

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 191
95TH GENERAL ASSEMBLY

0837L.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.155, 135.680, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof ten new sections relating to job development.

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

Section A. Sections 135.155, 135.680, 620.1039, 620.1878, and 620.1881, RSMo, are
2 repealed and ten new sections enacted in lieu thereof, to be known as sections 135.155, 135.680,
3 144.058, 348.273, 348.274, 620.1039, 620.1878, 620.1881, 620.1892, and 620.1893, to read as
4 follows:

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.

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.

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.**

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.

57 This term shall include any qualified equity investment that does not meet the provisions of
58 paragraph (a) of this subdivision if such investment was a qualified equity investment in the
59 hands of a prior holder;

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

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

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

73 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits
74 under this section. On each credit allowance date of such qualified equity investment the
75 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit
76 during the taxable year including such credit allowance date. The tax credit amount shall be
77 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such
78 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount
79 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax
80 credit claimed under this section shall be refundable or transferable. Tax credits earned by a
81 partnership, limited liability company, S-corporation, or other pass-through entity may be
82 allocated to the partners, members, or shareholders of such entity for their direct use in
83 accordance with the provisions of any agreement among such partners, members, or
84 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from
85 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable
86 years. The department of economic development shall limit the monetary amount of qualified
87 equity investments permitted under this section to a level necessary to limit tax credit utilization
88 at no more than [fifteen] **twenty-seven** million **five hundred thousand** dollars of tax credits in
89 any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated
90 utilization of credits without regard to the potential for taxpayers to carry forward tax credits to
91 later tax years.

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

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

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

103 (2) The issuer redeems or makes principal repayment with respect to a qualified equity
104 investment prior to the seventh anniversary of the issuance of such qualified equity investment.

105

106 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the
107 tax credit on a return.

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

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

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

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

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

140 (3) This section shall terminate on September first of the calendar year immediately
141 following the calendar year in which the program authorized under this section is sunset.

142 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity
143 investment prior to sunset of this section under the provisions of section 23.253, RSMo, from
144 claiming tax credits relating to such qualified equity investment for each credit allowance date.

**144.058. Beginning January 1, 2010, in addition to the exemptions granted under
2 this chapter, there shall also be specifically exempted from state and local sales and use
3 taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to
4 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all electrical energy, gas
5 whether natural, artificial or propane, water, and other utilities including
6 telecommunication services, and machinery and equipment which is used or consumed in
7 a business facility located in a portion of an underground mine that contains at least two
8 million square feet of space, provided that such business facility is engaged in:**

- 9 **(1) Data processing, hosting, and related services (NAICS 518210); or**
10 **(2) Internet publishing and broadcasting and web search portals (NAICS 519130),**
11 **at the business facility.**

12

13 **Any business which utilizes these exemptions shall not be allowed to simultaneously receive**
14 **benefits of the quality jobs act under sections 620.1875 to 620.1890, RSMo. "NAICS" shall**
15 **mean the 2007 edition of the North American Industry Classification System as prepared**
16 **by the Executive Office of the President, Office of Management and Budget. Any NAICS**
17 **sector, subsector, industry group or industry identified in this section shall include its**
18 **corresponding classification in previous and subsequent federal industry classification**
19 **systems.**

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;

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

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

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

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

c. Governmental, charitable, religious or trade organizations;

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

e. Insurance;

f. Construction or construction management or contracting;

g. Business consulting or brokerage;

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

i. Any Missouri certified capital formation company;

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

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

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

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

(4) A qualified Missouri business shall have the burden of proof to demonstrate to the department the qualifications of the business under this section and shall have the obligation to notify the department in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to claim a tax credit for cash investment in 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**
101 **amount of tax credits that may be allowed under this section shall not exceed five million**
102 **dollars per tax year.**

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

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

109 **8. A qualified Missouri business for which credits have been issued that, within**
110 **seven years of receiving tax credits under this section relocates its headquarters out of**
111 **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.

