

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2058
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Job Creation and Economic Development February 20, 2008 with recommendation that House Committee Substitute for House Bill No. 2058 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4495L.08C

AN ACT

To repeal sections 32.105, 67.1501, 67.1545, 135.967, 447.708, 620.495, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof twelve new sections relating to tax incentives for business development, with an emergency clause for a certain section.

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

Section A. Sections 32.105, 67.1501, 67.1545, 135.967, 447.708, 620.495, 620.1878, 2 and 620.1881, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known 3 as sections 32.105, 67.1501, 67.1545, 135.682, 135.967, 144.057, 348.273, 348.274, 447.708, 4 620.495, 620.1878, 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
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

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.

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):

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%

32 (3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an
 33 S corporation doing business in the state of Missouri and subject to the state income tax imposed
 34 by the provisions of chapter 143, RSMo, including any charitable organization that is exempt
 35 from federal income tax and whose Missouri unrelated business taxable income, if any, would
 36 be subject to the state income tax imposed under such chapter, or a corporation subject to the
 37 annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an
 38 insurance company paying an annual tax on its gross premium receipts in this state, or other
 39 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 3. Within ten days after the qualified voters have approved the imposition of the sales
25 and use tax, the district shall, in accordance with section 32.087, RSMo, notify the director of

26 the department of revenue. The sales and use tax authorized by this section shall become
27 effective on the first day of the second calendar quarter after the director of the department of
28 revenue receives notice of the adoption of such tax.

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

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

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

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

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

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

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

**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.

135.967. 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:

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

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

7 (3) "Investor":

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

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

14 (4) "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 (5) "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 Missouri technology corporation. 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 (6) "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.

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 executive director 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, within seven years of receiving tax credits under this section 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;

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

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

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

447.708. 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

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

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars 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 cost to**
106 **backfill to grade in the areas where excavation is required to complete site remediation**, the
107 costs of performing operation and maintenance of the remediation equipment at the property
108 beyond the year in which the systems and equipment are built and installed at the eligible project
109 and the costs of performing the voluntary remediation activities over a period not in excess of
110 four tax years following the taxpayer's tax year in which the system and equipment were first put
111 into use at the eligible project, provided the remediation activities are the subject of a plan
112 submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to
113 260.575, RSMo. **The tax credit may also include up to one hundred percent of the costs of**
114 **demolition that are not directly part of the remediation activities, provided that the**
115 **demolition is on the property where the voluntary remediation activities are occurring, the**
116 **demolition is necessary to accomplish the planned use of the facility where the remediation**
117 **activities are occurring, and the demolition is part of a redevelopment plan approved by**
118 **the municipal or county government and the department of economic development. The**
119 **demolition may occur on an adjacent property if the project is located in a municipality**
120 **which has a population less than twenty thousand and the above conditions are otherwise**
121 **met. The adjacent property shall independently qualify as abandoned or underutilized.**
122 **The amount of the credit available for demolition not associated with remediation can not**
123 **exceed the total amount of credits approved for remediation including demolition required**
124 **for remediation.**

125 (2) [The director of the department of economic development, with the approval of the
126 director of the department of natural resources, may, in addition to the tax credits otherwise
127 allowed in this section, grant a demolition tax credit to the applicant for up to one hundred
128 percent of the costs of demolition that are not part of the voluntary remediation activities,
129 provided that the demolition is either on the property where the voluntary remediation activities
130 are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan
131 approved by the municipal or county government and the department of economic development.
132

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

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

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

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

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

168 revocation of any tax credits as determined in this section or pursuant to the provisions of section
169 447.716.

170 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
171 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection
172 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax
173 credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and
174 135.245, RSMo, respectively, for the same facility for the same tax period.

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

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

178 (2) One hundred percent of the total business' income tax if the eligible facility does not
179 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
180 period in which the tax credits are earned, and further provided the taxpayer does not operate any
181 other facilities besides the eligible project in Missouri; fifty percent of the total business' income
182 tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the
183 end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer
184 does not operate any other facilities besides the eligible project in Missouri; or twenty-five
185 percent of the total business income if the taxpayer operates, in addition to the eligible facility,
186 any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible
187 project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business
188 income in any tax period. That portion of the taxpayer's income attributed to the eligible project
189 as referenced in subdivision (1) of this subsection, for which the credits allowed in sections
190 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined
191 in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of
192 the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit
193 may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision
194 (6) of section 135.100, RSMo.

195 7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of
196 subsection 1 of this section shall be required to file all applicable tax credit applications, forms
197 and schedules prescribed by the director during the taxpayer's tax period immediately after the
198 tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to
199 claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax
200 credits shall not be carried forward but shall be initially claimed for the tax period during which
201 the eligible project was first capable of being used, and during any applicable subsequent tax
202 periods.

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

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

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

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

- 230 (1) The shareholders of the corporation described in section 143.471, RSMo;
231 (2) The partners of the partnership.

232
233 The credit provided in this subsection shall be apportioned to the entities described in
234 subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last
235 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.

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

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

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

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

9 (4) "County average wage", the average wages in each county as determined by the
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

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

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

- 109 (a) **Open-looped biomass;**
- 110 (b) **Close-looped biomass;**
- 111 (c) **Solar;**
- 112 (d) **Wind;**
- 113 (e) **Geothermal; and**
- 114 (f) **Hydropower;**

115 (25) "Related company" means:

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

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

119 (c) Corporations, partnerships, trusts or associations controlled by an individual,
120 corporation, partnership, trust or association in control of the qualified company. As used in this
121 subdivision, control of a corporation shall mean ownership, directly or indirectly, of stock
122 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
123 to vote, control of a partnership or association shall mean ownership of at least fifty percent of
124 the capital or profits interest in such partnership or association, control of a trust shall mean
125 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal
126 or income of such trust, and ownership shall be determined as provided in Section 318 of the
127 Internal Revenue Code of 1986, as amended;

128 [(25)] **(26)** "Related facility", a facility operated by the qualified company or a related
129 company located in this state that is directly related to the operations of the project facility;

130 [(26)] **(27)** "Related facility base employment", the greater of the number of full-time
131 employees located at all related facilities on the date of the notice of intent or for the
132 twelve-month period prior to the date of the notice of intent, the average number of full-time
133 employees located at all related facilities of the qualified company or a related company located
134 in this state;

135 [(27)] **(28)** "Related facility base payroll", the total amount of taxable wages paid by the
136 qualified company to full-time employees of the qualified company located at a related facility
137 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

benefit due to the qualified company under this subdivision. The calendar year annual maximum amount of tax credits that may be issued to any qualified company for a project or combination of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a project or combination of projects may be increased up to one million dollars if the number of new jobs will exceed five hundred and 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 project;

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

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

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
141 a request, the task force shall rely on economic modeling and other information supplied by the
142 department when requesting the increased limit on behalf of the job retention project. In no
143 event shall the total amount of all tax credits issued for the entire job retention program under
144 this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits
145 shall be issued for job retention projects approved by the department after August 30, [2007]
146 **2013;**

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

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

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

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

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

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

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

163 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the
164 qualified company and related companies retained, at the company's facilities in this state, at
165 least the level of full-time, year-round employees that existed in the taxable year immediately
166 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 for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in 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.

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.

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