

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 92, Page 1, Section TITLE, Lines 3-4,

2 by striking "rural access to capital incentives" and
 3 inserting in lieu thereof the following: "tax credits"; and

4 Further amend said bill and page, section A, line 4, by
 5 inserting after all of said line the following:

6 "135.772. 1. For the purposes of this section, the
 7 following terms shall mean:

8 (1) "Department", the Missouri department of revenue;

9 (2) "Distributor", a person, firm, or corporation
 10 doing business in this state that:

11 (a) Produces, refines, blends, compounds, or
 12 manufactures motor fuel;

13 (b) Imports motor fuel into the state; or

14 (c) Is engaged in distribution of motor fuel;

15 (3) "Higher ethanol blend", a fuel capable of being
 16 dispensed directly into motor vehicle fuel tanks for
 17 consumption that is comprised of at least fifteen percent
 18 but not more than eighty-five percent ethanol;

19 (4) "Retail dealer", a person, firm, or corporation
 20 doing business in this state that owns or operates a retail
 21 service station in this state;

22 (5) "Retail service station", a location in this state
 23 from which higher ethanol blend is sold to the general
 24 public and is dispensed directly into motor vehicle fuel
 25 tanks for consumption.

26 2. For all tax years beginning on or after January 1,
27 2023, a retail dealer that sells higher ethanol blend at
28 such retail dealer's retail service station or a distributor
29 that sells higher ethanol blend directly to the final user
30 located in this state shall be allowed a tax credit to be
31 taken against the retail dealer's or distributor's state
32 income tax liability. The amount of the credit shall equal
33 five cents per gallon of higher ethanol blend sold by the
34 retail dealer and dispensed through metered pumps at the
35 retail dealer's retail service station or by a distributor
36 directly to the final user located in this state during the
37 tax year for which the tax credit is claimed. For any
38 retail dealer or distributor with a tax year beginning prior
39 to January 1, 2023, but ending during the 2023 calendar
40 year, such retail dealer or distributor shall be allowed a
41 tax credit for the amount of higher ethanol blend sold
42 during the portion of such tax year that occurs during the
43 2023 calendar year. Tax credits authorized pursuant to this
44 section shall not be transferred, sold, or assigned. If the
45 amount of the tax credit exceeds the taxpayer's state tax
46 liability, the difference shall not be refundable but may be
47 carried forward to any of the five subsequent tax years.
48 The total amount of tax credits issued pursuant to this
49 section for any given fiscal year shall not exceed five
50 million dollars.

51 3. In the event the total amount of tax credits
52 claimed under this section exceeds the amount of available
53 tax credits, the tax credits shall be apportioned among all
54 eligible retail dealers and distributors claiming a tax
55 credit by April fifteenth, or as directed by section
56 143.851, of the fiscal year in which the tax credit is
57 claimed.

58 4. The tax credit allowed by this section shall be
59 claimed by such taxpayer at the time such taxpayer files a
60 return and shall be applied against the income tax liability
61 imposed by chapter 143, excluding the withholding tax
62 imposed by sections 143.191 to 143.265, after reduction for
63 all other credits allowed thereon. The department may
64 require any documentation it deems necessary to implement
65 the provisions of this section.

66 5. The department shall promulgate rules to implement
67 the provisions of this section. Any rule or portion of a
68 rule, as that term is defined in section 536.010, that is
69 created under the authority delegated in this section shall
70 become effective only if it complies with and is subject to
71 all of the provisions of chapter 536 and, if applicable,
72 section 536.028. This section and chapter 536 are
73 nonseverable and if any of the powers vested with the
74 general assembly pursuant to chapter 536 to review, to delay
75 the effective date, or to disapprove and annul a rule are
76 subsequently held unconstitutional, then the grant of
77 rulemaking authority and any rule proposed or adopted after
78 the effective date of this section shall be invalid and void.

79 6. Under section 23.253 of the Missouri sunset act:

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

83 (2) If such program is reauthorized, the program
84 authorized under this section shall automatically sunset
85 twelve years after the effective date of the reauthorization
86 of this section; and

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

90 135.775. 1. As used in this section, the following
91 terms mean:

92 (1) "Biodiesel blend", a blend of diesel fuel and
93 biodiesel fuel of at least five percent and not more than
94 twenty percent for on-road and off-road diesel-fueled
95 vehicle use;

96 (2) "Biodiesel fuel", a renewable, biodegradable, mono
97 alkyl ester combustible liquid fuel that is derived from
98 agricultural and other plant oils or animal fats and that
99 meets the most recent version of the ASTM International
100 D6751 Standard Specification for Biodiesel Fuel Blend
101 Stock. A fuel shall be deemed to be biodiesel fuel if the
102 fuel consists of a pure B100 or B99 ratio. Biodiesel
103 produced from palm oil is not biodiesel fuel for the
104 purposes of this section unless the palm oil is contained
105 within waste oil and grease collected within the United
106 States;

