

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 377**  
**95TH GENERAL ASSEMBLY**

1961L.05C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 99.865, 99.1082, 99.1088, 99.1090, 99.1092, 100.286, 100.297, 100.710, 100.720, 100.750, 100.760, 100.770, 105.145, 135.155, 135.680, 147.010, 208.770, 238.207, 238.212, 238.235, 253.550, 253.559, 338.337, 393.110, 447.708, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof forty-six new sections relating to business incentives, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 99.865, 99.1082, 99.1088, 99.1090, 99.1092, 100.286, 100.297, 100.710, 100.720, 100.750, 100.760, 100.770, 105.145, 135.155, 135.680, 147.010, 208.770, 238.207, 238.212, 238.235, 253.550, 253.559, 338.337, 393.110, 447.708, 620.1039, 620.1878, and 620.1881, RSMo, are repealed and forty-six new sections enacted in lieu thereof, to be known as sections 67.2050, 71.275, 99.865, 99.1082, 99.1088, 99.1090, 99.1092, 100.286, 100.297, 100.710, 100.720, 100.750, 100.760, 100.770, 105.145, 135.155, 135.680, 135.1160, 144.022, 144.055, 147.010, 208.770, 238.207, 238.212, 238.235, 253.550, 253.559, 338.337, 348.273, 348.274, 393.110, 447.708, 620.1039, 620.1878, 620.1881, 620.1895, 620.2050, 620.2053, 620.2056, 620.2059, 620.2062, 620.2065, 620.2068, 620.2071, 620.2074, and 620.2077, to read as follows:

**67.2050. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:**

**(1) "Facility", a location composed of real estate, buildings, fixtures, machinery, and equipment;**

**(2) "Municipality", any county, city, incorporated town, or village of the state;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6           (3) "NAICS", the 2007 edition of the North American Industry Classification  
7 System developed under the direction and guidance of the federal Office of Management  
8 and Budget. Any NAICS sector, subsector, industry group, or industry identified in this  
9 section shall include its corresponding classification in previous and subsequent federal  
10 industry classification systems;

11           (4) "Technology business facility", a facility purchased, constructed, extended, or  
12 improved under this section and that is located in a portion of an underground mine that  
13 contains at least two million square feet of space, provided that such business facility is  
14 engaged in:

15           (a) Data processing, hosting, and related services (NAICS 518210); or

16           (b) Internet publishing and broadcasting and web search portals (NAICS 519130),  
17 at the business facility;

18           (5) "Technology business facility project" or "project", the purchase, construction,  
19 extension, and improvement of technology business facilities, whether of the facility as a  
20 whole or of any one or more of the facility's components of real estate, buildings, fixtures,  
21 machinery, and equipment.

22           2. The governing body of any municipality may:

23           (1) Carry out technology business facility projects for economic development under  
24 this section;

25           (2) Accept grants from the federal and state governments for technology business  
26 facility project purposes, and may enter into such agreements as are not contrary to the  
27 laws of this state and which may be required as a condition of grants by the federal  
28 government or its agencies; and

29           (3) Receive gifts and donations from private sources to be used for technology  
30 business facility project purposes.

31           3. The governing body of the municipality may enter into loan agreements, sell,  
32 lease, or mortgage to private persons, partnerships, or corporations any one or more of the  
33 components of a facility received, purchased, constructed, or extended by the municipality  
34 for development of a technology business facility project. The loan agreement, installment  
35 sale agreement, lease, or other such document shall contain such other terms as are agreed  
36 upon between the municipality and the obligor, provided that such terms shall be  
37 consistent with this section. When, in the judgment of the governing body of the  
38 municipality, the technology business facility project will result in economic benefits to the  
39 municipality, the governing body may lawfully enter into an agreement that includes  
40 nominal monetary consideration to the municipality in exchange for the use of one or more  
41 components of the facility.

42           **4. Transactions involving the lease or rental of any components of a project under**  
43 **this section shall be specifically exempted from the provisions of the local sales tax law as**  
44 **defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525**  
45 **and 144.600 to 144.761, RSMo, and from the computation of the tax levied, assessed, or**  
46 **payable under the local sales tax law as defined in section 32.085, RSMo, section 238.235,**  
47 **RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745, RSMo.**

48           **5. Leasehold interests granted and held under this section shall not be subject to**  
49 **property taxes.**

50           **6. Any payments in lieu of taxes expected to be made by any lessee of the project**  
51 **shall be applied in accordance with this section. The lessee may reimburse the municipality**  
52 **for its actual costs of administering the plan. All amounts paid in excess of such actual**  
53 **costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer**  
54 **or other financial officer to each affected taxing entity in proportion to the current ad**  
55 **valorem tax levy of each affected taxing entity.**

56           **7. The county assessor shall include the current assessed value of all property**  
57 **within the affected taxing entities in the aggregate valuation of assessed property entered**  
58 **upon the assessor's book and verified under section 137.245, RSMo, and such value shall**  
59 **be used for the purpose of the debt limitation on local government under section 26(b),**  
60 **article VI, Constitution of Missouri.**

61           **8. The governing body of any municipality may sell or otherwise dispose of the**  
62 **property, buildings, or plants acquired under this section to private persons or**  
63 **corporations for technology business facility project purposes upon approval by the**  
64 **governing body. The terms and method of the sale or other disposal shall be established**  
65 **by the governing body so as to reasonably protect the economic well-being of the**  
66 **municipality and to promote the development of technology business facility projects. A**  
67 **private person or corporation that initially transfers property to the municipality for the**  
68 **purposes of a technology business facility project and does not charge a purchase price to**  
69 **the municipality shall retain the right, upon request to the municipality, to have the**  
70 **municipality retransfer the donated property to the person or corporation at no cost.**

**71.275. Notwithstanding any other provision of law to the contrary, if the governing**  
2 **body of any municipality finds it in the public interest that a parcel of land that has not**  
3 **been sold within the previous six months and is contiguous and compact to the existing**  
4 **corporate limits of the municipality and located in an unincorporated area of the county,**  
5 **which is used as a research park, should be located in the municipality, such municipality**  
6 **may annex such parcel, provided that the municipality obtains written consent of all the**  
7 **property owners located within the unincorporated area of such parcel. For purposes of**

8 **this section, the term "research park" shall mean an area developed by a university to be**  
9 **used by technology-intensive and research-based companies as a business location, and a**  
10 **parcel of land shall be considered "sold" when there is a change in at least fifty-one**  
11 **percent of the property's ownership in a transaction that involves a buyer or buyers and**  
12 **a seller or sellers, but shall not include a partial divestment of such real property or any**  
13 **transaction in which ownership is vested in whole or in part in a subsidiary, affiliate,**  
14 **partner, joint venturer, or other entity to the owner.**

99.865. 1. Each year the governing body of the municipality, or its designee, shall  
2 prepare a report concerning the status of each redevelopment plan and redevelopment project,  
3 and shall submit a copy of such report to the director of the department of economic  
4 development. The report shall include the following:

- 5 (1) The amount and source of revenue in the special allocation fund;
- 6 (2) The amount and purpose of expenditures from the special allocation fund;
- 7 (3) The amount of any pledge of revenues, including principal and interest on any  
8 outstanding bonded indebtedness;
- 9 (4) The original assessed value of the redevelopment project;
- 10 (5) The assessed valuation added to the redevelopment project;
- 11 (6) Payments made in lieu of taxes received and expended;
- 12 (7) The economic activity taxes generated within the redevelopment area in the calendar  
13 year prior to the approval of the redevelopment plan, to include a separate entry for the state sales  
14 tax revenue base for the redevelopment area or the state income tax withheld by employers on  
15 behalf of existing employees in the redevelopment area prior to the redevelopment plan;
- 16 (8) The economic activity taxes generated within the redevelopment area after the  
17 approval of the redevelopment plan, to include a separate entry for the increase in state sales tax  
18 revenues for the redevelopment area or the increase in state income tax withheld by employers  
19 on behalf of new employees who fill new jobs created in the redevelopment area;
- 20 (9) Reports on contracts made incident to the implementation and furtherance of a  
21 redevelopment plan or project;
- 22 (10) A copy of any redevelopment plan, which shall include the required findings and  
23 cost-benefit analysis pursuant to subdivisions (1) to (6) of section 99.810;
- 24 (11) The cost of any property acquired, disposed of, rehabilitated, reconstructed, repaired  
25 or remodeled;
- 26 (12) The number of parcels acquired by or through initiation of eminent domain  
27 proceedings; and
- 28 (13) Any additional information the municipality deems necessary.

29           2. Data contained in the report mandated pursuant to the provisions of subsection 1 of  
30 this section and any information regarding amounts disbursed to municipalities pursuant to the  
31 provisions of section 99.845 shall be deemed a public record, as defined in section 610.010,  
32 RSMo. An annual statement showing the payments made in lieu of taxes received and expended  
33 in that year, the status of the redevelopment plan and projects therein, amount of outstanding  
34 bonded indebtedness and any additional information the municipality deems necessary shall be  
35 published in a newspaper of general circulation in the municipality.

36           3. Five years after the establishment of a redevelopment plan and every five years  
37 thereafter the governing body shall hold a public hearing regarding those redevelopment plans  
38 and projects created pursuant to sections 99.800 to 99.865. The purpose of the hearing shall be  
39 to determine if the redevelopment project is making satisfactory progress under the proposed  
40 time schedule contained within the approved plans for completion of such projects. Notice of  
41 such public hearing shall be given in a newspaper of general circulation in the area served by the  
42 commission once each week for four weeks immediately prior to the hearing.

43           4. The director of the department of economic development shall submit a report to the  
44 **state auditor, the** speaker of the house of representatives and the president pro tem of the senate  
45 no later than February first of each year. The report shall contain a summary of all information  
46 received by the director pursuant to this section.

47           5. For the purpose of coordinating all tax increment financing projects using new state  
48 revenues, the director of the department of economic development may promulgate rules and  
49 regulations to ensure compliance with this section. Such rules and regulations may include  
50 methods for enumerating all of the municipalities which have established commissions pursuant  
51 to section 99.820. No rule or portion of a rule promulgated under the authority of sections  
52 99.800 to 99.865 shall become effective unless it has been promulgated pursuant to the  
53 provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997,  
54 is of no force and effect and repealed; however, nothing in this section shall be interpreted to  
55 repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule  
56 complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter  
57 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant  
58 to chapter 536, RSMo, including the ability to review, to delay the effective date, or to  
59 disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the  
60 purported grant of rulemaking authority and any rule so proposed and contained in the order of  
61 rulemaking shall be invalid and void.

62           6. The department of economic development shall provide information and technical  
63 assistance, as requested by any municipality, on the requirements of sections 99.800 to 99.865.

64 Such information and technical assistance shall be provided in the form of a manual, written in  
65 an easy-to-follow manner, and through consultations with departmental staff.

66 **7. Any municipality which fails to comply with the reporting requirements**  
67 **provided in this section shall be prohibited from implementing any new tax increment**  
68 **finance project for a period of no less than five years from such municipality's failure to**  
69 **comply.**

70 **8. Based upon the information provided in the reports required under the**  
71 **provisions of this section, the state auditor shall make available for public inspection on**  
72 **the auditor's web site, a searchable electronic database of such municipal tax increment**  
73 **finance reports. All information contained within such database shall be maintained for**  
74 **a period of no less than ten years from initial posting.**

99.1082. As used in sections 99.1080 to 99.1092, unless the context clearly requires  
2 otherwise, the following terms shall mean:

3 (1) "Baseline year", the calendar year prior to the adoption of an ordinance by the  
4 municipality approving a redevelopment project; provided, however, if local sales tax revenues  
5 or state sales tax revenues, from businesses other than any out-of-state business or businesses  
6 locating in the redevelopment project area, decrease in the redevelopment project area in the year  
7 following the year in which the ordinance approving a redevelopment project is approved by a  
8 municipality, the baseline year may, at the option of the municipality approving the  
9 redevelopment project, be the year following the year of the adoption of the ordinance approving  
10 the redevelopment project. When a redevelopment project area is located within a county for  
11 which public and individual assistance has been requested by the governor under Section 401  
12 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq.,  
13 for an emergency proclaimed by the governor under section 44.100, RSMo, due to a natural  
14 disaster of major proportions and the redevelopment project area is a central business district that  
15 sustained severe damage as a result of such natural disaster, as determined by the state  
16 emergency management agency, the baseline year may, at the option of the municipality  
17 approving the redevelopment project, be the calendar year in which the natural disaster occurred  
18 or the year following the year in which the natural disaster occurred, provided that the  
19 municipality adopts an ordinance approving the redevelopment project within one year after the  
20 occurrence of the natural disaster;

21 (2) "Blighted area", an area which, by reason of the predominance of defective or  
22 inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,  
23 improper subdivision or obsolete platting, or the existence of conditions which endanger life or  
24 property by fire and other causes, or any combination of such factors, retards the provision of

25 housing accommodations or constitutes an economic or social liability or a menace to the public  
26 health, safety, morals, or welfare in its present condition and use;

27 (3) "Central business district", the area at or near the historic core that is locally known  
28 as the "downtown" of a municipality that has a median household income of sixty-two thousand  
29 dollars or less, according to the last decennial census. In addition, at least fifty percent of  
30 existing buildings in this area will have been built in excess of thirty-five years prior or vacant  
31 lots that had prior structures built in excess of thirty-five years prior to the adoption of the  
32 ordinance approving the redevelopment plan. The historical land use emphasis of a central  
33 business district prior to redevelopment will have been a mixed use of business, commercial,  
34 financial, transportation, government, and multifamily residential uses;

35 (4) "Conservation area", any improved area within the boundaries of a redevelopment  
36 area located within the territorial limits of a municipality in which fifty percent or more of the  
37 structures in the area have an age of thirty-five years or more, and such an area is not yet a  
38 blighted area but is detrimental to the public health, safety, morals, or welfare and may become  
39 a blighted area because of any one or more of the following factors: dilapidation; obsolescence;  
40 deterioration; illegal use of individual structures; presence of structures below minimum code  
41 standards; abandonment; excessive vacancies; overcrowding of structures and community  
42 facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land  
43 coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of  
44 community planning;

45 (5) "Gambling establishment", an excursion gambling boat as defined in section 313.800,  
46 RSMo, and any related business facility including any real property improvements which are  
47 directly and solely related to such business facility, whose sole purpose is to provide goods or  
48 services to an excursion gambling boat and whose majority ownership interest is held by a person  
49 licensed to conduct gambling games on an excursion gambling boat or licensed to operate an  
50 excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

51 (6) "Local sales tax increment", at least fifty percent of the local sales tax revenue from  
52 taxes that are imposed by a municipality and its county, and that are generated by economic  
53 activities within a redevelopment area over the amount of such taxes generated by economic  
54 activities within such a redevelopment area in the calendar year prior to the adoption of the  
55 ordinance designating such a redevelopment area while financing under sections 99.1080 to  
56 99.1092 remains in effect, but excluding personal property taxes, taxes imposed on sales or  
57 charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special  
58 assessments; provided however, the governing body of any county may, by resolution, exclude  
59 any portion of any countywide sales tax of such county. For redevelopment projects or  
60 redevelopment plans approved after August 28, 2005, if a retail establishment relocates within

