

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

Reported from the Committee on Jobs, Economic Development and Local Government, February 12, 2009, with recommendation that the Senate Committee Substitute do pass.

0837S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 100.760, 100.770, 100.850, 135.155, 135.680, 135.800, 135.802, 135.805, 253.550, 620.014, 620.017, 620.472, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof twenty-five new sections relating to tax incentives for business development, with an emergency clause and an expiration date for a certain section.

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

Section A. Sections 100.760, 100.770, 100.850, 135.155, 135.680, 135.800, 135.802, 135.805, 253.550, 620.014, 620.017, 620.472, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 100.760, 100.770, 100.850, 135.155, 135.567, 135.568, 135.569, 135.680, 135.800, 135.802, 135.805, 135.1255, 144.059, 253.550, 348.273, 348.274, 620.014, 620.017, 620.472, 620.495, 620.1039, 620.1041, 620.1881, 620.1878, and 620.1892, to read as follows:

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

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Missouri;

(2) The applicant's project is economically sound and will benefit the people of Missouri by increasing opportunities for employment and strengthening the economy of Missouri;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 (3) Significant local incentives with respect to the project or eligible
11 industry have been committed, which incentives may consist of:

12 (a) Cash or in-kind incentives derived from any nonstate source, including
13 incentives provided by the affected political subdivisions, private industry and/or
14 local chambers of commerce or similar such organizations; and/or

15 (b) Relief from local taxes, in either case as acceptable to the board;

16 (4) Receiving the credit is a major factor in the applicant's decision to go
17 forward with the project and not receiving the credit will result in the applicant
18 not creating new jobs in Missouri; **and**

19 (5) Awarding the credit will result in an overall positive fiscal impact to
20 the state[;

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

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

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

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

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

5 (3) The payroll attributable to the project;

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

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

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

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

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

100.850. 1. The approved company shall remit to the board a job
2 development assessment fee, not to exceed five percent of the gross wages of each
3 eligible employee whose job was created as a result of the economic development
4 project, or not to exceed ten percent if the economic development project is located

5 within a distressed community as defined in section 135.530, RSMo, for the
6 purpose of retiring bonds which fund the economic development project.

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

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

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

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

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

135.155. 1. Notwithstanding any provision of the law to the contrary, no
2 revenue-producing enterprise, **other than headquarters as defined in**
3 **subsection 10 of section 135.100**, shall receive the incentives set forth in
4 sections 135.100 to 135.150 for facilities commencing operations on or after
5 January 1, 2005. **No headquarter facility shall receive the incentives set**
6 **forth in subsections 9 to 14 of section 135.110 for commencing or**
7 **expanding operations on or after January 1, 2015.**

8 2. Notwithstanding provisions of subdivisions (1) and (2) of
9 subsection 9 of section 135.110 to the contrary, expansions at
10 headquarter facilities shall each be considered a separate new business
11 facility and each be entitled to the credits as set forth in subsections 9

12 to 14 of section 135.110, if the number of new business facility
13 employees attributed to each such expansion is at least twenty-five and
14 the amount of new business facility investment attributed to each such
15 expansion is at least one million dollars. In any year in which a new
16 business facility is not created, the jobs and investment for that year
17 shall be included in calculating the credits for the most recent new
18 business facility and not an earlier-created new business facility.

19 3. Notwithstanding any provision of law to the contrary, for
20 headquarter facilities, buildings on multiple noncontiguous real
21 properties shall be considered one facility if the buildings are located
22 within the same municipality.

135.567. 1. This section shall be known and may be cited as the
2 "Secondary Mining Use Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Eligible costs", expenses incurred by a taxpayer for the
7 utilization of existing mines for secondary uses including, but not
8 limited to, architectural, engineering, site preparation, advertising, and
9 legal fees;

10 (4) "Existing mine for secondary use", a mine with usable
11 secondary space of one million or more square feet;

12 (5) "Notice of intent", a form developed by the department of
13 economic development, completed by the taxpayer and submitted to the
14 department which states the taxpayer's intent to utilize an existing
15 mine for secondary use;

16 (6) "Tax liability", the tax due under chapters 143, 147, or 148,
17 RSMo, other than taxes withheld under sections 143.191 to 143.265,
18 RSMo;

19 (7) "Taxpayer", a person, firm, a partner in a firm, corporation,
20 or a shareholder in an S corporation doing business in the state of
21 Missouri and subject to the state income tax imposed by the provisions
22 of chapter 143, RSMo, or a corporation subject to the annual
23 corporation franchise tax imposed by the provisions of chapter 147,
24 RSMo, or an insurance company paying an annual tax on its gross
25 premium receipts in this state, or an insurance company organized to
26 do business on a not-for-profit basis, or other financial institution

27 paying taxes to the state of Missouri or any political subdivision of this
28 state under the provisions of chapter 148, RSMo, or an individual
29 subject to the state income tax imposed by the provisions of chapter
30 143, RSMo.

31 3. If any taxpayer incurs eligible costs for the utilization of an
32 existing mine for secondary use, such taxpayer shall receive a tax
33 credit against such taxpayer's Missouri income tax liability in an
34 amount equal to the lesser of one hundred percent of such costs or one
35 hundred thousand dollars, provided the taxpayer has received an
36 approval from the department of economic development. Tax credits
37 issued under this subsection are not refundable, but may be carried
38 forward five years until the credit is fully used. Tax credits issued in
39 accordance with this section may be transferred, sold or assigned by
40 notarized endorsement thereof which names the transferee.

41 4. In no event shall the aggregate amount of all tax credits
42 allowed under this section exceed one million dollars per fiscal year.

43 5. In order to receive tax credits under this section, a taxpayer
44 shall first file a notice of intent with the department of economic
45 development. The department shall issue approval based upon the
46 merit of the application and grant preference to those applications
47 which the department of economic development deems to possess a
48 likelihood of positive economic impact. The department of economic
49 development shall respond within thirty days to a company who
50 provides a notice of intent with either a proposal or a rejection of the
51 notice of intent. Failure to respond on behalf of the department of
52 economic development shall result in the notice of intent being deemed
53 a proposal for the purposes of this section. A taxpayer who is provided
54 a proposal for a project shall be allowed a benefit as provided in this
55 program in the amount and duration provided in this section. A
56 taxpayer shall claim a credit allowed by this section at the time such
57 taxpayer files his or her Missouri income tax return, provided that such
58 return is filed in a timely manner.

59 6. The department may promulgate such rules or regulations as
60 are necessary to administer the provisions of this section. Any rule or
61 portion of a rule, as that term is defined in section 536.010, RSMo, that
62 is created under the authority delegated in this section shall become
63 effective only if it complies with and is subject to all of the provisions

64 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
65 section and chapter 536, RSMo, are nonseverable and if any of the
66 powers vested with the general assembly pursuant to chapter 536,
67 RSMo, to review, to delay the effective date, or to disapprove and annul
68 a rule are subsequently held unconstitutional, then the grant of
69 rulemaking authority and any rule proposed or adopted after August
70 28, 2009, shall be invalid and void.

71 7. The provisions of this section shall apply to all tax years
72 beginning on or after January 1, 2009.

73 8. The provisions of section 23.253, RSMo, of the Missouri sunset
74 act shall not apply to this section.

135.568. 1. This section shall be known and may be cited as the
2 "Business Relocation for Secondary Mine Use Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Eligible costs", expenses incurred by a taxpayer in relocating
7 to an existing mine for use of the mine other than mining;

8 (4) "Existing mine for secondary use", a mine with usable
9 secondary space of one million or more square feet;

10 (5) "Notice of intent", a form developed by the department of
11 economic development, completed by the taxpayer and submitted to the
12 department which states the taxpayer's intent to relocate a business to
13 an existing mine for secondary use;

14 (6) "Tax liability", the tax due under chapters 143, 147, or 148,
15 RSMo, other than taxes withheld under sections 143.191 to 143.265,
16 RSMo;

17 (7) "Taxpayer", a person, firm, a partner in a firm, corporation,
18 or a shareholder in an S corporation doing business in the state of
19 Missouri and subject to the state income tax imposed by the provisions
20 of chapter 143, RSMo, or a corporation subject to the annual
21 corporation franchise tax imposed by the provisions of chapter 147,
22 RSMo, or an insurance company paying an annual tax on its gross
23 premium receipts in this state, or an insurance company organized to
24 do business on a not-for-profit basis, or other financial institution
25 paying taxes to the state of Missouri, or any political subdivision of this
26 state under the provisions of chapter 148, RSMo, or an individual

27 subject to the state income tax imposed by the provisions of chapter
28 143, RSMo.

29 3. If any taxpayer incurs eligible costs for the relocation of a
30 business into an existing mine for purposes other than mining, such
31 taxpayer shall receive a tax credit against such taxpayer's Missouri
32 income tax liability in an amount equal to the lesser of fifty percent of
33 such costs or ten thousand dollars. Tax credits issued under this
34 subsection are not refundable, but may be carried forward five years
35 until used. Tax credits issued in accordance with this section may be
36 transferred, sold or assigned by notarized endorsement thereof which
37 names the transferee.

38 4. In no event shall the aggregate amount of all tax credits
39 allowed under this section exceed one hundred thousand dollars per
40 fiscal year.

41 5. In order to receive tax credits under this section, a taxpayer
42 shall first file a notice of intent with the department of economic
43 development. The department shall issue approval based upon the
44 merit of the application and grant preference to those applications
45 which the department of economic development deems to possess a
46 likelihood of positive economic impact. The department of economic
47 development shall respond within thirty days to a company who
48 provides a notice of intent with either a proposal or a rejection of the
49 notice of intent. Failure to respond on behalf of the department of
50 economic development shall result in the notice of intent being deemed
51 a proposal for the purposes of this section. A taxpayer who is provided
52 a proposal for a project shall be allowed a benefit as provided in this
53 program in the amount and duration provided in this section. A
54 taxpayer shall claim a credit allowed by this section at the time such
55 taxpayer files his or her Missouri income tax return, provided that such
56 return is filed in a timely manner.

