

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 718**  
**94TH GENERAL ASSEMBLY**

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Reported from the Special Committee on Job Creation and Economic Development April 24, 2008 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.950, 135.967, 137.115, 137.1018, 144.030, 155.010, 253.550, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof twenty-three new sections relating to tax incentives for business development, with an emergency clause for a certain section.

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

Section A. Sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.950, 135.967, 137.115, 137.1018, 144.030, 155.010, 253.550, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.682, 135.950, 135.967, 135.968, 137.115, 137.1018, 144.030, 144.057, 155.010, 253.550, 348.273, 348.274, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, to read as follows:

32.105. As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

21		Percent of State or
22		Geographic Area Family
23	Size of Household	Median Income
24	One Person	5%
25	Two Persons	40%
26	Three Persons	45%
27	Four Persons	50%
28	Five Persons	54%
29	Six Persons	58%
30	Seven Persons	62%
31	Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under such chapter, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state

40 pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual  
41 tax on its gross receipts in this state;

42 (4) "Commission", the Missouri housing development commission;

43 (5) "Community services", any type of counseling and advice, emergency assistance or  
44 medical care furnished to individuals or groups in the state of Missouri or transportation services  
45 at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

46 (6) "Crime prevention", any activity which aids in the reduction of crime in the state of  
47 Missouri;

48 (7) "Defense industry contractor", a person, corporation or other entity which will be or  
49 has been negatively impacted as a result of its status as a prime contractor of the Department of  
50 Defense or as a second or third tier contractor. A "second tier contractor" means a person,  
51 corporation or other entity which contracts to perform manufacturing, maintenance or repair  
52 services for a prime contractor of the Department of Defense, and a "third tier contractor" means  
53 a person, corporation or other entity which contracts with a person, corporation or other entity  
54 which contracts with a prime contractor of the Department of Defense;

55 (8) "Doing business", among other methods of doing business in the state of Missouri,  
56 a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in  
57 the state of Missouri if such firm or S corporation, as the case may be, is doing business in the  
58 state of Missouri;

59 (9) "Economic development", the acquisition, renovation, improvement, or the  
60 furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the  
61 state when such acquisition, renovation, improvement, or the furnishing or equipping of the  
62 business development projects will result in the creation or retention of jobs within the state; or,  
63 until June 30, 1996, a defense conversion pilot project located in a standard metropolitan  
64 statistical area which contains a city with a population of at least three hundred fifty thousand  
65 inhabitants, which will assist Missouri-based defense industry contractors in their conversion  
66 from predominately defense-related contracting to nondefense-oriented manufacturing. Only  
67 neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct  
68 economic development projects. Prior to the approval of an economic development project, the  
69 neighborhood organization shall enter into a contractual agreement with the department of  
70 economic development. Credits approved for economic development projects may not exceed  
71 [four] **six** million dollars from within any one fiscal year's allocation[, except that for fiscal years  
72 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six  
73 million dollars]. Neighborhood assistance program tax credits for economic development  
74 projects and affordable housing assistance as defined in section 32.111 may be transferred, sold  
75 or assigned by a notarized endorsement thereof naming the transferee;

76 (10) "Education", any type of scholastic instruction or scholarship assistance to an  
77 individual who resides in the state of Missouri that enables the individual to prepare himself or  
78 herself for better opportunities or community awareness activities rendered by a statewide  
79 organization established for the purpose of archeological education and preservation;

80 (11) "Homeless assistance pilot project", the program established pursuant to section  
81 32.117;

82 (12) "Job training", any type of instruction to an individual who resides in the state of  
83 Missouri that enables the individual to acquire vocational skills so that the individual can  
84 become employable or be able to seek a higher grade of employment;

85 (13) "Neighborhood organization", any organization performing community services or  
86 economic development activities in the state of Missouri and:

87 (a) Holding a ruling from the Internal Revenue Service of the United States Department  
88 of the Treasury that the organization is exempt from income taxation pursuant to the provisions  
89 of the Internal Revenue Code; or

90 (b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the  
91 provisions of chapter 355, RSMo; or

92 (c) Designated as a community development corporation by the United States  
93 government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

94 (14) "Physical revitalization", furnishing financial assistance, labor, material, or technical  
95 advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood  
96 area;

97 (15) "S corporation", a corporation described in Section 1361(a)(1) of the United States  
98 Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by  
99 reason of section 143.471, RSMo;

100 (16) "Workfare renovation project", any project initiated pursuant to sections 215.340  
101 to 215.355, RSMo.

67.1501. 1. A district may use any one or more of the assessments, taxes, or other  
2 funding methods specifically authorized pursuant to sections 67.1401 to 67.1571 to provide  
3 funds to accomplish any power, duty or purpose of the district[]; provided, however, no district  
4 which is located in any city not within a county and which includes any real property that is also  
5 included in a special business district established pursuant to sections 71.790 to 71.808, RSMo,  
6 prior to the establishment of the district pursuant to sections 67.1401 to 67.1571 shall have the  
7 authority to impose any such tax or assessment pursuant to sections 67.1401 to 67.1571 until  
8 such time as all taxes or special assessments imposed pursuant to sections 71.790 to 71.808,  
9 RSMo, on any real property or on any business located in such special business district or on any  
10 business or individual doing business in such special business district have been repealed in

11 accordance with this subsection. The governing body of a special business district which  
12 includes real property located in a district established pursuant to sections 67.1401 to 67.1571  
13 shall have the power to repeal all taxes and assessments imposed pursuant to sections 71.790 to  
14 71.808, RSMo, and such power may be exercised by the adoption of a resolution by the  
15 governing body of such special business district. Upon the adoption of such resolution such  
16 special business district shall no longer have the power to impose any tax or special assessment  
17 pursuant to sections 71.790 to 71.808, RSMo, until such time as the district or districts  
18 established pursuant to sections 67.1401 to 67.1571 which include any real property that is also  
19 included in such special business district have been terminated or have expired pursuant to  
20 sections 67.1401 to 67.1571].

21 2. A district may establish different classes of real property within the district for  
22 purposes of special assessments. The levy rate for special assessments may vary for each class  
23 or subclass based on the level of benefit derived from services or improvements funded, provided  
24 or caused to be provided by the district.

25 3. Notwithstanding anything in sections 67.1401 to 67.1571 to the contrary, any district  
26 which is not a political subdivision shall have no power to levy any tax but shall have the power  
27 to levy special assessments in accordance with section 67.1521.

67.1545. 1. Any district formed as a political subdivision may impose by resolution a  
2 district sales and use tax on all retail sales made in such district which are subject to taxation  
3 pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats  
4 or outboard motors and sales to **or by public utilities and providers of communications, cable,**  
5 **or video services.** Any sales and use tax imposed pursuant to this section may be imposed in  
6 increments of one-eighth of one percent, up to a maximum of one percent. Such district sales  
7 and use tax may be imposed for any district purpose designated by the district in its ballot of  
8 submission to its qualified voters; except that, no resolution adopted pursuant to this section shall  
9 become effective unless the board of directors of the district submits to the qualified voters of  
10 the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this section.  
11 If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the  
12 sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters  
13 are opposed to the sales tax, then the resolution is void.

14 2. The ballot shall be substantially in the following form:

15 Shall the ..... (insert name of district) Community Improvement District  
16 impose a community improvement districtwide sales and use tax at the maximum rate of  
17 ..... (insert amount) for a period of ..... (insert number) years from the date on which  
18 such tax is first imposed for the purpose of providing revenue for .....  
19 (insert general description of the purpose)?

20

☐ YES☐ NO

21

22 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed  
23 to the question, place an "X" in the box opposite "NO".

24

25 3. Within ten days after the qualified voters have approved the imposition of the sales  
26 and use tax, the district shall, in accordance with section 32.087, RSMo, notify the director of  
27 the department of revenue. The sales and use tax authorized by this section shall become  
28 effective on the first day of the second calendar quarter after the director of the department of  
revenue receives notice of the adoption of such tax.

29

30 4. The director of the department of revenue shall collect any tax adopted pursuant to this  
section pursuant to section 32.087, RSMo.

31

32 5. In each district in which a sales and use tax is imposed pursuant to this section, every  
33 retailer shall add such additional tax imposed by the district to such retailer's sale price, and when  
34 so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser  
to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

35

36 6. In order to allow retailers to collect and report the sales and use tax authorized by this  
37 section as well as all other sales and use taxes required by law in the simplest and most efficient  
38 manner possible, a district may establish appropriate brackets to be used in the district imposing  
a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

39

40 7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to  
violations of this section.

41

42 8. All revenue received by the district from a sales and use tax imposed pursuant to this  
43 section which is designated for a specific purpose shall be deposited into a special trust fund and  
44 expended solely for such purpose. Upon the expiration of any sales and use tax adopted pursuant  
45 to this section, all funds remaining in the special trust fund shall continue to be used solely for  
46 the specific purpose designated in the resolution adopted by the qualified voters. Any funds in  
47 such special trust fund which are not needed for current expenditures may be invested by the  
board of directors pursuant to applicable laws relating to the investment of other district funds.

48

49 9. A district may repeal by resolution any sales and use tax imposed pursuant to this  
50 section before the expiration date of such sales and use tax unless the repeal of such sales and  
51 use tax will impair the district's ability to repay any liabilities the district has incurred, moneys  
the district has borrowed or obligation the district has issued to finance any improvements or  
52 services rendered for the district.

53

54 10. Notwithstanding the provisions of chapter 115, RSMo, an election for a district sales  
55 and use tax under this section shall be conducted in accordance with the provisions of this  
section.

135.155. 1. Notwithstanding any provision of the law to the contrary, no  
2 revenue-producing enterprise **other than headquarters as defined in subsection 10 of section**  
3 **135.110** shall receive the incentives set forth in sections 135.100 to 135.150 for facilities  
4 commencing operations on or after January 1, 2005. **No headquarters as defined in subsection**  
5 **10 of section 135.110 shall receive the incentives set forth in subsections 9 to 14 of section**  
6 **135.110 for facilities commencing or expanding operations on or after January 1, 2018.**

7 2. Expansions at headquarters facilities as defined in subsection 10 of section  
8 **135.110 shall each be considered a separate new business facility and each be entitled to**  
9 **the credits as set forth in subsections 9 to 14 of section 135.110 if the number of new**  
10 **business facility employees attributed to each such expansion is as least five hundred and**  
11 **the amount of new business facility investment attributed to each such expansion is at least**  
12 **twenty million dollars.**

13 3. Notwithstanding any provision of law to the contrary, for headquarters as  
14 **defined in subsection 10 of section 135.110, buildings on multiple noncontiguous real**  
15 **properties shall be considered one facility if the buildings are located within five miles of**  
16 **each other.**

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 percent of  
5 its employees at the facility in the distressed community, and which has fewer than one hundred  
6 employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical  
7 devices, scientific research, animal research, computer software design or development,  
8 computer programming, including Internet, web hosting, and other information technology,  
9 wireless or wired or other telecommunications or a professional firm shall receive a forty percent  
10 credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes  
11 withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such  
12 move, if approved by the department of economic development, which shall issue a certificate  
13 of eligibility if the department determines that the taxpayer is eligible for such credit. The  
14 maximum amount of credits per taxpayer set forth in this subsection shall not exceed one  
15 hundred twenty-five thousand dollars for each of the three years for which the credit is claimed.  
16 The department of economic development, by means of rule or regulation promulgated pursuant  
17 to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry  
18 Classification System numbers to the companies which are eligible for the tax credits provided  
19 for in this section. Such three-year credits shall be awarded only one time to any company which  
20 moves its operations from outside of Missouri or outside of a distressed community into a

21 distressed community or to a company which commences operations within a distressed  
22 community. A taxpayer shall file an application for certification of the tax credits for the first  
23 year in which credits are claimed and for each of the two succeeding taxable years for which  
24 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 computer equipment and its maintenance, medical laboratories and equipment, research  
39 laboratory equipment, manufacturing equipment, fiber optic equipment, high speed  
40 telecommunications, wiring or software development expense up to a maximum of seventy-five  
41 thousand dollars in tax credits for such equipment or expense per year per entity and for each of  
42 three years after commencement in or moving operations into a distressed community.

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

52         5. An existing corporation, partnership or sole proprietorship that is located within a  
53 distressed community and that relocates employees from another facility outside of the distressed  
54 community to its facility within the distressed community, and an existing business located  
55 within a distressed community that hires new employees for that facility may both be eligible for  
56 the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,



57 such a business, during one of its tax years, shall employ within a distressed community at least  
58 twice as many employees as were employed at the beginning of that tax year. A business hiring  
59 employees shall have no more than one hundred employees before the addition of the new  
60 employees. This subsection shall only apply to a business which is a manufacturing, biomedical,  
61 medical devices, scientific research, animal research, computer software design or development,  
62 computer programming or telecommunications business, or a professional firm.

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

67 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall  
68 be for an amount of no more than ten million dollars for each year beginning in 1999. To the  
69 extent there are available tax credits remaining under the ten million dollar cap provided in this  
70 section, [up to one hundred thousand dollars in the] **such** remaining credits shall first be used for  
71 tax credits authorized under section 135.562. The total maximum credit for all entities already  
72 located in distressed communities and claiming credits pursuant to subsection 4 of this section  
73 shall be seven hundred and fifty thousand dollars. The department of economic development in  
74 approving taxpayers for the credit as provided for in subsection 6 of this section shall use  
75 information provided by the department of revenue regarding taxes paid in the previous year, or  
76 projected taxes for those entities newly established in the state, as the method of determining  
77 when this maximum will be reached and shall maintain a record of the order of approval. Any  
78 tax credit not used in the period for which the credit was approved may be carried over until the  
79 full credit has been allowed.

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

86 9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
87 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the  
88 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and  
89 135.245, respectively, for the same business for the same tax period.

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand  
2 dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's  
3 principal dwelling accessible to an individual with a disability who permanently resides with the

4 taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax  
5 liability in an amount equal to the lesser of one hundred percent of such costs or two thousand  
6 five hundred dollars per taxpayer, per tax year.

7       2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars  
8 but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion  
9 of such taxpayer's principal dwelling accessible to an individual with a disability who  
10 permanently resides with the taxpayer shall receive a tax credit against such taxpayer's Missouri  
11 income tax liability in an amount equal to the lesser of fifty percent of such costs or two thousand  
12 five hundred dollars per taxpayer per tax year. No taxpayer shall be eligible to receive tax credits  
13 under this section in any tax year immediately following a tax year in which such taxpayer  
14 received tax credits under the provisions of this section.

