

FIRST REGULAR SESSION

# HOUSE BILL NO. 1010

## 91ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES RIZZO, HOPPE AND SCHEVE (Co-sponsors).

Read 1<sup>st</sup> time March 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2309L.011

---

### AN ACT

To repeal sections 100.286, 135.110, 135.115, 135.150, 135.220, 135.225, 135.230, 135.235, 135.240, 135.245, 135.247, 135.250, 135.258, 135.400, 135.403, 135.405, 135.411, 135.420, 135.423, 135.429, 135.430, 135.500, 135.503, 135.508, 135.516, 135.520, 135.545, 135.700, 178.892, 253.557, 253.559, 253.561, 348.256, 348.261, 348.264, 348.302, 447.708, 620.470, 620.474, 620.1039, 620.1400, 620.1420, 620.1430, 620.1440 and 620.1450, RSMo 2000, section 135.100 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 135.535 as enacted by as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20, ninetieth general assembly, first regular session, relating to programs administered by the department of economic development, and to enact in

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

lieu thereof forty-five new sections relating to the same subject, with an effective date for certain sections.

---

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

Section A. Sections 100.286, 135.110, 135.115, 135.150, 135.220, 135.225, 135.230, 135.235, 135.240, 135.245, 135.247, 135.250, 135.258, 135.400, 135.403, 135.405, 135.411, 135.420, 135.423, 135.429, 135.430, 135.500, 135.503, 135.508, 135.516, 135.520, 135.545, 135.700, 178.892, 253.557, 253.559, 253.561, 348.256, 348.261, 348.264, 348.302, 447.708, 620.470, 620.474, 620.1039, 620.1400, 620.1420, 620.1430, 620.1440 and 620.1450, RSMo 2000, section 135.100 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, section 135.200 as enacted by as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 135.535 as enacted by as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20, ninetieth general assembly, first regular session, are repealed and forty-five new sections enacted in lieu thereof, to be known as sections 32.098, 32.099, 100.286, 135.100, 135.110, 135.115, 135.150, 135.200, 135.220, 135.225, 135.230, 135.235, 135.240, 135.245, 135.247, 135.250, 135.258, 135.400, 135.403, 135.405, 135.411, 135.420, 135.423, 135.500, 135.503, 135.508, 135.516, 135.520, 135.527, 135.535, 135.545, 135.700, 178.892, 253.557, 253.559, 348.254, 348.256, 348.261, 348.264, 348.302, 447.708, 620.470, 620.474, 620.1039 and 620.1600, to read as follows:

**32.098. 1. This act shall be known and may be cited as the "Tax Credit Responsibility Act of 2001".**

**2. The general assembly finds and declares that the purposes of this act are to:**

4           (1) Promote the responsible use of incentives in the state of Missouri for the  
5 economic development of the state, by fostering the development of existing businesses,  
6 continued positive development of our communities, the redevelopment of economically  
7 under-performing areas of the state, the attraction and expansion of businesses and the  
8 development and training of the state's workforce;

9           (2) Ensure that the state's resources used for economic development in Missouri are  
10 distributed, without increasing the overall amount of tax credits allocated, toward those  
11 programs to produce the greatest benefit for the citizens of the state of Missouri by  
12 promoting efficiency and effectiveness in their program operations;

13           (3) Achieve a system of incentives that ensure that Missouri's programs position  
14 Missouri businesses to be competitive in this increasingly global economy and to meet the  
15 challenges and opportunities a global economy presents for Missouri, taking into account  
16 the different industries, geographic, population, labor market, state and local  
17 governmental finance and natural resource impacts of using the programs;

18           (4) Reform the current incentives by repealing those programs that are ineffective  
19 or duplicative, or have unclear, ambiguous or inconsistent goals and objectives;

20           (5) Ensure fiscal responsibility by adjusting the cost of certain programs and  
21 capping the cost of other programs, and ensure for full reporting of costs and benefits; and

22           (6) Provide adequate legal recourse against those companies and citizens that do  
23 not meet the requirements of their negotiated incentive agreements.

32.099. 1. The department shall submit an annual tax credit allocation plan to the  
2 joint committee on economic development policy and planning established pursuant to  
3 section 620.602, RSMo, by November first of each year for programs administered  
4 pursuant to sections 135.100 to 135.150, 135.200 to 135.258, 135.400 to 135.423, 135.545,  
5 135.700 and 253.545 to 253.559, RSMo.

6           2. Such report shall include, but is not limited to, information and  
7 recommendations regarding the utilization of credits for Missouri businesses pursuant to  
8 the programs in subsection 1 of this section and a forecast of the Missouri economy for the  
9 following year. The plan shall report the anticipated strengths and weaknesses of the  
10 economy and estimate how the department should prioritize its job creation and  
11 investment efforts within the state as they relate to the programs in subsection 1 of this  
12 section.

13           3. The department shall make quarterly reports to the joint committee on economic  
14 development policy and planning established pursuant to section 620.602, RSMo. Such  
15 reports shall include information regarding the authorization and issuance of tax credits  
16 pursuant to the programs administered pursuant to sections 135.100 to 135.150, 135.200

17 **to 135.258, 135.400 to 135.423, 135.545, 135.700 and 253.545 to 253.559, RSMo.**

100.286. 1. Within the discretion of the board, the development and reserve fund,  
2 the infrastructure development fund or the export finance fund may be pledged to secure the  
3 payment of any bonds or notes issued by the board, or to secure the payment of any loan made  
4 by the board or a participating lender which loan:

5 (1) Is requested to finance any project or export trade activity;  
6 (2) Is requested by a borrower who is demonstrated to be financially responsible;  
7 (3) Can reasonably be expected to provide a benefit to the economy of this state;  
8 (4) Is otherwise secured by a mortgage or deed of trust on real or personal property or  
9 other security satisfactory to the board; provided that loans to finance export trade activities may  
10 be secured by export accounts receivable or inventories of exportable goods satisfactory to the  
11 board;

12 (5) Does not exceed five million dollars;

13 (6) Does not have a term longer than five years if such loan is made to finance export  
14 trade activities; and

15 (7) Is, when used to finance export trade activities, made to small or medium size  
16 businesses or agricultural businesses, as may be defined by the board.

17 2. The board shall prescribe standards for the evaluation of the financial condition,  
18 business history, and qualifications of each borrower and the terms and conditions of loans which  
19 may be secured, and may require each application to include a financial report and evaluation  
20 by an independent certified public accounting firm, in addition to such examination and  
21 evaluation as may be conducted by any participating lender.

22 3. Each application for a loan secured by the development and reserve fund, the  
23 infrastructure development fund or the export finance fund shall be reviewed in the first instance  
24 by any participating lender to whom the application was submitted. If satisfied that the standards  
25 prescribed by the board are met and that the loan is otherwise eligible to be secured by the  
26 development and reserve fund, the infrastructure development fund or the export finance fund,  
27 the participating lender shall certify the same and forward the application for final approval to  
28 the board.

29 4. The securing of any loans by the development and reserve fund, the infrastructure  
30 development fund or the export finance fund shall be conditioned upon approval of the  
31 application by the board, and receipt of an annual reserve participation fee, as prescribed by the  
32 board, submitted by or on behalf of the borrower.

33 5. The securing of any loan by the export finance fund for export trade activities shall  
34 be conditioned upon the board's compliance with any applicable treaties and international  
35 agreements, such as the general agreement on tariffs and trade and the subsidies code, to which

36 the United States is then a party.

37         6. Any taxpayer shall be entitled to a tax credit against any tax otherwise due under the  
38 provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to  
39 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the amount of fifty percent of  
40 any amount contributed in money or property by the taxpayer to [the development and reserve  
41 fund,] the infrastructure development fund [or the export finance fund] during the taxpayer's tax  
42 year, provided, however, the total tax credits awarded in any calendar year beginning after  
43 January 1, 1994, shall not be the greater of ten million dollars or five percent of the average  
44 growth in general revenue receipts in the preceding three fiscal years. This limit may be  
45 exceeded only upon joint agreement by the commissioner of administration, the director of the  
46 department of economic development, and the director of the department of revenue that such  
47 action is essential to ensure retention or attraction of investment in Missouri. If the board  
48 receives, as a contribution, real property, the contributor at such contributor's own expense shall  
49 have two independent appraisals conducted by appraisers certified by the Master Appraisal  
50 Institute. Both appraisals shall be submitted to the board, and the tax credit certified by the board  
51 to the contributor shall be based upon the value of the lower of the two appraisals. The board  
52 shall not certify the tax credit until the property is deeded to the board. Such credit shall not  
53 apply to reserve participation fees paid by borrowers [under] **pursuant to** sections 100.250 to  
54 100.297. The portion of earned tax credits which exceeds the taxpayer's tax liability may be  
55 carried forward for up to five years.

56         7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign,  
57 exchange, convey or otherwise transfer tax credits allowed in subsection 6 of this section under  
58 the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer,  
59 hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or  
60 otherwise transfer earned tax credits:

61             (1) For no less than seventy-five percent of the par value of such credits; and

62             (2) In an amount not to exceed one hundred percent of annual earned credits.

63

64 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection,  
65 may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise  
66 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to  
67 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. Unused credits in the hands of the  
68 assignee may be carried forward for up to five years, provided all such credits shall be claimed  
69 within ten years following the tax years in which the contribution was made. The assignor shall  
70 enter into a written agreement with the assignee establishing the terms and conditions of the  
71 agreement and shall perfect such transfer by notifying the board in writing within thirty calendar

72 days following the effective day of the transfer and shall provide any information as may be  
73 required by the board to administer and carry out the provisions of this section. Notwithstanding  
74 any other provision of law to the contrary, the amount received by the assignor of such tax credit  
75 shall be taxable as income of the assignor, and the excess of the par value of such credit over the  
76 amount paid by the assignee for such credit shall be taxable as income of the assignee.

135.100. As used in sections 135.100 to 135.150 the following terms shall mean:

2 (1) "Commencement of commercial operations" shall be deemed to occur during the first  
3 taxable year for which the new business facility is first available for use by the taxpayer, or first  
4 capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer  
5 intends to use the new business facility;

6 (2) "Existing business facility", any facility in this state which was employed by the  
7 taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior  
8 to an expansion, acquisition, addition, or replacement;

9 (3) "Facility", any building used as a revenue-producing enterprise located within the  
10 state, including the land on which the facility is located and all machinery, equipment and other  
11 real and depreciable tangible personal property acquired for use at and located at or within such  
12 facility and used in connection with the operation of such facility;

13 (4) "New business facility", a facility which satisfies the following requirements:

14 (a) Such facility is employed by the taxpayer in the operation of a revenue-producing  
15 enterprise. Such facility shall not be considered a new business facility in the hands of the  
16 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person  
17 or persons. If the taxpayer employs only a portion of such facility in the operation of a  
18 revenue-producing enterprise, and leases another portion of such facility to another person or  
19 persons or does not otherwise use such other portions in the operation of a revenue-producing  
20 enterprise, the portion employed by the taxpayer in the operation of a revenue-producing  
21 enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c),  
22 (d) and (e) of this subdivision are satisfied;

23 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A  
24 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,  
25 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding  
26 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the  
27 taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by  
28 or on behalf of the taxpayer, such construction, erection or installation is commenced after  
29 December 31, 1983;

30 (c) If such facility was acquired by the taxpayer from another person or persons and such  
31 facility was employed immediately prior to the transfer of title to such facility to the taxpayer,

32 or to the commencement of the term of the lease of such facility to the taxpayer, by any other  
33 person or persons in the operation of a revenue-producing enterprise, the operation of the same  
34 or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such  
35 facility;

36 (d) Such facility is not a replacement business facility, as defined in subdivision (10) of  
37 this section; and

38 (e) The new business facility investment exceeds one hundred thousand dollars during  
39 the tax period in which the credits are claimed;

40 (5) "New business facility employee", a person employed by the taxpayer in the  
41 operation of a new business facility during the taxable year for which the credit [allowed]  
42 **authorized** by section 135.110 is claimed, except that truck drivers and rail and barge vehicle  
43 operators shall not constitute new business facility employees. A person shall be deemed to be  
44 so employed if such person performs duties in connection with the operation of the new business  
45 facility on:

46 (a) A regular, full-time basis; or

47 (b) A part-time basis, provided such person is customarily performing such duties an  
48 average of at least twenty hours per week; or

49 (c) A seasonal basis, provided such person performs such duties for at least eighty  
50 percent of the season customary for the position in which such person is employed;

51 (6) "New business facility income", the Missouri taxable income, as defined in chapter  
52 143, RSMo, derived by the taxpayer from the operation of the new business facility. For the  
53 purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income"  
54 means, in the case of insurance companies, direct premiums as defined in chapter 148, RSMo.  
55 If a taxpayer has income derived from the operation of a new business facility as well as from  
56 other activities conducted within this state, the Missouri taxable income derived by the taxpayer  
57 from the operation of the new business facility shall be determined by multiplying the taxpayer's  
58 Missouri taxable income, computed in accordance with chapter 143, RSMo, or in the case of an  
59 insurance company, computed in accordance with chapter 148, RSMo, by a fraction, the  
60 numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus  
61 the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which  
62 is two:

63 (a) The property factor is a fraction, the numerator of which is the new business facility  
64 investment certified for the tax period, and the denominator of which is the average value of all  
65 the taxpayer's real and depreciable tangible personal property owned or rented and used in this  
66 state during the tax period. The average value of all such property shall be determined as  
67 provided in chapter 32, RSMo;

68 (b) The payroll factor is a fraction, the numerator of which is the total amount paid  
69 during the tax period by the taxpayer for compensation to persons qualifying as new business  
70 facility employees, as determined by subsection 4 of section 135.110, at the new business  
71 facility, and the denominator of which is the total amount paid in this state during the tax period  
72 by the taxpayer for compensation. The compensation paid in this state shall be determined as  
73 provided in chapter 32, RSMo. For the purpose of this subdivision, "other activities conducted  
74 within this state" shall include activities previously conducted at the expanded, acquired or  
75 replaced facility at any time during the tax period immediately prior to the tax period in which  
76 commencement of commercial operations occurred;

77 (7) "New business facility investment", the value of real and depreciable tangible  
78 personal property, acquired by the taxpayer as part of the new business facility, which is used by  
79 the taxpayer in the operation of the new business facility, during the taxable year for which the  
80 credit [allowed] **authorized** by section 135.110 is claimed, except that trucks, truck-trailers,  
81 truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track,  
82 switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business  
83 facility investments. The total value of such property during such taxable year shall be:

84 (a) Its original cost if owned by the taxpayer; or

85 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental  
86 rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the  
87 taxpayer from subrentals. The new business facility investment shall be determined by dividing  
88 by twelve the sum of the total value of such property on the last business day of each calendar  
89 month of the taxable year. If the new business facility is in operation for less than an entire  
90 taxable year, the new business facility investment shall be determined by dividing the sum of the  
91 total value of such property on the last business day of each full calendar month during the  
92 portion of such taxable year during which the new business facility was in operation by the  
93 number of full calendar months during such period;

94 (8) "Office", a regional, national or international headquarters, a telemarketing operation,  
95 [a computer operation, an insurance company,] a passenger transportation ticket/reservation  
96 system or a credit card billing and processing center. For the purposes of this subdivision,  
97 "headquarters" means the administrative management of at least four integrated facilities  
98 operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when  
99 established must create and maintain positions for a minimum number of twenty-five new  
100 business facility employees as defined in subdivision (5) of this section;

101 (9) "Related taxpayer" shall mean:

102 (a) A corporation, partnership, trust or association controlled by the taxpayer;

103 (b) An individual, corporation, partnership, trust or association in control of the taxpayer;



104 or

105 (c) A corporation, partnership, trust or association controlled by an individual,  
106 corporation, partnership, trust or association in control of the taxpayer. For the purposes of  
107 sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or  
108 indirectly, of stock possessing at least fifty percent of the total combined voting power of all  
109 classes of stock entitled to vote; "control of a partnership or association" shall mean ownership  
110 of at least fifty percent of the capital or profits interest in such partnership or association; and  
111 "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the  
112 beneficial interest in the principal or income of such trust; ownership shall be determined as  
113 provided in Section 318 of the U.S. Internal Revenue Code;

114 (10) "Replacement business facility", a facility otherwise described in subdivision (4)  
115 of this section, hereafter referred to in this subdivision as "new facility", which replaces another  
116 facility, hereafter referred to in this subdivision as "old facility", located within the state, which  
117 the taxpayer or a related taxpayer previously operated but discontinued operating on or before  
118 the close of the first taxable year in which the credit ~~[allowed]~~ **authorized** by this section is  
119 claimed. A new facility shall be deemed to replace an old facility if the following conditions are  
120 met:

121 (a) The old facility was operated by the taxpayer or a related taxpayer during the  
122 taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which  
123 commencement of commercial operations occurs at the new facility; and

124 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation  
125 of a revenue-producing enterprise and the taxpayer continues the operation of the same or  
126 substantially similar revenue-producing enterprise at the new facility.

127

128 Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered  
129 a replacement business facility if the taxpayer's new business facility investment, as computed  
130 in subsection ~~[5]~~ **6** of section 135.110, in the new facility during the tax period in which the  
131 credits ~~[allowed in]~~ **authorized by** sections 135.110, 135.225 and 135.235 and the exemption  
132 ~~[allowed in]~~ **authorized by** section 135.220 are claimed exceed one million dollars or, if less,  
133 two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and  
134 if the total number of employees at the new facility exceeds the total number of employees at the  
135 old facility by at least two except that the total number of employees at the new facility exceeds  
136 the total number of employees at the old facility by at least twenty-five if an office as defined in  
137 subdivision (8) of this section is established by a revenue-producing enterprise other than a  
138 revenue-producing enterprise defined in paragraphs (a) to ~~[(g)]~~ **(m)** and ~~[(i) to (l)]~~ **(o) to (t)** of  
139 subdivision (11) of this section;

140 (11) "Revenue-producing enterprise" means:  
141 (a) Manufacturing activities classified as SICs 20 through 39;  
142 (b) Agricultural activities classified as SIC 025;  
143 (c) Rail transportation terminal activities classified as SIC 4013;  
144 (d) Motor freight transportation terminal activities classified as SIC 4231;  
145 (e) Public warehousing and storage activities classified as SICs 422 and 423 except SIC  
146 4221, miniwarehouse warehousing and warehousing self-storage;  
147 (f) Water transportation terminal activities classified as SIC 4491;  
148 (g) Airports, flying fields, and airport terminal services classified as SIC 4581;  
149 (h) Wholesale trade activities classified as SICs 50 and 51;  
150 (i) Insurance carriers activities classified as SICs 631, 632 and 633;  
151 (j) Research and development activities classified as SIC 873, except 8733;  
152 (k) Farm implement dealer activities classified as SIC 5999;  
153 (l) Interexchange telecommunications services as defined in subdivision [(20)] **(24) or**  
154 **local exchange telecommunications services as defined in subdivision (31)** of section  
155 386.020, RSMo, or training activities conducted by an interexchange telecommunications  
156 company **or by a local exchange telecommunications company** as defined in [subdivision (19)]  
157 **subdivisions (23) and (30)** of section 386.020, RSMo;  
158 (m) Recycling activities classified as SIC 5093;  
159 (n) Office activities as defined in subdivision (8) of this section, notwithstanding SIC  
160 classification;  
161 (o) Mining activities classified as SICs 10 through 14;  
162 (p) Computer programming, data processing and other computer-related activities  
163 classified as SIC 737;  
164 (q) The administrative management of any of the foregoing activities; [or]  
165 (r) Any combination of any of the foregoing activities;  
166 **(s) Any other industry as determined by the director to be a targeted industry**  
167 **important to the economic development of the state; or**  
168 **(t) An industry not otherwise specified but which is considering a new business**  
169 **facility or an expansion of an existing business facility which, in the judgment of the**  
170 **director, is beneficial to the economy of the area of the state in which it is to be located or**  
171 **to the economy of the state as a whole.**  
172  
173 **A revenue-producing enterprise which is identified by a SIC classification number includes**  
174 **enterprises with the corresponding classification number in subsequent federal industry**  
175 **classification systems.**

176 (12) "Same or substantially similar revenue-producing enterprise", a revenue-producing  
177 enterprise in which the nature of the products produced or sold, or activities conducted, are  
178 similar in character and use or are produced, sold, performed or conducted in the same or similar  
179 manner as in another revenue-producing enterprise;

180 (13) "SIC", the **primary** standard industrial classification as such classifications are  
181 defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the  
182 Executive Office of the President, Office of Management and Budget. **For the purpose of this**  
183 **subdivision, "primary" means at least fifty percent of the activities so classified are**  
184 **performed at a new business facility during the taxpayer's tax period in which such tax**  
185 **credits are being claimed;**

186 (14) "Taxpayer", an individual proprietorship, corporation described in section 143.441  
187 or 143.471, RSMo, and partnership or an insurance company subject to the tax imposed by  
188 chapter 148, RSMo, or in the case of an insurance company exempt from the thirty-percent  
189 employee requirement of section 135.230, to any obligation imposed pursuant to section  
190 375.916, RSMo.

135.110. 1. Any taxpayer who shall establish a new business facility shall be [allowed]  
2 **eligible to receive** a credit, each year for ten years, in an amount determined pursuant to  
3 subsection [2 or 3] **3 or 4** of this section, whichever is applicable, against the tax imposed by  
4 chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo,  
5 or an insurance company which shall establish a new business facility [by satisfying the  
6 requirements in subdivision (7) of section 135.100] shall be [allowed] **eligible to receive** a credit  
7 against the tax otherwise imposed by chapter 148, RSMo, and in the case of an insurance  
8 company exempt from the thirty percent employee requirement of section 135.230, against any  
9 obligation imposed pursuant to section 375.916, RSMo, except that no taxpayer shall be [entitled  
10 to] **eligible for** multiple ten-year periods for subsequent expansions at the same facility, except  
11 as otherwise provided in this section. For the purpose of this section, the term "facility" shall  
12 mean, and be limited to, the facility or facilities which are located on the same site in which the  
13 new business facility is located, and in which the business conducted at such facility or facilities  
14 is directly related to the business conducted at the new business facility. Notwithstanding the  
15 provisions of this subsection, a taxpayer may be [entitled] **eligible to receive** an additional  
16 ten-year period if a new business facility is expanded in the eighth, ninth or tenth year of the  
17 current ten-year period or in subsequent years following the expiration of the ten-year period, if  
18 the number of new business facility employees attributed to such expansion is at least  
19 twenty-five and the amount of new business facility investment attributed to such expansion is  
20 at least one million dollars. Credits may not be carried forward but shall be claimed for the  
21 taxable year during which commencement of commercial operations occurs at such new business

22 facility, and for each of the nine succeeding taxable years. **For facilities commencing**  
23 **operations prior to January 1, 2002**, a letter of intent, as provided for in section 135.258, must  
24 be filed with the department of economic development no later than fifteen days prior to the  
25 commencement of commercial operations at the new business facility. The initial application  
26 for claiming tax credits must be made in the taxpayer's tax period immediately following the tax  
27 period in which commencement of commercial operations began at the new business facility.  
28 [This provision shall have effect on all initial applications filed on or after August 28, 1992.]

