

FIRST REGULAR SESSION

# SENATE BILL NO. 141

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time January 19, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0458S.011

## AN ACT

To repeal sections 135.800 and 135.802, RSMo, and to enact in lieu thereof three new sections relating to the receipt of tax credits by campaign contributors.

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

Section A. Sections 135.800 and 135.802, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 135.800, 135.802,  
3 and 135.807, to read as follows:

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

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

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

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

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

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

19 and educational tax credits;

20 (4) "Business recruitment tax credits", the business facility tax credit  
21 created pursuant to sections 135.110 to 135.150 and section 135.258, the  
22 enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the  
23 business use incentives for large-scale development programs created pursuant  
24 to sections 100.700 to 100.850, RSMo, the development tax credits created  
25 pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax  
26 credit created pursuant to section 135.535, the film production tax credit created  
27 pursuant to section 135.750, the enhanced enterprise zone created pursuant to  
28 sections 135.950 to 135.975, and the Missouri quality jobs program created  
29 pursuant to sections 620.1875 to 620.1900, RSMo;

30 (5) "**Committee**", the same meaning as provided under section  
31 **130.011, and shall include any committee required to file with the**  
32 **federal election commission;**

33 (6) "Community development tax credits", the neighborhood assistance tax  
34 credit created pursuant to sections 32.100 to 32.125, RSMo, the family  
35 development account tax credit created pursuant to sections 208.750 to 208.775,  
36 RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo,  
37 and the transportation development tax credit created pursuant to section  
38 135.545;

39 [(6)] (7) "Domestic and social tax credits", the youth opportunities tax  
40 credit created pursuant to section 135.460 and sections 620.1100 to 620.1103,  
41 RSMo, the shelter for victims of domestic violence created pursuant to section  
42 135.550, the senior citizen or disabled person property tax credit created  
43 pursuant to sections 135.010 to 135.035, the special needs adoption tax credit and  
44 children in crisis tax credit created pursuant to sections 135.325 to 135.339, the  
45 maternity home tax credit created pursuant to section 135.600, the surviving  
46 spouse tax credit created pursuant to section 135.090, the residential treatment  
47 agency tax credit created pursuant to section 135.1150, the pregnancy resource  
48 center tax credit created pursuant to section 135.630, the food pantry tax credit  
49 created pursuant to section 135.647, the health care access fund tax credit  
50 created pursuant to section 135.575, the residential dwelling access tax credit  
51 created pursuant to section 135.562, and the shared care tax credit created  
52 pursuant to section 660.055, RSMo;

53 [(7)] (8) "Entrepreneurial tax credits", the capital tax credit created  
54 pursuant to sections 135.400 to 135.429, the certified capital company tax credit

55 created pursuant to sections 135.500 to 135.529, the seed capital tax credit  
56 created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise  
57 creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the  
58 research tax credit created pursuant to section 620.1039, RSMo, the small  
59 business incubator tax credit created pursuant to section 620.495, RSMo, the  
60 guarantee fee tax credit created pursuant to section 135.766, and the new  
61 generation cooperative tax credit created pursuant to sections 32.105 to 32.125,  
62 RSMo;

63 [(8)] (9) "Environmental tax credits", the charcoal producer tax credit  
64 created pursuant to section 135.313, the wood energy tax credit created pursuant  
65 to sections 135.300 to 135.311, and the alternative fuel stations tax credit created  
66 pursuant to section 135.710;

67 [(9)] (10) "Financial and insurance tax credits", the bank franchise tax  
68 credit created pursuant to section 148.030, RSMo, the bank tax credit for S  
69 corporations created pursuant to section 143.471, RSMo, the exam fee tax credit  
70 created pursuant to section 148.400, RSMo, the health insurance pool tax credit  
71 created pursuant to section 376.975, RSMo, the life and health insurance  
72 guaranty tax credit created pursuant to section 376.745, RSMo, the property and  
73 casualty guaranty tax credit created pursuant to section 375.774, RSMo, and the  
74 self-employed health insurance tax credit created pursuant to section 143.119,  
75 RSMo;

76 [(10)] (11) "Housing tax credits", the neighborhood preservation tax  
77 credit created pursuant to sections 135.475 to 135.487, the low-income housing  
78 tax credit created pursuant to sections 135.350 to 135.363, and the affordable  
79 housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

80 [(11)] (12) "Recipient", the individual or entity who is the original  
81 applicant for and who receives proceeds from a tax credit program directly from  
82 the administering agency, the person or entity responsible for the reporting  
83 requirements established in section 135.805;

84 [(12)] (13) "Redevelopment tax credits", the historic preservation tax  
85 credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield  
86 redevelopment program tax credit created pursuant to sections 447.700 to  
87 447.718, RSMo, the community development corporations tax credit created  
88 pursuant to sections 135.400 to 135.430, the infrastructure tax credit created  
89 pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit  
90 created pursuant to section 100.297, RSMo, the disabled access tax credit created

91 pursuant to section 135.490, the new markets tax credit created pursuant to  
92 section 135.680, and the distressed areas land assemblage tax credit created  
93 pursuant to section 99.1205, RSMo;

94 ~~[(13)]~~ (14) "Training and educational tax credits", the community college  
95 new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo.

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

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

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

10 (3) Standard industry code, if applicable;

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

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

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

21 3. In addition to the information required by subsection 1 of this section,  
22 an applicant for a redevelopment tax credit shall also provide information  
23 detailing the location and legal description of the property, age of the structure,  
24 if applicable, whether the property is residential, commercial, or governmental,  
25 and the projected project cost, labor cost, and projected date of completion. Where  
26 a redevelopment tax credit applicant is required to submit contemporaneously a  
27 federal application for a similar credit on the same underlying project, the  
28 submission of a copy of the federal application shall be sufficient to meet the  
29 requirements of this subsection.