15       3. Tax credits issued pursuant to this section may be refundable in an amount not to  
16 exceed two thousand five hundred dollars per tax year.

17       4. Eligible costs for which the credit may be claimed include:

- 18       (1) Constructing entrance or exit ramps;
- 19       (2) Widening exterior or interior doorways;
- 20       (3) Widening hallways;
- 21       (4) Installing handrails or grab bars;
- 22       (5) Moving electrical outlets and switches;
- 23       (6) Installing stairway lifts;
- 24       (7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;
- 25       (8) Modifying hardware of doors; or
- 26       (9) Modifying bathrooms.

27       5. The tax credits allowed, including the maximum amount that may be claimed,  
28 pursuant to this section shall be reduced by an amount sufficient to offset any amount of such  
29 costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to  
30 the extent such taxpayer has applied any other state or federal income tax credit to such costs.

31       6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the  
32 credit is issued, and at the time such taxpayer files his or her Missouri income tax return;  
33 provided that such return is timely filed.

34       7. The department may, in consultation with the department of social services,  
35 promulgate such rules or regulations as are necessary to administer the provisions of this section.  
36 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
37 under the authority delegated in this section shall become effective only if it complies with and  
38 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
39 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested

40 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date  
41 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
42 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid  
43 and void.

44 8. The provisions of this section shall apply to all tax years beginning on or after January  
45 1, 2008.

46 9. The provisions of this section shall expire December 31, 2013.

47 10. In no event shall the aggregate amount of all tax credits allowed pursuant to this  
48 section exceed [one hundred thousand dollars] **the amount of tax credits remaining unused**  
49 **under the program authorized under section 135.535** in any given fiscal year. The tax credits  
50 issued pursuant to this section shall be on a first-come, first-served filing basis.

**135.682. 1. The director of the department of economic development or the**  
2 **director's designee shall issue letter rulings regarding the tax credit program authorized**  
3 **under section 135.680, subject to the terms and conditions set forth in this section. The**  
4 **director of the department of economic development may impose additional terms and**  
5 **conditions consistent with this section to requests for letter rulings by regulation**  
6 **promulgated under chapter 536, RSMo. For the purposes of this section, the term "letter**  
7 **ruling" means a written interpretation of law to a specific set of facts provided by the**  
8 **applicant requesting a letter ruling.**

9 **2. The director or director's designee shall respond to a request for a letter ruling**  
10 **within sixty days of receipt of such request. The applicant may provide a draft letter**  
11 **ruling for the department's consideration. The applicant may withdraw the request for**  
12 **a letter ruling, in writing, prior to the issuance of the letter ruling. The director or the**  
13 **director's designee may refuse to issue a letter ruling for good cause, but must list the**  
14 **specific reasons for refusing to issue the letter ruling. Good cause includes, but is not**  
15 **limited to:**

16 **(1) The applicant requests the director to determine whether a statute is**  
17 **constitutional or a regulation is lawful;**

18 **(2) The request involves a hypothetical situation or alternative plans;**

19 **(3) The facts or issues presented in the request are unclear, overbroad, insufficient,**  
20 **or otherwise inappropriate as a basis upon which to issue a letter ruling; and**

21 **(4) The issue is currently being considered in a rulemaking procedure, contested**  
22 **case, or other agency or judicial proceeding that may definitely resolve the issue.**

23 **3. Letter rulings shall bind the director and the director's agents and their**  
24 **successors until such time as the taxpayer or its shareholders, members, or partners, as**  
25 **applicable, claim all of such tax credits on a Missouri tax return, subject to the terms and**

26 conditions set forth in properly published regulations. The letter ruling shall apply only  
27 to the applicant.

28 **4. Letter rulings issued under the authority of this section shall not be a rule as**  
29 **defined in section 536.010, RSMo, in that it is an interpretation issued by the department**  
30 **with respect to a specific set of facts and intended to apply only to that specific set of facts,**  
31 **and therefore shall not be subject to the rulemaking requirements of chapter 536, RSMo.**

32 **5. Information in letter ruling requests as described in section 620.014, RSMo, shall**  
33 **be closed to the public. Copies of letter rulings shall be available to the public provided**  
34 **that the applicant identifying information and otherwise protected information is redacted**  
35 **from the letter ruling as provided in subsection 1 of section 610.024, RSMo.**

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

2 **(1) "Average wage", the new payroll divided by the number of new jobs;**

3 **[(1)] (2) "Blighted area", an area which, by reason of the predominance of defective or**  
4 **inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,**  
5 **improper subdivision or obsolete platting, or the existence of conditions which endanger life or**  
6 **property by fire and other causes, or any combination of such factors, retards the provision of**  
7 **housing accommodations or constitutes an economic or social liability or a menace to the public**  
8 **health, safety, morals, or welfare in its present condition and use;**

9 **[(2)] (3) "Board", an enhanced enterprise zone board established pursuant to section**  
10 **135.957;**

11 **[(3)] (4) "Commencement of commercial operations" shall be deemed to occur during**  
12 **the first taxable year for which the new business facility is first put into use by the taxpayer in**  
13 **the enhanced business enterprise in which the taxpayer intends to use the new business facility;**

14 **[(4)] (5) "County average wage", the average wages in each county as determined**  
15 **by the department for the most recently completed full calendar year. However, if the**  
16 **computed county average wage is above the statewide average wage, the statewide average**  
17 **wage shall be deemed the county average wage for such county for the purpose of**  
18 **determining eligibility. The department shall publish the county average wage for each**  
19 **county at least annually. Notwithstanding the provisions of this subdivision to the**  
20 **contrary, for any taxpayer that in conjunction with their project is relocating employees**  
21 **from a Missouri county with a higher county average wage, such taxpayer shall obtain the**  
22 **endorsement of the governing body of the community from which jobs are being relocated**  
23 **or the county average wage for their project shall be the county average wage for the**  
24 **county from which the employees are being relocated;**

25 **[(4)] (6) "Department", the department of economic development;**

26 **[(5)] (7) "Director", the director of the department of economic development;**

27           [(6)] (8) "Employee", a person employed by the enhanced business enterprise that is  
28 scheduled to work an average of at least one thousand hours per year, and such person at all  
29 times has health insurance offered to him or her, which is partially paid for by the employer;

30           [(7)] (9) "Enhanced business enterprise", an industry or one of a cluster of industries that  
31 is either:

32           (a) Identified by the department as critical to the state's economic security and growth;  
33 or

34           (b) Will have an impact on industry cluster development, as identified by the governing  
35 authority in its application for designation of an enhanced enterprise zone and approved by the  
36 department; but excluding gambling establishments (NAICS industry group 7132), retail trade  
37 (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations  
38 (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking  
39 places (NAICS subsector 722), however, notwithstanding provisions of this section to the  
40 contrary, headquarters or administrative offices of an otherwise excluded business may qualify  
41 for benefits if the offices serve a multistate territory. In the event a national, state, or regional  
42 headquarters operation is not the predominant activity of a project facility, the new jobs and  
43 investment of such headquarters operation is considered eligible for benefits under this section  
44 if the other requirements are satisfied. Service industries may be eligible only if a majority of  
45 its annual revenues will be derived from out of the state;

46           [(8)] (10) "Existing business facility", any facility in this state which was employed by  
47 the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately  
48 prior to an expansion, acquisition, addition, or replacement;

49           [(9)] (11) "Facility", any building used as an enhanced business enterprise located within  
50 an enhanced enterprise zone, including the land on which the facility is located and all  
51 machinery, equipment, and other real and depreciable tangible personal property acquired for use  
52 at and located at or within such facility and used in connection with the operation of such  
53 facility;

54           [(10)] (12) "Facility base employment", the greater of the number of employees located  
55 at the facility on the date of the notice of intent, or for the twelve-month period prior to the date  
56 of the notice of intent, the average number of employees located at the facility, or in the event  
57 the project facility has not been in operation for a full twelve-month period, the average number  
58 of employees for the number of months the facility has been in operation prior to the date of the  
59 notice of intent;

60           [(11)] (13) "Facility base payroll", the total amount of taxable wages paid by the  
61 enhanced business enterprise to employees of the enhanced business enterprise located at the  
62 facility in the twelve months prior to the notice of intent, not including the payroll of owners of

63 the enhanced business enterprise unless the enhanced business enterprise is participating in an  
64 employee stock ownership plan. For the purposes of calculating the benefits under this program,  
65 the amount of base payroll shall increase each year based on the consumer price index or other  
66 comparable measure, as determined by the department;

67 [(12)] (14) "Governing authority", the body holding primary legislative authority over  
68 a county or incorporated municipality;

69 [(13)] (15) **"Mega-project", any manufacturing or assembling facility, approved by**  
70 **the department for construction and operation within an enhanced enterprise zone, which**  
71 **satisfies the following:**

72 (a) **The new capital investment is projected to exceed three hundred million dollars**  
73 **over a period of eight years from the date of approval by the department;**

74 (b) **The number of new jobs is projected to exceed one thousand over a period of**  
75 **eight years beginning on the date of approval by the department;**

76 (c) **The average wage of new jobs to be created shall exceed the county average**  
77 **wage;**

78 (d) **The taxpayer shall offer health insurance to all new jobs and pay at least eighty**  
79 **percent of such insurance premiums; and**

80 (e) **An acceptable plan of repayment, to the state, of the tax credits provided for the**  
81 **mega-project has been provided by the taxpayer;**

82 (16) "NAICS", the 1997 edition of the North American Industry Classification System  
83 as prepared by the Executive Office of the President, Office of Management and Budget. Any  
84 NAICS sector, subsector, industry group or industry identified in this section shall include its  
85 corresponding classification in subsequent federal industry classification systems;

86 [(14)] (17) "New business facility", a facility that satisfies the following requirements:

87 (a) Such facility is employed by the taxpayer in the operation of an enhanced business  
88 enterprise. Such facility shall not be considered a new business facility in the hands of the  
89 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person  
90 or persons. If the taxpayer employs only a portion of such facility in the operation of an  
91 enhanced business enterprise, and leases another portion of such facility to another person or  
92 persons or does not otherwise use such other portions in the operation of an enhanced business  
93 enterprise, the portion employed by the taxpayer in the operation of an enhanced business  
94 enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c),  
95 and (d) of this subdivision are satisfied;

96 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A  
97 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,  
98 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding

99 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the  
100 taxpayer occurs after December 31, 2004;

101 (c) If such facility was acquired by the taxpayer from another taxpayer and such facility  
102 was employed immediately prior to the acquisition by another taxpayer in the operation of an  
103 enhanced business enterprise, the operation of the same or a substantially similar enhanced  
104 business enterprise is not continued by the taxpayer at such facility; and

105 (d) Such facility is not a replacement business facility, as defined in subdivision [(22)]  
106 (25) of this section;

107 [(15)] (18) "New business facility employee", an employee of the taxpayer in the  
108 operation of a new business facility during the taxable year for which the credit allowed by  
109 section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and  
110 other operators of rolling stock for hire shall not constitute new business facility employees;

111 [(16)] (19) "New business facility investment", the value of real and depreciable tangible  
112 personal property, acquired by the taxpayer as part of the new business facility, which is used by  
113 the taxpayer in the operation of the new business facility, during the taxable year for which the  
114 credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail  
115 vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges,  
116 tunnels, and rail yards and spurs shall not constitute new business facility investments. The total  
117 value of such property during such taxable year shall be:

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

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

128 [(17)] (20) "New job", the number of employees located at the facility that exceeds the  
129 facility base employment less any decrease in the number of the employees at related facilities  
130 below the related facility base employment. No job that was created prior to the date of the  
131 notice of intent shall be deemed a new job;

132 [(18)] (21) "Notice of intent", a form developed by the department which is completed  
133 by the enhanced business enterprise and submitted to the department which states the enhanced  
134 business enterprise's intent to hire new jobs and request benefits under such program;

135           [(19)] **(22)** "Related facility", a facility operated by the enhanced business enterprise or  
136 a related company in this state that is directly related to the operation of the project facility;

137           [(20)] **(23)** "Related facility base employment", the greater of:

138           (a) The number of employees located at all related facilities on the date of the notice of  
139 intent; or

140           (b) For the twelve-month period prior to the date of the notice of intent, the average  
141 number of employees located at all related facilities of the enhanced business enterprise or a  
142 related company located in this state;

143           [(21)] **(24)** "Related taxpayer":

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

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

147           (c) A corporation, partnership, trust or association controlled by an individual,  
148 corporation, partnership, trust or association in control of the taxpayer. "Control of a  
149 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty  
150 percent of the total combined voting power of all classes of stock entitled to vote, "control of a  
151 partnership or association" shall mean ownership of at least fifty percent of the capital or profits  
152 interest in such partnership or association, and "control of a trust" shall mean ownership, directly  
153 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such  
154 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code  
155 of 1986, as amended;

156           [(22)] **(25)** "Replacement business facility", a facility otherwise described in subdivision  
157 [(14)] **(17)** of this section, hereafter referred to in this subdivision as "new facility", which  
158 replaces another facility, hereafter referred to in this subdivision as "old facility", located within  
159 the state, which the taxpayer or a related taxpayer previously operated but discontinued operating  
160 on or before the close of the first taxable year for which the credit allowed by this section is  
161 claimed. A new facility shall be deemed to replace an old facility if the following conditions are  
162 met:

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

166           (b) The old facility was employed by the taxpayer or a related taxpayer in the operation  
167 of an enhanced business enterprise and the taxpayer continues the operation of the same or  
168 substantially similar enhanced business enterprise at the new facility.

169



170 Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered  
171 a replacement business facility if the taxpayer's new business facility investment, as computed  
172 in subdivision [(16)] **(19)** of this section, in the new facility during the tax period for which the  
173 credits allowed in section 135.967 are claimed exceed one million dollars and if the total number  
174 of employees at the new facility exceeds the total number of employees at the old facility by at  
175 least two;

176 [(23)] **(26)** "Same or substantially similar enhanced business enterprise", an enhanced  
177 business enterprise in which the nature of the products produced or sold, or activities conducted,  
178 are similar in character and use or are produced, sold, performed, or conducted in the same or  
179 similar manner as in another enhanced business enterprise.

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by  
2 the department, be allowed a credit, each tax year for up to ten tax years, in an amount  
3 determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding  
4 withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive  
5 multiple ten-year periods for subsequent expansions at the same facility.

