

SECOND REGULAR SESSION

HOUSE BILL NO. 2470

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FLOOK.

Read 1st time March 27, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5258L.01I

AN ACT

To repeal sections 32.100, 32.105, 32.110, 32.115, 32.117, 32.120, 33.282, 135.460, 208.750, 208.755, 208.760, 208.765, 208.770, 208.775, 620.495, 620.1100, and 620.1103, RSMo, and to enact in lieu thereof ten new sections relating to assistance programs.

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

Section A. Sections 32.100, 32.105, 32.110, 32.115, 32.117, 32.120, 33.282, 135.460, 208.750, 208.755, 208.760, 208.765, 208.770, 208.775, 620.495, 620.1100, and 620.1103, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 32.100, 32.105, 32.115, 33.282, 135.440, 135.442, 135.444, 135.446, 135.448, and 135.449, to read as follows:

32.100. Sections 32.100 to 32.125 shall be known and may be cited as the ["Neighborhood Assistance Act"] **"Affordable Housing Assistance Act"**.

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

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

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance,

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.

10 mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be
 11 considered the amount of the gross rent. The cost to the occupant shall include the cost of any
 12 utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum
 13 cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the
 14 commission. Persons or families are eligible occupants of affordable housing units if the
 15 household combined, adjusted gross income as defined by the commission is equal to or less than
 16 the following percentages of the median family income for the geographic area in which the
 17 residential unit is located, or the median family income for the state of Missouri, whichever is
 18 larger; ("geographic area" means the metropolitan area or county designated as an area by the
 19 federal Department of Housing and Urban Development under Section 8 of the United States
 20 Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

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)] (6) "Economic development", the acquisition, renovation, improvement, or the
60 furnishing or equipping of existing buildings and real estate [in distressed or blighted areas of
61 the 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 million dollars from within any one fiscal year's allocation, except that for fiscal years 2005,
72 2006, and 2007 credits approved for economic development projects shall not exceed six million
73 dollars. Neighborhood assistance program tax credits for economic development projects and
74 affordable housing assistance as defined in section 32.111 may be transferred, sold or assigned
75 by a notarized endorsement thereof naming the transferee;

76 (10)] (7) "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)] (8) "Neighborhood organization", any organization performing community services
86 or 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
95 technical advice to aid in the physical improvement or rehabilitation of any part or all of a
96 neighborhood area;

97 (15)] (9) "S corporation", a corporation described in Section 1361(a)(1) of the United
98 States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo,
99 by reason of section 143.471, RSMo;

100 [(16)] (10) "Workfare renovation project", any project initiated pursuant to sections
101 215.340 to 215.355, RSMo.

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the
2 following order until used, against:

3 (1) The annual tax on gross premium receipts of insurance companies in chapter 148,
4 RSMo;

5 (2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section
6 148.030, RSMo;

7 (3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030,
8 RSMo;

9 (4) The tax on other financial institutions in chapter 148, RSMo;

10 (5) The corporation franchise tax in chapter 147, RSMo;

11 (6) The state income tax in chapter 143, RSMo; and

12 (7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

13 2. [For proposals approved pursuant to section 32.110:

14 (1) The amount of the tax credit shall not exceed fifty percent of the total amount
15 contributed during the taxable year by the business firm or, in the case of a financial institution,

16 where applicable, during the relevant income period in programs approved pursuant to section
17 32.110;

18 (2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy
19 percent may be allowed for contributions to programs where activities fall within the scope of
20 special program priorities as defined with the approval of the governor in regulations
21 promulgated by the director of the department of economic development;

22 (3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for
23 contributions to programs located in any community shall be equal to seventy percent of the total
24 amount contributed where such community is a city, town or village which has fifteen thousand
25 or less inhabitants as of the last decennial census and is located in a county which is either
26 located in:

27 (a) An area that is not part of a standard metropolitan statistical area;

28 (b) A standard metropolitan statistical area but such county has only one city, town or
29 village which has more than fifteen thousand inhabitants; or

30 (c) A standard metropolitan statistical area and a substantial number of persons in such
31 county derive their income from agriculture.

32

33 Such community may also be in an unincorporated area in such county as provided in
34 subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit
35 of the combined federal and state tax savings to the taxpayer exceed the amount contributed by
36 the taxpayer during the tax year;

37 (4) Such tax credit allocation, equal to seventy percent of the total amount contributed,
38 shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000
39 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit
40 allocation is committed, the tax credit allocation for such programs shall then be equal to fifty
41 percent credit of the total amount contributed. Regulations establishing special program
42 priorities are to be promulgated during the first month of each fiscal year and at such times
43 during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty
44 thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit
45 shall be approved for any bank, bank and trust company, insurance company, trust company,
46 national bank, savings association, or building and loan association for activities that are a part
47 of its normal course of business. Any tax credit not used in the period the contribution was made
48 may be carried over the next five succeeding calendar or fiscal years until the full credit has been
49 claimed. Except as otherwise provided for proposals approved pursuant to section 32.111,
50 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to
51 sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six

52 million shall be credits allowed pursuant to section 135.460, RSMo. If six million dollars in
53 credits are not approved, then the remaining credits may be used for programs approved pursuant
54 to sections 32.100 to 32.125;