61 one year from one facility within the same county and the governing body of the municipality  
62 finds that the retail establishment is a direct beneficiary of tax increment financing, then for the  
63 purposes of this subdivision, the economic activity taxes generated by the retail establishment  
64 shall equal the total additional revenues from economic activity taxes that are imposed by a  
65 municipality or other taxing district over the amount of economic activity taxes generated by the  
66 retail establishment in the calendar year prior to its relocation to the redevelopment area;

67 (7) "Local sales tax revenue", city sales tax revenues received under sections 94.500 to  
68 94.550, RSMo, and county sales tax revenues received under sections 67.500 to 67.594, RSMo;

69 (8) "Major initiative", a development project within a central business district which  
70 promotes tourism, cultural activities, arts, entertainment, education, research, arenas,  
71 multipurpose facilities, libraries, ports, mass transit, museums, economic development, or  
72 conventions for the municipality, and where the capital investment within the redevelopment  
73 project area is:

74 (a) At least five million dollars for a project area within a city having a population of one  
75 hundred thousand to one hundred ninety-nine thousand nine hundred and ninety-nine inhabitants;

76 (b) At least one million dollars for a project area within a city having a population of  
77 fifty thousand to ninety-nine thousand nine hundred and ninety-nine inhabitants;

78 (c) At least five hundred thousand dollars for a project area within a city having a  
79 population of ten thousand to forty-nine thousand nine hundred and ninety-nine inhabitants; or

80 (d) At least two hundred fifty thousand dollars for a project area within a city having a  
81 population of one to nine thousand nine hundred and ninety-nine inhabitants;

82 (9) "Municipality", any city or county of this state having fewer than two hundred  
83 thousand inhabitants;

84 (10) "Obligations", bonds, loans, debentures, notes, special certificates, or other  
85 evidences of indebtedness issued by the municipality or authority, or other public entity  
86 authorized to issue such obligations under sections 99.1080 to 99.1092 to carry out a  
87 redevelopment project or to refund outstanding obligations;

88 (11) "Ordinance", an ordinance enacted by the governing body of any municipality;

89 (12) **"Other net new revenues", the amount of state sales tax increment or state**  
90 **income tax increment or the combination of the amount of each such increment as**  
91 **determined under section 99.918;**

92 (13) "Redevelopment area", an area designated by a municipality in respect to which the  
93 municipality has made a finding that there exist conditions which cause the area to be classified  
94 as a blighted area or a conservation area, which area shall have the following characteristics:

95 (a) It can be renovated through one or more redevelopment projects;

96 (b) It is located in the central business district;



97 (c) The redevelopment area shall not exceed ten percent of the entire geographic area of  
98 the municipality. Subject to the limitation set forth in this subdivision, the redevelopment area  
99 can be enlarged or modified as provided in section 99.1088;

100 [(13)] **(14)** "Redevelopment plan", the comprehensive program of a municipality to  
101 reduce or eliminate those conditions which qualify a redevelopment area as a blighted area or  
102 a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into  
103 the redevelopment area through the reimbursement, payment, or other financing of  
104 redevelopment project costs in accordance with sections 99.1080 to 99.1092 and through  
105 application for and administration of downtown revitalization preservation program financing  
106 under sections 99.1080 to 99.1092;

107 [(14)] **(15)** "Redevelopment project", any redevelopment project **described in a**  
108 **redemption plan and** within a redevelopment area which constitutes a major initiative in  
109 furtherance of the objectives of the redevelopment plan, and any such redevelopment project  
110 shall include a legal description of the area selected for such redevelopment project;

111 [(15)] **(16)** "Redevelopment project area", the area located within a redevelopment area  
112 selected for a redevelopment project;

113 [(16)] **(17)** "Redevelopment project costs" include such costs to the redevelopment plan  
114 or a redevelopment project, as applicable, which are expended on public property, buildings, or  
115 rights-of-way for public purposes to provide infrastructure to support a redevelopment project,  
116 including facades. Such costs shall only be allowed as an initial expense which, to be  
117 recoverable, must be included in the costs of a redevelopment plan or redevelopment project,  
118 except in circumstances of plan amendments approved by the department of economic  
119 development. Such infrastructure costs include, but are not limited to, the following:

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

121 (b) Professional service costs, including, but not limited to, architectural, engineering,  
122 legal, marketing, financial, planning, or special services;

123 (c) Property assembly costs, including, but not limited to, acquisition of land and other  
124 property, real or personal, or rights or interests therein, demolition of buildings, and the clearing  
125 and grading of land;

126 (d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public  
127 buildings and fixtures;

128 (e) Costs of construction of public works or improvements;

129 (f) Financing costs, including, but not limited to, all necessary expenses related to the  
130 issuance of obligations issued to finance all or any portion of the infrastructure costs of one or  
131 more redevelopment projects, and which may include capitalized interest on any such obligations  
132 and reasonable reserves related to any such obligations;

133 (g) All or a portion of a taxing district's capital costs resulting from any redevelopment  
134 project necessarily incurred or to be incurred in furtherance of the objectives of the  
135 redevelopment plan, to the extent the municipality by written agreement accepts and approves  
136 such infrastructure costs;

137 (h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted  
138 by approval of a redevelopment project when all debt is retired;

139 (i) State government costs, including, but not limited to, the reasonable costs incurred  
140 by the department of economic development and the department of revenue in evaluating an  
141 application for and administering downtown revitalization preservation financing for a  
142 redevelopment project;

143 **(18) "State income tax increment", the estimate of the income tax due the state for**  
144 **salaries or wages paid to new employees in new jobs at a business located in the**  
145 **redevelopment project area and created by the redevelopment project. The estimate shall**  
146 **be a percentage of the gross payroll which percentage shall be based upon an analysis by**  
147 **the department of revenue of the practical tax rate on gross payroll as a factor in overall**  
148 **taxable income. In no event shall the percentage exceed two percent;**

149 **[(17)] (19) "State sales tax increment", up to one-half of the incremental increase in the**  
150 **state sales tax revenue in the redevelopment project area provided the local taxing jurisdictions**  
151 **commit one-half of their local sales tax to paying for redevelopment project costs. The**  
152 **incremental increase shall be the amount by which the state sales tax revenue generated at the**  
153 **facility or within the redevelopment project area exceeds the state sales tax revenue generated**  
154 **at the facility or within the redevelopment project area in the baseline year. For redevelopment**  
155 **projects or redevelopment plans approved after August 28, 2005, if a retail establishment**  
156 **relocates within one year from one facility to another facility within the same county and the**  
157 **governing body of the municipality finds that the retail establishment is a direct beneficiary of**  
158 **tax increment financing, then for the purposes of this subdivision, the economic activity taxes**  
159 **generated by the retail establishment shall equal the total additional revenues from economic**  
160 **activity taxes that are imposed by a municipality or other taxing district over the amount of**  
161 **economic activity taxes generated by the retail establishment in the calendar year prior to the**  
162 **relocation to the redevelopment area;**

163 **[(18)] (20) "State sales tax revenues", the general revenue portion of state sales tax**  
164 **revenues received under section 144.020, RSMo, excluding sales taxes that are constitutionally**  
165 **dedicated, taxes deposited to the school district trust fund in accordance with section 144.701,**  
166 **RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales**  
167 **taxes earmarked by law;**

168           [(19)] **(21)** "Taxing district's capital costs", those costs of taxing districts for capital  
169 improvements that are found by the municipal governing bodies to be necessary and to directly  
170 result from a redevelopment project;

171           [(20)] **(22)** "Taxing districts", any political subdivision of this state having the power to  
172 levy taxes.

99.1088. 1. Prior to the adoption of the ordinance designating a redevelopment area,  
2 adopting a redevelopment plan, or approving a redevelopment project, the municipality or  
3 authority shall fix a time and place for a public hearing and notify each taxing district located  
4 wholly or partially within the boundaries of the proposed redevelopment area or redevelopment  
5 project area affected. Such notice shall comply with the provisions of subsections 2 and 3 of this  
6 section. At the public hearing any interested person or affected taxing district may file with the  
7 municipality or authority written objections to, or comments on, and may be heard orally in  
8 respect to any issues regarding the plan or issues embodied in the notice. The municipality or  
9 authority shall hear and consider all protests, objections, comments, and other evidence presented  
10 at the hearing. The hearing may be continued to another date without further notice other than  
11 a motion to be entered upon the minutes fixing the time and place of the subsequent hearing.  
12 Prior to the conclusion of the hearing, changes may be made in the redevelopment plan,  
13 redevelopment project, redevelopment area or redevelopment project area, provided that written  
14 notice of such changes is available at the public hearing. After the public hearing but prior to  
15 the adoption of an ordinance designating a redevelopment area, adopting a redevelopment plan  
16 or approving a redevelopment project, changes may be made to any such proposed  
17 redevelopment plan, redevelopment project, redevelopment area, or redevelopment project area  
18 without a further hearing, if such changes do not enlarge the exterior boundaries of the  
19 redevelopment area, and do not substantially affect the general land uses established in a  
20 redevelopment plan or redevelopment project, provided that notice of such changes shall be  
21 given by mail to each affected taxing district and by publication in a newspaper of general  
22 circulation in the redevelopment area or redevelopment project area, as applicable, not less than  
23 ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance  
24 designating the redevelopment area, adopting a redevelopment plan, approving a redevelopment  
25 project, or designating a redevelopment project area, no ordinance shall be adopted altering the  
26 exterior boundaries of the redevelopment area or a redevelopment project area affecting the  
27 general land uses established under the redevelopment plan or the general nature of a  
28 redevelopment project without holding a public hearing in accordance with this section. One  
29 public hearing may be held for the simultaneous consideration of a redevelopment area,  
30 redevelopment plan, redevelopment project, or redevelopment project area.

31           2. Notice of the public hearing required by this section shall be given by publication and  
32 mailing. Notice by publication shall be given by publication at least twice, the first publication  
33 to be not more than thirty days and the second publication to be not more than ten days prior to  
34 the hearing, in a newspaper of general circulation in the proposed redevelopment area or  
35 redevelopment project area, as applicable. Notice by mailing shall be given by depositing such  
36 notice in the United States mail by certified mail addressed to the person or persons in whose  
37 name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel  
38 of land lying within the proposed redevelopment area or redevelopment project area, as  
39 applicable. Such notice shall be mailed not less than ten working days prior to the date set for  
40 the public hearing.

41           3. The notices issued under this section shall include the following:

42           (1) The time and place of the public hearing;

43           (2) The general boundaries of the proposed redevelopment area or redevelopment project  
44 area, as applicable, by street location, where possible;

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

47           (4) A description of the redevelopment plan and the proposed redevelopment projects  
48 and a location and time where the entire redevelopment plan or redevelopment projects proposed  
49 may be reviewed by any interested party;

50           (5) A statement that [redevelopment financing involving tax revenues is being sought  
51 for the project] **financial assistance is being sought under sections 99.1080 to 99.1092** and an  
52 estimate of the amount of [local redevelopment financing that will be requested, if applicable]  
53 **assistance that will be requested;** and

54           (6) Such other matters as the municipality or authority may deem appropriate.

55           4. Not less than forty-five days prior to the date set for the public hearing, the  
56 municipality or authority shall give notice by mail as provided in subsection 2 of this section to  
57 all taxing districts whose taxes are affected in the redevelopment area or redevelopment project  
58 area, as applicable, and in addition to the other requirements under subsection 3 of this section,  
59 the notice shall include an invitation to each taxing district to submit comments to the  
60 municipality or authority concerning the subject matter of the hearing prior to the date of the  
61 hearing.

62           5. A copy of any and all hearing notices required by this section shall be submitted by  
63 the municipality or authority to the director of the department of economic development and the  
64 date such notices were mailed or published, as applicable.

          99.1090. 1. A municipality shall submit an application to the department of economic  
2 development for review and determination as to approval of the disbursement of the project costs

3 of one or more redevelopment projects from the downtown revitalization preservation fund. The  
4 department of economic development shall forward the application to the commissioner of the  
5 office of administration for approval. In no event shall any approval authorize a disbursement  
6 of one or more redevelopment projects from the downtown revitalization preservation fund  
7 which exceeds the allowable amount of other net new revenues derived from the redevelopment  
8 area. An application submitted to the department of economic development shall contain the  
9 following, in addition to the items set forth in section 99.1086:

10 (1) An estimate that one hundred percent of the local sales tax increment deposited to  
11 the special allocation fund must and will be used to pay redevelopment project costs or  
12 obligations issued to finance redevelopment project costs to achieve the objectives of the  
13 redevelopment plan. **Contributions to the development project from any private**  
14 **not-for-profit organization or local contributions from tax abatement or other sources may**  
15 **be substituted on a dollar-for-dollar basis for the local match of one hundred percent of**  
16 **payments in lieu of taxes and economic activity taxes from the fund;**

17 (2) Identification of the existing businesses located within the redevelopment project  
18 area and the redevelopment area;

19 (3) The aggregate baseline year amount of state sales tax revenues reported by existing  
20 businesses within the redevelopment project area. Provisions of section 32.057, RSMo,  
21 notwithstanding, municipalities will provide this information to the department of revenue for  
22 verification. The department of revenue will verify the information provided by the  
23 municipalities within forty-five days of receiving a request for such verification from a  
24 municipality;

25 (4) An estimate of the state sales tax increment **and state income tax increment** within  
26 the redevelopment project area after redevelopment. The department of economic development  
27 shall have the discretion to exempt smaller projects from this requirement;

28 (5) An affidavit that is signed by the developer or developers attesting that the provision  
29 of subdivision (2) of subsection 2 of section 99.1086 has been met;

30 (6) The amounts and types of other net new revenues sought by the applicant to be  
31 disbursed from the downtown revitalization preservation fund over the term of the  
32 redevelopment plan;

33 (7) The methodologies and underlying assumptions used in determining the estimate of  
34 the state sales tax increment **and state income tax increment**; and

35 (8) Any other information reasonably requested by the department of economic  
36 development.

37 2. The department of economic development shall make all reasonable efforts to process  
38 applications within a reasonable amount of time.

39           3. The department of economic development shall make a determination regarding the  
40 application for a certificate allowing disbursements from the downtown revitalization  
41 preservation fund and shall forward such determination to the commissioner of the office of  
42 administration. In no event shall the amount of disbursements from the downtown revitalization  
43 preservation fund approved for a project, in addition to any other state economic redevelopment  
44 funding or other state incentives, exceed the projected state benefit of the redevelopment project,  
45 as determined by the department of economic development through a cost-benefit analysis. Any  
46 political subdivision located either wholly or partially within the redevelopment area shall be  
47 permitted to submit information to the department of economic development for consideration  
48 in its cost-benefit analysis. Upon approval of downtown revitalization preservation financing,  
49 a certificate of approval shall be issued by the department of economic development containing  
50 the terms and limitations of the disbursement.

51           4. At no time shall the annual amount of other net new revenues approved for  
52 disbursements from the downtown revitalization preservation fund exceed fifteen million dollars.

53           5. Redevelopment projects receiving disbursements from the downtown revitalization  
54 preservation fund shall be limited to receiving such disbursements for twenty-five years. The  
55 approved term notwithstanding, downtown revitalization preservation financing shall terminate  
56 when redevelopment financing for a redevelopment project is terminated by a municipality.

57           6. The municipality shall deposit payments received from the downtown revitalization  
58 preservation redevelopment fund in a separate segregated account for other net new revenues  
59 within the special allocation fund.