29 **2.** No credit shall be allowed pursuant to this section unless the number of new business  
30 facility employees engaged or maintained in employment at the new business facility for the  
31 taxable year for which the credit is claimed equals or exceeds two; except that the number of new  
32 business facility employees engaged or maintained in employment by a revenue-producing  
33 enterprise other than a revenue-producing enterprise defined in paragraphs (a) to [(g) and (i) to  
34 (l)] **(m) and (o) to (t)** of subdivision (11) of section 135.100 which establishes an office as  
35 defined in subdivision (8) of section 135.100 shall equal or exceed twenty-five.

36 [2.] **3.** [For tax periods beginning after August 28, 1991,] In the case of a taxpayer  
37 operating an existing business facility, the credit [allowed] **authorized** by subsection 1 of this  
38 section shall offset the greater of:

39 (1) Some portion of the income tax otherwise imposed by chapter 143, RSMo, excluding  
40 withholding tax imposed by sections 143.191 to 143.265, RSMo, or in the case of an insurance  
41 company, the tax on the direct premiums, as defined in chapter 148, RSMo, and in the case of  
42 an insurance company exempt from the thirty percent employee requirement of section 135.230,  
43 against any obligation imposed pursuant to section 375.916, RSMo, with respect to such  
44 taxpayer's new business facility income for the taxable year for which such credit is allowed; or

45 (2) Up to fifty percent or, in the case of an economic development project located within  
46 a distressed community as defined in section 135.530, seventy-five percent of the business  
47 income tax otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by  
48 sections 143.191 to 143.265, RSMo, or in the case of an insurance company, the tax on the direct  
49 premiums, as defined in chapter 148, RSMo, and in the case of an insurance company exempt  
50 from the thirty percent employee requirement of section 135.230, against any obligation imposed  
51 pursuant to section 375.916, RSMo, if the business operates no other facilities in Missouri. In  
52 the case of an existing business facility operating more than one facility in Missouri, the credit  
53 [allowed in] **authorized by** subsection 1 of this section shall offset up to the greater of the  
54 portion prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of  
55 an economic development project located within a distressed community as defined in section  
56 135.530, thirty-five percent of the business' tax, except that no taxpayer operating more than one  
57 facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an

58 economic development project located within a distressed community as defined in section  
59 135.530, thirty-five percent of the taxpayer's business income tax in any tax period under the  
60 method prescribed in this subdivision. Such credit shall be an amount equal to the sum of one  
61 hundred dollars or, in the case of an economic development project located within a distressed  
62 community as defined in section 135.530, one hundred fifty dollars for each new business facility  
63 employee plus one hundred dollars or, in the case of an economic development project located  
64 within a distressed community as defined in section 135.530, one hundred fifty dollars for each  
65 one hundred thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one  
66 percent or more) in new business facility investment. For the purpose of this section, tax credits  
67 [earned by] **authorized by the director of the department of economic development to a**  
68 taxpayer, who establishes a new business facility because it satisfies the requirements of  
69 paragraph (c) of subdivision (4) of section 135.100, **or subdivision (10) of section 135.100,**  
70 shall offset the greater of the portion prescribed in subdivision (1) of this subsection or up to fifty  
71 percent or, in the case of an economic development project located within a distressed  
72 community as defined in section 135.530, seventy-five percent of the business' tax provided the  
73 business operates no other facilities in Missouri. In the case of a business operating more than  
74 one facility in Missouri, the credit [allowed in] **authorized by** subsection 1 of this section shall  
75 offset up to the greater of the portion prescribed in subdivision (1) of this subsection or  
76 twenty-five percent or, in the case of an economic development project located within a  
77 distressed community as defined in section 135.530, thirty-five percent of the business' tax,  
78 except that no taxpayer operating more than one facility in Missouri shall be allowed to offset  
79 more than twenty-five percent or, in the case of an economic development project located within  
80 a distressed community as defined in section 135.530, thirty-five percent of the taxpayer's  
81 business income tax in any tax period under the method prescribed in this subdivision.

82 [3. For tax periods beginning after August 28, 1991,] **4.** In the case of a taxpayer not  
83 operating an existing business facility, the credit [allowed] **authorized by** subsection 1 of this  
84 section shall offset the greater of:

- 85 (1) Some portion of the income tax otherwise imposed by chapter 143, RSMo, excluding  
86 withholding tax imposed by sections 143.191 to 143.265, RSMo, or in the case of an insurance  
87 company, the tax on the direct premiums, as defined in chapter 148, RSMo, and in the case of  
88 an insurance company exempt from the thirty percent employee requirement of section 135.230,  
89 against any obligation imposed pursuant to section 375.916, RSMo, with respect to such  
90 taxpayer's new business facility income for the taxable year for which such credit is allowed; or  
91 (2) Up to one hundred percent of the business income tax otherwise imposed by chapter  
92 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or in  
93 the case of an insurance company, the tax on the direct premiums, as defined in chapter 148,

94 RSMo, and in the case of an insurance company exempt from the thirty percent employee  
95 requirement of section 135.230, against any obligation imposed pursuant to section 375.916,  
96 RSMo, if the business has no other facilities operating in Missouri. In the case of a taxpayer not  
97 operating an existing business and operating more than one facility in Missouri, the credit  
98 [allowed] **authorized** by subsection 1 of this section shall offset up to the greater of the portion  
99 prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an  
100 economic development project located within a distressed community as defined in section  
101 135.530, thirty-five percent of the business' tax, except that no taxpayer operating more than one  
102 facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an  
103 economic development project located within a distressed community as defined in section  
104 135.530, thirty-five percent of the taxpayer's business income tax in any tax period under the  
105 method prescribed in this subdivision. Such credit shall be an amount equal to the sum of  
106 seventy-five dollars or, in the case of an economic development project located within a  
107 distressed community as defined in section 135.530, one hundred twenty-five dollars for each  
108 new business facility employee plus seventy-five dollars or, in the case of an economic  
109 development project located within a distressed community as defined in section 135.530, one  
110 hundred twenty-five dollars for each one hundred thousand dollars, or major fraction thereof  
111 (which shall be deemed to be fifty-one percent or more) in new business facility investment.

112 [4.] **5.** The number of new business facility employees during any taxable year shall be  
113 determined by dividing by twelve the sum of the number of individuals employed on the last  
114 business day of each month of such taxable year. If the new business facility is in operation for  
115 less than the entire taxable year, the number of new business facility employees shall be  
116 determined by dividing the sum of the number of individuals employed on the last business day  
117 of each full calendar month during the portion of such taxable year during which the new  
118 business facility was in operation by the number of full calendar months during such period. For  
119 the purpose of computing the credit [allowed] **authorized** by this section in the case of a facility  
120 which qualifies as a new business facility because it qualifies as a separate facility pursuant to  
121 subsection [6] **7** of this section, and, in the case of a new business facility which satisfies the  
122 requirements of paragraph (c) of subdivision (4) of section 135.100, or subdivision (10) of  
123 section 135.100, the number of new business facility employees at such facility shall be reduced  
124 by the average number of individuals employed, computed as provided in this subsection, at the  
125 facility during the taxable year immediately preceding the taxable year in which such expansion,  
126 acquisition, or replacement occurred and shall further be reduced by the number of individuals  
127 employed by the taxpayer or related taxpayer that was subsequently transferred to the new  
128 business facility from another Missouri facility and for which credits authorized in this section  
129 are not being earned, whether such credits are earned because of an expansion, acquisition,

130 relocation or the establishment of a new facility.

131 [5.] 6. For the purpose of computing the credit [allowed] **authorized** by this section in  
132 the case of a facility which qualifies as a new business facility because it qualifies as a separate  
133 facility pursuant to subsection [6] 7 of this section, and, in the case of a new business facility  
134 which satisfies the requirements of paragraph (c) of subdivision (4) of section 135.100 or  
135 subdivision (10) of section 135.100, the amount of the taxpayer's new business facility  
136 investment in such facility shall be reduced by the average amount, computed as provided in  
137 subdivision (7) of section 135.100 for new business facility investment, of the investment of the  
138 taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time  
139 of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall  
140 also be reduced by the amount of investment employed by the taxpayer or related taxpayer which  
141 was subsequently transferred to the new business facility from another Missouri facility and for  
142 which credits authorized in this section are not being earned, whether such credits are earned  
143 because of an expansion, acquisition, relocation or the establishment of a new facility.

144 [6.] 7. If a facility, which does not constitute a new business facility, is expanded by the  
145 taxpayer, the expansion shall be considered a separate facility eligible for the credit [allowed]  
146 **authorized** by this section if:

147 (1) The taxpayer's new business facility investment in the expansion during the tax  
148 period in which the credits [allowed] **authorized** in this section are claimed exceeds one hundred  
149 thousand dollars, or, if less, one hundred percent of the investment in the original facility prior  
150 to expansion and if the number of new business facility employees engaged or maintained in  
151 employment at the expansion facility for the taxable year for which credit is claimed equals or  
152 exceeds two, except that the number of new business facility employees engaged or maintained  
153 in employment at the expansion facility for the taxable year for which the credit is claimed  
154 equals or exceeds twenty-five if an office as defined in subdivision (8) of section 135.100 is  
155 established by a revenue-producing enterprise other than a revenue-producing enterprise defined  
156 in paragraphs (a) to [(g) and (i) to (l)] **(m) and (o) to (t)** of subdivision (11) of section 135.100  
157 and the total number of employees at the facility after the expansion is at least two greater than  
158 the total number of employees before the expansion, except that the total number of employees  
159 at the facility after the expansion is at least greater than the number of employees before the  
160 expansion by twenty-five, if an office as defined in subdivision (8) of section 135.100 is  
161 established by a revenue-producing enterprise other than a revenue-producing enterprise defined  
162 in paragraphs (a) to [(g) and (i) to (l)] **(m) and (o) to (t)** of subdivision (11) of section 135.100;  
163 and

164 (2) The expansion otherwise constitutes a new business facility. The taxpayer's  
165 investment in the expansion and in the original facility prior to expansion shall be determined

166 in the manner provided in subdivision (7) of section 135.100.

167 [7.] **8.** No credit shall be allowed pursuant to this section to a public utility, as such term  
168 is defined in section 386.020, RSMo. Notwithstanding any provision of this subsection to the  
169 contrary, motor carriers, barge lines or railroads engaged in transporting property for hire, or any  
170 interexchange telecommunications company or local exchange telecommunications company  
171 that establishes a new business facility shall be eligible to qualify for credits [allowed in]  
172 **authorized by** this section.

173 [8.] **9.** For the purposes of the credit described in this section, in the case of **an approved**  
174 **taxpayer which is** a corporation described in section 143.471, RSMo, or partnership, in  
175 computing Missouri's tax liability, this credit shall be [allowed to the following] **issued as**  
176 **follows:**

177 (1) The shareholders of the corporation described in section 143.471, RSMo;

178 (2) The partners of the partnership.

179

180 This credit shall be apportioned to the entities described in subdivisions (1) and (2) of this  
181 subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

182 [9.] **10.** Notwithstanding any provision of law to the contrary, any employee-owned  
183 engineering firm classified as SIC 8711, architectural firm as classified SIC 8712, or accounting  
184 firm classified SIC 8721 establishing a new business facility because it qualifies as a  
185 headquarters as defined in subsection [10] **11** of this section, shall be [allowed] **eligible to**  
186 **receive** the credits described in subsection [11] **12** of this section under the same terms and  
187 conditions prescribed in sections 135.100 to 135.150; provided:

188 (1) Such facility maintains an average of at least five hundred new business facility  
189 employees as defined in subdivision (5) of section 135.100 during the taxpayer's tax period in  
190 which such credits are being claimed; and

191 (2) Such facility maintains an average of at least twenty million dollars in new business  
192 facility investment as defined in subdivision (7) of section 135.100 during the taxpayer's tax  
193 period in which such credits are being claimed.

194 [10.] **11.** For the purpose of the credits [allowed in] **authorized by** subsection [9] **10** of  
195 this section:

196 (1) "Employee-owned" means the business employees own directly or indirectly,  
197 including through an employee stock ownership plan or trust at least:

198 (a) Seventy-five percent of the total business stock, if the taxpayer is a corporation  
199 described in section 143.441, RSMo; or

200 (b) One hundred percent of the interest in the business if the taxpayer is a corporation  
201 described in section 143.471, RSMo, a partnership, or a limited liability company; and



202 (2) "Headquarters" means:

203 (a) The administrative management of at least three integrated facilities operated by the  
204 taxpayer or related taxpayer; and

205 (b) The taxpayer's business has been headquartered in this state for more than fifty years.

206 [11.] **12.** The tax credits [allowed in] **authorized by** subsection [9] **10** of this section  
207 shall be the greater of:

208 (1) Four hundred dollars for each new business facility employee as computed in  
209 subsection [4] **5** of this section and four percent of new business facility investment as computed  
210 in subsection [5] **6** of this section; or

211 (2) Five hundred dollars for each new business facility employee as computed in  
212 subsection [4] **5** of this section, and five hundred dollars of each one hundred thousand dollars  
213 of new business facility investment as computed in subsection [5] **6** of this section.

214 [12.] **13.** For the purpose of the credit described in subsection [9] **10** of this section, in  
215 the case of a small corporation described in section 143.471, RSMo, or a partnership, or a limited  
216 liability company, the credits [allowed in] **authorized by** subsection [9] **10** of this section shall  
217 be apportioned in proportion to the share of ownership of each shareholder, partner or  
218 stockholder on the last day of the taxpayer's tax period for which such credits are being claimed.

219 [13.] **14.** For the purpose of the credit described in subsection [9] **10** of this section, tax  
220 credits [earned] **authorized**, to the extent such credits exceed the taxpayer's Missouri tax on  
221 taxable business income, shall constitute an overpayment of taxes and in such case, be refunded  
222 to the taxpayer provided such refunds are used by the taxpayer to purchase specified facility  
223 items. For the purpose of the refund as authorized in this subsection, "specified facility items"  
224 means equipment, computers, computer software, copiers, tenant finishing, furniture and fixtures  
225 installed and in use at the new business facility during the taxpayer's taxable year. The taxpayer  
226 shall perfect such refund by attesting in writing to the director, subject to the penalties of perjury,  
227 the requirements prescribed in this subsection have been met and submitting any other  
228 information the director may require.

229 [14.] **15.** Notwithstanding any provision of law to the contrary, any taxpayer may sell,  
230 assign, exchange, convey or otherwise transfer tax credits [allowed in] **authorized by** subsection  
231 [9] **10** of this section under the terms and conditions prescribed in subdivisions (1) and (2) of this  
232 subsection. Such taxpayer, referred to as the assignor for the purpose of this subsection, may  
233 sell, assign, exchange or otherwise transfer earned tax credits:

234 (1) For no less than seventy-five percent of the par value of such credits; and

235 (2) In an amount not to exceed one hundred percent of such earned credits. The taxpayer  
236 acquiring the earned credits referred to as the assignee for the purpose of this subsection may use  
237 the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed

238 by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261,  
239 RSMo, or chapter 148, RSMo, or in the case of an insurance company exempt from the thirty  
240 percent employee requirement of section 135.230, against any obligation imposed pursuant to  
241 section 375.916, RSMo. Unused credits in the hands of the assignee may be carried forward for  
242 up to five tax periods, provided all such credits shall be claimed within ten tax periods following  
243 the tax period in which commencement of commercial operations occurred at the new business  
244 facility. The assignor shall enter into a written agreement with the assignee establishing the  
245 terms and conditions of the agreement and shall perfect such transfer by notifying the director  
246 in writing within thirty calendar days following the effective date of the transfer and shall  
247 provide any information as may be required by the director to administer and carry out the  
248 provisions of this subsection. Notwithstanding any other provision of law to the contrary, the  
249 amount received by the assignor of such tax credit shall be taxable as income of the assignor, and  
250 the difference between the amount paid by the assignee and the par value of the credits shall be  
251 taxable as income of the assignee.

135.115. **For all revenue-producing enterprises that commence operations prior to**  
2 **January 1, 2002, and otherwise meet the requirements of the provisions of sections 135.100**  
3 **to 135.150,** the right to receive the tax credits described in section 135.110 shall vest in the  
4 taxpayer upon commencement of operations of the revenue-producing enterprise, **to the extent**  
5 **such incentives do not exceed the ten-year limitation set forth in subsection 1 of section**  
6 **135.110,** but the taxpayer shall waive such vested right for any given year in which the taxpayer  
7 fails to meet the terms and conditions of sections 135.100 to 135.150. [Representations made  
8 by the department of economic development and relied upon in good faith by the taxpayer shall  
9 be binding upon the state of Missouri to the extent such representations are consistent with the  
10 provisions of this chapter. The provisions of this section shall apply to all revenue-producing  
11 enterprises which are eligible for incentives pursuant to this section and which commenced  
12 operations on or after January 1, 1990, to the extent such incentives do not exceed the ten-year  
13 limitation set forth in subsection 1 of section 135.110.]

135.150. 1. [Until January 1, 1987, the director of revenue shall prescribe such rules and  
2 regulations necessary to carry out the provisions of sections 135.100 to 135.150.] **For taxpayers**  
3 **commencing operations on or after January 1, 2002, no more than four million dollars in**  
4 **tax credits may be authorized in any year under this program. The director of the**  
5 **department of economic development shall determine and implement appropriate**  
6 **procedures to ensure that the cap is not exceeded in any year. These procedures will be**  
7 **submitted to the joint committee on economic development policy and planning pursuant**  
8 **to section 620.080, RSMo.**

9 2. [Beginning January 1, 1987,] **The department may adopt such rules, statements**

10 **of policy, procedures, forms and guidelines as may be necessary for the implementation of**  
11 **this program.** The director of economic development shall prescribe the method for submitting  
12 applications for [claiming] **participation in the program authorized by sections 135.100 to**  
13 **135.150 and for a taxpayer receiving tax credits to claim** the tax credits [allowed in]  
14 **authorized by** subsections [2 and] 3 **and 4** of section 135.110 and shall, if such application or  
15 portion thereof is approved, certify same to the director of revenue or the director of insurance  
16 that the taxpayer claiming the credits has satisfied all requirements prescribed in sections  
17 135.100 to 135.150 and is [therefore] eligible to claim the credits. The director of economic  
18 development shall also calculate and specify the amount of the credit earned by the taxpayer  
19 during the taxpayer's first taxable year in which such credits are claimed and for each of the nine  
20 succeeding taxable years the credits are claimed by the taxpayer and shall certify such amounts  
21 to the director of revenue or the director of insurance and shall notify the taxpayer in writing of  
22 the action taken on [his] **the taxpayer's** request for the credits and if the request for credits is  
23 disallowed, the director of economic development shall state the reason or reasons the claim for  
24 credit was disallowed. The director shall certify the extent to which earned credits can be  
25 claimed to the director of revenue or the director of insurance and shall notify the taxpayer in  
26 writing of such determination. [The director of economic development may prescribe such rules  
27 and regulations necessary to carry out the provisions of sections 135.100 to 135.150.]

28 3. The director of revenue and, when appropriate, the director of insurance may prescribe  
29 rules and regulations necessary to process the credits following certification by the director of  
30 economic development.

31 4. No rule or portion of a rule promulgated [under the authority of] **pursuant to** sections  
32 135.100 to 135.160 shall become effective unless it has been promulgated pursuant to the  
33 provisions of [section 536.024,] **chapter 536, RSMo.**

34 [4.] 5. Any taxpayer who **commences operations before January 1, 2002, or any**  
35 **taxpayer who commences operations on or after January 1, 2002, and has been approved**  
36 **for participation in the program and** has submitted an application for claiming tax credits as  
37 [allowed in] **authorized by** section 135.110 may file with the director of economic development,  
38 a protest within sixty days (one hundred fifty days if the taxpayer is outside the United States)  
39 after the date of such certification notice or the date of the notice denying such certification. The  
40 protest shall be in writing and shall set forth the grounds on which the protest is based.

41 [5.] 6. If a protest is filed, the director of economic development shall consider the  
42 taxpayer's grounds for protest and make a determination concerning such protest. The director  
43 of economic development shall notify the taxpayer in writing of such determination within thirty  
44 days following the date on which the written protest was received. Such notice shall be mailed  
45 to the taxpayer by certified or registered mail and such notice shall set forth briefly the director

46 of economic development's findings of fact and the basis of decision.

47 [6.] 7. The decision of the director of economic development on the taxpayer's protest  
48 is final upon the expiration of thirty days from the date when [he] **the director** mails notice of  
49 his **or her** action to the taxpayer unless within this period, the taxpayer seeks review of the  
50 [director of economic development's] **director's** determination by the administrative hearing  
51 commission, which is hereby authorized.