55 (5) The credit may exceed two hundred fifty thousand dollars annually and shall not be
56 limited if community services, crime prevention, education, job training, physical revitalization
57 or economic development, as defined by section 32.105, is rendered in an area defined by federal
58 or state law as an impoverished, economically distressed, or blighted area or as a neighborhood
59 experiencing problems endangering its existence as a viable and stable neighborhood, or if the
60 community services, crime prevention, education, job training, physical revitalization or
61 economic development is limited to impoverished persons] **The total amount of tax credit
62 granted for programs approved under sections 32.100 to 32.125 shall not exceed twenty-six
63 million dollars in any fiscal year, except as otherwise provided for proposals approved
64 under section 32.111 or 32.112. All tax credits authorized under the provisions of sections
65 32.100 to 32.125 may be used as a state match to secure additional federal funding.**

66 3. For proposals approved pursuant to section 32.111:

67 (1) The amount of the tax credit shall not exceed fifty-five percent of the total amount
68 invested in affordable housing assistance activities or market rate housing in distressed
69 communities as defined in section 135.530, RSMo, by a business firm. Whenever such
70 investment is made in the form of an equity investment or a loan, as opposed to a donation alone,
71 tax credits may be claimed only where the loan or equity investment is accompanied by a
72 donation which is eligible for federal income tax charitable deduction, and where the total value
73 of the tax credits herein plus the value of the federal income tax charitable deduction is less than
74 or equal to the value of the donation. Any tax credit not used in the period for which the credit
75 was approved may be carried over the next ten succeeding calendar or fiscal years until the full
76 credit has been allowed. If the affordable housing units or market rate housing units in distressed
77 communities for which a tax is claimed are within a larger structure, parts of which are not the
78 subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced
79 on a prorated basis in proportion to the ratio of the number of square feet devoted to the
80 affordable housing units or market rate housing units in distressed communities, for purposes of
81 determining the amount of the tax credit. The total amount of tax credit granted for programs
82 approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed
83 two million dollars, to be increased by no more than two million dollars each succeeding fiscal
84 year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

85 (2) For any year during the compliance period indicated in the land use restriction
86 agreement, the owner of the affordable housing rental units for which a credit is being claimed
87 shall certify to the commission that all tenants renting claimed units are income eligible for

88 affordable housing units and that the rentals for each claimed unit are in compliance with the
89 provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit
90 the records and accounts of the owner to verify such certification;

91 (3) In the case of owner-occupied affordable housing units, the qualifying owner
92 occupant shall, before the end of the first year in which credits are claimed, certify to the
93 commission that the occupant is income eligible during the preceding two years, and at the time
94 of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further
95 certify to the commission, before the end of the first year in which credits are claimed, that
96 during the compliance period indicated in the land use restriction agreement, the cost of the
97 affordable housing unit to the occupant for the claimed unit can reasonably be projected to be
98 in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant
99 acquiring the affordable housing unit during the compliance period indicated in the land use
100 restriction agreement shall make the same certification;

101 (4) If at any time during the compliance period the commission determines a project for
102 which a proposal has been approved is not in compliance with the applicable provisions of
103 sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one
104 hundred fifty days of notice to the owner either seek injunctive enforcement action against the
105 owner, or seek legal damages against the owner representing the value of the tax credits, or
106 foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and
107 paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax
108 credits allowed herein. The commission shall remit to the director of revenue the portion of the
109 legal damages collected or the sale proceeds representing the value of the tax credits. However,
110 except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for
111 tax credits shall not be revoked.

112 4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall
113 not exceed fifty-five percent of the total amount contributed to a neighborhood organization by
114 business firms. Any tax credit not used in the period for which the credit was approved may be
115 carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed.
116 The total amount of tax credit granted for programs approved pursuant to section 32.112 shall
117 not exceed one million dollars for each fiscal year.

118 5. The total amount of tax credits used for market rate housing in distressed communities
119 pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all
120 tax credits authorized pursuant to sections 32.111 and 32.112.

33.282. 1. Subject to appropriation the office of administration shall develop a tax
2 expenditure budget for submission to the general assembly in conjunction with the submission
3 of the state budget as required in section 33.280. The tax expenditure budget shall indicate, on

an annual basis, the reduction in revenue collections for each fiscal year as a result of each deduction, exemption, credit or other tax preference as may be authorized by law, and shall indicate, where appropriate, the tax source of each state-funded program. Periodically the tax expenditure budget shall include a cost-benefit analysis of the following:

- (1) The neighborhood assistance program, sections 32.100 to 32.125, RSMo;
- (2) Tax increment financing, sections 99.800 to 99.865, RSMo;
- (3) Export and infrastructure funding, sections 100.250 to 100.297, RSMo;
- (4) Credit for new expanded business facility, sections 135.100 to 135.150, RSMo;
- (5) Enterprise zones, sections 135.200 to 135.256, RSMo;
- (6) Main street program, sections 251.470 to 251.485, RSMo;
- (7) Economic development districts, sections 251.500 to 251.510, RSMo;
- (8) Rural economic development, sections 620.155 to 620.165, RSMo;
- (9) Export development, sections 620.170 to 620.174, RSMo; **and**
- (10) [Small business incubator program, section 620.495, RSMo; and
- (11)] Other programs as may be practical. Pursuant to the provisions of section 32.057, RSMo, the department of revenue shall not release information as part of the tax expenditure budget in a manner that would allow the identification of any individual taxpayer.

2. On or before October first of each year each state department authorized by law to offer deductions, exemptions, credits or other tax preferences shall submit to the budget director the estimated amount of such tax expenditures for the fiscal year beginning July first of the following year and a cost/benefit analysis of such tax expenditures for the preceding fiscal year. Such estimates and analysis shall be in the manner and form prescribed by the budget director and shall be submitted by the budget director to the chairman of the senate appropriations committee and the chairman of the house budget committee by January first of each year.