57 6. The department may promulgate such rules or regulations as
58 are necessary to administer the provisions of this section. Any rule or
59 portion of a rule, as that term is defined in section 536.010, RSMo, that
60 is created under the authority delegated in this section shall become
61 effective only if it complies with and is subject to all of the provisions
62 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
63 section and chapter 536, RSMo, are nonseverable and if any of the

64 powers vested with the general assembly pursuant to chapter 536,
65 RSMo, to review, to delay the effective date, or to disapprove and annul
66 a rule are subsequently held unconstitutional, then the grant of
67 rulemaking authority and any rule proposed or adopted after August
68 28, 2009, shall be invalid and void.

69 7. The provisions of this section shall apply to all tax years
70 beginning on or after January 1, 2009.

71 8. The provisions of section 23.253, RSMo, of the Missouri sunset
72 act shall not apply to this section.

135.569. 1. This section shall be known and may be cited as the
2 "Abandoned Mine Safety Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Eligible costs", expenses incurred by a taxpayer in
7 implementing safety measures in abandoned mines including but not
8 limited to the purchase of safety equipment and devices, architectural
9 fees, engineering fees, site preparation, and excavation;

10 (4) "Tax liability", the tax due under chapters 143, 147, or 148,
11 RSMo, other than taxes withheld under sections 143.191 to 143.265,
12 RSMo;

13 (5) "Taxpayer", a person, firm, a partner in a firm, corporation,
14 or a shareholder in an S corporation doing business in the state of
15 Missouri and subject to the state income tax imposed by the provisions
16 of chapter 143, RSMo, or a corporation subject to the annual
17 corporation franchise tax imposed by the provisions of chapter 147,
18 RSMo, or an insurance company paying an annual tax on its gross
19 premium receipts in this state, or an insurance company organized to
20 do business on a not-for-profit basis, or other financial institution
21 paying taxes to the state of Missouri or any political subdivision of this
22 state under the provisions of chapter 148, RSMo, or an individual
23 subject to the state income tax imposed by the provisions of chapter
24 143, RSMo.

25 3. If any taxpayer incurs eligible costs for the implementation of
26 safety measures in an abandoned mine, such taxpayer shall receive a
27 tax credit against such taxpayer's Missouri income tax liability in an
28 amount equal to the lesser of fifty percent of such costs or fifty

29 thousand dollars. Tax credits issued under this subsection are not
30 refundable, but may be carried forward five years until used. Tax
31 credits issued in accordance with this section may be transferred, sold
32 or assigned by notarized endorsement thereof which names the
33 transferee.

34 4. In no event shall the aggregate amount of all tax credits
35 allowed under this section exceed five hundred thousand dollars per
36 fiscal year. The tax credits issued under this section will be on a first-
37 come, first-served filing basis.

38 5. A taxpayer shall claim a credit allowed by this section at the
39 time such taxpayer files his or her Missouri income tax return,
40 provided that such return is filed in a timely manner.

41 6. The department may promulgate such rules or regulations as
42 are necessary to administer the provisions of this section. Any rule or
43 portion of a rule, as that term is defined in section 536.010, RSMo, that
44 is created under the authority delegated in this section shall become
45 effective only if it complies with and is subject to all of the provisions
46 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
47 section and chapter 536, RSMo, are nonseverable and if any of the
48 powers vested with the general assembly pursuant to chapter 536,
49 RSMo, to review, to delay the effective date, or to disapprove and annul
50 a rule are subsequently held unconstitutional, then the grant of
51 rulemaking authority and any rule proposed or adopted after August
52 28, 2009, shall be invalid and void.

53 7. The provisions of this section shall apply to all tax years
54 beginning on or after January 1, 2009.

55 8. The provisions of section 23.253, RSMo, of the Missouri sunset
56 act shall not apply to this section.

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
4 qualified equity investment; and

5 (b) The following fraction:

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

9 b. The denominator shall be the total dollar amount of qualified

10 low-income community investments held by the issuer in all states as of the credit
11 allowance date during the applicable tax year;

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

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

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

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

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

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

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

46 considered to be a qualified active low-income community business;

47 (6) "Qualified community development entity", the meaning given such
48 term in Section 45D of the Internal Revenue Code of 1986, as amended; provided
49 that such entity has entered into an allocation agreement with the Community
50 Development Financial Institutions Fund of the U.S. Treasury Department with
51 respect to credits authorized by Section 45D of the Internal Revenue Code of
52 1986, as amended, which includes the state of Missouri within the service area
53 set forth in such allocation agreement;

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

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

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

60 (c) Is designated by the issuer as a qualified equity investment under this
61 subdivision and is certified by the department of economic development as not
62 exceeding the limitation contained in subsection 2 of this section.

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

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

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

77 (10) "Taxpayer", any individual or entity subject to the tax imposed in
78 chapter 143, RSMo, excluding withholding tax imposed in sections 143.191 to
79 143.265, RSMo, or the tax imposed in section 375.916, RSMo, or chapter 147, 148,
80 or 153, RSMo.

81 2. A taxpayer that makes a qualified equity investment earns a vested

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

103 **3. If, during the period beginning with the date a qualified active**
104 **low-income community business receives an investment from a**
105 **community development entity and ending twenty-four months**
106 **thereafter, the department shall receive any application or claim that**
107 **would result in the qualified active low-income community business**
108 **directly or indirectly receiving a benefit from any of the programs**
109 **listed in this subsection that, when added to all other benefits provided**
110 **to such business from the state, would exceed the projected state**
111 **benefit of the project, as determined by the department through a cost-**
112 **benefit analysis, such application or claim shall be denied by the**
113 **department. The programs subject to this section shall be limited to:**

114 **(1) The real property tax increment allocation redevelopment**
115 **act, sections 99.800 to 99.865, RSMo;**

116 **(2) The historic preservation tax credit program, sections 253.545**
117 **to 253.561, RSMo; and**

118 **(3) The brownfield redevelopment program, sections 447.700 to**
119 **447.718, RSMo.**

120 4. The issuer of the qualified equity investment shall certify to the
121 department of economic development the anticipated dollar amount of such
122 investments to be made in this state during the first twelve-month period
123 following the initial credit allowance date. If on the second credit allowance date,
124 the actual dollar amount of such investments is different than the amount
125 estimated, the department of economic development shall adjust the credits
126 arising on the second allowance date to account for such difference.

127 **[4.] 5.** The department of economic development shall recapture the tax
128 credit allowed under this section with respect to such qualified equity investment
129 under this section if:

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

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

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

139 **[5.] 6.** The department of economic development shall promulgate rules
140 to implement the provisions of this section, including recapture provisions on a
141 scaled proportional basis, and to administer the allocation of tax credits issued
142 for qualified equity investments, which shall be conducted on a first-come,
143 first-serve basis. Any rule or portion of a rule, as that term is defined in section
144 536.010, RSMo, that is created under the authority delegated in this section shall
145 become effective only if it complies with and is subject to all of the provisions of
146 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
147 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
148 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
149 date, or to disapprove and annul a rule are subsequently held unconstitutional,
150 then the grant of rulemaking authority and any rule proposed or adopted after
151 September 4, 2007, shall be invalid and void.

152 **[6.] 7.** For fiscal years following fiscal year **[2010] 2012**, qualified equity
153 investments shall not be made under this section unless reauthorization is made

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

169 **[7.] 8.** Under section 23.253, RSMo, of the Missouri sunset act:

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

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

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

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

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known
2 and may be cited as the "Tax Credit Accountability Act of 2004".

3 2. As used in sections 135.800 to 135.830, the following terms mean:

4 (1) "Administering agency", the state agency or department charged with
5 administering a particular tax credit program, as set forth by the program's
6 enacting statute; where no department or agency is set forth, the department of
7 revenue;

8 (2) "Agricultural tax credits", the agricultural product utilization
9 contributor tax credit created pursuant to section 348.430, RSMo, the new
10 generation cooperative incentive tax credit created pursuant to section 348.432,
11 RSMo, the family farm breeding livestock loan tax credit created under section
12 348.505, RSMo, the qualified beef tax credit created under section 135.679, and
13 the wine and grape production tax credit created pursuant to section 135.700;

14 (3) "All tax credit programs", the tax credit programs included in the
15 definitions of agricultural tax credits, business recruitment tax credits,
16 community development tax credits, domestic and social tax credits,
17 entrepreneurial tax credits, environmental tax credits, housing tax credits,
18 redevelopment tax credits, and training and educational tax credits;

19 (4) "Business recruitment tax credits", the business facility tax credit
20 created pursuant to sections 135.110 to 135.150 and section 135.258, the
21 enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the
22 business use incentives for large-scale development programs created pursuant
23 to sections 100.700 to 100.850, RSMo, the development tax credits created
24 pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax
25 credit created pursuant to section 135.535, [and] the film production tax credit
26 created pursuant to section 135.750, **the enhanced enterprise zone created**
27 **under sections 135.950 to 135.975, and the Missouri quality jobs**
28 **program created under sections 620.1875 to 620.1900, RSMo;**

29 (5) "Community development tax credits", the neighborhood assistance tax
30 credit created pursuant to sections 32.100 to 32.125, RSMo, the family
31 development account tax credit created pursuant to sections 208.750 to 208.775,
32 RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo,
33 and the transportation development tax credit created pursuant to section
34 135.545;

