

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 215**  
**95TH GENERAL ASSEMBLY**

0321L.04C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 68.025, 68.035, 68.040, 68.070, 100.710, 100.760, 100.770, 100.850, 135.155, 135.680, 208.770, 338.337, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof thirty-four new sections relating to taxation, with an emergency clause for certain sections.

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

Section A. Sections 68.025, 68.035, 68.040, 68.070, 100.710, 100.760, 100.770, 100.850, 135.155, 135.680, 208.770, 338.337, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 68.025, 68.035, 68.040, 68.070, 68.200, 68.205, 68.210, 68.215, 68.220, 68.225, 68.230, 68.235, 68.240, 68.245, 68.250, 68.255, 68.260, 100.710, 100.760, 100.770, 100.850, 135.155, 135.680, 208.770, 338.337, 348.273, 348.274, 620.495, 620.1039, 620.1041, 620.1878, 620.1881, 1, and 2, to read as follows:

68.025. 1. Every local and regional port authority, approved as a political subdivision of the state, shall have the following powers to:

(1) Confer with any similar body created under laws of this or any other state for the purpose of adopting a comprehensive plan for the future development and improvement of its port districts;

(2) Consider and adopt detailed and comprehensive plans for future development and improvement of its port districts and to coordinate such plans with regional and state programs;

(3) **Establish a port improvement district in accordance with this chapter;**

(4) **Carry out any of the projects enumerated in subdivision (16) of section 68.205;**

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           **(5) Within the boundaries of any established port improvement district, to levy**  
11 **either a sales and use tax or a real property tax, or both, for the purposes of paying any**  
12 **part of the cost of a project benefiting property in a port improvement district;**

13           **(6) Pledge both revenues generated by any port improvement district and any other**  
14 **port authority revenue source to the repayment of any outstanding obligations;**

15           **(7)** Either jointly with a similar body, or separately, recommend to the proper  
16 departments of the government of the United States, or any state or subdivision thereof, or to any  
17 other body, the carrying out of any public improvement for the benefit of its port districts;

18           **[(4)] (8)** Provide for membership in any official, industrial, commercial, or trade  
19 association, or any other organization concerned with such purposes, for receptions of officials  
20 or others as may contribute to the advancement of its port districts and any industrial  
21 development therein, and for such other public relations activities as will promote the same, and  
22 such activities shall be considered a public purpose;

23           **[(5)] (9)** Represent its port districts before all federal, state and local agencies;

24           **[(6)] (10)** Cooperate with other public agencies and with industry, business, and labor  
25 in port district improvement matters;

26           **[(7)] (11)** Enter into any agreement with any other states, agencies, authorities,  
27 commissions, municipalities, persons, corporations, or the United States, to effect any of the  
28 provisions contained in this chapter;

29           **[(8)] (12)** Approve the construction of all wharves, piers, bulkheads, jetties, or other  
30 structures;

31           **[(9)] (13)** Prevent or remove, or cause to be removed, obstructions in harbor areas,  
32 including the removal of wrecks, wharves, piers, bulkheads, derelicts, jetties or other structures  
33 endangering the health and general welfare of the port districts; in case of the sinking of a facility  
34 from any cause, such facility or vessel shall be removed from the harbor at the expense of its  
35 owner or agent so that it shall not obstruct the harbor;

36           **[(10)] (14)** Recommend the relocation, change, or removal of dock lines and shore or  
37 harbor lines;

38           **[(11)] (15)** Acquire, own, construct, redevelop, lease, maintain, and conduct land  
39 reclamation and resource recovery [with respect to unimproved land] , **including the removal**  
40 **of sand, rock, or gravel**, residential developments, commercial developments, mixed-use  
41 developments, recreational facilities, industrial parks, industrial facilities, and terminals, terminal  
42 facilities, warehouses and any other type port facility;

43           **[(12)] (16)** Acquire, own, lease, sell or otherwise dispose of interest in and to real  
44 property and improvements situate thereon and in personal property necessary to fulfill the  
45 purposes of the port authority;

46        [(13)] (17) Acquire rights-of-way and property of any kind or nature within its port  
47 districts necessary for its purposes. Every port authority shall have the right and power to  
48 acquire the same by purchase, negotiation, or by condemnation, and should it elect to exercise  
49 the right of eminent domain, condemnation proceedings shall be maintained by and in the name  
50 of the port authority, and it may proceed in the manner provided by the laws of this state for any  
51 county or municipality. The power of eminent domain shall not apply to property actively being  
52 used in relation to or in conjunction with river trade or commerce, unless such use is by a port  
53 authority pursuant to a lease in which event the power of eminent domain shall apply;

54        [(14)] (18) Contract and be contracted with, and to sue and be sued;

55        [(15)] (19) Accept gifts, grants, loans or contributions from the United States of  
56 America, the state of Missouri, political subdivisions, municipalities, foundations, other public  
57 or private agencies, individual, partnership or corporations;

58        [(16)] (20) Employ such managerial, engineering, legal, technical, clerical, accounting,  
59 advertising, stenographic, and other assistance as it may deem advisable. The port authority may  
60 also contract with independent contractors for any of the foregoing assistance;

61        [(17)] (21) Improve navigable and nonnavigable areas as regulated by federal statute;

62        [(18)] (22) Disburse funds for its lawful activities and fix salaries and wages of its  
63 employees; and

64        [(19)] (23) Adopt, alter or repeal its own bylaws, rules and regulations governing the  
65 manner in which its business may be transacted; however, said bylaws, rules and regulations  
66 shall not exceed the powers granted to the port authority by this chapter.

67        2. In implementing its powers, the port authority shall have the power to enter into  
68 agreements with private operators or public entities for the joint development, redevelopment,  
69 and reclamation of property within a port district or for other uses to fulfill the purposes of the  
70 port authority.

68.035. 1. The state may make grants to a state port fund, as appropriated by the general  
2 assembly, to be allocated by the department of transportation to local port authorities or regional  
3 port coordinating agencies. These grants, administered on a nonmatching basis, could be used  
4 for managerial, engineering, legal, research, promotion, planning and any other expenses.

5        2. In addition the state may make capital improvement matching grants contributing  
6 eighty percent of the funds and local port authorities contributing twenty percent of the funds for  
7 specific [projects] **undertakings** of port development such as land acquisitions, construction,  
8 terminal facility development, **port improvement projects**, and other related port facilities.  
9 **Notwithstanding the foregoing, any matching grants awarded by the Missouri highways**  
10 **and transportation commission under the Port Capital Improvement Program shall be**  
11 **transportation related.**

12           3. The grants provided herein may be used as the local share in applying for other grant  
13 programs.

68.040. 1. Every local and regional port authority, approved as a political subdivision  
2 of the state, may from time to time issue its negotiable revenue bonds or notes in such principal  
3 amounts as, in its opinion, shall be necessary to provide sufficient funds for achieving its  
4 purposes, including the construction of port facilities **and the financing of port improvement**  
5 **projects**; establish reserves to secure such bonds and notes; and make other expenditures,  
6 incident and necessary to carry out its purposes and powers.

7           2. This state shall not be liable on any notes or bonds of any port authority. Any such  
8 notes or bonds shall not be a debt of the state and shall contain on the faces thereof a statement  
9 to such effect.

10           3. No commissioner of any port authority or any authorized person executing port  
11 authority notes or bonds shall be liable personally on said notes or bonds or shall be subject to  
12 any personal liability or accountability by reason of the issuance thereof.

13           4. The notes and bonds of every port authority are securities in which all public officers  
14 and bodies of this state and all political subdivisions and municipalities, all insurance companies  
15 and associations, and other persons carrying on an insurance business, all banks, trust companies,  
16 saving associations, savings and loan associations, credit unions, investment companies, all  
17 administrators, guardians, executors, trustees, and other fiduciaries, and all other persons  
18 whatsoever, who now or may hereafter, be authorized to invest in notes and bonds or other  
19 obligations of this state, may properly and legally invest funds, including capital, in their control  
20 or belonging to them.

21           5. No port authority shall be required to pay any taxes or any assessments whatsoever  
22 to this state or to any political subdivisions, municipality or other governmental agency of this  
23 state. The notes and bonds of every port authority and the income therefrom shall, at all times,  
24 be exempt from any taxes and any assessments, except for death and gift taxes and taxes on  
25 transfers.

26           6. Every port authority shall have the powers and be governed by the procedures now  
27 or hereafter conferred upon or applicable to the environmental improvement authority, chapter  
28 260, RSMo, relating to the manner of issuance of revenue bonds and notes, and the port authority  
29 shall exercise all such powers and adhere to all such procedures insofar as they are consistent  
30 with the necessary and proper undertaking of its purposes.

68.070. [If, at any time] **Provided a local or regional port authority has no**  
2 **outstanding obligations**, the legislative body or county commission of a city or county, in which  
3 a local port authority is situated, votes, by majority, to dissolve said port authority, the local port  
4 authority shall be dissolved effective the date of approval of the dissolution by the highways and

5 transportation commission of the state. If, at any time, all of the legislative bodies or county  
6 commissions of members of a regional port authority vote, by majority, to dissolve the regional  
7 port authority, it shall be dissolved effective the date of the approval of dissolution by the  
8 highways and transportation commission of the state. In the event of dissolution of a local or  
9 regional port authority, all funds and other assets shall be distributed among the cities and  
10 counties, who were members, on a pro rata basis.