3. No new tax credits, except the senior citizens property tax credit as referenced in chapter 135, RSMo, shall be issued or certified for any tax year beginning after July first of the following year unless the estimate of such credits have been reviewed and approved by a majority of the senate appropriations committee and the house budget committee.

135.440. As used in sections 135.440 to 135.448, the following words and terms mean:

- (1) **"Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other**

8 financial institution paying taxes to the state of Missouri or any political subdivision of this
9 state under the provisions of chapter 148, RSMo;

10 (2) "Community development", new construction or rehabilitation of buildings or
11 properties and community services that have a measurable impact on the local or state
12 economy;

13 (3) "Economic development", the acquisition, renovation, improvement, or the
14 furnishing or equipping of existing buildings and real estate when such acquisition,
15 renovation, improvement, or the furnishing or equipping of such buildings and real estate
16 will result in the creation or retention of jobs within the state;

17 (4) "Education", includes programs which encourage Missouri residents who are
18 high school dropouts to either reenter and graduate from high school or earn a graduate
19 equivalency degree, and scholarship assistance in the areas of math and science to residents
20 of the state of Missouri attending schools located in the state;

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

26 (6) "In-kind contribution", a donation of nonmonetary property or services;

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

30 (8) "Local government", any Missouri county, city, town, or village;

31 (9) "Local sponsor" or "sponsor", an organization which enters into a written
32 agreement with the department of economic development to establish, operate, and
33 administer a small business incubator program or to provide funding to an organization
34 which operates such a program;

35 (10) "Not-for-profit organization", a corporation incorporated in the state of
36 Missouri under the provisions of chapter 355, RSMo, or any organization that has obtained
37 an exemption from the payment of federal income taxes as provided in section 501(c)(3) of
38 the Internal Revenue Code of 1986, as amended;

39 (11) "Participant", a sole proprietorship, business partnership or corporation
40 operating a business for profit through which the owner avails himself or herself of
41 business development services in an incubator program;

42 (12) "Physical revitalization", furnishing financial assistance, labor, material, or
43 technical advice to aid in the physical improvement or rehabilitation of any part or all of
44 a neighborhood area;

45 (13) "Program participant", any local government, not-for-profit organization, or
46 school approved by the director of the department of economic development to participate
47 in the community assistance program;

48 (14) "Quality job", an employed position in which the employee works an average
49 of at least thirty-five hours per week for an employer that offers health insurance and at
50 a wage that meets or exceeds the county average wage;

51 (15) "Rural community project", a project located in any community where such
52 community is a city, town, or village which has fifteen thousand or fewer inhabitants as of
53 the last decennial census and is located in a county which is either located in:

54 (a) An area that is not part of a standard metropolitan statistical area; or

55 (b) A standard metropolitan statistical area but such county has only one city,
56 town, or village which has more than fifteen thousand inhabitants;

57 (16) "S corporation", a corporation described in section 1361(a)(1) of the Internal
58 Revenue Code of 1986, as amended, and not subject to the taxes imposed by section
59 143.071, RSMo, by reason of section 143.471, RSMo;

60 (17) "School", any public elementary or high school, as those terms are defined in
61 section 160.011, RSMo, located within the state of Missouri, and any institution of
62 postsecondary education, including universities, colleges, vocational and technical schools,
63 located within the state of Missouri;

64 (18) "Taxpayer", corporations, as defined in section 143.441, RSMo, individuals,
65 sole proprietorships, partnerships, and S corporations;

66 (19) "Tenant", a sole proprietorship, business partnership, or corporation
67 operating a business for profit and leasing or otherwise occupying space in an incubator;

68 (20) "Youth development", projects serving youths ages twenty-one and under,
69 including but not limited to, high school degree completion, employment, and youth
70 activity centers.

135.442. 1. This section shall be known and may be cited as the "Community
2 Assistance Program".

3 2. The tax credits allowed under the community assistance program shall be in an
4 amount equal to:

5 (1) Thirty percent of the contribution for in-kind contributions;

6 (2) Fifty percent of the contribution for monetary contributions; or

7 (3) Seventy percent of the contribution for monetary contributions to a rural
8 community project.

9 3. Program participants shall administer projects including but not limited to the
10 areas of community development, education, physical revitalization, job training, and
11 youth development.

12 4. The department of economic development shall give priority to program
13 participants whose projects benefit a community or region with a demonstrated need for
14 public investment in its infrastructure which may include, but not be limited to, local
15 information on:

16 (1) Median household income;

17 (2) Unemployment or stresses resulting from rapid employment growth;

18 (3) Other labor demographics;

19 (4) Educational attainment or education expansion opportunities;

20 (5) Population loss or rapid population growth;

21 (6) Underemployment;

22 (7) Depletion of natural resources;

23 (8) Job loss or company closure, or company expansion or attraction;

24 (9) Tax or fee revenue circumstances; or

25 (10) Other statistics that adequately portray the circumstances of the community
26 or region.

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

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

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

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

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

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

17 (5) Include such other information as the department of economic development
18 may require through its guidelines.

19 3. The department of economic development shall review and accept applications
20 based on the following criteria:

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

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

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

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

27 4. Loans, loan guarantees, and grants shall be administered in the following
28 manner:

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

35 (2) Loans, loan guarantees, and grants shall not exceed fifty percent of total eligible
36 project costs;

37 (3) Payment of interest and principal on loans may be deferred at the discretion of
38 the department of economic development.