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

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development [may] **shall** authorize a taxpayer to receive a tax credit against the tax

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

24 3. The director of economic development shall prescribe the manner in which the tax
25 credit may be applied for. The tax credit authorized by this section may be claimed by the
26 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that
27 becomes due in the tax year during which such qualified research expenses were incurred.
28 Where the amount of the credit exceeds the tax liability, the difference between the credit and
29 the tax liability may only be carried forward for the next five succeeding taxable years or until
30 the full credit has been claimed, whichever first occurs. The application for tax credits
31 authorized by the director pursuant to subsection 2 of this section shall be made **no earlier than**
32 **January first and** no later than [the end of] **July first of the calendar year immediately**
33 **following the calendar year in which** the taxpayer's tax period [immediately following the tax
34 period] for which the credits are being claimed **ended. The director shall act on any such**
35 **application for tax credits no sooner than August first but no later than August fifteenth**
36 **of each year for applications filed in that calendar year.**

37 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
38 assigned by filing a notarized endorsement thereof with the department which names the
39 transferee and the amount of tax credit transferred. The director of economic development may
40 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of
41 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year
42 commencing on or after January 1, [1996] **2010**, and ending not later than December 31, [1999]
43 **2016**. Such taxpayer shall file, by December 31, [2001] **2018**, an application with the
44 department which names the transferee, the amount of tax credit desired to be transferred, and
45 a certification that the funds received by the applicant as a result of the transfer, sale or
46 assignment of the tax credit shall be expended within three years at the state university for the
47 sole purpose of conducting research activities agreed upon by the department, the taxpayer and
48 the state university. Failure to expend such funds in the manner prescribed pursuant to this
49 section shall cause the applicant to be subject to the provisions of section 620.017.

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

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

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

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

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

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

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

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

16 of the community from which jobs are being relocated or the county average wage for their
17 project shall be the county average wage for the county from which the employees are being
18 relocated;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

86 percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the
87 term "qualified company" shall not include:

- 88 (a) Gambling establishments (NAICS industry group 7132);
- 89 (b) Retail trade establishments (NAICS sectors 44 and 45);
- 90 (c) Food and drinking places (NAICS subsector 722);
- 91 (d) Public utilities (NAICS 221 including water and sewer services);
- 92 (e) Any company that is delinquent in the payment of any nonprotested taxes or any
93 other amounts due the state or federal government or any other political subdivision of this state;
- 94 (f) Any company that has filed for or has publicly announced its intention to file for
95 bankruptcy protection;
- 96 (g) Educational services (NAICS sector 61);
- 97 (h) Religious organizations (NAICS industry group 8131);
- 98 (i) Public administration (NAICS sector 92);
- 99 (j) Ethanol distillation or production; or
- 100 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary,

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

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

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

114 (25) "Related company" means:

- 115 (a) A corporation, partnership, trust, or association controlled by the qualified company;
- 116 (b) An individual, corporation, partnership, trust, or association in control of the
117 qualified company; or
- 118 (c) Corporations, partnerships, trusts or associations controlled by an individual,
119 corporation, partnership, trust or association in control of the qualified company. As used in this
120 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock
121 possessing at least fifty percent of the total combined voting power of all classes of stock entitled

122 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent
123 of the capital or profits interest in such partnership or association, "control of a trust" shall mean
124 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal
125 or income of such trust, and ownership shall be determined as provided in Section 318 of the
126 Internal Revenue Code of 1986, as amended;

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

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

134 (28) "Related facility base payroll", the total amount of taxable wages paid by the
135 qualified company to full-time employees of the qualified company located at a related facility
136 in the twelve months prior to the filing of the notice of intent, not including the payroll of the
137 owners of the qualified company unless the qualified company is participating in an employee
138 stock ownership plan. For purposes of calculating the benefits under this program, the amount
139 of related facility base payroll shall increase each year based on an appropriate measure, as
140 determined by the department;

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

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

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

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

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

155 (b) Which owns or leases a facility which produces electricity derived from qualified
156 renewable energy sources, or produces fuel for the generation of electricity from qualified
157 renewable energy sources, but does not include any company that has received the alcohol