**68.200. Sections 68.200 to 68.260 shall be known and may be cited as the "Port  
2 Improvement District Act."**

**68.205. As used in sections 68.200 to 68.260, unless the context clearly requires  
2 otherwise, the following terms shall mean:**

- 3 (1) "Act", the port improvement district act, sections 68.200 to 68.260;
- 4 (2) "Approval", for purposes of elections pursuant to this act, a simple majority of  
5 those qualified voters casting votes in any election;
- 6 (3) "Board", the board of port authority commissioners for the particular port  
7 authority that desires to establish or has established a district;
- 8 (4) "Director of revenue", the director of the department of revenue of the state of  
9 Missouri;
- 10 (5) "District" or "port improvement district", an area designated by the port  
11 authority which is located within its port district boundaries at the time of establishment;
- 12 (6) "Disposal of solid waste or sewage", the entire process of storage, collection,  
13 transportation, processing, and disposal of solid wastes or sewage;
- 14 (7) "Election authority", the election authority having jurisdiction over the area  
15 in which the boundaries of the district are located under chapter 115, RSMo;
- 16 (8) "Energy conservation", the reduction of energy consumption;
- 17 (9) "Energy efficiency", the increased productivity or effectiveness of the use of  
18 energy resources, the reduction of energy consumption, or the use of renewable energy  
19 sources;
- 20 (10) "Obligations", revenue bonds and notes issued by a port authority and any  
21 obligations for the repayment of any money obtained by a port authority from any public  
22 or private source along with any associated financing costs, including, but not limited to,  
23 the costs of issuance, capitalized interest, and debt service;
- 24 (11) "Owner", the individual or individuals or entity or entities who own a fee  
25 interest in real property that is located within the boundaries of a district based upon the  
26 recorded real estate records of the county recorder, or the city recorder of deeds if the  
27 district is located in a city not within a county, as of the thirtieth day prior to any action;

- 28           (12) "Petition", a petition to establish a port improvement district within the port  
29 district boundaries or a petition to make a substantial change to an existing district;
- 30           (13) "Pollution", the existence of any noxious substance in the air or waters or on  
31 the lands of the state in sufficient quantity and of such amounts, characteristics, and  
32 duration as to injure or harm the public health or welfare or animal life or property;
- 33           (14) "Port authority", a political subdivision established pursuant to this chapter;
- 34           (15) "Port district boundaries", the boundaries of any port authority on file with  
35 the clerk of the county commission, city clerk, or clerk of the legislative or governing body  
36 of the county as applicable, which became effective upon approval by the highways and  
37 transportation commission of the state of Missouri;
- 38           (16) "Project" or "port improvement project", with respect to any property within  
39 a port improvement district, or benefiting property within a port improvement district:
- 40           (a) Providing for, or contracting for the provision of, environmental cleanup,  
41 including the disposal of solid waste, services to brownfields, or other polluted real  
42 property;
- 43           (b) Providing for, or contracting for the provision of, energy conservation or  
44 increased energy efficiency within any building, structure, or facility;
- 45           (c) Providing for, or contracting for the provision of, wetland creation,  
46 preservation, or relocation;
- 47           (d) The construction of any building, structure, or facility determined by the port  
48 authority as essential in developing energy resources, preventing, reducing, or eliminating  
49 pollution, or providing water facilities or the disposal of solid waste;
- 50           (e) Modifications to, or the relocation of, any existing building, structure, or facility  
51 that has been acquired or constructed, or which is to be acquired or constructed for the  
52 purpose of developing energy resources, preventing, reducing, or eliminating pollution, or  
53 providing water facilities or the disposal of solid waste;
- 54           (f) The acquisition of real property determined by the port authority to be  
55 significant in, or in the furtherance of, the history, architecture, archeology, or culture of  
56 the United States, the state of Missouri, or its political subdivisions;
- 57           (g) The operation, maintenance, repair, rehabilitation, or reconstruction of any  
58 existing public or private building, structure, or facility determined by the port authority  
59 to be significant in, or in the furtherance of, the history, architecture, archeology, or  
60 culture of the United States, the state of Missouri, or its political subdivisions;
- 61           (h) The construction of any new building, structure, or facility that is determined  
62 by the port authority to be significant in, or in the furtherance of, the history, architecture,

63 archeology, or culture of the United States, the state of Missouri, or its political  
64 subdivisions;

65 (17) "Qualified project costs", include any and all reasonable costs incurred or  
66 estimated to be incurred by a port authority, or a person or entity authorized by a port  
67 authority, in furtherance of a port improvement project, which costs may include, but are  
68 not limited to:

69 (a) Costs of studies, plans, surveys, and specifications;

70 (b) Professional service costs, including, but not limited to, architectural,  
71 engineering, legal, research, marketing, financial, planning, consulting, and special  
72 services, including professional service costs necessary or incident to determining the  
73 feasibility or practicability of any project and carrying out the same;

74 (c) Administrative fees and costs of a port authority in carrying out any of the  
75 purposes of this act;

76 (d) Property assembly costs, including, but not limited to, acquisition of land and  
77 other property and improvements, real or personal, or rights or interests therein,  
78 demolition of buildings and structures, and the clearing or grading of land, machinery, and  
79 equipment relating to any project, including the cost of demolishing or removing any  
80 existing structures;

81 (e) Costs of operating, rehabilitating, reconstructing, maintaining, and repairing  
82 existing buildings, structures, or fixtures;

83 (f) Costs of constructing new buildings, structures, or fixtures;

84 (g) Costs of constructing, operating, rehabilitating, reconstructing, maintaining,  
85 and repairing public works or improvements;

86 (h) Financing costs, including, but not limited to, all necessary and incidental  
87 expenses related to the port authority's issuance of obligations, which may include  
88 capitalized interest on any such obligations and reasonable reserves related to any such  
89 obligations;

90 (i) All or a portion of the port authority's capital costs resulting from a port  
91 improvement project necessarily incurred or to be incurred in furtherance of a port  
92 improvement project, to the extent the port authority accepts and approves such costs; and

93 (j) Relocation costs, to the extent that a port authority determines that relocation  
94 costs shall be paid, or are required to be paid, by federal or state law;

95 (18) "Qualified voters", for the purposes of an election for the approval of a real  
96 property tax or a sales and use tax:

97 (a) Registered voters residing within the district; or

(b) If no registered voters reside within the district, the owners of one or more parcels of real property within the district, which would be subject to such real property taxes or sales and use taxes, as applicable, based upon the recorded real estate records of the county recorder, or the city recorder of deeds if the district is located in a city not within a county, as of the thirtieth day prior to the date of the applicable election;

(19) "Registered voters", persons who reside within the district and who are qualified and registered to vote pursuant to chapter 115, RSMo, as determined by the election authority as of the thirtieth day prior to the date of the applicable election;

(20) "Respondent", the Missouri highways and transportation commission, each property owner within the proposed district, the municipality or municipalities within which the proposed district is located, the county or counties within which the proposed district is located, and any other political subdivision within the boundaries of the proposed port improvement district, except the petitioning port authority;

(21) "Revenues", all rents, revenues from any levied real property tax and sales and use tax, charges and other income received by a port authority in connection with any project, including any gift, grant, loan, or appropriation received by the port authority with respect thereto;

(22) "Substantial changes", with respect to an established port improvement district, the addition or removal of real property to or from the port improvement district and any changes to the approved district funding mechanism; and

(23) "Water facilities", any facilities for the furnishing and treatment of water for industrial, commercial, agricultural, or community purposes including, but not limited to, wells, reservoirs, dams, pumping stations, water lines, sewer lines, treatment plants, stabilization ponds, storm sewers, storm water detention and retention facilities, and related equipment and machinery.

68.210. 1. A port authority may establish one or more port improvement districts within its port district boundaries for the purpose of funding qualified project costs associated with an approved port improvement project. In order to form a district or to make substantial changes to an existing district, the board must:

(1) Draft a petition in accordance with subsection 2 of this section;

(2) Hold a public hearing in accordance with section 68.215;

(3) Subsequent to the public hearing, approve by resolution the draft petition containing any approved changes and amendments deemed necessary or desirable by a majority of the board members;



(4) File the approved draft petition in the circuit court of the county where the port improvement district is located, requesting the creation of a port improvement district in accordance with sections 68.200 to 68.260; and

(5) Within thirty days of the circuit court's certification of the petition, and establishment of the district, file a copy of the board's resolution approving the petition, the certified petition, and the circuit court judgment certifying the petition and establishing the district with the Missouri highways and transportation commission.

2. A petition is proper for consideration and approval by the board and the circuit court if, at the time of such approval, it has been signed by property owners collectively owning more than sixty percent per capita of all owners of real property within the boundaries of the proposed district and contains the following information:

(1) The legal description of the proposed district, including a map illustrating the legal boundaries. The proposed district must be contiguous and may contain all or any portion of one or more municipalities and counties. Property separated only by public streets, easements or rights-of-way, or connected by a single public street, easement, or right-of-way shall be considered contiguous;

(2) A district name designation which shall be set out in the following format:

(a) The name of the Missouri county or municipality in which the port district boundaries are filed;

(b) The words "port improvement district"; and

(c) The district designation number, beginning at 1 for the first district formed by that specific port authority, and progressing consecutively upward, irrespective of the year established;

(3) A description of the proposed project or projects for which the district is being formed, and the estimated qualified project costs of such projects;

(4) The maximum rate or rates and duration of any proposed real property tax or sales and use tax, or both, as applicable, needed to fund the project;

(5) The estimated revenues projected to be generated by any such tax or taxes;

(6) The name and address of each respondent;

(7) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(8) A request that the circuit court certify the projects pursuant to the act, approve the proposed real property tax or sales and use tax, or both, as applicable, and establish the district.

68.215. 1. Not more than ten days prior to the submission of the petition to the circuit court, the port authority shall hold or cause to be held a public hearing on the

3 proposed project or projects, proposed real property tax or sales and use tax, or both, as  
4 applicable, and the establishment of the proposed district and shall give notice of the public  
5 hearing in the manner provided in subsection 3 of this section. All reasonable protests,  
6 objections, and endorsements shall be heard at the public hearing.

7       2. The public hearing may be continued to another date without further notice  
8 other than a motion to be entered on the official port authority meeting minutes fixing the  
9 date, time, and place of the continuance of the public hearing.

10       3. Notice shall be provided by both publication and mailing. Notice by publication  
11 shall be given by publication in a newspaper of general circulation within the municipality  
12 or county in which the port authority is located at least once not more than fifteen, but not  
13 less than ten, days prior to the date of the public hearing. Notice by mail shall be given not  
14 more than thirty, but not less than twenty, days prior to the date of the public hearing by  
15 sending the notice via registered or certified United States mail with a return receipt  
16 attached to the address of record of each owner within the boundaries of the proposed  
17 district. The published and mailed notices shall include the following:

18       (1) The date, time, and place of the public hearing;

19       (2) A statement that a petition for the establishment of a district has been drafted  
20 for public hearing by the board;

21       (3) The boundaries of the proposed district by street location, or other readily  
22 identifiable means if no street location exists, and a map illustrating the proposed  
23 boundaries;

24       (4) A brief description of the projects proposed to be undertaken, the estimated cost  
25 thereof, and the proposed method of financing such costs by a real property tax or sales  
26 and use tax, or both, as applicable;

27       (5) A statement that a copy of the petition is available for review at the office of the  
28 port authority during regular business hours;

29       (6) The address of the port authority's office; and

30       (7) A statement that all interested persons shall be given an opportunity to be heard  
31 at the public hearing.

68.220. 1. Within thirty days after the petition is filed, the circuit court clerk shall  
2 serve a copy of the petition on the respondents who shall have thirty days after receipt of  
3 service to file an answer stating agreement with or opposition to the creation of the district.  
4 If any respondent files its answer opposing the creation of the district, it shall recite legal  
5 reasons why the petition is defective, why the proposed district is illegal or  
6 unconstitutional, or why the proposed method for funding the district is illegal or  
7 unconstitutional. The respondent shall ask the court for a declaratory judgment respecting

8 these issues. The answer of each respondent shall be served on each petitioner and every  
9 other respondent named in the petition. Any resident or taxpayer within the proposed  
10 district not qualifying as a respondent may join in or file a petition supporting or answer  
11 opposing the creation of the district and seeking a declaratory judgment respecting these  
12 same issues within thirty days after the date notice is last published by the circuit clerk  
13 pursuant to section 68.225.