39 5. A local sponsor, or the organization receiving assistance through the local
40 sponsor, shall have the following responsibilities and duties in establishing and operating
41 an incubator with assistance from the small business incubator program:

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

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

45 (3) Furnish and equip the program to provide business services to the tenants and
46 participants;

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

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

51 (6) Set rental and service fees;

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

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

59 6. The department of economic development:

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

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

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

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

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

72 8. On or before January first of each year, the department of economic
73 development shall provide a report to the governor, the chief clerk of the house of
74 representatives, and the secretary of the senate which shall include, but need not be limited
75 to:

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

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

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

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

81 (5) The number of jobs provided by each incubator and tenants and participant of
82 each incubator;

83 (6) The occupancy rate of each incubator;

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

86 9. There is hereby established in the state treasury a special fund to be known as
87 the "Missouri Small Business Incubators Fund", which shall consist of all moneys which

88 may be appropriated to it by the general assembly, and also any gifts, contributions,
89 grants, or bequests received from federal, private, or other sources. Moneys for loans, loan
90 guarantees, and grants under the small business incubator program may be obtained from
91 appropriations made by the general assembly from the Missouri small business incubators
92 fund. Any moneys remaining in the Missouri small business incubators fund at the end of
93 any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080,
94 RSMo, but shall remain in the Missouri small business incubators fund.

95 **10.** A taxpayer shall be entitled to a tax credit under this section in an amount equal
96 to fifty percent of any amount contributed by the taxpayer to the Missouri small business
97 incubators fund during the taxpayer's tax year or any contribution by the taxpayer to a
98 local sponsor after the local sponsor's application has been accepted and approved by the
99 department of economic development.

135.446. 1. This section may be cited as the "Development Tax Credit Program".

2 **2.** Any business firm may apply to the department of economic development to
3 conduct economic development projects. The department of economic development shall
4 approve applications on an individual case-by-case basis, giving priority to manufacturing,
5 processing or assembly, corporate headquarters, services in interstate commerce, and
6 warehouse or distribution business projects proposing wages above the average for the
7 area and which provide health benefits. Credits approved for an economic development
8 project shall be limited to the least of ten thousand dollars per quality job created or
9 retained, fifty percent of the purchase price of new capital improvements or equipment,
10 five hundred thousand dollars per project, or the least amount needed to cause the project
11 to occur. Credits approved for all economic development projects authorized under this
12 section shall not exceed six million dollars in any one fiscal year.

135.448. 1. A taxpayer shall be allowed a tax credit against the tax otherwise due
2 under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to
3 143.265, RSMo, chapter 147, or 148, RSMo, for contributions under sections 135.442 to
4 135.446.

5 **2.** The tax credits allowed by sections 135.442 to 135.446 shall be claimed by the
6 taxpayer to offset the taxes that become due in the taxpayer's tax period in which the
7 contribution was made. Any tax credit not used in such tax period may be carried over the
8 next five succeeding tax periods.

9 **3.** Notwithstanding any provision of law to the contrary, any taxpayer, for the
10 purpose of this subsection referred to as assignor, may assign, sell, or transfer, in whole or
11 in part, the tax credits issued under sections 135.442 to 135.446 to any other taxpayer, for
12 the purpose of this subsection referred to as assignee, for no less than seventy-five percent

13 of the par value of such credits and in an amount not to exceed one hundred percent of
14 annual earned credits. To perfect the transfer, the assignor shall provide written notice
15 to the department of economic development of the assignor's intent to transfer the tax
16 credits to the assignee, the date the transfer is effective, the assignee's name, address, and
17 the assignee's tax period, and the amount of tax credits to be transferred.

18 **4.** The department of economic development may adopt such rules, statements of
19 policy, procedures, forms, and guidelines as may be necessary to carry out the provisions
20 of sections 135.442 to 135.446. Any rule or portion of a rule, as that term is defined in
21 section 536.010, RSMo, that is created under the authority delegated in this section shall
22 become effective only if it complies with and is subject to all of the provisions of chapter
23 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
24 RSMo, are nonseverable and if any of the powers vested with the general assembly under
25 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
26 are subsequently held unconstitutional, then the grant of rulemaking authority and any
27 rule proposed or adopted after August 28, 2008, shall be invalid and void.

28 **5.** The total amount of tax credits granted under the community assistance program
29 and the small business incubator program shall not exceed twenty-six million dollars for
30 state fiscal year 2010 and any subsequent fiscal years. Of that amount, up to six million
31 dollars shall be allocated to youth development and up to eight million dollars shall be
32 allocated to rural community projects.

33 **6.** In the event that a program participant, in the case of a community assistance
34 program project, a local sponsor, in the case of a small business incubator program
35 project, or a business firm, in the case of development tax credit program project, fails to
36 complete a project authorized under sections 135.440 to 135.446, or otherwise fails to abide
37 by the conditions of participation in such three programs as set forth by statute, rule, or
38 agreement, the department of economic development may terminate participation in the
39 program, require refund of donations, and require repayment to the state of Missouri in
40 an amount equivalent to the amount of tax credits for project donations that have already
41 been redeemed.

135.449. For all tax years beginning on or after January 1, 2009, no tax credits shall
2 be approved, awarded, or issued to any person or entity claiming any tax credit under
3 section 135.460, sections 208.750 to 208.775, RSMo, and section 620.495, RSMo. If an
4 organization has been allocated credits for contribution-based credits prior to January 1,
5 2007, the organization may issue such credits prior to January 1, 2013, for qualified
6 contributions.