35 (6) "Domestic and social tax credits", the youth opportunities tax credit
36 created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the
37 shelter for victims of domestic violence created pursuant to section 135.550, the
38 senior citizen or disabled person property tax credit created pursuant to sections
39 135.010 to 135.035, the special needs adoption tax credit created pursuant to
40 sections 135.325 to 135.339, the maternity home tax credit created pursuant to
41 section 135.600, and the shared care tax credit created pursuant to section
42 660.055, RSMo;

43 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant

44 to sections 135.400 to 135.429, the certified capital company tax credit created
45 pursuant to sections 135.500 to 135.529, the seed capital tax credit created
46 pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax
47 credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax
48 credit created pursuant to section 620.1039, RSMo, the small business incubator
49 tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit
50 created pursuant to section 135.766, and the new generation cooperative tax
51 credit created pursuant to sections 32.105 to 32.125, RSMo;

52 (8) "Environmental tax credits", the charcoal producer tax credit created
53 pursuant to section 135.313, the wood energy tax credit created pursuant to
54 sections 135.300 to 135.311;

55 (9) "Housing tax credits", the neighborhood preservation tax credit created
56 pursuant to sections 135.475 to 135.487, the low-income housing tax credit
57 created pursuant to sections 135.350 to 135.363, and the affordable housing tax
58 credit created pursuant to sections 32.105 to 32.125, RSMo;

59 (10) "Recipient", the individual or entity who is the original applicant for
60 and who receives proceeds from a tax credit program directly from the
61 administering agency, the person or entity responsible for the reporting
62 requirements established in section 135.805;

63 (11) "Redevelopment tax credits", the historic preservation tax credit
64 created pursuant to sections 253.545 to 253.561, RSMo, the brownfield
65 redevelopment program tax credit created pursuant to sections 447.700 to
66 447.718, RSMo, the community development corporations tax credit created
67 pursuant to sections 135.400 to 135.430, the infrastructure tax credit created
68 pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit
69 created pursuant to section 100.297, RSMo, [and] the disabled access tax credit
70 created pursuant to section 135.490, **the new markets tax credit program**
71 **created under section 135.680, and the distressed areas land assemblage**
72 **tax credit created under section 99.1205, RSMo;**

73 (12) "Training and educational tax credits", the community college new
74 jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo.

135.802. 1. Beginning January 1, 2005, all applications for all tax credit
2 programs shall include, in addition to any requirements provided by the enacting
3 statutes of a particular credit program, the following information to be submitted
4 to the department administering the tax credit:

5 (1) Name, address, and phone number of the applicant or applicants, and

6 the name, address, and phone number of a contact person or agent for the
7 applicant or applicants;

8 (2) Taxpayer type, whether individual, corporation, nonprofit or other, and
9 taxpayer identification number, if applicable;

10 (3) Standard industry code, if applicable; [and]

11 (4) Program name and type of tax credit, including the identity of any
12 other state or federal program being utilized for the same activity or project; **and**

13 **(5) Number of estimated jobs to be created, as a result of the tax**
14 **credits, separated by construction, part-time permanent, and full-time**
15 **permanent.**

16 2. In addition to the information required by subsection 1 of this section,
17 an applicant for a community development tax credit shall also provide
18 information detailing the title and location of the corresponding project, the
19 estimated time period for completion of the project, and all geographic areas
20 impacted by the project.

21 3. In addition to the information required by subsection 1 of this section,
22 an applicant for a redevelopment tax credit shall also provide information
23 detailing the location and legal description of the property, age of the structure,
24 if applicable, whether the property is residential, commercial, or governmental,
25 and the projected project cost, labor cost, and projected date of completion. Where
26 a redevelopment tax credit applicant is required to submit contemporaneously a
27 federal application for a similar credit on the same underlying project, the
28 submission of a copy of the federal application shall be sufficient to meet the
29 requirements of this subsection.

30 4. In addition to the information required by subsection 1 of this section,
31 an applicant for a business recruitment tax credit shall also provide information
32 detailing the category of business by size, the address of the business
33 headquarters and all offices located within this state, the number of employees
34 at the time of the application, the number of employees projected to increase as
35 a result of the completion of the project, and the estimated project cost.

36 5. In addition to the information required by subsection 1 of this section,
37 an applicant for a training and educational tax credit shall also provide
38 information detailing the name and address of the educational institution to be
39 used, the average salary of workers to be served, the estimated project cost, and
40 the number of employees and number of students to be served.

41 6. In addition to the information required by subsection 1 of this section,

42 an applicant for a housing tax credit also shall provide information detailing the
43 address, legal description, and fair market value of the property, and the
44 projected labor cost and projected completion date of the project. Where a
45 housing tax credit applicant is required to submit contemporaneously a federal
46 application for a similar credit on the same underlying project, the submission of
47 a copy of the federal application shall be sufficient to meet the requirements of
48 this subsection. For the purposes of this subsection, "fair market value" means
49 the value as of the purchase of the property or the most recent assessment,
50 whichever is more recent.

51 7. In addition to the information required by subsection 1 of this section,
52 an applicant for an entrepreneurial tax credit shall also provide information
53 detailing the amount of investment and the names of the project, fund, and
54 research project.

55 8. In addition to the information required by subsection 1 of this section,
56 an applicant for an agricultural tax credit shall also provide information detailing
57 the type of agricultural commodity, the amount of contribution, the type of
58 equipment purchased, and the name and description of the facility.

59 9. In addition to the information required by subsection 1 of this section,
60 an applicant for an environmental tax credit shall also include information
61 detailing the type of equipment, if applicable, purchased and any environmental
62 impact statement, if required by state or federal law.

63 10. An administering agency may, by rule, require additional information
64 to be submitted by an applicant. Any rule or portion of a rule, as that term is
65 defined in section 536.010, RSMo, that is created pursuant to the authority
66 delegated in this section shall become effective only if it complies with and is
67 subject to all of the provisions of chapter 536, RSMo, and if applicable, section
68 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any
69 of the powers vested with the general assembly pursuant to chapter 536, RSMo,
70 to review, to delay the effective date or to disapprove and annul a rule are
71 subsequently held unconstitutional, then the grant of rulemaking authority and
72 any rule proposed or adopted after August 28, 2004, shall be void.

73 11. Where the sole requirement for receiving a tax credit in the enabling
74 legislation of any tax credit is an obligatory assessment upon a taxpayer or a
75 monetary contribution to a particular group or entity, the application
76 requirements provided in this section shall apply to the recipient of such
77 assessment or contribution and shall not apply to the assessed nor the

78 contributor.

79 12. It shall be the duty of each administering agency to provide
80 information to every applicant, at some time prior to authorization of an
81 applicant's tax credit application, wherein the requirements of this section, the
82 annual reporting requirements of section 135.805, and the penalty provisions of
83 section 135.810 are described in detail.

 135.805. 1. **A recipient of any tax credit programs shall annually,
2 for a period of three years following the issuance of the tax credits,
3 provide to the administering agency the actual number of jobs created
4 as a result of the tax credits, at the location on the last day of the
5 annual reporting period, separated by part-time permanent and full-
6 time permanent.**

7 2. A recipient of a community development tax credit shall annually, for
8 a period of three years following issuance of tax credits, provide to the
9 administering agency information confirming the title and location of the
10 corresponding project, the estimated or actual time period for completion of the
11 project, and all geographic areas impacted by the project.

12 [2.] 3. A recipient of a redevelopment tax credit shall annually, for a
13 period of three years following issuance of tax credits, provide to the
14 administering agency information confirming whether the property is used for
15 residential, commercial, or governmental purposes, and the projected or actual
16 project cost, labor cost, and date of completion.

17 [3.] 4. A recipient of a business recruitment tax credit shall annually, for
18 a period of three years following issuance of tax credits, provide to the
19 administering agency information confirming the category of business by size, the
20 address of the business headquarters and all offices located within this state, the
21 number of employees at the time of the annual update, an updated estimate of
22 the number of employees projected to increase as a result of the completion of the
23 project, and the estimated or actual project cost.

24 [4.] 5. A recipient of a training and educational tax credit shall annually,
25 for a period of three years following issuance of tax credits, provide to the
26 administering agency information confirming the name and address of the
27 educational institution used, the average salary of workers served as of such
28 annual update, the estimated or actual project cost, and the number of employees
29 and number of students served as of such annual update.

30 [5.] 6. A recipient of a housing tax credit shall annually, for a period of

31 three years following issuance of tax credits, provide to the administering agency
32 information confirming the address of the property, the fair market value of the
33 property, as defined in subsection 6 of section 135.802, and the projected or actual
34 labor cost and completion date of the project.

35 [6.] 7. A recipient of an entrepreneurial tax credit shall annually, for a
36 period of three years following issuance of tax credits, provide to the
37 administering agency information confirming the amount of investment and the
38 names of the project, fund, and research project.

39 [7.] 8. A recipient of an agricultural tax credit shall annually, for a
40 period of three years following issuance of tax credits, provide to the
41 administering agency information confirming the type of agricultural commodity,
42 the amount of contribution, the type of equipment purchased, and the name and
43 description of the facility, except that if the agricultural credit is issued as a
44 result of a producer member investing in a new generation processing entity or
45 new generation cooperative then the new generation processing entity or new
46 generation cooperative, and not the recipient, shall annually, for a period of three
47 years following issuance of tax credits, provide to the administering agency
48 information confirming the type of agricultural commodity, the amount of
49 contribution, the type of equipment purchased, and the name and description of
50 the facility.

