insurance tax credit created pursuant to section 143.119;

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

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

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

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

~~[(12)]~~ (11) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.559, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, the bond guarantee tax credit created pursuant to section 100.297, the disabled access tax credit created pursuant to section 135.490, the new markets tax credit created pursuant to section 135.680, and the distressed areas land assemblage tax credit created pursuant to section 99.1205;

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

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

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

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

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

(3) Standard industry code, if applicable;

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

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

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

3. In addition to the information required by subsection 1 of this section, an applicant for a redevelopment tax credit shall also provide information detailing the location and legal description of the property, age of the structure, if applicable, whether the property is residential, commercial, or governmental, and the projected project cost, labor cost, and projected date of completion. Where a redevelopment 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.

1           4. In addition to the information required by subsection 1 of this section, an applicant for a  
2 business recruitment tax credit shall also provide information detailing the category of business by  
3 size, the address of the business headquarters and all offices located within this state, the number of  
4 employees at the time of the application, the number of employees projected to increase as a result  
5 of the completion of the project, and the estimated project cost.

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

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

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

21           8. In addition to the information required by subsection 1 of this section, an applicant for an  
22 agricultural tax credit shall also provide information detailing the type of agricultural commodity,  
23 the amount of contribution, the type of equipment purchased, and the name and description of the  
24 facility.

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

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

37           11. Where the sole requirement for receiving a tax credit in the enabling legislation of any  
38 tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular  
39 group or entity, the application requirements provided in this section shall apply to the recipient of

1 such assessment or contribution and shall not apply to the assessed nor the contributor.

2 12. It shall be the duty of each administering agency to provide information to every  
3 applicant, at some time prior to authorization of an applicant's tax credit application, wherein the  
4 requirements of this section, the annual reporting requirements of section 135.805, and the penalty  
5 provisions of section 135.810 are described in detail. Every applicant for a tax credit under a tax  
6 credit program, as part of the application process and as a condition of receiving such tax credit,  
7 shall sign a statement affirming that the applicant is aware of the reporting requirements of section  
8 135.805 and the penalty provisions of section 135.810.

9 135.805. 1. A recipient of any tax credit program, except domestic and social tax credits[,  
10 ~~environmental tax credits,~~] or financial and insurance tax credits, shall [annually] on June thirtieth  
11 of each year, for a period of three years following the issuance of the tax credits, provide to the  
12 administering agency the actual number of jobs directly created that year as of June thirtieth as a  
13 result of the tax credits, ~~[at the location on the last day of the annual reporting period,]~~ separated by  
14 part-time permanent and full-time permanent for each month of the preceding twelve-month period.

15 2. A recipient of a community development tax credit shall [annually] on June thirtieth of  
16 each year, for a period of three years following issuance of tax credits, provide to the administering  
17 agency information confirming the title and location of the corresponding project, the estimated and  
18 actual project cost, the estimated ~~[or]~~ and actual time period for completion of the project, and all  
19 geographic areas impacted by the project.

20 3. A recipient of a redevelopment tax credit shall [annually] on June thirtieth of each year,  
21 for a period of three years following issuance of tax credits, provide to the administering agency  
22 information confirming whether the property is used for residential, commercial, or governmental  
23 purposes, and the projected ~~[or]~~ and actual project cost, labor cost, and date of completion.

24 4. A recipient of a business recruitment tax credit shall [annually] on June thirtieth of each  
25 year, for a period of three years following issuance of tax credits, provide to the administering  
26 agency information confirming the category of business by size, the address of the business  
27 headquarters and all offices located within this state, the number of employees at the time of the  
28 annual update, an updated estimate of the number of employees projected to increase as a result of  
29 the completion of the project, and the estimated ~~[or]~~ and actual project cost.

30 5. A recipient of a training and educational tax credit shall [annually] on June thirtieth of  
31 each year, for a period of three years following issuance of tax credits, provide to the administering  
32 agency information confirming the name and address of the educational institution used, the average  
33 salary of workers served as of such annual update, the estimated ~~[or]~~ and actual project cost, and the  
34 number of employees and number of students served as of such annual update.

35 6. A recipient of a housing tax credit shall [annually] on June thirtieth of each year, for a  
36 period of three years following issuance of tax credits, provide to the administering agency  
37 information confirming the address of the property, the fair market value of the property, as defined  
38 in subsection 6 of section 135.802, and the projected ~~[or]~~ and actual labor ~~[cost]~~ and project costs  
39 and completion date of the project.