14 2. The court shall hear the case without a jury. If the court shall thereafter  
15 determine the petition is defective or the proposed district is illegal or unconstitutional, or  
16 shall be an undue burden on any owner of property within the district or is unjust and  
17 unreasonable, it shall enter its declaratory judgment to that effect and shall refuse to make  
18 the certifications requested in the pleadings. If the court determines that any proposed  
19 funding method is illegal or unconstitutional, it shall enter its judgment striking that  
20 funding method in whole or in part. If the court determines the petition is not legally  
21 defective and the proposed district and method of funding are neither illegal nor  
22 unconstitutional, the court shall enter its judgment to that effect. The court shall then  
23 certify the single question regarding the proposed real property tax or sales and use tax,  
24 or both, as applicable, needed to fund the project for voter approval. If no objections to  
25 the petition are timely filed, the court may make such certifications based upon the  
26 pleadings before it without any hearing.

27 3. Any party having filed an answer or petition may appeal the circuit court's order  
28 or declaratory judgment in the same manner provided for other appeals.

68.225. The circuit court clerk in whose office the petition was filed shall give notice  
2 to the public by causing one or more newspapers of general circulation serving the counties  
3 or portions thereof contained in the proposed district to publish once a week for four  
4 consecutive weeks a notice substantially in the following form:

5 NOTICE OF PETITION TO CREATE A PORT IMPROVEMENT DISTRICT  
6 Notice is hereby given to all persons residing or owning property in  
7 ..... (here specifically describe the proposed district  
8 boundaries), within the state of Missouri, that a petition has been filed asking that a port  
9 improvement district by the name of "..... Port District No. ...." be formed  
10 for the purpose of developing the following projects: (here summarize the proposed  
11 project or projects). A copy of this petition is on file and available at the office of the clerk  
12 of the circuit court of ..... County, located at .....,  
13 Missouri. You are notified to join in or file your own petition supporting or answer  
14 opposing the creation of the port improvement district and requesting a declaratory  
15 judgment, as required by law, no later than the ..... day of ....., 20..... You may

16 show cause, if any, why such petition is defective or proposed port improvement district  
17 or its funding method, as set forth in the petition, is illegal or unconstitutional and should  
18 not be approved as directed by this court.

19 .....

20 Clerk of the Circuit Court of ..... County

68.230. 1. Upon the port authority's own initiative, and after proper notice being  
2 provided and a public hearing being conducted in accordance with subsection 2 of this  
3 section, any district may be terminated by a resolution of the board, provided that there  
4 are no outstanding obligations secured in any way by district revenues produced from such  
5 district. A copy of such resolution shall be filed with the Missouri highways and  
6 transportation commission within thirty days of its passage.

7 2. The public hearing required by this section shall be held and notice of such  
8 public hearing shall be given in the manner set forth in section 68.215. The notice shall  
9 contain the following information:

10 (1) The date, time, and place of the public hearing;

11 (2) A statement that the port authority proposes a resolution terminating the  
12 district; and

13 (3) A statement that all interested parties will be given an opportunity to be heard.

14 3. Notwithstanding the requirements of this section, if the port authority that has  
15 formed the district is dissolved in accordance with this chapter, the district shall  
16 automatically be terminated, and any taxes levied shall simultaneously be repealed, except  
17 that this subsection shall not apply in such instance when a local port authority is dissolved  
18 pursuant to subsection 6 of section 68.060 in order to consolidate into a regional port  
19 authority.

68.235. 1. For the purposes of providing funds to pay all, or any portion of, the  
2 qualified project costs associated with any approved project, subsequent to the  
3 establishment of a district pursuant to this act, and subsequent to the circuit court's  
4 certification of a question regarding any proposed real property tax needed to fund a  
5 project, a port authority may levy by resolution a tax upon real property within the  
6 boundaries of the district; provided however, no such resolution shall be final nor shall it  
7 take effect until the qualified voters approve, by mail-in ballot election conducted in  
8 accordance with section 68.250, the circuit court's certified question regarding such  
9 proposed real property tax. If a majority of the votes cast by the qualified voters voting  
10 on the proposed real property tax are in favor of the tax, then the resolution shall become  
11 effective. If a majority of the votes cast by the qualified voters voting are opposed to the  
12 real property tax, then the resolution seeking to levy the real property tax shall be deemed

13 to be null and void on the date on which the election may no longer be challenged pursuant  
14 to section 68.255. The port authority may levy a real property tax rate lower than the tax  
15 rate ceiling approved by the qualified voters pursuant to subsection 1 of this section and  
16 may, by resolution, increase that lowered tax rate to a level not exceeding the tax rate  
17 ceiling without approval of the qualified voters.

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

19 "Shall the ..... (insert name of district) impose a real  
20 property tax upon (all real property) within the district at a rate of not more than  
21 ..... (insert amount) dollars per hundred dollars assessed valuation for a period  
22 of ..... (insert number) years from the date on which such tax is first imposed for the  
23 purpose of providing revenue for ..... (insert general description of project  
24 or projects) in the district?

25 ☐ YES

☐ NO

26

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

29 3. A port authority may repeal or amend by resolution any real property tax  
30 imposed pursuant to this section before the expiration date of such real property tax unless  
31 the repeal or amendment of such real property tax will impair the port authority's ability  
32 to repay any obligations the port authority has incurred to pay any part of the cost of a  
33 port improvement project.

34 4. All property, real and personal, assessed under sections 151.010 to 151.340,  
35 RSMo, is hereby specifically exempted from taxes levied, assessed, or payable under this  
36 section.

68.240. 1. The county collector of each county in which the district is located, or  
2 the collector for the city in which the district is located if the district is located in a city not  
3 within a county, shall collect the real property tax made upon all real property within that  
4 county and district, in the same manner as other real property taxes are collected.

5 2. Every county or municipal collector and treasurer having collected or received  
6 district real property taxes shall, on or before the fifteenth day of each month and after  
7 deducting the reasonable and actual cost of such collection but not to exceed one percent  
8 of the total amount collected, remit to the port authority the amount collected or received  
9 by the port authority prior to the first day of such month. Upon receipt of such money, the  
10 port authority shall execute a receipt therefor, which shall be forwarded or delivered to the  
11 county collector or city treasurer who collected such money. The port authority shall  
12 deposit such sums which are designated for a specific project into a special trust fund to

13 be expended solely for such purpose, or to the port authority treasury if such sums are not  
14 designated. The county or municipal collector or treasurer, and port authority shall make  
15 final settlement of the port authority account and costs owing, not less than once each year,  
16 if necessary.

17 3. Upon the expiration of any real property tax adopted pursuant to this section  
18 which is designated for a specific project, all funds remaining in the special trust fund shall  
19 continue to be used solely for the specific purpose designated in the ballot adopted by the  
20 qualified voters. Any funds in such special trust fund which are not needed for current  
21 expenditures may be invested by the port authority pursuant to applicable laws relating  
22 to the investment of other port authority funds and the port authority may use such funds  
23 for other approved port improvement projects.

68.245. 1. For the purposes of providing funds to pay all, or any portion of, the  
2 qualified project costs associated with any approved project, subsequent to the  
3 establishment of a district pursuant to this act, and subsequent to the circuit court's  
4 certification of a question regarding any proposed sales and use tax needed to fund a  
5 project, a port authority may levy by resolution a district wide sales and use tax on all  
6 retail sales made in such district which are subject to taxation pursuant to sections 144.010  
7 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors, and  
8 sales to or from public utilities. Any sales and use tax imposed pursuant to this section may  
9 be imposed in increments of one-eighth of one percent, up to a maximum of one percent;  
10 except that, no resolution adopted pursuant to this section shall be final nor shall it take  
11 effect until the qualified voters approve, by mail-in ballot election conducted in accordance  
12 with section 68.250, the circuit court's certified question regarding such proposed sales and  
13 use tax. If a majority of the votes cast by the qualified voters on the proposed sales and use  
14 tax are in favor of the sales and use tax, then the resolution shall become effective. If a  
15 majority of the votes cast by the qualified voters are opposed to the sales and use tax, then  
16 the resolution seeking to levy the sales and use tax shall be deemed null and void on the  
17 date on which the election may no longer be challenged pursuant to section 68.255.

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

19 "Shall the ..... (insert name of district) impose a district wide  
20 sales and use tax at the maximum rate of ..... (insert amount) for a period of .....  
21 (insert number) years from the date on which such tax is first imposed for the purpose of  
22 providing revenue for ..... (insert general description of project  
23 or projects)?

24 ☐ YES

☐ NO

25

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

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

33 4. The director of revenue shall collect any sales and use tax adopted pursuant to  
34 this section, pursuant to section 32.087, RSMo.

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

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

42 7. All revenue received by the port authority from a sales and use tax imposed  
43 pursuant to this section which is designated for a specific project shall be deposited into  
44 a special trust fund to be expended solely for such purpose, or to the port authority's  
45 treasury if such sums are not designated. Upon the expiration of any sales and use tax  
46 adopted pursuant to this section, all funds remaining in the special trust fund shall  
47 continue to be used solely for the specific purpose designated in the ballot adopted by the  
48 qualified voters. Any funds in such special trust fund which are not needed for current  
49 expenditures may be invested by the port authority pursuant to applicable laws relating  
50 to the investment of other port authority funds and the port authority may use such funds  
51 for other approved port improvement projects.

52 8. A port authority may repeal by resolution any sales and use tax imposed  
53 pursuant to this section before the expiration date of such sales and use tax unless the  
54 repeal of such sales and use tax will impair the port authority's ability to repay, or unless  
55 the sales and use tax in any way secure any outstanding obligations the port authority has  
56 incurred to pay any part of the qualified project costs of any approved port improvement  
57 project.

68.250. 1. Notwithstanding the provisions of chapter 115, RSMo, except the  
2 provisions of section 115.125, RSMo, when applicable, an election for any proposed real  
3 property tax or proposed sales and use tax, or both, within a district pursuant to this act  
4 shall be conducted in accordance with the provisions of this section.