135.200. The following terms, whenever used in sections 135.200 to [135.256] **135.258**,  
2 mean:

- 3 (1) "Department", the department of economic development;
- 4 (2) "Director", the director of the department of economic development;
- 5 (3) "Facility", any building used as a revenue-producing enterprise located within an  
6 enterprise zone, including the land on which the facility is located and all machinery, equipment  
7 and other real and depreciable tangible personal property acquired for use at and located at or  
8 within such facility and used in connection with the operation of such facility;
- 9 (4) "Governing authority", the body holding primary legislative authority over a county  
10 or incorporated municipality;
- 11 (5) "New business facility" shall have the meaning defined in section 135.100, except  
12 that the term "lease" as used therein shall not include the leasing of property defined in paragraph  
13 (d) of subdivision (6) of this section;
- 14 (6) "Revenue-producing enterprise", means:
  - 15 (a) Manufacturing activities classified as SICs 20 through 39;
  - 16 (b) Agricultural activities classified as SIC 025;
  - 17 (c) Rail transportation terminal activities classified as SIC 4013;
  - 18 (d) Renting or leasing of residential property to low- and moderate-income persons as  
19 defined in federal law, 42 U.S.C. 5302(a)(20);
  - 20 (e) Motor freight transportation terminal activities classified as SIC 4231;
  - 21 (f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC  
22 4221, miniwarehouse warehousing and warehousing self-storage;
  - 23 (g) Water transportation terminal activities classified as SIC 4491;
  - 24 (h) Airports, flying fields, and airport terminal services classified as SIC 4581;
  - 25 (i) Wholesale trade activities classified as SICs 50 and 51;
  - 26 (j) Insurance carriers activities classified as SICs 631, 632 and 633;
  - 27 (k) Research and development activities classified as SIC 873, except 8733;
  - 28 (l) Farm implement dealer activities classified as SIC 5999;
  - 29 (m) Employment agency activities classified as SIC 7361;
  - 30 (n) Computer programming, data processing and other computer-related activities

31 classified as SIC 737;

32 (o) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and  
33 8093;

34 (p) Interexchange telecommunications **services** as defined in subdivision [(20)] **(24)** or  
35 **local exchange telecommunications services as defined in subdivision (31)** of section  
36 386.020, RSMo, or training activities conducted by an interexchange telecommunications  
37 company **or by a local exchange telecommunications company** as defined in [subdivision (19)]  
38 **subdivisions (23) and (30)** of section 386.020, RSMo;

39 (q) Recycling activities classified as SIC 5093;

40 (r) Banking activities classified as SICs 602 and 603;

41 (s) Office activities as defined in subdivision (8) of section 135.100, notwithstanding  
42 SIC classification;

43 (t) Mining activities classified as SICs 10 through 14;

44 (u) **Photofinishing laboratory activities classified in SIC 7384 and microfilm**  
45 **recording and developing services as contained in SIC classification 7389, provided that**  
46 **each such revenue-producing enterprise employs a minimum of one hundred employees**  
47 **at a single business facility;**

48 (v) The administrative management of any of the foregoing activities; [or

49 (v)] (w) Any combination of any of the foregoing activities;

50 (x) **Any other industry as determined by the director to be a targeted industry**  
51 **important to the economic development of the state; or**

52 (y) **An industry not otherwise specified but which is considering a new business**  
53 **facility or an expansion of an existing business facility in an enterprise zone which, in the**  
54 **judgment of the director of the department of economic development, is beneficial to the**  
55 **economy of the area of the state in which it is to be located or to the economy of the state**  
56 **as a whole.**

57

58 **A revenue-producing enterprise which is identified by a SIC classification number includes**  
59 **enterprises with the corresponding classification number in subsequent federal industry**  
60 **classification systems.**

61 (7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise  
62 zone;

63 (8) "SIC", the **primary** standard industrial classification as such classifications are  
64 defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the  
65 Executive Office of the President, Office of Management and Budget. **For purposes of this**  
66 **subdivision, "primary" means at least fifty percent of the activities so classified are**

67 performed at the new business facility during the taxpayer's tax period in which such tax  
68 credits are being claimed.

135.220. 1. The provisions of chapter 143, RSMo, notwithstanding, **an approved**  
2 **taxpayer shall receive an exemption from taxation pursuant to chapter 143, RSMo,**  
3 **excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount**  
4 **equal to** one-half of the Missouri taxable income attributed to a new business facility in an  
5 enterprise zone which is earned by a taxpayer establishing and operating a new business facility  
6 located within an enterprise zone [shall be exempt from taxation under chapter 143, RSMo. A].  
7 **An approved** taxpayer operating a revenue-producing enterprise as defined in paragraph (d) of  
8 subdivision (6) of section 135.200 may elect to exempt from taxation under chapter 143, RSMo,  
9 one-half of the Missouri taxable income attributed to a new business facility in an enterprise zone  
10 or may elect to claim a fifty-dollar credit against the tax imposed under chapter 143, RSMo,  
11 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, for each room  
12 constructed for use as a bedroom for each qualifying residential unit. A "bedroom" is defined  
13 as a structurally separate room used primarily for sleeping, and not as a living room, dining  
14 room, kitchen or closet. That portion of income attributed to the new business facility shall be  
15 determined in a manner prescribed in paragraph (b) of subdivision (6) of section 135.100, except  
16 that compensation paid to truck drivers, or rail or barge vehicle operators shall be excluded from  
17 the fraction.

18 2. In the case of **an approved taxpayer which is** a small corporation described in  
19 section 143.471, RSMo, or a partnership, in computing the Missouri taxable income of the  
20 taxpayers described in subdivisions (1) and (2) of this subsection, a deduction apportioned in  
21 proportion to their share of ownership of the business on the last day of the taxpayer's tax period  
22 for which such tax credits are being claimed, shall be allowed from their Missouri adjusted gross  
23 income in the amount of one-half of the Missouri taxable income earned by the new business  
24 facility, as determined by the method prescribed in subsection 1 of this section located within  
25 the enterprise zone, as defined in this section, to the following:

- 26 (1) The shareholders of a small corporation described in section 143.471, RSMo;  
27 (2) The partners in a partnership.

135.225. 1. The credits otherwise [provided] **authorized** by sections 135.100 to 135.150  
2 shall upon proper application be granted to any **approved eligible** taxpayer who shall establish  
3 and operate a new business facility located within an enterprise zone, except one designated  
4 pursuant to subsection 5 of section 135.230, on the same terms and conditions specified in  
5 [those] sections **135.100 to 135.150**, except that:

- 6 (1) The credit otherwise allowed for each new business facility employee employed  
7 within an enterprise zone shall be four hundred dollars;

8           (2) An additional credit of four hundred dollars shall be granted for each twelve-month  
9 period that a new business facility employee is a resident of an enterprise zone;

10           (3) An additional credit of four hundred dollars shall be granted for each twelve-month  
11 period that the person employed as a new business facility employee is a person who, at the time  
12 of such employment by the new business facility, met the criteria as set forth in section 135.240;

13           (4) The credit otherwise allowed for new business facility investment shall be equal to  
14 the sum of ten percent of the first ten thousand dollars of such qualifying investment, plus five  
15 percent of the next ninety thousand dollars of such qualifying investment, plus two percent of  
16 all remaining qualifying investments within an enterprise zone;

17           (5) In the case of **an approved taxpayer which is** a small corporation described in  
18 section 143.471, RSMo, or a partnership, the credits granted by this section shall be apportioned  
19 in proportion to the share of ownership of the taxpayer on the last day of the taxpayer's tax period  
20 for which such tax credits are being claimed, to the following:

21           (a) The shareholders of a small corporation described in section 143.471, RSMo;

22           (b) The partners in a partnership;

23           (6) In the case of financial institutions described pursuant to the provisions of chapter  
24 148, RSMo, the credits [allowed in] **authorized by** subdivisions (1), (2), (3) and (4) of this  
25 subsection and the credit [allowed in] **authorized by** section 135.235 may be used to offset the  
26 tax imposed by chapter 148, RSMo, and, in the case of an insurance company exempt from the  
27 thirty-percent employee requirement of section 135.230, any obligations imposed pursuant to  
28 section 375.916, RSMo, subject to the same method of apportionment as prescribed for taxes  
29 imposed by chapter 143, RSMo, and as provided in subdivision (6) of section 135.100 and  
30 subsections [2 and 3] **3 and 4** of section 135.110;

31           (7) If a facility within an enterprise zone, which does not constitute a new business  
32 facility, is expanded or improved by the taxpayer within the enterprise zone, the expansion or  
33 improvement shall be considered a separate facility eligible for the credits [allowed in]  
34 **authorized by** this section and section 135.235, and the exemption [allowed in] **authorized by**  
35 section 135.220, if:

36           (a) The new business facility investment in the expansion or improvement during the tax  
37 period in which such credits and the exemption are claimed exceeds one hundred thousand  
38 dollars or, if less than one hundred thousand dollars, is twenty-five percent of the investment in  
39 the original facility prior to expansion or improvement; and

40           (b) The expansion or improvement otherwise constitutes a new business facility; and

41           (c) The number of new business facility employees engaged or maintained in  
42 employment at the expanded or improved facility for the taxable year for which the credit is  
43 claimed equals or exceeds two and the total number of employees at the facility after expansion

44 or improvement is at least two greater than the total number of employees before expansion or  
45 improvement. The taxpayer's investment in the expansion or improvement and in the original  
46 facility prior to expansion or improvement shall be determined in the manner provided in  
47 subdivision (7) of section 135.100;

48 (8) For the purpose of sections 135.200 to [135.256] **135.258**, an office as defined in  
49 subdivision (8) of section 135.100, when established, must create and maintain at least two new  
50 business facility employees as defined in subdivision (5) of section 135.100;

51 (9) In the case where a person employed by the new business facility is a resident of the  
52 enterprise zone for less than a twelve-month period, or in the case where a person employed as  
53 a new business facility employee is a person who, at the time of such employment by the new  
54 business facility, met the criteria as set forth in section 135.240, is employed for less than a  
55 twelve-month period, the credits allowed by subdivisions (2) and (3) of this subsection shall be  
56 determined by multiplying four hundred dollars by a fraction, the numerator of which is the  
57 number of calendar days during the taxpayer's tax year for which such credits are claimed, in  
58 which the person met the requirements prescribed in subdivision (2) or (3) of this subsection, and  
59 the denominator of which is three hundred and sixty-five, except that such credit shall not exceed  
60 four hundred dollars per employee in any one taxable year;

61 (10) The deferment of tax credit authorized in section 135.120 shall not be available to  
62 taxpayers establishing a new business facility in an enterprise zone;

63 (11) The allowance for additional ten-year periods to certain new business facilities as  
64 prescribed in subsection 1 of section 135.110 shall not be available to taxpayers expanding a new  
65 business facility in an enterprise zone, except that any taxpayer who has been eligible to earn  
66 enterprise zone tax benefits for ten tax periods, or until the expiration of the fifteen-year period  
67 as prescribed in subsection 1 of section 135.230, or for the maximum period otherwise allowed  
68 by law, may qualify for the tax credits [allowed in] **authorized by** section 135.110 if otherwise  
69 eligible, pursuant to the same terms and conditions prescribed in sections 135.100 to 135.150;

70 (12) Taxpayers who establish a new business facility by operating a revenue-producing  
71 enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 shall not be required  
72 to create and maintain new business facility employees.

73 2. The tax credits described in subdivisions (1), (2), (3) and (4) of subsection 1 of this  
74 section, the training credit [allowed in] **authorized by** section 135.235, and the income  
75 exemption [allowed in] **authorized by** section 135.220, shall be allowed to any **approved**  
76 taxpayer, under the same terms and conditions specified in such sections, who establishes a new  
77 business facility in an enterprise zone designated pursuant to subsection 5 of section 135.230,  
78 except that all such tax benefits shall be removed not later than seven years after the enterprise  
79 zone is designated as such.



80           3. Notwithstanding any provision of law to the contrary, any **approved** taxpayer who  
81 establishes a new business facility in an enterprise zone, may elect to forfeit the tax credits  
82 otherwise [allowed in] **authorized by** section 135.235 and this section and the exemptions  
83 otherwise [allowed in] **authorized by** sections 135.215 and 135.220 and the refund otherwise  
84 [allowed in] **authorized by** section 135.245, and in lieu thereof, claim the tax credits [allowed  
85 in] **authorized by** section 135.110, pursuant to the same terms and conditions prescribed in  
86 sections 135.100 to 135.150. To perfect the election, the taxpayer shall attach written  
87 notification of such election to the taxpayer's initial application [for claiming tax credits]. The  
88 election shall be irreversible once perfected.

89           4. [The] **For all revenue-producing enterprises that commence operations prior to**  
90 **January 1, 2002, and otherwise meet the requirements of the provisions of sections 135.200**  
91 **to 135.258, the** right to receive the income exemption described in section 135.220, the tax  
92 credits described in subsection 1 of this section and the training credit [allowed in] **authorized**  
93 **by** section 135.235 shall vest in the taxpayer upon commencement of operations of the  
94 revenue-producing enterprise, but such vested right shall be waived by the taxpayer for any given  
95 year in which the terms and conditions of sections 135.100 to [135.268] **135.258** are not met.  
96 [Representations made by the department and relied upon in good faith by the taxpayer shall be  
97 binding upon the state of Missouri insofar as they are consistent with the provisions of this  
98 chapter.] The provisions of this subsection shall apply to all revenue-producing enterprises  
99 which are eligible for incentives pursuant to this subsection and which commenced operation on  
100 or after January 1, 1996, to the extent such incentives do not exceed the fifteen-year limitation  
101 pursuant to subsection 1 of section 135.230 or the seven-year limitation pursuant to subsection  
102 5 of section 135.230. [The provisions of this subsection shall apply to all revenue-producing  
103 enterprises which are eligible for the incentives set forth in this subsection, and which began  
104 operation after January 1, 1996, to the extent such incentives do not exceed the fifteen-year  
105 limitation set forth in subsection 1 of section 135.230, or the seven-year limit set forth in  
106 subsection 5 of section 135.230.]

          135.230. 1. The exemption or credit [established and allowed] **authorized by** section  
2 135.220 and the credits [allowed and established] **authorized by** subdivisions (1), (2), (3) and  
3 (4) of subsection 1 of section 135.225 [shall] **and section 135.235 may** be granted with respect  
4 to any new business facility located within an enterprise zone for a vested period not to exceed  
5 ten years following the date upon which the new business facility commences operation within  
6 the enterprise zone [and such exemption shall be calculated, for each succeeding year of  
7 eligibility, in accordance with the formulas applied in the initial year in which the new business  
8 facility is certified as such,] subject, however, to the limitation that all such credits [allowed in]  
9 **authorized by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by**

10 section 135.220 shall be removed not later than fifteen years after the enterprise zone is  
11 designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of  
12 subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant  
13 to section 135.220 unless the number of new business facility employees engaged or maintained  
14 in employment at the new business facility for the taxable year for which the credit is claimed  
15 equals or exceeds two or the new business facility is a revenue-producing enterprise as defined  
16 in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the  
17 exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1  
18 of section 135.225, or both, it shall be required that at least thirty percent of new business facility  
19 employees, as determined by subsection [4] **5** of section 135.110, meet the criteria established  
20 in section 135.240 or are residents of an enterprise zone or some combination thereof, except  
21 taxpayers who establish a new business facility by operating a revenue-producing enterprise as  
22 defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an  
23 insurance company that established a new business facility satisfying the requirements of  
24 subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and  
25 before December 31, 1994, and that employs in excess of three hundred fifty new business  
26 facility employees at such facility each tax period for which the credits allowable pursuant to  
27 subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to  
28 meet such requirement. A new business facility described as SIC 3751 shall be required to  
29 employ fifteen percent of such employees instead of the required thirty percent. For the purpose  
30 of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for  
31 a period of at least [one full calendar month] **thirty days** and must have been employed at the  
32 new business facility for at least [one full calendar month] **thirty days**, and persons qualifying  
33 because they meet the requirements of section 135.240 must have satisfied such requirement at  
34 the time they were employed by the new business facility and must have been employed at the  
35 new business facility for at least [one full calendar month] **thirty days**. The director may  
36 temporarily reduce or waive this requirement for any business in an enterprise zone with ten or  
37 less full-time employees, and for businesses with eleven to twenty full-time employees this  
38 requirement may be temporarily reduced. No reduction or waiver may be granted for more than  
39 one tax period and shall not be renewable. The exemptions [allowed in] **authorized by** sections  
40 135.215 and 135.220 and the credits [allowed in] **authorized by** sections 135.225 and 135.235  
41 and the refund [established and] authorized [in] **by** section 135.245 shall not be allowed to any  
42 "public utility", as such term is defined in section 386.020, RSMo.

43 2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge  
44 lines or railroads engaged in transporting property for hire or any interexchange  
45 telecommunications company that establish a new business facility shall be eligible to qualify

46 for the exemptions [allowed in] **authorized by** sections 135.215 and 135.220, and the credits  
47 [allowed in] **authorized by** sections 135.225 and 135.235 and the refund [established and]  
48 authorized [in] **by** section 135.245, except that trucks, truck-trailers, truck semitrailers, rail or  
49 barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards  
50 and spurs shall not constitute new business facility investment nor shall truck drivers or rail or  
51 barge vehicle operators constitute new business facility employees.

52 3. Notwithstanding any other provision of sections 135.200 to [135.256] **135.258** to the  
53 contrary, motor carriers establishing a new business facility on or after January 1, 1993, but  
54 before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and  
55 135.235 and the exemption provided in section 135.220, even if such new business facility has  
56 not satisfied the employee criteria, provided that such taxpayer employs an average of at least  
57 two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer  
58 maintains an average investment of at least ten million at such facility, exclusive of rolling stock,  
59 during the tax period for which such credits and exemption are being claimed.

60 4. Any governing authority having jurisdiction of an area that has been designated an  
61 enterprise zone may petition the department to expand the boundaries of such existing enterprise  
62 zone. The director may approve such expansion if the director finds that:

63 (1) The area to be expanded meets the requirements prescribed in section 135.207 or  
64 135.210, whichever is applicable;

65 (2) The area to be expanded is contiguous to the existing enterprise zone;

66 (3) The number of expansions [do] **does** not exceed three after August 28, 1994.

67 5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this  
68 section, any governing authority having jurisdiction of an area that has been designated as an  
69 enterprise zone by the director, except one designated pursuant to this subsection, may file a  
70 petition, as prescribed by the director, for redesignation of such area for an additional period not  
71 to exceed seven years following the fifteenth anniversary of the enterprise zone's initial  
72 designation date; provided:

73 (1) The petition is filed with the director within three years prior to the date the tax  
74 credits authorized [in] **by** sections 135.225 and 135.235 and the exemption [allowed in]  
75 **authorized by** section 135.220 are required to be removed pursuant to subsection 1 of this  
76 section;

77 (2) The governing authority identifies and conforms the boundaries of the area to be  
78 designated a new enterprise zone to the political boundaries established by the latest decennial  
79 census, unless otherwise approved by the director;

80 (3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of  
81 section 135.205 according to the latest decennial census or other appropriate source as approved

82 by the director;

83 (4) The governing authority satisfies the requirements prescribed in sections 135.210,  
84 135.215 and 135.255;

85 (5) The director finds that the area is unlikely to support reasonable tax assessment or  
86 to experience reasonable economic growth without such designation; and

87 (6) The director's recommendation that the area be designated as an enterprise zone, is  
88 approved by the joint committee on economic development policy and planning, as otherwise  
89 required in subsection 3 of section 135.210.

90 6. Any **approved** taxpayer having established a new business facility in an enterprise  
91 zone except one designated pursuant to subsection 5 of this section, who did not earn the tax  
92 credits authorized [in] **by** sections 135.225 and 135.235 and the exemption [allowed in]  
93 **authorized by** section 135.220 for the full ten-year period because of the fifteen-year limitation  
94 as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less  
95 the number of tax years the benefits were claimed or could have been claimed prior to the  
96 expiration of the original fifteen-year period, except that such tax benefits shall not be earned for  
97 more than seven tax periods during the ensuing seven-year period, provided the taxpayer  
98 continues to operate the new business facility in an area that is designated an enterprise zone  
99 pursuant to subsection 5 of this section. Any **approved** taxpayer who establishes a new business  
100 facility subsequent to the commencement of the ensuing seven-year period, as authorized in  
101 subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and  
102 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same  
103 terms and conditions as prescribed in sections 135.100 to [135.256] **135.258**. The designation  
104 of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty  
105 enterprise zone limitation imposed in subsection 4 of section 135.210.

135.235. To the extent that expenses incurred by a new business facility in an enterprise  
2 zone for the training of persons employed in the operation of the new business facility is not  
3 covered by an existing federal, state or local program, [such] **an approved** new business facility  
4 shall be eligible for a full tax credit equal to eighty percent of that portion of such training  
5 expenses which are in excess of four hundred dollars for each trainee who is a resident of the  
6 enterprise zone or who was at the time of such employment at the new business facility  
7 unemployable or difficult to employ as defined in section 135.240, provided such credit shall not  
8 exceed four hundred dollars for each employee trained. In the case of a small corporation  
9 described in section 143.471, RSMo, or a partnership, all credits [allowed] **authorized** by this  
10 section shall be apportioned in proportion to the share of ownership of the business to the  
11 following:

12 (1) The shareholders of the corporation described in section 143.471, RSMo; or

13 (2) The partners in a partnership.

135.240. The provisions of subdivision (3) of section 135.225 and section 135.230 shall  
2 apply to employees determined to:

3 (1) Be difficult to employ. For the purpose of this section, "a person difficult to employ"  
4 shall mean a person who was unemployed for at least [three months] **ninety days** immediately  
5 prior to being employed at the new business facility in the enterprise zone; or

6 (2) Be eligible for [aid to families with dependent children] **temporary assistance for**  
7 **needy families, medical assistance for families** or general relief programs.

135.245. 1. Notwithstanding any other provision of Missouri law, some portion of the  
2 tax credits earned by [a] **an approved** newly established new business facility within an  
3 enterprise zone through the provisions of sections 135.200 to [135.256] **135.258**, except one  
4 designated pursuant to subsection 5 of section 135.230, which exceeds its total income tax  
5 liability shall be considered an overpayment of the income tax and shall be refunded to the  
6 taxpayer as provided by this section, except that such refund shall only apply to taxpayers subject  
7 to the tax imposed pursuant to chapter 143, RSMo. The refund allowed by this section shall be  
8 limited to taxpayers who establish new facilities in enterprise zones. The refund shall not be  
9 allowed to a taxpayer who establishes a new business facility because it qualifies as a separate  
10 facility pursuant to subsection [6] 7 of section 135.110 or subdivision (7) of subsection 1 of  
11 section 135.225 or because it satisfies the requirements of paragraph (c) of subdivision (4) of  
12 section 135.100 or subdivision (10) of section 135.100. The provisions of this section shall have  
13 effect on all initial applications filed on or after August 28, 1992. The provisions of this section  
14 shall only be available to a taxpayer for the first two consecutive years during which the taxpayer  
15 is eligible for the credits provided by sections 135.200 to [135.256] **135.258**, and the portion of  
16 tax credit which is considered an overpayment of the income tax shall be limited to fifty percent  
17 or fifty thousand dollars, whichever is less, in the first year and twenty-five percent or  
18 twenty-five thousand dollars, whichever is less, in the second year in which the taxpayer is  
19 eligible. The overpayment of the income tax for the first year shall not be refunded to the  
20 taxpayer until the third taxable year of operation by the new business facility and the  
21 overpayment of the income tax for the second year shall not be refunded to the taxpayer until the  
22 fourth taxable year of operation by the new business facility.