60           7. Redevelopment project costs may include, at the prerogative of the state, the portion  
61 of salaries and expenses of the department of economic development and the department of  
62 revenue reasonably allocable to each redevelopment project approved for disbursements from  
63 the downtown revitalization preservation fund for the ongoing administrative functions  
64 associated with such redevelopment project. Such amounts shall be recovered from new state  
65 revenues deposited into the downtown revitalization preservation fund created under section  
66 99.1092.

67           8. A redevelopment project approved for downtown revitalization preservation financing  
68 shall not thereafter elect to receive tax increment financing under the real property tax increment  
69 allocation redevelopment act, sections 99.800 to 99.865, and continue to receive downtown  
70 revitalization financing under sections 99.1080 to 99.1092.

71           9. The department of economic development may establish the procedures and standards  
72 for the determination and approval of applications by the promulgation of rules and publish  
73 forms to implement the provisions of this section and section 99.1092.

74           10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
75 is created under the authority delegated in this section and section 99.1092 shall become  
76 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
77 and, if applicable, section 536.028, RSMo. This section, section 99.1092, and chapter 536,  
78 RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter  
79 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are  
80 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
81 or adopted after August 28, 2005, shall be invalid and void.

          99.1092. 1. There is hereby established within the state treasury a special fund to be  
2 known as the "Downtown Revitalization Preservation Fund", to be administered by the  
3 department of economic development. Any unexpended balance and any interest in the fund at  
4 the end of the biennium shall be exempt from the provisions of section 33.080, RSMo, relating  
5 to the transfer of unexpended balances to the general revenue fund. The fund shall consist of:  
6           (1) The first fifteen million dollars of other net new revenues generated annually by the  
7 redevelopment projects;  
8           (2) Money received from costs charged under subsection 7 of section 99.1090; and  
9           (3) Gifts, contributions, grants, or bequests received from federal, private, or other  
10 sources.

11           2. Notwithstanding the provisions of section 144.700, RSMo, to the contrary, the  
12 department of revenue shall annually submit the first fifteen million dollars of other net new  
13 revenues generated by the redevelopment projects to the treasurer for deposit in the downtown  
14 revitalization preservation fund.

15           3. The department of economic development shall annually disburse funds from the  
16 downtown revitalization preservation fund in amounts determined under the certificates of  
17 approval for projects, providing that the amounts of other net new revenues generated from the  
18 redevelopment area have been verified and all of the conditions of sections 99.1080 to 99.1092  
19 are met. If the revenues appropriated from the downtown revitalization preservation fund are  
20 not sufficient to equal the amounts determined to be disbursed under such certificates of  
21 approval, the department of economic development shall disburse the revenues on a pro rata  
22 basis to all such projects and other costs approved under section 99.1090.

23           4. In no event shall the amounts distributed to a project from the downtown revitalization  
24 preservation fund exceed the lesser of the amount of the certificates of approval for projects or  
25 the actual other net new revenues generated by the projects.

26           5. The department of economic development shall not disburse any moneys from the  
27 downtown revitalization preservation fund for any project which has not complied with the  
28 annual reporting requirements determined by the department of economic development.

29           6. Money in the downtown revitalization preservation fund may be spent for the  
30 reasonable and necessary costs associated with the administration of the program authorized  
31 under sections 99.1080 to 99.1092.

32           7. No municipality shall obligate or commit the expenditure of disbursements received  
33 from the downtown revitalization preservation fund prior to receiving a certificate of approval  
34 for the redevelopment project generating other net new revenues. In addition, no municipality  
35 shall commence work on a redevelopment project prior to receiving a certificate of approval for  
36 the redevelopment project.

37           8. Taxpayers in any redevelopment area who are required to remit sales taxes under  
38 chapter 144, RSMo, **or income tax withholdings under chapter 143, RSMo**, shall provide  
39 additional information to the department of revenue in a form prescribed by the department by  
40 rule. Such information shall include, but shall not be limited to, information upon which other  
41 net new revenues can be calculated and sales tax generated in the redevelopment area by such  
42 taxpayer in the baseline year and during the time period related to the **withholding or** sales tax  
43 remittance.

44           9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
45 is created pursuant to the authority delegated in this section shall become effective only if it  
46 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
47 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of  
48 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay  
49 the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then  
50 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall  
51 be invalid and void.

          100.286. 1. Within the discretion of the board, the development and reserve fund, the  
2 infrastructure development fund or the export finance fund may be pledged to secure the payment  
3 of any bonds or notes issued by the board, or to secure the payment of any loan made by the  
4 board or a participating lender which loan:

- 5           (1) Is requested to finance any project or export trade activity;  
6           (2) Is requested by a borrower who is demonstrated to be financially responsible;  
7           (3) Can reasonably be expected to provide a benefit to the economy of this state;  
8           (4) Is otherwise secured by a mortgage or deed of trust on real or personal property or  
9 other security satisfactory to the board; provided that loans to finance export trade activities may  
10 be secured by export accounts receivable or inventories of exportable goods satisfactory to the  
11 board;  
12           (5) Does not exceed five million dollars;



13           (6) Does not have a term longer than five years if such loan is made to finance export  
14 trade activities; and

15           (7) Is, when used to finance export trade activities, made to small or medium size  
16 businesses or agricultural businesses, as may be defined by the board.

17           2. The board shall prescribe standards for the evaluation of the financial condition,  
18 business history, and qualifications of each borrower and the terms and conditions of loans which  
19 may be secured, and may require each application to include a financial report and evaluation  
20 by an independent certified public accounting firm, in addition to such examination and  
21 evaluation as may be conducted by any participating lender.

22           3. Each application for a loan secured by the development and reserve fund, the  
23 infrastructure development fund or the export finance fund shall be reviewed in the first instance  
24 by any participating lender to whom the application was submitted. If satisfied that the standards  
25 prescribed by the board are met and that the loan is otherwise eligible to be secured by the  
26 development and reserve fund, the infrastructure development fund or the export finance fund,  
27 the participating lender shall certify the same and forward the application for final approval to  
28 the board.

29           4. The securing of any loans by the development and reserve fund, the infrastructure  
30 development fund or the export finance fund shall be conditioned upon approval of the  
31 application by the board, and receipt of an annual reserve participation fee, as prescribed by the  
32 board, submitted by or on behalf of the borrower.

33           5. The securing of any loan by the export finance fund for export trade activities shall  
34 be conditioned upon the board's compliance with any applicable treaties and international  
35 agreements, such as the general agreement on tariffs and trade and the subsidies code, to which  
36 the United States is then a party.

37           6. Any taxpayer, including any charitable organization that is exempt from federal  
38 income tax and whose Missouri unrelated business taxable income, if any, would be subject to  
39 the state income tax imposed under chapter 143, RSMo, [shall be entitled to] **may, subject to**  
40 **the limitations provided under subsections 8 and 9 of this section, receive** a tax credit against  
41 any tax otherwise due under the provisions of chapter 143, RSMo, excluding withholding tax  
42 imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in  
43 the amount of fifty percent of any amount contributed in money or property by the taxpayer to  
44 the development and reserve fund, the infrastructure development fund or the export finance  
45 fund during the taxpayer's tax year, provided, however, the total tax credits awarded in any  
46 calendar year beginning after January 1, 1994, shall not be the greater of ten million dollars or  
47 five percent of the average growth in general revenue receipts in the preceding three fiscal years.  
48 This limit may be exceeded only upon joint agreement by the commissioner of administration,

49 the director of the department of economic development, and the director of the department of  
50 revenue that such action is essential to ensure retention or attraction of investment in Missouri.  
51 If the board receives, as a contribution, real property, the contributor at such contributor's own  
52 expense shall have two independent appraisals conducted by appraisers certified by the Master  
53 Appraisal Institute. Both appraisals shall be submitted to the board, and the tax credit certified  
54 by the board to the contributor shall be based upon the value of the lower of the two appraisals.  
55 The board shall not certify the tax credit until the property is deeded to the board. Such credit  
56 shall not apply to reserve participation fees paid by borrowers under sections 100.250 to 100.297.  
57 The portion of earned tax credits which exceeds the taxpayer's tax liability may be carried  
58 forward for up to five years.

59 7. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign,  
60 exchange, convey or otherwise transfer tax credits allowed in subsection 6 of this section under  
61 the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer,  
62 hereinafter the assignor for the purpose of this subsection, may sell, assign, exchange or  
63 otherwise transfer earned tax credits:

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

65 (2) In an amount not to exceed one hundred percent of annual earned credits. The  
66 taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may  
67 use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise  
68 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to  
69 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. Unused credits in the hands of the  
70 assignee may be carried forward for up to five years, provided all such credits shall be claimed  
71 within ten years following the tax years in which the contribution was made. The assignor shall  
72 enter into a written agreement with the assignee establishing the terms and conditions of the  
73 agreement and shall perfect such transfer by notifying the board in writing within thirty calendar  
74 days following the effective day of the transfer and shall provide any information as may be  
75 required by the board to administer and carry out the provisions of this section. Notwithstanding  
76 any other provision of law to the contrary, the amount received by the assignor of such tax credit  
77 shall be taxable as income of the assignor, and the excess of the par value of such credit over the  
78 amount paid by the assignee for such credit shall be taxable as income of the assignee.

79 **8. Provisions of subsections 1 to 7 of this section to the contrary notwithstanding,**  
80 **the total amount of tax credits provided under this section, which may be authorized or**  
81 **approved in fiscal year 2010 for issuance, shall not exceed ten million dollars. No tax**  
82 **credits shall be authorized or approved under the provisions of this section after June 30,**  
83 **2010, unless an allocation is made pursuant to the provisions of section 135.821, RSMo,**  
84 **provided, however, that in no case shall such allocation authorize more than ten million**

dollars in tax credits. In any fiscal year for which an allocation is made pursuant to the provisions of section 135.821, RSMo, no more than the amount of tax credits so allocated shall be authorized or approved. The limitations on tax credit authorization and approval provided under this subsection may be exceeded only upon mutual agreement, evidenced by a signed and properly notarized letter, by the commissioner of the office of administration, the director of the department of economic development, the director of the department of revenue, the chairman of the budget committee of the house of representatives, and the chairman of the appropriations committee of the senate that such action is essential to ensure retention or attraction of investment in Missouri provided, however, that in no case shall more than twenty-five million dollars in tax credits be authorized or approved during such fiscal year. Taxpayers shall file, with the department of economic development, an application for tax credits authorized under this section on a form provided by the department. In the event the amount of claims exceed the amount of credits available under the provisions of this subsection, the department of economic development shall award the credits on a first-to-file, first-to-receive basis. The provisions of this subsection shall not be construed to limit or in any way impair the ability of the board to issue tax credits authorized or approved on or before December 31, 2008, or a taxpayer's ability to redeem such credits.

**9. No tax credits provided under this section shall be authorized or approved after June 30, 2013. The provisions of this subsection shall not be construed to limit or in any way impair the department's ability to issue tax credits authorized prior to June 30, 2013, or a taxpayer's ability to redeem such tax credits.**

100.297. 1. The board may authorize a tax credit, as described in this section, to the owner of any revenue bonds or notes issued by the board pursuant to the provisions of sections 100.250 to 100.297, for infrastructure facilities as defined in subdivision (9) of section 100.255, if, prior to the issuance of such bonds or notes, the board determines that:

(1) The availability of such tax credit is a material inducement to the undertaking of the project in the state of Missouri and to the sale of the bonds or notes;

(2) The loan with respect to the project is adequately secured by a first deed of trust or mortgage or comparable lien, or other security satisfactory to the board.

2. Upon making the determinations specified in subsection 1 of this section, the board may declare that each owner of an issue of revenue bonds or notes shall be entitled, in lieu of any other deduction with respect to such bonds or notes, to a tax credit against any tax otherwise due by such owner pursuant to the provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in the amount of one hundred percent of the unpaid principal of and unpaid interest on such bonds

15 or notes held by such owner in the taxable year of such owner following the calendar year of the  
16 default of the loan by the borrower with respect to the project. The occurrence of a default shall  
17 be governed by documents authorizing the issuance of the bonds. The tax credit allowed  
18 pursuant to this section shall be available to the original owners of the bonds or notes or any  
19 subsequent owner or owners thereof. Once an owner is entitled to a claim, any such tax credits  
20 shall be transferable as provided in subsection 7 of section 100.286. Notwithstanding any  
21 provision of Missouri law to the contrary, any portion of the tax credit to which any owner of a  
22 revenue bond or note is entitled pursuant to this section which exceeds the total income tax  
23 liability of such owner of a revenue bond or note shall be carried forward and allowed as a credit  
24 against any future taxes imposed on such owner within the next ten years pursuant to the  
25 provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to  
26 143.261, RSMo, chapter 147, RSMo, or chapter 148, RSMo. The eligibility of the owner of any  
27 revenue bond or note issued pursuant to the provisions of sections 100.250 to 100.297 for the  
28 tax credit provided by this section shall be expressly stated on the face of each such bond or note.  
29 The tax credit allowed pursuant to this section shall also be available to any financial institution  
30 or guarantor which executes any credit facility as security for bonds issued pursuant to this  
31 section to the same extent as if such financial institution or guarantor was an owner of the bonds  
32 or notes, provided however, in such case the tax credits provided by this section shall be  
33 available immediately following any default of the loan by the borrower with respect to the  
34 project. In addition to reimbursing the financial institution or guarantor for claims relating to  
35 unpaid principal and interest, such claim may include payment of any unpaid fees imposed by  
36 such financial institution or guarantor for use of the credit facility.