5           **2. After the board has passed a resolution approving the levy of a real property tax**  
6 **or a sales and use tax, or both, the board shall provide written notice of such resolution,**  
7 **along with the circuit court's certified question regarding the real property tax or the sales**  
8 **and use tax, or both, as applicable, to the election authority. The board shall be entitled**  
9 **to repeal or amend such resolution provided that written notice of such repeal or**  
10 **amendment is delivered to the election authority prior to the date that the election**  
11 **authority mails the ballots to the qualified voters.**

12           **3. Upon receipt of written notice of a port authority's resolution, along with the**  
13 **circuit court's certified question, for the levy of a real property tax or a sales and use tax,**  
14 **or both, the election authority shall:**

15           **(1) Specify a date upon which the election shall occur, which date shall be a**  
16 **Tuesday and shall be, unless otherwise approved by the board, and election authority and**  
17 **applicable circuit court pursuant to section 115.125, RSMo, not earlier than the tenth**  
18 **Tuesday, and not later than the fifteenth Tuesday, after the date the board passes the**  
19 **resolution and shall not be on the same day as an election conducted pursuant to the**  
20 **provisions of chapter 115, RSMo;**

21           **(2) Publish notice of the election in a newspaper of general circulation within the**  
22 **municipality two times. The first publication date shall be not more than forty-five, but**  
23 **not less than thirty-five, days prior to the date of the election and the second publication**  
24 **date shall be not more than twenty, and not less than ten, days prior to the date of the**  
25 **election. The published notice shall include, but not be limited to, the following**  
26 **information:**

27           **(a) The name and general boundaries of the district;**

28           **(b) The type of tax proposed (real property tax or sales and use tax or both), its rate**  
29 **or rates, and its purpose or purposes;**

30           **(c) The date the ballots for the election shall be mailed to qualified voters;**

31           **(d) The date of the election;**

32           **(e) The applicable definition of qualified voters;**

33           **(f) A statement that persons residing in the district shall register to vote with the**  
34 **election authority on or before the thirtieth day prior to the date of the election in order**  
35 **to be a qualified voter for purposes of the election;**

36           **(g) A statement that the ballot must be returned to the election authority's office**  
37 **in person, or by depositing the ballot in the United States mail addressed to the election**  
38 **authority's office and postmarked, not later than the date of the election; and**

39           **(h) A statement that any qualified voter that did not receive a ballot in the mail or**  
40 **lost the ballot received in the mail may pick up a mail-in ballot at the election authority's**



41 office, specifying the dates and time such ballot will be available and the location of the  
42 election authority's office;

43 (3) The election authority shall mail the ballot, a notice containing substantially the  
44 same information as the published notice and a return addressed envelope directed to the  
45 election authority's office with a sworn affidavit on the reverse side of such envelope for  
46 the qualified voter's signature, to each qualified voter not more than fifteen days and not  
47 less than ten days prior to the date of the election. For purposes of mailing ballots to real  
48 property owners, only one ballot shall be mailed per capita at the address shown on the  
49 official, or recorded, real estate records of the county recorder, or the city recorder of  
50 deeds if the district is located in a city not within a county, as of the thirtieth day prior to  
51 the date of the election. Such affidavit shall be in substantially the following form:

52 **FOR REGISTERED VOTERS:**

53 I hereby declare under penalties of perjury that I reside in the .....  
54 Port Improvement District No. .... (insert name of district) and I am a registered  
55 voter and qualified to vote in this election.

56 .....

57 **Qualified Voter's Signature**

58 .....

59 **Printed Name of Qualified Voter**

60 **FOR REAL PROPERTY OWNERS:**

61 I hereby declare under penalty of perjury that I am the owner of real property in  
62 the ..... Port Improvement District No. .... (insert name of district) and  
63 qualified to vote in this election, or authorized to affix my signature on behalf of the owner  
64 (named below) of real property in the ..... Port Improvement District No.  
65 ..... (insert name of district) which is qualified to vote in this election.

66 .....

67 **Signature**

68 .....

69 **Print Name of Real Property Owner**

70 **If Signer is Different from Owner:**

71 **Name of Signer:** .....

72 **State Basis of Legal Authority to Sign:** .....

73

74 All persons or entities having a fee ownership in the property shall sign the ballot.  
75 Additional signature pages may be affixed to this ballot to accommodate all required  
76 signatures.

77           **4. Each qualified voter shall have one vote. Each voted ballot shall be signed with**  
78 **the authorized signature.**

79           **5. Mail-in ballots shall be returned to the election authority's office in person, or**  
80 **by depositing the ballot in the United States mail addressed to the election authority's office**  
81 **and postmarked no later than the date of the election. The election authority shall transmit**  
82 **all voted ballots to a team of judges of not less than four. The judges shall be selected by**  
83 **the election authority from lists it has compiled. Upon receipt of the voted ballots, the**  
84 **judges shall verify the authenticity of the ballots, canvass the votes, and certify the results.**  
85 **Certification by the election judges shall be final and shall be immediately transmitted to**  
86 **the election authority. Any qualified voter who voted in such election may contest the**  
87 **result in the same manner as provided in chapter 115, RSMo.**

88           **6. The results of the election shall be entered upon the records of the election**  
89 **authority and two certified copies of the election results shall be filed with the port**  
90 **authority and entered upon the records of the port authority.**

91           **7. The port authority shall reimburse the election authority for the costs it incurs**  
92 **to conduct an election under this section.**

93           **8. Notwithstanding anything to the contrary, nothing in this act shall prevent a port**  
94 **authority from proposing both a real property tax levy question and a sales and use tax**  
95 **levy question to the district's qualified voters in the same election.**

**68.255. No lawsuit to set aside a district established or a tax levied under this act,**  
2 **or to otherwise question the validity of the proceedings related thereto, shall be brought**  
3 **after the expiration of ninety days from the effective date of the circuit court judgment**  
4 **establishing such district in question or the effective date of the resolution levying such tax**  
5 **in question.**

**68.260. 1. The provisions of this section shall only apply to a port authority that**  
2 **has formed a district.**

3           **2. In addition to any other report required of a port authority, within one hundred**  
4 **twenty days following the last day of the port authority's fiscal year, the board shall submit**  
5 **a report to the clerk of either the municipality or county which formed the port authority**  
6 **pursuant to section 68.010, and to the Missouri department of transportation stating the**  
7 **services provided, revenues collected and expenditures made by the district during such**  
8 **fiscal year, and copies of written resolutions approved by the board during the fiscal year.**  
9 **The municipal clerk or county clerk, as applicable, shall retain this report as part of the**  
10 **official records of the municipality or county and shall also cause this report to be spread**  
11 **upon the records of the governing body.**

12           **3. In addition to the report required pursuant to subsection 2 of this section, upon**  
13 **the approval by the qualified voters of a real property tax or sales and use tax, or both, in**  
14 **accordance with the act, each authority shall annually submit a report to the auditor of the**  
15 **state of Missouri in accordance with section 105.145, RSMo.**

100.710. As used in sections 100.700 to 100.850, the following terms mean:

2           (1) "Assessment", an amount of up to five percent of the gross wages paid in one year  
3 by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic  
4 development project is located within a distressed community as defined in section 135.530,  
5 RSMo;

6           (2) "Board", the Missouri development finance board as created by section 100.265;

7           (3) "Certificates", the revenue bonds or notes authorized to be issued by the board  
8 pursuant to section 100.840;

9           (4) "Credit", the amount agreed to between the board and an eligible industry, but not  
10 to exceed the assessment attributable to the eligible industry's project;

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

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

13          (7) "Economic development project":  
14           (a) The acquisition of any real property by the board, the eligible industry, or its affiliate;

15 or

16           (b) The fee ownership of real property by the eligible industry or its affiliate; and

17           (c) For both paragraphs (a) and (b) of this subdivision, "economic development project"  
18 shall also include the development of the real property including construction, installation, or  
19 equipping of a project, including fixtures and equipment, and facilities necessary or desirable for  
20 improvement of the real property, including surveys; site tests and inspections; subsurface site  
21 work; excavation; removal of structures, roadways, cemeteries and other surface obstructions;  
22 filling, grading and provision of drainage, storm water retention, installation of utilities such as  
23 water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site  
24 construction of utility extensions to the boundaries of the real property; and the acquisition,  
25 installation, or equipping of facilities on the real property, for use and occupancy by the eligible  
26 industry or its affiliates;

27          (8) "Eligible employee", a person employed on a full-time basis in a new job at the  
28 economic development project averaging at least thirty-five hours per week who was not  
29 employed by the eligible industry or a related taxpayer in this state at any time during the  
30 twelve-month period immediately prior to being employed at the economic development project.  
31 For an essential industry, a person employed on a full-time basis in an existing job at the

32 economic development project averaging at least thirty-five hours per week may be considered  
33 an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

34 (9) "Eligible industry", a business located within the state of Missouri which is engaged  
35 in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling  
36 products, conducting research and development, or providing services in interstate commerce,  
37 office industries, or agricultural processing, but excluding retail, health or professional services.  
38 "Eligible industry" does not include a business which closes or substantially reduces its operation  
39 at one location in the state and relocates substantially the same operation to another location in  
40 the state. This does not prohibit a business from expanding its operations at another location in  
41 the state provided that existing operations of a similar nature located within the state are not  
42 closed or substantially reduced. This also does not prohibit a business from moving its  
43 operations from one location in the state to another location in the state for the purpose of  
44 expanding such operation provided that the board determines that such expansion cannot  
45 reasonably be accommodated within the municipality in which such business is located, or in the  
46 case of a business located in an incorporated area of the county, within the county in which such  
47 business is located, after conferring with the chief elected official of such municipality or county  
48 and taking into consideration any evidence offered by such municipality or county regarding the  
49 ability to accommodate such expansion within such municipality or county. An eligible industry  
50 must:

51 (a) Invest a minimum of fifteen million dollars, or ten million dollars for an office  
52 industry, in an economic development project; and

53 (b) Create a minimum of one hundred new jobs for eligible employees at the economic  
54 development project or a minimum of [five] **one** hundred jobs if the economic development  
55 project is an office industry or a minimum of two hundred new jobs if the economic development  
56 project is an office industry located within a distressed community as defined in section 135.530,  
57 RSMo, or in the case of an approved company for a project for a world headquarters of a  
58 business whose primary function is tax return preparation in any home rule city with more than  
59 four hundred thousand inhabitants and located in more than one county, create a minimum of one  
60 hundred new jobs for eligible employees at the economic development project. An industry that  
61 meets the definition of "essential industry" may be considered an eligible industry for the  
62 purposes of the program authorized by sections 100.700 to 100.850. Notwithstanding the  
63 preceding provisions of this subdivision, a development agency, as such term is defined in  
64 subdivision (3) of section 100.255, or a corporation, limited liability company, or partnership  
65 formed on behalf of a development agency, at the option of the board, may be authorized to act  
66 as an eligible industry with such obligations and rights otherwise applicable to an eligible

67 industry, including the rights of an approved company under section 100.850, so long as the  
68 eligible industry otherwise meets the requirements imposed by this subsection;