1           7. A recipient of an entrepreneurial tax credit shall ~~[annually]~~ on June thirtieth of each year,  
2 for a period of three years following issuance of tax credits, provide to the administering agency  
3 information confirming the amount of investment and the names of the project, fund, and research  
4 project.

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

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

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

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

26           12. Where the enacting statutes of a particular tax credit program or the rules of a particular  
27 administering agency require reporting of information that includes the information required in  
28 sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be  
29 deemed to be in compliance with the requirements of sections 135.802 to 135.810. The  
30 administering agency shall notify in writing the department of economic development of the  
31 administering agency's status as custodian of any particular tax credit program and that all records  
32 pertaining to the program are available at the administering agency's office or electronically for  
33 review by the department of economic development.

34           13. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30,  
35 2005.

36           14. Notwithstanding provisions of law to the contrary, every agency of this state charged  
37 with administering a tax credit program authorized under the laws of this state shall make available  
38 for public inspection the name of each tax credit recipient and the amount of tax credits issued to  
39 each such recipient. An administering agency may satisfy this requirement by making such

1 information available to the public through the department of economic development's website or  
 2 the Missouri accountability portal.

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

6 16. The administering agency of any tax credit program for which reporting requirements  
 7 are required under the provisions of subsection 1 of this section shall publish guidelines and may  
 8 promulgate rules to implement the provisions of such subsection. Any rule or portion of a rule, as  
 9 that term is defined in section 536.010, that is created under the authority delegated in this section  
 10 shall become effective only if it complies with and is subject to all of the provisions of chapter 536  
 11 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
 12 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
 13 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
 14 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and  
 15 void.

16 135.810. 1. After credits have been issued, any failure to meet the annual reporting  
 17 requirements established in section 135.805 or any determination of fraud in the application or  
 18 reporting process shall result in penalties as follows:

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

23 (2) Failure to ~~[report]~~ file the second or third annual reports due under section 135.805 for  
 24 more than ~~[one year]~~ three months shall result in a penalty equal to ~~[ten]~~ one and one-half percent of  
 25 the value of the credits issued for each month of delinquency ~~[during such time period]~~ up to ~~[one~~  
 26 ~~hundred percent of the value of the credit issued is assessed by way of penalty]~~ a maximum of  
 27 twenty percent, per report, of the value of the credits issued;

28 (3) Fraud in the application or reporting process shall result in a penalty equal to ~~[one]~~ two  
 29 hundred percent of the credits issued. No ~~[taxpayer]~~ recipient shall be deemed to have committed  
 30 fraud in the application or reporting process for any credit unless such conclusion has been reached  
 31 by ~~[a court of competent jurisdiction or]~~ the administrative hearing commission. The department of  
 32 revenue, the department of economic development, or the administering agency may, by filing a  
 33 complaint, submit to the administrative hearing commission the question of whether fraud in the  
 34 application or reporting process for any credit has occurred. The burden of proof shall be on the  
 35 governmental agency in such disputes. The issue shall be decided by the administrative hearing  
 36 commission under the same procedural and evidentiary rules as ordinary contested cases before it.

37 2. ~~[Ninety]~~ Thirty days after the annual report is past due, the administering agency shall  
 38 send notice by registered or certified mail to the last known address of the person or entity obligated  
 39 to complete the annual reporting informing such person or entity of the past-due annual report and

describing in detail the pending penalties and their respective deadlines. ~~[Six]~~ Three months after the annual report is past due, the administering agency shall notify the department of revenue of any ~~[taxpayer]~~ recipient subject to penalties. The ~~[taxpayer shall be liable for any penalties as of December thirty-first of any tax year and such liability]~~ payment of a penalty under this section shall be due as of the filing date of the [taxpayer's] recipient's next income tax return. If the ~~[taxpayer]~~ recipient is not required to file an income tax return, the ~~[taxpayer's]~~ recipient's liability for penalties shall be due as of the next April fifteenth~~[-of each year]~~. The director of the department of revenue shall prepare forms and promulgate rules to allow for the reporting and satisfaction of liability for such penalties, and, for valuable consideration, may enter into agreements to compromise or abate some or all of the penalty amount. The director of the department of revenue shall offset any credits claimed on a contemporaneously filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed. Any nonpayment of liability for penalties by the date due under this subsection shall be subject to the same provisions of law as a liability for unpaid income taxes, including~~[-but not limited to, interest and penalty provisions]~~ underpayment interest provisions but excluding income tax penalty and addition to tax provisions.

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

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

5. An administering agency may promulgate rules in order to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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 invalid and void.