37       3. The aggregate principal amount of revenue bonds or notes outstanding at any time  
38 with respect to which the tax credit provided in this section shall be available shall not exceed  
39 fifty million dollars. **The total amount of revenue bonds or notes issued in fiscal year 2010,**  
40 **to which the tax credits provided under this section shall be available, shall not exceed ten**  
41 **million dollars. Provisions of this section to the contrary notwithstanding, for all fiscal**  
42 **years beginning on or after July 1, 2010, no revenue bonds or notes shall be issued under**  
43 **the provisions of sections 100.250 to 100.297, unless an allocation is made pursuant to the**  
44 **provisions of section 135.821, RSMo, provided, however, that in no case shall such**  
45 **allocation authorize more than ten million dollars in revenue bonds or notes to which the**  
46 **tax credit provided in this section shall be available. In any fiscal year for which an**  
47 **allocation is made pursuant to the provisions of section 135.821, RSMo, no more than the**  
48 **amount so allocated shall be issued in the form of revenue bonds or notes. No tax credits**  
49 **provided under this section shall be authorized after June 30, 2011. The provisions of this**  
50 **subsection shall not be construed to limit or in any way impair the department's ability to**

51 **issue tax credits authorized prior to June 30, 2011, or a taxpayer's ability to redeem such**  
52 **tax credits.**

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

- 2 (1) "Assessment", an amount of up to five percent of the gross wages paid in one year  
3 by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic  
4 development project is located within a distressed community as defined in section 135.530,  
5 RSMo;
- 6 (2) "Board", the Missouri development finance board as created by section 100.265;
- 7 (3) "Certificates", the revenue bonds or notes authorized to be issued by the board  
8 pursuant to section 100.840;
- 9 (4) "Credit", the amount agreed to between the board and an eligible industry, but not  
10 to exceed the assessment attributable to the eligible industry's project;
- 11 (5) "Department", the Missouri department of economic development;
- 12 (6) "Director", the director of the department of economic development;
- 13 (7) "Economic development project":  
14 (a) The acquisition of any real property by the board, the eligible industry, or its affiliate;  
15 or  
16 (b) The fee ownership of real property by the eligible industry or its affiliate; and  
17 (c) For both paragraphs (a) and (b) of this subdivision, "economic development project"  
18 shall also include the development of the real property including construction, installation, or  
19 equipping of a project, including fixtures and equipment, and facilities necessary or desirable for  
20 improvement of the real property, including surveys; site tests and inspections; subsurface site  
21 work; excavation; removal of structures, roadways, cemeteries and other surface obstructions;  
22 filling, grading and provision of drainage, storm water retention, installation of utilities such as  
23 water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site  
24 construction of utility extensions to the boundaries of the real property; and the acquisition,  
25 installation, or equipping of facilities on the real property, for use and occupancy by the eligible  
26 industry or its affiliates;
- 27 (8) "Eligible employee", a person employed on a full-time basis in a new job at the  
28 economic development project averaging at least thirty-five hours per week who was not  
29 employed by the eligible industry or a related taxpayer in this state at any time during the  
30 twelve-month period immediately prior to being employed at the economic development project.  
31 For an essential industry, a person employed on a full-time basis in an existing job at the  
32 economic development project averaging at least thirty-five hours per week may be considered  
33 an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

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

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

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

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

71           (a) Be a targeted industry;

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

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

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

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

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

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

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

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

102           (b) The cost of acquiring land or rights in land and any cost incidental thereto, including  
103 recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

(14) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates;

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

100.720. 1. The Missouri development finance board shall have, in addition to the powers provided to it in sections 100.250 to 100.297, and with the approval of the department, all the powers necessary to carry out and effectuate the purposes and provisions of sections 100.700 to 100.850, including, but not limited to, the power to:

(1) Provide and finance economic development projects, pursuant to the provisions of sections 100.700 to 100.850, and cooperate with eligible industries in order to promote, foster and support economic development within the state;

(2) Conduct hearings and inquiries, in the manner and by the methods as it deems desirable, for the purpose of gathering information with respect to eligible industries and economic development projects, and for the purpose of making any determinations necessary or desirable in the furtherance of sections 100.700 to 100.850; [and]

(3) Negotiate the terms of, including the amount of project costs, and enter into financing agreements with eligible industries, and in connection therewith to acquire, convey, sell, mortgage, finance or otherwise dispose of any property, real or personal, loan bond proceeds, and permit the use of assessments, in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the program costs of an economic development project from any funds available therefor; and

**(4) In the event that market or economic conditions are such that the eligible industry is unable to perform the requirements of sections 100.700 to 100.850, temporarily**



20 **suspend or waive such requirements until market or economic conditions improve, so long**  
21 **as the eligible industry has not caused such adverse conditions.**

22 2. Certificates issued by the board pursuant to the provisions of sections 100.700 to  
23 100.850 shall not constitute an indebtedness or liability of the state of Missouri within the  
24 meaning of any state constitutional provision or statutory limitation, shall not constitute a pledge  
25 of the faith and credit of the state of Missouri, shall not be guaranteed by the credit of the state,  
26 and unless approved by a concurrent resolution of the general assembly, no certificate in default  
27 shall be paid by the state of Missouri.

100.750. The financing agreement shall provide in substance that:

2 (1) It may be assigned by the eligible industry only upon the prior written consent of the  
3 board following the adoption of a resolution by the board to such effect; and

4 (2) Upon default by the eligible industry in any obligations under the financing  
5 agreement or other documents evidencing, securing or related to the eligible industry's  
6 obligations, the board shall have the right, at its option, to:

7 (a) Declare the financing agreement or other such documents in default;

8 (b) Accelerate and declare the total of all such payments due by the eligible industry and  
9 sell the economic development project at public, private, or judicial sale;

10 (c) Pursue any remedy provided under the financing agreement or other such documents;

11 (d) Be entitled to the appointment of a receiver by the circuit court wherein any part of  
12 the economic development project is located; [and]

13 (e) **If adverse market or economic conditions develop during the financing period,**  
14 **temporarily suspend or waive any of the requirements of sections 100.700 to 100.850 until**  
15 **market or economic conditions improve, so long as the eligible industry has not caused**  
16 **such adverse conditions; and**

17 (f) Pursue any other applicable legal remedy.

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

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

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

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

- 10 (a) Cash or in-kind incentives derived from any nonstate source, including incentives  
11 provided by the affected political subdivisions, private industry and/or local chambers of  
12 commerce or similar such organizations; and/or
- 13 (b) Relief from local taxes, in either case as acceptable to the board;
- 14 (4) Receiving the credit is a major factor in the applicant's decision to go forward with  
15 the project and not receiving the credit will result in the applicant not creating new jobs in  
16 Missouri; **and**
- 17 (5) Awarding the credit will result in an overall positive fiscal impact to the state[;
- 18 (6) There is at least one other state that the applicant verifies is being considered for the  
19 project; and
- 20 (7) A significant disparity is identified, using best available data in the projected costs  
21 for the applicant's project compared to the costs in the competing state, including the impact of  
22 the competing state's incentive programs. The competing state's incentive program shall include  
23 state, local, private and federal funds].

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

- 3 (1) The economy of the county where the projected investment is to occur;
- 4 (2) The potential impact on the economy of Missouri;
- 5 (3) The payroll attributable to the project;
- 6 (4) The capital investment attributable to the project;
- 7 (5) The amount the average wage paid by the applicant exceeds the average wage paid  
8 within the county in which the project will be located;
- 9 (6) The costs to Missouri and the affected political subdivisions with respect to the  
10 project; **and**
- 11 (7) The financial assistance that is otherwise provided by Missouri and the affected  
12 political subdivisions[; and
- 13 (8) The magnitude of the cost differential between Missouri and the competing state].

105.145. 1. The following definitions shall be applied to the terms used in this section:

- 2 (1) "Governing body", the board, body, or persons in which the powers of a political  
3 subdivision as a body corporate, or otherwise, are vested;
- 4 (2) "Political subdivision", any agency or unit of this state, except counties and school  
5 districts, which now is, or hereafter shall be, authorized to levy taxes or empowered to cause  
6 taxes to be levied.

7 2. The governing body of each political subdivision in the state shall cause to be  
8 prepared an annual report of the financial transactions of the political subdivision in such  
9 summary form as the state auditor shall prescribe by rule, except that the annual report of

10 political subdivisions whose cash receipts for the reporting period are ten thousand dollars or less  
11 shall only be required to contain the cash balance at the beginning of the reporting period, a  
12 summary of cash receipts, a summary of cash disbursements and the cash balance at the end of  
13 the reporting period.

14 3. Within such time following the end of the fiscal year as the state auditor shall  
15 prescribe by rule, the governing body of each political subdivision shall cause a copy of the  
16 annual financial report to be remitted to the state auditor.

17 4. The state auditor shall immediately on receipt of each financial report acknowledge  
18 the receipt of the report.

19 5. In any fiscal year no member of the governing body of any political subdivision of the  
20 state shall receive any compensation or payment of expenses after the end of the time within  
21 which the financial statement of the political subdivision is required to be filed with the state  
22 auditor and until such time as the notice from the state auditor of the filing of the annual financial  
23 report for the fiscal year has been received.

24 6. The state auditor shall prepare sample forms for financial reports and shall mail the  
25 same to the political subdivisions of the state. Failure of the auditor to supply such forms shall  
26 not in any way excuse any person from the performance of any duty imposed by this section.

27 7. All reports or financial statements hereinabove mentioned shall be considered to be  
28 public records.

29 **8. The provisions of this section apply to the board of directors of every**  
30 **transportation development district organized under sections 238.200 to 238.275, RSMo.**  
31 **Any transportation development district that fails to timely submit a copy of the annual**  
32 **financial statement to the state auditor shall be subject to a fine not to exceed five hundred**  
33 **dollars per day.**

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

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

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

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

5 (b) The following fraction:

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

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

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

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

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

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

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

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

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

42 (6) "Qualified community development entity", the meaning given such term in Section  
43 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered  
44 into an allocation agreement with the Community Development Financial Institutions Fund of  
45 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal  
46 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area  
47 set forth in such allocation agreement;

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

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

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

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

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

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

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

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

73 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits  
74 under this section. On each credit allowance date of such qualified equity investment the  
75 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit  
76 during the taxable year including such credit allowance date. The tax credit amount shall be  
77 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such

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

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

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

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

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

107 5. The department of economic development shall promulgate rules to implement the  
108 provisions of this section, including recapture provisions on a scaled proportional basis, and to  
109 administer the allocation of tax credits issued for qualified equity investments, which shall be  
110 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined  
111 in section 536.010, RSMo, that is created under the authority delegated in this section shall  
112 become effective only if it complies with and is subject to all of the provisions of chapter 536,  
113 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are

114 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
115 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
116 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
117 after September 4, 2007, shall be invalid and void.

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

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

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

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

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

**135.1160. 1. As used in this section, the following terms mean:**

2         (1) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,  
3 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo;

4         (2) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
5 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and who  
6 is an owner and an occupant in a multi-family rental property.

7           **2. For all taxable years beginning on or after January 1, 2010, a taxpayer shall be**  
8 **allowed a tax credit for costs incurred in renovating the taxpayer's rented dwelling or**  
9 **residence. The tax credit amount shall be equal to twenty percent of such costs, but shall**  
10 **not exceed two thousand five hundred dollars per taxpayer claiming the credit. The**  
11 **amount of the tax credit issued shall not exceed the amount of the taxpayer's state tax**  
12 **liability for the tax year for which the credit is claimed. If the amount of the tax credit**  
13 **issued exceeds the amount of the taxpayer's state tax liability for the tax year for which the**  
14 **credit is claimed, the difference shall not be refundable but may be carried forward to any**  
15 **of the taxpayer's three subsequent taxable years. No tax credit issued under this section**  
16 **shall be transferred, sold, or assigned. The aggregate amount of tax credits which may be**  
17 **issued under this section in any one fiscal year shall not exceed five million dollars. The**  
18 **tax credits issued under this section shall be issued on a first-come, first-served filing basis.**

19           **3. The department of revenue may promulgate rules to implement the provisions**  
20 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010,**  
21 **RSMo, that is created under the authority delegated in this section shall become effective**  
22 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**  
23 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**  
24 **nonseverable and if any of the powers vested with the general assembly pursuant to**  
25 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
26 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
27 **rule proposed or adopted after August 28, 2009, shall be invalid and void.**

28           **4. Under section 23.253, RSMo, of the Missouri Sunset Act:**

29           **(1) The provisions of the new program authorized under this section shall**  
30 **automatically sunset on December thirty-first six years after the effective date of this**  
31 **section unless reauthorized by an act of the general assembly; and**

32           **(2) If such program is reauthorized, the program authorized under this section**  
33 **shall automatically sunset on December thirty-first twelve years after the effective date of**  
34 **the reauthorization of this section; and**

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

**144.022. All revenues from any sales tax imposed under this chapter on any new**  
2 **enplanement occurring at any airport in this state on or after January 1, 2009, shall be**  
3 **retained by the airport at which the new enplanement occurs, and shall be used solely for**  
4 **any marketing expenses incurred by such airport. This section shall expire December 31,**  
5 **2015.**



**144.055. Beginning January 1, 2010, in addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all electrical energy, gas, water, and other utilities including telecommunication services, machinery, equipment, or computers used by data center and server farm facilities that are more than fifty thousand square feet of space and all sales at retail of tangible personal property and materials for the purpose of constructing, repairing or remodeling facilities for use by data center and server farm facilities that are more than fifty thousand square feet of space.**

147.010. 1. [For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, but before January 1, 2000, every corporation organized pursuant to or subject to chapter 351, RSMo, or pursuant to any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceed two hundred thousand dollars, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose contained in this section, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares exceeds five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceed two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state two hundred thousand dollars, and for the purposes of sections 147.010 to 147.120, such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter 351, RSMo, or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall state that fact on the annual report form prescribed by the secretary of state.] For all taxable years beginning on or after January 1, 2000, **but ending before December 31, 2009**, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation whose outstanding shares and surplus do not exceed one million dollars shall state that fact on the annual report form prescribed by the director of revenue. **For taxable years beginning on**

28 **or after January 1, 2010, the annual franchise tax shall be equal to one-thirtieth of one**  
29 **percent of the corporation's outstanding shares and surplus if the outstanding shares and**  
30 **surplus exceed ten million dollars, and any corporation whose outstanding shares and**  
31 **surplus do not exceed ten million dollars shall state that fact on the annual report form**  
32 **prescribed by the director of revenue.**

33         2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit,  
34 nor to corporations organized pursuant to the provisions of chapter 349, RSMo, nor to express  
35 companies, which now pay an annual tax on their gross receipts in this state, nor to insurance  
36 companies, which pay an annual tax on their premium receipts in this state, nor to state, district,  
37 county, town and farmers' mutual companies now organized or that may be hereafter organized  
38 pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning,  
39 windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the  
40 purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance  
41 corporation not having shares, nor to a company or association organized to transact business of  
42 life or accident insurance on the assessment plan for the purpose of mutual protection and benefit  
43 to its members and the payment of stipulated sums of moneys to the family, heirs, executors,  
44 administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety,  
45 liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature  
46 coming within the provisions of section 147.050 and doing business in this state, nor to savings  
47 and loan associations and domestic and foreign regulated investment companies as defined by  
48 Section 170 of the Act of Congress commonly known as the "Revenue Act of 1942", nor to  
49 electric and telephone corporations organized pursuant to chapter 351, RSMo, and chapter 392,  
50 RSMo, prior to January 1, 1980, which have been declared tax exempt organizations pursuant  
51 to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after  
52 December 31, 1986, to banking institutions subject to the annual franchise tax imposed by  
53 sections 148.010 to 148.110, RSMo; but bank deposits shall be considered as funds of the  
54 individual depositor left for safekeeping and shall not be considered in computing the amount  
55 of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

56         3. A corporation's "taxable year" for purposes of sections 147.010 to 147.120 shall be  
57 its taxable year as provided in section 143.271, RSMo.

58         4. A corporation's "transitional year" for the purposes of sections 147.010 to 147.120  
59 shall be its taxable year which includes parts of each of the years 1979 and 1980.

60         5. The franchise tax payable for a corporation's transitional year shall be computed by  
61 multiplying the amount otherwise due for that year by a fraction, the numerator of which is the  
62 number of months between January 1, 1980, and the end of the taxable year and the denominator  
63 of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as

64 provided in section 143.271, RSMo, shall be similarly computed pursuant to regulations  
65 prescribed by the director of revenue.

66 6. All franchise reports and franchise taxes shall be returned to the director of revenue.  
67 All checks and drafts remitted for payment of franchise taxes shall be made payable to the  
68 director of revenue.

69 7. Pursuant to section 32.057, RSMo, the director of revenue shall maintain the  
70 confidentiality of all franchise tax reports returned to the director.

71 8. The director of the department of revenue shall honor all existing agreements between  
72 taxpayers and the director of the department of revenue.