158 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section
159 40 of the tax code in the previous tax year; [or]

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

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

164 (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265, RSMo.
165 For purposes of this program, the withholding tax shall be computed using a schedule as
166 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] **a disapproval** for the purposes of this
7 section. A qualified company who is provided an approval for a project shall be allowed a
8 benefit as provided in this program in the amount and duration provided in this section. A
9 qualified company may receive additional periods for subsequent new jobs [at the same facility
10 after the full initial period] **in the same county** if the minimum thresholds are met as set forth
11 in sections 620.1875 to 620.1890. There is no limit on the number **of approvals or** of periods
12 a qualified company may participate in the program, as long as the minimum thresholds are
13 achieved and the qualified company provides the department with the required reporting and is
14 in proper compliance for this program or other state programs. A qualified company may elect
15 to file a notice of intent to start a new project period concurrent with an existing project period
16 if the minimum thresholds are achieved and the qualified company provides the department with
17 the required reporting and is in proper compliance for this program and other state programs;
18 however, [the qualified company may not receive any further benefit under the original approval
19 for jobs created after the date of the new notice of intent, and] any jobs created before the new
20 notice of intent may not be included as new jobs for the purpose of benefit calculation in relation
21 to the new approval. **Notwithstanding anything contained herein to the contrary, when a**
22 **company has filed and received approval of a notice of intent and then subsequently files**
23 **another notice of intent, the department shall apply the definition of project facility under**
24 **the current version of subdivision (19) of section 620.1878 on a consistent basis to the new**
25 **notice of intent as well as all previously filed and approved notices of intent and shall**
26 **determine the application of the definitions of new job, new payroll, project facility base**
27 **employment, and project facility base payroll accordingly.**

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

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

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

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

82 (3) High impact projects: in exchange for the consideration provided by the new tax
83 revenues and other economic stimuli that will be generated by the new jobs created by the
84 program, a qualified company may retain an amount from the withholding tax of the new jobs
85 that would otherwise be withheld and remitted by the qualified company under the provisions
86 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five
87 years from the date the required number of jobs were created if the average wage of the new
88 payroll equals or exceeds the county average wage of the county in which the project facility is
89 located. The percentage of payroll allowed under this subdivision shall be three and one-half
90 percent of new payroll if the average wage of the new payroll in any year exceeds one hundred
91 twenty percent of the county average wage in the county in which the project facility is located.
92 The percentage of payroll allowed under this subdivision shall be four percent of new payroll if
93 the average wage of the new payroll in any year exceeds one hundred forty percent of the county
94 average wage in the county in which the project facility is located. An additional one percent
95 of new payroll may be added to these percentages if local incentives equal between ten percent
96 and twenty-four percent of the new direct local revenue; an additional two percent of new payroll
97 is added to these percentages if the local incentives equal between twenty-five percent and
98 forty-nine percent of the new direct local revenue; or an additional three percent of payroll is
99 added to these percentages if the local incentives equal fifty percent or more of the new direct

100 local revenue. The department shall issue a refundable tax credit for any difference between the
101 amount of benefit allowed under this subdivision and the amount of withholding tax retained by
102 the company, in the event the withholding tax is not sufficient to provide the entire amount of
103 benefit due to the qualified company under this subdivision[. The calendar year annual
104 maximum amount of tax credits that may be issued to any qualified company for a project or
105 combination of projects is seven hundred fifty thousand dollars. The calendar year annual
106 maximum amount of tax credit that may be issued to any qualified company for a project or
107 combination of projects may be increased up to one million dollars if the number of new jobs
108 will exceed five hundred and if such action is proposed by the department and approved by the
109 quality jobs advisory task force established in section 620.1887; provided, however, until such
110 time as the initial at-large members of the quality jobs advisory task force are appointed, this
111 determination shall be made by the director of the department of economic development. In
112 considering such a request, the task force shall rely on economic modeling and other information
113 supplied by the department when requesting the increased limit on behalf of the project];