30 4. In addition to the information required by subsection 1 of this section,  
31 an applicant for a business recruitment tax credit shall also provide information

32 detailing the category of business by size, the address of the business  
33 headquarters and all offices located within this state, the number of employees  
34 at the time of the application, the number of employees projected to increase as  
35 a result of the completion of the project, and the estimated project cost.

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

41 6. In addition to the information required by subsection 1 of this section,  
42 an applicant for a housing tax credit also shall provide information detailing the  
43 address, legal description, and fair market value of the property, and the  
44 projected labor cost and projected completion date of the project. Where a  
45 housing tax credit applicant is required to submit contemporaneously a federal  
46 application for a similar credit on the same underlying project, the submission of  
47 a copy of the federal application shall be sufficient to meet the requirements of  
48 this subsection. For the purposes of this subsection, "fair market value" means  
49 the value as of the purchase of the property or the most recent assessment,  
50 whichever is more recent.

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

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

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

63 **10. In addition to the information required by the provisions of**  
64 **this section, effective August 28, 2011, an applicant for agricultural**  
65 **product utilization contributor tax credits created under section**  
66 **348.430, new generation cooperative incentive tax credits created under**  
67 **section 348.432, business recruitment tax credits, entrepreneurial tax**

68 **credits, low-income housing tax credits created under sections 135.350**  
69 **to 135.363, redevelopment tax credits or tax credits authorized under**  
70 **any tax credit program established by law after August 28, 2011, shall,**  
71 **under penalty of perjury, provide a statement that such applicant has**  
72 **not directly, or indirectly, contributed to any committee within the two**  
73 **calendar years immediately preceding the date of filing such statement**  
74 **and shall not make such a contribution for the two year period**  
75 **immediately following receipt of such tax credits.**

76       11. An administering agency may, by rule, require additional information  
77 to be submitted by an applicant. [Any rule or portion of a rule, as that term is  
78 defined in section 536.010, RSMo, that is created pursuant to the authority  
79 delegated in this section shall become effective only if it complies with and is  
80 subject to all of the provisions of chapter 536, RSMo, and if applicable, section  
81 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any  
82 of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
83 to review, to delay the effective date or to disapprove and annul a rule are  
84 subsequently held unconstitutional, then the grant of rulemaking authority and  
85 any rule proposed or adopted after August 28, 2004, shall be void] **Any rule or**  
86 **portion of a rule, as that term is defined in section 536.010 that is**  
87 **created under the authority delegated in this section shall become**  
88 **effective only if it complies with and is subject to all of the provisions**  
89 **of chapter 536, and, if applicable, section 536.028. This section and**  
90 **chapter 536 are nonseverable and if any of the powers vested with the**  
91 **general assembly pursuant to chapter 536, to review, to delay the**  
92 **effective date, or to disapprove and annul a rule are subsequently held**  
93 **unconstitutional, then the grant of rulemaking authority and any rule**  
94 **proposed or adopted after August 28, 2011, shall be invalid and void.**

95       [11.] 12. Where the sole requirement for receiving a tax credit in the  
96 enabling legislation of any tax credit is an obligatory assessment upon a taxpayer  
97 or a monetary contribution to a particular group or entity, the application  
98 requirements provided in this section shall apply to the recipient of such  
99 assessment or contribution and shall not apply to the assessed nor the  
100 contributor.

101       [12.] 13. It shall be the duty of each administering agency to provide  
102 information to every applicant, at some time prior to authorization of an  
103 applicant's tax credit application, wherein the requirements of this section, the

104 annual reporting requirements of section 135.805, and the penalty provisions of  
105 section 135.810 are described in detail.

135.807. 1. Provisions of law to the contrary notwithstanding,  
2 recipients of agricultural product utilization contributor tax credits  
3 created under section 348.430, new generation cooperative incentive  
4 tax credits created under section 348.432, business recruitment tax  
5 credits, entrepreneurial tax credits, low-income housing tax credits  
6 created under sections 135.350 to 135.363, redevelopment tax credits or  
7 tax credits authorized under any tax credit program established by law  
8 after August 28, 2011, shall be prohibited from contributing, directly or  
9 indirectly, to any committee for two calendar years following the date  
10 of filing the statement required under subsection 10 of section 135.802.

11 2. Agricultural product utilization contributor tax credits  
12 created under section 348.430, new generation cooperative incentive  
13 tax credits created under section 348.432, business recruitment tax  
14 credits, entrepreneurial tax credits, low-income housing tax credits  
15 created under sections 135.350 to 135.363, redevelopment tax credits or  
16 tax credits authorized under any tax credit program established by law  
17 after August 28, 2011, issued to a recipient which is subsequently found  
18 to have contributed, directly or indirectly, to any committee within the  
19 two calendar years immediately preceding or following the date of  
20 filing the statement required under subsection 10 of section 135.802,  
21 shall be subject to recapture and such recipient shall repay an amount  
22 equal to any such credits which have been redeemed prior to such  
23 recapture.

24 3. The attorney general shall commence legal proceedings and  
25 conduct legal actions for the enforcement of the provisions of this  
26 section. Provisions of section 32.057 to the contrary notwithstanding,  
27 administering agencies shall annually provide to the attorney general,  
28 by no later than December thirty-first of each year, a report containing  
29 all applications and information received pursuant to the provisions of  
30 section 135.802.

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