

SECOND REGULAR SESSION

# HOUSE BILL NO. 2058

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES PEARCE (Sponsor), RICHARD, HOBBS, BRUNS, POLLOCK, DARROUGH, CORCORAN, HUNTER, SUTHERLAND, QUINN (7), BRANDOM, ERVIN, FLOOK, COOPER (120), JETTON, HUBBARD, SPRENG, BROWN (50), FISHER, SCHARNHORST, WILSON (130), WILSON (119), SCHOELLER, ONDER, SCHLOTTACH, WALLACE, DAY, FUNDERBURK, KRAUS, GRISAMORE, PRATT, SILVEY, FAITH, LEMBKE, ROBB, SCHAD, ICET, JONES (89), FRANZ, EL-AMIN, TILLEY, CUNNINGHAM (86), NIEVES, DIXON, JONES (117), MAY, PARSON, THOMSON, SMITH (150), NANCE, LIPKE, LOEHNER, ST. ONGE, RUESTMAN, MCGHEE, WETER, STREAM, RUZICKA, MOORE, BIVINS, MUNZLINGER, WASSON, VILLA, CUNNINGHAM (145), STORCH, STEVENSON, DEEKEN, VIEBROCK, WOOD, BROWN (30), KOMO, MEADOWS, PAGE, ROORDA, CASEY, SCHNEIDER, HOSKINS, ZIMMERMAN, COOPER (155), THRELKELD, WELLS, KELLY, FALLERT, MEINERS, WALTON, VOGT, PORTWOOD AND DUSENBERG (Co-sponsors).

Read 1st time February 7, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4495L.06I

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## AN ACT

To repeal sections 32.105, 135.967, 620.495, and 620.1881, RSMo, and to enact in lieu thereof seven new sections relating to tax incentives for business development.

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

Section A. Sections 32.105, 135.967, 620.495, and 620.1881, RSMo, are repealed and  
2 seven new sections enacted in lieu thereof, to be known as sections 32.105, 135.967, 144.057,  
3 348.273, 348.274, 620.495, and 620.1881, to read as follows:

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

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

5 (2) "Affordable housing unit", a residential unit generally occupied by persons and  
6 families with incomes at or below the levels described in this subdivision and bearing a cost to

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.

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

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Percent of State or  
Geographic Area Family

Size of Household	Median Income
One Person	5%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
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  
 pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual  
 tax on its gross receipts in this state;

- 43 (4) "Commission", the Missouri housing development commission;
- 44 (5) "Community services", any type of counseling and advice, emergency assistance or  
45 medical care furnished to individuals or groups in the state of Missouri or transportation services  
46 at below-cost rates as provided in sections 208.250 to 208.275, RSMo;
- 47 (6) "Crime prevention", any activity which aids in the reduction of crime in the state of  
48 Missouri;
- 49 (7) "Defense industry contractor", a person, corporation or other entity which will be or  
50 has been negatively impacted as a result of its status as a prime contractor of the Department of  
51 Defense or as a second or third tier contractor. A "second tier contractor" means a person,  
52 corporation or other entity which contracts to perform manufacturing, maintenance or repair  
53 services for a prime contractor of the Department of Defense, and a "third tier contractor" means  
54 a person, corporation or other entity which contracts with a person, corporation or other entity  
55 which contracts with a prime contractor of the Department of Defense;
- 56 (8) "Doing business", among other methods of doing business in the state of Missouri,  
57 a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in  
58 the state of Missouri if such firm or S corporation, as the case may be, is doing business in the  
59 state of Missouri;
- 60 (9) "Economic development", the acquisition, renovation, improvement, or the  
61 furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the  
62 state when such acquisition, renovation, improvement, or the furnishing or equipping of the  
63 business development projects will result in the creation or retention of jobs within the state; or,  
64 until June 30, 1996, a defense conversion pilot project located in a standard metropolitan  
65 statistical area which contains a city with a population of at least three hundred fifty thousand  
66 inhabitants, which will assist Missouri-based defense industry contractors in their conversion  
67 from predominately defense-related contracting to nondefense-oriented manufacturing. Only  
68 neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct  
69 economic development projects. Prior to the approval of an economic development project, the  
70 neighborhood organization shall enter into a contractual agreement with the department of  
71 economic development. Credits approved for economic development projects may not exceed  
72 [four] ~~six~~ million dollars from within any one fiscal year's allocation[, except that for fiscal years  
73 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six  
74 million dollars]. Neighborhood assistance program tax credits for economic development  
75 projects and affordable housing assistance as defined in section 32.111 may be transferred, sold  
76 or assigned by a notarized endorsement thereof naming the transferee;
- 77 (10) "Education", any type of scholastic instruction or scholarship assistance to an  
78 individual who resides in the state of Missouri that enables the individual to prepare himself or