69 (10) "Essential industry", a business that otherwise meets the definition of eligible  
70 industry except an essential industry shall:

71 (a) Be a targeted industry;

72 (b) Be located in a home rule city with more than twenty-six thousand but less than  
73 twenty-seven thousand inhabitants located in any county with a charter form of government and  
74 with more than one million inhabitants or in a city of the fourth classification with more than  
75 four thousand three hundred but fewer than four thousand four hundred inhabitants and located  
76 in any county with a charter form of government and with more than one million inhabitants;

77 (c) Have maintained at least two thousand jobs at the proposed economic development  
78 project site each year for a period of four years preceding the year in which application for the  
79 program authorized by sections 100.700 to 100.850 is made and during the year in which said  
80 application is made;

81 (d) Retain, at the proposed economic development project site, the level of employment  
82 that existed at the site in the taxable year immediately preceding the year in which application  
83 for the program, authorized by sections 100.700 to 100.850, is made. Retention of such level  
84 of employment shall commence three years from the date of issuance of the certificates and  
85 continue for the duration of the certificates; and

86 (e) Invest a minimum of five hundred million dollars in the economic development  
87 project by the end of the third year after the issuance of the certificates under this program;

88 (11) "New job", a job in a new or expanding eligible industry not including jobs of  
89 recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the  
90 state. For an essential industry, an existing job may be considered a new job for the purposes of  
91 the program authorized by sections 100.700 to 100.850;

92 (12) "Office industry", a regional, national or international headquarters, a  
93 telecommunications operation, a computer operation, an insurance company, or a credit card  
94 billing and processing center;

95 (13) "Program costs", all necessary and incidental costs of providing program services  
96 including payment of the principal of premium, if any, and interest on certificates, including  
97 capitalized interest, issued to finance a project, and funding and maintenance of a debt service  
98 reserve fund to secure such certificates. Program costs shall include:

99 (a) Obligations incurred for labor and obligations incurred to contractors, subcontractors,  
100 builders and materialmen in connection with the acquisition, construction, installation or  
101 equipping of an economic development project;

- 102 (b) The cost of acquiring land or rights in land and any cost incidental thereto, including  
103 recording fees;
- 104 (c) The cost of contract bonds and of insurance of all kinds that may be required or  
105 necessary during the course of acquisition, construction, installation or equipping of an economic  
106 development project which is not paid by the contractor or contractors or otherwise provided for;
- 107 (d) All costs of architectural and engineering services, including test borings, surveys,  
108 estimates, plans and specifications, preliminary investigations and supervision of construction,  
109 as well as the costs for the performance of all the duties required by or consequent upon the  
110 acquisition, construction, installation or equipping of an economic development project;
- 111 (e) All costs which are required to be paid under the terms of any contract or contracts  
112 for the acquisition, construction, installation or equipping of an economic development project;  
113 and
- 114 (f) All other costs of a nature comparable to those described in this subdivision;
- 115 (14) "Program services", administrative expenses of the board, including contracted  
116 professional services, and the cost of issuance of certificates;
- 117 (15) "Targeted industry", an industry or one of a cluster of industries that is identified  
118 by the department as critical to the state's economic security and growth and affirmed as such by  
119 the joint committee on economic development policy and planning established in section  
120 620.602, RSMo.

100.760. After receipt of an application, the board may, with the approval of the  
2 department, enter into an agreement with an eligible industry for a credit pursuant to sections  
3 100.700 to 100.850 if the board determines that all of the following conditions exist:

- 4 (1) The applicant's project will create new jobs that were not jobs previously performed  
5 by employees of the applicant in Missouri;
- 6 (2) The applicant's project is economically sound and will benefit the people of Missouri  
7 by increasing opportunities for employment and strengthening the economy of Missouri;
- 8 (3) Significant local incentives with respect to the project or eligible industry have been  
9 committed, which incentives may consist of:
- 10 (a) Cash or in-kind incentives derived from any nonstate source, including incentives  
11 provided by the affected political subdivisions, private industry and/or local chambers of  
12 commerce or similar such organizations; and/or
- 13 (b) Relief from local taxes, in either case as acceptable to the board;
- 14 (4) Receiving the credit is a major factor in the applicant's decision to go forward with  
15 the project and not receiving the credit will result in the applicant not creating new jobs in  
16 Missouri; **and**
- 17 (5) Awarding the credit will result in an overall positive fiscal impact to the state[;

18 (6) There is at least one other state that the applicant verifies is being considered for the  
19 project; and

20 (7) A significant disparity is identified, using best available data in the projected costs  
21 for the applicant's project compared to the costs in the competing state, including the impact of  
22 the competing state's incentive programs. The competing state's incentive program shall include  
23 state, local, private and federal funds].

100.770. In determining the credit that should be awarded, the board shall take into  
2 consideration the following factors:

3 (1) The economy of the county where the projected investment is to occur;

4 (2) The potential impact on the economy of Missouri;

5 (3) The payroll attributable to the project;

6 (4) The capital investment attributable to the project;

7 (5) The amount the average wage paid by the applicant exceeds the average wage paid  
8 within the county in which the project will be located;

9 (6) The costs to Missouri and the affected political subdivisions with respect to the  
10 project; **and**

11 (7) The financial assistance that is otherwise provided by Missouri and the affected  
12 political subdivisions[; and

13 (8) The magnitude of the cost differential between Missouri and the competing state].

100.850. 1. The approved company shall remit to the board a job development  
2 assessment fee, not to exceed five percent of the gross wages of each eligible employee whose  
3 job was created as a result of the economic development project, or not to exceed ten percent if  
4 the economic development project is located within a distressed community as defined in section  
5 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

6 2. Any approved company remitting an assessment as provided in subsection 1 of this  
7 section shall make its payroll books and records available to the board at such reasonable times  
8 as the board shall request and shall file with the board documentation respecting the assessment  
9 as the board may require.

10 3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the  
11 date the bonds are retired.

12 4. Any approved company which has paid an assessment for debt reduction shall be  
13 allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed  
14 against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes  
15 imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred  
16 during the tax period in which the assessment was made.

17           5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this  
18 section exceed [fifteen] **twenty-five** million dollars annually. Of such amount, nine hundred  
19 fifty thousand dollars shall be reserved for an approved project for a world headquarters of a  
20 business whose primary function is tax return preparation that is located in any home rule city  
21 with more than four hundred thousand inhabitants and located in more than one county, which  
22 amount reserved shall end in the year of the final maturity of the certificates issued for such  
23 approved project.

24           6. The director of revenue shall issue a refund to the approved company to the extent that  
25 the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved  
26 company's income tax.

          135.155. **1. Notwithstanding any provision of the law to the contrary, no**  
2 **revenue-producing enterprise other than headquarters as defined in subsection 10 of section**  
3 **135.110 shall receive the incentives set forth in sections 135.100 to 135.150 for facilities**  
4 **commencing operations on or after January 1, 2005. No headquarters shall receive the**  
5 **incentives set forth in subsections 9 to 14 of section 135.110 for facilities commencing or**  
6 **expanding operations on or after January 1, 2020.**

7           **2. Notwithstanding subsection 9 of section 135.110 to the contrary, expansions at**  
8 **headquarters facilities shall each be considered a separate new business facility and each**  
9 **be entitled to the credits as set forth in subsections 9 to 14 of section 135.110 if the number**  
10 **of new business facility employees attributed to each such expansion is at least twenty-five**  
11 **and the amount of new business facility investment attributed to each such expansion is at**  
12 **least one million dollars. In any year in which a new business facility is not created, the**  
13 **jobs and investment for that year shall be included in calculating the credits for the most**  
14 **recent new business facility and not an earlier created new business facility.**

15           **3. Notwithstanding any provision of law to the contrary, for headquarters,**  
16 **buildings on multiple noncontiguous real properties shall be considered one facility if the**  
17 **buildings are located within the same county or within the same municipality.**

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

2           (1) "Adjusted purchase price", the product of:

3           (a) The amount paid to the issuer of a qualified equity investment for such qualified  
4 equity investment; and

5           (b) The following fraction:

6           a. The numerator shall be the dollar amount of qualified low-income community  
7 investments held by the issuer in this state as of the credit allowance date during the applicable  
8 tax year; and



9           b. The denominator shall be the total dollar amount of qualified low-income community  
10 investments held by the issuer in all states as of the credit allowance date during the applicable  
11 tax year;

12           c. For purposes of calculating the amount of qualified low-income community  
13 investments held by an issuer, an investment shall be considered held by an issuer even if the  
14 investment has been sold or repaid; provided that the issuer reinvests an amount equal to the  
15 capital returned to or recovered by the issuer from the original investment, exclusive of any  
16 profits realized, in another qualified low-income community investment within twelve months  
17 of the receipt of such capital. An issuer shall not be required to reinvest capital returned from  
18 qualified low-income community investments after the sixth anniversary of the issuance of the  
19 qualified equity investment, the proceeds of which were used to make the qualified low-income  
20 community investment, and the qualified low-income community investment shall be considered  
21 held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

22           (2) "Applicable percentage", zero percent for each of the first two credit allowance dates,  
23 seven percent for the third credit allowance date, and eight percent for the next four credit  
24 allowance dates;

25           (3) "Credit allowance date", with respect to any qualified equity investment:

26           (a) The date on which such investment is initially made; and

27           (b) Each of the six anniversary dates of such date thereafter;

28           (4) "Long-term debt security", any debt instrument issued by a qualified community  
29 development entity, at par value or a premium, with an original maturity date of at least seven  
30 years from the date of its issuance, with no acceleration of repayment, amortization, or  
31 prepayment features prior to its original maturity date, and with no distribution, payment, or  
32 interest features related to the profitability of the qualified community development entity or the  
33 performance of the qualified community development entity's investment portfolio. The  
34 foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument  
35 in situations where the issuer has defaulted on covenants designed to ensure compliance with this  
36 section or Section 45D of the Internal Revenue Code of 1986, as amended;

37           (5) "Qualified active low-income community business", the meaning given such term  
38 in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business  
39 that derives or projects to derive fifteen percent or more of its annual revenue from the rental or  
40 sale of real estate shall not be considered to be a qualified active low-income community  
41 business;

42           (6) "Qualified community development entity", the meaning given such term in Section  
43 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered  
44 into an allocation agreement with the Community Development Financial Institutions Fund of

45 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal  
46 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area  
47 set forth in such allocation agreement;

48 (7) "Qualified equity investment", any equity investment in, or long-term debt security  
49 issued by, a qualified community development entity that:

50 (a) Is acquired after September 4, 2007, at its original issuance solely in exchange for  
51 cash;

52 (b) Has at least eighty-five percent of its cash purchase price used by the issuer to make  
53 qualified low-income community investments; and