6 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes  
7 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this  
8 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to  
9 [135.268] **135.286**, or section 135.535, **and may not simultaneously receive tax credits under**  
10 **sections 620.1875 to 620.1890, RSMo, at the same facility.**

11 3. No credit shall be issued pursuant to this section unless:

12 (1) The number of new business facility employees engaged or maintained in  
13 employment at the new business facility for the taxable year for which the credit is claimed  
14 equals or exceeds two; and

15 (2) The new business facility investment for the taxable year for which the credit is  
16 claimed equals or exceeds one hundred thousand dollars.

17 4. The annual amount of credits allowed for an approved enhanced business enterprise  
18 shall be the lesser of:

19 (1) The annual amount authorized by the department for the enhanced business  
20 enterprise, which shall be limited to the projected state economic benefit, as determined by the  
21 department; or

22 (2) The sum calculated based upon the following:

23 (a) A credit of four hundred dollars for each new business facility employee employed  
24 within an enhanced enterprise zone;

25 (b) An additional credit of four hundred dollars for each new business facility employee  
26 who is a resident of an enhanced enterprise zone;

27 (c) An additional credit of four hundred dollars for each new business facility employee  
28 who is paid by the enhanced business enterprise a wage that exceeds the average wage paid  
29 within the county in which the facility is located, as determined by the department; and

30 (d) A credit equal to two percent of new business facility investment within an enhanced  
31 enterprise zone.

32 5. Prior to January 1, 2007, in no event shall the department authorize more than four  
33 million dollars annually to be issued for all enhanced business enterprises. After December 31,  
34 2006, in no event shall the department authorize more than [fourteen] **twenty-four** million  
35 dollars annually to be issued for all enhanced business enterprises.

36 6. If a facility, which does not constitute a new business facility, is expanded by the  
37 taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

38 (1) The taxpayer's new business facility investment in the expansion during the tax  
39 period in which the credits allowed in this section are claimed exceeds one hundred thousand  
40 dollars and if the number of new business facility employees engaged or maintained in  
41 employment at the expansion facility for the taxable year for which credit is claimed equals or  
42 exceeds two, and the total number of employees at the facility after the expansion is at least two  
43 greater than the total number of employees before the expansion; and

44 (2) The taxpayer's investment in the expansion and in the original facility prior to  
45 expansion shall be determined in the manner provided in subdivision [(14)] **(19)** of section  
46 135.950.

47 7. The number of new business facility employees during any taxable year shall be  
48 determined by dividing by twelve the sum of the number of individuals employed on the last  
49 business day of each month of such taxable year. If the new business facility is in operation for  
50 less than the entire taxable year, the number of new business facility employees shall be  
51 determined by dividing the sum of the number of individuals employed on the last business day  
52 of each full calendar month during the portion of such taxable year during which the new  
53 business facility was in operation by the number of full calendar months during such period. For  
54 the purpose of computing the credit allowed by this section in the case of a facility which  
55 qualifies as a new business facility under subsection 6 of this section, and in the case of a new  
56 business facility which satisfies the requirements of paragraph (c) of subdivision [(14)] **(17)** of  
57 section 135.950, or subdivision [(22)] **(25)** of section 135.950, the number of new business  
58 facility employees at such facility shall be reduced by the average number of individuals  
59 employed, computed as provided in this subsection, at the facility during the taxable year  
60 immediately preceding the taxable year in which such expansion, acquisition, or replacement  
61 occurred and shall further be reduced by the number of individuals employed by the taxpayer or  
62 related taxpayer that was subsequently transferred to the new business facility from another

63 Missouri facility and for which credits authorized in this section are not being earned, whether  
64 such credits are earned because of an expansion, acquisition, relocation, or the establishment of  
65 a new facility.

66 8. In the case where a new business facility employee who is a resident of an enhanced  
67 enterprise zone for less than a twelve-month period is employed for less than a twelve-month  
68 period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section  
69 shall be determined by multiplying four hundred dollars by a fraction, the numerator of which  
70 is the number of calendar days during the taxpayer's tax year for which such credits are claimed,  
71 in which the employee was a resident of an enhanced enterprise zone, and the denominator of  
72 which is three hundred sixty-five.

73 9. For the purpose of computing the credit allowed by this section in the case of a facility  
74 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case  
75 of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(14)]  
76 (17) of section 135.950 or subdivision [(22)] (25) of section 135.950, the amount of the  
77 taxpayer's new business facility investment in such facility shall be reduced by the average  
78 amount, computed as provided in subdivision [(14)] (19) of section 135.950 for new business  
79 facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding  
80 such expansion or replacement or at the time of acquisition. Furthermore, the amount of the  
81 taxpayer's new business facility investment shall also be reduced by the amount of investment  
82 employed by the taxpayer or related taxpayer which was subsequently transferred to the new  
83 business facility from another Missouri facility and for which credits authorized in this section  
84 are not being earned, whether such credits are earned because of an expansion, acquisition,  
85 relocation, or the establishment of a new facility.

86 10. For a taxpayer with flow-through tax treatment to its members, partners, or  
87 shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to  
88 their share of ownership on the last day of the taxpayer's tax period.

89 11. Credits may not be carried forward but shall be claimed for the taxable year during  
90 which commencement of commercial operations occurs at such new business facility, and for  
91 each of the nine succeeding taxable years for which the credit is issued.

92 12. Certificates of tax credit authorized by this section may be transferred, sold, or  
93 assigned by filing a notarized endorsement thereof with the department that names the transferee,  
94 the amount of tax credit transferred, and the value received for the credit, as well as any other  
95 information reasonably requested by the department. The sale price cannot be less than  
96 seventy-five percent of the par value of such credits.

97 13. The director of revenue shall issue a refund to the taxpayer to the extent that the  
98 amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

99           14. Prior to the issuance of tax credits, the department shall verify through the  
100 department of revenue, or any other state department, that the tax credit applicant does not owe  
101 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent  
102 fees or assessments levied by any state department and through the department of insurance that  
103 the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the  
104 authorization of the application for such tax credits, except that the amount of credits issued shall  
105 be reduced by the applicant's tax delinquency. If the department of revenue or the department  
106 of insurance, or any other state department, concludes that a taxpayer is delinquent after June  
107 fifteenth but before July first of any year and the application of tax credits to such delinquency  
108 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty  
109 days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled.  
110 After applying all available credits toward a tax delinquency, the administering agency shall  
111 notify the appropriate department, and that department shall update the amount of outstanding  
112 delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income,  
113 sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject  
114 to the restrictions of other provisions of law.

**135.968. 1. A taxpayer who establishes a mega-project, approved by the**  
2 **department, within an enhanced enterprise zone shall, in exchange for the consideration**  
3 **provided by new tax revenues and other economic stimuli that will be generated from the**  
4 **new jobs created by the mega-project, be allowed an income tax credit equal to the**  
5 **percentage of actual new annual payroll of the taxpayer, as provided under subsection 4**  
6 **of this section. A taxpayer seeking approval of a mega-project shall submit an application**  
7 **to the department. The department shall not approve any mega-project after December**  
8 **31, 2008. The department shall not issue any credits for mega-projects prior to July 1,**  
9 **2010, and in no event shall the department authorize more than forty million dollars to be**  
10 **issued annually for all mega-projects.**

11           **2. In considering applications for approval of mega-projects, the department may**  
12 **approve an application if:**

13           **(1) The taxpayer's project is financially sound and the taxpayer has adequately**  
14 **demonstrated an ability to successfully undertake and complete the mega-project. This**  
15 **determination shall be supported by a professional third party market feasibility analysis**  
16 **conducted on behalf of the state by a firm with direct experience with the industry of the**  
17 **proposed mega-project, and by a professional third party financial analysis of the**  
18 **taxpayer's ability to complete the project;**

19           **(2) The taxpayer's plan of repayment to the state of the amount of tax credits**  
20 **provided is reasonable and sound;**

21           (3) The taxpayer's mega-project will create new jobs that were not jobs previously  
22 performed by employees of the taxpayer or a related taxpayer in Missouri;

23           (4) Local taxing entities are providing a significant level of incentives for the mega-  
24 project relative to the projected new local tax revenues created by the mega-project;

25           (5) There is at least one other state or foreign country that the taxpayer verifies is  
26 being considered for the project, and receiving mega-project tax credits is a major factor  
27 in the taxpayer's decision to go forward with the project and not receiving the credit will  
28 result in the taxpayer not creating new jobs in Missouri;

29           (6) The mega-project will be located in an enhanced enterprise zone which  
30 constitutes an economic or social liability and a detriment to the public health, safety,  
31 morals, or welfare in its present condition and use;

32           (7) The completion of the mega-project will serve an essential public municipal  
33 purpose by creating a substantial number of new jobs for citizens, increasing their  
34 purchasing power, improving their living conditions, and relieving the demand for  
35 unemployment and welfare assistance thereby promoting the economic development of the  
36 enhanced enterprise zone, the municipality, and the state; and

37           (8) The creation of new jobs will assist the state in providing the services needed  
38 to protect the health, safety, and social and economic well-being of the citizens of the state.

39           3. Prior to final approval of an application, a binding contract shall be executed  
40 between the taxpayer and the department of economic development which shall include,  
41 but not be limited to:

42           (1) A repayment plan providing for cash payment to the state general revenue fund  
43 which shall result in a positive internal rate of return to the state and fully comply with the  
44 provisions of the World Trade Organization agreement on subsidies and countervailing  
45 measures. The rate of return shall be commercially reasonable and over the life of the  
46 project exceed one hundred fifty percent of the state's borrowing costs based on the AAA-  
47 rated twenty-year tax exempt bond rate average over a twenty-year borrowing period. The  
48 rate of return shall be verified by a professional third party financial analysis;

49           (2) The taxpayer's obligation to construct a facility of at least one million three  
50 hundred thousand square feet within five years from the date of approval; and

51           (3) A projected specific minimum positive internal rate of return over the length  
52 of the project, as calculated by the repayment amount, as validated by the market  
53 feasibility analysis, less credits issued, and an increased specific minimum rate of return  
54 calculated by the repayment amount plus fiscal benefit less the credits issued.

55           4. Upon approval of an application by the department, tax credits shall be issued  
56 annually for a period not to exceed twenty-two years from the commencement of

57 commercial operations of the mega-project. The twenty-two-year period for the issuance  
58 of mega-project tax credits may extend beyond the expiration of the enhanced enterprise  
59 zone. The maximum percentage of the annual payroll of the taxpayer for new jobs located  
60 at the mega-project which may be approved or issued by the department for tax credits  
61 shall not exceed:

62 (1) Eighty percent for the first three years that tax credits will be issued for the  
63 mega-project;

64 (2) Sixty percent for the next two subsequent years;

65 (3) Fifty percent for the next two subsequent years;

66 (4) Thirty percent for the next two subsequent years; and

67 (5) Twenty-five percent for all subsequent years.  
68

69 In no event shall the department issue more than forty million dollars annually in mega-  
70 project tax credits to any taxpayer. The department shall issue a schedule setting forth  
71 maximum year-by-year credits approved by the department. In any given year, the  
72 amount of tax credits issued shall be the lesser of the amount identified in the schedule,  
73 which shall not exceed forty million dollars, or the applicable annual payroll percentage.

74 5. Tax credits issued under this section may be claimed against the tax imposed by  
75 chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265,  
76 RSMo. For taxpayers with flow-through tax treatment of its members, partners, or  
77 shareholders, the credit shall be allowed to members, partners, or shareholders in  
78 proportion to their share of ownership on the last day of the taxpayer's tax period. The  
79 director of revenue shall issue a refund to a taxpayer to the extent the amount of credits  
80 allowed in this section exceeds the amount of the taxpayer's income tax liability in the year  
81 redemption is authorized. An owner of tax credits issued under this section shall not be  
82 required to have any Missouri income tax liability in order to redeem such tax credits and  
83 receive a refund. The director of revenue shall prepare a form to permit the owner of such  
84 tax credits to obtain a refund.

85 6. Certificates of tax credits authorized under this section may be transferred, sold,  
86 or assigned by filing a notarized endorsement thereof with the department that names the  
87 transferee, the amount of tax credit transferred, and the value received for the credit, as  
88 well as any other information reasonably requested by the department. Upon such  
89 transfer, sale, or assignment, the transferee shall be the owner of such tax credits entitled  
90 to claim the tax credits or any refunds with respect thereto issued to the taxpayer. Tax  
91 credits may not be carried forward past the year of issuance. Tax credits authorized by  
92 this section may not be pledged or used to secure any bonds or other indebtedness issued

93 by the state or any political subdivision of the state. Once such tax credits have been  
94 issued, nothing shall prohibit the owner of the tax credits from pledging the tax credits to  
95 any lender or other third-party.

96 7. Any taxpayer issued tax credits under this section shall provide an annual report  
97 to the department of the number of new jobs located at the mega-project, the new annual  
98 payroll of such new jobs, and such other information as may be required by the  
99 department to document the basis for benefits under this section. The department may  
100 withhold the approval of the annual issuance of any tax credits until it is satisfied that  
101 proper documentation has been provided, and shall reduce the tax credits to reflect any  
102 reduction in new payroll. If the department determines the average wage is below the  
103 county average wage, or the taxpayer has not maintained employee health insurance as  
104 required, the taxpayer shall not receive tax credits for that year.

105 8. Notwithstanding any provision of law to the contrary, any taxpayer who is  
106 awarded tax credits under this section shall not also receive tax credits under sections  
107 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 620.1875 to  
108 620.1890, RSMo.

109 9. There is hereby created in the state treasury the "Mega-Project Fund". The  
110 state treasurer shall be custodian of the fund and may approve disbursements from the  
111 fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, moneys  
112 in the mega-project fund shall be used to offset mega-project credits redeemed by  
113 taxpayers. If the department fails to approve a mega-project before December 31, 2008,  
114 all moneys in the fund shall revert to the general revenue fund. Notwithstanding the  
115 provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at  
116 the end of the biennium shall not revert to the credit of the general revenue fund, provided  
117 however that on June 30, 2018, any moneys remaining in the fund shall revert to the credit  
118 of the general revenue fund. The state treasurer shall invest moneys in the fund in the  
119 same manner as other funds are invested. Any interest and moneys earned on such  
120 investments shall be credited to the fund.

121 10. Any action brought in any court contesting the approval of a mega-project and  
122 the issuance of the tax credits, or any other action undertaken pursuant to this section  
123 related to such mega-project, shall be filed within ninety days following approval of the  
124 mega-project by the department.