51 [8.] 9. A recipient of an environmental tax credit shall annually, for a
52 period of three years following issuance of tax credits, provide to the
53 administering agency information detailing any change to the type of equipment
54 purchased, if applicable, and any change to any environmental impact statement,
55 if such statement is required by state or federal law.

56 [9.] 10. The reporting requirements established in this section shall be
57 due annually on June thirtieth of each year. No person or entity shall be
58 required to make an annual report until at least one year after the credit
59 issuance date.

60 [10.] 11. Where the sole requirement for receiving a tax credit in the
61 enabling legislation of any tax credit is an obligatory assessment upon a taxpayer
62 or a monetary contribution to a particular group or entity, the reporting
63 requirements provided in this section shall apply to the recipient of such
64 assessment or contribution and shall not apply to the assessed nor the
65 contributor.

66 [11.] 12. Where the enacting statutes of a particular tax credit program

67 or the rules of a particular administering agency require reporting of information
68 that includes the information required in sections 135.802 to 135.810, upon
69 reporting of the required information, the applicant shall be deemed to be in
70 compliance with the requirements of sections 135.802 to 135.810. The
71 administering agency shall notify in writing the department of economic
72 development of the administering agency's status as custodian of any particular
73 tax credit program and that all records pertaining to the program are available
74 at the administering agency's office for review by the department of economic
75 development.

76 [12.] 13. The provisions of subsections 1 to 10 of this section shall apply
77 beginning on June 30, 2005.

78 [13.] 14. Notwithstanding provisions of law to the contrary, every agency
79 of this state charged with administering a tax credit program authorized under
80 the laws of this state shall make available for public inspection the name of each
81 tax credit recipient and the amount of tax credits issued to each such recipient.

135.1255. 1. As used in this section, the following terms mean:

- 2 (1) "Department", the department of revenue;
3 (2) "Home", a new or existing residential property purchased for
4 use as a primary residence with a purchase price equal to or less than
5 the Federal Housing Administration's insured traditional forward loan
6 limit for the county in which the property is located;
7 (3) "State tax liability", any liability incurred by a taxpayer
8 pursuant to the provisions of chapter 143, RSMo, excluding sections
9 143.191 to 143.265, RSMo, and related provisions;
10 (4) "Taxpayer", any person filing a single, head of household, or
11 married filing single tax return or any married couple filing a
12 combined return.

13 2. For the tax year beginning on or after January 1, 2009, a
14 taxpayer shall be allowed to claim a tax credit against the taxpayer's
15 state tax liability in an amount equal to one thousand dollars for the
16 purchase of a home if such purchase was made between the effective
17 date of this section, and December 31, 2009. For purposes of this
18 section, the date of purchase shall be the date on which transfer of title
19 occurs.

20 3. To the extent the amount of the tax credit issued under this
21 section exceeds a taxpayer's state tax liability, such excess shall

22 constitute an overpayment of tax and result in a refund to the taxpayer.
23 In the case of multiple ownership of a home, the tax credit shall be
24 divided and allocated to each taxpayer with an ownership interest
25 based upon the ownership interest held in the property. In no event
26 shall more than one thousand dollars in tax credits be issued for the
27 purchase of a home.

28 4. The cumulative amount of tax credits which may be issued
29 under this section shall not exceed four million dollars. Tax credits
30 authorized under this section shall be issued on a first-to-file, first-to-
31 receive basis. In order to claim the credit authorized under this
32 section, a taxpayer shall, no earlier than June 1, 2009, apply to the
33 department on a form prescribed by the director of the department of
34 revenue and provide such information as the director deems necessary
35 to determine eligibility for tax credit issuance.

36 5. Not less than one hundred and twenty days from the effective
37 date of this act, the department shall promulgate rules necessary for
38 the implementation of the provisions of this section. Any rule or
39 portion of a rule, as that term is defined in section 536.010, RSMo, that
40 is created under the authority delegated in this section shall become
41 effective only if it complies with and is subject to all of the provisions
42 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
43 section and chapter 536, RSMo, are nonseverable and if any of the
44 powers vested with the general assembly pursuant to chapter 536,
45 RSMo, to review, to delay the effective date, or to disapprove and annul
46 a rule are subsequently held unconstitutional, then the grant of
47 rulemaking authority and any rule proposed or adopted after August
48 28, 2009, shall be invalid and void.

49 6. The provisions of this section shall automatically expire
50 December 31, 2010.

144.059. 1. For purposes of this section, the following terms shall
2 mean:

3 (1) "Department", the department of revenue;

4 (2) "NAICS", shall have the same meaning as is provided under
5 section 620.1878, RSMo;

6 (3) "Qualified business", any business, which after the effective
7 date of this act, commences operations in a facility, not used for
8 mining, contained within a portion of an underground mine, provided

9 such facility is utilized for:

10 (a) Data processing, data hosting, and related services (NAICS
11 518210); or

12 (b) Internet publishing and broadcasting, and web search portals
13 (NAICS 519130);

14 (4) "Underground mine", any underground mine with no less than
15 five hundred thousand square feet of usable space. The term
16 "underground mine" shall include any mine which is actively engaged
17 in mining, provided the portion of such mine in which the facility of
18 the qualified business is located is not used for mining purposes.

19 2. In addition to the exemptions granted under this chapter,
20 there shall also be specifically exempted from state and local sales and
21 use taxes defined, levied, or calculated under section 32.085, RSMo,
22 sections 144.010 to 144.525, sections 144.600 to 144.761, or section
23 238.235, RSMo, all electrical energy, gas, whether natural, artificial, or
24 propane, water, and other utilities including telecommunication
25 services, and machinery and equipment which is used or consumed by
26 any person, firm, corporation, or partnership operating a qualified
27 business in an underground mine.

28 3. For each qualified business which receives the exemption
29 provided under this section, such exemption shall terminate twenty
30 years from the date such business is approved by the department for
31 such exemption. Businesses which utilize the exemption provided
32 under this section shall not be allowed to simultaneously receive
33 benefits under the provisions of sections 620.1875 to 620.1890, RSMo.

34 4. In order to be eligible for the exemption provided under this
35 section, a business shall make application to the department for
36 certification as a qualified business. Upon approval of an application
37 for certification as a qualified business, the department shall provide
38 such business an exemption certificate clearly stating the expiration
39 date for the exemption as provided under this section.

40 5. The department shall promulgate any rules or regulations
41 needed to implement the provisions of this section. Any rule or portion
42 of a rule, as that term is defined in section 536.010, RSMo, that is
43 created under the authority delegated in this section shall become
44 effective only if it complies with and is subject to all of the provisions
45 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This

46 **section and chapter 536, RSMo, are nonseverable and if any of the**
47 **powers vested with the general assembly pursuant to chapter 536,**
48 **RSMo, to review, to delay the effective date, or to disapprove and annul**
49 **a rule are subsequently held unconstitutional, then the grant of**
50 **rulemaking authority and any rule proposed or adopted after August**
51 **28, 2009, shall be invalid and void.**

253.550. Any person, firm, partnership, trust, estate, or corporation
2 incurring costs and expenses for the rehabilitation of eligible property, which is
3 a certified historic structure or structure in a certified historic district, shall be
4 entitled to a credit against the taxes imposed pursuant to chapters 143 and 148,
5 RSMo, except for sections 143.191 to 143.265, RSMo, on that person or entity in
6 an amount equal to **[twenty-five] twenty** percent of the total costs and expenses
7 of rehabilitation incurred after January 1, 1998, which shall include, but not be
8 limited to, qualified rehabilitation expenditures as defined under section
9 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related
10 regulations thereunder, provided the rehabilitation costs associated with
11 rehabilitation and the expenses exceed fifty percent of the total basis in the
12 property and the rehabilitation meets standards consistent with the standards
13 of the Secretary of the United States Department of the Interior for rehabilitation
14 as determined by the state historic preservation officer of the Missouri
15 department of natural resources.

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

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

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

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

11 **(4) "Investor":**

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

14 **(b) Any partnership, corporation, trust, limited liability**
15 **company, or not-for-profit entity that was established and is operated**

16 for the purpose of making preseed and seed stage investments in start-
17 up companies, and is approved by the department;

18 (5) "Qualified Missouri business", an independently owned and
19 operated business which is headquartered and located in this state and
20 which is in need of venture capital. Such business shall have no more
21 than two hundred employees, eighty percent of which are employed in
22 this state. Such business shall be involved in commerce for the purpose
23 of manufacturing, processing, or assembling products, conducting
24 research and development, or providing services in interstate
25 commerce but excluding retail, real estate, real estate development,
26 insurance, and professional services provided by accountants, lawyers,
27 or physicians. At the time approval is sought, such business shall be a
28 small business concern that meets the requirements of the United
29 States Small Business Administration's qualification size standards for
30 its venture capital program, as defined in the Small Business
31 Investment Act of 1958, as amended, and rules promulgated in 13 CFR
32 121.301(c), as amended;

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

37 (a) A general or limited partnership interest;

38 (b) Common stock;

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

42 (d) Convertible debt;

43 (7) "Rural area", any city, town, or village with fewer than fifteen
44 thousand inhabitants and located in any county that is not part of a
45 standard metropolitan statistical area as defined by the United States
46 Department of Commerce or its successor agency. However, any such
47 city, town, or village located in any county so defined as a standard
48 metropolitan statistical area may be designated a rural area by the
49 department if:

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

52 (b) The county has only one city within the county having a

53 population of more than fifteen thousand and is classified as a standard
54 metropolitan statistical area; and

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

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

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

15 3. (1) Before an investor may be entitled to receive tax credits,
16 as authorized by this section, such investor shall have made an equity
17 investment in a qualified security of a qualified Missouri
18 business. This business shall have been approved by the department
19 as a qualified Missouri business prior to the date on which the cash
20 investment was made. To be designated as a qualified Missouri
21 business, a business shall make application to the department in
22 accordance with the provisions of this section. Such application shall
23 be in form and substance as required by the department but shall
24 include at least the following:

25 (a) The name of the business and certified copies of the
26 organizational documents of the business;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65 e. Insurance;

66 f. Construction or construction management or contracting;

67 g. Business consulting or brokerage;

68 h. Any business engaged primarily as a passive business, having
69 irregular or noncontinuous operations, or deriving substantially all of
70 the income of the business from passive investments that generate

71 interest, dividends, royalties, or capital gains, or any business
72 arrangements the effect of which is to immunize an investor from risk
73 of loss;

74 i. Any Missouri certified capital formation company;

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

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

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

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

91 (4) A qualified Missouri business shall have the burden of proof
92 to demonstrate to the department the qualifications of the business
93 under this section and shall have the obligation to notify the
94 department in a timely manner of any changes in the qualifications of
95 the business or in the eligibility of investors to claim a tax credit for
96 cash investment in a qualified security.