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

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

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

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

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

134 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
135 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;

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

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

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

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

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

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time. The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

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

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

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

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

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

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

238 10. Prior to the issuance of tax credits, the department shall verify through the
239 department of revenue, or any other state department, that the tax credit applicant does not owe
240 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
241 fees or assessments levied by any state department and through the department of insurance,
242 financial institutions and professional registration that the applicant does not owe any delinquent
243 insurance taxes. Such delinquency shall not affect the authorization of the application for such

244 tax credits, except that at issuance credits shall be first applied to the delinquency and any
245 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue
246 or the department of insurance, financial institutions and professional registration, or any other
247 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first
248 of any year and the application of tax credits to such delinquency causes a tax deficiency on
249 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
250 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all
251 available credits toward a tax delinquency, the administering agency shall notify the appropriate
252 department and that department shall update the amount of outstanding delinquent tax owed by
253 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
254 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
255 of other provisions of law.

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

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

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

2 **620.1892. 1. This section shall be known and may be cited as the "Small Business
and Entrepreneurial Growth Act".**

3 **2. For all taxable years beginning on or after January 1, 2010, an employer of a**
4 **small business shall be allowed to receive benefits under subsection 3 of this section if such**
5 **employer expands such business by increasing the number of jobs and by meeting the**
6 **following qualifications:**

7 **(1) The employer's total payroll for the small business increases by at least twenty**
8 **percent due to the addition of new jobs or a business with less than five employees adds**
9 **employees so that the total number of employees is five or greater;**

10 **(2) The employer does not exceed ten new tech jobs, twenty new jobs located in a**
11 **rural area, and forty new jobs located in an urban area; and**

12 **(3) Wages for new jobs created by the employer under this section are the average**
13 **county wage.**

14 **3. Benefits provided under this section shall be as follows:**

15 (1) Retention of all tax withheld under sections 143.191 to 143.265, RSMo, from the
16 newly created jobs for a period of one year; or

17 (2) If the employer also provides health insurance and pays more than fifty percent
18 of the premiums for all employees, the tax withheld under sections 143.191 to 143.265,
19 RSMo, from newly created jobs may be retained for a period of two years.

20 4. No employers receiving benefits under this section shall be eligible for any
21 benefits provided under sections 620.1875 to 620.1890.

 620.1893. 1. Subject to the requirements in subsections 2 to 5 of this section, the
2 governing body of a municipality may establish a science, technology, business, and
3 education district or "STBE district" in which science, technology, business, and education
4 projects, or "STBE projects", may be implemented according to a science, technology,
5 business, and education plan, or "STBE plan", by passing one or more ordinances
6 establishing such STBE district and adopting such STBE projects and plan. The
7 governing body shall not adopt an STBE project prior to adopting an STBE plan, and shall
8 not adopt an STBE plan prior to establishing an STBE district, but the STBE district may
9 be established and the STBE projects and plan may be adopted concurrently.

10 2. Each STBE plan shall set forth in writing a general description of the program,
11 and shall include, but need not be limited to:

12 (1) A description of the STBE district, including the existing businesses within the
13 district;

14 (2) The estimated total STBE project costs, STBE eligible project costs, and the
15 timetable for the STBE projects, including any project phasing;

16 (3) Land acquisition strategy;

17 (4) The anticipated sources, amounts, and timing of funds to pay the STBE eligible
18 project costs and other STBE project costs, including any TICS revenues as set forth in
19 subsection 8 of this section, any municipal funds as set forth in subdivision (5) of subsection
20 3 of this section, and any other sources of funds, including the percentage of all STBE
21 project costs and STBE eligible project costs represented by each source of funds;

22 (5) Evidence of the commitments to finance the STBE project costs;

23 (6) The anticipated type and term of the obligations to be issued;

24 (7) The general land uses to apply in the STBE district;

25 (8) Proof of a commitment by at least one higher education institution, including,
26 but not limited to universities, colleges, and community colleges, to have a significant
27 physical presence in the STBE district, and a description of the educational resources that
28 will be provided by the higher education institution in the STBE district, such as