125 11. Records and documents relating to a proposed mega-project shall be deemed  
126 closed records until such time as the application has been approved. Provisions of this  
127 subsection to the contrary notwithstanding, records containing business plan information  
128 which may endanger the competitiveness of the business shall remain closed.

137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's  
2 deputies in all counties of this state including the city of St. Louis shall annually make a list of  
3 all real and tangible personal property taxable in the assessor's city, county, town or district.  
4 Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor  
5 shall annually assess all personal property at thirty-three and one-third percent of its true value  
6 in money as of January first of each calendar year. The assessor shall annually assess all real  
7 property, including any new construction and improvements to real property, and possessor  
8 interests in real property at the percent of its true value in money set in subsection 5 of this  
9 section. **The true value in money of any possessor interest in real property in subclass (3),  
10 where such real property is on or lies within the ultimate airport boundary as shown by  
11 a federal airport layout plan, as defined by 14 CFR 151.5 of a commercial airport having  
12 a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise  
13 applicable true value in money of any such possessor interest in real property, less the total  
14 dollar amount of costs paid by a party, other than the political subdivision, towards any  
15 new construction or improvements on such real property completed after January 1, 2008,  
16 and which are included in the above-mentioned possessor interest, regardless of the year  
17 in which such costs were incurred or whether such costs were considered in any prior year.**  
18 The assessor shall annually assess all real property in the following manner: new assessed values  
19 shall be determined as of January first of each odd-numbered year and shall be entered in the  
20 assessor's books; those same assessed values shall apply in the following even-numbered year,  
21 except for new construction and property improvements which shall be valued as though they  
22 had been completed as of January first of the preceding odd-numbered year. The assessor may  
23 call at the office, place of doing business, or residence of each person required by this chapter  
24 to list property, and require the person to make a correct statement of all taxable tangible  
25 personal property owned by the person or under his or her care, charge or management, taxable  
26 in the county. On or before January first of each even-numbered year, the assessor shall prepare  
27 and submit a two-year assessment maintenance plan to the county governing body and the state  
28 tax commission for their respective approval or modification. The county governing body shall  
29 approve and forward such plan or its alternative to the plan to the state tax commission by  
30 February first. If the county governing body fails to forward the plan or its alternative to the plan  
31 to the state tax commission by February first, the assessor's plan shall be considered approved  
32 by the county governing body. If the state tax commission fails to approve a plan and if the state  
33 tax commission and the assessor and the governing body of the county involved are unable to  
34 resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the  
35 county or the assessor shall petition the administrative hearing commission, by May first, to  
36 decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the



37 parties, the matter may be stayed while the parties proceed with mediation or arbitration upon  
38 terms agreed to by the parties. The final decision of the administrative hearing commission shall  
39 be subject to judicial review in the circuit court of the county involved. In the event a valuation  
40 of subclass (1) real property within any county with a charter form of government, or within a  
41 city not within a county, is made by a computer, computer-assisted method or a computer  
42 program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such  
43 valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the  
44 assessor proves otherwise, there shall be a presumption that the assessment was made by a  
45 computer, computer-assisted method or a computer program. Such evidence shall include, but  
46 shall not be limited to, the following:

47 (1) The findings of the assessor based on an appraisal of the property by generally  
48 accepted appraisal techniques; and

49 (2) The purchase prices from sales of at least three comparable properties and the address  
50 or location thereof. As used in this [paragraph] **subdivision**, the word "comparable" means that:

51 (a) Such sale was closed at a date relevant to the property valuation; and

52 (b) Such properties are not more than one mile from the site of the disputed property,  
53 except where no similar properties exist within one mile of the disputed property, the nearest  
54 comparable property shall be used. Such property shall be within five hundred square feet in size  
55 of the disputed property, and resemble the disputed property in age, floor plan, number of rooms,  
56 and other relevant characteristics.

57 2. Assessors in each county of this state and the city of St. Louis may send personal  
58 property assessment forms through the mail.

59 3. The following items of personal property shall each constitute separate subclasses of  
60 tangible personal property and shall be assessed and valued for the purposes of taxation at the  
61 following percentages of their true value in money:

62 (1) Grain and other agricultural crops in an unmanufactured condition, one-half of one  
63 percent;

64 (2) Livestock, twelve percent;

65 (3) Farm machinery, twelve percent;

66 (4) Motor vehicles which are eligible for registration as and are registered as historic  
67 motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five  
68 years old and which are used solely for noncommercial purposes and are operated less than fifty  
69 hours per year or aircraft that are home built from a kit, five percent;

70 (5) Poultry, twelve percent; and

71 (6) Tools and equipment used for pollution control and tools and equipment used in  
72 retooling for the purpose of introducing new product lines or used for making improvements to

73 existing products by any company which is located in a state enterprise zone and which is  
74 identified by any standard industrial classification number cited in subdivision (6) of section  
75 135.200, RSMo, twenty-five percent.

76 4. The person listing the property shall enter a true and correct statement of the property,  
77 in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed  
78 and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered  
79 to the assessor.

80 5. All subclasses of real property, as such subclasses are established in section 4(b) of  
81 article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the  
82 following percentages of true value:

83 (1) For real property in subclass (1), nineteen percent;

84 (2) For real property in subclass (2), twelve percent; and

85 (3) For real property in subclass (3), thirty-two percent.

86 6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used  
87 as dwelling units shall be assessed at the same percentage of true value as residential real  
88 property for the purpose of taxation. The percentage of assessment of true value for such  
89 manufactured homes shall be the same as for residential real property. If the county collector  
90 cannot identify or find the manufactured home when attempting to attach the manufactured home  
91 for payment of taxes owed by the manufactured home owner, the county collector may request  
92 the county commission to have the manufactured home removed from the tax books, and such  
93 request shall be granted within thirty days after the request is made; however, the removal from  
94 the tax books does not remove the tax lien on the manufactured home if it is later identified or  
95 found. A manufactured home located in a manufactured home rental park, rental community or  
96 on real estate not owned by the manufactured home owner shall be considered personal property.  
97 A manufactured home located on real estate owned by the manufactured home owner may be  
98 considered real property.

99 7. Each manufactured home assessed shall be considered a parcel for the purpose of  
100 reimbursement pursuant to section 137.750, unless the manufactured home has been converted  
101 to real property in compliance with section 700.111, RSMo, and assessed as a realty  
102 improvement to the existing real estate parcel.

103 8. Any amount of tax due and owing based on the assessment of a manufactured home  
104 shall be included on the personal property tax statement of the manufactured home owner unless  
105 the manufactured home has been converted to real property in compliance with section 700.111,  
106 RSMo, in which case the amount of tax due and owing on the assessment of the manufactured  
107 home as a realty improvement to the existing real estate parcel shall be included on the real  
108 property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general

145 assembly, second regular session and section 137.073 as modified by [this act] **house committee**  
146 **substitute for senate substitute for senate committee substitute for senate bill no. 960,**  
147 **ninety-second general assembly, second regular session,** for the next year of the general  
148 reassessment, prior to January first of any year. No county or city not within a county shall  
149 exercise this opt-out provision after implementing the provisions of this section and sections  
150 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first  
151 general assembly, second regular session and section 137.073 as modified by [this act] **house**  
152 **committee substitute for senate substitute for senate committee substitute for senate bill**  
153 **no. 960, ninety-second general assembly, second regular session,** in a year of general  
154 reassessment. For the purposes of applying the provisions of this subsection, a political  
155 subdivision contained within two or more counties where at least one of such counties has opted  
156 out and at least one of such counties has not opted out shall calculate a single tax rate as in effect  
157 prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular  
158 session. A governing body of a city not within a county or a county that has opted out under the  
159 provisions of this subsection may choose to implement the provisions of this section and sections  
160 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first  
161 general assembly, second regular session, and section 137.073 as modified by [this act] **house**  
162 **committee substitute for senate substitute for senate committee substitute for senate bill**  
163 **no. 960, ninety-second general assembly, second regular session,** for the next year of general  
164 reassessment, by an affirmative vote of the governing body prior to December thirty-first of any  
165 year.

166 16. The governing body of any city of the third classification with more than twenty-six  
167 thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located  
168 in any county that has exercised its authority to opt out under subsection 15 of this section may  
169 levy separate and differing tax rates for real and personal property only if such city bills and  
170 collects its own property taxes or satisfies the entire cost of the billing and collection of such  
171 separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax  
172 rate ceiling.

137.1018. 1. The commission shall ascertain the statewide average rate of property taxes  
2 levied the preceding year, based upon the total assessed valuation of the railroad and street  
3 railway companies and the total property taxes levied upon the railroad and street railway  
4 companies. It shall determine total property taxes levied from reports prescribed by the  
5 commission from the railroad and street railway companies. Total taxes levied shall not include  
6 revenues from the surtax on subclass three real property.

7           2. The commission shall report its determination of average property tax rate for the  
8 preceding year, together with the taxable distributable assessed valuation of each freight line  
9 company for the current year to the director no later than October first of each year.

10           3. Taxes on property of such freight line companies shall be collected at the state level  
11 by the director on behalf of the counties and other local public taxing entities and shall be  
12 distributed in accordance with sections 137.1021 and 137.1024. The director shall tax such  
13 property based upon the distributable assessed valuation attributable to Missouri of each freight  
14 line company, using the average tax rate for the preceding year of the railroad and street railway  
15 companies certified by the commission. Such tax shall be due and payable on or before  
16 December thirty-first of the year levied and, if it becomes delinquent, shall be subject to a penalty  
17 equal to that specified in section 140.100, RSMo.

18           **4. (1) As used in this subsection, the following terms mean:**

19           **(a) "Eligible expenses", expenses incurred in this state to manufacture, maintain,**  
20 **or improve a freight line company's qualified rolling stock;**

21           **(b) "Qualified rolling stock", any freight, stock, refrigerator, or other railcars**  
22 **subject to the tax levied under this section.**

23           **(2) For all taxable years beginning on or after January 1, 2009, a freight line**  
24 **company shall be allowed a credit against the tax levied under this section for the**  
25 **applicable tax year. The tax credit amount shall be equal to the amount of eligible**  
26 **expenses incurred during the calendar year immediately preceding the tax year for which**  
27 **the credit under this section is claimed. The amount of the tax credit issued shall not**  
28 **exceed the freight line company's liability for the tax levied under this section for the tax**  
29 **year for which the credit is claimed.**

30           **(3) A freight line company may apply for the credit by submitting to the**  
31 **commission an application in the form prescribed by the state tax commission.**

32           **(4) The state shall reimburse, on an annual basis, any political subdivision of this**  
33 **state for any decrease in revenue due to the provisions of this section.**

144.030. 1. There is hereby specifically exempted from the provisions of sections  
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to  
3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and  
4 any other state of the United States, or between this state and any foreign country, and any retail  
5 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws  
6 of the United States of America, and such retail sales of tangible personal property which the  
7 general assembly of the state of Missouri is prohibited from taxing or further taxing by the  
8 constitution of this state.

9           2. There are also specifically exempted from the provisions of the local sales tax law as  
10 defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and  
11 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to  
12 the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections  
13 144.010 to 144.525 and 144.600 to 144.745:

14           (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of  
15 such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel  
16 to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing  
17 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into  
18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or  
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will  
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at  
21 retail; economic poisons registered pursuant to the provisions of the Missouri pesticide  
22 registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with  
23 the growth or production of crops, fruit trees or orchards applied before, during, or after planting,  
24 the crop of which when harvested will be sold at retail or will be converted into foodstuffs which  
25 are to be sold ultimately in processed form at retail;

26           (2) Materials, manufactured goods, machinery and parts which when used in  
27 manufacturing, processing, compounding, mining, producing or fabricating become a component  
28 part or ingredient of the new personal property resulting from such manufacturing, processing,  
29 compounding, mining, producing or fabricating and which new personal property is intended to  
30 be sold ultimately for final use or consumption; and materials, including without limitation,  
31 gases and manufactured goods, including without limitation, slagging materials and firebrick,  
32 which are ultimately consumed in the manufacturing process by blending, reacting or interacting  
33 with or by becoming, in whole or in part, component parts or ingredients of steel products  
34 intended to be sold ultimately for final use or consumption;

35           (3) Materials, replacement parts and equipment purchased for use directly upon, and for  
36 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock  
37 or aircraft engaged as common carriers of persons or property;

38           (4) Replacement machinery, equipment, and parts and the materials and supplies solely  
39 required for the installation or construction of such replacement machinery, equipment, and  
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
42 the materials and supplies required solely for the operation, installation or construction of such  
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material

45 recovery processing plant" means a facility that has as its primary purpose the recovery of  
46 materials into a useable product or a different form which is used in producing a new product and  
47 shall include a facility or equipment which are used exclusively for the collection of recovered  
48 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
49 used on highways. For purposes of this section, the terms motor vehicle and highway shall have  
50 the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of  
51 materials within a manufacturing process or the use of a product previously recovered. The  
52 material recovery processing plant shall qualify under the provisions of this section regardless  
53 of ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required  
55 for the installation or construction of such machinery and equipment, purchased and used to  
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if  
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
58 which is intended to be sold ultimately for final use or consumption;

59 (6) Tangible personal property which is used exclusively in the manufacturing,  
60 processing, modification or assembling of products sold to the United States government or to  
61 any agency of the United States government;

62 (7) Animals or poultry used for breeding or feeding purposes;

63 (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and  
64 other machinery, equipment, replacement parts and supplies used in producing newspapers  
65 published for dissemination of news to the general public;

66 (9) The rentals of films, records or any type of sound or picture transcriptions for public  
67 commercial display;

68 (10) Pumping machinery and equipment used to propel products delivered by pipelines  
69 engaged as common carriers;

70 (11) Railroad rolling stock for use in transporting persons or property in interstate  
71 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or  
72 more or trailers used by common carriers, as defined in section 390.020, RSMo, in the  
73 transportation of persons or property;

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,  
75 mining or producing of a product, or electrical energy used in the actual secondary processing  
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision  
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical  
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,  
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing  
80 contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.