97 4. The designation of a business as a qualified Missouri business
98 shall be made by the department, and such designation shall be
99 renewed annually. A business shall be so designated if the department
100 determines, based upon the application submitted by the business and
101 any additional investigation the staff of the department shall make,
102 that the following criteria have been or shall be satisfied:

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

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

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

110 (4) The business has an innovative and proprietary technology,
111 product, and service;

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

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

117 (7) Binding commitments have been made by the business to the
118 department for adequate reporting of financial data, including a
119 requirement for an annual report, or, if required by the department, an
120 annual audit of the financial and operational records of the business,
121 the right of access to the financial records of the business, and the
122 right of the department to record and publish normal and customary
123 data and information related to the issuance of tax credits that are not
124 otherwise determined to be trade or business secrets;

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

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

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

138 8. A qualified Missouri business for which credits have been
139 issued that, within seven years of receiving tax credits under this
140 section relocates its headquarters out of Missouri, ceases to employ
141 eighty percent of its employees in Missouri, alters the principal nature
142 of its operations, or divests itself of key assets shall upon demand by
143 the department pay the state of Missouri an amount equal to the
144 amount of credits issued to its contributors.

145 **9. In addition to reports by the businesses to the department, the**
146 **department shall also provide in its annual report information on the**
147 **marketing and use of the investor tax credits. This report shall include**
148 **the following:**

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

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

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

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

 620.014. Records and documents submitted to the department of economic
2 development, to the Missouri economic development, export and infrastructure
3 board, or to a regional planning commission formed pursuant to chapter 251,
4 RSMo, relating to financial investments in a business, or sales projections or
5 other business plan information which may endanger the competitiveness of a
6 business, **or records pertaining to a business prospect with which the**
7 **department, board, or commission is currently negotiating,** may be
8 deemed a "closed record" as such term is defined in section 610.010, RSMo.

 620.017. 1. The department of economic development shall require that
2 any contract or agreement with any party which provides grants, loans, tax
3 credits, other financial assistance or services, to which a monetary value can be
4 assigned, to such party through a program administered by the department of
5 economic development shall:

6 **(1) Specify that such party shall use the proceeds of any such grant, loan,**
7 **other financial assistance or the benefits of any services solely as required by that**
8 **program through which the loan, grant, financial assistance or service is**
9 **provided;**

10 **(2) Describe the economic incentive, including the amount and type of**
11 **economic incentive;**

- 12 (3) State why the economic incentive is needed;
- 13 (4) State the public purpose or purposes for the economic incentive;
- 14 (5) State the goals for the economic incentive and the time periods by
15 which these goals will be met;
- 16 (6) Describe the financial obligation of the party if the requirements of the
17 contract or agreement are not met;
- 18 (7) State the name and address of the parent corporation of the recipient,
19 if any; [and]
- 20 (8) State all other financial assistance known by the department that was
21 received by the recipient for the same project; **and**
- 22 **(9) Require a summary of jobs created to be reported annually**
23 **as required under the provisions of subsection 1 of section 135.805,**
24 **RSMo.**
- 25 2. In addition, such a contract or agreement shall require that any
26 recipient which uses the proceeds or services for any other purpose or fails to
27 comply with any requirement established by the program through which the loan,
28 grant, tax credit, financial assistance or service is provided shall return any
29 remaining proceeds to the department and shall also require that any proceeds
30 expended or the value of any incentives or services to which a monetary value can
31 be assigned received by the party shall be repaid to the department as required
32 by the contract.
- 33 3. The contracts or agreements required by this section shall be governed
34 by and enforceable through the applicable provisions of contract law.
- 35 4. The department of economic development shall prepare an annual
36 report regarding all economic incentives administered in the previous calendar
37 year and submit such report to the governor, the president pro tem of the senate,
38 and the speaker of the house of representatives by July first of each year. The
39 annual report shall be made available to the public and shall include, but not be
40 limited to, the following elements:
- 41 (1) The total amount of economic incentives awarded by industry;
- 42 (2) The distribution of economic incentives by type and public purpose;
- 43 (3) The distribution of economic incentives by the size of all business
44 recipients; [and]
- 45 (4) A reporting of any legal action taken by the department or the state
46 with any parties which have failed to comply with a contract or agreement
47 pursuant to this section; **and**

48 **(5) A summary of jobs created as reported annually under the**
49 **provisions of subsection 1 of section 135.805, RSMo.**

620.472. 1. The department shall establish a new or expanding industry
2 training program, the purpose of which is to provide assistance for new or
3 expanding industries for the training, retraining or upgrading of the skills of
4 potential employees. **Training may include preemployment training, and**
5 **services may include analysis of the specified training needs for such**
6 **company, development of training plans, and provision of training**
7 **through qualified training staff. Such program may fund in-plant**
8 **training analysis, curriculum development, assessment and preselection**
9 **tools, publicity for the program, instructional services, rental of**
10 **instructional facilities with necessary utilities, access to equipment and**
11 **supplies, other necessary services, overall program direction, and an**
12 **adequate staff to carry out an effective training program. In addition,**
13 **the program may fund a coordinated transportation program for**
14 **trainings if the training can be more effectively provided outside the**
15 **community where the jobs are to be located. In-plant training analysis**
16 **shall include fees for professionals and necessary travel and**
17 **expenses.** Such program may also provide assistance in the locating of skilled
18 employees and in the locating of additional sources of job training funds. Such
19 program shall be operated with appropriations made by the general assembly
20 from the fund.

21 2. Assistance under the new or expanding industry training program may
22 be available only for industries [whose] **who certify to the department that**
23 **their** investments relate directly to a projected increase in employment which
24 will result in the need for training of newly hired employees or the retraining or
25 upgrading of the skills of existing employees for new jobs created by the new or
26 expanding industry's investment. **Any assistance provided that does not**
27 **result in an increase in employment within one year from the date the**
28 **department provides such assistance shall be subject to the clawback**
29 **provisions of section 620.017.**

30 3. The department shall issue rules and regulations governing the
31 awarding of funds administered through the new or expanding industry training
32 program. When promulgating these rules and regulations, the department shall
33 consider such factors as the potential number of new permanent jobs to be
34 created, the amount of private sector investment in new facilities and equipment,

35 the significance of state funding to the industry's decision to locate or expand in
36 Missouri, the economic need of the affected community, and the importance of the
37 industry to the economic development of Missouri.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

73 (6) Set rental and service fees;

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

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

81 7. The department:

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

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

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

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

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

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

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

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

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

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

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

106 participant of each incubator;

107 (6) The occupancy rate of each incubator;

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

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

120 11. For any taxable year beginning after December 31, 1989, a taxpayer,
121 including any charitable organization which is exempt from federal income tax
122 and whose Missouri unrelated business taxable income, if any, would be subject
123 to the state income tax imposed under chapter 143, RSMo, shall be entitled to a
124 tax credit against any tax otherwise due under the provisions of chapter 143,
125 RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax
126 imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of
127 any amount contributed by the taxpayer to the Missouri small business
128 incubators fund during the taxpayer's tax year or any contribution by the
129 taxpayer to a local sponsor after the local sponsor's application has been accepted
130 and approved by the department. The tax credit allowed by this subsection shall
131 be claimed by the taxpayer at the time he files his return and shall be applied
132 against the income tax liability imposed by chapter 143, RSMo, or chapter 147,
133 RSMo, or chapter 148, RSMo, after all other credits provided by law have been
134 applied. That portion of earned tax credits which exceeds the taxpayer's tax
135 liability may be carried forward for up to five years. The aggregate of all tax
136 credits authorized under this section shall not exceed [five hundred thousand]
137 **one million** dollars in any taxable year.

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

142 assignor for the purpose of this subsection, may sell, assign, exchange or
143 otherwise transfer earned tax credits:

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

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

148 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose
149 of this subsection, may use the acquired credits to offset up to one hundred
150 percent of the tax liabilities otherwise imposed by chapter 143, RSMo, or chapter
151 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections
152 143.191 to 143.265, RSMo. Unused credits in the hands of the assignee may be
153 carried forward for up to five years. The assignor shall enter into a written
154 agreement with the assignee establishing the terms and conditions of the
155 agreement and shall perfect such transfer by notifying the department of
156 economic development in writing within thirty calendar days following the
157 effective day of the transfer and shall provide any information as may be required
158 by the department of economic development to administer and carry out the
159 provisions of this section. The director of the department of economic
160 development shall prescribe the method for submitting applications for claiming
161 the tax credit allowed under subsection 11 of this section and shall, if the
162 application is approved, certify to the director of revenue that the taxpayer
163 claiming the credit has satisfied all the requirements specified in this section and
164 is eligible to claim the credit.