29 classrooms, curriculum, dedicated faculty, graduate students, and defined partnerships
30 with target industry clusters;

31 (9) The base year of state sales tax revenues and the base year of state income tax
32 withheld on behalf of existing employees, reported by existing businesses within the STBE
33 district for the year prior to the year in which the governing body holds a public hearing
34 under subsection 4 of this section to consider establishing the STBE district;

35 (10) The estimate of the incremental increase in the general revenue portion of state
36 sales tax revenue and the estimate of the state income tax withheld by the employer on
37 behalf of new employees expected to fill new jobs created within the STBE district after
38 implementation of the STBE projects;

39 (11) An affidavit that is signed by the developer or developers attesting that the
40 STBE district would not be reasonably anticipated to be developed without the
41 appropriation of TICS revenues, as defined in subsection 8 of this section;

42 (12) A cost-benefit analysis that includes a study of the fiscal impact on the taxing
43 jurisdictions applicable to the STBE district, including the state of Missouri;

44 (13) The three-digit North American Industry Classification System number or
45 numbers characterizing the STBE plan and projects;

46 (14) The total number of individuals employed in the STBE district, broken down
47 by full-time, part-time, and temporary positions;

48 (15) The total number of full-time equivalent positions in the STBE district;

49 (16) The current gross wages, state income tax withholdings, and federal income
50 tax withholdings for individuals employed in the STBE district;

51 (17) The total number of individuals employed in this state by the corporate parent
52 of any business benefiting from public expenditures in the STBE district, and all
53 subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by
54 full-time, part-time, and temporary positions;

55 (18) The number of new jobs to be created by any business benefiting from public
56 expenditures in the STBE district, broken down by full-time, part-time, and temporary
57 positions;

58 (19) The average hourly wage to be paid to all current and new employees at the
59 project site, broken down by full-time, part-time, and temporary positions;

60 (20) For an STBE district located in a metropolitan statistical area, as defined by
61 the federal Office of Management and Budget, the average hourly wage paid to
62 nonmanagerial employees in this state for the industries involved in the STBE district, as
63 established by the United States Bureau of Labor Statistics;

64 (21) For an STBE district located outside of metropolitan statistical areas, the
65 average weekly wage paid to nonmanagerial employees in the county for industries
66 involved in the STBE district, as established by the United States Department of
67 Commerce;

68 (22) A list of other community and economic benefits to result from the project;

69 (23) A list of all development subsidies that any business benefiting from public
70 expenditures in the STBE district has previously received for the STBE projects, and the
71 name of any other granting body from which such subsidies are sought;

72 (24) A list of all other public investments made or to be made by this state or units
73 of local government to support infrastructure or other needs generated by the STBE
74 projects for which the funding under this section is being sought;

75 (25) A statement as to whether the STBE projects may reduce employment at any
76 other site, within or without the state, resulting from automation, merger, acquisition,
77 corporate restructuring, relocation, or other business activity;

78 (26) A statement as to whether or not the STBE projects involve the relocation of
79 work from another address and if so, the number of jobs to be relocated and the address
80 from which they are to be relocated;

81 (27) A list of competing businesses in the county containing the STBE district and
82 in each contiguous county;

83 (28) A market study for the STBE district; and

84 (29) A certification by the chief officer of the applicant as to the accuracy of the
85 STBE plan.

86 3. No STBE plan shall be adopted by a municipality without findings that:

87 (1) The STBE plan conforms to the comprehensive plan for the development of the
88 municipality as a whole;

89 (2) The estimated dates, which shall not be more than twenty-five years from the
90 adoption of the ordinance approving an STBE project within an STBE district, of
91 completion of any STBE project and retirement of obligations incurred to finance STBE
92 project costs, provided that no ordinance approving an STBE project shall be adopted
93 later than ten years from the adoption of the ordinance approving the STBE plan under
94 which such project is authorized and provided that no property for an STBE project shall
95 be acquired by eminent domain later than five years from the adoption of the ordinance
96 approving such project;