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

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

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

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

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

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

238.207. 1. Whenever the creation of a district is desired, not less than fifty registered voters from each county partially or totally within the proposed district may file a petition requesting the creation of a district. However, if no persons eligible to be registered voters reside within the district, the owners of record of all of the real property, except public streets, located within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

2. Alternatively, the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a district.

3. The proposed district area shall be contiguous and may contain all or any portion of one or more municipalities and counties; provided:

(1) Property separated only by public streets, easements or rights-of-way shall be considered contiguous;

(2) In the case of a district formed pursuant to a petition filed by the owners of record of all of the real property located within the proposed district, the proposed district area need not contain contiguous properties if:

(a) The petition provides that the only funding method for project costs will be a sales tax;

(b) The court finds that all of the real property located within the proposed district will benefit by the projects to be undertaken by the district; and

(c) Each parcel within the district is within five miles of every other parcel; and

(3) In the case of a district created pursuant to subsection 5 of this section, property separated only by public streets, easements, or rights-of-way or connected by a single public street, easement, or right-of-way shall be considered contiguous.

4. The petition shall set forth:

(1) The name, voting residence and county of residence of each individual petitioner, or, if no persons eligible to be registered voters reside within the proposed district, the name and address of each owner of record of real property located within the proposed district, or shall recite that the petitioner is the governing body of a local transportation authority acting in its official capacity;

(2) The name and address of each respondent. Respondents must include the commission and each affected local transportation authority within the proposed district, except a petitioning local transportation authority;

(3) A specific description of the proposed district boundaries including a map illustrating such boundaries;

36 (4) A general description of each project proposed to be undertaken by that district,  
37 including a description of the approximate location of each project;

38 (5) The estimated project costs and the anticipated revenues to be collected from the  
39 project;

40 (6) The name of the proposed district;

41 (7) The number of members of the board of directors of the proposed district, which shall  
42 be not less than five or more than fifteen;

43 (8) A statement that the terms of office of initial board members shall be staggered in  
44 approximately equal numbers to expire in one, two or three years;

45 (9) If the petition was filed by registered voters or by a governing body, a request that  
46 the question be submitted to the qualified voters within the limits of the proposed district  
47 whether they will establish a transportation development district to develop a specified project  
48 or projects;

49 (10) A proposal for funding the district initially, pursuant to the authority granted in  
50 sections 238.200 to 238.275, together with a request that the funding proposal be submitted to  
51 the qualified voters within the limits of the proposed district; provided, however, the funding  
52 method of special assessments may also be approved as provided in subsection 1 of section  
53 238.230; [and]

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

56 **(12) Details of the budgeted expenditures, including estimated expenditures for real**  
57 **physical improvements, estimated land acquisition expenses, estimated expenses for**  
58 **professional services and estimated interest charges.**

59 5. (1) As an alternative to the methods described in subsections 1 and 2 of this section,  
60 if two or more local transportation authorities have adopted resolutions calling for the joint  
61 establishment of a district, the governing body of any one such local transportation authority may  
62 file a petition in the circuit court of any county in which the proposed project is located  
63 requesting the creation of a district; or, if not less than fifty registered voters from each of two  
64 or more counties sign a petition calling for the joint establishment of a district for the purpose  
65 of developing a project that lies in whole or in part within those same counties, the petition may  
66 be filed in the circuit court of any of those counties in which not less than fifty registered voters  
67 have signed the petition.

68 (2) The proposed district area shall be contiguous and may contain all or any portion of  
69 one or more municipalities and counties. Property separated only by public streets, easements,  
70 or rights-of-way or connected by a single public street, easement, or right-of-way shall be  
71 considered contiguous.

72 (3) The petition shall set forth:

73 (a) That the petitioner is the governing body of a local transportation authority acting in  
74 its official capacity; or, if the petition was filed by obtaining the signatures of not less than fifty  
75 registered voters in each of two or more counties, it shall set forth the name, voting residence,  
76 and county of residence of each individual petitioner;

77 (b) The name of each local transportation authority within the proposed district. The  
78 resolution of the governing body of each local transportation authority calling for the joint  
79 establishment of the district shall be attached to the petition;

80 (c) The name and address of each respondent. Respondents must include the  
81 commission and each affected local transportation authority within the proposed district, except  
82 a petitioning local transportation authority;

83 (d) A specific description of the proposed district boundaries including a map illustrating  
84 such boundaries;

85 (e) A general description of each project proposed to be undertaken by the district,  
86 including a description of the approximate location of each project;

87 (f) The name of the proposed district;

88 (g) The number of members of the board of directors of the proposed district;

89 (h) A request that the question be submitted to the qualified voters within the limits of  
90 the proposed district whether they will establish a transportation development district to develop  
91 the projects described in the petition;

92 (i) A proposal for funding the district initially, pursuant to the authority granted in  
93 sections 238.200 to 238.275, together with a request that the imposition of the funding proposal  
94 be submitted to the qualified voters residing within the limits of the proposed district; provided,  
95 however, the funding method of special assessments may also be approved as provided in  
96 subsection 1 of section 238.230; and

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

238.212. 1. If the petition was filed by registered voters or by a governing body, the  
2 circuit clerk in whose office the petition was filed shall give notice to the public by causing one  
3 or more newspapers of general circulation serving the counties or portions thereof contained in  
4 the proposed district to publish once a week for four consecutive weeks a notice substantially in  
5 the following form:

6 NOTICE OF PETITION TO SUBMIT TO A  
7 POPULAR VOTE THE CREATION AND  
8 FUNDING OF A TRANSPORTATION  
9 DEVELOPMENT DISTRICT

10 Notice is hereby given to all persons residing or owning property in (here specifically  
11 describe the proposed district boundaries), within the state of Missouri, that a petition has been  
12 filed asking that upon voter approval, a transportation development district by the name of  
13 "..... Transportation Development District" be formed for the purpose of developing the  
14 following transportation project: (here summarize the proposed transportation project or  
15 projects). The petition also requests voter approval of the following method(s) of funding the  
16 district, which (may) (shall not) increase the total taxes imposed within the proposed district:  
17 (describe the proposed funding methods). A copy of this petition is on file and available at the  
18 office of the clerk of the circuit court of ..... County, located at ....., Missouri. You  
19 are notified to join in or file your own petition supporting or answer opposing the creation of the  
20 transportation development district and requesting a declaratory judgment, as required by law,  
21 no later than the ..... day of ....., 20.. . You may show cause, if any there be, why such  
22 petition is defective or proposed transportation development district or its funding method, as  
23 set forth in the petition, is illegal or unconstitutional and should not be submitted for voter  
24 approval at a general, primary or special election as directed by this court.  
25 ..... Clerk of the Circuit  
26 Court of ..... County

27 2. The circuit court may also order a public hearing on the question of the creation and  
28 funding of the proposed district, if it deems such appropriate, under such terms and conditions  
29 as it deems appropriate. **The circuit court shall order at least one public hearing on the**  
30 **creation and funding of the proposed district, if the petition for creating such district was**  
31 **filed by the owners of record of all real property within the proposed district.** If a public  
32 hearing is ordered, notice of the time, date and place of the hearing shall also be given in the  
33 notice specified in subsection 1 of this section.

238.235. 1. (1) Any transportation development district may by resolution impose a  
2 transportation development district sales tax on all retail sales made in such transportation  
3 development district which are subject to taxation pursuant to the provisions of sections 144.010  
4 to 144.525, RSMo, except such transportation development district sales tax shall not apply to  
5 the sale or use of motor vehicles, trailers, boats or outboard motors nor to all sales of electricity  
6 or electrical current, water and gas, natural or artificial, nor to sales of service to telephone  
7 subscribers, either local or long distance. Such transportation development district sales tax may  
8 be imposed for any transportation development purpose designated by the transportation  
9 development district in its ballot of submission to its qualified voters, except that no resolution  
10 enacted pursuant to the authority granted by this section shall be effective unless:

11 (a) The board of directors of the transportation development district submits to the  
12 qualified voters of the transportation development district a proposal to authorize the board of

13 directors of the transportation development district to impose or increase the levy of an existing  
14 tax pursuant to the provisions of this section; or

15 (b) The voters approved the question certified by the petition filed pursuant to subsection  
16 5 of section 238.207.

17 (2) If the transportation district submits to the qualified voters of the transportation  
18 development district a proposal to authorize the board of directors of the transportation  
19 development district to impose or increase the levy of an existing tax pursuant to the provisions  
20 of paragraph (a) of subdivision (1) of this subsection, the ballot of submission shall contain, but  
21 need not be limited to, the following language:

22 Shall the transportation development district of ..... (transportation development  
23 district's name) impose a transportation development district-wide sales tax at the rate of .....  
24 (insert amount) for a period of ..... (insert number) years from the date on which such tax is  
25 first imposed for the purpose of ..... (insert transportation development purpose)?

26 ☐ YES

☐ NO

27

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

30

31 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor  
32 of the proposal, then the resolution and any amendments thereto shall be in effect. If a majority  
33 of the votes cast by the qualified voters voting are opposed to the proposal, then the board of  
34 directors of the transportation development district shall have no power to impose the sales tax  
35 authorized by this section unless and until the board of directors of the transportation  
36 development district shall again have submitted another proposal to authorize it to impose the  
37 sales tax pursuant to the provisions of this section and such proposal is approved by a majority  
38 of the qualified voters voting thereon.

39 (3) The sales tax authorized by this section shall become effective on the first day of the  
40 month following adoption of the tax by the qualified voters.

41 (4) In each transportation development district in which a sales tax has been imposed in  
42 the manner provided by this section, every retailer shall add the tax imposed by the transportation  
43 development district pursuant to this section to the retailer's sale price, and when so added such  
44 tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid,  
45 and shall be recoverable at law in the same manner as the purchase price.

46 (5) In order to permit sellers required to collect and report the sales tax authorized by this  
47 section to collect the amount required to be reported and remitted, but not to change the  
48 requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid



49 fractions of pennies, the transportation development district may establish appropriate brackets  
50 which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets  
51 provided in section 144.285, RSMo.

52 (6) All revenue received by a transportation development district from the tax authorized  
53 by this section which has been designated for a certain transportation development purpose shall  
54 be deposited in a special trust fund and shall be used solely for such designated purpose. Upon  
55 the expiration of the period of years approved by the qualified voters pursuant to subdivision (2)  
56 of this subsection or if the tax authorized by this section is repealed pursuant to subsection 6 of  
57 this section, all funds remaining in the special trust fund shall continue to be used solely for such  
58 designated transportation development purpose. Any funds in such special trust fund which are  
59 not needed for current expenditures may be invested by the board of directors in accordance with  
60 applicable laws relating to the investment of other transportation development district funds.

61 (7) The sales tax may be imposed in increments of one-eighth of one percent, up to a  
62 maximum of one percent on the receipts from the sale at retail of all tangible personal property  
63 or taxable services at retail within the transportation development district adopting such tax, if  
64 such property and services are subject to taxation by the state of Missouri pursuant to the  
65 provisions of sections 144.010 to 144.525, RSMo, except such transportation development  
66 district sales tax shall not apply to the sale or use of motor vehicles, trailers, boats or outboard  
67 motors nor to public utilities. Any transportation development district sales tax imposed  
68 pursuant to this section shall be imposed at a rate that shall be uniform throughout the district.

69 2. The resolution imposing the sales tax pursuant to this section shall impose upon all  
70 sellers a tax for the privilege of engaging in the business of selling tangible personal property or  
71 rendering taxable services at retail to the extent and in the manner provided in sections 144.010  
72 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant  
73 thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax  
74 and the tax shall be reported and returned to and collected by the transportation development  
75 district.

76 3. On and after the effective date of any tax imposed pursuant to this section, the  
77 [transportation development district] **director of revenue** shall perform all functions incident  
78 to the administration, collection, enforcement, and operation of the tax, **and the director of**  
79 **revenue shall collect, in addition to all other sales taxes imposed by law, the additional tax**  
80 **authorized pursuant to this section.** The tax imposed pursuant to this section **and the taxes**  
81 **imposed pursuant to all other laws of the state of Missouri** shall be collected **together** and  
82 reported upon such forms and [under] **pursuant to** such administrative rules and regulations as  
83 may be prescribed by the [transportation development district] **director of revenue.**

84           4. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo,  
85 governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the  
86 uniform confidentiality provision, shall apply to the collection of the tax imposed by this section,  
87 except as modified in this section.

88           (2) All exemptions granted to agencies of government, organizations, persons and to the  
89 sale of certain articles and items of tangible personal property and taxable services pursuant to  
90 the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the  
91 imposition and collection of the tax imposed by this section.

92           (3) The same sales tax permit, exemption certificate and retail certificate required by  
93 sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax  
94 shall satisfy the requirements of this section, and no additional permit or exemption certificate  
95 or retail certificate shall be required; except that the transportation development district may  
96 prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

97           (4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws  
98 for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made  
99 applicable to any taxes collected pursuant to the provisions of this section.

100           (5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525,  
101 RSMo, for violation of those sections are hereby made applicable to violations of this section.

102           (6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all  
103 retail sales except retail sales of motor vehicles shall be deemed to be consummated at the place  
104 of business of the retailer unless the tangible personal property sold is delivered by the retailer  
105 or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an  
106 out-of-state destination. In the event a retailer has more than one place of business in this state  
107 which participates in the sale, the sale shall be deemed to be consummated at the place of  
108 business of the retailer where the initial order for the tangible personal property is taken, even  
109 though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or  
110 billing. A sale by a retailer's employee shall be deemed to be consummated at the place of  
111 business from which the employee works.

112           5. All sales taxes [collected] **received** by the transportation development district shall  
113 be deposited by the [transportation development district] **director of revenue** in a special fund  
114 to be expended for the purposes authorized in this section. The [transportation development  
115 district] **director of revenue** shall keep accurate records of the amount of money which was  
116 collected pursuant to this section, and the records shall be open to the inspection of officers of  
117 each transportation development district and the general public.

118           6. (1) No transportation development district imposing a sales tax pursuant to this  
119 section may repeal or amend such sales tax unless such repeal or amendment will not impair the

120 district's ability to repay any liabilities which it has incurred, money which it has borrowed or  
121 revenue bonds, notes or other obligations which it has issued or which have been issued by the  
122 commission or any local transportation authority to finance any project or projects.

123 (2) Whenever the board of directors of any transportation development district in which  
124 a transportation development sales tax has been imposed in the manner provided by this section  
125 receives a petition, signed by ten percent of the qualified voters calling for an election to repeal  
126 such transportation development sales tax, the board of directors shall, if such repeal will not  
127 impair the district's ability to repay any liabilities which it has incurred, money which it has  
128 borrowed or revenue bonds, notes or other obligations which it has issued or which have been  
129 issued by the commission or any local transportation authority to finance any project or projects,  
130 submit to the qualified voters of such transportation development district a proposal to repeal the  
131 transportation development sales tax imposed pursuant to the provisions of this section. If a  
132 majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of  
133 the proposal to repeal the transportation development sales tax, then the resolution imposing the  
134 transportation development sales tax, along with any amendments thereto, is repealed. If a  
135 majority of the votes cast by the qualified voters voting thereon are opposed to the proposal to  
136 repeal the transportation development sales tax, then the ordinance or resolution imposing the  
137 transportation development sales tax, along with any amendments thereto, shall remain in effect.