107 (3) "B99", a blend of ninety-nine percent biodiesel
108 fuel that meets the most recent version of the ASTM
109 International D6751 Standard Specification for Biodiesel
110 Fuel Blend Stock with a minimum of one-tenth of one percent
111 and maximum of one percent diesel fuel that meets the most
112 recent version of the ASTM International D975 Standard
113 Specification for Diesel Fuel;

114 (4) "Department", the Missouri department of revenue;

115 (5) "Distributor", a person, firm, or corporation
116 doing business in this state that:

117 (a) Produces, refines, blends, compounds, or
118 manufactures motor fuel;

119 (b) Imports motor fuel into the state; or

120 (c) Is engaged in distribution of motor fuel;

121 (6) "Retail dealer", a person, firm, or corporation
122 doing business in this state that owns or operates a retail
123 service station in this state;

124 (7) "Retail service station", a location in this state
125 from which biodiesel blend is sold to the general public and
126 is dispensed directly into motor vehicle fuel tanks for
127 consumption at retail.

128 2. For all tax years beginning on or after January 1,
129 2023, a retail dealer that sells a biodiesel blend at a
130 retail service station or a distributor that sells a
131 biodiesel blend directly to the final user located in this
132 state shall be allowed a tax credit to be taken against the
133 retail dealer or distributor's state income tax liability.

134 For any retail dealer or distributor with a tax year
135 beginning prior to January 1, 2023, but ending during the
136 2023 calendar year, such retail dealer or distributor shall
137 be allowed a tax credit for the amount of biodiesel blend
138 sold during the portion of such tax year that occurs during
139 the 2023 calendar year. The amount of the credit shall be
140 equal to:

141 (1) Two cents per gallon of biodiesel blend of at
142 least five percent but not more than ten percent sold by the
143 retail dealer at a retail service station or by a
144 distributor directly to the final user located in this state
145 during the tax year for which the tax credit is claimed; and

146 (2) Five cents per gallon of biodiesel blend in excess
147 of ten percent but not more than twenty percent sold by the
148 retail dealer at a retail service station or by a
149 distributor directly to the final user located in this state
150 during the tax year for which the tax credit is claimed.

151 3. Tax credits authorized under this section shall not
152 be transferred, sold, or assigned. If the amount of the tax
153 credit exceeds the taxpayer's state tax liability, the

154 difference shall be refundable. The total amount of tax
155 credits issued under this section for any given fiscal year
156 shall not exceed sixteen million dollars.

157 4. In the event the total amount of tax credits
158 claimed under this section exceeds the amount of available
159 tax credits, the tax credits shall be apportioned among all
160 eligible retail dealers and distributors claiming a tax
161 credit by April fifteenth, or as directed by section
162 143.851, of the fiscal year in which the tax credit is
163 claimed.

164 5. The tax credit allowed by this section shall be
165 claimed by such taxpayer at the time such taxpayer files a
166 return and shall be applied against the income tax liability
167 imposed by chapter 143, excluding the withholding tax
168 imposed by sections 143.191 to 143.265, after reduction for
169 all other credits allowed thereon. The department may
170 require any documentation it deems necessary to administer
171 the provisions of this section.

172 6. Notwithstanding any other provision of law to the
173 contrary, if the maximum amount of tax credits authorized by
174 this section are not claimed, the remaining amount of tax
175 credits available to claim shall be applied to the tax
176 credit in section 135.778 if the maximum amount of tax
177 credits authorized by section 135.778 have been claimed.

178 7. Notwithstanding the provisions of section 32.057 to
179 the contrary, the department may work with the division of
180 weights and measures within the department of agriculture to
181 validate that the biodiesel blend a retail dealer or
182 distributor claims for the tax credit authorized under this
183 section contains a sufficient percentage of biodiesel fuel.

184 8. The department shall promulgate rules to implement
185 and administer the provisions of this section. Any rule or
186 portion of a rule, as that term is defined in section

187 536.010, that is created pursuant to the authority delegated
188 in this section shall become effective only if it complies
189 with and is subject to all of the provisions of chapter 536
190 and, if applicable, section 536.028. This section and
191 chapter 536 are nonseverable and if any of the powers vested
192 with the general assembly pursuant to chapter 536 to review,
193 to delay the effective date, or to disapprove and annul a
194 rule are subsequently held unconstitutional, then the grant
195 of rulemaking authority and any rule proposed or adopted
196 after January 2, 2023, shall be invalid and void.

197 9. Under section 23.253 of the Missouri sunset act:

198 (1) The provisions of the new program authorized under
199 this section shall automatically sunset on December 31,
200 2028, unless reauthorized by an act of the general assembly;

201 (2) If such program is reauthorized, the program
202 authorized under this section shall automatically sunset
203 twelve years after the effective date of the reauthorization
204 of this section; and

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

208 The termination of the program as described in this
209 subsection shall not be construed to preclude any qualified
210 taxpayer who claims any benefit under any program that is
211 sunset under this subsection from claiming such benefit for
212 all allowable activities related to such claim that were
213 completed before the program was sunset or to eliminate any
214 responsibility of the department to verify the continued
215 eligibility of qualified individuals receiving tax credits
216 and to enforce other requirements of law that applied before
217 the program was sunset.