2 [32.110. Any business firm which engages in the activities of providing
3 physical revitalization, economic development, job training or education for
4 individuals, community services, or crime prevention in the state of Missouri
5 shall receive a tax credit as provided in section 32.115 if the director of the
6 department of economic development annually approves the proposal of the
7 business firm; except that, no proposal shall be approved which does not have the
8 endorsement of the agency of local government within the area in which the
9 business firm is engaging in such activities which has adopted an overall
10 community or neighborhood development plan that the proposal is consistent
11 with such plan. The proposal shall set forth the program to be conducted, the
12 neighborhood area to be served, why the program is needed, the estimated
13 amount to be contributed to the program and the plans for implementing the
14 program. If, in the opinion of the director of the department of economic
15 development, a business firm's contribution can more consistently with the
16 purposes of sections 32.100 to 32.125 be made through contributions to a
17 neighborhood organization as defined in subdivision (13) of section 32.105, tax
18 credits may be allowed as provided in section 32.115. The director of the
19 department of economic development is hereby authorized to promulgate rules
20 and regulations for establishing criteria for evaluating such proposals by business
21 firms for approval or disapproval and for establishing priorities for approval or
22 disapproval of such proposals by business firms with the assistance and approval
23 of the director of the department of revenue. The total amount of tax credit
24 granted for programs approved pursuant to sections 32.100 to 32.125 shall not
25 exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars
26 in fiscal year 2000, and any subsequent fiscal year, except as otherwise provided
27 for proposals approved pursuant to section 32.111, 32.112 or 32.117. All tax
28 credits authorized pursuant to the provisions of sections 32.100 to 32.125 may
29 be used as a state match to secure additional federal funding.]

2 [32.117. 1. Any business firm which engages in the activity of providing
3 a homeless assistance project for low-income persons in the state of Missouri
4 shall receive a tax credit as provided in section 32.115, if the division of
5 community development within the department of economic development
6 annually approves the proposal of the business firm. The proposal shall only be
7 approved if the project is located in a city with a population of four hundred
8 thousand or more inhabitants which is located in more than one county and which
9 serves a mix of rural and urban counties.

10 2. For purposes of this section "low-income persons" shall mean families
11 or persons with incomes of fifty percent or less of median income adjusted for
12 family size as allowed by the Department of Housing and Urban Development
(HUD) under section 8.

13 3. The purpose of a homeless assistance project shall be to serve
14 low-income families or persons who are experiencing economic crisis caused by
15 one or more of the following:

- 16 (1) Loss of employment;
17 (2) Medical disability or emergency;
18 (3) Loss or delay of some form of public assistance benefits;
19 (4) Natural disaster;
20 (5) Substantial change in household composition;
21 (6) Victimization by criminal activity;
22 (7) Illegal action by a landlord;
23 (8) Displacement by government or private action; or
24 (9) Some other condition which constitutes a hardship.

25 4. The amount of the tax credit shall not exceed fifty-five percent of the
26 value of the proposal benefits, which shall include one or more of the following
27 types of benefits to low-income persons in order to be eligible:

- 28 (1) Payment of rent or mortgage for not more than three months during
29 any twelve-month period;
30 (2) Payment to a landlord of a rent deposit or a security deposit for not
31 more than two months during any twelve-month period;
32 (3) Case management services which shall include support services such
33 as child care, education resource assistance, job resource assistance, counseling,
34 and resource and referral;
35 (4) Outreach services to low-income persons to prevent homelessness;
36 (5) Transitional housing facilities with support services.

37 5. The homeless assistance program shall give priority to the following
38 types of low-income families or individuals:

- 39 (1) Families with minor children who are in imminent danger of removal
40 from the family because of a lack of suitable housing accommodation;
41 (2) Single parent household;
42 (3) Other households with children;
43 (4) Households with a disabled household member or a household
44 member who is at least sixty-five years of age;
45 (5) All other households.

46 6. The organization implementing a homeless assistance program
47 pursuant to this section shall make annual reports identifying the goal of the
48 program, the number of recipients served, the type of services rendered, and
49 moneys expended to provide the program. The program report shall be submitted
50 to the governor, speaker of the house of representatives and the president pro tem
51 of the senate. These reports shall also be available to the general public upon
52 request.

53 7. For each of the fiscal years beginning on July 1, 1991, and July 1,
54 1992, one million dollars in tax credits may be allowed to be used for the
55 homeless assistance pilot project, pursuant to this section.]

2 [32.120. The decision of the director of the department of economic
3 development to approve or disapprove a proposal pursuant to section 32.110 shall
4 be in writing, and if he approves the proposal, he shall state the maximum credit
5 allowable to the business firm. A copy of the decision of the director of the
6 department of economic development shall be transmitted to the director of
7 revenue and to the governor.]

2 [135.460. 1. This section and sections 620.1100 and 620.1103, RSMo,
3 shall be known and may be cited as the "Youth Opportunities and Violence
4 Prevention Act".

5 2. As used in this section, the term "taxpayer" shall include corporations
6 as defined in section 143.441 or 143.471, RSMo, any charitable organization
7 which is exempt from federal income tax and whose Missouri unrelated business
8 taxable income, if any, would be subject to the state income tax imposed under
chapter 143, RSMo, and individuals, individual proprietorships and partnerships.