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

13 **2. The total amount of tax credits allowed under sections 253.545 to 253.559, for**  
14 **which the department of economic development shall grant authorization beginning in**  
15 **fiscal year 2010, shall not exceed one hundred sixty-five million dollars. This limitation**  
16 **does not apply to tax credits authorized for applicants requesting less than three hundred**  
17 **fifty thousand dollars in tax credits for one project. Beginning on the first day of fiscal**  
18 **year 2011 and on the first day of each fiscal year thereafter, the total amount of tax credits**

19 available for authorization under sections 253.545 to 253.559 shall be increased by the  
20 percentage equal to the increase in the Consumer Price Index for All Urban Consumers  
21 as prepared by the United States Bureau of Labor Statistics, or its successor index, for the  
22 twelve-month period preceding the first day of the fiscal year for which the calculation is  
23 being made. To the extent an otherwise eligible applicant is not granted authorization for  
24 tax credits due to the limitations provided under this subsection, such applicant shall be  
25 granted priority for authorization under the allocation provided for the next period for  
26 which tax credits become available for preliminary approval.

253.559. 1. [To claim the credit authorized pursuant to sections 253.550 to 253.561 of  
2 senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and  
3 section 253.557 of this act, the] **To obtain authorization for tax credits allowed under section**  
4 **253.550, a taxpayer shall [apply] submit an application for tax credits** to the department of  
5 economic development [which, in consultation with the department of natural resources, shall  
6 determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation  
7 meets the standards of the Secretary of the United States Department of the Interior for  
8 rehabilitation as determined by the state historic preservation officer of the Missouri department  
9 of natural resources. For financial institutions credits authorized pursuant to sections 253.550  
10 to 253.561 shall be deemed to be "economic development credits" for purposes of section  
11 148.064, RSMo. The issuing of certificates of eligible credits to taxpayers shall be performed  
12 by the department of economic development. The taxpayer shall attach the certificate to all  
13 Missouri income tax returns on which the credit is claimed]. **Each application shall be**  
14 **prioritized for review and approval in the order of the date on which the application was**  
15 **postmarked, with the oldest postmarked date receiving priority. Applications postmarked**  
16 **on the same day shall go through a lottery process to determine the order in which such**  
17 **applications shall be reviewed.**

18 2. The department of economic development shall review an application prior to  
19 authorizing tax credits for a project specified in such application. In order to receive tax  
20 credit authorization, an application shall include:

21 (1) **Proof of ownership or site control. Proof of ownership shall include evidence**  
22 **that the applicant is the fee simple owner of the property, such as a warranty deed or a**  
23 **closing statement. If the applicant is in the process of acquiring fee simple ownership,**  
24 **proof of site control shall include an executed sales contract or an executed option to**  
25 **purchase the property. If an application is submitted by someone other than the current**  
26 **or pending fee simple owner, the application shall be accompanied by a written statement**  
27 **from the fee simple owner indicating that they are aware of the application and have no**  
28 **objection to the request for certification;**

29           (2) Floor plans of the existing structure, certified architectural plans, and, where  
30 applicable, plans of the proposed alterations to the structure, as well as proposed additions;

31           (3) The estimated costs of rehabilitation, the estimated total costs of the project, the  
32 estimated eligible costs of the project; the actual basis of the property as shown by proof  
33 of actual acquisition costs, the estimated total labor costs, the estimated project start date,  
34 and the estimated project completion date;

35           (4) Proof that the property qualifies as eligible property and shall qualify a certified  
36 historic structure or structure in a certified historic district; and

37           (5) Any other information which the department of economic development may  
38 reasonably require to make a determination regarding tax credit authorization for the  
39 project.

40

41 Any disapproved application may be removed from the review process and returned to the  
42 applicant. If an application is removed from the review process, the department of  
43 economic development shall notify the applicant in writing of the decision to remove such  
44 application. Disapproved applications subject to removal shall lose priority in the review  
45 process. A disapproved application which is removed from the review process may be  
46 resubmitted but shall be deemed to be a new application for purposes of the priority  
47 procedures described in this section.

48           3. If the department of economic development approves an application, the  
49 department of economic development shall authorize tax credits equal to one hundred  
50 twenty percent of the amount of estimated eligible costs as specified under subdivision (3)  
51 of subsection 2 of this section. The department of economic development shall notify the  
52 applicant in writing of the tax credit authorization. Such preliminary approvals shall be  
53 granted to applications in the order of priority established under this section and shall  
54 require full compliance thereafter with all other requirements of law as a condition to any  
55 claim for such credits.

56           4. In the event that the department of economic development authorizes all tax  
57 credits available under subsection 2 of section 253.550, all applications awaiting review or  
58 thereafter submitted shall be notified by the department of economic development that no  
59 additional tax credit authorizations shall be granted during the fiscal year. Such  
60 applications shall be kept on file by the department of economic development and shall be  
61 reviewed in the order established in this section in the event that additional credits become  
62 available due to the rescission or forfeiture of previously authorized tax credits or when a  
63 new fiscal year's allocation of credits becomes available for authorization.

64           **5. All projects receiving tax credit authorization shall commence rehabilitation**  
65 **within two years of the date on which the department of economic development issues the**  
66 **letter notifying the applicant of the tax credits authorized under subsection 3 of this**  
67 **section. Commencement of rehabilitation shall mean that as of the date in which actual**  
68 **physical work, contemplated by the certified architectural plans submitted with the**  
69 **preliminary application, has begun, the applicant has incurred no less than ten percent of**  
70 **the estimated total costs of rehabilitation provided in the application. Applicants with tax**  
71 **credit authorization for a project shall submit evidence of compliance with the provisions**  
72 **of this subsection. If the department of economic development determines an applicant has**  
73 **failed to comply with the requirements provided under this subsection, the tax credit**  
74 **authorization for such applicant shall be rescinded and such amount of tax credits shall**  
75 **then be added to the total amount of tax credits provided under subsection 2 of section**  
76 **253.550 from which tax credits may be authorized. Any applicant whose tax credit**  
77 **authorization shall be subject to rescission shall be notified of such by the department of**  
78 **economic development and, upon receipt of such notice, may submit a new application for**  
79 **the project.**

80           **6. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with**  
81 **an approved application and tax credit authorization shall apply for final approval and**  
82 **issuance of tax credits from the department of economic development which, in**  
83 **consultation with the department of natural resources, shall determine the final amount**  
84 **of eligible rehabilitation costs and expenses and whether the completed rehabilitation meets**  
85 **the standards of the Secretary of the United States Department of the Interior for**  
86 **rehabilitation as determined by the state historic preservation officer of the Missouri**  
87 **department of natural resources. For financial institutions credits authorized pursuant to**  
88 **sections 253.550 to 253.561 shall be deemed to be "economic development credits" for**  
89 **purposes of section 148.064, RSMo. The approval of all applications and the issuing of**  
90 **certificates for eligible credits to taxpayers shall be performed by the department of**  
91 **economic development. The department of economic development shall inform a taxpayer**  
92 **of final approval in writing and shall issue the taxpayer tax credit certificates. If the**  
93 **amount of tax credits issued is less than the amount of tax credits estimated in the**  
94 **application, the remaining tax credits not issued shall be added to the total amount of tax**  
95 **credits allowed under subsection 2 of section 253.550. If the amount of tax credits issued**  
96 **exceeds the amount authorized, such excess shall only be issued if credits are still available**  
97 **for allocation under subsection 2 of section 253.550. If credits are no longer available for**  
98 **the fiscal year, the taxpayer shall be entitled to receive such excess amount in the next year**  
99 **for which tax credits become available, with priority established by the date on which the**

100 **tax credit certificate was issued. The tax credit certificates may be issued in the final year**  
101 **that costs and expenses of rehabilitation of the project are incurred, or within the twelve-**  
102 **month period immediately following the conclusion of such rehabilitation. The taxpayer**  
103 **shall attach the certificate to all Missouri income tax returns on which the credit is claimed.**

104 **7.** The department of economic development shall determine, on an annual basis, the  
105 overall economic impact to the state from the rehabilitation of eligible property.

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

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

- 2 **(1) "Department", the Missouri department of economic development;**
- 3 **(2) "Distressed community", as defined in section 135.530, RSMo;**
- 4 **(3) "Equity investment", money or money equivalent in consideration for qualified**  
5 **securities. An equity investment shall be deemed to have been made on the date of**  
6 **acquisition of the qualified security, as such date is determined in accordance with the**  
7 **provisions of the Internal Revenue Code;**
- 8 **(4) "Investor":**
  - 9 **(a) An individual who is an accredited investor, as defined in 17 CFR 230.501(a)**  
10 **as in effect on August 28, 2009; or**
  - 11 **(b) Any partnership, corporation, trust, limited liability company, or not-for-profit**  
12 **entity that was established and is operated for the purpose of making preseed and seed**  
13 **stage investments in start-up companies, and is approved by the department;**

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

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

29           (a) A general or limited partnership interest;

30           (b) Common stock;

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

33           (d) Convertible debt;

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

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

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

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

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

3           2. If a qualified Missouri business is approved by the department, the investors who  
4 contribute the first five hundred thousand dollars in equity investment in the qualified



5 Missouri business may be issued a tax credit in the year the equity investment is made.  
6 The tax credit shall be in a total amount equal to thirty percent of such investors' equity  
7 investment in any qualified Missouri business, subject to the limitations set forth in  
8 subsection 5 of this section. However, if the qualified Missouri business invested in is  
9 located in a rural area or a distressed community, the investors may be issued a tax credit  
10 for forty percent of such investment, subject to the limitations set forth in subsection 5 of  
11 this section.

12 3. (1) Before an investor may be entitled to receive tax credits, as authorized by this  
13 section, such investor shall have made an equity investment in a qualified security of a  
14 qualified Missouri business. This business shall have been approved by the department  
15 as a qualified Missouri business prior to the date on which the cash investment was made.  
16 To be designated as a qualified Missouri business, a business shall make application to the  
17 department in accordance with the provisions of this section. Such application shall be in  
18 form and substance as required by the department but shall include at least the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Governmental, charitable, religious or trade organizations;

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

e. Insurance;

f. Construction or construction management or contracting;

g. Business consulting or brokerage;

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

i. Any Missouri certified capital formation company;

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

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

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

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

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

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

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

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

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

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

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

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

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

98           **5. The department shall not issue tax credits of more than fifty thousand dollars**  
99 **to an investor per investment into a single, qualified Missouri company, or for tax credits**  
100 **totaling more than one hundred thousand dollars in a single year per investor. The total**  
101 **amount of tax credits that may be allowed under this section shall not exceed five million**  
102 **dollars per tax year.**

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

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

109           **8. A qualified Missouri business for which credits have been issued that, within**  
110 **seven years of receiving tax credits under this section relocates its headquarters out of**  
111 **Missouri, ceases to employ eighty percent of its employees in Missouri, alters the principal**

112 nature of its operations, or divests itself of key assets shall upon demand by the department  
113 pay the state of Missouri an amount equal to the amount of credits issued to its  
114 contributors.

115 9. The reasonable costs of the administration of this section, the review of  
116 applications for certification as qualified Missouri businesses, and the issuance of tax  
117 credits authorized by this section shall be reimbursed through fees paid by the qualified  
118 Missouri businesses and the investors or the transferees of investors, according to a  
119 reasonable fee schedule adopted by the department.

120 10. In addition to reports by the businesses to the department, the department shall  
121 also provide in its annual report information on the marketing and use of the investor tax  
122 credits. This report shall include the following:

123 (1) The amount of tax credits used in the previous fiscal year including what  
124 percentage was claimed by individuals and what percentage was claimed by firms and  
125 other entities;

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

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

130  
131 In addition, the annual report shall provide information regarding what businesses  
132 deriving a benefit from the tax credits remained in Missouri, what businesses ceased doing  
133 business, what businesses were purchased, and what businesses may have moved  
134 out-of-state and the reason for such move.

393.110. [1.] Sections 393.110 to 393.285 shall apply to the manufacture and furnishing  
2 of gas for light, heat or power and the furnishing of natural gas for light, heat or power, and the  
3 generation, furnishing and transmission of electricity for light, heat or power, the supplying and  
4 distributing of water for any purpose whatsoever, and the furnishing of a sewer system for the  
5 collection, carriage, treatment or disposal of sewage for municipal, domestic or other beneficial  
6 or necessary purpose.

7 [2. Notwithstanding any provision in chapter 386, RSMo, or this chapter to the contrary,  
8 the public service commission shall not have jurisdiction over the rates, financing, accounting,  
9 or management of any electrical corporation which is required by its bylaws to operate on the  
10 not-for-profit cooperative business plan, with its consumers who receive service as the  
11 stockholders of such corporation, and which holds a certificate of public convenience and  
12 necessity to serve a majority of its consumer-owners in counties of the third classification as of  
13 August 28, 2003. Nothing in this section shall be construed as amending or superseding the

14 commission's authority granted in and pursuant to subsection 1 of section 386.310, RSMo, in  
15 section 386.800, RSMo, section 393.106, and section 394.312, RSMo.]

447.708. 1. For eligible projects, the director of the department of economic  
2 development, with notice to the directors of the departments of natural resources and revenue,  
3 and subject to the other provisions of sections 447.700 to 447.718, may not create a new  
4 enterprise zone but may decide that a prospective operator of a facility being remedied and  
5 renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions  
6 pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The  
7 tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter  
8 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the  
9 tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148,  
10 RSMo. For purposes of this subsection:

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

16 (2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax  
17 credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and  
18 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which  
19 supply at least twenty-five existing jobs, or combination thereof. For purposes of sections  
20 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows:  
21 the tax credit shall be four hundred dollars per employee per year, an additional four hundred  
22 dollars per year for each employee exceeding the minimum employment thresholds of ten and  
23 twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars  
24 per year for each person who is a person difficult to employ as defined by section 135.240,  
25 RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4)  
26 of subsection 1 of section 135.225, RSMo;

27 (3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo,  
28 the eligible project must create at least ten new jobs or retain businesses which supply at least  
29 twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of  
30 section 135.245, RSMo, for application and use of the refund and the eligibility requirements of  
31 this section;

32 (4) The eligible project operates in compliance with applicable environmental laws and  
33 regulations, including permitting and registration requirements, of this state as well as the federal  
34 and local requirements;

35 (5) The eligible project operator shall file such reports as may be required by the director  
36 of economic development or the director's designee;

37 (6) The taxpayer may claim the state tax credits authorized by this subsection and the  
38 state income exemption for a period not in excess of ten consecutive tax years. For the purpose  
39 of this section, "taxpayer" means an individual proprietorship, partnership or corporation  
40 described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director  
41 shall determine the number of years the taxpayer may claim the state tax credits and the state  
42 income exemption based on the projected net state economic benefits attributed to the eligible  
43 project;

44 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1),  
45 (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and  
46 maintained during the taxpayer's tax period for which the credits are earned, in the case of an  
47 eligible project that does not replace a similar facility in Missouri. "New job" means a person  
48 who was not previously employed by the taxpayer or related taxpayer within the twelve-month  
49 period immediately preceding the time the person was employed by that taxpayer to work at, or  
50 in connection with, the eligible project on a full-time basis. "Full-time basis" means the  
51 employee works an average of at least thirty-five hours per week during the taxpayer's tax period  
52 for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the  
53 same meaning as defined in subdivision (9) of section 135.100, RSMo;