97 (3) A plan has been developed for relocation assistance for businesses and
98 residences;

99 (4) TICS revenues do not exceed fifty percent of the overall STBE project costs;

(5) Municipal funding, including funding from entities affiliated with the municipality, such as economic development corporations, will provide funds for the STBE project that constitute at least ten percent of the STBE eligible project costs and will be available to the STBE project within ten years following establishment of the STBE district;

(6) At least one higher education institution, including, but not limited to universities, colleges, and community colleges, has committed to having a significant physical presence in the STBE district, and plans to offer educational resources in the STBE district such as classrooms, curriculum, dedicated faculty, graduate students, and defined partnerships with target industry clusters; and

(7) If the proposed STBE district is not fully contiguous, the proposed district is sufficiently geographically cohesive to ensure that the district will feel and function like a fully contiguous district.

4. Prior to a municipality's establishment of an STBE district and adoption of an STBE plan and one or more STBE projects under subsection 1 of this section, the governing body shall hold a public hearing.

5. (1) Notice of the public hearing required by subsection 4 of this section shall be given by:

(a) Publication. Notice by publication shall be given by publication at least twice, the first publication to be not more than thirty days and the second publication to be not more than ten days prior to the hearing, in a newspaper of general circulation in the area of the proposed development;

(b) Mailing.

(2) The notices issued under this section shall include the following:

(a) The time and place of the public hearing;

(b) The general boundaries of the proposed STBE district or by street location, where possible;

(c) A statement that all interested persons shall be given an opportunity to be heard at the public hearing;

(d) A description of the proposed STBE plan or STBE project and a location and time where the entire plan or project proposal may be reviewed by any interested party; and

(e) Such other matters as the governing body may deem appropriate.

(3) Notice by mailing shall be given by depositing such notice in the United States mail by certified mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within

the proposed STBE district. Such notice shall be mailed not less than ten days prior to the date set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall also be sent to the persons last listed on the tax rolls within the preceding three years as the owners of such property.

(4) Notice by mailing shall also be given not less than forty-five days prior to the date set for the public hearing to all taxing districts from which taxable property is included in the STBE district, and in addition to the other requirements under paragraph (a) of subdivision (1) of this subsection, the notice shall include an invitation to each taxing district to submit comments to the municipality's governing body concerning the subject matter of the hearing prior to the date of the hearing.

6. Following a municipality's establishment of an STBE district and adoption of an STBE plan and one or more STBE projects under subsection 1 of this section, the targeted industry cluster state revenues, or "TICS revenues", as defined in subsection 8 of this section, estimated for the businesses within the STBE district and identified by the municipality in the STBE plan adopted by the municipality, shall be available for appropriation by the general assembly from the general revenue fund to the department of economic development for distribution to the treasurer or other designated financial officer of the municipality.

7. The treasurer or other designated financial officer of the municipality shall deposit TICS revenues received from the department of economic development in a segregated fund known as an "STBE Projects Financing Fund". The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

8. For purposes of this section, "TICS revenues" means:

(1) Half of the incremental increase in the general revenue portion of state sales tax revenues received under section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. In no event shall the incremental increase include any amounts attributable to retail sales unless the municipality or authority has proven to the Missouri development finance board and the

department of economic development and such entities have made a finding that the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the STBE plan; and

(2) The state income tax withheld on behalf of new employees by the employers under section 143.221, RSMo, at the businesses located within the project as identified in the STBE plan. The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employers within the STBE district for new employees who fill new jobs directly created by the STBE projects.

9. No transfer under subsection 6 of this section from the general revenue fund to the department of economic development shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any TICS revenues prior to an appropriation being made for particular STBE projects.