54 (c) Is designated by the issuer as a qualified equity investment under this subdivision and  
55 is certified by the department of economic development as not exceeding the limitation contained  
56 in subsection 2 of this section. This term shall include any qualified equity investment that does  
57 not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified  
58 equity investment in the hands of a prior holder;

59 (8) "Qualified low-income community investment", any capital or equity investment in,  
60 or loan to, any qualified active low-income community business. With respect to any one  
61 qualified active low-income community business, the maximum amount of qualified low-income  
62 community investments made in such business, on a collective basis with all of its affiliates, that  
63 may be used from the calculation of any numerator described in subparagraph a. of paragraph  
64 (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or  
65 several qualified community development entities;

66 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,  
67 excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due  
68 under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

69 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
70 RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax  
71 imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

72 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits  
73 under this section. On each credit allowance date of such qualified equity investment the  
74 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit  
75 during the taxable year including such credit allowance date. The tax credit amount shall be  
76 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such  
77 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount  
78 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax  
79 credit claimed under this section shall be refundable or transferable. Tax credits earned by a  
80 partnership, limited liability company, S-corporation, or other pass-through entity may be

81 allocated to the partners, members, or shareholders of such entity for their direct use in  
82 accordance with the provisions of any agreement among such partners, members, or  
83 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from  
84 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable  
85 years. The department of economic development shall limit the monetary amount of qualified  
86 equity investments permitted under this section to a level necessary to limit tax credit utilization  
87 at no more than [fifteen] **twenty-five** million dollars of tax credits in any fiscal year. Such  
88 limitation on qualified equity investments shall be based on the anticipated utilization of credits  
89 without regard to the potential for taxpayers to carry forward tax credits to later tax years.

90 3. The issuer of the qualified equity investment shall certify to the department of  
91 economic development the anticipated dollar amount of such investments to be made in this state  
92 during the first twelve-month period following the initial credit allowance date. If on the second  
93 credit allowance date, the actual dollar amount of such investments is different than the amount  
94 estimated, the department of economic development shall adjust the credits arising on the second  
95 allowance date to account for such difference.

96 4. The department of economic development shall recapture the tax credit allowed under  
97 this section with respect to such qualified equity investment under this section if:

98 (1) Any amount of the federal tax credit available with respect to a qualified equity  
99 investment that is eligible for a tax credit under this section is recaptured under Section 45D of  
100 the Internal Revenue Code of 1986, as amended; or

101 (2) The issuer redeems or makes principal repayment with respect to a qualified equity  
102 investment prior to the seventh anniversary of the issuance of such qualified equity investment.  
103 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the  
104 tax credit on a return.

105 5. The department of economic development shall promulgate rules to implement the  
106 provisions of this section, including recapture provisions on a scaled proportional basis, and to  
107 administer the allocation of tax credits issued for qualified equity investments, which shall be  
108 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined  
109 in section 536.010, RSMo, that is created under the authority delegated in this section shall  
110 become effective only if it complies with and is subject to all of the provisions of chapter 536,  
111 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
112 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
113 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
114 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
115 after September 4, 2007, shall be invalid and void.

6. For fiscal years following fiscal year [2010] **2012**, qualified equity investments shall not be made under this section unless reauthorization is made pursuant to this subsection. For all fiscal years following fiscal year [2010] **2012**, unless the general assembly adopts a concurrent resolution granting authority to the department of economic development to approve qualified equity investments for the Missouri new markets development program and clearly describing the amount of tax credits available for the next fiscal year, or otherwise complies with the provisions of this subsection, no qualified equity investments may be permitted to be made under this section. The amount of available tax credits contained in such a resolution shall not exceed the limitation provided under subsection 2 of this section. In any year in which the provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by general law and not by concurrent resolution. Nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority to make qualified equity investments from claiming tax credits relating to such qualified equity investment for each applicable credit allowance date.

7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset. However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253, RSMo, from claiming tax credits relating to such qualified equity investment for each credit allowance date.

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

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

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

11           4. A program contributor shall be allowed a credit against the tax imposed by chapter  
12 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and  
13 chapter 147, 148 or 153, RSMo, pursuant to sections 208.750 to 208.775. Contributions up to  
14 fifty thousand dollars per program contributor are eligible for the tax credit which shall not  
15 exceed fifty percent of the contribution amount.

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

23           6. **For all fiscal years ending on or before June 30, 2010**, the total tax credits  
24 authorized pursuant to sections 208.750 to 208.775 shall not exceed four million dollars in any  
25 fiscal year. **For all fiscal years beginning on or after July 1, 2010, the total tax credits**  
26 **authorized under sections 208.750 to 208.775 shall not exceed three hundred thousand**  
27 **dollars in any fiscal year.**

          338.337. It shall be unlawful for any out-of-state wholesale drug distributor or  
2 out-of-state pharmacy acting as a distributor to do business in this state without first obtaining  
3 a license to do so from the board of pharmacy and paying the required fee. Application for an  
4 out-of-state wholesale drug distributor's license under this section shall be made on a form  
5 furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not  
6 change or affect tax liability imposed by the Missouri department of revenue on any out-of-state  
7 wholesale drug distributor or out-of-state pharmacy. Any out-of-state wholesale drug distributor  
8 that is a drug manufacturer and which produces and distributes from a facility which has been  
9 inspected and approved by the Food and Drug Administration [within the last two years] ,  
10 **maintains current approval by the federal Food and Drug Administration, and has**  
11 **provided a copy of the most recent Food and Drug Administration Establishment**  
12 **Inspection Report to the board** and which is licensed by the state in which the distribution  
13 facility is located, **or if located within a foreign jurisdiction, is authorized and in good**  
14 **standing to operate as a drug manufacturer within such jurisdiction**, need not be licensed  
15 as provided in this section but such out-of-state distributor shall register its business name and  
16 address with the board of pharmacy and pay a filing fee of ten dollars.

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

- 2           **(1) "Department", the Missouri department of economic development;**  
3           **(2) "Distressed community", as defined in section 135.530, RSMo;**

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

8           (4) "Investor":

9           (a) An individual who is an accredited investor, as defined in 17 CFR 230.501(a)  
10 as in effect on August 28, 2009; or

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

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

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

29           (a) A general or limited partnership interest;

30           (b) Common stock;

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

33           (d) Convertible debt;

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

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

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

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

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

3           **2.** If a qualified Missouri business is approved by the department, the investors who  
4 contribute the first five hundred thousand dollars in equity investment in the qualified  
5 Missouri business may be issued a tax credit in the year the equity investment is made.  
6 The tax credit shall be in a total amount equal to thirty percent of such investors' equity  
7 investment in any qualified Missouri business, subject to the limitations set forth in  
8 subsection 5 of this section. However, if the qualified Missouri business invested in is  
9 located in a rural area or a distressed community, the investors may be issued a tax credit  
10 for forty percent of such investment, subject to the limitations set forth in subsection 5 of  
11 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 department  
15 as a qualified Missouri business prior to the date on which the cash investment was made.  
16 To be designated as a qualified Missouri business, a business shall make application to the  
17 department in accordance with the provisions of this section. Such application shall be in  
18 form and substance as required by the department but shall include at least the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 e. Insurance;

52 f. Construction or construction management or contracting;

53 g. Business consulting or brokerage;

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

58 i. Any Missouri certified capital formation company;

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

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

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

62 (3) The portions of documents and other materials submitted to the department  
63 that contain trade secrets shall be kept confidential and shall be maintained in a secured  
64 environment by the director of the department. For the purposes of this section, such  
65 portions of documents and other materials shall mean any customer list, any formula,



66 compound, production data, or compilation of information certain individuals within a  
67 commercial concern using such portions of documents and other material means to  
68 fabricate, produce, or compound an article of trade, or, any service having commercial  
69 value, which gives the user an opportunity to obtain a business advantage over competitors  
70 who do not know or use such service.

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

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

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

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

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

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

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

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

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

98 5. The department shall not issue tax credits of more than fifty thousand dollars  
99 to an investor per investment into a single, qualified Missouri company, or for tax credits  
100 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 department 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 department.

10. In addition to reports by the businesses to the department, the department 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 doing business, what businesses were purchased, and what businesses may have moved out-of-state and the reason for such move.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

60           (6) Set rental and service fees;

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

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

66           7. The department:

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

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

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

72           (4) Shall receive and evaluate annual reports from local sponsors. Such annual reports  
73 shall include, but need not be limited to, a financial statement for the incubator, evidence that

74 all tenants and participants in the program are eligible under the terms of this section, and a list  
75 of companies in the incubator.

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

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

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

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

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

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

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

88 (6) The occupancy rate of each incubator;

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

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

100 11. For any taxable year beginning after December 31, 1989, a taxpayer, including any  
101 charitable organization which is exempt from federal income tax and whose Missouri unrelated  
102 business taxable income, if any, would be subject to the state income tax imposed under chapter  
103 143, RSMo, shall be entitled to a tax credit against any tax otherwise due under the provisions  
104 of chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax  
105 imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of any amount  
106 contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's  
107 tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's  
108 application has been accepted and approved by the department. The tax credit allowed by this  
109 subsection shall be claimed by the taxpayer at the time he files his return and shall be applied

110 against the income tax liability imposed by chapter 143, RSMo, or chapter 147, RSMo, or  
111 chapter 148, RSMo, after all other credits provided by law have been applied. That portion of  
112 earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five  
113 years. The aggregate of all tax credits authorized under this section shall not exceed [five  
114 hundred thousand] **one million** dollars in any taxable year.