23 2. The portion of tax credit which is considered an overpayment of the income tax by  
24 any **approved** taxpayer who establishes a new business facility in an enterprise zone designated  
25 pursuant to subsection 5 of section 135.230 shall be limited to twenty-five percent or twenty-five  
26 thousand dollars, whichever is less, in the first year of the ensuing seven-year period. Such  
27 overpayment of tax shall not be refunded to the taxpayer until the third taxable year of operation  
28 by the new business facility.

29           3. Such refunds to [the] **an approved** taxpayer shall be made as otherwise provided by  
30 law. In the case of a small corporation described in section 143.471, RSMo, or a partnership,  
31 all refunds allowed by this section shall be apportioned in proportion to the share of ownership  
32 of the business on the last day of the taxpayer's tax period for which such tax credits are being  
33 claimed, to the following:

34           (1) The shareholders of the corporation described in section 143.471, RSMo; or

35           (2) The partners in a partnership.

135.247. 1. Notwithstanding the provisions of sections 135.205, 135.207, and 135.210  
2 or any other provisions to the contrary, any area having been designated by the United States  
3 Department of Housing and Urban Development as a federal empowerment zone or by the  
4 United States Department of Agriculture as an enterprise community pursuant to the federal  
5 Omnibus Budget Reconciliation Act of 1993, title XIII, chapter I, subchapter c, shall immediately  
6 upon such federal designation become and remain a state enterprise zone until the expiration of  
7 such federal designation.

8           2. The credits otherwise [provided] **authorized** by sections 135.225 and 135.235, the  
9 exemption [provided] **authorized** by section 135.220, and the refund [provided] **authorized** by  
10 section 135.245 shall be available to any **approved** taxpayer who establishes and operates a new  
11 business facility located within a federal empowerment zone or enterprise community on the  
12 same terms and conditions specified in sections 135.100 to [135.256] **135.258**. The exemption  
13 provided in section 135.215 shall be available to any taxpayer who makes improvements to real  
14 property after the date the area is designated as a federal empowerment zone or enterprise  
15 community pursuant to the same terms and conditions specified in section 135.215.

16           3. Notwithstanding any provision of law to the contrary, **approved** retail businesses, as  
17 defined by SICs 52 through 59, **approved** hotels and motels, as defined by SIC 7011, and  
18 **approved** recreational facilities as defined by SIC 7999, shall be eligible for all benefits  
19 [provided pursuant to] **authorized by** the provisions of sections 135.200 to [135.256] **135.258**,  
20 if:

21           (1) In the case of a retail business, such business is located within a state-designated  
22 enterprise zone located wholly or partially within a federal empowerment zone or enterprise  
23 community; or

24           (2) Such business is located within a satellite enterprise zone, established pursuant to  
25 subdivision (1) or (3) of subsection 1 of section 135.207, whether or not such satellite zone is  
26 contained within a federal empowerment zone or enterprise community; and

27           (3) In the case of a hotel or motel, such business is located within an enterprise zone  
28 which is located within any county of the first classification with a population of at least five  
29 hundred thousand but less than seven hundred thousand inhabitants according to the last

30 decennial census, or in an enterprise zone which is located within any city of the third  
31 classification which is partially located within a county of the first class with a population of one  
32 hundred fifty thousand or more which is adjacent to a county of the first classification with a  
33 population of at least five hundred thousand but less than seven hundred thousand according to  
34 the last decennial census; and

35 (4) In the case of a recreational facility, such business is located within an area  
36 designated a satellite enterprise zone pursuant to subdivision (1) of subsection 1 of section  
37 135.207, by the director after January 1, 1991, and before January 1, 1992, in any city not within  
38 a county, and further provided the director approves the eligibility of such recreational facility  
39 to claim tax benefits otherwise [allowed in] **authorized by** sections 135.200 to [135.256]  
40 **135.258**. When making such determination, the director shall consider the number and quality  
41 of new jobs to be created, the amount of payroll and investment to be generated from the  
42 proposed project, the extent to which such tax concessions are needed to induce the  
43 development, whether the area is unlikely to support reasonable tax assessment or to experience  
44 reasonable economic growth without such designation and the overall economic benefits to be  
45 realized from the proposed project.

46 4. For purposes of qualifying for benefits pursuant to this section, recreational facilities,  
47 as defined by SIC 7999, shall not include:

48 (1) An excursion gambling boat licensed pursuant to sections 313.800 to 313.850,  
49 RSMo, and the docking facility associated with such licensed excursion gambling boat; or

50 (2) An excursion gambling boat and docking facility as proposed on an application filed  
51 with the Missouri gaming commission.

135.250. 1. The director of the department of economic development may, subject to  
2 the requirements of [section 536.021] **chapter 536**, RSMo, issue such rules and regulations as  
3 he deems necessary regarding the qualifications necessary for an area to be deemed an  
4 "enterprise zone" and for the continuation of such designation. [Beginning January 1, 1987,]

5 **2. For taxpayers commencing operations on or after January 1, 2002, no more than**  
6 **thirty million dollars in tax credits may be authorized in any year under this program. The**  
7 **director of the department of economic development shall determine and implement**  
8 **appropriate procedures to ensure that the cap is not exceeded in any year. These**  
9 **procedures will be submitted to the joint committee on economic development policy and**  
10 **planning pursuant to section 620.080, RSMo.**

11 **3. The department may adopt such rules, statements of policy, procedures, forms**  
12 **and guidelines as may be necessary for the implementation of this program.** The director  
13 shall prescribe the method for submitting applications for [claiming] **participation in the**  
14 **program authorized by sections 135.200 to 135.258 and for a taxpayer receiving tax credits**

15 **to claim** the tax credits [allowed in] **authorized by** sections 135.225 and 135.235 and the  
16 exemption [allowed in] **authorized by** section 135.220 and shall, if such application is approved,  
17 certify same to the director of revenue that the taxpayer claiming the credits [allowed in]  
18 **authorized by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by**  
19 section 135.220 has satisfied all requirements prescribed in sections 135.200 to [135.255]  
20 **135.258**, and is [therefore] eligible to claim the credits and exemption. The director shall also  
21 calculate and specify the amount of the credits earned by the taxpayer during the taxpayer's first  
22 taxable year in which such credits are claimed and for each of the nine succeeding taxable years  
23 the credits are claimed by the taxpayer and shall certify such amounts to the director of revenue.  
24 The director shall certify the extent to which such earned credits and the exemption [allowed in]  
25 **authorized by** section 135.220 can be claimed to the director of revenue and shall notify the  
26 taxpayer in writing of such determination. [The director may prescribe such rules and  
27 regulations necessary to carry out the provisions of sections 135.200 to 135.255.

28       2.] **4.** The director of revenue shall determine the amount of the taxpayer's refund, as  
29 [allowed in] **authorized by** section 135.245, if any, and shall notify the taxpayer in writing of  
30 any amount to be refunded. The director of revenue may, subject to the requirements of section  
31 536.021, RSMo, prescribe rules and regulations necessary to process the credits [allowed in]  
32 **authorized by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by**  
33 section 135.220 and the refund [allowed in] **authorized by** section 135.245 following  
34 certification of eligibility by the director.

35       **5.** No rule or portion of a rule promulgated [under] **pursuant to** the authority of this  
36 section shall become effective unless it has been promulgated pursuant to the provisions of  
37 [section 536.024] **chapter 536**, RSMo.

38       [3.] **6.** Any taxpayer who **commences operations before January 1, 2002, or any**  
39 **taxpayer who commences operations on or after January 1, 2002, and has been approved**  
40 **for participation in the program and** has submitted an application for claiming tax credits as  
41 [allowed in] **authorized by** sections 135.225, 135.235, or the exemption [allowed in]  
42 **authorized by** section 135.220 or an application to be certified as a new business facility for the  
43 purpose of claiming the refund as [allowed in] **authorized by** section 135.245, may file with the  
44 director of economic development, a protest within sixty days (one hundred fifty days if the  
45 taxpayer is outside the United States) after the date of such certification notice or the date of the  
46 notice denying such certification. The protest shall be in writing and shall set forth the grounds  
47 on which the protest is based.

48       [4.] **7.** If a protest is filed, the director [of economic development] shall consider the  
49 taxpayer's grounds for protest and make a determination concerning such protest. The director  
50 [of economic development] shall notify the taxpayer in writing of such determination within



51 thirty days following the date in which the written protest was received. Such notice shall be  
52 mailed to the taxpayer by certified or registered mail and such notice shall set forth briefly the  
53 [director of economic development's] **director's** findings of fact and the basis of decision.

54 [5.] **8.** The decision of the director [of economic development] on the taxpayer's protest  
55 is final upon the expiration of thirty days from the date when [he] **the director** mails notice of  
56 his **or her** action to the taxpayer unless within this period, the taxpayer seeks review of the  
57 [director of economic development's] **director's** determination by the administrative hearing  
58 commission.

135.258. 1. A taxpayer shall not be entitled to receive the tax credits, the exemption and  
2 the refunds [respectively provided for in] **authorized by** sections 135.110, 135.220, 135.225,  
3 **135.235** and 135.245 solely because the taxpayer has met and maintained the new investment  
4 and new job creation criteria required by sections 135.100 [through 135.256] **to 135.258.** In  
5 addition to meeting these criteria, the taxpayer must **meet the following requirements:**

6 **(1) A taxpayer who commences operations on or after January 1, 1999, but before**  
7 **January 1, 2002, must** be in receipt of an approved letter of intent as described in subsection  
8 2 of this section **to be eligible for the tax credits, exemptions and refunds authorized by**  
9 **sections 135.100, 135.220, 135.225, 135.235 and 135.245.** The taxpayer shall make available  
10 such copies of the approved letter of intent, as may be required, to the department of revenue;

11 **(2) A taxpayer must file the initial application for claiming tax credits in the**  
12 **taxpayer's tax period immediately following the tax period in which commencement of**  
13 **commercial operations began at the new business facility.**

14 2. [In order to be eligible for the tax credits, exemption and refunds specified in  
15 subsection 1 of this section, a taxpayer must submit a letter of intent to the director of the  
16 department of economic development.] The letter of intent shall be completed on a form that  
17 shall be prepared by the department. It need not contain an estimate of the amounts of the tax  
18 credits, exemption or refunds for which the taxpayer may become eligible. The letter of intent  
19 shall be submitted to the director at least fifteen days prior to the commencement of commercial  
20 operations as defined in subdivision (1) of section 135.100. The director shall approve or deny  
21 the letter of intent and return such to the taxpayer within fifteen days of its receipt.

135.400. As used in sections 135.400 to [135.430] **135.423**, the following terms mean:

2 (1) "Certificate", a tax credit certificate issued by the department of economic  
3 development in accordance with sections 135.400 to [135.430] **135.423**;

4 (2) "Community bank", either a bank community development corporation or  
5 development bank, which are financial organizations which receive investments from  
6 commercial financial institutions regulated by the federal reserve, the office of the comptroller  
7 of the currency, the office of thrift supervision, or the Missouri division of finance. Community

8 banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity  
9 investments in businesses or in real estate provided that such transactions have associated public  
10 benefits;

11 (3) "Community development corporation", [a not-for-profit corporation and a recipient  
12 of Community Development Block Grant (CDBG) funds pursuant to the Housing Community  
13 Development Act of 1974. Such corporations design specific, comprehensive programs to  
14 stimulate economic development, housing or other public benefits leading to the development  
15 of economically sustainable neighborhoods or communities] **a not-for-profit corporation**  
16 **whose board of directors is composed of business, civic and community leaders, and whose**  
17 **primary purpose is to encourage and promote the industrial, economic, entrepreneurial,**  
18 **commercial and civic development or redevelopment of a community or area, including the**  
19 **provision of housing and community economic development projects that benefit low-**  
20 **income individuals and communities;**

21 (4) "Department", the Missouri department of economic development;

22 (5) "Director", the director of the department of economic development, or a person  
23 acting under the supervision of the director;

24 (6) "Investment", a transaction in which a Missouri small business or a community bank  
25 receives a monetary benefit from an investor pursuant to the provisions of sections 135.403 to  
26 135.414;

27 (7) "Investor", an individual, partnership, financial institution, trust or corporation  
28 meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships  
29 and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

30 (8) "Missouri small business", an independently owned and operated business as defined  
31 in Title 15 U.S.C. Section 632(a) and as described by Title 13 CFR Part 121, which is  
32 headquartered in Missouri and which [employs] **has and retains for five years from the time**  
33 **of awarding credits pursuant to this section** at least eighty percent of its employees **working**  
34 **in Missouri, and in the case of a business in a distressed community has and retains for five**  
35 **years from the time of awarding credits pursuant to this section at least eighty percent of**  
36 **its employees working in a distressed community**, except that no such small business shall  
37 employ more than one hundred employees. Such businesses must be involved in interstate or  
38 intrastate commerce for the purpose of manufacturing, processing or assembling products,  
39 conducting research and development, or providing services in interstate commerce, but  
40 excluding retail, real estate, insurance or professional services. For the purpose of qualifying for  
41 the tax credit pursuant to sections 135.400 to [135.430] **135.423**, "Missouri small business" shall  
42 include cooperative marketing associations organized pursuant to chapter 274, RSMo, which are  
43 engaged in the business of producing and marketing fuels derived from agriculture commodities,

44 without regard for whether a cooperative marketing association has more than one hundred  
45 employees. Cooperative marketing associations organized pursuant to chapter 274, RSMo, shall  
46 not be required to comply with the requirements of section 135.414;

47 (9) "Primary employment", work which pays at least the minimum wage and which is  
48 not seasonal or part-time;

49 (10) "Principal owners", one or more persons who own an aggregate of fifty percent or  
50 more of the Missouri small business and who are involved in the operation of the business as a  
51 full-time professional activity;

52 (11) "Project", any commercial or industrial business or other economic development  
53 activity undertaken in a target area, designed to reduce conditions of blight, unemployment or  
54 widespread reliance on public assistance which creates permanent primary employment  
55 opportunities;

56 (12) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions  
57 of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916, RSMo, and  
58 chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided  
59 for in sections 143.191 to 143.265, RSMo, and related provisions[;

60 (13) "Target area", a group of blocks or a self-defined neighborhood where the rate of  
61 poverty in the area is greater than twice the national poverty rate and as defined by the  
62 department of social services in conjunction with the department of economic development.  
63 Areas of the state satisfying the criteria of this subdivision may be designated as a "target area"  
64 following appropriate findings made and certified by the departments of economic development  
65 and social services. In making such findings, the departments of economic development and  
66 social services may use any commonly recognized records and statistical indices published or  
67 made available by any agency or instrumentality of the federal or state government. No area of  
68 the state shall be a target area until so certified by the department of social services and the  
69 revitalization plan submitted pursuant to section 208.335, RSMo, has received approval].

135.403. 1. Any investor who makes a qualified investment in a Missouri small business  
2 shall be [entitled] **eligible** to receive a tax credit equal to forty percent of the amount of the  
3 investment or, in the case of a qualified investment in a Missouri small business in a distressed  
4 community as defined by section 135.530, a credit equal to sixty percent of the amount of the  
5 investment, and any investor who makes a qualified investment in a community bank or a  
6 community development corporation shall be entitled to receive a tax credit equal to fifty percent  
7 of the amount of the investment if the investment is made in a community bank or community  
8 development corporation for direct investment. The total amount of tax credits available for  
9 qualified investments in Missouri small businesses shall not exceed [thirteen] **five** million dollars  
10 **annually** and at least [four million] **two million five hundred thousand** dollars **per year** of the

11 amount authorized by this section and certified by the department of economic development shall  
12 be for investment in Missouri small businesses in distressed communities. Authorization for all  
13 or any part of this [four- million-] **two million five hundred thousand** dollar amount shall in  
14 no way restrict the eligibility of Missouri small businesses in distressed communities, as defined  
15 in section 135.530, for the remaining amounts authorized within this section. [No more than  
16 twenty percent of the tax credits available each year for investments in community banks or  
17 community development corporations for direct investment shall be certified for any one project,  
18 as defined in section 135.400.] The tax credit shall be evidenced by a tax credit certificate in  
19 accordance with the provisions of sections 135.400 to [135.430] **135.423** and may be used to  
20 satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in  
21 which the qualified investment is made, or in any of the [ten] **five** tax years thereafter. When the  
22 qualified small business is in a distressed community, as defined in section 135.530, the tax  
23 credit may also be used to satisfy the state tax liability of the owner of the certificate that was due  
24 during each of the previous three years in addition to the year in which the investment is made  
25 and any of the [ten] **five tax** years thereafter. No investor may receive a tax credit pursuant to  
26 sections 135.400 to [135.430] **135.423** unless that person presents a tax credit certificate to the  
27 department of revenue for payment of such state tax liability. The department of revenue shall  
28 grant tax credits in the same order as established by subsection 1 of section 32.115, RSMo.  
29 Subject to the provisions of sections 135.400 to [135.430] **135.423**, certificates of tax credit  
30 issued in accordance with these sections may be transferred, sold or assigned by notarized  
31 endorsement thereof **with the department** which names the transferee **and the amount of tax**  
32 **credit transferred, as well as any other information reasonably requested by the**  
33 **department.**

34       2. Five hundred thousand dollars in tax credits shall be available annually from the total  
35 amount of tax credits authorized by section 32.110, RSMo, and subdivision (4) of subsection 2  
36 of section 32.115, RSMo, as a result of investments in community banks or community  
37 development corporations. **No more than twenty percent of the tax credits available each**  
38 **year for investments in community banks or community development corporations for**  
39 **direct investment shall be certified for any one project, as defined in section 135.400.**

40       3. Aggregate investments eligible for tax credits in any one Missouri small business shall  
41 not be more than one million dollars. Aggregate investments eligible for tax credits in any one  
42 Missouri small business shall not be less than five thousand dollars as of the date of issuance of  
43 the first tax credit certificate for investment in that business.

44       [3. This section and section 620.1039, RSMo, shall become effective January 1, 2001.]  
135.405. The total amount of tax credit evidenced by certificates of tax credit issued to  
2 or owned, directly or indirectly, by a single taxpayer authorized by the department who has

3 invested in a Missouri small business shall be not less than one thousand five hundred dollars  
4 [nor more than an aggregate of one hundred thousand dollars in any one business,] except that  
5 this section shall not be interpreted to limit other investment. These limits shall not apply to  
6 investments in community banks or community development corporations or to investments in  
7 Missouri small businesses in distressed communities, as defined in section 135.530.

135.411. The amount of the qualified investment made in a Missouri small business  
2 must remain in that business for a minimum of five years. Withdrawal of the investment prior  
3 to the minimum five-year period shall result in revocation of the tax credit, and repayment of any  
4 amounts of the tax credit already applied against [the investor's] state tax liability. **The**  
5 **department may, in its discretion, prorate the revocation or repayment authorized by this**  
6 **section. The sale, change in control or going public of a business shall not trigger such a**  
7 **revocation if the business continues to operate.**

135.420. The director shall be responsible for the administration and issuance of the  
2 certificates of tax credits authorized by sections 135.400 to [135.429. The director shall issue  
3 a certificate of tax credit at the request of any qualified investor. Each request shall include a  
4 true copy of the documents as defined by the administrative rules of the department. Each  
5 request shall be acknowledged under oath by the investor making the request for tax credits.]  
6 **135.423. The director of the department of economic development shall determine and**  
7 **implement appropriate procedures to ensure that the cap is not exceeded in any year.**  
8 **These procedures will be submitted to the joint committee on economic development policy**  
9 **and planning pursuant to section 620.080, RSMo. The department may adopt such rules,**  
10 **statements of policy, procedures, forms and guidelines as may be necessary for the**  
11 **implementation of this program. No rule or portion of a rule promulgated pursuant to the**  
12 **authority of this section shall become effective unless it has been promulgated pursuant to**  
13 **the provisions of chapter 536, RSMo.**

135.423. The department may revoke a tax credit certificate **or enforce repayment of**  
2 **any amounts of the tax credit already applied against the investor's state liability** if any  
3 representation to the department in connection with the application proves to have been false  
4 when made, **if the business fails to comply with the employee retention requirement of**  
5 **subdivision (8) of section 135.400** or if the application violates any conditions established by  
6 the department and stated in the tax credit certificate. The revocation **or repayment** may be in  
7 full or in part as the department may determine. [The] **In the case of revocation, the department**  
8 **shall specify the amount of credit being revoked and shall send notice of the revocation to the**  
9 **investor and to the state department of revenue. Any revocation, partial revocation or**  
10 **repayment of a tax credit issued pursuant to sections 135.400 to 135.430 shall apply only**  
11 **to the original applicant for the tax credit and not to a good faith subsequent purchaser or**

12 **transferee thereof.**

135.500. 1. Sections 135.500 to 135.529 shall be known and may be cited as the  
2 "Missouri Certified Capital Company Law".