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

10 2. For tax years beginning on or after January 1, 2001, the director of the
11 department of economic development [may] **shall** authorize a taxpayer to receive
12 a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or
13 chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191

14 to 143.265, RSMo, in an amount up to ~~[six and one-half]~~ **ten** percent of the
15 ~~[excess]~~ **amount** of the taxpayer's qualified research expenses, as certified by the
16 director of the department of economic development, within this state during the
17 taxable year ~~[over the average of the taxpayer's qualified research expenses~~
18 ~~within this state over the immediately preceding three taxable years; except that,~~
19 ~~no tax credit shall be allowed on that portion of the taxpayer's qualified research~~
20 ~~expenses incurred within this state during the taxable year in which the credit~~
21 ~~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~~
23 ~~preceding three taxable years], or in the case of qualified research~~
24 **expenses incurred in a distressed community as defined under section**
25 **135.530, RSMo, in an amount equal to twenty-five percent of the amount**
26 **of the qualified research expenses. In order to receive tax credits**
27 **provided under this section, a taxpayer shall:**

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

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

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

46 4. Certificates of tax credit issued pursuant to this section may be
47 transferred, sold or assigned by filing a notarized endorsement thereof with the
48 department which names the transferee and the amount of tax credit
49 transferred. The director of economic development may allow a taxpayer to

50 transfer, sell or assign up to forty percent of the amount of the certificates of tax
51 credit issued to and not claimed by such taxpayer pursuant to this section during
52 any tax year commencing on or after January 1, [1996] **2010**, and ending not
53 later than December 31, [1999] **2016**. Such taxpayer shall file, by December 31,
54 [2001] **2018**, an application with the department which names the transferee, the
55 amount of tax credit desired to be transferred, and a certification that the funds
56 received by the applicant as a result of the transfer, sale or assignment of the tax
57 credit shall be expended within three years at the state university for the sole
58 purpose of conducting research activities agreed upon by the department, the
59 taxpayer and the state university. Failure to expend such funds in the manner
60 prescribed pursuant to this section shall cause the applicant to be subject to the
61 provisions of section 620.017.

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

74 6. The aggregate of all tax credits authorized pursuant to this section
75 shall not exceed [nine] **three** million [seven hundred thousand] dollars in any
76 **calendar year and at least two million dollars of the amount authorized**
77 **by this section and certified by the department shall be for qualified**
78 **research expenses incurred in a distressed community. Authorization**
79 **for all or a part of the three million dollars in annual tax credits shall**
80 **not restrict the eligibility of a taxpayer to receive remaining tax credits**
81 **for other qualified research expenses incurred in a distressed area.**

82 7. [For all tax years beginning on or after January 1, 2005, no tax credits
83 shall be approved, awarded, or issued to any person or entity claiming any tax
84 credit under this section.] **No more than five hundred thousand dollars in**
85 **tax credits shall be issued annually under this section to any taxpayer**

86 for qualified research expenses, unless such research expenses are
87 incurred by a taxpayer in a distressed area, in which case no more than
88 one million dollars in tax credits may be issued to such taxpayer
89 annually. No taxpayer shall simultaneously receive tax credits under
90 the provisions of this section and section 620.1041.

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

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

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

30 (2) Five percent of the amount of increase in qualified research
31 expenses paid or incurred during the taxable year which exceeds two
32 million five hundred thousand dollars but does not exceed five million

33 dollars; and

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

37 Provisions of this subsection to the contrary notwithstanding, no tax
38 credit shall be allowed on that portion of the taxpayer's qualified
39 research expenses incurred within this state during the taxable year in
40 which the credit is being claimed, to the extent such expenses exceed
41 two hundred percent of the taxpayer's average qualified research
42 expenses incurred during the immediately preceding three taxable
43 years.

44 3. The director of economic development shall prescribe the
45 manner in which the tax credit may be applied for. The tax credit
46 authorized by this section may be claimed by the taxpayer to offset the
47 tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that
48 becomes due in the tax year during which such qualified research
49 expenses were incurred. Where the amount of the credit exceeds the
50 tax liability, the difference between the credit and the tax liability may
51 only be carried forward for the next five succeeding taxable years or
52 until the full credit has been claimed, whichever first occurs. The
53 application for tax credits authorized by the director pursuant to
54 subsection 2 of this section shall be made no earlier than January first
55 and no later than July first of the calendar year immediately following
56 the calendar year in which the taxpayer's tax period for which the
57 credits are being claimed ended. The director shall act on any such
58 application for tax credits no sooner than August first but no later than
59 August fifteenth of each year for applications filed in that calendar
60 year.

61 4. Certificates of tax credit issued pursuant to this section may
62 be transferred, sold, or assigned by filing a notarized endorsement
63 thereof with the department which names the transferee and the
64 amount of tax credit transferred. The director of economic
65 development may allow a taxpayer to transfer, sell, or assign up to
66 forty percent of the amount of the certificates of tax credit issued to
67 and not claimed by such taxpayer pursuant to this section during any
68 tax year commencing on or after January 1, 2010, and ending not later
69 than December 31, 2016. Such taxpayer shall file, by December 31, 2018,

70 an application with the department which names the transferee, the
71 amount of tax credit desired to be transferred, and a certification that
72 the funds received by the applicant as a result of the transfer, sale, or
73 assignment of the tax credit shall be expended within three years at the
74 state university for the sole purpose of conducting research activities
75 agreed upon by the department, the taxpayer, and the state
76 university. Failure to expend such funds in the manner prescribed
77 pursuant to this section shall cause the applicant to be subject to the
78 provisions of section 620.017.

79 5. No rule or portion of a rule promulgated under the authority
80 of this section shall become effective unless it has been promulgated
81 pursuant to the provisions of chapter 536, RSMo. All rulemaking
82 authority delegated prior to August 28, 2009, is of no force and effect
83 and repealed; however, nothing in this section shall be interpreted to
84 repeal or affect the validity of any rule filed or adopted prior to August
85 28, 2009, if such rule complied with the provisions of chapter 536,
86 RSMo. The provisions of this section and chapter 536, RSMo, are
87 nonseverable and if any of the powers vested with the general assembly
88 pursuant to chapter 536, RSMo, including the ability to review, to delay
89 the effective date, or to disapprove and annul a rule or portion of a
90 rule, are subsequently held unconstitutional, then the purported grant
91 of rulemaking authority and any rule so proposed and contained in the
92 order of rulemaking shall be invalid and void.

93 6. The aggregate of all tax credits authorized pursuant to this
94 section shall not exceed seven million dollars in any calendar year. In
95 the event that total eligible claims for credits received in a calendar
96 year exceed the annual cap, each eligible claimant shall be issued
97 credits based upon the following formula: the eligible credits if the
98 annual cap had not been exceeded multiplied by the ratio of the annual
99 cap divided by the total of all eligible claims for credits filed in that
100 calendar year.

101 7. No one taxpayer shall be issued more than thirty percent of
102 the aggregate of all tax credits authorized under this section in any
103 calendar year. No taxpayer shall simultaneously receive tax credits
104 under the provisions of this section and section 620.1039.

620.1881. 1. The department of economic development shall respond
2 within thirty days to a company who provides a notice of intent with either an

3 approval or a rejection of the notice of intent. The department shall give
4 preference to qualified companies and projects targeted at an area of the state
5 which has recently been classified as a disaster area by the federal
6 government. Failure to respond on behalf of the department of economic
7 development shall result in the notice of intent being deemed [an approval] a
8 **disapproval** for the purposes of this section. A qualified company who is
9 provided an approval for a project shall be allowed a benefit as provided in this
10 program in the amount and duration provided in this section. A qualified
11 company may receive additional periods for subsequent new jobs at the same
12 **project** facility [after the full initial period] if the minimum thresholds are met
13 as set forth in sections 620.1875 to 620.1890. There is no limit on the number of
14 periods a qualified company may participate in the program, as long as the
15 minimum thresholds are achieved and the qualified company provides the
16 department with the required reporting and is in proper compliance for this
17 program or other state programs. A qualified company may elect to file a notice
18 of intent to start a new project period concurrent with an existing project period
19 if the minimum thresholds are achieved and the qualified company provides the
20 department with the required reporting and is in proper compliance for this
21 program and other state programs; however, the qualified company may not
22 receive any [further] **additional** benefit under the original approval for jobs
23 created after the date of the new notice of intent, and any jobs created before the
24 new notice of intent may not be included as new jobs for the purpose of benefit
25 calculation in relation to the new approval. When a qualified company has filed
26 and received approval of a notice of intent and subsequently files another notice
27 of intent, the department shall apply the definition of project facility under
28 subdivision (19) of section 620.1878 to the new notice of intent as well as all
29 previously approved notices of intent and shall determine the application of the
30 definitions of new job, new payroll, project facility base employment, and project
31 facility base payroll accordingly.