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

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

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

122

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

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a  
2 partnership, or any charitable organization which is exempt from federal income tax and whose  
3 Missouri unrelated business taxable income, if any, would be subject to the state income tax  
4 imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471,  
5 RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same  
6 meaning as prescribed in 26 U.S.C. 41. **The term "taxpayer" shall not include any**  
7 **individual, partnership, or charitable organization which receives tax credits under the**  
8 **provisions of section 620.1041.**

9           2. For tax years beginning on or after January 1, 2001, the director of the department of  
10 economic development may authorize a taxpayer to receive a tax credit against the tax otherwise  
11 due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld  
12 pursuant to sections 143.191 to 143.265, RSMo, in an amount up to [six and one-half] **ten**  
13 percent of the [excess] **amount** of the taxpayer's qualified research expenses, as certified by the  
14 director of the department of economic development, within this state during the taxable year  
15 [over the average of the taxpayer's qualified research expenses within this state over the  
16 immediately preceding three taxable years; except that, no tax credit shall be allowed on that  
17 portion of the taxpayer's qualified research expenses incurred within this state during the taxable  
18 year in which the credit is being claimed, to the extent such expenses exceed two hundred  
19 percent of the taxpayer's average qualified research expenses incurred during the immediately  
20 preceding three taxable years] , **or in the case of qualified research expenses incurred in a**  
21 **distressed community as defined under section 135.530, RSMo, in an amount equal to**  
22 **twenty-five percent of the amount of the qualified research expenses. In order to receive**  
23 **tax credits provided under this section, a taxpayer shall:**

24           (1) **Employ no more than two hundred twenty-five employees, with at least**  
25 **seventy-five percent of such employees based within the state; and**

26           (2) **Be engaged on a for-profit basis in the development of medical instruments and**  
27 **devices, medical diagnostics or therapeutics, plant science products, pharmaceutical, or**  
28 **veterinary products with agricultural applications.**

29           3. The director of economic development shall prescribe the manner in which the tax  
30 credit may be applied for. The tax credit authorized by this section may be claimed by the  
31 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that  
32 becomes due in the tax year during which such qualified research expenses were incurred.  
33 Where the amount of the credit exceeds the tax liability, the difference between the credit and  
34 the tax liability may only be carried forward for the next five succeeding taxable years or until  
35 the full credit has been claimed, whichever first occurs. The application for tax credits  
36 authorized by the director pursuant to subsection 2 of this section shall be made no later than the  
37 end of the taxpayer's tax period immediately following the tax period for which the credits are  
38 being claimed.

39           4. Certificates of tax credit issued pursuant to this section may be transferred, sold or  
40 assigned by filing a notarized endorsement thereof with the department which names the  
41 transferee and the amount of tax credit transferred. The director of economic development may  
42 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of  
43 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year  
44 commencing on or after January 1, [1996] **2010**, and ending not later than December 31, [1999]

45 **2016.** Such taxpayer shall file, by December 31, [2001] **2018**, an application with the  
46 department which names the transferee, the amount of tax credit desired to be transferred, and  
47 a certification that the funds received by the applicant as a result of the transfer, sale or  
48 assignment of the tax credit shall be expended within three years at the state university for the  
49 sole purpose of conducting research activities agreed upon by the department, the taxpayer and  
50 the state university. Failure to expend such funds in the manner prescribed pursuant to this  
51 section shall cause the applicant to be subject to the provisions of section 620.017.

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

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

65         7. For all tax years beginning on or after January 1, 2005, no tax credits shall be  
66 approved, awarded, or issued to any person or entity claiming any tax credit under this section.]  
67 **The total amount of tax credits provided under this section, which may be authorized in**  
68 **fiscal year 2010 and each fiscal year thereafter, shall not exceed three million dollars. No**  
69 **tax credits provided under the provisions of this section shall be authorized after June 30,**  
70 **2015. The provisions of this subsection shall not be construed to limit or in any way impair**  
71 **the department's ability to issue tax credits authorized prior to June 30, 2015, or a**  
72 **taxpayer's ability to redeem such tax credits.**

73         7. For fiscal year 2010 and each fiscal year thereafter, no less than two million  
74 dollars in tax credits shall be made available for qualified research expenses incurred in  
75 a distressed community. No more than five hundred thousand dollars in tax credits shall  
76 be issued annually under this section to any taxpayer for qualified research expenses,  
77 unless such research expenses are incurred by a taxpayer in a distressed area, in which  
78 case no more than one million dollars in tax credits may be issued to such taxpayer  
79 annually. No taxpayer shall simultaneously receive tax credits under the provisions of this  
80 section and section 620.1041.



81           **8. Authorization for all or a part of the tax credits reserved for expenses incurred**  
82 **in a distressed community, under the provisions of subsection 7 of this section, shall not**  
83 **restrict eligibility of a taxpayer to receive remaining credits for other qualified research**  
84 **expenses incurred in a distressed community.**

**620.1041. 1. As used in this section, the term "taxpayer" means an individual, a**  
2 **partnership, or any charitable organization which is exempt from federal income tax and**  
3 **whose Missouri unrelated business taxable income, if any, would be subject to the state**  
4 **income tax imposed under chapter 143, RSMo, or a corporation as described in section**  
5 **143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term "qualified research**  
6 **expenses" has the same meaning as prescribed in 26 U.S.C. 41, except that such qualified**  
7 **research expenses shall be limited to those incurred in the research and development of**  
8 **agricultural biotechnology, plant genomics products, diagnostic and therapeutic medical**  
9 **devices, prescription pharmaceuticals consumed by humans or animals, electronic patient**  
10 **health record technology, or qualified research expenses incurred in the research,**  
11 **development or manufacture of power system technology for aerospace, space, defense,**  
12 **alternative energy, alternative energy vehicles, or implantable or wearable medical devices.**  
13 **The term "taxpayer" shall not include any individual, partnership, or charitable**  
14 **organization which receives tax credits under the provisions of section 620.1039.**

15           **2. For tax years ending after January 1, 2009, the director of the department of**  
16 **economic development may authorize a taxpayer to receive a tax credit against the tax**  
17 **otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes**  
18 **withheld pursuant to sections 143.191 to 143.265, RSMo, based upon the amount by which**  
19 **the taxpayer's qualified research expenses exceed the average, as certified by the director**  
20 **of the department of economic development, of the taxpayer's qualified research expenses**  
21 **within this state over the immediately preceding three taxable years, as follows:**

22           **(1) Three percent of the amount of increase in qualified research expenses paid or**  
23 **incurred during the taxable year which does not exceed two million five hundred thousand**  
24 **dollars;**

25           **(2) Five percent of the amount of increase in qualified research expenses paid or**  
26 **incurred during the taxable year which exceeds two million five hundred thousand dollars**  
27 **but does not exceed five million dollars; and**

28           **(3) Seven and one-half percent of the amount of increase in qualified research**  
29 **expenses paid or incurred during the taxable year which exceeds five million dollars.**

30

31 **Provisions of this subsection to the contrary notwithstanding, no tax credit shall be allowed**  
32 **on that portion of the taxpayer's qualified research expenses incurred within this state**

33 during the taxable year in which the credit is being claimed, to the extent such expenses  
34 exceed two hundred percent of the taxpayer's average qualified research expenses incurred  
35 during the immediately preceding three taxable years.

36 3. The director of economic development shall prescribe the manner in which the  
37 taxpayer may apply for the tax credit. The tax credit authorized by this section may be  
38 claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or  
39 chapter 148, RSMo, that becomes due in the tax year during which such qualified research  
40 expenses were incurred; provided that if the return required to be filed pursuant to section  
41 143.511, RSMo, or section 148.050, RSMo, for such tax year has already been filed, the  
42 taxpayer may claim the tax credit authorized by this section by claiming the tax credit  
43 against the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, in the tax  
44 year following the tax year in which such qualified research expenses were incurred.  
45 Where the amount of the credit exceeds the tax liability, the difference between the credit  
46 and the tax liability may only be carried forward for the next five succeeding taxable years  
47 after the tax year in which the credit was first claimed or until the full credit has been  
48 claimed, whichever first occurs. The application for tax credits authorized by the director  
49 pursuant to subsection 2 of this section shall be made no earlier than January first and no  
50 later than July first of the calendar year immediately following the calendar year in which  
51 the taxpayer's tax period for which the credits are being claimed ended. The director shall  
52 act on any such application for tax credits no sooner than August first but no later than  
53 August fifteenth of each year for applications filed in that calendar year.

54 4. Certificates of tax credit issued pursuant to this section may be transferred, sold,  
55 or assigned by filing a notarized endorsement thereof with the department which names  
56 the transferee and the amount of tax credit transferred. The director of economic  
57 development may allow a taxpayer to transfer, sell, or assign up to forty percent of the  
58 amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant  
59 to this section during any tax year commencing on or after January 1, 2010, and ending not  
60 later than December 31, 2016. Such taxpayer shall file, by December 31, 2018, an  
61 application with the department which names the transferee, the amount of tax credit  
62 desired to be transferred, and a certification that the funds received by the applicant as a  
63 result of the transfer, sale, or assignment of the tax credit shall be expended within three  
64 years at the state university for the sole purpose of conducting research activities agreed  
65 upon by the department, the taxpayer, and the state university. Failure to expend such  
66 funds in the manner prescribed pursuant to this section shall cause the applicant to be  
67 subject to the provisions of section 620.017.

68           **5. No rule or portion of a rule promulgated under the authority of this section shall**  
69 **become effective unless it has been promulgated pursuant to the provisions of chapter 536,**  
70 **RSMo. All rulemaking authority delegated prior to August 28, 2009, is of no force and**  
71 **effect and repealed; however, nothing in this section shall be interpreted to repeal or affect**  
72 **the validity of any rule filed or adopted prior to August 28, 2009, if such rule complied with**  
73 **the provisions of chapter 536, RSMo. The provisions of this section and chapter 536,**  
74 **RSMo, are nonseverable and if any of the powers vested with the general assembly**  
75 **pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date,**  
76 **or to disapprove and annul a rule or portion of a rule, are subsequently held**  
77 **unconstitutional, then the purported grant of rulemaking authority and any rule so**  
78 **proposed and contained in the order of rulemaking shall be invalid and void.**

79           **6. The total amount of tax credits provided under this section, which may be**  
80 **authorized in fiscal year 2010 and each fiscal year thereafter, shall not exceed seven million**  
81 **dollars. No tax credits provided under this section shall be authorized after June 30, 2015.**  
82 **The provisions of this subsection shall not be construed to limit or in any way impair the**  
83 **department's ability to issue tax credits authorized prior to June 30, 2015, or a taxpayer's**  
84 **ability to redeem such tax credits. In the event that total eligible claims for credits received**  
85 **in a fiscal year exceed the amount of tax credits available for authorization in such fiscal**  
86 **year, as provided under the provisions of this section, each eligible claimant shall be issued**  
87 **credits based upon the following formula: the eligible credits if the amount allocated had**  
88 **not been exceeded multiplied by the ratio of the allocation divided by the total of all eligible**  
89 **claims for credits filed in that fiscal year.**

90           **7. No one taxpayer shall be issued more than thirty percent of the aggregate of all**  
91 **tax credits authorized under this section in any calendar year. No taxpayer shall**  
92 **simultaneously receive tax credits under the provisions of this section and section 620.1039.**

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

- 3           (1) "Approval", a document submitted by the department to the qualified company that  
4 states the benefits that may be provided by this program;
- 5           (2) "Average wage", the new payroll divided by the number of new jobs;
- 6           (3) "Commencement of operations", the starting date for the qualified company's first  
7 new employee, which must be no later than twelve months from the date of the approval;
- 8           (4) "County average wage", the average wages in each county as determined by the  
9 department for the most recently completed full calendar year. However, if the computed county  
10 average wage is above the statewide average wage, the statewide average wage shall be deemed  
11 the county average wage for such county for the purpose of determining eligibility. The