81 There shall be a rebuttable presumption that the raw materials used in the primary manufacture  
82 of automobiles contain at least twenty-five percent recovered materials. For purposes of this  
83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon  
84 materials to transform and reduce them to a different state or thing, including treatment necessary  
85 to maintain or preserve such processing by the producer at the production facility;

86 (13) Anodes which are used or consumed in manufacturing, processing, compounding,  
87 mining, producing or fabricating and which have a useful life of less than one year;

88 (14) Machinery, equipment, appliances and devices purchased or leased and used solely  
89 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies  
90 solely required for the installation, construction or reconstruction of such machinery, equipment,  
91 appliances and devices, and so certified as such by the director of the department of natural  
92 resources, except that any action by the director pursuant to this subdivision may be appealed to  
93 the air conservation commission which may uphold or reverse such action;

94 (15) Machinery, equipment, appliances and devices purchased or leased and used solely  
95 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
96 solely required for the installation, construction or reconstruction of such machinery, equipment,  
97 appliances and devices, and so certified as such by the director of the department of natural  
98 resources, except that any action by the director pursuant to this subdivision may be appealed to  
99 the Missouri clean water commission which may uphold or reverse such action;

100 (16) Tangible personal property purchased by a rural water district;

101 (17) All amounts paid or charged for admission or participation or other fees paid by or  
102 other charges to individuals in or for any place of amusement, entertainment or recreation, games  
103 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
104 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
105 municipality or other political subdivision and do not inure to any private person, firm, or  
106 corporation;

107 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,  
108 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of  
109 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically  
110 including hearing aids and hearing aid supplies and all sales of drugs which may be legally  
111 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to  
112 administer those items, including samples and materials used to manufacture samples which may  
113 be dispensed by a practitioner authorized to dispense such samples and all sales of medical  
114 oxygen, home respiratory equipment and accessories, hospital beds and accessories and  
115 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,  
116 electronic Braille equipment and, if purchased by or on behalf of a person with one or more



117 physical or mental disabilities to enable them to function more independently, all sales of  
118 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and  
119 augmentative communication devices, and items used solely to modify motor vehicles to permit  
120 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or  
121 nonprescription drugs to individuals with disabilities;

122 (19) All sales made by or to religious and charitable organizations and institutions in  
123 their religious, charitable or educational functions and activities and all sales made by or to all  
124 elementary and secondary schools operated at public expense in their educational functions and  
125 activities;

126 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce  
127 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,  
128 including fraternal organizations which have been declared tax-exempt organizations pursuant  
129 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or  
130 charitable functions and activities and all sales made to eleemosynary and penal institutions and  
131 industries of the state, and all sales made to any private not-for-profit institution of higher  
132 education not otherwise excluded pursuant to subdivision (19) of this subsection or any  
133 institution of higher education supported by public funds, and all sales made to a state relief  
134 agency in the exercise of relief functions and activities;

135 (21) All ticket sales made by benevolent, scientific and educational associations which  
136 are formed to foster, encourage, and promote progress and improvement in the science of  
137 agriculture and in the raising and breeding of animals, and by nonprofit summer theater  
138 organizations if such organizations are exempt from federal tax pursuant to the provisions of the  
139 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any  
140 fair conducted by a county agricultural and mechanical society organized and operated pursuant  
141 to sections 262.290 to 262.530, RSMo;

142 (22) All sales made to any private not-for-profit elementary or secondary school, all sales  
143 of feed additives, medications or vaccines administered to livestock or poultry in the production  
144 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for  
145 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,  
146 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying  
147 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as  
148 defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new  
149 generation cooperative or an eligible new generation processing entity as defined in section  
150 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor  
151 vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible  
152 personal property which, when mixed with feed for livestock or poultry, is to be used in the

153 feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes  
154 adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used  
155 to improve or enhance the effect of a pesticide and the foam used to mark the application of  
156 pesticides and herbicides for the production of crops, livestock or poultry. As used in this  
157 subdivision, the term "farm machinery and equipment" means new or used farm tractors and such  
158 other new or used farm machinery and equipment and repair or replacement parts thereon, and  
159 supplies and lubricants used exclusively, solely, and directly for producing crops, raising and  
160 feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale  
161 at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel  
162 therefor which is:

- 163 (a) Used exclusively for agricultural purposes;
- 164 (b) Used on land owned or leased for the purpose of producing farm products; and
- 165 (c) Used directly in producing farm products to be sold ultimately in processed form or  
166 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold  
167 ultimately in processed form at retail;

168 (23) Except as otherwise provided in section 144.032, all sales of metered water service,  
169 electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil  
170 for domestic use and in any city not within a county, all sales of metered or unmetered water  
171 service for domestic use:

- 172 (a) "Domestic use" means that portion of metered water service, electricity, electrical  
173 current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not  
174 within a county, metered or unmetered water service, which an individual occupant of a  
175 residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility  
176 service through a single or master meter for residential apartments or condominiums, including  
177 service for common areas and facilities and vacant units, shall be deemed to be for domestic use.  
178 Each seller shall establish and maintain a system whereby individual purchases are determined  
179 as exempt or nonexempt;

- 180 (b) Regulated utility sellers shall determine whether individual purchases are exempt or  
181 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file  
182 with and approved by the Missouri public service commission. Sales and purchases made  
183 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf  
184 of the occupants of residential apartments or condominiums through a single or master meter,  
185 including service for common areas and facilities and vacant units, shall be considered as sales  
186 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales  
187 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility

188 service rate classification and the provision of service thereunder shall be conclusive as to  
189 whether or not the utility must charge sales tax;

190 (c) Each person making domestic use purchases of services or property and who uses any  
191 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day  
192 of the fourth month following the year of purchase, and without assessment, notice or demand,  
193 file a return and pay sales tax on that portion of nondomestic purchases. Each person making  
194 nondomestic purchases of services or property and who uses any portion of the services or  
195 property so purchased for domestic use, and each person making domestic purchases on behalf  
196 of occupants of residential apartments or condominiums through a single or master meter,  
197 including service for common areas and facilities and vacant units, under a nonresidential utility  
198 service rate classification may, between the first day of the first month and the fifteenth day of  
199 the fourth month following the year of purchase, apply for credit or refund to the director of  
200 revenue and the director shall give credit or make refund for taxes paid on the domestic use  
201 portion of the purchase. The person making such purchases on behalf of occupants of residential  
202 apartments or condominiums shall have standing to apply to the director of revenue for such  
203 credit or refund;

204 (24) All sales of handicraft items made by the seller or the seller's spouse if the seller or  
205 the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such  
206 sales do not constitute a majority of the annual gross income of the seller;

207 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,  
208 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of  
209 revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local  
210 sales taxes on such excise taxes;

211 (26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne  
212 vessels which are used primarily in or for the transportation of property or cargo, or the  
213 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state,  
214 if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while  
215 it is afloat upon such river;

216 (27) All sales made to an interstate compact agency created pursuant to sections 70.370  
217 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and  
218 activities of such agency as provided pursuant to the compact;

219 (28) Computers, computer software and computer security systems purchased for use  
220 by architectural or engineering firms headquartered in this state. For the purposes of this  
221 subdivision, "headquartered in this state" means the office for the administrative management  
222 of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

- 223           (29) All livestock sales when either the seller is engaged in the growing, producing or  
224 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering  
225 or leasing of such livestock;
- 226           (30) All sales of barges which are to be used primarily in the transportation of property  
227 or cargo on interstate waterways;
- 228           (31) Electrical energy or gas, whether natural, artificial or propane, water, or other  
229 utilities which are ultimately consumed in connection with the manufacturing of cellular glass  
230 products or in any material recovery processing plant as defined in subdivision (4) of this  
231 subsection;
- 232           (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or  
233 herbicides used in the production of crops, aquaculture, livestock or poultry;
- 234           (33) Tangible personal property and utilities purchased for use or consumption directly  
235 or exclusively in the research and development of agricultural/biotechnology and plant genomics  
236 products and prescription pharmaceuticals consumed by humans or animals;
- 237           (34) All sales of grain bins for storage of grain for resale;
- 238           (35) All sales of feed which are developed for and used in the feeding of pets owned by  
239 a commercial breeder when such sales are made to a commercial breeder, as defined in section  
240 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;
- 241           (36) All purchases by a contractor on behalf of an entity located in another state,  
242 provided that the entity is authorized to issue a certificate of exemption for purchases to a  
243 contractor under the provisions of that state's laws. For purposes of this subdivision, the term  
244 "certificate of exemption" shall mean any document evidencing that the entity is exempt from  
245 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.  
246 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's  
247 exemption certificate as evidence of the exemption. If the exemption certificate issued by the  
248 exempt entity to the contractor is later determined by the director of revenue to be invalid for any  
249 reason and the contractor has accepted the certificate in good faith, neither the contractor or the  
250 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result  
251 of use of the invalid exemption certificate. Materials shall be exempt from all state and local  
252 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible  
253 personal property which is used in fulfilling a contract for the purpose of constructing, repairing  
254 or remodeling facilities for the following:
- 255           (a) An exempt entity located in this state, if the entity is one of those entities able to issue  
256 project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo;  
**and**

**(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.**

**144.057. In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.**

155.010. As used in this chapter, the following terms mean:

(1) "Aircraft", any contrivance now known, or hereafter invented, used or designed for navigation of, or flight in, the air;

(2) "Airline company", any person, firm, partnership, corporation, trustee, receiver or assignee, and all other persons, whether or not in a representative capacity, undertaking to engage in the carriage of persons or cargo for hire by commercial aircraft pursuant to certificates of convenience and necessity issued by the federal Civil Aeronautics Board, or successor thereof, or any noncertificated air carrier authorized to engage in irregular and infrequent air transportation by the federal Civil Aeronautics Board, or successor thereof;

10 (3) "Aviation fuel", any fuel specifically compounded for use in reciprocating aircraft  
11 engines;

12 (4) "Commercial aircraft", aircraft fully equipped for flight and of more than [seven]  
13 **three** thousand pounds maximum certified gross take-off weight.

253.550. **1.** Any person, firm, partnership, trust, estate, or corporation incurring costs  
2 and expenses for the rehabilitation of eligible property, which is a certified historic structure or  
3 structure in a certified historic district, shall be entitled to a credit against the taxes imposed  
4 pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on that  
5 person or entity in an amount equal to twenty-five percent of the total costs and expenses of  
6 rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified  
7 rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code  
8 of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs  
9 associated with rehabilitation and the expenses exceed fifty percent of the total basis in the  
10 property and the rehabilitation meets standards consistent with the standards of the Secretary of  
11 the United States Department of the Interior for rehabilitation as determined by the state historic  
12 preservation officer of the Missouri department of natural resources.

13 **2.** For purposes of sections 253.545 to 253.559, any municipal library district and  
14 any nonprofit entity to which the municipal library district has transferred a structure  
15 shall be deemed a corporation and a for-profit entity, if the nonprofit entity immediately  
16 enters into a lease or other agreement that gives the municipal library district the right to  
17 use, control, and possess the structure and the structure being rehabilitated was first  
18 placed into service before the year 1936. In determining the rehabilitation expenditures  
19 for which credits are permitted, Sections 47(c)(2)(B)(v) and 168 of the Internal Revenue  
20 Code of 1986, as amended, shall be disregarded.

348.273. As used in sections 348.273 and 348.274, the following terms shall mean:

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

3 (2) "Distressed community", as defined in section 135.530, RSMo;

4 (3) "Equity investment", money or money equivalent in consideration for qualified  
5 securities. An equity investment shall be deemed to have been made on the date of  
6 acquisition of the qualified security, as such date is determined in accordance with the  
7 provisions of the Internal Revenue Code;

8 (4) "Investor":

9 (a) An individual who is an accredited investor, as defined in 17 CFR 230.501(a)  
10 as in effect on August 28, 2008; or

11           (b) Any partnership, corporation, trust, limited liability company, or not-for-profit  
12 entity that was established and is operated for the purpose of making preseed and seed  
13 stage investments in start-up companies, and is approved by the department;

14           (5) "Qualified Missouri business", an independently owned and operated business  
15 which is headquartered and located in this state and which is in need of venture capital.  
16 Such business shall have no more than two hundred employees, eighty percent of which are  
17 employed in this state. Such business shall be involved in commerce for the purpose of  
18 manufacturing, processing, or assembling products, conducting research and development,  
19 or providing services in interstate commerce but excluding retail, real estate, real estate  
20 development, insurance, and professional services provided by accountants, lawyers, or  
21 physicians. At the time approval is sought, such business shall be a small business concern  
22 that meets the requirements of the United States Small Business Administration's  
23 qualification size standards for its venture capital program, as defined in the Small  
24 Business Investment Act of 1958, as amended, and rules promulgated in 13 CFR  
25 121.301(c), as amended;

26           (6) "Qualified securities", securities that are not redeemable or repayable within  
27 seven years of issuance and that have been approved in form and substance by the  
28 department. Forms of such equity securities include:

29           (a) A general or limited partnership interest;

30           (b) Common stock;

31           (c) Preferred stock, with or without voting rights, without regard to seniority  
32 position, and whether or not convertible into common stock; or

33           (d) Convertible debt;

34           (7) "Rural area", any city, town, or village with fewer than fifteen thousand  
35 inhabitants and located in any county that is not part of a standard metropolitan statistical  
36 area as defined by the United States Department of Commerce or its successor agency.  
37 However, any such city, town, or village located in any county so defined as a standard  
38 metropolitan statistical area may be designated a rural area by the office of rural  
39 development if:

40           (a) A substantial number of persons in such county derive their income from  
41 agriculture;

42           (b) The county has only one city within the county having a population of more  
43 than fifteen thousand and is classified as a standard metropolitan statistical area; and

44           (c) All other cities, towns, and villages in that county have a population of less than  
45 fifteen thousand.