54 (8) For the purpose of meeting the existing job retention requirement, if the eligible  
55 project replaces a similar facility that closed elsewhere in Missouri prior to the end of the  
56 taxpayer's tax period in which the tax credits are earned, it shall be required that at least  
57 twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time  
58 basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a  
59 person who was previously employed by the taxpayer or related taxpayer, at a facility similar to  
60 the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period  
61 in which the tax credits are earned, within the tax period immediately preceding the time the  
62 person was employed by the taxpayer to work at, or in connection with, the eligible project on  
63 a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five  
64 hours per week during the taxpayer's tax period for which the tax credits are earned;

65 (9) In the case where an eligible project replaces a similar facility that closed elsewhere  
66 in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the  
67 owner and operator of the eligible project shall provide the director with a written statement  
68 explaining the reason for discontinuing operations at the closed facility. The statement shall  
69 include a comparison of the activities performed at the closed facility prior to the date the facility  
70 ceased operating, to the activities performed at the eligible project, and a detailed account

71 describing the need and rationale for relocating to the eligible project. If the director finds the  
72 relocation to the eligible project significantly impaired the economic stability of the area in  
73 which the closed facility was located, and that such move was detrimental to the overall  
74 economic development efforts of the state, the director may deny the taxpayer's request to claim  
75 tax benefits;

76 (10) Notwithstanding any provision of law to the contrary, for the purpose of this  
77 section, the number of new jobs created and maintained, the number of existing jobs retained,  
78 and the value of new qualified investment used at the eligible project during any tax year shall  
79 be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals  
80 employed at the eligible project, or in the case of new qualified investment, the value of new  
81 qualified investment used at the eligible project, on the last business day of each full calendar  
82 month of the tax year. If the eligible project is in operation for less than the entire tax year, the  
83 number of new jobs created and maintained, the number of existing jobs retained, and the value  
84 of new qualified investment created at the eligible project during any tax year shall be  
85 determined by dividing the sum of the number of individuals employed at the eligible project,  
86 or in the case of new qualified investment, the value of new qualified investment used at the  
87 eligible project, on the last business day of each full calendar month during the portion of the tax  
88 year during which the eligible project was in operation, by the number of full calendar months  
89 during such period;

90 (11) For the purpose of this section, "new qualified investment" means new business  
91 facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo,  
92 which is used at and in connection with the eligible project. "New qualified investment" shall  
93 not include small tools, supplies and inventory. "Small tools" means tools that are portable and  
94 can be hand held.

95 2. The determination of the director of economic development pursuant to subsection  
96 1 of this section shall not affect requirements for the prospective purchaser to obtain the approval  
97 of the granting of real property tax abatement by the municipal or county government where the  
98 eligible project is located.

99 3. (1) The director of the department of economic development, with the approval of  
100 the director of the department of natural resources, may, in addition to the tax credits allowed  
101 in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one  
102 hundred percent of the costs of materials, supplies, equipment, labor, professional engineering,  
103 consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement,  
104 **environmental insurance premiums, backfill of areas where contaminated soil excavation**  
105 **occurs**, and direct utility charges for performing the voluntary remediation activities for the  
106 preexisting hazardous substance contamination and releases, including, but not limited to, the

costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo. The tax credit may also include up to one hundred percent of the costs of demolition that are not directly part of the remediation activities, provided that the demolition is on the property where the voluntary remediation activities are occurring, the demolition is necessary to accomplish the planned use of the facility where the remediation activities are occurring, and the demolition is part of a redevelopment plan approved by the municipal or county government and the department of economic development. The demolition may occur on an adjacent property if the project is located in a municipality which has a population less than twenty thousand and the above conditions are otherwise met. The adjacent property shall independently qualify as abandoned or underutilized. The amount of the credit available for demolition not associated with remediation cannot exceed the total amount of credits approved for remediation including demolition required for remediation.

(2) The amount of remediation tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.

(3) The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation tax credit may be taken in the same tax year in which the tax credits are received or may be taken over a period not to exceed twenty years. **At no time shall the remediation tax credits authorized under this subsection exceed more than sixty million dollars in any fiscal year for all applicants.**

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

(5) No more than seventy-five percent of earned remediation tax credits may be issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue



143 following completion of the voluntary remediation activities. It shall not include any costs  
144 associated with ongoing operational environmental compliance of the facility or remediation  
145 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations  
146 of the facility. **In the event the department of natural resources issues a "letter of  
147 completion" letter for a portion of a property, an impacted media such as soil or  
148 groundwater, or for a site or a portion of a site improvement, a prorated amount of the  
149 remaining percentage may be released based on the percentage of the total site receiving  
150 a letter of completion.**

151 4. In the exercise of the sound discretion of the director of the department of economic  
152 development or the director's designee, the tax credits and exemptions described in this section  
153 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the  
154 conditions set forth in this section. In making such a determination, the director shall consider  
155 the severity of the condition violation, actions taken to correct the violation, the frequency of any  
156 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility  
157 owner and operator. The director shall also consider changes in general economic conditions and  
158 the recommendation of the director of the department of natural resources, or his or her designee,  
159 concerning the severity, scope, nature, frequency and extent of any violations of the  
160 environmental compliance conditions. The taxpayer or person claiming the tax credits or  
161 exemptions may appeal the decision regarding termination, suspension or revocation of any tax  
162 credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section  
163 135.250, RSMo. The director of the department of economic development shall notify the  
164 directors of the departments of natural resources and revenue of the termination, suspension or  
165 revocation of any tax credits as determined in this section or pursuant to the provisions of section  
166 447.716.

167 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
168 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection  
169 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax  
170 credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and  
171 135.245, RSMo, respectively, for the same facility for the same tax period.

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

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

175 (2) One hundred percent of the total business' income tax if the eligible facility does not  
176 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax  
177 period in which the tax credits are earned, and further provided the taxpayer does not operate any  
178 other facilities besides the eligible project in Missouri; fifty percent of the total business' income

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

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

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

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

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

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

(1) The shareholders of the corporation described in section 143.471, RSMo;

(2) The partners of the partnership. The credit provided in this subsection shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

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

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development [may] **shall** authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director

20 of the department of economic development, within this state during the taxable year over the  
21 average of the taxpayer's qualified research expenses within this state over the immediately  
22 preceding three taxable years; except that, no tax credit shall be allowed on that portion of the  
23 taxpayer's qualified research expenses incurred within this state during the taxable year in which  
24 the credit is being claimed, to the extent such expenses exceed two hundred percent of the  
25 taxpayer's average qualified research expenses incurred during the immediately preceding three  
26 taxable years.

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

45         4. Certificates of tax credit issued pursuant to this section may be transferred, sold or  
46 assigned by filing a notarized endorsement thereof with the department which names the  
47 transferee and the amount of tax credit transferred. The director of economic development may  
48 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of  
49 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year  
50 commencing on or after January 1, [1996] **2010**, and ending not later than December 31, [1999]  
51 **2016.** Such taxpayer shall file, by December 31, [2001] **2018**, an application with the  
52 department which names the transferee, the amount of tax credit desired to be transferred, and  
53 a certification that the funds received by the applicant as a result of the transfer, sale or  
54 assignment of the tax credit shall be expended within three years at the state university for the  
55 sole purpose of conducting research activities agreed upon by the department, the taxpayer and

56 the state university. Failure to expend such funds in the manner prescribed pursuant to this  
57 section shall cause the applicant to be subject to the provisions of section 620.017.

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

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

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

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

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

14 that in conjunction with their project is relocating employees from a Missouri county with a  
15 higher county average wage, the company shall obtain the endorsement of the governing body  
16 of the community from which jobs are being relocated or the county average wage for their  
17 project shall be the county average wage for the county from which the employees are being  
18 relocated;

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

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

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

22 (8) **"Energy efficiency technology project", a qualified company that within two**  
23 **years of the date of the approval creates a minimum of fifty new jobs engaged in the**  
24 **development of new energy efficiency technologies including those supporting clean or**  
25 **sustainable energy or energy conservation; or manufactures energy efficient products or**  
26 **components;**

27 (9) "Full-time employee", an employee of the qualified company that is scheduled to  
28 work an average of at least thirty-five hours per week for a twelve-month period, and one for  
29 which the qualified company offers health insurance and pays **with respect to small and**  
30 **expanding business projects, technology business projects, and high-impact projects,** at  
31 least fifty percent of such insurance premiums; **with respect to premium employment projects,**  
32 **at least eighty percent of such insurance premiums;**

33 [(9)] (10) "High-impact project", a qualified company that, within two years from  
34 commencement of operations, creates one hundred or more new jobs;

35 [(10)] (11) "Local incentives", the present value of the dollar amount of direct benefit  
36 received by a qualified company for a project facility from one or more local political  
37 subdivisions, but shall not include loans or other funds provided to the qualified company that  
38 must be repaid by the qualified company to the political subdivision;

39 [(11)] (12) "NAICS", the 1997 edition of the North American Industry Classification  
40 System as prepared by the Executive Office of the President, Office of Management and Budget.  
41 Any NAICS sector, subsector, industry group or industry identified in this section shall include  
42 its corresponding classification in subsequent federal industry classification systems;

43 [(12)] (13) "New direct local revenue", the present value of the dollar amount of direct  
44 net new tax revenues of the local political subdivisions likely to be produced by the project over  
45 a ten-year period as calculated by the department, excluding local earnings tax, and net new  
46 utility revenues, provided the local incentives include a discount or other direct incentives from  
47 utilities owned or operated by the political subdivision;

48 [(13)] (14) "New investment", the purchase or leasing of new tangible assets to be placed  
49 in operation at the project facility, which will be directly related to the new jobs;

50 [(14)] (15) "New job", the number of full-time employees located at the project facility  
51 that exceeds the project facility base employment less any decrease in the number of full-time  
52 employees at related facilities below the related facility base employment. No job that was  
53 created prior to the date of the notice of intent shall be deemed a new job. An employee that  
54 spends less than fifty percent of the employee's work time at the facility is still considered to be  
55 located at a facility if the employee receives his or her directions and control from that facility,  
56 is on the facility's payroll, one hundred percent of the employee's income from such employment  
57 is Missouri income, and the employee is paid at or above the state average wage;

58 [(15)] (16) "New payroll", the amount of taxable wages of full-time employees,  
59 excluding owners, located at the project facility that exceeds the project facility base payroll. If  
60 full-time employment at related facilities is below the related facility base employment, any  
61 decrease in payroll for full-time employees at the related facilities below that related facility base  
62 payroll shall also be subtracted to determine new payroll;

63 [(16)] (17) "Notice of intent", a form developed by the department, completed by the  
64 qualified company and submitted to the department which states the qualified company's intent  
65 to hire new jobs and request benefits under this program;

66 [(17)] (18) "Percent of local incentives", the amount of local incentives divided by the  
67 amount of new direct local revenue;

68 [(18)] (19) **"Premium employment project", a qualified company that, within two**  
69 **years from commencement of operations, creates one hundred or more new jobs and meets**  
70 **all of the following requirements:**

71 (a) **The company and project qualify for the quality jobs act;**

72 (b) **The company offers all new employees health insurance, and pays at least eighty**  
73 **percent of such premiums; and**

74 (c) **The wage for at least one hundred of the new jobs is equal to or greater than one**  
75 **hundred eighty percent of the county average wage;**

76 (20) "Program", the Missouri quality jobs program provided in sections 620.1875 to  
77 620.1890;

78 [(19)] (21) "Project facility", the building used by a qualified company at which the new  
79 jobs and new investment will be located. A project facility may include separate buildings that  
80 are located within [one mile] **fifteen miles** of each other or within the same county such that their  
81 purpose and operations are interrelated;

82 [(20)] (22) "Project facility base employment", the greater of the number of full-time  
83 employees located at the project facility on the date of the notice of intent or for the  
84 twelve-month period prior to the date of the notice of intent, the average number of full-time  
85 employees located at the project facility. In the event the project facility has not been in

86 operation for a full twelve-month period, the average number of full-time employees for the  
87 number of months the project facility has been in operation prior to the date of the notice of  
88 intent;

89 [(21)] (23) "Project facility base payroll", the total amount of taxable wages paid by the  
90 qualified company to full-time employees of the qualified company located at the project facility  
91 in the twelve months prior to the notice of intent, not including the payroll of the owners of the  
92 qualified company unless the qualified company is participating in an employee stock ownership  
93 plan. For purposes of calculating the benefits under this program, the amount of base payroll  
94 shall increase each year based on an appropriate measure, as determined by the department;

95 [(22)] (24) "Project period", the time period that the benefits are provided to a qualified  
96 company;

97 [(23)] (25) "Qualified company", a firm, partnership, joint venture, association, private  
98 or public corporation whether organized for profit or not, or headquarters of such entity  
99 registered to do business in Missouri that is the owner or operator of a project facility, offers  
100 health insurance to all full-time employees of all facilities located in this state, and pays at least  
101 fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890,  
102 the term "qualified company" shall not include:

- 103 (a) Gambling establishments (NAICS industry group 7132);
- 104 (b) Retail trade establishments (NAICS sectors 44 and 45);
- 105 (c) Food and drinking places (NAICS subsector 722);
- 106 (d) Public utilities (NAICS 221 including water and sewer services);
- 107 (e) Any company that is delinquent in the payment of any nonprotested taxes or any  
108 other amounts due the state or federal government or any other political subdivision of this state;
- 109 (f) Any company that has filed for or has publicly announced its intention to file for  
110 bankruptcy protection. **However, a company that has filed for or has publicly announced**  
111 **its intention to file for bankruptcy on January 1, 2009, or after may be a qualified company**  
112 **provided that such company:**

- 113 a. Certifies to the department that it plans to reorganize and not to liquidate; and
- 114 b. After its bankruptcy petition has been filed, it produces proof, in a form and at  
115 times satisfactory to the department, that it is not delinquent in filing any tax returns or  
116 making any payment due to the state of Missouri, including but not limited to all tax  
117 payments due after the filing of the bankruptcy petition and under the terms of the plan  
118 of reorganization;

- 119 (g) Educational services (NAICS sector 61);
- 120 (h) Religious organizations (NAICS industry group 8131);
- 121 (i) Public administration (NAICS sector 92);



122 (j) Ethanol distillation or production; or  
123 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary,  
124 the headquarters or administrative offices of an otherwise excluded business may qualify for  
125 benefits if the offices serve a multistate territory. In the event a national, state, or regional  
126 headquarters operation is not the predominant activity of a project facility, the new jobs and  
127 investment of such headquarters operation is considered eligible for benefits under this section  
128 if the other requirements are satisfied;

129 [(24)] **(26)** "Qualified renewable energy sources" shall not be construed to include  
130 ethanol distillation or production or biodiesel production; however, it shall include:

131 (a) Open-looped biomass;  
132 (b) Close-looped biomass;  
133 (c) Solar;  
134 (d) Wind;  
135 (e) Geothermal; and  
136 (f) Hydropower;

137 [(25)] **(27)** "Related company" means:

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

150 [(26)] **(28)** "Related facility", a facility operated by the qualified company or a related  
151 company located in this state that is directly related to the operations of the project facility;

152 [(27)] **(29)** "Related facility base employment", the greater of the number of full-time  
153 employees located at all related facilities on the date of the notice of intent or for the  
154 twelve-month period prior to the date of the notice of intent, the average number of full-time  
155 employees located at all related facilities of the qualified company or a related company located  
156 in this state;

157 [(28)] (30) "Related facility base payroll", the total amount of taxable wages paid by the  
158 qualified company to full-time employees of the qualified company located at a related facility  
159 in the twelve months prior to the filing of the notice of intent, not including the payroll of the  
160 owners of the qualified company unless the qualified company is participating in an employee  
161 stock ownership plan. For purposes of calculating the benefits under this program, the amount  
162 of related facility base payroll shall increase each year based on an appropriate measure, as  
163 determined by the department;

164 [(29)] (31) "Rural area", a county in Missouri with a population less than seventy-five  
165 thousand or that does not contain an individual city with a population greater than fifty thousand  
166 according to the most recent federal decennial census;

167 [(30)] (32) "Small and expanding business project", a qualified company that within two  
168 years of the date of the approval creates a minimum of twenty new jobs if the project facility is  
169 located in a rural area or a minimum of forty new jobs if the project facility is not located in a  
170 rural area and creates fewer than one hundred new jobs regardless of the location of the project  
171 facility;

172 [(31)] (33) "Tax credits", tax credits issued by the department to offset the state income  
173 taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided  
174 for in this program;

175 [(32)] (34) "Technology business project", a qualified company that within two years of  
176 the date of the approval creates a minimum of ten new jobs involved in the operations of a  
177 company:

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

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

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

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

189 [(33)] (35) "Withholding tax", the state tax imposed by sections 143.191 to 143.265,  
190 RSMo. For purposes of this program, the withholding tax shall be computed using a schedule  
191 as determined by the department based on average wages.