2 3. A taxpayer shall be allowed a tax credit against the tax otherwise due
3 pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections
4 143.191 to 143.265, RSMo, chapter 147, RSMo, chapter 148, RSMo, or chapter
5 153, RSMo, in an amount equal to thirty percent for property contributions and
6 fifty percent for monetary contributions of the amount such taxpayer contributed
7 to the programs described in subsection 5 of this section, not to exceed two
8 hundred thousand dollars per taxable year, per taxpayer; except as otherwise
9 provided in subdivision (5) of subsection 5 of this section. The department of
10 economic development shall prescribe the method for claiming the tax credits
11 allowed in this section. No rule or portion of a rule promulgated under the
12 authority of this section shall become effective unless it has been promulgated
13 pursuant to the provisions of chapter 536, RSMo. All rulemaking authority
14 delegated prior to June 27, 1997, is of no force and effect and repealed; however,
15 nothing in this section shall be interpreted to repeal or affect the validity of any
16 rule filed or adopted prior to June 27, 1997, if such rule complied with the
17 provisions of chapter 536, RSMo. The provisions of this section and chapter
18 536, RSMo, are nonseverable and if any of the powers vested with the general
19 assembly pursuant to chapter 536, RSMo, including the ability to review, to delay
20 the effective date, or to disapprove and annul a rule or portion of a rule, are
21 subsequently held unconstitutional, then the purported grant of rulemaking
22 authority and any rule so proposed and contained in the order of rulemaking shall
be invalid and void.

23 4. The tax credits allowed by this section shall be claimed by the taxpayer
24 to offset the taxes that become due in the taxpayer's tax period in which the
25 contribution was made. Any tax credit not used in such tax period may be carried
26 over the next five succeeding tax periods.

27 5. The tax credit allowed by this section may only be claimed for
28 monetary or property contributions to public or private programs authorized to

participate pursuant to this section by the department of economic development and may be claimed for the development, establishment, implementation, operation, and expansion of the following activities and programs:

(1) An adopt-a-school program. Components of the adopt-a-school program shall include donations for school activities, seminars, and functions; school-business employment programs; and the donation of property and equipment of the corporation to the school;

(2) Expansion of programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;

(3) Employment programs. Such programs shall initially, but not exclusively, target unemployed youth living in poverty and youth living in areas with a high incidence of crime;

(4) New or existing youth clubs or associations;

(5) Employment/internship/apprenticeship programs in business or trades for persons less than twenty years of age, in which case the tax credit claimed pursuant to this section shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except that such credit shall not exceed ten thousand dollars per person;

(6) Mentor and role model programs;

(7) Drug and alcohol abuse prevention training programs for youth;

(8) Donation of property or equipment of the taxpayer to schools, including schools which primarily educate children who have been expelled from other schools, or donation of the same to municipalities, or not-for-profit corporations or other not-for-profit organizations which offer programs dedicated to youth violence prevention as authorized by the department;

(9) Not-for-profit, private or public youth activity centers;

(10) Nonviolent conflict resolution and mediation programs;

(11) Youth outreach and counseling programs.

6. Any program authorized in subsection 5 of this section shall, at least annually, submit a report to the department of economic development outlining the purpose and objectives of such program, the number of youth served, the specific activities provided pursuant to such program, the duration of such program and recorded youth attendance where applicable.

7. The department of economic development shall, at least annually submit a report to the Missouri general assembly listing the organizations participating, services offered and the number of youth served as the result of the implementation of this section.

8. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1995.

9. For the purposes of the credits described in this section, in the case of a corporation described in section 143.471, RSMo, partnership, limited liability company described in section 347.015, RSMo, cooperative, marketing enterprise,

or partnership, in computing Missouri's tax liability, such credits shall be allowed to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership;
- (3) The members of the limited liability company; and
- (4) Individual members of the cooperative or marketing enterprise.

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

[208.750. 1. Sections 208.750 to 208.775 shall be known and may be cited as the "Family Development Account Program".

2. For purposes of sections 208.750 to 208.775, the following terms mean:

(1) "Account holder", a person who is the owner of a family development account;

(2) "Community-based organization", any religious or charitable association formed pursuant to chapter 352, RSMo, or any nonprofit corporation formed under chapter 355, RSMo, that is approved by the director of the department of economic development to implement the family development account program;

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

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

(5) "Family development account", a financial instrument established pursuant to section 208.760;

(6) "Family development account reserve fund", the fund created by an approved community-based organization for the purposes of funding the costs incurred in the administration of the program and for providing matching funds for moneys in family development accounts;

(7) "Federal poverty level", the most recent poverty income guidelines published in the calendar year by the United States Department of Health and Human Services;

(8) "Financial institution", any bank, trust company, savings bank, credit union or savings and loan association as defined in chapter 362, 369 or 370, RSMo, and with an office in Missouri which is approved by the director for participation in the program;

(9) "Program", the Missouri family development account program established in sections 208.750 to 208.775;

(10) "Program contributor", a person or entity who makes a contribution to a family development account reserve fund and is not the account holder.]

2 [208.755. 1. There is hereby established within the department of
3 economic development a program to be known as the "Family Development
4 Account Program". The program shall provide eligible families and individuals
5 with an opportunity to establish special savings accounts for moneys which may
6 be used by such families and individuals for education, home ownership or small
7 business capitalization.