2       **348.274. 1. The department may authorize tax credits to encourage equity**  
3       **investment into technology-based early stage Missouri companies.**

4       **2. If a qualified Missouri business is approved by the department, the investors who**  
5       **contribute the first five hundred thousand dollars in equity investment in the qualified**  
6       **Missouri business may be issued a tax credit in the year the equity investment is made.**  
7       **The tax credit shall be in a total amount equal to thirty percent of such investors' equity**  
8       **investment in any qualified Missouri business, subject to the limitations set forth in**  
9       **subsection 5 of this section. However, if the qualified Missouri business invested in is**  
10       **located in a rural area or a distressed community, the investors may be issued a tax credit**  
11       **for forty percent of such investment, subject to the limitations set forth in subsection 5 of**  
12       **this section.**

13       **3. (1) Before an investor may be entitled to receive tax credits, as authorized by this**  
14       **section, such investor shall have made an equity investment in a qualified security of a**  
15       **qualified Missouri business. This business shall have been approved by the department**  
16       **as a qualified Missouri business prior to the date on which the cash investment was made.**  
17       **To be designated as a qualified Missouri business, a business shall make application to the**  
18       **department in accordance with the provisions of this section. Such application shall be in**  
19       **form and substance as required by the department but shall include at least the following:**

20       **(a) The name of the business and certified copies of the organizational documents**  
21       **of the business;**

22       **(b) A business plan, including a description of the business and the management,**  
23       **product, market, and financial plan of the business;**

24       **(c) A statement of the business' innovative and proprietary technology, product,**  
25       **or service;**

26       **(d) A statement of the potential economic impact of the enterprise including the**  
27       **number, location, and types of jobs expected to be created;**

28       **(e) A description of the qualified securities to be issued, the consideration to be paid**  
29       **for the qualified securities, the amount of any tax credits requested, and the earliest year**  
30       **in which the tax credits may be redeemed;**

31       **(f) A statement of the amount, timing, and projected use of the proceeds to be**  
32       **raised from the proposed sale of qualified securities; and**

33       **(g) Other information as the department may request, such as the names,**  
34       **addresses, and taxpayer identification numbers of all investors who may qualify for the tax**  
35       **credit. Such list of investors who may qualify for the tax credits shall be amended as new**  
      **qualified securities are sold or as any information on the list changes.**



36           (2) No business shall be designated as a qualified Missouri business unless such  
37 business meets all of the following criteria:

38           (a) The business shall not have had annual gross revenues of more than three  
39 million dollars in the most recent tax year of the business;

40           (b) The business shall not have ownership interests including, but not limited to,  
41 common or preferred shares of stock that can be traded by the public via a stock exchange,  
42 electronic exchange, bulletin board, or other public market place on or before the date that  
43 a qualifying investment is made;

44           (c) The business shall not be engaged primarily in any one or more of the following  
45 enterprises:

46           a. The business of banking, savings and loan or lending institutions, credit or  
47 finance, or financial brokerage or investments;

48           b. Professional services, such as legal, accounting or engineering services;

49           c. Governmental, charitable, religious or trade organizations;

50           d. The ownership, development, brokerage, sales, or leasing of real estate;

51           e. Insurance;

52           f. Construction or construction management or contracting;

53           g. Business consulting or brokerage;

54           h. Any business engaged primarily as a passive business, having irregular or  
55 noncontinuous operations, or deriving substantially all of the income of the business from  
56 passive investments that generate interest, dividends, royalties, or capital gains, or any  
57 business arrangements the effect of which is to immunize an investor from risk of loss;

58           i. Any Missouri certified capital formation company;

59           j. Any activity that is in violation of the law; and

60           k. Any business raising money primarily to purchase real estate, land, or fixtures;

61           (d) The business shall satisfy all other requirements of this section.

62           (3) The portions of documents and other materials submitted to the department  
63 that contain trade secrets shall be kept confidential and shall be maintained in a secured  
64 environment by the director of the department. For the purposes of this section, such  
65 portions of documents and other materials shall mean any customer list, any formula,  
66 compound, production data, or compilation of information certain individuals within a  
67 commercial concern using such portions of documents and other material means to  
68 fabricate, produce, or compound an article of trade, or, any service having commercial  
69 value, which gives the user an opportunity to obtain a business advantage over competitors  
70 who do not know or use such service.

71           **(4) A qualified Missouri business shall have the burden of proof to demonstrate to**  
72 **the department the qualifications of the business under this section and shall have the**  
73 **obligation to notify the department in a timely manner of any changes in the qualifications**  
74 **of the business or in the eligibility of investors to claim a tax credit for cash investment in**  
75 **a qualified security.**

76           **4. The designation of a business as a qualified Missouri business shall be made by**  
77 **the department, and such designation shall be renewed annually. A business shall be so**  
78 **designated if the department determines, based upon the application submitted by the**  
79 **business and any additional investigation the staff of the department shall make, that the**  
80 **following criteria have been or shall be satisfied:**

81           **(1) The business has a reasonable chance of success;**

82           **(2) The ability of investors in the business to receive tax credits for cash investments**  
83 **in qualified securities of the business is necessary because funding otherwise available for**  
84 **the business is not available on commercially reasonable terms;**

85           **(3) The business has the reasonable potential to create measurable employment**  
86 **within the state;**

87           **(4) The business has an innovative and proprietary technology, product, and**  
88 **service;**

89           **(5) The existing owners of the business and other founders have made or are**  
90 **committed to make a substantial financial and time commitment to the business;**

91           **(6) The securities to be issued and purchased are qualified securities; and**

92           **(7) Binding commitments have been made by the business to the department for**  
93 **adequate reporting of financial data, including a requirement for an annual report, or, if**  
94 **required by the department, an annual audit of the financial and operational records of**  
95 **the business, the right of access to the financial records of the business, and the right of the**  
96 **department to record and publish normal and customary data and information related to**  
97 **the issuance of tax credits that are not otherwise determined to be trade or business**  
98 **secrets;**

99           **5. The department shall not issue tax credits of more than fifty thousand dollars**  
100 **to an investor per investment into a single, qualified Missouri company, or for tax credits**  
101 **totaling more than one hundred thousand dollars in a single year per investor. The total**  
102 **amount of tax credits that may be allowed under this section shall not exceed five million**  
103 **dollars per tax year.**

104           **6. This tax credit may be used in its entirety in the taxable year in which the equity**  
105 **investment is made or the credit may be carried forward for use in any of the next three**

106 consecutive tax years until the total amount of the credit is used. The tax credits may be  
107 sold, assigned, exchanged, or otherwise transferred.

108 7. Tax credits may be used against the tax otherwise due under chapter 143, RSMo,  
109 not including sections 143.191 to 143.265, RSMo.

110 8. A qualified Missouri business for which credits have been issued that, within  
111 seven years of receiving tax credits under this section relocates its headquarters out of  
112 Missouri, ceases to employ eighty percent of its employees in Missouri, alters the principal  
113 nature of its operations, or divests itself of key assets shall upon demand by the department  
114 pay the state of Missouri an amount equal to the amount of credits issued to its  
115 contributors.

116 9. The reasonable costs of the administration of this section, the review of  
117 applications for certification as qualified Missouri businesses, and the issuance of tax  
118 credits authorized by this section shall be reimbursed through fees paid by the qualified  
119 Missouri businesses and the investors or the transferees of investors, according to a  
120 reasonable fee schedule adopted by the department.

121 10. In addition to reports by the businesses to the department, the department shall  
122 also provide in its annual report information on the marketing and use of the investor tax  
123 credits. This report shall include the following:

124 (1) The amount of tax credits used in the previous fiscal year including what  
125 percentage was claimed by individuals and what percentage was claimed by firms and  
126 other entities;

127 (2) The types of businesses that benefited from the tax credits; and

128 (3) Any aggregate job creation or capital investment in Missouri that resulted from  
129 the use of the tax credits for a period of five years beginning from the date on which the  
130 tax credits were awarded.

131  
132 In addition, the annual report shall provide information regarding what businesses  
133 deriving a benefit from the tax credits remained in Missouri, what businesses ceased  
134 business, what businesses were purchased, and what businesses may have moved  
135 out-of-state and the reason for such move.

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 sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The

7 tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter  
8 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the  
9 tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148,  
10 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;

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

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

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

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

42 income exemption based on the projected net state economic benefits attributed to the eligible  
43 project;

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

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

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

76 (10) Notwithstanding any provision of law to the contrary, for the purpose of this  
77 section, the number of new jobs created and maintained, the number of existing jobs retained,

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

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

95 2. The determination of the director of economic development pursuant to subsection  
96 1 of this section, shall not affect requirements for the prospective purchaser to obtain the  
97 approval of the granting of real property tax abatement by the municipal or county government  
98 where the eligible project is located.

99 3. (1) The director of the department of economic development, with the approval of  
100 the director of the department of natural resources, may, in addition to the tax credits allowed  
101 in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one  
102 hundred percent of the costs of materials, supplies, equipment, labor, professional engineering,  
103 consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement,  
104 and direct utility charges for performing the voluntary remediation activities for the preexisting  
105 hazardous substance contamination and releases, including, but not limited to, the costs of  
106 performing operation and maintenance of the remediation equipment at the property beyond the  
107 year in which the systems and equipment are built and installed at the eligible project and the  
108 costs of performing the voluntary remediation activities over a period not in excess of four tax  
109 years following the taxpayer's tax year in which the system and equipment were first put into use  
110 at the eligible project, provided the remediation activities are the subject of a plan submitted to,  
111 and approved by, the director of natural resources pursuant to sections 260.565 to 260.575,  
112 RSMo. **The tax credit may also include up to one hundred percent of the costs of**  
113 **demolition that are not directly part of the remediation activities, provided that the**

114 **demolition is on the property where the voluntary remediation activities are occurring, the**  
115 **demolition is necessary to accomplish the planned use of the facility where the remediation**  
116 **activities are occurring, and the demolition is part of a redevelopment plan approved by**  
117 **the municipal or county government and the department of economic development. The**  
118 **demolition may occur on an adjacent property if the project is located in a municipality**  
119 **which has a population less than twenty thousand and the above conditions are otherwise**  
120 **met. The adjacent property shall independently qualify as abandoned or underutilized.**  
121 **The amount of the credit available for demolition not associated with remediation can not**  
122 **exceed the total amount of credits approved for remediation including demolition required**  
123 **for remediation.**

124 (2) [The director of the department of economic development, with the approval of the  
125 director of the department of natural resources, may, in addition to the tax credits otherwise  
126 allowed in this section, grant a demolition tax credit to the applicant for up to one hundred  
127 percent of the costs of demolition that are not part of the voluntary remediation activities,  
128 provided that the demolition is either on the property where the voluntary remediation activities  
129 are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan  
130 approved by the municipal or county government and the department of economic development.

131 (3) The amount of remediation [and demolition] tax credits issued shall be limited to  
132 the least amount necessary to cause the project to occur, as determined by the director of the  
133 department of economic development.

134 [(4)] (3) The director may, with the approval of the director of natural resources, extend  
135 the tax credits allowed for performing voluntary remediation maintenance activities, in  
136 increments of three-year periods, not to exceed five consecutive three-year periods. The tax  
137 credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo,  
138 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise  
139 imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The  
140 remediation [and demolition] tax credit may be taken in the same tax year in which the tax  
141 credits are received or may be taken over a period not to exceed twenty years.

142 [(5)] (4) The project facility shall be projected to create at least ten new jobs or at least  
143 twenty-five retained jobs, or a combination thereof, as determined by the department of  
144 economic development, to be eligible for tax credits pursuant to this section.

145 [(6)] (5) No more than seventy-five percent of earned remediation tax credits may be  
146 issued when the remediation costs were paid, and the remaining percentage may be issued when  
147 the department of natural resources issues a "Letter of Completion" letter or covenant not to sue  
148 following completion of the voluntary remediation activities. It shall not include any costs  
149 associated with ongoing operational environmental compliance of the facility or remediation

150 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations  
151 of the facility.

152         4. In the exercise of the sound discretion of the director of the department of economic  
153 development or the director's designee, the tax credits and exemptions described in this section  
154 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the  
155 conditions set forth in this section. In making such a determination, the director shall consider  
156 the severity of the condition violation, actions taken to correct the violation, the frequency of any  
157 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility  
158 owner and operator. The director shall also consider changes in general economic conditions and  
159 the recommendation of the director of the department of natural resources, or his or her designee,  
160 concerning the severity, scope, nature, frequency and extent of any violations of the  
161 environmental compliance conditions. The taxpayer or person claiming the tax credits or  
162 exemptions may appeal the decision regarding termination, suspension or revocation of any tax  
163 credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section  
164 135.250, RSMo. The director of the department of economic development shall notify the  
165 directors of the departments of natural resources and revenue of the termination, suspension or  
166 revocation of any tax credits as determined in this section or pursuant to the provisions of section  
167 447.716.

168         5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
169 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection  
170 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax  
171 credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and  
172 135.245, RSMo, respectively, for the same facility for the same tax period.

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

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

176             (2) One hundred percent of the total business' income tax if the eligible facility does not  
177 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax  
178 period in which the tax credits are earned, and further provided the taxpayer does not operate any  
179 other facilities besides the eligible project in Missouri; fifty percent of the total business' income  
180 tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the  
181 end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer  
182 does not operate any other facilities besides the eligible project in Missouri; or twenty-five  
183 percent of the total business income if the taxpayer operates, in addition to the eligible facility,  
184 any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible  
185 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 claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 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, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

10. In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice

222 to the director of the assignor's intent to transfer the tax credits to the assignee, the date the  
223 transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount  
224 of tax credits to be transferred.

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

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

229 (2) The partners of the partnership.

230

231 The credit provided in this subsection shall be apportioned to the entities described in  
232 subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last  
233 day of the taxpayer's tax period.

620.495. 1. This section shall be known as the "Small Business Incubators Act".

2 2. As used in this section, unless the context clearly indicates otherwise, the following  
3 words and phrases shall mean:

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

5 (2) "Incubator", a program in which small units of space may be leased by a tenant and  
6 in which management maintains or provides access to business development services for use by  
7 tenants or a program without infrastructure in which participants avail themselves of business  
8 development services to assist in the growth of their start-up small businesses;

9 (3) "Local sponsor" or "sponsor", an organization which enters into a written agreement  
10 with the department to establish, operate and administer a small business incubator program or  
11 to provide funding to an organization which operates such a program;

12 (4) "Participant", a sole proprietorship, business partnership or corporation operating a  
13 business for profit through which the owner avails himself or herself of business development  
14 services in an incubator program;

15 (5) "Tenant", a sole proprietorship, business partnership or corporation operating a  
16 business for profit and leasing or otherwise occupying space in an incubator.

17 3. There is hereby established under the direction of the department a loan, loan  
18 guarantee and grant program for the establishment, operation and administration of small  
19 business incubators, to be known as the "Small Business Incubator Program". A local sponsor  
20 may submit an application to the department to obtain a loan, loan guarantee or grant to establish  
21 an incubator. Each application shall:

22 (1) Demonstrate that a program exists that can be transformed into an incubator at a  
23 specified cost;

24 (2) Demonstrate the ability to directly provide or arrange for the provision of business  
25 development services for tenants and participants of the incubator. These services shall include,  
26 but need not be limited to, financial consulting assistance, management and marketing assistance,  
27 business education, and physical services;

28 (3) Demonstrate a potential for sustained use of the incubator program by eligible tenants  
29 and participants, through a market study or other means;

30 (4) Demonstrate the ability to manage and operate the incubator program;

31 (5) Include such other information as the department may require through its guidelines.