79 herself for better opportunities or community awareness activities rendered by a statewide  
80 organization established for the purpose of archeological education and preservation;

81 (11) "Homeless assistance pilot project", the program established pursuant to section  
82 32.117;

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

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

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

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

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

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

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

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

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, or section 135.535.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45           7. The number of new business facility employees during any taxable year shall be  
46 determined by dividing by twelve the sum of the number of individuals employed on the last

47 business day of each month of such taxable year. If the new business facility is in operation for  
48 less than the entire taxable year, the number of new business facility employees shall be  
49 determined by dividing the sum of the number of individuals employed on the last business day  
50 of each full calendar month during the portion of such taxable year during which the new  
51 business facility was in operation by the number of full calendar months during such period. For  
52 the purpose of computing the credit allowed by this section in the case of a facility which  
53 qualifies as a new business facility under subsection 6 of this section, and in the case of a new  
54 business facility which satisfies the requirements of paragraph (c) of subdivision (14) of section  
55 135.950, or subdivision (22) of section 135.950, the number of new business facility employees  
56 at such facility shall be reduced by the average number of individuals employed, computed as  
57 provided in this subsection, at the facility during the taxable year immediately preceding the  
58 taxable year in which such expansion, acquisition, or replacement occurred and shall further be  
59 reduced by the number of individuals employed by the taxpayer or related taxpayer that was  
60 subsequently transferred to the new business facility from another Missouri facility and for which  
61 credits authorized in this section are not being earned, whether such credits are earned because  
62 of an expansion, acquisition, relocation, or the establishment of a new facility.

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

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

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

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

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

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

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

**144.057. In addition to the exemptions granted under this chapter, there shall also  
2 be specifically exempted from state and local sales and use taxes defined, levied, or  
3 calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to  
4 144.761, or section 238.235, RSMo, all tangible personal property included on the United  
5 States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign  
6 government or agency or instrumentality of such foreign government which is used for a  
7 governmental purpose.**

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

**(1) "Distressed community", as defined in section 135.530, RSMo;**

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

**(3) "Investor":**

**(a) An individual who is an accredited investor, as defined in 17 CFR 230.501(a) as in effect on August 28, 2008, and who seeks high returns through private investments in start-up companies and may also seek active involvement in those business investments, such as consulting and mentoring the entrepreneur; or**

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

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

**(5) "Qualified securities", equity securities that are not redeemable within seven years of issuance and that have been approved in form and substance by the Missouri technology corporation. Forms of such equity securities include:**

**(a) A general or limited partnership interest;**

**(b) Common stock;**

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

**(d) Any form of convertible debt, upon the conversion of paragraph (a), (b), or (c) of this subdivision;**

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

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

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

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

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

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

12           3. (1) Before an investor may be entitled to receive tax credits, as authorized by this  
13 section, such investor shall have made an equity investment in a qualified security of a  
14 qualified Missouri business. This business shall have been approved by the Missouri  
15 technology corporation as a qualified Missouri business prior to the date on which the cash  
16 investment was made. To be designated as a qualified Missouri business, a business shall  
17 make application to Missouri technology corporation in accordance with the provisions of  
18 this section. Such application shall be in form and substance as required by the Missouri  
19 technology corporation 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 Missouri technology corporation may request, such  
34 as the names, addresses, and taxpayer identification numbers of all investors who may  
35 qualify for the tax credit. Such list of investors who may qualify for the tax credits shall  
36 be amended as new qualified securities are sold or as any information on the list changes.

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

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

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

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

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

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

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

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

52           e. Insurance;

53           f. Construction or construction management or contracting;

54           g. Business consulting or brokerage;

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

59           i. Any Missouri certified capital formation company;