3 2. As used in sections 135.500 to 135.529, the following terms mean:

4 (1) "Affiliate of a certified company":

5 (a) Any person, directly or indirectly owning, controlling or holding power to vote ten  
6 percent or more of the outstanding voting securities or other ownership interests of the Missouri  
7 certified capital company;

8 (b) Any person ten percent or more of whose outstanding voting securities or other  
9 ownership interest are directly or indirectly owned, controlled or held with power to vote by the  
10 Missouri certified capital company;

11 (c) Any person directly or indirectly controlling, controlled by, or under common control  
12 with the Missouri certified capital company;

13 (d) A partnership in which the Missouri certified capital company is a general partner;

14 (e) Any person who is an officer, director or agent of the Missouri certified capital  
15 company or an immediate family member of such officer, director or agent;

16 (2) "Applicable percentage", **up to** one hundred percent;

17 (3) "Capital in a qualified Missouri business", any debt, equity or hybrid security, of any  
18 nature and description whatsoever, including a debt instrument or security which has the  
19 characteristics of debt but which provides for conversion into equity or equity participation  
20 instruments such as options or warrants which are acquired by a Missouri certified capital  
21 company as a result of a transfer of cash to a business. Capital in a qualified Missouri business  
22 shall not include secured debt instruments;

23 (4) "Certified capital **investment**", an investment of cash by an investor in a Missouri  
24 certified capital company **that fully funds either the investor's equity interest in a certified**  
25 **capital company, a qualified debt instrument that a certified capital company issues, or**  
26 **both;**

27 (5) "Certified capital company", any partnership, corporation, trust or limited liability  
28 company, whether organized on a profit or not-for-profit basis, that is located, headquartered and  
29 registered to conduct business in Missouri that has as its primary business activity, the  
30 investment of cash in qualified Missouri businesses, and which is certified by the department as  
31 meeting the criteria of sections 135.500 to 135.529;

32 (6) "Department", the Missouri department of economic development;

33 (7) "Director", the director of the department of economic development or a person  
34 acting under the supervision of the director;

35 (8) "Investor", any insurance company that contributes cash;

- 36 (9) "Liquidating distribution", payments to investors or to the certified capital company  
37 from earnings;
- 38 (10) "Person", any natural person or entity, including a corporation, general or limited  
39 partnership, trust or limited liability company;
- 40 (11) **"Qualified debt instrument", a debt instrument that a certified capital**  
41 **company issues at par value or at a premium that:**
- 42 (a) **Has an original maturity date of at least five years from the date on which it was**  
43 **issued;**
- 44 (b) **Has a repayment schedule that is no faster than a level principal amortization;**  
45 **and**
- 46 (c) **Until the certified capital company may make distributions other than qualified**  
47 **distributions, the interest, distribution or payment features of which are not related to the**  
48 **certified capital company's profitability or the performance of its investment portfolio;**
- 49 (12) "Qualified distribution", any distribution or payment to equity holders of a certified  
50 capital company in connection with the following:
- 51 (a) Reasonable costs and expenses of forming, syndicating, managing and operating the  
52 certified capital company;
- 53 (b) Management fees for managing and operating the certified capital company **which**  
54 **do not exceed two and one-half percent of the certified capital company's total certified**  
55 **capital;**
- 56 (c) **Reasonable and necessary fees paid for professional services related to the**  
57 **operation of the certified capital company; and**
- 58 [(c)] (d) Any increase in federal or state taxes, penalties and interest, including those  
59 related to state and federal income taxes, of equity owners of a certified capital company which  
60 related to the ownership, management or operation of a certified capital company;
- 61 [(12)] (13) "Qualified investment", the investment of cash by a Missouri certified capital  
62 company in such a manner as to acquire capital in a qualified Missouri business. **The**  
63 **investment must also be for the purchase of an equity security of the qualified business or**  
64 **a debt security of the qualified business if the debt has a maturity of at least five years and**  
65 **either the debt is unsecured or is convertible into equity securities or equity participation**  
66 **instruments such as options or warrants. As a condition of the investment, the qualified**  
67 **business must agree to retain its headquarters, principle business operations and at least**  
68 **eighty percent of its employees in the state, or in a distressed community, if the investment**  
69 **is to be credited to a distressed community allocation, for three years following any**  
70 **qualified investment;**
- 71 [(13)] (14) "Qualified Missouri business", an independently owned and operated

72 business, which is headquartered and [located] **has its principle business operations** in  
73 Missouri and which is in need of venture capital and cannot obtain conventional financing. Such  
74 business:

75       **(a)** Shall have no more than two hundred employees[.];

76       **(b)** **Shall have at least** eighty percent of [which are] **its employees** employed in  
77 Missouri[.];

78       **(c)** [Such business] Shall be involved in commerce for the purpose of manufacturing,  
79 processing or assembling products, conducting research and development, or providing services  
80 in interstate commerce, but excluding retail, real estate, real estate development, insurance and  
81 professional services provided by accountants, lawyers or physicians[.];

82       **(d)** If [such business] **it** has been in existence for three years or less, its gross sales during  
83 its most recent complete fiscal years shall not have exceeded four million dollars. If such  
84 business has been in existence for longer than three years, its gross sales during its most recent  
85 complete fiscal year shall not have exceeded three million dollars[.];

86       **(e)** **Shall certify that it will maintain its headquarters, principle business operations**  
87 **and at least eighty percent of its employees in this state, or in a distressed community, if the**  
88 **investment is to be credited to a distressed community allocation, for three years following**  
89 **any qualified investment; and**

90       **(f)** [Any business which is] **If** classified as a qualified Missouri business at the time of  
91 the first investment in such business by a Missouri certified capital company shall, for a period  
92 of seven years from the date of such first investment, remain classified as a qualified Missouri  
93 business and may receive follow-on investments from any Missouri certified capital company  
94 and such follow-on investments shall be qualified investments even though such business may  
95 not meet the [other] qualifications of **paragraphs (a) and (d) of this [subsection] subdivision**  
96 **at the time of such follow-on investments, provided, however, that such business continues**  
97 **to meet the other requirements set forth in this subdivision, and such business reaffirms**  
98 **its intention to maintain its headquarters, its primary business operations and at least**  
99 **eighty percent of its employees in this state, or in a distressed community, if the investment**  
100 **is to be credited to a distressed community allocation;**

101       [(14)] **(15)** "State premium tax liability", any liability incurred by an insurance company  
102 pursuant to the provisions of section 148.320, 148.340, 148.370 or 148.376, RSMo, and any  
103 other related provisions, which may impose a tax upon the premium income of insurance  
104 companies after January 1, 1997.

135.503. 1. Any investor that makes an investment of certified capital shall, in the year  
2 of investment, earn a vested credit against state premium tax liability equal to the applicable  
3 percentage of the investor's investment of certified capital. An investor shall be entitled to take



4 up to ten percent of the vested credit in any taxable year of the investor. Any time after three  
5 years after August 28, 1996, the director, with the approval of the commissioner of  
6 administration, may reduce the applicable percentage on a prospective basis. Any such reduction  
7 in the applicable percentage by the director shall not have any effect on credits against state  
8 premium tax liability which have been claimed or will be claimed by any investor with respect  
9 to credits which have been earned and vested pursuant to an investment of certified capital prior  
10 to the effective date of any such change.

11 2. An insurance company claiming a state premium tax credit earned through an  
12 investment in a certified capital company shall not be required to pay any additional retaliatory  
13 tax levied pursuant to section 375.916, RSMo, as a result of claiming such credit.

14 3. The credit against state premium tax liability which is described in subsection 1 of this  
15 section may not exceed the state premium tax liability of the investor for any taxable year. All  
16 such credits against state premium tax liability may be carried forward indefinitely until the  
17 credits are utilized. The maximum amount of certified capital in one or more certified capital  
18 companies for which earned and vested tax credits will be allowed in any year to any one  
19 investor or its affiliates shall be limited to ten million dollars.

20 4. Except as provided in subsection 5 of this section, the aggregate amount of certified  
21 capital for which earned and vested credits against state premium tax liability are allowed for all  
22 persons pursuant to sections 135.500 to 135.529 shall not exceed the following amounts: for  
23 calendar year 1996, \$0.00; for calendar year 1997, an amount which would entitle all Missouri  
24 certified capital company investors to take aggregate credits of five million dollars; and for any  
25 year thereafter, an additional amount to be determined by the director but not to exceed aggregate  
26 credits of ten million dollars for any year with the approval of the commissioner of  
27 administration and reported to the general assembly as provided in subsection 2 of section  
28 33.282, RSMo, provided that the amount so determined shall not impair the ability of an investor  
29 with earned and vested credits which have been allowed in previous years to take them, pursuant  
30 to subsection 1 of this section. [During any calendar year in which the limitation described in  
31 this subsection will limit the amount of certified capital for which earned and vested credits  
32 against state premium tax liability are allowed, certified capital for which credits are allowed will  
33 be allocated in order of priority based upon the date of filing of information described in  
34 subdivision (1) of subsection 5 of section 135.516. Certified capital limited in any calendar year  
35 by the application of the provisions of this subsection shall be allowed and allocated in the  
36 immediately succeeding calendar year in the order of priority set forth in this subsection.] The  
37 department shall make separate allocations of certified capital for which credits are allowed  
38 under the limitations described in this subsection and under the limitations described in  
39 subsection 5 of this section.

40           5. In addition to the maximum amount pursuant to subsection 4 of this section, the  
41 aggregate amount of certified capital for which earned and vested credits against state premium  
42 tax liability are allowed for persons pursuant to sections 135.500 to 135.529 shall be the  
43 following: for calendar year 1999 [and for any year thereafter], an amount to be determined by  
44 the director which would entitle all Missouri certified capital company investors to take  
45 aggregate credits not to exceed four million dollars for any year; **and for calendar year 2002,**  
46 **an amount to be determined by the director, but not to exceed thirty million dollars,**  
47 **entitling all Missouri certified capital company investors in the applicable funds to take**  
48 **aggregate credits not to exceed three million dollars for any year,** with the approval of the  
49 commissioner of administration and reported to the general assembly as provided in subsection  
50 2 of section 33.282, RSMo, provided that the amount so determined shall not impair the ability  
51 of an investor with earned and vested credits which have been allowed in previous years or  
52 pursuant to the provisions of subsection 4 of this section to take them, pursuant to subsection 1  
53 of this section. For purposes of any requirement regarding the schedule of qualified investments  
54 for certified capital for which earned and vested credits against state premium tax liability are  
55 allowed pursuant to this subsection only, the definition of a "qualified Missouri business" as set  
56 forth in subdivision [(13)] **(14)** of subsection 2 of section 135.500 means a Missouri business  
57 that is located in a distressed community as defined in section 135.530, **has at least eighty**  
58 **percent of its employees in a distressed community,** and meets all of the requirements of  
59 subdivision [(13)] **(14)** of subsection 2 of section 135.500, except that its gross sales during its  
60 most recent complete fiscal year shall not have exceeded five million dollars. [During any  
61 calendar year in which the limitation described in this subsection limits the amount of additional  
62 certified capital for which earned and vested credits against state premium tax liability are  
63 allowed, additional certified capital for which credits are allowed shall be allocated in order of  
64 priority based upon the date of filing of information described in subdivision (1) of subsection  
65 5 of section 135.516 with respect to such additional certified capital. The department shall make  
66 separate allocations of certified capital for which credits are allowed under the limitations  
67 described in this subsection and under the limitations described in subsection 4 of this section.  
68 No limitation applicable to any certified capital company with respect to certified capital for  
69 which credits are allowed pursuant to subsection 4 of this section shall limit the amount of  
70 certified capital for which credits are allowed pursuant to this subsection. No limitation  
71 applicable to any certified capital company with respect to certified capital for which credits are  
72 allowed pursuant to this subsection shall limit the amount of certified capital for which credits  
73 are allowed pursuant to subsection 4 of this section.]

74           6. The department shall advise any Missouri certified capital company, in writing, within  
75 fifteen days after receiving the filing described in subdivision (1) of subsection 5 of section

76 135.516 whether the limitations of subsection [3] **4 or 5** of this section then in effect will be  
77 applicable with respect to the investments and credits described in such filing with the  
78 department.

79 **7. In no event shall the cumulative amount of tax credits authorized by this section**  
80 **exceed one hundred seventy million dollars.**

135.508. **1.** The department may certify profit or not for profit entities which submit an  
2 application to be designated as a Missouri certified capital company. The department shall  
3 review the organizational documents for each applicant for certification and the business history  
4 of the applicant, determine that the Missouri certified capital company's cash, marketable  
5 securities and other liquid assets are at least five hundred thousand dollars, determine that the  
6 liquid asset base for certified companies is at least five hundred thousand dollars at all times  
7 during the company's participation in the program authorized by sections 135.500 to 135.529,  
8 and determine that the officers and the board of directors, partners, trustees or managers are  
9 thoroughly acquainted with the requirements of sections 135.500 to 135.529.

10 **2. To be certified, at least two of the principals have a minimum of five years of**  
11 **experience making venture capital investments out of private equity funds, with not less**  
12 **than twenty million dollars being provided by third-party investors for investment in the**  
13 **early stage of operating businesses. At least one full-time manager or principal of the**  
14 **certified capital company who has such experience must be primarily located in an office**  
15 **of the certified capital company which is based in this state.**

16 **3. To be certified, there must be no evidence that the applicant has:**

17 **(1) Violated any provision of this law;**

18 **(2) Made a material misrepresentation or false statement or concealed any essential**  
19 **or material fact from any person during the application process or with respect to**  
20 **information and reports required of certified capital companies pursuant to this law;**

21 **(3) Been convicted of, or entered a plea of guilty or nolo contendere to, a crime**  
22 **against the laws of this state or any other state or of the United States or any other country**  
23 **or government, including a fraudulent act in connection with the operation of a certified**  
24 **capital company, or in connection with the performance of fiduciary duties in another**  
25 **capacity;**

26 **(4) Been adjudicated liable in a civil action on grounds of fraud, embezzlement,**  
27 **misrepresentation or deceit; or**

28 **(5) Been the subject of any decision, finding, injunction, suspension, prohibition,**  
29 **revocation, denial, judgment or administrative order by any court of competent**  
30 **jurisdiction, administrative law judge, or any state or federal agency, national securities,**  
31 **commodities, or option exchange, or national securities, commodities or option association,**

32 **involving a material violation of any federal or state securities or commodities law or any**  
33 **rule or regulation adopted under such law, or any rule or regulation of any national**  
34 **securities, commodities or options exchange, or national securities, commodities or options**  
35 **association; or**

36 **(6) Been the subject of any injunction or adverse administrative order by a state**  
37 **or federal agency regulating banking, insurance, finance or small loan companies, real**  
38 **estate, mortgage brokers or other related or similar industries.**

39 **4.** No insurance company which receives tax credits permitted under sections 135.500  
40 to 135.529 for an investment in a Missouri certified capital company shall, individually or with  
41 or through one or more affiliates, be a managing general partner of or control the direction of  
42 investments of that Missouri certified capital company. Within seventy-five days of application,  
43 the department shall either issue the certification and notify the department of revenue and the  
44 director of the department of insurance of such certification or shall refuse the certification and  
45 communicate in detail to the applicant the grounds for the refusal, including the suggestions for  
46 the removal of those grounds.

47 **5.** The department shall be responsible for the administration of the tax credits  
48 authorized by sections 135.500 to 135.529. No rule or portion of a rule promulgated under the  
49 authority of sections 135.500 to 135.529 shall become effective unless it has been promulgated  
50 pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to  
51 June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be  
52 interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if  
53 such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and  
54 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
55 pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to  
56 disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the  
57 purported grant of rulemaking authority and any rule so proposed and contained in the order of  
58 rulemaking shall be invalid and void.

135.516. 1. To continue to be certified, a Missouri certified capital company shall make  
2 qualified investments according to the following schedule:

3 (1) Within two years after the date on which a Missouri certified capital company is  
4 designated as a Missouri certified capital company at least twenty-five percent of its certified  
5 capital shall be, or have been, placed in qualified investments;

6 (2) Within three years after the date on which a Missouri certified capital company is  
7 designated as a Missouri certified capital company at least forty percent of its certified capital  
8 shall be, or have been, placed in qualified investments;

9 (3) Within four years after the date on which a Missouri certified capital company is

10 designated as a Missouri certified capital company, at least fifty percent of its total certified  
11 capital shall be, or have been, placed in qualified investments. A Missouri certified capital  
12 company may not make an investment in an affiliate of the certified capital company. For the  
13 purposes of this subsection, if a legal entity is not an affiliate before a certified capital company  
14 initially invests in the entity, it will not be an affiliate if a certified capital company provides  
15 additional investment in such entity subsequent to its initial investment;

16 **(4) In the event that a business in which a qualified investment is made fails to**  
17 **comply with its agreement to retain its headquarters, principle business operations and at**  
18 **least eighty percent of its employees in the state, or in a distressed community, if the**  
19 **investment is to be credited to a distressed community allocation, for three years following**  
20 **any qualified investment, by relocating its headquarters, principal business operations or**  
21 **the primary workplace of more than fifty percent of the employees of such business within**  
22 **the state to another state, the cumulative amount of qualified investment shall be reduced**  
23 **by the amount of such qualified investment, unless:**

24 **(a) The certified capital company invests an amount of at least equal to the**  
25 **investment of certified capital in the relocated business in a qualified business located in**  
26 **the state or in a distressed community, if the investment is to be credited to a distressed**  
27 **community allocation, within six months of the relocation; or**

28 **(b) The business demonstrates that it has returned its principal business operations**  
29 **to Missouri or a distressed community, if the investment is to be credited to a distressed**  
30 **community allocation, within three months of such relocation;**

31 **(5)** A certified capital company, at least fifteen working days prior to making what it  
32 determines to be an initial qualified investment in a specific qualified Missouri business, shall  
33 certify to the department that the company in which it proposes to invest meets the definition of  
34 a qualified Missouri business pursuant to subdivision (14) of subsection 2 of section 135.500.  
35 The certified capital company shall state the amount of capital it intends to invest and the name  
36 of the business in which it intends to invest. The certified capital company shall also provide to  
37 the department an explanation of its determination that the business meets the definition of a  
38 qualified Missouri business. If the department determines that the business does not meet the  
39 definition of a qualified Missouri business, it shall, within the fifteen-working-day period prior  
40 to the making of the proposed investment, notify the certified capital company of its  
41 determination and an explanation thereof. If the department fails to notify the certified capital  
42 company with respect to the proposed investment within the fifteen-working-day period prior  
43 to the making of the proposed investment, the company in which the certified capital company  
44 proposes to invest shall be deemed to be a qualified Missouri business. If a certified capital  
45 company fails to notify the department prior to making an initial investment in a business, the

46 department may subsequently determine that the business in which the certified capital company  
47 invested was not a qualified Missouri business even though the business, at the time of the  
48 investment, met the requirements of subdivision (14) of subsection 2 of section 135.500;

49 ~~[(5)]~~ **(6)** All certified capital which is not required to be placed in qualified investments  
50 or which has been placed in qualified investments and can be received by the company[, may be  
51 held or invested in such manner as the Missouri certified capital company, in its discretion,  
52 deems appropriate]:

53 **(a) Shall be held in a financial institution or held by a registered broker-dealer;**

54 **(b) Shall not be invested in a certified investor of the certified capital company or**  
55 **any affiliate of the certified investor of the certified capital company;**

56 **(c) Shall be invested only in:**

57 **a. Any United States Treasury obligations;**

58 **b. Certificates of deposit or other obligations, maturing within three years after**  
59 **acquisition of such certificates or obligations, issued by any financial institution or trust**  
60 **company incorporated under the laws of the United States;**

61 **c. Marketable obligations, maturing within five years or less after the acquisition**  
62 **of such obligations, which are rated "A" or better by any nationally recognized credit**  
63 **rating agency;**

64 **d. Mortgage-backed securities, with an average life of five years or less, after the**  
65 **acquisition of such securities, which are rated "A" or better by any nationally recognized**  
66 **credit rating agency;**

67 **e. Collateralized mortgage obligations and real estate mortgage investment conduits**  
68 **that are direct obligations of an agency of the United States government, are not private-**  
69 **label issues, are in book-entry form, and do not include the classes of interest only,**  
70 **principal only, residual or zero; or**

71 **f. Interests in money market funds, the portfolio of which is limited to cash and**  
72 **obligations described in subparagraphs a to d of this paragraph.**

73 **2.** The proceeds of all certified capital which is received by a certified capital company  
74 after it was originally placed in qualified investments may be placed again in qualified  
75 investments and [shall] **may** count toward any requirement in sections 135.500 to 135.529 with  
76 respect to placing certified capital in qualified investments, **subject to the approval of the**  
77 **department.**

78 **[2.] 3.** A certified capital company may make qualified distributions at any time. In  
79 order to make distributions, other than qualified distributions, a certified capital company must  
80 have placed an amount cumulatively equal to one hundred percent of its certified capital in  
81 qualified investments. Cumulative distributions to equity holders, other than qualified

82 distributions, in excess of the certified capital company's original certified capital and any  
83 additional capital contributions to the certified capital company shall be subject to audit by a  
84 nationally recognized certified public accounting firm acceptable to the department, at the  
85 expense of the certified capital company. The audit shall determine whether aggregate  
86 cumulative distributions to all investors and equity holders, other than qualified distributions,  
87 when combined with all tax credits utilized by investors pursuant to sections 135.500 to 135.529,  
88 have resulted in an annual internal rate of return of fifteen percent computed on the sum of total  
89 original certified capital of the certified capital company and any additional capital contributions  
90 to the certified capital company. Twenty-five percent of distributions made, other than qualified  
91 distributions, in excess of the amount required to produce a fifteen percent annual internal rate  
92 of return, as determined by the audit, shall be payable by the certified capital company to the  
93 Missouri development finance board. Distributions or payments to debt holders of a certified  
94 capital company, however, may be made without restriction with respect to debt owed to them  
95 by a certified capital company. A debt holder that is also an investor or equity holder of a  
96 certified capital company may receive distributions or payments with respect to such debt  
97 without restriction.

98 [3.] 4. No qualified investment may be made at a cost to a Missouri certified capital  
99 company greater than fifteen percent of the total certified capital under management of the  
100 Missouri certified capital company at the time of investment.

101 [4.] 5. Documents and other materials submitted by Missouri certified capital companies  
102 or by businesses for purposes of the continuance of certification may be deemed "closed records"  
103 pursuant to the provisions of section 620.014, RSMo.

104 [5.] 6. Each Missouri certified capital company shall report the following to the  
105 department:

106 (1) As soon as practicable after the receipt of certified capital, the name of each investor  
107 from which the certified capital was received, the amount of each investor's investment of  
108 certified capital and tax credits computed without regard to any limitations under subsection 3  
109 of section 135.503, and the date on which the certified capital was received;

110 (2) On a quarterly basis, the amount of the Missouri certified capital company's certified  
111 capital at the end of the quarter, whether or not the Missouri certified capital company has  
112 invested more than fifteen percent of the total certified capital under management in any one  
113 company, and all qualified investments that the Missouri certified capital company has made;

114 (3) Each Missouri certified capital company shall provide annual audited financial  
115 statements to the department which include an opinion of an independent certified public  
116 accountant to the department within ninety days of the close of the fiscal year. The audit shall  
117 address the methods of operation and conduct of the business of the Missouri certified capital

118 company to determine if the Missouri certified capital company is complying with the statutes  
119 and program rules and that the funds received by the Missouri certified capital company have  
120 been invested as required within the time limits provided by sections 135.500 to 135.529.

135.520. 1. The division of finance of the department of economic development shall  
2 conduct an annual review of each Missouri certified capital company to determine if the Missouri  
3 certified capital company is abiding by the requirements of certifications, to advise the Missouri  
4 certified capital company as to the certification status of its qualified investments and to ensure  
5 that no investment has been made in violation of sections 135.500 to 135.529. The cost of the  
6 annual review shall be paid by each Missouri certified capital company according to a reasonable  
7 fee schedule adopted by the department. The division of finance shall report its findings to the  
8 department as soon as practicable following completion of the audit.