135.815. 1. Prior to authorization of any tax credit application, an administering agency shall verify through the department of revenue that the tax credit applicant does not owe any delinquent income, sales, or use taxes, or interest, additions, or penalties on such taxes, and through the department of commerce and insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of commerce and insurance concludes that a taxpayer is delinquent after June fifteenth but before July first of any year, and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall

1 be tolled. After applying all available credits towards a tax delinquency, the administering agency  
 2 shall notify the appropriate department, and that department shall update the amount of outstanding  
 3 delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income,  
 4 sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the  
 5 restrictions of other provisions of law.

6 2. Any applicant of a tax credit program ~~[contained in the definition of the term "all tax~~  
 7 ~~credit programs"]~~ who ~~[purposely and directly]~~ knowingly employs unauthorized aliens shall forfeit  
 8 any tax credits issued to such applicant which have not been redeemed, and shall repay the amount  
 9 of any tax credits redeemed by such applicant during the period of time such unauthorized alien was  
 10 employed by the applicant. Such forfeiture and repayment shall be additional to, and not in lieu of,  
 11 any penalties imposed pursuant to section 135.810. As used in this subsection, the term  
 12 "unauthorized alien" shall mean an alien who does not have the legal right or authorization under  
 13 federal law to work in the United States, as defined under Section 8 U.S.C. 1324a(h)(3). The  
 14 amount of tax credits required to be repaid under this subsection, but which are not repaid by the  
 15 applicant, shall be subject to the same procedure and provisions of law as a liability for unpaid  
 16 income tax arising on the date that the department of revenue became aware of the violation of this  
 17 provision.

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

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

24 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
 25 under the authority delegated in this section shall become effective only if it complies with and is  
 26 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
 27 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
 28 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
 29 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
 30 August 28, 2004, shall be invalid and void.

31 143.119. 1. A self-employed taxpayer, as such term is used in the federal internal revenue  
 32 code, who is otherwise ineligible for the federal income tax health insurance deduction under  
 33 Section 162 of the federal internal revenue code shall be entitled to a credit against the tax otherwise  
 34 due under this chapter, excluding withholding tax imposed by sections 143.191 to 143.265, in an  
 35 amount equal to the portion of such taxpayer's federal tax liability incurred due to such taxpayer's  
 36 inclusion of such payments in federal adjusted gross income. To be eligible for a credit under this  
 37 section, the self-employed taxpayer shall have a Missouri income tax liability, before any other tax  
 38 credits, of less than three thousand dollars. The tax credits authorized under this section shall be  
 39 nontransferable, nonrefundable, and shall not be carried back or forward to any other tax year. ~~[To~~

~~the extent tax credit issued under this section exceeds a taxpayer's state income tax liability, such excess shall be considered an overpayment of tax and shall be refunded to the taxpayer.] A self-employed taxpayer shall not claim both a tax credit under this section and a subtraction under section 143.113, for the same tax year.~~

2. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2007, shall be invalid and void.

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

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

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

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

(4) The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to redeem tax credits authorized on or before the date the program authorized pursuant to this section expires, or a taxpayer's ability to redeem such tax credits."; and

Further amend said bill and page, Section 144.051, Line 11, by inserting after all of said section and line the following:

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

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

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

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

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

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

1 more minorities;

2 (3) "Missouri qualified research and development equipment", tangible personal property  
 3 that has not previously been used in this state for any purpose and is acquired by the purchaser for  
 4 the purpose of research and development activities devoted to experimental or laboratory research  
 5 and development for new products, new uses of existing products, or improving or testing existing  
 6 products;

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

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

11 (a) Is independently owned and operated; and

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

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

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

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

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

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

26 2. (1) For tax years beginning on or after January 1, 2001, and ending before January 1,  
 27 2005, the director of the department of economic development may authorize a taxpayer to receive a  
 28 tax credit against the tax otherwise due pursuant to chapter 143, or chapter 148, other than the taxes  
 29 withheld pursuant to sections 143.191 to 143.265, in an amount up to six and one-half percent of the  
 30 excess of the taxpayer's qualified research expenses, as certified by the director of the department of  
 31 economic development, within this state during the taxable year over the average of the taxpayer's  
 32 qualified research expenses within this state over the immediately preceding three taxable years;  
 33 except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research  
 34 expenses incurred within this state during the taxable year in which the credit is being claimed, to  
 35 the extent such expenses exceed two hundred percent of the taxpayer's average qualified research  
 36 expenses incurred during the immediately preceding three taxable years.