8 2. The department shall solicit proposals from community-based
9 organizations seeking to administer the accounts on a not-for-profit basis.
10 Community-based organization proposals shall include:

11 (1) A requirement that the individual account holder or the family of an
12 account holder match the contributions of a community-based organization
13 member by contributing cash;

14 (2) A process for including account holders in decision making regarding
15 the investment of funds in the accounts;

16 (3) Specifications of the population or populations targeted for priority
17 participation in the program;

18 (4) A requirement that the individual account holder or the family of an
19 account holder attend economic literacy seminars;

20 (5) A process for including economic literacy seminars in the family
21 development account program; and

22 (6) A process for regular evaluation and review of family development
23 accounts to ensure program compliance by account holders.

24 3. In reviewing the proposals of community-based organizations, the
25 department shall consider the following factors:

26 (1) The not-for-profit status of such organization;

27 (2) The fiscal accountability of the community-based organization;

28 (3) The ability of the community-based organization to provide or raise
29 moneys for matching contributions;

30 (4) The ability of the community-based organization to establish and
31 administer a reserve fund account which shall receive all contributions from
32 program contributors; and

33 (5) The significance and quality of proposed auxiliary services, including
34 economic literacy seminars, and their relationship to the goals of the family
35 development account program.

36 4. No more than twenty percent of all funds in the reserve fund account
37 may be used for administrative costs of the program in each of the first two years
38 of the program, and no more than fifteen percent of such funds may be used for
39 administrative costs for any subsequent year. Funds deposited by account holders
40 shall not be used for administrative costs.

41 5. The department shall promulgate rules and regulations to implement
42 and administer the provisions of sections 208.750 to 208.775. No rule or portion
of a rule promulgated pursuant to the authority of sections 208.750 to 208.775

shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[208.760. 1. A family or individual whose household income is less than or equal to two hundred percent of the federal poverty level may open a family development account for the purpose of accumulating and withdrawing moneys for specified expenditures. The account holder may withdraw moneys from the account on the approval of the community-based organization, without penalty, for any of the following expenditures:

(1) Educational costs for any family member at an accredited institution of higher education;

(2) Job training costs for any family member eighteen years of age or older, at an accredited or licensed training program;

(3) Purchase of a primary residence;

(4) Major repairs or improvements to a primary residence; or

(5) Start-up capitalization of a small business for any family member eighteen years of age or older.

2. Financial institutions approved by the department shall be permitted to establish family development accounts pursuant to sections 208.750 to 208.775. The financial institution shall certify to the department, on forms prescribed by the department and accompanied by any documentation required by the department, that such accounts have been established pursuant to the provisions of sections 208.750 to 208.775 and that deposits have been made on behalf of the account holder.

3. A financial institution establishing a family development account shall:

(1) Keep the account in the name of the account holder;

(2) Permit deposits to be made in the account by the following, subject to the indicated conditions:

(a) The account holder; or

(b) A community-based organization on behalf of the account holder.

Such a deposit may include moneys to match the account holder's deposits, up to a three-to-one match rate;

(3) Require the account to earn at least the market rate of interest; and

(4) Permit the account holder to withdraw moneys from the account for any of the purposes listed in subsection 1 of this section.

4. The total of all deposits by the account holder into a family development account in a calendar year shall not exceed two thousand dollars. The total balance in a family development account shall not exceed fifty thousand dollars.]

2 [208.765. 1. Account holders who withdraw moneys from a family
3 development account not in accordance with subsection 1 of section 208.760
4 shall forfeit all matching moneys in the account.

5 2. All moneys forfeited by an account holder pursuant to subsection 1 of
6 this section shall be returned to the family development account reserve fund of
7 the community-based organization.

8 3. In the event of an account holder's death, the account may be
9 transferred to the ownership of a contingent beneficiary. An account holder shall
10 name contingent beneficiaries at the time the account is established and may
11 change such beneficiaries at any time. If the named beneficiary is deceased or
12 otherwise cannot accept the transfer, the moneys shall be transferred to the family
13 development account reserve fund of the community-based organization.]

2 [208.770. 1. Moneys deposited in or withdrawn pursuant to subsection
3 1 of section 208.760 from a family development account by an account holder are
4 exempted from taxation pursuant to chapter 143, RSMo, excluding withholding
5 tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153,
6 RSMo, provided, however, that any money withdrawn for an unapproved use
7 should be subject to tax as required by law.

8 2. Interest earned by a family development account is exempted from
9 taxation pursuant to chapter 143, RSMo.

10 3. Any funds in a family development account, including accrued
11 interest, shall be disregarded when determining eligibility to receive, or the
12 amount of, any public assistance or benefits.

13 4. A program contributor shall be allowed a credit against the tax
14 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections
15 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, pursuant to
16 sections 208.750 to 208.775. Contributions up to fifty thousand dollars per
17 program contributor are eligible for the tax credit which shall not exceed fifty
18 percent of the contribution amount.

19 5. The department of economic development shall verify all tax credit
20 claims by contributors. The administrator of the community-based organization,
21 with the cooperation of the participating financial institutions, shall submit the
22 names of contributors and the total amount each contributor contributes to a
23 family development account reserve fund for the calendar year. The director
24 shall determine the date by which such information shall be submitted to the
25 department by the local administrator. The department shall submit verification
26 of qualified tax credits pursuant to sections 208.750 to 208.775 to the department
27 of revenue.

28 6. The total tax credits authorized pursuant to sections 208.750 to
29 208.775 shall not exceed four million dollars in any fiscal year.]