9 2. Any material violation of sections 135.500 to 135.529 shall be grounds for  
10 decertification under this section. If the department determines that a company is not in  
11 compliance with any requirements for continuing in certification, it shall, by written notice,  
12 inform the officers of the company and the board of directors, managers, trustees or general  
13 partners that they may be decertified in one hundred twenty days from the date of mailing of the  
14 notice, unless they correct the deficiencies and are again in compliance with the requirements  
15 for certification.

16 3. At the end of the one hundred twenty-day grace period, if the Missouri certified capital  
17 company is still not in compliance, the department may send a notice of decertification to the  
18 company and to the directors of the department of revenue and department of insurance.  
19 Decertification of a Missouri certified capital company prior to the certified capital company  
20 meeting all requirements of subdivisions (1) to [(3)] (4) of subsection 1 of section 135.516 shall  
21 cause the recapture of all premium tax credits previously claimed by an investor and the  
22 forfeiture of all future credits to be claimed by an investor with respect to its investment in the  
23 certified capital company. Decertification of a Missouri certified capital company after it has  
24 met all requirements of subdivisions (1) to [(3)] (4) of subsection 1 of section 135.516 shall  
25 cause the forfeiture of premium tax credits for the taxable year of the investor in which the  
26 decertification arose and for future taxable years with no recapture of tax credits obtained by an  
27 investor with respect to the investor's tax years which ended before the decertification occurred.  
28 Once a certified capital company has invested one hundred percent of its certified capital in  
29 qualified Missouri businesses, all future premium tax credits to be claimed by investors with  
30 respect to said certified capital company pursuant to sections 135.500 to 135.529 shall be  
31 nonforfeitable. Once a certified capital company has invested one hundred percent of its certified  
32 capital in qualified Missouri businesses and has met all other requirements under sections  
33 135.500 to 135.529, it shall no longer be subject to regulation by the department except with



34 respect to the payment of distributions to the Missouri development finance board.

135.527. 1. On an annual basis, on or before January thirty-first, each certified  
2 capital company shall file with the department, on forms or in a manner prescribed by the  
3 department, a report for the period ending December thirty-first of the immediately  
4 preceding calendar year:

5 (1) The total dollar amount the certified capital company received from certified  
6 investors, the identity of the certified investors and the amount received from each certified  
7 investor;

8 (2) The total dollar amount the certified capital company invested and the amount  
9 invested in qualified businesses, together with the identity and location of those businesses  
10 and the amount invested in each qualified business; and

11 (3) The total number of permanent, full-time jobs either created or retained by the  
12 qualified business, the average wage of the jobs created or retained, the industry sectors  
13 in which the qualified businesses operate and any additional capital invested in qualified  
14 businesses from sources other than certified capital companies.

15 2. The report shall be verified by one or more principals of the certified capital  
16 company submitting the form.

17 3. The department may audit and examine the accounts, books or records of  
18 certified capital companies, certified investors and qualified Missouri businesses that  
19 received qualified investments for the purpose of ascertaining the correctness of any report  
20 filed, and to ascertain a certified capital company's compliance with the provisions of  
21 sections 135.500 to 135.529.

22 4. Beginning on March 31, 2002, and on March thirty-first of each even-numbered  
23 year thereafter, the department shall report on a biennial basis to the governor, the  
24 speaker of the house of representatives, and the president pro tempore of the senate on or  
25 before April first:

26 (1) The total dollar amount each certified capital company received from all  
27 certified investors and any other investor, the identity of the certified investors, and the  
28 total amount of premium tax credit used by each certified investor for the previous  
29 calendar year;

30 (2) The total dollar amount invested by each certified capital company and that  
31 portion invested in qualified businesses, the identity and location of those businesses, the  
32 amount invested in each qualified business and the total number of permanent, full-time  
33 jobs created or retained by each qualified business; and

34 (3) The return for the state as a result of the certified capital company investments,  
35 including the extend to which:

- 36           **(a) Certified capital company investments have contributed to employment growth;**  
37           **(b) The wage level of businesses in which certified capital companies have invested**  
38 **exceeds the average wage for the county in which the jobs are located; and**  
39           **(c) The investments of the certified capital companies in qualified businesses have**  
40 **contributed to expanding or diversifying the economic base of the state.**

135.535. 1. A corporation, limited liability corporation, partnership or sole  
2 proprietorship[,] which moves its operations from outside Missouri or outside a distressed  
3 community into a distressed community, or which commences operations in a distressed  
4 community on or after January 1, 1999, and in either case has more than [seventy-five] **sixty**  
5 percent of its employees at the [facility] **facilities** in [the] distressed [community] **communities**,  
6 and which has fewer than one hundred **fifty** employees for whom payroll taxes are paid, and  
7 which is a manufacturing, biomedical, medical devices, scientific research, animal research,  
8 computer software design or development, computer programming, telecommunications or a  
9 professional firm shall receive a forty percent credit against income taxes owed pursuant to  
10 chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to  
11 143.265, RSMo, for each of the three years after such move, if approved by the department of  
12 economic development, which shall issue a certificate of eligibility if the department determines  
13 that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set  
14 forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the  
15 three years for which the credit is claimed. The department of economic development, by means  
16 of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall [assign]  
17 **specify which** appropriate standard industrial classification numbers [to the companies which  
18 are] **or subsequent federal industry classification system numbers assigned to a business**  
19 **make the business** eligible for the tax credits provided for in this section. Such three-year  
20 credits shall be awarded only one time to any company which moves its operations from outside  
21 of Missouri or outside of a distressed community into a distressed community or to a company  
22 which commences operations within a distressed community. A taxpayer shall file an  
23 application for certification of the tax credits for the first year in which credits are claimed and  
24 for each of the two succeeding taxable years for which credits are claimed.

25           2. Employees of such facilities physically working and earning wages for that work  
26 within a distressed community whose employers have been approved for tax credits pursuant to  
27 subsection 1 of this section by the department of economic development for whom payroll taxes  
28 are paid shall, also be eligible to receive a tax credit against individual income tax, imposed  
29 pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at  
30 such facility earned for each of the three years that the facility receives the tax credit provided  
31 by this section, so long as they were qualified employees of such entity. The employer shall

32 calculate the amount of such credit and shall report the amount to the employee and the  
33 department of revenue.

34         3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo,  
35 other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the  
36 credit against income taxes as provided in subsection 1 of this section, may be taken by such an  
37 entity in a distressed community in an amount of forty percent of the amount of funds expended  
38 **for an operating lease that is for at least two years, a capital lease or a purchase of** computer  
39 equipment and its maintenance, medical laboratories and equipment, research laboratory  
40 equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications,  
41 wiring or software development expense up to a maximum of seventy-five thousand dollars in  
42 tax credits for such equipment or expense per year per entity [and] for each of three years after  
43 commencement in or moving operations into a distressed community. A corporation, partnership  
44 or sole proprietorship, which has no more than one hundred employees for whom payroll taxes  
45 are paid, and which is already located in a distressed community, which expends funds for such  
46 equipment as set forth in this subsection in an amount exceeding its average of the prior two  
47 years for such equipment, shall be eligible to receive a twenty-five percent tax credit against  
48 income taxes owed pursuant to chapters 143, 147 and 148, RSMo, up to a maximum of  
49 [seventy-five] **one hundred fifty** thousand dollars in tax credits for such additional equipment  
50 and expense per such entity. Tax credits pursuant to this subsection or subsection 1 may be used  
51 to satisfy the state tax liability due in the tax year the credit is certified, and that was due during  
52 the previous three years, and in any of the five tax years thereafter.

53         4. Tax credits shall be approved for applicants meeting the requirements of this section  
54 in the order that such applications are received. Certificates of tax credits issued in accordance  
55 with this section may be transferred, sold or assigned by **filing a** notarized endorsement **thereof**  
56 **with the department** which names the transferee **and the amount of tax credits transferred,**  
57 **as well as any other information reasonably requested by the department.**

58         5. The tax credits allowed pursuant to subsections 1, 2 and 3 of this section shall be for  
59 an amount of no more than ten million dollars for each year beginning in 1999. The total  
60 maximum credit for all entities already located in distressed communities and claiming credits  
61 pursuant to subsection 3 of this section shall be seven hundred and fifty thousand dollars. The  
62 department of economic development in approving taxpayers for the credit as provided for in  
63 subsection 4 of this section shall use information provided by the department of revenue  
64 regarding taxes paid in the previous year, or projected taxes for those entities newly established  
65 in the state, as the method of determining when this maximum will be reached and shall maintain  
66 a record of the order of approval. [Any tax credit not used in the period for which the credit was  
67 approved may be carried over until the full credit has been allowed.]

68           6. A Missouri employer relocating into a distressed community and having employees  
69 covered by a collective bargaining agreement at the facility from which it is relocating shall not  
70 be eligible for the credits in subsection 1 or 3 of this section, and its employees shall not be  
71 eligible for the credit in subsection 2 of this section if the relocation violates or terminates a  
72 collective bargaining agreement covering employees at the facility, unless the affected collective  
73 bargaining unit concurs with the move.

74           7. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
75 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the  
76 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and  
77 135.245, respectively, for the same business for the same tax period.

78           8. An existing business located within a distressed community, that hires new employees  
79 within such distressed communities may be eligible for the tax credits provided in this section.  
80 In order to be eligible for such tax credits, the business located within the distressed community,  
81 during one of its tax years, must employ within such distressed communities at least twice as  
82 many workers as were employed at the beginning of that tax year. Prior to the addition of the  
83 new employees, the business shall have no more than one hundred employees. The provisions  
84 of this section shall apply only to a business which is a manufacturing, biomedical, medical  
85 devices, scientific research, animal research, computer software design or development,  
86 computer programming, or telecommunications business or a professional firm.

135.545. 1. A taxpayer shall be [allowed] **eligible to receive** a credit for taxes paid  
2 pursuant to chapter 143, **(exclusive of the provisions relating to the withholding of tax as**  
3 **provided in sections 143.191 to 143.265, RSMo)** 147 or 148, RSMo, in an amount equal to fifty  
4 percent of a **contribution to or** qualified investment in transportation development [for]  
5 **projects, which can include** aviation, mass transportation, including parking facilities for users  
6 of mass transportation, railroads, ports, including parking facilities and limited access roads  
7 within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in  
8 a distressed community as defined in section 135.530, and which are part of a development plan  
9 approved by the appropriate local agency. [If the department of economic development  
10 determines the investment has been so approved,] The department shall grant the tax [credit in  
11 order of date received] **credits to qualified taxpayers contributing to or investing in**  
12 **approved projects. Not-for-profit entities, including but not limited to, corporations**  
13 **organized pursuant to chapter 355, RSMo, shall be ineligible for the tax credit authorized**  
14 **pursuant to this section.**

15           2. A taxpayer may carry forward any unused tax credit for up to [ten] **five** years and may  
16 carry it back for the previous three years until such credit has been fully claimed. Certificates of  
17 tax credit issued in accordance with this section may be transferred, sold or assigned by **filing**

18 a notarized endorsement **thereof with the department of economic development** which names  
19 the transferee **and the amount of tax credits transferred, as well as any other information**  
20 **reasonably requested by the department.**

21 **3. The tax credits allowed pursuant to this section shall be for an amount of no more than**  
22 **ten million dollars for each year. [This credit shall apply to returns filed for all taxable years**  
23 **beginning on or after January 1, 1999. Any unused portion of the tax credit authorized pursuant**  
24 **to this section shall be available for use in the future by those entities until fully claimed.] The**  
25 **director of the department of economic development shall determine and implement**  
26 **appropriate procedures to ensure that the cap is not exceeded in any year. These**  
27 **procedures will be submitted to the joint committee on economic development policy and**  
28 **planning pursuant to section 620.080, RSMo. The department may adopt such rules,**  
29 **statements of policy, procedures, forms and guidelines as may be necessary for the**  
30 **implementation of this program. No rule or portion of a rule promulgated pursuant to the**  
31 **authority of this section shall become effective unless it has been promulgated pursuant to**  
32 **the provisions of chapter 536, RSMo.**

135.700. 1. For all tax years beginning on or after January 1, [1999] **2002**, a grape  
2 grower or wine producer shall be [allowed] **eligible to receive** a tax credit against the state tax  
3 liability incurred pursuant to chapter 143, RSMo, exclusive of the provisions relating to the  
4 withholding of tax as provided in sections 143.191 to 143.265, RSMo, in an amount equal to  
5 twenty-five percent of the purchase price of all new equipment and materials used directly in the  
6 growing of grapes or the production of wine in the state. Each grower or producer shall apply  
7 to the department of economic development and specify the total amount of such new equipment  
8 and materials purchased during the [calendar] year. The department of economic development  
9 shall certify to the department of revenue the amount of such tax credit [to which] **that it**  
10 **authorizes** a grape grower or wine producer [is entitled] pursuant to this section. The provisions  
11 of this section notwithstanding, a grower or producer may only apply for and receive the credit  
12 authorized by this section for five tax periods.

13 **2. The tax credits allowed pursuant to this section shall be for an amount of no**  
14 **more than one million dollars for each year. The director of the department of economic**  
15 **development shall determine and implement appropriate procedures to ensure that the cap**  
16 **is not exceeded in any year. These procedures will be submitted to the joint committee on**  
17 **economic development policy and planning pursuant to section 620.080, RSMo. The**  
18 **department may adopt such rules, statements of policy, procedures, forms and guidelines**  
19 **as may be necessary for the implementation of this program. No rule or portion of a rule**  
20 **promulgated pursuant to the authority of this section shall become effective unless it has**  
21 **been promulgated pursuant to the provisions of chapter 536, RSMo.**

178.892. As used in sections 178.892 to 178.896, the following terms mean:

- 2 (1) "Agreement", the agreement, between an employer and a junior college district,  
3 concerning a project. An agreement may be for a period not to exceed ten years when the  
4 program services associated with a project are not in excess of five hundred thousand dollars.  
5 For a project where associated program costs are greater than five hundred thousand dollars, the  
6 agreement may not exceed a period of eight years. No agreement shall be entered into between  
7 an employer and a community college district which involves the training of potential employees  
8 with the purpose of replacing or supplanting employees engaged in an authorized work stoppage;
- 9 (2) "Board of trustees", the board of trustees of a junior college district;
- 10 (3) "Certificate", industrial new jobs training certificates issued pursuant to section  
11 178.895;
- 12 (4) "Date of commencement of the project", the date of the agreement;
- 13 (5) "Employee", the person employed in a new job;
- 14 (6) "Employer", the person providing new jobs in conjunction with a project;
- 15 (7) "Industry", a business located within the state of Missouri which enters into an  
16 agreement with a community college district and which is engaged in interstate or intrastate  
17 commerce for the purpose of manufacturing, processing, or assembling products, conducting  
18 research and development, or providing services in interstate commerce, but excluding retail[,  
19 health, or professional services]. "Industry" does not include a business which closes or  
20 substantially reduces its operation in one area of the state and relocates substantially the same  
21 operation in another area of the state. This does not prohibit a business from expanding its  
22 operations in another area of the state provided that existing operations of a similar nature are  
23 not closed or substantially reduced;
- 24 (8) "New job", a job in a new or expanding industry not including jobs of recalled  
25 workers, or replacement jobs or other jobs that formerly existed in the industry in the state;
- 26 (9) "New jobs credit from withholding", the credit as provided in section 178.894;
- 27 (10) "New jobs training program" or "program", the project or projects established by  
28 a community college district for the creation of jobs by providing education and training of  
29 workers for new jobs for new or expanding industry in the state;
- 30 (11) "Program costs", all necessary and incidental costs of providing program services  
31 including payment of the principal of, premium, if any, and interest on certificates, including  
32 capitalized interest, issued to finance a project, funding and maintenance of a debt service reserve  
33 fund to secure such certificates and wages, salaries and benefits of employees participating in  
34 on-the-job training;
- 35 (12) "Program services" includes, but is not limited to, the following:  
36 (a) New jobs training;

- 37 (b) Adult basic education and job-related instruction;  
38 (c) Vocational and skill-assessment services and testing;  
39 (d) Training facilities, equipment, materials, and supplies;  
40 (e) On-the-job training;  
41 (f) Administrative expenses equal to fifteen percent of the total training costs;  
42 (g) Subcontracted services with state institutions of higher education, private colleges  
43 or universities, or other federal, state, or local agencies;  
44 (h) Contracted or professional services; and  
45 (i) Issuance of certificates;  
46 (13) "Project", a training arrangement which is the subject of an agreement entered into  
47 between the community college district and an employer to provide program services;  
48 (14) "Total training costs", costs of training, including supplies, wages and benefits of  
49 instructors, subcontracted services, on-the-job training, training facilities, equipment, skill  
50 assessment and all program services excluding issuance of certificates.

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in  
2 which the rehabilitated property is placed in service, the amount that exceeds the state tax  
3 liability may be carried back to any of the three preceding years and carried forward for credit  
4 against the taxes imposed pursuant to chapter 143, RSMo, and chapter 148, RSMo, except for  
5 sections 143.191 to 143.265, RSMo, for the succeeding [ten] **five** years, or until the full credit  
6 is used, whichever occurs first. Not-for-profit entities, including but not limited to corporations  
7 organized as not-for-profit corporations pursuant to chapter 355, RSMo, shall be ineligible for  
8 the tax credits authorized [under] **pursuant to** sections 253.545 [through 253.561] **to 253.559**.  
9 Taxpayers eligible for such tax credits may transfer, sell or assign the credits. Credits granted  
10 to a partnership, a limited liability company taxed as a partnership or multiple owners of property  
11 shall be passed through to the partners, members or owners respectively pro rata or pursuant to  
12 an executed agreement among the partners, members or owners documenting an alternate  
13 distribution method.

14 2. The assignee of the tax credits, hereinafter the assignee for purposes of this  
15 subsection, may use acquired credits to offset up to one hundred percent of the tax liabilities  
16 otherwise imposed pursuant to chapter 143, RSMo, and chapter 148, RSMo, except for sections  
17 143.191 to 143.265, RSMo. [The assignor shall perfect such transfer by notifying the department  
18 of economic development in writing within thirty calendar days following the effective date of  
19 the transfer and shall provide any information as may be required by the department of economic  
20 development to administer and carry out the provisions of this section.] **Certificates of tax**  
21 **credits issued in accordance with this section may be transferred, sold or assigned by filing**  
22 **a notarized endorsement thereof with the department of economic development which**

23 **names the transferee and the amount of tax credits transferred, as well as any other**  
24 **information reasonably requested by the department.**

253.559. 1. To claim the credit authorized pursuant to sections [253.550 to 253.561 of  
2 senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and  
3 section 253.557 of this act] **253.545 to 253.559**, the taxpayer shall apply to the department of  
4 economic development which, in consultation with the department of natural resources, shall  
5 determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation  
6 meets the standards of the Secretary of the United States Department of the Interior for  
7 rehabilitation as determined by the state historic preservation officer of the Missouri department  
8 of natural resources. For financial institutions credits authorized pursuant to sections [253.550  
9 to 253.561] **253.545 to 253.559** shall be deemed to be "economic development credits" for  
10 purposes of section 148.064, RSMo. The issuing of certificates of eligible credits to taxpayers  
11 shall be performed by the department of economic development. The taxpayer shall attach the  
12 certificate to all Missouri income tax returns on which the credit is claimed.

13 2. [The department of economic development shall determine, on an annual basis, the  
14 overall economic impact to the state from the rehabilitation of eligible property.] **The**  
15 **application for tax credits authorized by sections 253.545 to 253.559 shall be made no later**  
16 **than the end of the taxpayer's tax period immediately following the tax period during**  
17 **which the project was placed in service.**

**348.254. Records and documents submitted to the Missouri Technology**  
2 **Corporation relating to financial investments in a business, or sales projections or other**  
3 **business plan information which may endanger the competitiveness of a business, or**  
4 **records and documents submitted to the Missouri Technology Corporation relating to tax**  
5 **credits except for the amount and recipient of any tax credits that are awarded may be**  
6 **deemed a "closed record" for the purposes of chapter 610, RSMo.**

348.256. The articles of incorporation and bylaws of the Missouri technology  
2 corporation shall provide that:

3 (1) The purposes of the corporation are to contribute to the strengthening of the economy  
4 of the state through the development of science and technology, to promote the modernization  
5 of Missouri businesses by supporting the transfer of science, technology and quality  
6 improvement methods to the workplace, and to enhance the productivity and modernization of  
7 Missouri businesses by providing leadership in the establishment of methods of technology  
8 application, technology commercialization and technology development;

9 (2) The board of directors of the corporation is composed of fifteen persons. The  
10 governor shall annually appoint one of its members, who must be from the private sector, as  
11 chairman. The board shall consist of the following members:



- 12 (a) The director of the department of economic development, or the director's designee;  
13 (b) The president of the University of Missouri system, or the president's designee;  
14 (c) A member of the state senate, appointed by the president pro tem of the senate;  
15 (d) A member of the house of representatives, appointed by the speaker of the house;  
16 (e) Eleven members appointed by the governor, two of which shall be from the public  
17 sector and nine members from the private sector who shall include, but shall not be limited to,  
18 individuals who represent technology-based businesses and industrial interests;  
19 (f) Each of the directors of the corporation who is appointed by the governor shall serve  
20 for a term of four years and until a successor is duly appointed; except that, of the directors  
21 serving on the corporation as of August 28, 1995, three directors shall be designated by the  
22 governor to serve a term of four years, three directors shall be designated to serve a term of three  
23 years, three directors shall be designated to serve a term of two years, and two directors shall be  
24 designated to serve a term of one year. Each director shall continue to serve until a successor  
25 is duly appointed by the governor **unless sooner removed by the governor. The governor may**  
26 **remove any director if fully satisfied of his or her inefficiency, neglect of duty, or**  
27 **misconduct in office;**
- 28 (3) [The corporation may receive money from any source, may borrow money, may enter  
29 into contracts, and may expend money for any activities appropriate to its purpose;
- 30 (4) The corporation may appoint staff and do all other things necessary or incidental to  
31 carrying out the functions listed in section 348.261;
- 32 (5)] Any changes in the articles of incorporation or bylaws must be approved by the  
33 governor;
- 34 [(6)] (4) The corporation shall submit an annual report to the governor and to the  
35 Missouri general assembly. The report shall be due on the first day of November for each year  
36 and shall include detailed information on the structure, operation and financial status of the  
37 corporation. The corporation shall conduct an annual public hearing to receive comments from  
38 interested parties regarding the report, and notice of the hearing shall be given at least fourteen  
39 days prior to the hearing; and
- 40 [(7)] (5) The corporation is subject to an annual audit by the state auditor and that the  
41 corporation shall bear the full cost of the audit.
- 348.261. The corporation, after being certified by the governor as provided by section  
2 348.251, may:
- 3 (1) **Sue and be sued in its official name;**  
4 (2) **Adopt and use an official seal;**  
5 (3) **Apply for and accept gifts, grants, appropriations, loans or contributions to the**  
6 **Missouri technology investment fund from any source, public or private;**