32 2. Notwithstanding any provision of law to the contrary, any qualified
33 company that is awarded benefits under this program may not simultaneously
34 receive tax credits or exemptions under sections 135.100 to 135.150, sections
35 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the
36 same project facility. The benefits available to the company under any other
37 state programs for which the company is eligible and which utilize withholding
38 tax from the new jobs of the company must first be credited to the other state

39 program before the withholding retention level applicable under the Missouri
40 quality jobs act will begin to accrue. These other state programs include, but are
41 not limited to, the new jobs training program under sections 178.892 to 178.896,
42 RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the
43 real property tax increment allocation redevelopment act, sections 99.800 to
44 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under
45 sections 99.915 to 99.980, RSMo. If any qualified company also participates in
46 the new jobs training program in sections 178.892 to 178.896, RSMo, the company
47 shall retain no withholding tax, but the department shall issue a refundable tax
48 credit for the full amount of benefit allowed under this subdivision. The calendar
49 year annual maximum amount of tax credits which may be issued to a qualifying
50 company that also participates in the new job training program shall be increased
51 by an amount equivalent to the withholding tax retained by that company under
52 the new jobs training program. However, if the combined benefits of the quality
53 jobs program and the new jobs training program exceed the projected state
54 benefit of the project, as determined by the department of economic development
55 through a cost-benefit analysis, the increase in the maximum tax credits shall be
56 limited to the amount that would not cause the combined benefits to exceed the
57 projected state benefit. Any taxpayer who is awarded benefits under this
58 program who knowingly hires individuals who are not allowed to work legally in
59 the United States shall immediately forfeit such benefits and shall repay the
60 state an amount equal to any state tax credits already redeemed and any
61 withholding taxes already retained.

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

63 (1) Small and expanding business projects: in exchange for the
64 consideration provided by the new tax revenues and other economic stimuli that
65 will be generated by the new jobs created by the program, a qualified company
66 may retain an amount equal to the withholding tax as calculated under
67 subdivision (33) of section 620.1878 from the new jobs that would otherwise be
68 withheld and remitted by the qualified company under the provisions of sections
69 143.191 to 143.265, RSMo, for a period of three years from the date the required
70 number of new jobs were created if the average wage of the new payroll equals
71 or exceeds the county average wage or for a period of five years from the date the
72 required number of new jobs were created if the average wage of the new payroll
73 equals or exceeds one hundred twenty percent of the county average wage;

74 (2) Technology business projects: in exchange for the consideration

75 provided by the new tax revenues and other economic stimuli that will be
76 generated by the new jobs created by the program, a qualified company may
77 retain an amount equal to a maximum of five percent of new payroll for a period
78 of five years from the date the required number of jobs were created from the
79 withholding tax of the new jobs that would otherwise be withheld and remitted
80 by the qualified company under the provisions of sections 143.191 to 143.265,
81 RSMo, if the average wage of the new payroll equals or exceeds the county
82 average wage. An additional one-half percent of new payroll may be added to the
83 five percent maximum if the average wage of the new payroll in any year exceeds
84 one hundred twenty percent of the county average wage in the county in which
85 the project facility is located, plus an additional one-half percent of new payroll
86 may be added if the average wage of the new payroll in any year exceeds one
87 hundred forty percent of the average wage in the county in which the project
88 facility is located. The department shall issue a refundable tax credit for any
89 difference between the amount of benefit allowed under this subdivision and the
90 amount of withholding tax retained by the company, in the event the withholding
91 tax is not sufficient to provide the entire amount of benefit due to the qualified
92 company under this subdivision. [The calendar year annual maximum amount
93 of tax credits that may be issued to any qualified company for a project or
94 combination of projects is five hundred thousand dollars];

95 (3) High impact projects: in exchange for the consideration provided by
96 the new tax revenues and other economic stimuli that will be generated by the
97 new jobs created by the program, a qualified company may retain an amount from
98 the withholding tax of the new jobs that would otherwise be withheld and
99 remitted by the qualified company under the provisions of sections 143.191 to
100 143.265, RSMo, equal to three percent of new payroll for a period of five years
101 from the date the required number of jobs were created if the average wage of the
102 new payroll equals or exceeds the county average wage of the county in which the
103 project facility is located. The percentage of payroll allowed under this
104 subdivision shall be three and one-half percent of new payroll if the average wage
105 of the new payroll in any year exceeds one hundred twenty percent of the county
106 average wage in the county in which the project facility is located. The
107 percentage of payroll allowed under this subdivision shall be four percent of new
108 payroll if the average wage of the new payroll in any year exceeds one hundred
109 forty percent of the county average wage in the county in which the project
110 facility is located. An additional one percent of new payroll may be added to

111 these percentages if local incentives equal between ten percent and twenty-four
112 percent of the new direct local revenue; an additional two percent of new payroll
113 is added to these percentages if the local incentives equal between twenty-five
114 percent and forty-nine percent of the new direct local revenue; or an additional
115 three percent of payroll is added to these percentages if the local incentives equal
116 fifty percent or more of the new direct local revenue. The department shall issue
117 a refundable tax credit for any difference between the amount of benefit allowed
118 under this subdivision and the amount of withholding tax retained by the
119 company, in the event the withholding tax is not sufficient to provide the entire
120 amount of benefit due to the qualified company under this subdivision. The
121 calendar year annual maximum amount of tax credits that may be issued to any
122 qualified company for a project or combination of projects is seven hundred fifty
123 thousand dollars[. The calendar year annual maximum amount of tax credit that
124 may be issued to any qualified company for a project or combination of projects
125 may be increased up to one million dollars if the number of new jobs will exceed
126 five hundred and if such action is proposed by the department and approved by
127 the quality jobs advisory task force established in section 620.1887; provided,
128 however, until such time as the initial at-large members of the quality jobs
129 advisory task force are appointed, this determination shall be made by the
130 director of the department of economic development. In considering such a
131 request, the task force shall rely on economic modeling and other information
132 supplied by the department when requesting the increased limit on behalf of the
133 project];

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

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

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

145 (c) The qualified company is considered to have a significant statewide
146 effect on the economy, and has been determined to represent a substantial risk

147 of relocation from the state by the quality jobs advisory task force established in
148 section 620.1887; provided, however, until such time as the initial at-large
149 members of the quality jobs advisory task force are appointed, this determination
150 shall be made by the director of the department of economic development;

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

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

160 The quality jobs advisory task force may recommend to the department of
161 economic development that appropriate penalties be applied to the company for
162 violating the agreement. The amount of the job retention credit granted may be
163 equal to up to fifty percent of the amount of withholding tax generated by the
164 full-time jobs at the project facility for a period of five years. The calendar year
165 annual maximum amount of tax credit that may be issued to any qualified
166 company for a job retention project or combination of job retention projects shall
167 be seven hundred fifty thousand dollars per year, but the maximum amount may
168 be increased up to one million dollars if such action is proposed by the
169 department and approved by the quality jobs advisory task force established in
170 section 620.1887; provided, however, until such time as the initial at-large
171 members of the quality jobs advisory task force are appointed, this determination
172 shall be made by the director of the department of economic development. In
173 considering such a request, the task force shall rely on economic modeling and
174 other information supplied by the department when requesting the increased
175 limit on behalf of the job retention project. In no event shall the total amount of
176 all tax credits issued for the entire job retention program under this subdivision
177 exceed three million dollars annually. Notwithstanding the above, no tax credits
178 shall be issued for job retention projects approved by the department after August
179 30, 2013;

180 (5) Small business job retention and flood survivor relief: a qualified
181 company may receive a tax credit under sections 620.1875 to 620.1890 for the
182 retention of jobs and flood survivor relief in this state for each job retained over

183 a three-year period, provided that:

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

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

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

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

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

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

198 (g) For each year it receives tax credits under sections 620.1875 to
199 620.1890, the qualified company and related companies retained, at the
200 company's facilities in this state, at least the level of full-time, year-round
201 employees that existed in the taxable year immediately preceding the year in
202 which application for the program is made; and

203 (h) In the years it receives tax credits under sections 620.1875 to
204 620.1890, the company cumulatively invests at least two million dollars in capital
205 improvements in facilities and equipment located at such facilities that are not
206 located within a five hundred year flood plain as designated by the Federal
207 Emergency Management Agency, and amended from time to time.

208 The amount of the small business job retention and flood survivor relief credit
209 granted may be equal to up to one hundred percent of the amount of withholding
210 tax generated by the full-time jobs at the project facility for a period of three
211 years. The calendar year annual maximum amount of tax credit that may be
212 issued to any qualified company for a small business job retention and survivor
213 relief project shall be two hundred fifty thousand dollars per year, but the
214 maximum amount may be increased up to five hundred thousand dollars if such
215 action is proposed by the department and approved by the quality jobs advisory
216 task force established in section 620.1887. In considering such a request, the
217 task force shall rely on economic modeling and other information supplied by the
218 department when requesting an increase in the limit on behalf of the small

219 business job retention and flood survivor relief project. In no event shall the total
220 amount of all tax credits issued for the entire small business job retention and
221 flood survivor relief program under this subdivision exceed five hundred thousand
222 dollars annually. Notwithstanding the provisions of this subdivision to the
223 contrary, no tax credits shall be issued for small business job retention and flood
224 survivor relief projects approved by the department after August 30, 2010.

225 4. The qualified company shall provide an annual report of the number
226 of jobs and such other information as may be required by the department to
227 document the basis for the benefits of this program. The department may
228 withhold the approval of any benefits until it is satisfied that proper
229 documentation has been provided, and shall reduce the benefits to reflect any
230 reduction in full-time employees or new payroll. Upon approval by the
231 department, the qualified company may begin the retention of the withholding
232 taxes when it reaches the minimum number of new jobs and the average wage
233 exceeds the county average wage. Tax credits, if any, may be issued upon
234 satisfaction by the department that the qualified company has exceeded the
235 county average wage and the minimum number of new jobs. In such annual
236 report, if the average wage is below the county average wage, the qualified
237 company has not maintained the employee insurance as required, or if the
238 number of new jobs is below the minimum, the qualified company shall not
239 receive tax credits or retain the withholding tax for the balance of the benefit
240 period. In the case of a qualified company that initially filed a notice of intent
241 and received an approval from the department for high impact benefits and the
242 minimum number of new jobs in an annual report is below the minimum for high
243 impact projects, the company shall not receive tax credits for the balance of the
244 benefit period but may continue to retain the withholding taxes if it otherwise
245 meets the requirements of a small and expanding business under this program.