[208.775. Subject to appropriations and to the provisions of chapter 34, RSMo, the department shall annually award up to one hundred thousand dollars for an independent evaluation of the program. Based on this program evaluation, the department shall provide a comprehensive report on the program to the speaker of the house and the president pro tem of the senate by March first of each year, beginning in 2000.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

67 (3) Furnish and equip the program to provide business services to the
68 tenants and participants;

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

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

73 (6) Set rental and service fees;

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

77 (8) Establish policies and criteria for the acceptance of tenants and
78 participants into the incubator and for the termination of occupancy of tenants so

79 as to maximize the opportunity to succeed for the greatest number of tenants,
80 consistent with those specified in this section.

81 7. The department:

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

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

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

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

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

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

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

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

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

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

105 (5) The number of jobs provided by each incubator and tenants and
106 participant of each incubator;

107 (6) The occupancy rate of each incubator;

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

110 10. There is hereby established in the state treasury a special fund to be
111 known as the "Missouri Small Business Incubators Fund", which shall consist of
112 all moneys which may be appropriated to it by the general assembly, and also any
113 gifts, contributions, grants or bequests received from federal, private or other
114 sources. Moneys for loans, loan guarantees and grants under the small business
115 incubator program may be obtained from appropriations made by the general
116 assembly from the Missouri small business incubators fund. Any moneys
117 remaining in the Missouri small business incubators fund at the end of any fiscal
118 year shall not lapse to the general revenue fund, as provided in section 33.080,
119 RSMo, but shall remain in the Missouri small business incubators fund.

120 11. For any taxable year beginning after December 31, 1989, a taxpayer,
121 including any charitable organization which is exempt from federal income tax

and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, RSMo, shall be entitled to a tax credit against any tax otherwise due under the provisions of chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of any amount contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's application has been accepted and approved by the department. The tax credit allowed by this subsection shall be claimed by the taxpayer at the time he files his return and shall be applied against the income tax liability imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, after all other credits provided by law have been applied. That portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years. The aggregate of all tax credits authorized under this section shall not exceed five hundred thousand dollars in any taxable year.

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

- (1) For no less than seventy-five percent of the par value of such credits; and
- (2) In an amount not to exceed one hundred percent of annual earned credits.

The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five years. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the department of economic development to administer and carry out the provisions of this section. The director of the department of economic development shall prescribe the method for submitting applications for claiming the tax credit allowed under subsection 11 of this section and shall, if the application is approved, certify to the director of revenue that the taxpayer

claiming the credit has satisfied all the requirements specified in this section and is eligible to claim the credit.]

[620.1100. 1. The "Youth Opportunities and Violence Prevention Program" is hereby established in the division of community and economic development of the department of economic development to broaden and strengthen opportunities for positive development and participation in community life for youth, and to discourage such persons from engaging in criminal and violent behavior. For the purposes of section 135.460, RSMo, this section and section 620.1103, the term "advisory committee" shall mean an advisory committee to the division of community and economic development established pursuant to this section composed of ten members of the public. The ten members of the advisory committee shall include members of the private sector with expertise in youth programs, and at least one person under the age of twenty-one. Such members shall be appointed for two-year terms by the director of the department of economic development.

2. The "Youth Opportunities and Violence Prevention Fund" is hereby established in the state treasury and shall be administered by the department of economic development. The department may accept for deposit into the fund any grants, bequests, gifts, devises, contributions, appropriations, federal funds, and any other funds from whatever source derived. Moneys in the fund shall be used solely for purposes provided in section 135.460, RSMo, this section and section 620.1103. Any unexpended balance in the fund at the end of a fiscal year shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund.

3. The department of economic development in conjunction with the advisory committee shall establish program criteria and evaluation methods for tax credits claimed pursuant to section 135.460, RSMo. Such criteria and evaluation methods shall measure program effectiveness and outcomes, and shall give priority to local, neighborhood, community-based programs. The department shall monitor and evaluate all programs funded pursuant to section 135.460, RSMo, this section and section 620.1103. Such programs shall provide a priority for applications from areas of the state which have statistically higher incidence of crime, violence and poverty and such programs shall be funded before the programs which have applied from areas which do not exhibit crime, violence, and poverty to the same degree. The committee shall focus and support specific programs designed to generate self-esteem and a positive self-reliance in youth and which abate youth violence.

4. The department shall develop and operate a database which lists all participating and related programs. The database shall include indexes and cross references and shall be accessible by the public by computer-modem connection. The division of data processing and telecommunications of the office of

40 administration and the department of economic development shall cooperate with
41 the advisory committee in the development and operation of the program.]
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[620.1103. 1. Notwithstanding any provision of law to the contrary, the
2 department may in its discretion assign moneys from the youth opportunities and
3 violence prevention fund to any entity designated by the department, for
4 programs designated in section 135.460, RSMo, section 620.1100 and this
5 section, including, but not limited to, schools, state agencies, political
6 subdivisions and agencies thereof, not-for-profit corporations or not-for-profit
7 organizations, the Missouri youth conservation corps, community action
8 agencies, caring community programs, or any other entity or program such as any
9 early childhood program, including, but not limited to, the parents as teachers
10 program or similar programs; provided that, such assignment of funds does not
11 exceed fifteen percent of the total value of the fund, and provided further that no
12 more than ten percent of such funds assigned shall be used for administrative
13 purposes.

14 2. Any entity receiving funds pursuant to the youth opportunities and
15 violence prevention act shall sign an agreement to utilize such funds for the
16 programs designated in section 135.460, RSMo, section 620.1100 and this
17 section. The state auditor may conduct an audit to monitor the utilization of
18 funds assigned by the department. If an entity uses funds for purposes other than
19 for the programs designated in section 135.460, RSMo, section 620.1100 and this
20 section, the department shall require the entity to repay such funds to the
21 department.]

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