12 department shall publish the county average wage for each county at least annually.  
13 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company  
14 that in conjunction with their project is relocating employees from a Missouri county with a  
15 higher county average wage, the company shall obtain the endorsement of the governing body  
16 of the community from which jobs are being relocated or the county average wage for their  
17 project shall be the county average wage for the county from which the employees are being  
18 relocated;

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

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

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

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

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

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

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

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

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

43 (14) "New job", the number of full-time employees located at the project facility that  
44 exceeds the project facility base employment less any decrease in the number of full-time  
45 employees at related facilities below the related facility base employment. No job that was  
46 created prior to the date of the notice of intent shall be deemed a new job. An employee that  
47 spends less than fifty percent of the employee's work time at the facility is still considered to be

48 located at a facility if the employee receives his or her directions and control from that facility,  
49 is on the facility's payroll, one hundred percent of the employee's income from such employment  
50 is Missouri income, and the employee is paid at or above the state average wage;

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

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

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

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

63 (19) "Project facility", the building used by a qualified company at which the new jobs  
64 and new investment will be located. A project facility may include separate buildings that are  
65 located within [one mile] **fifteen miles** of each other or within the same county such that their  
66 purpose and 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. **However, a company that has filed for or has publicly announced**  
96 **its intention to file for bankruptcy between January 1, 2009, and January 1, 2011, may be**  
97 **a qualified company provided that such company:**

98 a. Certifies to the department that it plans to reorganize and not to liquidate; and

99 b. **After its bankruptcy petition has been filed, it produces proof, in a form and at**  
100 **times satisfactory to the department, that it is not delinquent in filing any tax returns or**  
101 **making any payment due to the state of Missouri, including but not limited to all tax**  
102 **payments due after the filing of the bankruptcy petition and under the terms of the plan**  
103 **of reorganization;**

- 104 (g) Educational services (NAICS sector 61);
- 105 (h) Religious organizations (NAICS industry group 8131);
- 106 (i) Public administration (NAICS sector 92);
- 107 (j) Ethanol distillation or production; or
- 108 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary,  
109 the headquarters or administrative offices of an otherwise excluded business may qualify for  
110 benefits if the offices serve a multistate territory. In the event a national, state, or regional  
111 headquarters operation is not the predominant activity of a project facility, the new jobs and  
112 investment of such headquarters operation is considered eligible for benefits under this section  
113 if the other requirements are satisfied;

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

- 116 (a) Open-looped biomass;
- 117 (b) Close-looped biomass;
- 118 (c) Solar;
- 119 (d) Wind;

- 120 (e) Geothermal; and  
121 (f) Hydropower;
- 122 (25) "Related company" means:
- 123 (a) A corporation, partnership, trust, or association controlled by the qualified company;  
124 (b) An individual, corporation, partnership, trust, or association in control of the  
125 qualified company; or
- 126 (c) Corporations, partnerships, trusts or associations controlled by an individual,  
127 corporation, partnership, trust or association in control of the qualified company. As used in this  
128 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock  
129 possessing at least fifty percent of the total combined voting power of all classes of stock entitled  
130 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent  
131 of the capital or profits interest in such partnership or association, "control of a trust" shall mean  
132 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal  
133 or income of such trust, and ownership shall be determined as provided in Section 318 of the  
134 Internal Revenue Code of 1986, as amended;
- 135 (26) "Related facility", a facility operated by the qualified company or a related company  
136 located in this state that is directly related to the operations of the project facility;
- 137 (27) "Related facility base employment", the greater of the number of full-time  
138 employees located at all related facilities on the date of the notice of intent or for the  
139 twelve-month period prior to the date of the notice of intent, the average number of full-time  
140 employees located at all related facilities of the qualified company or a related company located  
141 in this state;
- 142 (28) "Related facility base payroll", the total amount of taxable wages paid by the  
143 qualified company to full-time employees of the qualified company located at a related facility  
144 in the twelve months prior to the filing of the notice of intent, not including the payroll of the  
145 owners of the qualified company unless the qualified company is participating in an employee  
146 stock ownership plan. For purposes of calculating the benefits under this program, the amount  
147 of related facility base payroll shall increase each year based on an appropriate measure, as  
148 determined by the department;
- 149 (29) "Rural area", a county in Missouri with a population less than seventy-five thousand  
150 or that does not contain an individual city with a population greater than fifty thousand according  
151 to the most recent federal decennial census;
- 152 (30) "Small and expanding business project", a qualified company that within two years  
153 of the date of the approval creates a minimum of twenty new jobs if the project facility is located  
154 in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area  
155 and creates fewer than one hundred new jobs regardless of the location of the project facility;

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

159 (32) "Technology business project", a qualified company that within two years of the  
160 date of the approval creates a minimum of ten new jobs involved in the operations of a company:

161 (a) Which is a technology company, as determined by a regulation promulgated by the  
162 department under the provisions of section 620.1884 or classified by NAICS codes;

163 (b) Which owns or leases a facility which produces electricity derived from qualified  
164 renewable energy sources, or produces fuel for the generation of electricity from qualified  
165 renewable energy sources, but does not include any company that has received the alcohol  
166 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section  
167 40 of the tax code in the previous tax year; [or]

168 (c) Which researches, develops, or manufactures power system technology for:  
169 aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; **or**

170 **(d) Which is a clinical molecular diagnostic laboratory focused on detecting and**  
171 **monitoring infections in immunocompromised patient populations;**

172 (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo.  
173 For purposes of this program, the withholding tax shall be computed using a schedule as  
174 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. **When a qualified**  
21 **company has filed and received approval of a notice of intent and subsequently files**  
22 **another notice of intent, the department shall apply the definition of project facility under**  
23 **subdivision (19) of section 620.1878 to the new notice of intent as well as all previously**  
24 **approved notices of intent and shall determine the application of the definitions of new job,**  
25 **new payroll, project facility base employment, and project facility base payroll**  
26 **accordingly.**

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

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

53           (1) Small and expanding business projects: in exchange for the consideration provided  
54 by the new tax revenues and other economic stimuli that will be generated by the new jobs  
55 created by the program, a qualified company may retain an amount equal to the withholding tax  
56 as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise  
57 be withheld and remitted by the qualified company under the provisions of sections 143.191 to  
58 143.265, RSMo, for a period of three years from the date the required number of new jobs were  
59 created if the average wage of the new payroll equals or exceeds the county average wage or for  
60 a period of five years from the date the required number of new jobs were created if the average  
61 wage of the new payroll equals or exceeds one hundred twenty percent of the county average  
62 wage;

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

81           (3) High impact projects: in exchange for the consideration provided by the new tax  
82 revenues and other economic stimuli that will be generated by the new jobs created by the  
83 program, a qualified company may retain an amount from the withholding tax of the new jobs  
84 that would otherwise be withheld and remitted by the qualified company under the provisions  
85 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five  
86 years from the date the required number of jobs were created if the average wage of the new  
87 payroll equals or exceeds the county average wage of the county in which the project facility is  
88 located. **For high-impact projects in a facility located within two adjacent counties the new**

**payroll shall equal or exceed the higher county average wage of the adjacent counties.** The percentage of payroll allowed under this subdivision shall be three and one-half percent of new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the county average wage in the county in which the project facility is located. The percentage of payroll allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll in any year exceeds one hundred forty percent of the county average wage in the county in which the project facility is located. An additional one percent of new payroll may be added to these percentages if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to these percentages if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct local revenue. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by 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. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, 2013;

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

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

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

- 160 (c) The average wage of the qualified company's and related companies' employees must  
161 meet or exceed the county average wage;
- 162 (d) All of the qualified company's and related companies' facilities are located in this  
163 state;
- 164 (e) The facilities at the primary business site in this state have been directly damaged by  
165 floodwater rising above the level of a five hundred year flood at least two years, but fewer than  
166 eight years, prior to the time application is made;
- 167 (f) The qualified company made significant efforts to protect the facilities prior to any  
168 impending danger from rising floodwaters;
- 169 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the  
170 qualified company and related companies retained, at the company's facilities in this state, at  
171 least the level of full-time, year-round employees that existed in the taxable year immediately  
172 preceding the year in which application for the program is made; and
- 173 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company  
174 cumulatively invests at least two million dollars in capital improvements in facilities and  
175 equipment located at such facilities that are not located within a five hundred year flood plain  
176 as designated by the Federal Emergency Management Agency, and amended from time to time.  
177 The amount of the small business job retention and flood survivor relief credit granted may be  
178 equal to up to one hundred percent of the amount of withholding tax generated by the full-time  
179 jobs at the project facility for a period of three years. The calendar year annual maximum  
180 amount of tax credit that may be issued to any qualified company for a small business job  
181 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the  
182 maximum amount may be increased up to five hundred thousand dollars if such action is  
183 proposed by the department and approved by the quality jobs advisory task force established in  
184 section 620.1887. In considering such a request, the task force shall rely on economic modeling  
185 and other information supplied by the department when requesting an increase in the limit on  
186 behalf of the small business job retention and flood survivor relief project. In no event shall the  
187 total amount of all tax credits issued for the entire small business job retention and flood survivor  
188 relief program under this subdivision exceed five hundred thousand dollars annually.  
189 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued  
190 for small business job retention and flood survivor relief projects approved by the department  
191 after August 30, 2010.
- 192 4. The qualified company shall provide an annual report of the number of jobs and such  
193 other information as may be required by the department to document the basis for the benefits  
194 of this program. The department may withhold the approval of any benefits until it is satisfied  
195 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 tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

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

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

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

231           8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,  
232 RSMo, and may not be carried forward but shall be claimed within one year of the close of the  
233 taxable year for which they were issued, except as provided under subdivision (4) of subsection  
234 3 of this section.

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

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

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

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

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

**Section 1. Notwithstanding any provision of law to the contrary, the state auditor**  
2 **shall have the power to audit any port authority within the state in the same manner as the**  
3 **auditor may audit any agency of the state.**

**Section 2. Any expenditure made by the port authority that is over twenty-five**  
2 **thousand dollars, including professional service contracts, must be competitively bid.**

Section B. Because immediate action is necessary to stimulate economic growth in  
2 Missouri, the repeal and reenactment of sections 100.710, 100.760, 100.770, 135.680, 620.1039,  
3 620.1878, and 620.1881, and the enactment of sections 348.274 and 1 of section A of this act  
4 are deemed necessary for the immediate preservation of the public health, welfare, peace, and  
5 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and  
6 the repeal and reenactment of sections 100.710, 100.760, 100.770, 135.680, 620.1039, 620.1878,  
7 and 620.1881, and the enactment of sections 348.274 and 1 of section A of this act shall be in  
8 full force and effect upon their passage and approval.

✓