32 4. The department shall review and accept applications based on the following criteria:

33 (1) Ability of the local sponsor to carry out the provisions of this section;

34 (2) Economic impact of the incubator on the community;

35 (3) Conformance with areawide and local economic development plans, if such exist;

36 (4) Location of the incubator, in order to encourage geographic distribution of incubators  
37 across the state.

38 5. Loans, loan guarantees and grants shall be administered in the following manner:

39 (1) Loans awarded or guaranteed and grants awarded shall be used only for the  
40 acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other  
41 facilities, construction of new facilities, the purchase of equipment and furnishings which are  
42 necessary for the creation and operation of the incubator, and business development services  
43 including, but not limited to, business management advising and business education;

44 (2) Loans, loan guarantees and grants may not exceed fifty percent of total eligible  
45 project costs;

46 (3) Payment of interest and principal on loans may be deferred at the discretion of the  
47 department.

48 6. A local sponsor, or the organization receiving assistance through the local sponsor,  
49 shall have the following responsibilities and duties in establishing and operating an incubator  
50 with assistance from the small business incubator program:

51 (1) Secure title on a facility for the program or a lease of a facility for the program;

52 (2) Manage the physical development of the incubator program, including the provision  
53 of common conference or meeting space;

54 (3) Furnish and equip the program to provide business services to the tenants and  
55 participants;

56 (4) Market the program and secure eligible tenants and participants;

57 (5) Provide financial consulting, marketing and management assistance services or  
58 arrange for the provision of these services for tenants and participants of the incubator, including  
59 assistance in accessing private financial markets;

60 (6) Set rental and service fees;

61 (7) Encourage the sharing of ideas between tenants and participants and otherwise aid  
62 the tenants and participants in an innovative manner while they are within the incubator;

63 (8) Establish policies and criteria for the acceptance of tenants and participants into the  
64 incubator and for the termination of occupancy of tenants so as to maximize the opportunity to  
65 succeed for the greatest number of tenants, consistent with those specified in this section.

66 7. The department:

67 (1) May adopt such rules, statements of policy, procedures, forms and guidelines as may  
68 be necessary for the implementation of this section;

69 (2) May make loans, loan guarantees and grants to local sponsors for incubators;

70 (3) Shall ensure that local sponsors receiving loans, loan guarantees or grants meet the  
71 conditions of this section;

72 (4) Shall receive and evaluate annual reports from local sponsors. Such annual reports  
73 shall include, but need not be limited to, a financial statement for the incubator, evidence that  
74 all tenants and participants in the program are eligible under the terms of this section, and a list  
75 of companies in the incubator.

76 8. The department of economic development is also hereby authorized to review any  
77 previous loans made under this program and, where appropriate in the department's judgment,  
78 convert such loans to grant status.

79 9. On or before January first of each year, the department shall provide a report to the  
80 governor, the chief clerk of the house of representatives and the secretary of the senate which  
81 shall include, but need not be limited to:

82 (1) The number of applications for incubators submitted to the department;

83 (2) The number of applications for incubators approved by the department;

84 (3) The number of incubators created through the small business incubator program;

85 (4) The number of tenants and participants engaged in each incubator;

86 (5) The number of jobs provided by each incubator and tenants and participant of each  
87 incubator;

88 (6) The occupancy rate of each incubator;

89 (7) The number of firms still operating in the state after leaving incubators and the  
90 number of jobs they have provided.

91 10. There is hereby established in the state treasury a special fund to be known as the  
92 "Missouri Small Business Incubators Fund", which shall consist of all moneys which may be  
93 appropriated to it by the general assembly, and also any gifts, contributions, grants or bequests  
94 received from federal, private or other sources. Moneys for loans, loan guarantees and grants  
95 under the small business incubator program may be obtained from appropriations made by the

96 general assembly from the Missouri small business incubators fund. Any moneys remaining in  
97 the Missouri small business incubators fund at the end of any fiscal year shall not lapse to the  
98 general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri  
99 small business incubators fund.

100       11. For any taxable year beginning after December 31, 1989, a taxpayer, including any  
101 charitable organization which is exempt from federal income tax and whose Missouri unrelated  
102 business taxable income, if any, would be subject to the state income tax imposed under chapter  
103 143, RSMo, shall be entitled to a tax credit against any tax otherwise due under the provisions  
104 of chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax  
105 imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of any amount  
106 contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's  
107 tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's  
108 application has been accepted and approved by the department. The tax credit allowed by this  
109 subsection shall be claimed by the taxpayer at the time he files his return and shall be applied  
110 against the income tax liability imposed by chapter 143, RSMo, or chapter 147, RSMo, or  
111 chapter 148, RSMo, after all other credits provided by law have been applied. That portion of  
112 earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five  
113 years. The aggregate of all tax credits authorized under this section shall not exceed [five  
114 hundred thousand] **two million** dollars in any taxable year.

115       12. Notwithstanding any provision of Missouri law to the contrary, any taxpayer may  
116 sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 11 of this  
117 section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection.  
118 Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign,  
119 exchange or otherwise transfer earned tax credits:

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

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

122

123 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection,  
124 may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise  
125 imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding  
126 withholding tax imposed by sections 143.191 to 143.265, RSMo. Unused credits in the hands  
127 of the assignee may be carried forward for up to five years. The assignor shall enter into a  
128 written agreement with the assignee establishing the terms and conditions of the agreement and  
129 shall perfect such transfer by notifying the department of economic development in writing  
130 within thirty calendar days following the effective day of the transfer and shall provide any  
131 information as may be required by the department of economic development to administer and

132 carry out the provisions of this section. The director of the department of economic development  
133 shall prescribe the method for submitting applications for claiming the tax credit allowed under  
134 subsection 11 of this section and shall, if the application is approved, certify to the director of  
135 revenue that the taxpayer claiming the credit has satisfied all the requirements specified in this  
136 section and is eligible to claim the credit.

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a  
2 partnership, or any charitable organization which is exempt from federal income tax and whose  
3 Missouri unrelated business taxable income, if any, would be subject to the state income tax  
4 imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471,  
5 RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same  
6 meaning as prescribed in 26 U.S.C. 41, **except that such qualified research expenses shall be**  
7 **limited to those incurred in the research and development of agricultural biotechnology,**  
8 **plant genomics products, prescription pharmaceuticals consumed by humans or animals,**  
9 **or qualified research expenses incurred in the research, development or manufacture of**  
10 **power system technology for aerospace, space, defense, or implantable or wearable medical**  
11 **devices.**

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

24 3. The director of economic development shall prescribe the manner in which the tax  
25 credit may be applied for. The tax credit authorized by this section may be claimed by the  
26 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that  
27 becomes due in the tax year during which such qualified research expenses were incurred.  
28 Where the amount of the credit exceeds the tax liability, the difference between the credit and  
29 the tax liability may only be carried forward for the next five succeeding taxable years or until  
30 the full credit has been claimed, whichever first occurs. The application for tax credits  
31 authorized by the director pursuant to subsection 2 of this section shall be made **no earlier than**

32 **January first and no later than [the end of] July first of the calendar year immediately**  
33 **following the calendar year in which** the taxpayer's tax period [immediately following the tax  
34 period] for which the credits are being claimed **ended. The director shall act on any such**  
35 **application for tax credits no sooner than August first but no later than August fifteenth**  
36 **of each year for applications filed in that calendar year.**

37 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or  
38 assigned by filing a notarized endorsement thereof with the department which names the  
39 transferee and the amount of tax credit transferred. The director of economic development may  
40 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of  
41 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year  
42 commencing on or after January 1, 1996, and ending not later than December 31, 1999. Such  
43 taxpayer shall file, by December 31, 2001, an application with the department which names the  
44 transferee, the amount of tax credit desired to be transferred, and a certification that the funds  
45 received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be  
46 expended within three years at the state university for the sole purpose of conducting research  
47 activities agreed upon by the department, the taxpayer and the state university. Failure to expend  
48 such funds in the manner prescribed pursuant to this section shall cause the applicant to be  
49 subject to the provisions of section 620.017.

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

61 6. The aggregate of all tax credits authorized pursuant to this section shall not exceed  
62 [nine] **ten** million [seven hundred thousand] dollars in any **calendar year. In the event that**  
63 **total eligible claims for credits received in a calendar year exceed the annual cap, each**  
64 **eligible claimant shall be issued credits based upon the following formula: the eligible**  
65 **credits if the annual cap had not been exceeded multiplied by the ratio of the annual cap**  
66 **divided by the total of all eligible claims for credits filed in that calendar year.**

67           7. [For all tax years beginning on or after January 1, 2005, no tax credits shall be  
68 approved, awarded, or issued to any person or entity claiming any tax credit under this section]  
69 **No one taxpayer shall be issued more than thirty percent of the aggregate of all tax credits**  
70 **authorized under this section in any calendar year.**

          620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall  
2 mean:

3           (1) "Approval", a document submitted by the department to the qualified company that  
4 states the benefits that may be provided by this program;

5           (2) "Average wage", the new payroll divided by the number of new jobs;

6           (3) "Commencement of operations", the starting date for the qualified company's first  
7 new employee, which must be no later than twelve months from the date of the approval;

8           (4) "County average wage", the average wages in each county as determined by the  
9 department for the most recently completed full calendar year. However, if the computed county  
10 average wage is above the statewide average wage, the statewide average wage shall be deemed  
11 the county average wage for such county for the purpose of determining eligibility. The  
12 department shall publish the county average wage for each county at least annually.  
13 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company  
14 that in conjunction with their project is relocating employees from a Missouri county with a  
15 higher county average wage, the company shall obtain the endorsement of the governing body  
16 of the community from which jobs are being relocated or the county average wage for their  
17 project shall be the county average wage for the county from which the employees are being  
18 relocated;

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

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

21           (7) "Employee", a person employed by a qualified company;

22           (8) "Full-time employee", an employee of the qualified company that is scheduled to  
23 work an average of at least thirty-five hours per week for a twelve-month period, and one for  
24 which the qualified company offers health insurance and pays at least fifty percent of such  
25 insurance premiums;

26           (9) "High-impact project", a qualified company that, within two years from  
27 commencement of operations, creates one hundred or more new jobs;

28           (10) "Local incentives", the present value of the dollar amount of direct benefit received  
29 by a qualified company for a project facility from one or more local political subdivisions, but  
30 shall not include loans or other funds provided to the qualified company that must be repaid by  
31 the qualified company to the political subdivision;



32 (11) "NAICS", the 1997 edition of the North American Industry Classification System  
33 as prepared by the Executive Office of the President, Office of Management and Budget. Any  
34 NAICS sector, subsector, industry group or industry identified in this section shall include its  
35 corresponding classification in subsequent federal industry classification systems;

36 (12) "New direct local revenue", the present value of the dollar amount of direct net new  
37 tax revenues of the local political subdivisions likely to be produced by the project over a  
38 ten-year period as calculated by the department, excluding local earnings tax, and net new utility  
39 revenues, provided the local incentives include a discount or other direct incentives from utilities  
40 owned or operated by the political subdivision;

41 (13) "New investment", the purchase or leasing of new tangible assets to be placed in  
42 operation at the project facility, which will be directly related to the new jobs;

43 (14) "New job", the number of full-time employees located at the project facility that  
44 exceeds the project facility base employment less any decrease in the number of full-time  
45 employees at related facilities below the related facility base employment. No job that was  
46 created prior to the date of the notice of intent shall be deemed a new job. An employee that  
47 spends less than fifty percent of the employee's work time at the facility is still considered to be  
48 located at a facility if the employee receives his or her directions and control from that facility,  
49 is on the facility's payroll, one hundred percent of the employee's income from such employment  
50 is Missouri income, and the employee is paid at or above the state average wage;

51 (15) "New payroll", the amount of taxable wages of full-time employees, excluding  
52 owners, located at the project facility that exceeds the project facility base payroll. If full-time  
53 employment at related facilities is below the related facility base employment, any decrease in  
54 payroll for full-time employees at the related facilities below that related facility base payroll  
55 shall also be subtracted to determine new payroll;

56 (16) "Notice of intent", a form developed by the department, completed by the qualified  
57 company and submitted to the department which states the qualified company's intent to hire new  
58 jobs and request benefits under this program;

59 (17) "Percent of local incentives", the amount of local incentives divided by the amount  
60 of new direct local revenue;

61 (18) "Program", the Missouri quality jobs program provided in sections 620.1875 to  
62 620.1890;

63 (19) "Project facility", the building used by a qualified company at which the new jobs  
64 and new investment will be located. A project facility may include separate buildings that are  
65 located within one mile of each other **or within the same county** such that their purpose and  
66 operations are interrelated;

67 (20) "Project facility base employment", the greater of the number of full-time  
68 employees located at the project facility on the date of the notice of intent or for the  
69 twelve-month period prior to the date of the notice of intent, the average number of full-time  
70 employees located at the project facility. In the event the project facility has not been in  
71 operation for a full twelve-month period, the average number of full-time employees for the  
72 number of months the project facility has been in operation prior to the date of the notice of  
73 intent;

74 (21) "Project facility base payroll", the total amount of taxable wages paid by the  
75 qualified company to full-time employees of the qualified company located at the project facility  
76 in the twelve months prior to the notice of intent, not including the payroll of the owners of the  
77 qualified company unless the qualified company is participating in an employee stock ownership  
78 plan. For purposes of calculating the benefits under this program, the amount of base payroll  
79 shall increase each year based on an appropriate measure, as determined by the department;

80 (22) "Project period", the time period that the benefits are provided to a qualified  
81 company;

82 (23) "Qualified company", a firm, partnership, joint venture, association, private or  
83 public corporation whether organized for profit or not, or headquarters of such entity registered  
84 to do business in Missouri that is the owner or operator of a project facility, offers health  
85 insurance to all full-time employees of all facilities located in this state, and pays at least fifty  
86 percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the  
87 term "qualified company" shall not include:

88 (a) Gambling establishments (NAICS industry group 7132);

89 (b) Retail trade establishments (NAICS sectors 44 and 45);

90 (c) Food and drinking places (NAICS subsector 722);

91 (d) Public utilities (NAICS 221 including water and sewer services);

92 (e) Any company that is delinquent in the payment of any nonprotested taxes or any  
93 other amounts due the state or federal government or any other political subdivision of this state;