37 (2) For all tax years beginning on or after January 1, 2023, the director of economic  
 38 development may authorize a taxpayer to receive a tax credit against the tax otherwise due under  
 39 chapters 143 and 148, other than the taxes withheld under sections 143.191 to 143.265 in an amount

1 equal to the greater of:

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

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

6  
7 However, in no case shall a tax credit be allowed for any portion of qualified research expenses that  
8 exceed two hundred percent of the taxpayer's average qualified research expenses incurred during  
9 the three immediately preceding tax years.

10 3. The director of economic development shall prescribe the manner in which the tax credit  
11 may be applied for. The tax credit authorized by this section may be claimed by the taxpayer to  
12 offset the tax liability imposed by chapter 143 or chapter 148 that becomes due in the tax year  
13 during which such qualified research expenses were incurred. For tax years ending before January  
14 1, 2005, where the amount of the credit exceeds the tax liability, the difference between the credit  
15 and the tax liability may only be carried forward for the next five succeeding taxable years or until  
16 the full credit has been claimed, whichever first occurs. For all tax years beginning on or after  
17 January 1, 2023, where the amount of the credit exceeds the tax liability, the difference between the  
18 credit and the tax liability may only be carried forward for the next twelve succeeding tax years or  
19 until the full credit has been claimed, whichever occurs first. The application for tax credits  
20 authorized by the director pursuant to subsection 2 of this section shall be made no later than the end  
21 of the taxpayer's tax period immediately following the tax period for which the credits are being  
22 claimed.

23 4. (1) Certificates of tax credit issued pursuant to this section may be transferred, sold or  
24 assigned by filing a notarized endorsement thereof with the department which names the transferee  
25 and the amount of tax credit transferred. The director of economic development may allow a  
26 taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit  
27 issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing  
28 on or after January 1, 1996, and ending not later than December 31, 1999. Such taxpayer shall file,  
29 by December 31, 2001, an application with the department which names the transferee, the amount  
30 of tax credit desired to be transferred, and a certification that the funds received by the applicant as a  
31 result of the transfer, sale or assignment of the tax credit shall be expended within three years at the  
32 state university for the sole purpose of conducting research activities agreed upon by the  
33 department, the taxpayer and the state university. Failure to expend such funds in the manner  
34 prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section  
35 620.017.

36 (2) Up to one hundred percent of tax credits provided under this program may be  
37 transferred, sold, or assigned by filing a notarized endorsement thereof with the department that  
38 names the transferee, the amount of tax credit transferred, and the value received for the credit, as  
39 well as any other information reasonably requested by the department. For a taxpayer with flow-

1 through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to  
 2 members, partners, or shareholders in proportion to their share of ownership on the last day of the  
 3 taxpayer's tax period.

4 5. ~~[No rule or portion of a rule promulgated under the authority of this section shall become~~  
 5 ~~effective unless it has been promulgated pursuant to the provisions of chapter 536. All rulemaking~~  
 6 ~~authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing~~  
 7 ~~in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to~~  
 8 ~~June 27, 1997, if such rule complied with the provisions of chapter 536. The provisions of this~~  
 9 ~~section and chapter 536 are nonseverable and if any of the powers vested with the general assembly~~  
 10 ~~pursuant to chapter 536, including the ability to review, to delay the effective date, or to disapprove~~  
 11 ~~and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant~~  
 12 ~~of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be~~  
 13 ~~invalid and void.]~~ Purchases of Missouri qualified research and development equipment are hereby  
 14 specifically exempted from all state and local sales and use tax including, but not limited to, sales  
 15 and use tax authorized or imposed under section 32.085 and chapter 144.

16 6. The department may adopt such rules, statements of policy, procedures, forms, and  
 17 guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a  
 18 rule, as that term is defined in section 536.010, that is created under the authority delegated in this  
 19 section shall become effective only if it complies with and is subject to all of the provisions of  
 20 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and  
 21 if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
 22 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
 23 grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be  
 24 invalid and void.

25 7. (1) For tax years ending before January 1, 2005, the aggregate of all tax credits authorized  
 26 pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year.

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

29 (b) Five million dollars of such ten million dollars shall be reserved for minority business  
 30 enterprises, women's business enterprises, and small businesses. Any reserved amount not issued or  
 31 awarded to a minority business enterprise, women's business enterprise, or small business by  
 32 November first of the tax year may be issued to any taxpayer otherwise eligible for a tax credit  
 33 under this section.

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

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

39 ~~[7. For all tax years beginning on or after January 1, 2005, no tax credits shall be approved,~~

1 ~~awarded, or issued to any person or entity claiming any tax credit under this section.]~~

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

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

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

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

10  
11 Further amend said bill by amending the title, enacting clause, and intersectional references  
12 accordingly.