7           **(4) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or**  
8 **otherwise acquire, own, hold, improve employ, use and otherwise deal in and with, real or**  
9 **personal property, or any interest therein, wherever situated;**

10           **(5) Sell, convey, lease, exchange, transfer or otherwise dispose of, all or any of its**  
11 **property or any interest therein, wherever situated;**

12           **(6) Employ and fix the compensation of an executive director and such other agents**  
13 **or employees as it considers necessary, however, the department of economic development**  
14 **may provide administrative staff support in the event the corporation is not adequately**  
15 **funded for employees;**

16           **(7) Make all expenditures which are incident and necessary to carry out its**  
17 **purposes and powers;**

18           **(8) Administer such programs as otherwise provided by law;**

19           **(9) Assess or charge a fee for each application it receives for financial incentives**  
20 **authorized to be administered by the corporation and assess or charge other fees as the**  
21 **corporation determines to be reasonable to carry out its purposes, including, but not**  
22 **limited to, fees or premiums for loans;**

23           **(10) Establish a statewide business modernization network to assist Missouri businesses**  
24 **in identifying ways to enhance productivity and market competitiveness;**

25           **[(2)] (11) Identify scientific and technological problems and opportunities related to the**  
26 **economy of Missouri and formulate proposals to overcome those problems or realize those**  
27 **opportunities;**

28           **[(3)] (12) Identify specific areas where scientific research and technological investigation**  
29 **will contribute to the improvement of productivity of Missouri manufacturers and farmers;**

30           **[(4)] (13) Determine specific areas in which financial investment in scientific and**  
31 **technological research and development from private businesses located in Missouri could be**  
32 **enhanced or increased if state resources were made available to assist in financing activities;**

33           **[(5)] (14) Assist in establishing cooperative associations of universities in Missouri and**  
34 **of private enterprises for the purpose of coordinating research and development programs that**  
35 **will, consistent with the primary educational function of the universities, aid in the creation of**  
36 **new jobs in Missouri;**

37           **[(6)] (15) Assist in financing the establishment and continued development of**  
38 **technology-intensive businesses in Missouri;**

39           **[(7)] (16) Advise universities of the research needs of Missouri business and improve**  
40 **the exchange of scientific and technological information for the mutual benefit of universities**  
41 **and private business;**

42           **[(8)] (17) Coordinate programs established by universities to provide Missouri**

43 businesses with scientific and technological information;  
44       [(9)] **(18)** Establish programs in scientific education [which] **that** will support the  
45 accelerated development of technology-intensive businesses in Missouri;  
46       [(10)] **(19)** Provide financial assistance through contracts, grants and loans to programs  
47 of scientific and technological research and development;  
48       **(20) Set guidelines and priorities for loans, loan guarantees or grants from the**  
49 **Missouri technology investment fund;**  
50       **(21) Direct disbursements from the Missouri technology investment fund;**  
51       [(11)] **(22)** Determine how public universities can increase income derived from the sale  
52 or licensure of products or processes having commercial value that are developed as a result of  
53 university sponsored research programs;  
54       [(12)] **(23)** Contract with innovation centers, as established in section 348.271, small  
55 business development corporations, as established in sections 620.1000 to 620.1007, RSMo,  
56 centers for advanced technology, as established in section 348.272, and other entities or  
57 organizations for the provision of technology application, technology commercialization and  
58 technology development services. Such contracting procedures shall not be subject to the  
59 provisions of chapter 34, RSMo; and  
60       [(13)] **(24)** Make direct seed capital or venture capital investments in Missouri business  
61 investment funds or businesses which demonstrate the promise of growth and job creation.  
62 Investments from the corporation may be in the form of debt or equity in the respective  
63 businesses.

348.264. 1. There is hereby established in the state treasury a special fund to be known  
2 as the "Missouri Technology Investment Fund", **into** which [shall consist of all] moneys which  
3 may be appropriated to it by the general assembly, and also any gifts, contributions, grants or  
4 bequests received from federal, private or other sources[. Such moneys shall include], **including**  
5 federal funds which may be received from the National Institute for Science and Technology, the  
6 Small Business Administration and the Department of Defense through its Technology  
7 Reinvestment Program **may be deposited as and when received and designated for deposit**  
8 **in said fund.**

9       **2.** Money in the Missouri technology investment [program] **fund** shall be used to carry  
10 out the provisions of sections 348.251 to [348.275] **348.266. The Missouri technology**  
11 **investment fund shall be administered by the corporation as provided in section 348.251**  
12 **to 348.266. Separate accounts may be created within the Missouri technology investment**  
13 **fund for moneys specifically appropriated, donated or otherwise received for the purposes**  
14 **of the corporation as set forth in sections 348.251 to 348.266. Moneys in the Missouri**  
15 **technology investment fund shall be invested by the corporation in the manner prescribed**

16 **by the corporation and any interest earned on invested moneys shall accrue to the benefit**  
17 **of the fund.**

18 **3.** Moneys for business modernization programs, technology application programs,  
19 technology commercialization programs and technology development programs established  
20 pursuant to the provisions of sections 348.251 to 348.275 shall be available from appropriations  
21 made by the general assembly from the Missouri technology investment fund.

22 **4.** Any moneys remaining in the Missouri technology investment fund at the end of any  
23 fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but  
24 shall remain in the Missouri technology investment fund.

25 **5. The corporation may also create such other separate accounts outside of the state**  
26 **treasury as deemed necessary or appropriate by the corporation to carry out the duties and**  
27 **purposes of sections 348.251 to 348.266. All such separate accounts may be administered**  
28 **by a corporate trustee on behalf of the corporation upon the terms and conditions**  
29 **established by the corporation.**

30 [2.] **6.** Notwithstanding the provisions of sections 173.500 to 173.565, RSMo, the  
31 Missouri technology investment fund shall be utilized to fund projects which would previously  
32 have been funded through the higher education applied projects fund.

348.302. 1. Any person who makes a qualified contribution to a qualified fund shall be  
2 entitled to receive a tax credit equal to fifty percent of the amount of the qualified contribution.  
3 The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of  
4 sections 348.300 to 348.318 and may be used to satisfy the state tax liability of the owner of such  
5 certificate that becomes due in the tax year in which the qualified contribution is made, or in any  
6 of the ten tax years thereafter. No person may receive a tax credit pursuant to sections 348.300  
7 to 348.318 unless that person presents a tax credit certificate to the department of revenue for  
8 payment of such state tax liability.

9 2. The amount of such qualified contributions which can be made is limited so that the  
10 [aggregate of all] tax credits authorized under the provisions of sections 348.300 to 348.318 shall  
11 not exceed [nine] **two** million dollars **annually**. All tax credits authorized under the provisions  
12 of this section may be transferred, sold or assigned.

447.708. 1. For eligible projects, the director of the department of economic  
2 development, with notice to the directors of the departments of natural resources and revenue,  
3 and subject to the other provisions of sections 447.700 to 447.718, may not create a new  
4 enterprise zone but may decide that a prospective operator of a facility being remedied and  
5 renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions  
6 [pursuant to] **authorized by** sections 135.100 to 135.150, RSMo, and sections 135.200 to  
7 [135.256] **135.258**, RSMo. The tax credits [allowed] **authorized** pursuant to this subsection

8 shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax  
9 imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147,  
10 RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

11 (1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the  
12 eligible project must create at least ten new jobs or retain businesses which supply at least  
13 twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must  
14 provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and  
15 not more than twenty-five years;

16 (2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax  
17 credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and  
18 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which  
19 supply at least twenty-five existing jobs, or combination thereof. For purposes of sections  
20 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows:  
21 the tax credit shall be four hundred dollars per employee per year, an additional four hundred  
22 dollars per year for each employee exceeding the minimum employment thresholds of ten and  
23 twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars  
24 per year for each person who is "a person difficult to employ" as defined by section 135.240,  
25 RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4)  
26 of **subsection 1 of section 135.225, RSMo, except that in no case shall the credits authorized**  
27 **for any business or project exceed the amount authorized by the department in order to**  
28 **comply with the maximum annual amount of tax credits authorized pursuant to subsection**  
29 **12 of this section;**

30 (3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo,  
31 the eligible project must create at least ten new jobs or retain businesses which supply at least  
32 twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of  
33 section 135.245, RSMo, for application and use of the refund and the eligibility requirements of  
34 this section;

35 (4) The eligible project operates in compliance with applicable environmental laws and  
36 regulations, including permitting and registration requirements, of this state as well as the federal  
37 and local requirements;

38 (5) The eligible project operator shall file such reports as may be required by the director  
39 of economic development or the director's designee;

40 (6) The taxpayer may claim the state tax credits authorized by this subsection and the  
41 state income exemption for a period not in excess of ten consecutive tax years. For the purpose  
42 of this section, "taxpayer" means an individual proprietorship, partnership or corporation  
43 described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director

44 shall determine the number of years the taxpayer may claim the state tax credits and the state  
45 income exemption based on the projected net state economic benefits attributed to the eligible  
46 project;

47 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1),  
48 (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and  
49 maintained during the taxpayer's tax period for which the credits are earned, in the case of an  
50 eligible project that does not replace a similar facility in Missouri. "New job" means a person  
51 who was not previously employed by the taxpayer or related taxpayer within the twelve-month  
52 period immediately preceding the time the person was employed by that taxpayer to work at, or  
53 in connection with, the eligible project on a full-time basis. "Full-time basis" means the  
54 employee works an average of at least thirty-five hours per week during the taxpayer's tax period  
55 for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the  
56 same meaning as defined in subdivision (9) of section 135.100, RSMo;

57 (8) For the purpose of meeting the existing job retention requirement, if the eligible  
58 project replaces a similar facility that closed elsewhere in Missouri prior to the end of the  
59 taxpayer's tax period in which the tax credits are earned, it shall be required that at least  
60 twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time  
61 basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a  
62 person who was previously employed by the taxpayer or related taxpayer, at a facility similar to  
63 the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period  
64 in which the tax credits are earned, within the tax period immediately preceding the time the  
65 person was employed by the taxpayer to work at, or in connection with, the eligible project on  
66 a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five  
67 hours per week during the taxpayer's tax period for which the tax credits are earned;

68 (9) In the case where an eligible project replaces a similar facility that closed elsewhere  
69 in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the  
70 owner and operator of the eligible project shall provide the director with a written statement  
71 explaining the reason for discontinuing operations at the closed facility. The statement shall  
72 include a comparison of the activities performed at the closed facility prior to the date the facility  
73 ceased operating, to the activities performed at the eligible project, and a detailed account  
74 describing the need and rationale for relocating to the eligible project. If the director finds the  
75 relocation to the eligible project significantly impaired the economic stability of the area in  
76 which the closed facility was located, and that such move was detrimental to the overall  
77 economic development efforts of the state, the director may deny the taxpayer's request to claim  
78 tax benefits;

79 (10) Notwithstanding any provision of law to the contrary, for the purpose of this

80 section, the number of new jobs created and maintained, the number of existing jobs retained,  
81 and the value of new qualified investment used at the eligible project during any tax year shall  
82 be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals  
83 employed at the eligible project, or in the case of new qualified investment, the value of new  
84 qualified investment used at the eligible project, on the last business day of each full calendar  
85 month of the tax year. If the eligible project is in operation for less than the entire tax year, the  
86 number of new jobs created and maintained, the number of existing jobs retained, and the value  
87 of new qualified investment created at the eligible project during any tax year shall be  
88 determined by dividing the sum of the number of individuals employed at the eligible project,  
89 or in the case of new qualified investment, the value of new qualified investment used at the  
90 eligible project, on the last business day of each full calendar month during the portion of the tax  
91 year during which the eligible project was in operation, by the number of full calendar months  
92 during such period;

93 (11) For the purpose of this section, "new qualified investment" means new business  
94 facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo,  
95 which is used at and in connection with the eligible project. "New qualified investment" shall  
96 not include small tools, supplies and inventory. "Small tools" means tools that are portable and  
97 can be hand held.

98 2. The determination of the director of economic development pursuant to subsection  
99 1 of this section, shall not affect requirements for the prospective purchaser to obtain the  
100 approval of the granting of real property tax abatement by the municipal or county government  
101 where the eligible project is located.

102 3. **(1)** The director of the department of economic development, with the approval of  
103 the director of the department of natural resources, may, in addition to the tax credits allowed  
104 in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one  
105 hundred percent of the costs of materials, supplies, equipment, labor, professional engineering,  
106 consulting and architectural fees, permitting fees and expenses, demolition [and], asbestos  
107 abatement, and direct utility charges for performing the voluntary remediation activities for the  
108 preexisting hazardous substance contamination and releases, including, but not limited to, the  
109 costs of performing operation and maintenance of the remediation equipment at the property  
110 beyond the year in which the systems and equipment are built and installed at the eligible project  
111 and the costs of performing the voluntary remediation activities over a period not in excess of  
112 four tax years following the taxpayer's tax year in which the system and equipment were first put  
113 into use at the eligible project, provided the remediation activities are the subject of a plan  
114 submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to  
115 260.575, RSMo.

116           **(2) The director of the department of economic development, with the approval of**  
117 **the director of the department of natural resources, may, in addition to the tax credits**  
118 **otherwise allowed in this section, grant a demolition tax credit to the applicant for up to**  
119 **one hundred percent of the costs of demolition that is not part of the voluntary remediation**  
120 **activities, provided the demolition is part of a redevelopment plan approved by the local**  
121 **government entity and the department of economic development.**

122           **(3)** The amount of remediation **and demolition** tax credits issued shall be limited to the  
123 least amount necessary to cause the project to occur, as determined by the director of the  
124 department of economic development.

125           **(4)** The director may, with the approval of the director of natural resources, extend the  
126 tax credits allowed for performing voluntary remediation maintenance activities, in increments  
127 of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed  
128 in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding  
129 withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed  
130 by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation  
131 **and demolition** tax [credit] **credits** may be taken in the same tax year in which the tax credits  
132 are received or may be taken over a period not to exceed [twenty] **five additional** years.

133           **(5)** The project facility [is] **must be** projected to create at least ten new jobs or at least  
134 twenty-five retained jobs, or a combination thereof, as determined by the department of  
135 economic development, **to be eligible for tax credits pursuant to this subsection.**

136           **(6)** No more than seventy-five percent of earned remediation tax credits may be issued  
137 when the remediation costs were paid, and the remaining percentage may be issued when the  
138 department of natural resources issues a "Letter of Completion" letter or covenant not to sue  
139 following completion of the voluntary remediation activities. It shall not include any costs  
140 associated with ongoing operational environmental compliance of the facility or remediation  
141 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations  
142 of the facility.

143           4. In the exercise of the sound discretion of the director of the department of economic  
144 development or the director's designee, the tax credits and exemptions described in this section  
145 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the  
146 conditions set forth in this section. In making such a determination, the director shall consider  
147 the severity of the condition violation, actions taken to correct the violation, the frequency of any  
148 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility  
149 owner and operator. The director shall also consider changes in general economic conditions and  
150 the recommendation of the director of the department of natural resources, or his or her designee,  
151 concerning the severity, scope, nature, frequency and extent of any violations of the



environmental compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal the decision regarding termination, suspension or revocation of any tax credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section 135.250, RSMo. The director of the department of economic development shall notify the directors of the departments of natural resources and revenue of the termination, suspension or revocation of any tax credits as determined in this section or pursuant to the provisions of section 447.716.

5. Notwithstanding any provision of law to the contrary, no taxpayer shall **[earn] receive** the tax credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

(1) That portion of the taxpayer's income attributed to the eligible project; or

(2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to

188 claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax  
189 credits shall not be carried forward but shall be initially claimed for the tax period during which  
190 the eligible project was first capable of being used, and during any applicable subsequent tax  
191 periods.

192 8. Taxpayers claiming the remediation tax credit **or the demolition tax credit** allowed  
193 in subsection 3 of this section shall be required to file all applicable tax credit applications, forms  
194 and schedules prescribed by the director during the taxpayer's tax period immediately after the  
195 tax period in which the eligible project was first put into use, or during the taxpayer's tax period  
196 immediately after the tax period in which the voluntary remediation activities were performed.

197 9. The recipient of remediation tax credits, for the purpose of this subsection referred to  
198 as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed  
199 in subsection 3 of this section, to any other person, for the purpose of this subsection referred to  
200 as assignee. To perfect the transfer, the assignor shall provide written notice to the director of  
201 the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective,  
202 the assignee's name, address and the assignee's tax period and the amount of tax credits to be  
203 transferred, **as well as any other information reasonably requested by the department.** The  
204 number of tax periods during which the assignee may subsequently claim the tax credits shall  
205 not exceed [twenty] **five additional** tax periods, less the number of tax periods the assignor  
206 previously claimed the credits before the transfer occurred.

207 10. In the case where an operator and assignor of an eligible project has been certified  
208 to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and  
209 sells or otherwise transfers title of the eligible project to another taxpayer or assignee who  
210 continues the same or substantially similar operations at the eligible project, the director shall  
211 allow the assignee to claim the credits for a period of time to be determined by the director;  
212 except that, the total number of tax periods the tax credits may be earned by the assignor and the  
213 assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice  
214 to the director of the assignor's intent to transfer the tax credits to the assignee, the date the  
215 transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount  
216 of tax credits to be transferred.

217 11. For the purpose of the state tax benefits described in this section, in the case of a  
218 corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax  
219 liability, such state benefits shall be allowed to the following:

220 (1) The shareholders of the corporation described in section 143.471, RSMo;

221 (2) The partners of the partnership.

222

223 The credit provided in this subsection shall be apportioned to the entities described in

subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

**12. Beginning January 1, 2002, no more than thirty million dollars in tax credits may be authorized for any year under this program. The director of the department of economic development shall determine and implement appropriate procedures to ensure that the cap is not exceeded in any year.**

620.470. As used in sections 620.470 to 620.481, unless the context clearly requires otherwise, the following terms mean:

(1) "Department", the Missouri department of economic development;

(2) "Fund", the Missouri job development fund as established by section 620.478;

(3) "Industry", an entity the objective of which is to supply a service or the objective of which is the commercial production and sale of an article of trade or commerce. **The term includes a consortium of such entities organized for the purpose of providing for common training to the member entities' employees, provided that the consortium as a whole meets the requirements for participation in this program;**

(4) "Manufacturing", the making or processing of raw materials into a finished product, especially by means of large-scale machines of industry.

620.474. 1. The department shall establish a basic industry retraining program, the purpose of which is to provide assistance for industries in Missouri for the retraining and upgrading of employees' skills which are required to support new [capital] investment. Such program shall be operated with appropriations made by the general assembly from the fund.

2. Assistance under the basic industry retraining program may be made available for industries in Missouri which make new investments [in manufacturing] without the creation of new employment.

3. The department shall issue rules and regulations governing the awarding of funds administered through the basic industry retraining fund. When promulgating these rules and regulations, the department shall consider such factors as the number of jobs in jeopardy of being lost if retraining does not occur, the amount of private sector investment in new facilities and equipment, the ratio of jobs retained versus investment, the cost of normal, ongoing training required for the industry, the economic need of the affected community, and the importance of the industry to the economic development of Missouri.

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441 [or], 143.471[, RSMo,] or [section] 148.370, RSMo, [and the term] "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41, **"corporation" means the Missouri Technology Corporation, established pursuant to sections 348.251 to 348.266, RSMo, "department" means the**

6 **department of economic development and "director" means the director of the department**  
7 **of economic development.**

8       2. For tax years beginning on or after January 1, [2001] **2002**, the **corporation, subject**  
9 **to the approval of the** director [of the department of economic development], may authorize a  
10 taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or  
11 chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265,  
12 RSMo, in an amount up to six and one-half percent of the excess of the taxpayer's qualified  
13 research expenses, as certified by the [director of the department of economic development]  
14 **corporation**, within this state during the taxable year over the average of the taxpayer's qualified  
15 research expenses within this state over the immediately preceding three taxable years; except  
16 that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses  
17 incurred within this state during the taxable year in which the credit is being claimed, to the  
18 extent such expenses exceed two hundred percent of the taxpayer's average qualified research  
19 expenses incurred during the immediately preceding three taxable years.

20       3. The **corporation, subject to the approval of the** director [of economic development],  
21 shall prescribe the manner in which the tax credit may be applied for. The tax credit authorized  
22 by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143,  
23 RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified  
24 research expenses were incurred. Where the amount of the credit exceeds the tax liability, the  
25 difference between the credit and the tax liability may only be carried forward for the next five  
26 succeeding taxable years or until the full credit has been claimed, whichever first occurs. The  
27 application for tax credits authorized by [the director pursuant to subsection 2 of] this section  
28 shall be made no later than the end of the taxpayer's tax period immediately following the tax  
29 period for which the credits are being claimed.

30       4. Certificates of tax credit issued pursuant to this section may be transferred, sold or  
31 assigned by filing a notarized endorsement thereof with the [department] **corporation** which  
32 names the transferee and the amount of tax credit transferred. The director [of economic  
33 development] may allow a taxpayer to transfer, sell or assign up to forty percent of the amount  
34 of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section  
35 during any tax year commencing on or after January 1, 1996, and ending not later than December  
36 31, 1999. Such taxpayer shall file, by December 31, 2001, an application with the department  
37 which names the transferee, the amount of tax credit desired to be transferred, and a certification  
38 that the funds received by the applicant as a result of the transfer, sale or assignment of the tax  
39 credit shall be expended within three years at the state university for the sole purpose of  
40 conducting research activities agreed upon by the department, the taxpayer and the state  
41 university. Failure to expend such funds in the manner prescribed pursuant to this section shall

42 cause the applicant to be subject to the provisions of section 620.017.

43         5. [No rule or portion of a rule promulgated under the authority of this section shall  
44 become effective unless it has been promulgated pursuant to the provisions of chapter 536,  
45 RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and  
46 repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of  
47 any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of  
48 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable  
49 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
50 including the ability to review, to delay the effective date, or to disapprove and annul a rule or  
51 portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking  
52 authority and any rule so proposed and contained in the order of rulemaking shall be invalid and  
53 void] **The corporation, with the approval of the director, may adopt such rules, statements**  
54 **of policy, procedures, forms and guidelines as may be necessary for the implementation of**  
55 **this program. No rule or portion of a rule promulgated pursuant to the authority of this**  
56 **section shall become effective unless it has been promulgated pursuant to the provisions**  
57 **of chapter 536, RSMo.**

58         6. The aggregate of all tax credits authorized pursuant to this section shall not exceed  
59 nine million seven hundred thousand dollars in any year.