- 60           **j. Any activity that is in violation of the law; and**  
61           **k. Any business raising money primarily to purchase real estate, land, or fixtures;**  
62           **(d) The business shall satisfy all other requirements of this section.**  
63           **(3) The portions of documents and other materials submitted to the Missouri**  
64 **technology corporation that contain trade secrets shall be kept confidential and shall be**  
65 **maintained in a secured environment by the president of the Missouri technology**  
66 **corporation. For the purposes of this section, such portions of documents and other**  
67 **materials shall mean any customer list, any formula, compound, production data, or**  
68 **compilation of information certain individuals within a commercial concern using such**  
69 **portions of documents and other material means to fabricate, produce, or compound an**  
70 **article of trade, or, any service having commercial value, which gives the user an**  
71 **opportunity to obtain a business advantage over competitors who do not know or use such**  
72 **service.**  
73           **(4) A qualified Missouri business shall have the burden of proof to demonstrate to**  
74 **the Missouri technology corporation the qualifications of the business under this section**  
75 **and shall have the obligation to notify the Missouri technology corporation in a timely**  
76 **manner of any changes in the qualifications of the business or in the eligibility of investors**  
77 **to claim a tax credit for cash investment in a qualified security.**  
78           **4. The designation of a business as a qualified Missouri business shall be made by**  
79 **the Missouri technology corporation, and such designation shall be renewed annually. A**  
80 **business shall be so designated if the Missouri technology corporation determines, based**  
81 **upon the application submitted by the business and any additional investigation the staff**  
82 **of the Missouri technology corporation shall make, that the following criteria have been**  
83 **or shall be satisfied:**  
84           **(1) The business has a reasonable chance of success;**  
85           **(2) The ability of investors in the business to receive tax credits for cash investments**  
86 **in qualified securities of the business is necessary because funding otherwise available for**  
87 **the business is not available on commercially reasonable terms;**  
88           **(3) The business has the reasonable potential to create measurable employment**  
89 **within the state;**  
90           **(4) The business has an innovative and proprietary technology, product, and**  
91 **service;**  
92           **(5) The existing owners of the business and other founders have made or are**  
93 **committed to make a substantial financial and time commitment to the business;**  
94           **(6) The securities to be issued and purchased are qualified securities; and**

(7) Binding commitments have been made by the business to the Missouri technology corporation for adequate reporting of financial data, including a requirement for an annual report, or, if required by the board of directors of the Missouri technology corporation, an annual audit of the financial and operational records of the business, the right of access to the financial records of the business, and the right of the Missouri technology corporation to record and publish normal and customary data and information related to the issuance of tax credits that are not otherwise determined to be trade or business secrets;

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

6. This tax credit may be used in its entirety in the taxable year in which the equity investment is made or the credit may be carried forward for use in any of the next three consecutive tax years until the total amount of the credit is used. The tax credits may be sold, assigned, exchanged, or otherwise transferred.

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

8. A qualified Missouri business for which credits have been issued that relocates its headquarters out of Missouri, ceases to employ eighty percent of its employees in Missouri, alters the principal nature of its operations, or divests itself of key assets shall upon demand by the Missouri technology corporation pay the state of Missouri an amount equal to the amount of credits issued to its contributors.

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

10. In addition to reports by the businesses to the Missouri technology corporation and its board of directors, the Missouri technology corporation shall also provide in its annual report information on the marketing and use of the investor tax credits. This report shall include the following:

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

131           **(2) The types of businesses that benefited from the tax credits; and**  
132           **(3) Any aggregate job creation or capital investment in Missouri that resulted from**  
133 **the use of the tax credits for a period of five years beginning from the date on which the**  
134 **tax credits were awarded.**

135

136 **In addition, the annual report shall provide information regarding what businesses**  
137 **deriving a benefit from the tax credits remained in Missouri, what businesses ceased**  
138 **business, what businesses were purchased, and what businesses may have moved**  
139 **out-of-state and the reason for such move.**

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.

620.1881. 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;

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

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

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

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

129

130 The quality jobs advisory task force may recommend to the department of economic  
131 development that appropriate penalties be applied to the company for violating the agreement.  
132 The amount of the job retention credit granted may be equal to up to fifty percent of the amount  
133 of withholding tax generated by the full-time jobs at the project facility for a period of five years.  
134 The calendar year annual maximum amount of tax credit that may be issued to any qualified  
135 company for a job retention project or combination of job retention projects shall be seven  
136 hundred fifty thousand dollars per year, but the maximum amount may be increased up to one  
137 million dollars if such action is proposed by the department and approved by the quality jobs  
138 advisory task force established in section 620.1887; provided, however, until such time as the  
139 initial at-large members of the quality jobs advisory task force are appointed, this determination  
140 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

177 maximum amount may be increased up to five hundred thousand dollars if such action is  
178 proposed by the department and approved by the quality jobs advisory task force established in  
179 section 620.1887. In considering such a request, the task force shall rely on economic modeling  
180 and other information supplied by the department when requesting an increase in the limit on  
181 behalf of the small business job retention and flood survivor relief project. In no event shall the  
182 total amount of all tax credits issued for the entire small business job retention and flood survivor  
183 relief program under this subdivision exceed five hundred thousand dollars annually.  
184 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] **sixty** 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.

✓