246 5. The maximum calendar year annual tax credits issued for the entire
247 program shall not exceed [sixty] **one hundred twenty** million
248 dollars. Notwithstanding any provision of law to the contrary, the maximum
249 annual tax credits authorized under section 135.535, RSMo, are hereby reduced
250 from ten million dollars to eight million dollars, with the balance of two million
251 dollars transferred to this program. There shall be no limit on the amount of
252 withholding taxes that may be retained by approved companies under this
253 program. **Any qualified company that files for or publicly announces its**
254 **intention to file for bankruptcy protection after meeting the minimum**

255 **new jobs threshold may continue to retain authorized amounts from the**
256 **withholding tax during the pendency of the bankruptcy for the**
257 **duration of the project period provided that:**

258 **(1) It certifies to the department that it plans to reorganize and**
259 **not to liquidate;**

260 **(2) It continues to meet the minimum new jobs threshold; and**
261 **otherwise continues to meet the definition of "qualified company" under**
262 **section 620.1878; and**

263 **(3) After its bankruptcy petition has been filed, it produces**
264 **proof, in a form satisfactory to the department, that it is not delinquent**
265 **in filing any tax returns or making any payment due to the state of**
266 **Missouri, including but not limited to, all tax payments due after the**
267 **filing of the bankruptcy petition and under the terms of the plan of**
268 **reorganization. If the department learns at any time that the company**
269 **is delinquent in any such payments due to the state of Missouri, it may**
270 **suspend the company's right to retain withholding tax until such**
271 **delinquency is cured.**

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

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

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

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

300 10. Prior to the issuance of tax credits, the department shall verify
301 through the department of revenue, or any other state department, that the tax
302 credit applicant does not owe any delinquent income, sales, or use tax or interest
303 or penalties on such taxes, or any delinquent fees or assessments levied by any
304 state department and through the department of insurance, financial institutions
305 and professional registration that the applicant does not owe any delinquent
306 insurance taxes. Such delinquency shall not affect the authorization of the
307 application for such tax credits, except that at issuance credits shall be first
308 applied to the delinquency and any amount issued shall be reduced by the
309 applicant's tax delinquency. If the department of revenue or the department of
310 insurance, financial institutions and professional registration, or any other state
311 department, concludes that a taxpayer is delinquent after June fifteenth but
312 before July first of any year and the application of tax credits to such delinquency
313 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
314 be granted thirty days to satisfy the deficiency in which interest, penalties, and
315 additions to tax shall be tolled. After applying all available credits toward a tax
316 delinquency, the administering agency shall notify the appropriate department
317 and that department shall update the amount of outstanding delinquent tax owed
318 by the applicant. If any credits remain after satisfying all insurance, income,
319 sales, and use tax delinquencies, the remaining credits shall be issued to the
320 applicant, subject to the restrictions of other provisions of law.

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

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

327 13. If any provision of sections 620.1875 to 620.1890 or application thereof
328 to any person or circumstance is held invalid, the invalidity shall not affect other
329 provisions or application of these sections which can be given effect without the
330 invalid provisions or application, and to this end, the provisions of sections
331 620.1875 to 620.1890 are hereby declared severable.

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

3 (1) "Approval", a document submitted by the department to the qualified
4 company that 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
7 company's first new employee, which must be no later than twelve months from
8 the date of the approval;

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

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

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

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

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

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

31 (10) "Local incentives", the present value of the dollar amount of direct

32 benefit received by a qualified company for a project facility from one or more
33 local political subdivisions, but shall not include loans or other funds provided to
34 the qualified company that must be repaid by the qualified company to the
35 political subdivision;

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

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

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

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

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

66 (16) "Notice of intent", a form developed by the department, completed by
67 the qualified company and submitted to the department which states the

68 qualified company's intent to hire new jobs and request benefits under this
69 program;

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

72 (18) "Program", the Missouri quality jobs program provided in sections
73 620.1875 to 620.1890;

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

78 (20) "Project facility base employment", the greater of the number of
79 full-time employees located at the project facility on the date of the notice of
80 intent or for the twelve-month period prior to the date of the notice of intent, the
81 average number of full-time employees located at the project facility. In the event
82 the project facility has not been in operation for a full twelve-month period, the
83 average number of full-time employees for the number of months the project
84 facility has been in operation prior to the date of the notice of intent;

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

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

95 (23) "Qualified company", a firm, partnership, joint venture, association,
96 private or public corporation whether organized for profit or not, or headquarters
97 of such entity registered to do business in Missouri that is the owner or operator
98 of a project facility, offers health insurance to all full-time employees of all
99 facilities located in this state, and pays at least fifty percent of such insurance
100 premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified
101 company" shall not include:

102 (a) Gambling establishments (NAICS industry group 7132);

103 (b) Retail trade establishments (NAICS sectors 44 and 45);

- 104 (c) Food and drinking places (NAICS subsector 722);
105 (d) Public utilities (NAICS 221 including water and sewer services);
106 (e) Any company that is delinquent in the payment of any nonprotested
107 taxes or any other amounts due the state or federal government or any other
108 political subdivision of this state;
109 (f) Any company that has filed for or has publicly announced its intention
110 to file for bankruptcy protection;
111 (g) Educational services (NAICS sector 61);
112 (h) Religious organizations (NAICS industry group 8131);
113 (i) Public administration (NAICS sector 92);
114 (j) Ethanol distillation or production; [or]
115 (k) Biodiesel production; **or**
116 **(l) Any business entity which receives a state and local sales tax**

117 **exemption under the provisions of section 144.059, RSMo.**

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

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

- 127 (a) Open-looped biomass;
128 (b) Close-looped biomass;
129 (c) Solar;
130 (d) Wind;
131 (e) Geothermal; and
132 (f) Hydropower;

133 (25) "Related company" means:

- 134 (a) A corporation, partnership, trust, or association controlled by the
135 qualified company;
136 (b) An individual, corporation, partnership, trust, or association in control
137 of the qualified company; or
138 (c) Corporations, partnerships, trusts or associations controlled by an
139 individual, corporation, partnership, trust or association in control of the

140 qualified company. As used in this subdivision, "control of a corporation" shall
141 mean ownership, directly or indirectly, of stock possessing at least fifty percent
142 of the total combined voting power of all classes of stock entitled to vote, "control
143 of a partnership or association" shall mean ownership of at least fifty percent of
144 the capital or profits interest in such partnership or association, "control of a
145 trust" shall mean ownership, directly or indirectly, of at least fifty percent of the
146 beneficial interest in the principal or income of such trust, and ownership shall
147 be determined as provided in Section 318 of the Internal Revenue Code of 1986,
148 as amended;

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

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

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

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

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

174 (31) "Tax credits", tax credits issued by the department to offset the state
175 income taxes imposed by chapters 143 and 148, RSMo, or which may be sold or

176 refunded as provided for in this program;

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

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

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

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

192 (33) "Withholding tax", the state tax imposed by sections 143.191 to
193 143.265, RSMo. For purposes of this program, the withholding tax shall be
194 computed using a schedule as determined by the department based on average
195 wages.

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

3 2. Unless otherwise modified in this section, the definitions
4 provided in section 620.1878 shall apply to this section. For purposes
5 of this section, the following terms shall mean:

6 (1) "Eligible small business project", a project approved by the
7 department through which a small business employer meets the
8 following qualifications:

9 (a) The small business employs more than five employees and
10 such business's total payroll increases by at least twenty percent due
11 to the addition of new jobs or a business with less than five employees
12 adds employees so that the total number of employees is five or greater;

13 (b) The number of jobs added through the project by the small
14 business employer does not exceed the minimum number of jobs
15 required to be eligible for benefits under any program of the Missouri
16 quality jobs act, sections 620.1875 to 620.1890;

17 (c) Wages for the new jobs created through the project by the
18 small business employer are at least eighty-five percent of the county
19 average wage as determined by the department; and

20 (d) The project is not eligible for any benefits under the Missouri
21 quality jobs act;

22 (2) "Small business employer", a firm, partnership, joint venture,
23 association, or a private or public corporation, whether organized for
24 profit or not, provided that the term shall not include:

25 (a) Gambling establishments (NAICS industry group 7132);

26 (b) Any company that is delinquent in the payment of any
27 nonprotested taxes or any other amounts due to the state or federal
28 government or any other political subdivision of this state; or

29 (c) Any company that has filed for or has publicly announced its
30 intention to file for bankruptcy protection.

31 3. For all taxable years beginning on or after January 1, 2010, a
32 small business employer shall be allowed to receive benefits for an
33 eligible small business project as follows:

34 (1) Retention of all tax withheld under sections 143.191 to
35 143.265, RSMo, from the newly created jobs for a period of one year; or

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

40 4. The calendar year maximum amount of benefits available
41 under this section for all eligible small business projects shall not
42 exceed five million dollars in the aggregate.

43 5. The department may promulgate rules to implement the
44 provisions of this section. Any rule or portion of a rule, as that term is
45 defined in section 536.010, RSMo, that is created under the authority
46 delegated in this section shall become effective only if it complies with
47 and is subject to all of the provisions of chapter 536, RSMo, and, if
48 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
49 are nonseverable and if any of the powers vested with the general
50 assembly pursuant to chapter 536, RSMo, to review, to delay the
51 effective date, or to disapprove and annul a rule are subsequently held
52 unconstitutional, then the grant of rulemaking authority and any rule
53 proposed or adopted after August 28, 2009, shall be invalid and void.

Section B. Because of the need to spark economic growth to end the state's
2 recession, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and
6 approval.

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