10. The initial appropriation of TICS revenues authorized under subsections 6 and 7 of this section shall not be made to or distributed by the department of economic development to a municipality until the director of the department of economic development or his or her designee have approved an STBE plan and projects that have been approved by a municipality under subsection 1 of this section, and that call for capture of TICS revenues for the benefit of the STBE plan and projects. The director of economic development or his or her designee shall approve an STBE plan and projects if they find that:

(1) The estimated dates, which shall not be more than twenty-five years from the adoption of the municipal ordinance approving an STBE project within an STBE district, of completion of any STBE project and retirement of obligations incurred to finance STBE project costs have been stated, provided that no ordinance approving an STBE project shall be adopted later than ten years from the adoption of the ordinance approving the STBE plan under which such project is authorized and provided that no property for an STBE project shall be acquired by eminent domain later than five years from the adoption of the ordinance approving such project;

(2) TICS revenues do not exceed fifty percent of the total STBE project costs;

(3) Municipal funding, including funding from entities affiliated with the municipality, such as economic development corporations, will provide funds for the STBE project that constitute at least ten percent of the STBE eligible project costs and will be

208 available to the STBE project within ten years following establishment of the STBE
209 district;

210 (4) At least one higher education institution, including, but not limited to
211 universities, colleges, and community colleges, has committed to having a significant
212 physical presence in the STBE district, and plans to offer educational resources in the
213 STBE district such as classrooms, curriculum, dedicated faculty, graduate students, and
214 defined partnerships with target industry clusters; and

215 (5) The STBE plan and projects are financially feasible and would result in a net
216 benefit to the state.

217 11. TICS revenues deposited in the STBE projects financing fund established by
218 the municipality under subsection 7 of this section shall be used to pay for STBE eligible
219 project costs. Such costs shall include:

220 (1) Acquisition of land within the boundaries of the STBE district;

221 (2) Extension, expansion, and construction of all infrastructure serving the STBE
222 district, including, but not limited to, water services, storm and sanitary sewers, electrical
223 services, roads, sidewalks, and any public amenities;

224 (3) Costs of developing public buildings, including site preparation and vertical
225 construction; and

226 (4) Any other costs related to attracting private investment and creating new jobs
227 within the STBE district.

228 12. Following the initial appropriation of TICS revenues under subsections 6 and
229 7 of this section and continuing until termination of the STBE district, the municipality
230 shall annually submit a report to the department of economic development which shall
231 provide an update of the STBE projects' timetable, status of municipal funding and other
232 funding sources, including, but not limited to, the number of jobs created, the annual
233 payroll, and the public and private capital investment in the STBE district.

234 13. This section shall not preclude the implementation of any other type of public
235 incentives, including tax increment financing under sections 99.800 to 99.865, RSMo,
236 community improvement districts under sections 67.1401 to 67.1571, RSMo, and
237 transportation development districts under sections 238.200 to 238.280, RSMo.

238 14. The development of any STBE project, appropriations of TICS revenues under
239 this section for such STBE project, and the retirement of obligations incurred to finance
240 such STBE project shall not continue more than twenty-five years after a municipality's
241 adoption of such STBE project by ordinance under subsection 1 of this section; provided
242 that, no ordinance approving an STBE project shall be adopted later than ten years from
243 the adoption of the ordinance approving the STBE plan under which such project is

244 authorized; and provided that, no property for an STBE project shall be acquired by
245 eminent domain later than five years from the adoption of the ordinance approving such
246 project.

247 **15.** To expand an STBE district after the district has been established under
248 subsection 1 of this section, the governing body of the municipality shall establish the
249 expanded STBE district under the requirements in this section for establishing an STBE
250 district and, to receive TICS revenues associated with the expanded portion of the STBE
251 district, the provisions in this section applicable to securing an allocation of TICS revenues
252 for an STBE district shall apply. For purposes of subsection 14 of this section, the
253 expanded portion of the STBE district shall be deemed to have been established at the time
254 of the establishment of the original STBE district.

255 **16.** STBE project costs may include, at the prerogative of the state, the portion of
256 salaries and expenses of the department of economic development and the department of
257 revenue reasonably allocable to each STBE project approved for disbursements from the
258 department of economic development for the ongoing administrative functions associated
259 with such STBE project. Such amounts shall be recovered from TICS revenues deposited
260 with the department of economic development under this section.

✓