94 (f) Any company that has filed for or has publicly announced its intention to file for  
95 bankruptcy protection;

96 (g) Educational services (NAICS sector 61);

97 (h) Religious organizations (NAICS industry group 8131); [or]

98 (i) Public administration (NAICS sector 92);

99 **(j) Ethanol distillation or production; or**

100 **(k) Biodiesel production.**

101

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

(24) **"Qualified renewable energy sources" shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:**

(a) **Open-looped biomass;**

(b) **Close-looped biomass;**

(c) **Solar;**

(d) **Wind;**

(e) **Geothermal; and**

(f) **Hydropower;**

(25) "Related company" means:

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

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

(c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, 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, 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, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(25)] (26) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;

[(26)] (27) "Related facility base employment", the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;

[(27)] (28) "Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the

138 owners of the qualified company unless the qualified company is participating in an employee  
139 stock ownership plan. For purposes of calculating the benefits under this program, the amount  
140 of related facility base payroll shall increase each year based on an appropriate measure, as  
141 determined by the department;

142 [(28)] (29) "Rural area", a county in Missouri with a population less than seventy-five  
143 thousand or that does not contain an individual city with a population greater than fifty thousand  
144 according to the most recent federal decennial census;

145 [(29)] (30) "Small and expanding business project", a qualified company that within two  
146 years of the date of the approval creates a minimum of twenty new jobs if the project facility is  
147 located in a rural area or a minimum of forty new jobs if the project facility is not located in a  
148 rural area and creates fewer than one hundred new jobs regardless of the location of the project  
149 facility;

150 [(30)] (31) "Tax credits", tax credits issued by the department to offset the state income  
151 taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided  
152 for in this program;

153 [(31)] (32) "Technology business project", a qualified company that within two years of  
154 the date of the approval creates a minimum of ten new jobs involved in the operations of a  
155 technology company as determined by a regulation promulgated by the department under the  
156 provisions of section 620.1884 or classified by NAICS codes; **or which owns or leases a facility**  
157 **which produces electricity derived from qualified renewable energy sources, or produces**  
158 **fuel for the generation of electricity from qualified renewable energy sources, but does not**  
159 **include any company that has received the alcohol mixture credit, alcohol credit, or small**  
160 **ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax**  
161 **year;** or which researches, develops, or manufactures power system technology for: aerospace;  
162 space; defense; hybrid vehicles; or implantable or wearable medical devices;

163 [(32)] (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265,  
164 RSMo. For purposes of this program, the withholding tax shall be computed using a schedule  
165 as determined by the department based on average wages.

620.1881. 1. The department of economic development shall respond within thirty days  
2 to a company who provides a notice of intent with either an approval or a rejection of the notice  
3 of intent. The department shall give preference to qualified companies and projects targeted at  
4 an area of the state which has recently been classified as a disaster area by the federal  
5 government. Failure to respond on behalf of the department of economic development shall  
6 result in the notice of intent being deemed an approval for the purposes of this section. A  
7 qualified company who is provided an approval for a project shall be allowed a benefit as  
8 provided in this program in the amount and duration provided in this section. A qualified

9 company may receive additional periods for subsequent new jobs at the same facility after the  
10 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to  
11 620.1890. There is no limit on the number of periods a qualified company may participate in the  
12 program, as long as the minimum thresholds are achieved and the qualified company provides  
13 the department with the required reporting and is in proper compliance for this program or other  
14 state programs. A qualified company may elect to file a notice of intent to start a new project  
15 period concurrent with an existing project period if the minimum thresholds are achieved and  
16 the qualified company provides the department with the required reporting and is in proper  
17 compliance for this program and other state programs; however, the qualified company may not  
18 receive any further benefit under the original approval for jobs created after the date of the new  
19 notice of intent, and any jobs created before the new notice of intent may not be included as new  
20 jobs for the purpose of benefit calculation in relation to the new approval.

21 2. Notwithstanding any provision of law to the contrary, any qualified company that is  
22 awarded benefits under this program may not simultaneously receive tax credits or exemptions  
23 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections  
24 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company  
25 under any other state programs for which the company is eligible and which utilize withholding  
26 tax from the new jobs of the company must first be credited to the other state program before the  
27 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.  
28 These other state programs include, but are not limited to, the new jobs training program under  
29 sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to  
30 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800  
31 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections  
32 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training  
33 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,  
34 but the department shall issue a refundable tax credit for the full amount of benefit allowed under  
35 this subdivision. The calendar year annual maximum amount of tax credits which may be issued  
36 to a qualifying company that also participates in the new job training program shall be increased  
37 by an amount equivalent to the withholding tax retained by that company under the new jobs  
38 training program. However, if the combined benefits of the quality jobs program and the new  
39 jobs training program exceed the projected state benefit of the project, as determined by the  
40 department of economic development through a cost-benefit analysis, the increase in the  
41 maximum tax credits shall be limited to the amount that would not cause the combined benefits  
42 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program  
43 who knowingly hires individuals who are not allowed to work legally in the United States shall

44 immediately forfeit such benefits and shall repay the state an amount equal to any state tax  
45 credits already redeemed and any withholding taxes already retained.

46 3. The types of projects and the amount of benefits to be provided are:

47 (1) Small and expanding business projects: in exchange for the consideration provided  
48 by the new tax revenues and other economic stimuli that will be generated by the new jobs  
49 created by the program, a qualified company may retain an amount equal to the withholding tax  
50 as calculated under subdivision (32) of section 620.1878 from the new jobs that would otherwise  
51 be withheld and remitted by the qualified company under the provisions of sections 143.191 to  
52 143.265, RSMo, for a period of three years from the date the required number of new jobs were  
53 created if the average wage of the new payroll equals or exceeds the county average wage or for  
54 a period of five years from the date the required number of new jobs were created if the average  
55 wage of the new payroll equals or exceeds one hundred twenty percent of the county average  
56 wage;

57 (2) Technology business projects: in exchange for the consideration provided by the new  
58 tax revenues and other economic stimuli that will be generated by the new jobs created by the  
59 program, a qualified company may retain an amount equal to a maximum of five percent of new  
60 payroll for a period of five years from the date the required number of jobs were created from  
61 the withholding tax of the new jobs that would otherwise be withheld and remitted by the  
62 qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average  
63 wage of the new payroll equals or exceeds the county average wage. An additional one-half  
64 percent of new payroll may be added to the five percent maximum if the average wage of the  
65 new payroll in any year exceeds one hundred twenty percent of the county average wage in the  
66 county in which the project facility is located, plus an additional one-half percent of new payroll  
67 may be added if the average wage of the new payroll in any year exceeds one hundred forty  
68 percent of the average wage in the county in which the project facility is located. The department  
69 shall issue a refundable tax credit for any difference between the amount of benefit allowed  
70 under this subdivision and the amount of withholding tax retained by the company, in the event  
71 the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified  
72 company under this subdivision. The calendar year annual maximum amount of tax credits that  
73 may be issued to any qualified company for a project or combination of projects is five hundred  
74 thousand dollars;

75 (3) High impact projects: in exchange for the consideration provided by the new tax  
76 revenues and other economic stimuli that will be generated by the new jobs created by the  
77 program, a qualified company may retain an amount from the withholding tax of the new jobs  
78 that would otherwise be withheld and remitted by the qualified company under the provisions  
79 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five

80 years from the date the required number of jobs were created if the average wage of the new  
81 payroll equals or exceeds the county average wage of the county in which the project facility is  
82 located. The percentage of payroll allowed under this subdivision shall be three and one-half  
83 percent of new payroll if the average wage of the new payroll in any year exceeds one hundred  
84 twenty percent of the county average wage in the county in which the project facility is located.  
85 The percentage of payroll allowed under this subdivision shall be four percent of new payroll if  
86 the average wage of the new payroll in any year exceeds one hundred forty percent of the county  
87 average wage in the county in which the project facility is located. An additional one percent  
88 of new payroll may be added to these percentages if local incentives equal between ten percent  
89 and twenty-four percent of the new direct local revenue; an additional two percent of new payroll  
90 is added to these percentages if the local incentives equal between twenty-five percent and  
91 forty-nine percent of the new direct local revenue; or an additional three percent of payroll is  
92 added to these percentages if the local incentives equal fifty percent or more of the new direct  
93 local revenue. The department shall issue a refundable tax credit for any difference between the  
94 amount of benefit allowed under this subdivision and the amount of withholding tax retained by  
95 the company, in the event the withholding tax is not sufficient to provide the entire amount of  
96 benefit due to the qualified company under this subdivision. The calendar year annual maximum  
97 amount of tax credits that may be issued to any qualified company for a project or combination  
98 of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount  
99 of tax credit that may be issued to any qualified company for a project or combination of projects  
100 may be increased up to one million dollars if the number of new jobs will exceed five hundred  
101 and if such action is proposed by the department and approved by the quality jobs advisory task  
102 force established in section 620.1887; provided, however, until such time as the initial at-large  
103 members of the quality jobs advisory task force are appointed, this determination shall be made  
104 by the director of the department of economic development. In considering such a request, the  
105 task force shall rely on economic modeling and other information supplied by the department  
106 when requesting the increased limit on behalf of the project;

107 (4) Job retention projects: a qualified company may receive a tax credit for the retention  
108 of jobs in this state, provided the qualified company and the project meets all of the following  
109 conditions:

110 (a) For each of the twenty-four months preceding the year in which application for the  
111 program is made the qualified company must have maintained at least one thousand full-time  
112 employees at the employer's site in the state at which the jobs are based, and the average wage  
113 of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, [2007] **2013**;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:



(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by floodwater rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time.

The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued

185 for small business job retention and flood survivor relief projects approved by the department  
186 after August 30, 2010.

187         4. The qualified company shall provide an annual report of the number of jobs and such  
188 other information as may be required by the department to document the basis for the benefits  
189 of this program. The department may withhold the approval of any benefits until it is satisfied  
190 that proper documentation has been provided, and shall reduce the benefits to reflect any  
191 reduction in full-time employees or new payroll. Upon approval by the department, the qualified  
192 company may begin the retention of the withholding taxes when it reaches the minimum number  
193 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be  
194 issued upon satisfaction by the department that the qualified company has exceeded the county  
195 average wage and the minimum number of new jobs. In such annual report, if the average wage  
196 is below the county average wage, the qualified company has not maintained the employee  
197 insurance as required, or if the number of new jobs is below the minimum, the qualified  
198 company shall not receive tax credits or retain the withholding tax for the balance of the benefit  
199 period. In the case of a qualified company that initially filed a notice of intent and received an  
200 approval from the department for high impact benefits and the minimum number of new jobs in  
201 an annual report is below the minimum for high impact projects, the company shall not receive  
202 tax credits for the balance of the benefit period but may continue to retain the withholding taxes  
203 if it otherwise meets the requirements of a small and expanding business under this program.

204         5. [The maximum calendar year annual tax credits issued for the entire program shall not  
205 exceed forty million dollars.] Notwithstanding any provision of law to the contrary, the  
206 maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from  
207 ten million dollars to eight million dollars, with the balance of two million dollars transferred  
208 to this program. There shall be no limit on the amount of withholding taxes that may be retained  
209 by approved companies under this program.

210         6. The department shall allocate the annual tax credits based on the date of the approval,  
211 reserving such tax credits based on the department's best estimate of new jobs and new payroll  
212 of the project, and the other factors in the determination of benefits of this program. However,  
213 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.  
214 The allocation of tax credits for the period assigned to a project shall expire if, within two years  
215 from the date of commencement of operations, or approval if applicable, the minimum  
216 thresholds have not been achieved. The qualified company may retain authorized amounts from  
217 the withholding tax under this section once the minimum new jobs thresholds are met for the  
218 duration of the project period. No benefits shall be provided under this program until the  
219 qualified company meets the minimum new jobs thresholds. In the event the qualified company  
220 does not meet the minimum new job threshold, the qualified company may submit a new notice

221 of intent or the department may provide a new approval for a new project of the qualified  
222 company at the project facility or other facilities.

223 7. For a qualified company with flow-through tax treatment to its members, partners, or  
224 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion  
225 to their share of ownership on the last day of the qualified company's tax period.

226 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,  
227 RSMo, and may not be carried forward but shall be claimed within one year of the close of the  
228 taxable year for which they were issued, except as provided under subdivision (4) of subsection  
229 3 of this section.

230 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing  
231 a notarized endorsement thereof with the department that names the transferee, the amount of  
232 tax credit transferred, and the value received for the credit, as well as any other information  
233 reasonably requested by the department.

234 10. Prior to the issuance of tax credits, the department shall verify through the  
235 department of revenue, or any other state department, that the tax credit applicant does not owe  
236 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent  
237 fees or assessments levied by any state department and through the department of insurance that  
238 the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the  
239 authorization of the application for such tax credits, except that at issuance credits shall be first  
240 applied to the delinquency and any amount issued shall be reduced by the applicant's tax  
241 delinquency. If the department of revenue or the department of insurance, or any other state  
242 department, concludes that a taxpayer is delinquent after June fifteenth but before July first of  
243 any year and the application of tax credits to such delinquency causes a tax deficiency on behalf  
244 of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in  
245 which interest, penalties, and additions to tax shall be tolled. After applying all available credits  
246 toward a tax delinquency, the administering agency shall notify the appropriate department and  
247 that department shall update the amount of outstanding delinquent tax owed by the applicant.  
248 If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the  
249 remaining credits shall be issued to the applicant, subject to the restrictions of other provisions  
250 of law.

251 11. Except as provided under subdivision (4) of subsection 3 of this section, the director  
252 of revenue shall issue a refund to the qualified company to the extent that the amount of credits  
253 allowed in this section exceeds the amount of the qualified company's income tax.

254 12. An employee of a qualified company will receive full credit for the amount of tax  
255 withheld as provided in section 143.211, RSMo.

256           13. If any provision of sections 620.1875 to 620.1890 or application thereof to any  
257 person or circumstance is held invalid, the invalidity shall not affect other provisions or  
258 application of these sections which can be given effect without the invalid provisions or  
259 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared  
260 severable.

          Section B. Because of the need to continue Missouri's positive economic growth, the  
2 repeal and reenactment of section 620.495 of sections A of this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace and safety, and is hereby declared  
4 to be an emergency act within the meaning of the constitution, and the repeal and reenactment  
5 of section 620.495 of section A of this act shall be in full force and effect upon its passage and  
6 approval.

✓