**620.1600. 1. As used in this section, the following terms shall mean:**

2         (1) **"Applied research ", research conducted at a university for the benefit of an**  
3 **eligible Missouri business under a contract between the eligible Missouri business and the**  
4 **university, the purpose of which is to invent a process, machine, article of manufacture, a**  
5 **composition of matter or software to be patented, trademarked or copyrighted and**  
6 **subsequently commercialized;**

7         (2) **"Corporation", the Missouri Technology Corporation established pursuant to**  
8 **sections 348.251 to 348.266, RSMo;**

9         (3) **"Director", the director of the department of economic development;**

10         (4) **"Eligible applied research fees", the costs to an eligible Missouri business,**  
11 **pursuant to a contract between the business and a university, the purpose of which is for**  
12 **the university to conduct applied research for the benefit of the business;**

13         (5) **"Eligible Missouri business", an independently owned and operated business,**  
14 **as defined in Title 15 U.S.C. 632(a) and as described by Title 13 CFR Part 121, which is**  
15 **headquartered and located in Missouri and which employs at least eighty percent of its**  
16 **employees in Missouri, except that no such business shall employ more than two hundred**  
17 **fifty employees. Such business shall be involved in commerce for the purpose of advanced**  
18 **manufacturing, information technology, life sciences or transportation;**

19           (6) "Eligible technology transfer fees", the costs to an eligible Missouri business,  
20 pursuant to a contract between the business and a university, the purpose of which is for  
21 the business to either acquire or obtain usage rights to technology developed and owned  
22 by the university. The costs shall be limited to acquisition or license fees and shall exclude  
23 royalty payments;

24           (7) "Taxpayer", person, firm or corporation subject to the state income tax  
25 imposed by the provisions of chapter 143, RSMo, (except withholding imposed by section  
26 143.191 to 143.265, RSMo) or a corporation subject to the annual corporation franchise  
27 tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an  
28 annual tax on its gross premium receipts in this state, or other financial institution paying  
29 taxes to the state of Missouri or any political subdivision of this state pursuant to the  
30 provisions of chapter 148, RSMo;

31           (8) "Technology transfer", the transfer, via acquisition of rights or licensing, of  
32 technology developed and owned by a university to a business for purposes of  
33 commercialization;

34           (9) "University", a public university of the state of Missouri.

35           2. (1) The corporation, subject to the approval of the director or the director's  
36 designee, may authorize a tax credit to an eligible Missouri business in an amount not to  
37 exceed fifty percent of the eligible technology transfer fees or eligible applied research fees  
38 incurred by the business.

39           (2) The corporation, subject to the approval of the director or the director's  
40 designee, shall prescribe the manner in which the tax credit may be applied for. The  
41 application for tax credits authorized by this section shall be made no later than the end  
42 of the eligible Missouri business' tax period immediately following the tax period for which  
43 the credits are being claimed.

44           (3) The corporation, with the approval of the director, may adopt such rules,  
45 statements of policy, procedures, forms and guidelines as may be necessary for the  
46 implementation of this program. No rule or portion of a rule promulgated pursuant to the  
47 authority of this section shall become effective unless it has been promulgated pursuant to  
48 the provisions of chapter 536, RSMo.

49           (4) The tax credit authorized by this section may be claimed by a taxpayer to offset  
50 the tax liability imposed by chapter 143, 147 or 148, RSMo, that becomes due in the tax  
51 year during which the eligible technology transfer or eligible applied research fees were  
52 incurred. Where the amount of the credit exceeds the tax liability, the difference between  
53 the credit and the tax liability may only be carried forward for the next five succeeding  
54 taxable years or until the full credit has been claimed, whichever first occurs.

55           **(5) Certificates of tax credit issued pursuant to this section may be transferred, sold**  
56 **or assigned by filing a notarized endorsement thereof with the corporation which names**  
57 **the transferee and the amount of tax credit transferred, as well as any other information**  
58 **reasonably requested by the corporation.**

59           **(6) The aggregate of all tax credits authorized pursuant to this section shall not**  
60 **exceed five million dollars in any year.**

[135.100. As used in sections 135.100 to 135.150 the following terms shall

2           mean:

3           (1) "Commencement of commercial operations" shall be deemed to occur  
4 during the first taxable year for which the new business facility is first available for  
5 use by the taxpayer, or first capable of being used by the taxpayer, in the  
6 revenue-producing enterprise in which the taxpayer intends to use the new business  
7 facility;

8           (2) "Existing business facility", any facility in this state which was employed  
9 by the taxpayer claiming the credit in the operation of a revenue-producing enterprise  
10 immediately prior to an expansion, acquisition, addition, or replacement;

11           (3) "Facility", any building used as a revenue-producing enterprise located  
12 within the state, including the land on which the facility is located and all machinery,  
13 equipment and other real and depreciable tangible personal property acquired for use  
14 at and located at or within such facility and used in connection with the operation of  
15 such facility;

16           (4) "New business facility", a facility which satisfies the following  
17 requirements:

18           (a) Such facility is employed by the taxpayer in the operation of a  
19 revenue-producing enterprise. Such facility shall not be considered a new business  
20 facility in the hands of the taxpayer if the taxpayer's only activity with respect to such  
21 facility is to lease it to another person or persons. If the taxpayer employs only a  
22 portion of such facility in the operation of a revenue-producing enterprise, and leases  
23 another portion of such facility to another person or persons or does not otherwise  
24 use such other portions in the operation of a revenue-producing enterprise, the  
25 portion employed by the taxpayer in the operation of a revenue-producing enterprise  
26 shall be considered a new business facility, if the requirements of paragraphs (b), (c),  
27 (d) and (e) of this subdivision are satisfied;

28           (b) Such facility is acquired by, or leased to, the taxpayer after December 31,  
29 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer  
30 after December 31, 1983, if the transfer of title to the taxpayer, the transfer of  
31 possession pursuant to a binding contract to transfer title to the taxpayer, or the  
32 commencement of the term of the lease to the taxpayer occurs after December 31,  
33 1983, or, if the facility is constructed, erected or installed by or on behalf of the  
34 taxpayer, such construction, erection or installation is commenced after December  
35 31, 1983;

36           (c) If such facility was acquired by the taxpayer from another person or

persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision (10) of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

(5) "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(6) "New business facility income", the Missouri taxable income, as defined in chapter 143, RSMo, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148, RSMo. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, RSMo, or in the case of an insurance company, computed in accordance with chapter 148, RSMo, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The "property factor" is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32, RSMo;

(b) The "payroll factor" is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the



total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32, RSMo. For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

(7) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section 135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(8) "Office", a regional, national or international headquarters, a telemarketing operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision (5) of this section;

(9) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the

capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

(10) "Replacement business facility", a facility otherwise described in subdivision (4) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110, 135.225 and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision (8) of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of this section;

(11) "Revenue-producing enterprise" means:

- (a) Manufacturing activities classified as SICs 20 through 39;
- (b) Agricultural activities classified as SIC 025;
- (c) Rail transportation terminal activities classified as SIC 4013;
- (d) Motor freight transportation terminal activities classified as SIC 4231;
- (e) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
- (f) Water transportation terminal activities classified as SIC 4491;
- (g) Wholesale trade activities classified as SICs 50 and 51;
- (h) Insurance carriers activities classified as SICs 631, 632 and 633;
- (i) Research and development activities classified as SIC 873, except 8733;
- (j) Farm implement dealer activities classified as SIC 5999;

(k) Interexchange telecommunications services as defined in subdivision (24) or local exchange telecommunications services as defined in subdivision (31) of section 386.020, RSMo, or training activities conducted by an interexchange telecommunications company or by a local exchange telecommunications company as defined in subdivisions (23) and (30) of section 386.020, RSMo;

(l) Recycling activities classified as SIC 5093;

(m) Office activities as defined in subdivision (8) of this section, notwithstanding SIC classification;

(n) Mining activities classified as SICs 10 through 14;

(o) Computer programming, data processing and other computer-related activities classified as SIC 737;

(p) The administrative management of any of the foregoing activities; or

(q) Any combination of any of the foregoing activities;

(12) "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue-producing enterprise;

(13) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed;

(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, RSMo, and partnership or an insurance company subject to the tax imposed by chapter 148, RSMo, or in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916, RSMo.]

[135.200. The following terms, whenever used in sections 135.200 to 135.256, mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;

- 15 (6) "Revenue-producing enterprise", means:  
16 (a) Manufacturing activities classified as SICs 20 through 39;  
17 (b) Agricultural activities classified as SIC 025;  
18 (c) Rail transportation terminal activities classified as SIC 4013;  
19 (d) Renting or leasing of residential property to low and moderate income  
20 persons as defined in federal law, 42 U.S.C. 5302(a)(20);  
21 (e) Motor freight transportation terminal activities classified as SIC 4231;  
22 (f) Public warehousing and storage activities classified as SICs 422 and 423  
23 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;  
24 (g) Water transportation terminal activities classified as SIC 4491;  
25 (h) Wholesale trade activities classified as SICs 50 and 51;  
26 (i) Insurance carriers activities classified as SICs 631, 632 and 633;  
27 (j) Research and development activities classified as SIC 873, except 8733;  
28 (k) Farm implement dealer activities classified as SIC 5999;  
29 (l) Employment agency activities classified as SIC 7361;  
30 (m) Computer programming, data processing and other computer-related  
31 activities classified as SIC 737;  
32 (n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807,  
33 8092 and 8093;  
34 (o) Interexchange telecommunications as defined in subdivision (20) of  
35 section 386.020, RSMo, or training activities conducted by an interexchange  
36 telecommunications company as defined in subdivision (19) of section 386.020,  
37 RSMo;  
38 (p) Recycling activities classified as SIC 5093;  
39 (q) Banking activities classified as SICs 602 and 603;  
40 (r) Office activities as defined in subdivision (8) of section 135.100,  
41 notwithstanding SIC classification;  
42 (s) Mining activities classified as SICs 10 through 14;  
43 (t) The administrative management of any of the foregoing activities; or  
44 (u) Any combination of any of the foregoing activities;  
45 (7) "Satellite zone", a noncontiguous addition to an existing state designated  
46 enterprise zone;  
47 (8) "SIC", the primary standard industrial classification as such  
48 classifications are defined in the 1987 edition of the Standard Industrial  
49 Classification Manual as prepared by the Executive Office of the President, Office  
50 of Management and Budget. For the purpose of this subdivision, "primary" means  
51 at least fifty percent of the activities so classified are performed at the new business  
52 facility during the taxpayer's tax period in which such tax credits are being claimed.]  
[135.200. The following terms, whenever used in sections 135.200 to  
2 135.256, mean:  
3 (1) "Department", the department of economic development;  
4 (2) "Director", the director of the department of economic development;  
5 (3) "Facility", any building used as a revenue-producing enterprise located

6 within an enterprise zone, including the land on which the facility is located and all  
7 machinery, equipment and other real and depreciable tangible personal property  
8 acquired for use at and located at or within such facility and used in connection with  
9 the operation of such facility;

10 (4) "Governing authority", the body holding primary legislative authority  
11 over a county or incorporated municipality;

12 (5) "New business facility" shall have the meaning defined in section  
13 135.100, except that the term "lease" as used therein shall not include the leasing of  
14 property defined in paragraph (d) of subdivision (6) of this section;

15 (6) "Revenue-producing enterprise" means:

16 (a) Manufacturing activities classified as SICs 20 through 39;

17 (b) Agricultural activities classified as SIC 025;

18 (c) Rail transportation terminal activities classified as SIC 4013;

19 (d) Renting or leasing of residential property to low and moderate income  
20 persons as defined in federal law, 42 U.S.C. 5302(a)(20);

21 (e) Motor freight transportation terminal activities classified as SIC 4231;

22 (f) Public warehousing and storage activities classified as SICs 422 and 423  
23 except SIC 4221, miniwarehouse warehousing and warehousing self- storage;

24 (g) Water transportation terminal activities classified as SIC 4491;

25 (h) Wholesale trade activities classified as SICs 50 and 51;

26 (i) Insurance carriers activities classified as SICs 631, 632 and 633;

27 (j) Research and development activities classified as SIC 873, except 8733;

28 (k) Farm implement dealer activities classified as SIC 5999;

29 (l) Employment agency activities classified as SIC 7361;

30 (m) Computer programming, data processing and other computer-related  
31 activities classified as SIC 737;

32 (n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807,  
33 8092 and 8093;

34 (o) Interexchange telecommunications as defined in subdivision (20) of  
35 section 386.020, RSMo, or training activities conducted by an interexchange  
36 telecommunications company as defined in subdivision (19) of section 386.020,  
37 RSMo;

38 (p) Recycling activities classified as SIC 5093;

39 (q) Banking activities classified as SICs 602 and 603;

40 (r) Office activities as defined in subdivision (8) of section 135.100,  
41 notwithstanding SIC classification;

42 (s) Mining activities classified as SICs 10 through 14;

43 (t) Photofinishing laboratory activities classified in SIC 7384 and microfilm  
44 recording and developing services as contained in SIC classification 7389, provided  
45 that each such revenue-producing enterprise employs a minimum of one hundred  
46 employees at a single business facility;

47 (u) The administrative management of any of the foregoing activities; or

48 (v) Any combination of any of the foregoing activities;

49 (7) "Satellite zone", a noncontiguous addition to an existing state designated  
50 enterprise zone;

51 (8) "SIC", the standard industrial classification as such classifications are  
52 defined in the 1987 edition of the Standard Industrial Classification Manual as  
53 prepared by the Executive Office of the President, Office of Management and  
54 Budget.]

2 [135.429. Except as otherwise specifically provided in sections 135.400 to  
3 135.430, interest and penalty provisions and procedural matters under the provisions  
4 of sections 135.400 to 135.430 shall be determined pursuant to and in the manner  
5 prescribed in chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, or  
chapter 153, RSMo, whichever is applicable.]

2 [135.430. The department of social services shall promulgate such rules and  
3 regulations, pursuant to chapter 536, RSMo, and section 660.017, RSMo, as are  
4 necessary to define and certify target areas as defined in section 135.400. The  
5 department of economic development shall promulgate such rules and regulations,  
6 pursuant to chapter 536, RSMo, and subsection 20 of section 620.010, RSMo, as are  
7 necessary to implement the provisions of sections 135.400 to 135.440 after a target  
area has been defined and certified by the department of social services.]

2 [135.535. 1. A corporation, limited liability corporation, partnership or sole  
3 proprietorship, which moves its operations from outside Missouri or outside a  
4 distressed community into a distressed community, or which commences operations  
5 in a distressed community on or after January 1, 1999, and in either case has more  
6 than seventy-five percent of its employees at the facility in the distressed community,  
7 and which has fewer than one hundred employees for whom payroll taxes are paid,  
8 and which is a manufacturing, biomedical, medical devices, scientific research,  
9 animal research, computer software design or development, computer programming,  
10 telecommunications or a professional firm shall receive a forty percent credit against  
11 income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes  
12 withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years  
13 after such move, if approved by the department of economic development, which  
14 shall issue a certificate of eligibility if the department determines that the taxpayer  
15 is eligible for such credit. The maximum amount of credits per taxpayer set forth in  
16 this subsection shall not exceed one hundred twenty-five thousand dollars for each  
17 of the three years for which the credit is claimed. The department of economic  
18 development, by means of rule or regulation promulgated pursuant to the provisions  
19 of chapter 536, RSMo, shall assign appropriate standard industrial classification  
20 numbers to the companies which are eligible for the tax credits provided for in this  
21 section. Such three-year credits shall be awarded only one time to any company  
22 which moves its operations from outside of Missouri or outside of a distressed  
23 community into a distressed community or to a company which commences  
24 operations within a distressed community. A taxpayer shall file an application for  
25 certification of the tax credits for the first year in which credits are claimed and for  
each of the two succeeding taxable years for which credits are claimed.

26           2. Employees of such facilities physically working and earning wages for that  
27 work within a distressed community whose employers have been approved for tax  
28 credits pursuant to subsection 1 of this section by the department of economic  
29 development for whom payroll taxes are paid shall, also be eligible to receive a tax  
30 credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal  
31 to one and one-half percent of their gross salary paid at such facility earned for each  
32 of the three years that the facility receives the tax credit provided by this section, so  
33 long as they were qualified employees of such entity. The employer shall calculate  
34 the amount of such credit and shall report the amount to the employee and the  
35 department of revenue.

36           3. A tax credit against income taxes owed pursuant to chapter 143, 147 or  
37 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265,  
38 RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this  
39 section, may be taken by such an entity in a distressed community in an amount of  
40 forty percent of the amount of funds expended for computer equipment and its  
41 maintenance, medical laboratories and equipment, research laboratory equipment,  
42 manufacturing equipment, fiber optic equipment, high speed telecommunications,  
43 wiring or software development expense up to a maximum of seventy-five thousand  
44 dollars in tax credits for such equipment or expense per year per entity and for each  
45 of three years after commencement in or moving operations into a distressed  
46 community.

47           4. A corporation, partnership or sole partnership, which has no more than one  
48 hundred employees for whom payroll taxes are paid, which is already located in a  
49 distressed community and which expends funds for such equipment pursuant to  
50 subsection 3 of this section in an amount exceeding its average of the prior two years  
51 for such equipment, shall be eligible to receive a tax credit against income taxes  
52 owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser  
53 of seventy-five thousand dollars or twenty-five percent of the funds expended for  
54 such additional equipment per such entity. Tax credits allowed pursuant to this  
55 subsection or subsection 1 of this section may be carried back to any of the three  
56 prior tax years and carried forward to any of the five tax years.

57           5. An existing corporation, partnership or sole proprietorship that is located  
58 within a distressed community and that relocates employees from another facility  
59 outside of the distressed community to its facility within the distressed community,  
60 and an existing business located within a distressed community that hires new  
61 employees for that facility may both be eligible for the tax credits allowed by  
62 subsections 1 and 3 of this section. To be eligible for such tax credits, such a  
63 business, during one of its tax years, shall employ within a distressed community at  
64 least twice as many employees as were employed at the beginning of that tax year.  
65 A business hiring employees shall have no more than one hundred employees before  
66 the addition of the new employees. This subsection shall only apply to a business  
67 which is a manufacturing, biomedical, medical devices, scientific research, animal  
68 research, computer software design or development, computer programming or

telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.]

[253.561. The provisions of sections 253.545 to 253.559 shall become effective on January 1, 1998.]

[620.1400. Sections 620.1400 to 620.1460 shall be known and may be cited as the "Missouri Individual Training Account Program Act" and its provisions shall be effective only within distressed communities as defined by section 135.530, RSMo.]

[620.1420. As used in sections 620.1400 to 620.1460, the following terms mean:

(1) "Costs of classroom training", the normal costs incurred in the provision of classroom training which may also include specifically identified costs incurred for instructors, classroom space and facilities, administrative support services, and directly related expenses, that together do not exceed the amount normally allowed for support of vocational and technical classes;

(2) "Department", the department of economic development;



9 (3) "Employee", a full-time or part-time employed worker whose salary is  
10 equal to or less than two hundred percent of the federal poverty level;

11 (4) "Employee upgrade training", the progressive development of skills  
12 associated with the defined set of work processes. Such training shall be consistent  
13 with a career pattern of advancement, as measured by skill proficiency and the  
14 progressive earnings and related benefits, that are recognized within an occupation,  
15 trade or industry;

16 (5) "Individual training account", an account funded by the tax credits  
17 provided for in section 620.1440 for the provision of employee upgrade training to  
18 employees through their participation in classroom training provided by educational  
19 institutions;

20 (6) "Local educational institution", a publicly funded or privately funded  
21 local educational institution which is certified by a recognized accrediting association  
22 as capable of providing adequate classroom training to accomplish the purpose of  
23 sections 620.1400 to 620.1460.]

2 [620.1430. 1. A Missouri employer who desires to participate in the  
3 individual training account program shall provide the department of economic  
4 development with notification of intent to participate. The notification shall include,  
5 but need not be limited to, the names and occupations of employees whom the  
6 employer has selected to be trained, whether or not the employees are currently  
7 working for the employer, the name of the local educational institution that will  
8 provide the training, and a brief description of the training to be given by the  
9 institution.

10 2. The employer shall have complete discretion in the selection of the local  
11 educational institution or institutions to provide training and shall be responsible for  
the payment of the costs of classroom training.]

2 [620.1440. 1. Employers may be reimbursed for the costs of training  
3 provided pursuant to the provisions of the individual training account program. Such  
4 reimbursement shall be in the form of tax credits as authorized in subsection 2 of this  
5 section. The tax credits may be claimed for courses provided in no more than two  
6 calendar years for each employee. For each year, the maximum amount of credit per  
7 employee which can be certified by the department of economic development shall  
8 be the lesser of fifty percent of the costs of classroom training or one thousand five  
9 hundred dollars.

10 2. Tax credits may be claimed against any liability incurred by the employer  
11 pursuant to the provisions of chapter 143, RSMo, and chapter 148, RSMo, exclusive  
12 of the provisions relating to the withholding of tax as provided for in sections  
13 143.191 to 143.265, RSMo. Earned tax credits may be carried forward for a period  
14 not to exceed five years and may be sold or transferred.

15 3. No claim for tax credits submitted to the department by an employer shall  
16 be certified until the employer provides documentation that an employee has  
17 successfully completed the employee's course training and has been employed by the  
employer in a new, full-time position for a period of at least three months. It must

18 be demonstrated satisfactorily to the department that the new position in which the  
19 employee located is an upgrade in employment, in terms of salary and  
20 responsibilities, from the previously held position. All such increases in salary shall  
21 be in addition to normal cost-of-living increases provided for in authorized  
22 labor-management contracts. If the employee was previously employed in a  
23 part-time position, the base salary for the position shall be calculated as if it were a  
24 full-time position.]

2 [620.1450. The maximum amount of tax credits allowable pursuant to the  
3 provisions of the individual training account program shall not annually exceed six  
million dollars.]

Section B. The repeal of sections 135.429 and 135.430, the repeal and reenactment of  
2 sections 135.400, 135.403, 135.405, 135.411, 135.420, 135.423 and 135.545, and the enactment  
3 of section 620.1600 contained in section A of this act shall become effective January 1, 2002.