218 135.778. 1. For the purposes of this section, the
219 following terms shall mean:

220 (1) "Biodiesel fuel", a renewable, biodegradable, mono
221 alkyl ester combustible liquid fuel that is derived from
222 agricultural and other plant oils or animal fats and that
223 meets the most recent version of the ASTM International
224 D6751 Standard Specification for Biodiesel Fuel Blend
225 Stock. A fuel shall be deemed to be biodiesel fuel if the
226 fuel consists of a pure B100 or B99 ratio. Biodiesel
227 produced from palm oil is not biodiesel fuel for the
228 purposes of this section unless the palm oil is contained
229 within waste oil and grease collected within the United
230 States;

231 (2) "B99", a blend of ninety-nine percent biodiesel
232 fuel that meets the most recent version of the ASTM
233 International D6751 Standard Specification for Biodiesel
234 Fuel Blend Stock with a minimum of one-tenth of one percent
235 and maximum of one percent diesel fuel that meets the most
236 recent version of the ASTM International D975 Standard
237 Specification for Diesel Fuel;

238 (3) "Department", the Missouri department of revenue;

239 (4) "Missouri biodiesel producer", a person, firm, or
240 corporation doing business in this state that produces
241 biodiesel fuel in this state, is registered with the United
242 States Environmental Protection Agency according to the
243 requirements of 40 CFR Part 79, and has begun construction
244 on such facility or has been selling biodiesel fuel produced
245 at such facility on or before January 2, 2023.

246 2. For all tax years beginning on or after January 1,
247 2023, a Missouri biodiesel producer shall be allowed a tax
248 credit to be taken against the producer's state income tax
249 liability. For any Missouri biodiesel producer with a tax
250 year beginning prior to January 1, 2023, but ending during
251 the 2023 calendar year, such Missouri biodiesel producer
252 shall be allowed a tax credit for the amount of biodiesel

253 fuel produced during the portion of such tax year that
254 occurs during the 2023 calendar year. The amount of the tax
255 credit shall be two cents per gallon of biodiesel fuel
256 produced by the Missouri biodiesel producer during the tax
257 year for which the tax credit is claimed.

258 3. Tax credits authorized under this section shall not
259 be transferred, sold, or assigned. If the amount of the tax
260 credit exceeds the taxpayer's state tax liability, the
261 difference shall be refundable. The total amount of tax
262 credits issued under this section for any given fiscal year
263 shall not exceed [four] five million five hundred thousand
264 dollars, which shall be authorized on a first-come first-
265 served basis.

266 4. [In the event the total amount of tax credits
267 claimed under this section exceeds the amount of available
268 tax credits, the tax credits shall be apportioned among all
269 eligible Missouri biodiesel producers claiming the credit by
270 April fifteenth, or as directed by section 143.851, of the
271 fiscal year in which the tax credit is claimed.

272 5.] The tax credit authorized under this section shall
273 be claimed by such taxpayer at the time such taxpayer files
274 a return and shall be applied against the income tax
275 liability imposed by chapter 143, excluding the withholding
276 tax imposed by sections 143.191 to 143.265, after reduction
277 for all other credits allowed thereon. The department may
278 require any documentation it deems necessary to administer
279 the provisions of this section.

280 [6.] 5. Notwithstanding any other provision of law to
281 the contrary, if the maximum amount of tax credits
282 authorized by this section are not claimed, the remaining
283 amount of tax credits available to claim shall be applied to
284 the tax credit in section 135.775 if the maximum amount of
285 tax credits authorized by section 135.775 have been claimed.

286 [7.] 6. The department shall promulgate rules to
287 implement and administer the provisions of this section.
288 Any rule or portion of a rule, as that term is defined in
289 section 536.010, that is created pursuant to the authority
290 delegated in this section shall become effective only if it
291 complies with and is subject to all of the provisions of
292 chapter 536 and, if applicable, section 536.028. This
293 section and chapter 536 are nonseverable and if any of the
294 powers vested with the general assembly pursuant to chapter
295 536 to review, to delay the effective date, or to disapprove
296 and annul a rule are subsequently held unconstitutional,
297 then the grant of rulemaking authority and any rule proposed
298 or adopted after January 2, 2023, shall be invalid and void.

299 [8.] 7. Under section 23.253 of the Missouri sunset
300 act:

301 (1) The provisions of the new program authorized under
302 this section shall automatically sunset on December 31,
303 2028, unless reauthorized by an act of the general assembly;

304 (2) If such program is reauthorized, the program
305 authorized under this section shall automatically sunset
306 twelve years after the effective date of the reauthorization
307 of this section; and

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

311 The termination of the program as described in this
312 subsection shall not be construed to preclude any qualified
313 taxpayer who claims any benefit under any program that is
314 sunset under this subsection from claiming such benefit for
315 all allowable activities related to such claim that were
316 completed before the program was sunset, or to eliminate any
317 responsibility of the department to verify the continued
318 eligibility of qualified individuals receiving tax credits

319 and to enforce other requirements of law that applied before
320 the program was sunset."; and

321 Further amend the title and enacting clause accordingly.