620.1881. 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal government. Failure to respond on behalf of the department of economic development shall result in the notice of intent being deemed an approval for the purposes of this section. A qualified company who is provided an approval for a project shall be allowed a benefit as provided in this program in the amount and duration provided in this section. A qualified company may receive additional periods for subsequent new jobs at the same facility after the full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original approval for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new approval. **When a qualified company has filed and received approval of a notice of intent and subsequently files another notice of intent, the department shall apply the definition of project facility under subdivision (20) of section 620.1878 to the new notice of intent as well as all previously approved notices of intent and shall determine the application of the definitions of new job, new payroll, project facility base employment, and project facility base payroll accordingly.**

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not simultaneously receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800

37 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections  
38 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training  
39 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,  
40 but the department shall issue a refundable tax credit for the full amount of benefit allowed under  
41 this subdivision. The calendar year annual maximum amount of tax credits which may be issued  
42 to a qualifying company that also participates in the new job training program shall be increased  
43 by an amount equivalent to the withholding tax retained by that company under the new jobs  
44 training program. However, if the combined benefits of the quality jobs program and the new  
45 jobs training program exceed the projected state benefit of the project, as determined by the  
46 department of economic development through a cost-benefit analysis, the increase in the  
47 maximum tax credits shall be limited to the amount that would not cause the combined benefits  
48 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program  
49 who knowingly hires individuals who are not allowed to work legally in the United States shall  
50 immediately forfeit such benefits and shall repay the state an amount equal to any state tax  
51 credits already redeemed and any withholding taxes already retained.

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

53 (1) Small and expanding business projects: in exchange for the consideration provided  
54 by the new tax revenues and other economic stimuli that will be generated by the new jobs  
55 created by the program, a qualified company may retain an amount equal to the withholding tax  
56 as calculated under subdivision [(33)] **(34)** of section 620.1878 from the new jobs that would  
57 otherwise be withheld and remitted by the qualified company under the provisions of sections  
58 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new  
59 jobs were created if the average wage of the new payroll equals or exceeds the county average  
60 wage or for a period of five years from the date the required number of new jobs were created  
61 if the average wage of the new payroll equals or exceeds one hundred twenty percent of the  
62 county average wage;

63 (2) Technology business projects: in exchange for the consideration provided by the new  
64 tax revenues and other economic stimuli that will be generated by the new jobs created by the  
65 program, a qualified company may retain an amount equal to a maximum of five percent of new  
66 payroll for a period of five years from the date the required number of jobs were created from  
67 the withholding tax of the new jobs that would otherwise be withheld and remitted by the  
68 qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average  
69 wage of the new payroll equals or exceeds the county average wage. An additional one-half  
70 percent of new payroll may be added to the five percent maximum if the average wage of the  
71 new payroll in any year exceeds one hundred twenty percent of the county average wage in the  
72 county in which the project facility is located, plus an additional one-half percent of new payroll

73 may be added if the average wage of the new payroll in any year exceeds one hundred forty  
74 percent of the average wage in the county in which the project facility is located. The department  
75 shall issue a refundable tax credit for any difference between the amount of benefit allowed  
76 under this subdivision and the amount of withholding tax retained by the company, in the event  
77 the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified  
78 company under this subdivision[. The calendar year annual maximum amount of tax credits that  
79 may be issued to any qualified company for a project or combination of projects is five hundred  
80 thousand dollars];

81 (3) High impact projects: in exchange for the consideration provided by the new tax  
82 revenues and other economic stimuli that will be generated by the new jobs created by the  
83 program, a qualified company may retain an amount from the withholding tax of the new jobs  
84 that would otherwise be withheld and remitted by the qualified company under the provisions  
85 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five  
86 years from the date the required number of jobs were created if the average wage of the new  
87 payroll equals or exceeds the county average wage of the county in which the project facility is  
88 located. **For high-impact projects in a facility located within two adjacent counties the new**  
89 **payroll shall equal or exceed the higher county average wage of the two adjacent counties.**  
90 The percentage of payroll allowed under this subdivision shall be three and one-half percent of  
91 new payroll if the average wage of the new payroll in any year exceeds one hundred twenty  
92 percent of the county average wage in the county in which the project facility is located. The  
93 percentage of payroll allowed under this subdivision shall be four percent of new payroll if the  
94 average wage of the new payroll in any year exceeds one hundred forty percent of the county  
95 average wage in the county in which the project facility is located. An additional one percent  
96 of new payroll may be added to these percentages if local incentives equal between ten percent  
97 and twenty-four percent of the new direct local revenue; an additional two percent of new payroll  
98 is added to these percentages if the local incentives equal between twenty-five percent and  
99 forty-nine percent of the new direct local revenue; or an additional three percent of payroll is  
100 added to these percentages if the local incentives equal fifty percent or more of the new direct  
101 local revenue. The department shall issue a refundable tax credit for any difference between the  
102 amount of benefit allowed under this subdivision and the amount of withholding tax retained by  
103 the company, in the event the withholding tax is not sufficient to provide the entire amount of  
104 benefit due to the qualified company under this subdivision[. The calendar year annual  
105 maximum amount of tax credits that may be issued to any qualified company for a project or  
106 combination of projects is seven hundred fifty thousand dollars. The calendar year annual  
107 maximum amount of tax credit that may be issued to any qualified company for a project or  
108 combination of projects may be increased up to one million dollars if the number of new jobs

109 will exceed five hundred and if such action is proposed by the department and approved by the  
110 quality jobs advisory task force established in section 620.1887; provided, however, until such  
111 time as the initial at-large members of the quality jobs advisory task force are appointed, this  
112 determination shall be made by the director of the department of economic development. In  
113 considering such a request, the task force shall rely on economic modeling and other information  
114 supplied by the department when requesting the increased limit on behalf of the project];

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

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

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

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

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

135 (e) The local taxing entities shall provide local incentives of at least fifty percent of the  
136 new direct local revenues created by the project over a ten-year period. The quality jobs advisory  
137 task force may recommend to the department of economic development that appropriate  
138 penalties be applied to the company for violating the agreement. The amount of the job retention  
139 credit granted may be equal to up to fifty percent of the amount of withholding tax generated by  
140 the full-time jobs at the project facility for a period of five years. The calendar year annual  
141 maximum amount of tax credit that may be issued to any qualified company for a job retention  
142 project or combination of job retention projects shall be seven hundred fifty thousand dollars per  
143 year, but the maximum amount may be increased up to one million dollars if such action is  
144 proposed by the department and approved by the quality jobs advisory task force established in

145 section 620.1887; provided, however, until such time as the initial at-large members of the  
146 quality jobs advisory task force are appointed, this determination shall be made by the director  
147 of the department of economic development. In considering such a request, the task force shall  
148 rely on economic modeling and other information supplied by the department when requesting  
149 the increased limit on behalf of the job retention project. In no event shall the total amount of  
150 all tax credits issued for the entire job retention program under this subdivision exceed three  
151 million dollars annually. Notwithstanding the above, no tax credits shall be issued for job  
152 retention projects approved by the department after August 30, 2013;

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

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

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

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

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

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

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

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

173 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company  
174 cumulatively invests at least two million dollars in capital improvements in facilities and  
175 equipment located at such facilities that are not located within a five hundred year flood plain  
176 as designated by the Federal Emergency Management Agency, and amended from time to time.  
177 The amount of the small business job retention and flood survivor relief credit granted may be  
178 equal to up to one hundred percent of the amount of withholding tax generated by the full-time  
179 jobs at the project facility for a period of three years. The calendar year annual maximum  
180 amount of tax credit that may be issued to any qualified company for a small business job

181 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the  
182 maximum amount may be increased up to five hundred thousand dollars if such action is  
183 proposed by the department and approved by the quality jobs advisory task force established in  
184 section 620.1887. In considering such a request, the task force shall rely on economic modeling  
185 and other information supplied by the department when requesting an increase in the limit on  
186 behalf of the small business job retention and flood survivor relief project. In no event shall the  
187 total amount of all tax credits issued for the entire small business job retention and flood survivor  
188 relief program under this subdivision exceed five hundred thousand dollars annually.  
189 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued  
190 for small business job retention and flood survivor relief projects approved by the department  
191 after August 30, 2010;

192       **(6) Premium employment projects: in exchange for the consideration provided by**  
193 **the new tax revenues and other economic stimuli that will be generated by the new jobs**  
194 **created by the program, a qualified company may retain an amount from the withholding**  
195 **tax of the new jobs that would otherwise be withheld and remitted by the qualified**  
196 **company under the provisions of sections 143.191 to 143.265, RSMo, equal to four percent**  
197 **of new payroll for a period of five years from the date the required number of jobs were**  
198 **created if the wages for at least one hundred new employees equal or exceed one hundred**  
199 **eighty percent of the county average wage. An additional one percent of new payroll may**  
200 **be added to this percentage if local incentives equal between ten percent and twenty-four**  
201 **percent of the new direct local revenue; an additional two percent of new payroll is added**  
202 **to this percentage if the local incentives equal between twenty-five percent and forty-nine**  
203 **percent of the new direct local revenue; or an additional three percent of payroll is added**  
204 **to this percentage if the local incentives equal fifty percent or more of the new direct local**  
205 **revenue. The department shall issue a refundable tax credit for any difference between the**  
206 **amount of benefit allowed under this subdivision and the amount of withholding tax**  
207 **retained by the company, in the event the withholding tax is not sufficient to provide the**  
208 **entire amount of benefit due to the qualified company under this subdivision. The amount**  
209 **of tax credits issued to a qualified company for a premium employment project under this**  
210 **subdivision shall not be included in determining the amount of tax credits that may be**  
211 **issued to any qualified company under this section for a technology business project or a**  
212 **high-impact project or in determining the maximum calendar year annual tax credits**  
213 **issued for the entire program under subsection 5 of this section;**

214       **(7) Energy efficiency technology project: in exchange for the consideration**  
215 **provided by the new tax revenues and other economic stimuli that will be generated by the**  
216 **new jobs created by the program, a qualified company may retain an amount from the**



withholding tax of the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, RSMo, equal to four percent of new payroll for a period of five years from the date the required number of jobs were created if the average wage of the new payroll equals or exceeds the county average wage. An additional one percent of new payroll may be added to this percentage if local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an additional two percent of new payroll is added to this percentage if the local incentives equal between twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent of payroll is added to this percentage if the local incentives equal fifty percent or more of the new direct local revenue. The period that the qualified company may retain withholding shall be extended by one additional year or a total of six years from the date the jobs were created if the company creates at least one hundred jobs, and by two additional years or a total of seven years from the date the jobs were created if the company creates at least five hundred jobs. The department shall issue a refundable tax credit for any difference between the amount of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified company under this subdivision. If the qualified company demonstrates to the department that a company which is either a direct supplier of goods, components, or tangible products or a direct purchaser of the qualified company's products, a supplier/purchaser company, either expands or commences operations in Missouri or relocates to Missouri from another state as a result of its business relationship with the qualified company, and such supplier/purchaser company creates at least ten jobs that are new to the state of Missouri between the date of the qualified company's notice of intent and the two-year anniversary of the qualified company's commencement of operations, then the qualified company may be eligible for a resulting jobs benefit if the following conditions are met. Under the resulting jobs benefit, a qualified company may be eligible for an additional tax credit in an amount equal to one-half of the withholding for the supplier/purchaser company's new jobs, calculated without regard to any tax credits for which the supplier/purchaser company might be eligible, for a period of three years from the date the required number of supplier/purchaser company jobs were created if the average wage of such new jobs equals or exceeds the county average wage for the county in which the supplier/purchaser company is located.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied

that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high impact benefits and the minimum number of new jobs in an annual report is below the minimum for high impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program. **In the case of a qualified company that initially filed a notice of intent and received an approval from the department for premium employment benefits and the wages for at least one hundred new employees in the annual report are below one hundred eighty percent of the county average wage, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program or of a high-impact project under this program.**

5. **Exclusive of tax credits issued under subdivision (6) of subsection 3 of this section,** the maximum calendar year annual tax credits issued for the entire program shall not exceed [sixty] **one hundred** million dollars. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight million dollars, with the balance of two million dollars transferred to this program. There shall be no limit on the amount of withholding taxes that may be retained by approved companies under this program **or the amount of tax credits issued under subdivision (6) of subsection 3 of this section.**

6. The department shall allocate the annual tax credits based on the date of the approval, reserving such tax credits based on the department's best estimate of new jobs and new payroll of the project, and the other factors in the determination of benefits of this program. However, the annual issuance of tax credits is subject to the annual verification of the actual new payroll. The allocation of tax credits for the period assigned to a project shall expire if, within two years from the date of commencement of operations, or approval if applicable, the minimum thresholds have not been achieved. The qualified company may retain authorized amounts from

289 the withholding tax under this section once the minimum new jobs thresholds are met for the  
290 duration of the project period. No benefits shall be provided under this program until the  
291 qualified company meets the minimum new jobs thresholds. In the event the qualified company  
292 does not meet the minimum new job threshold, the qualified company may submit a new notice  
293 of intent or the department may provide a new approval for a new project of the qualified  
294 company at the project facility or other facilities.

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

298 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,  
299 RSMo, and may not be carried forward but shall be claimed within one year of the close of the  
300 taxable year for which they were issued, except as provided under subdivision (4) of subsection  
301 3 of this section.

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

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

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

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

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

**620.1895. 1. As used in this section, the following terms mean:**

2 (1) "Base year", unless otherwise specified, is the year before the year in which the  
3 governing body first holds a public hearing under subsection 2 of this section to consider  
4 establishing the MO-JTS district;

5 (2) "Financing costs", include but are not limited to all necessary and incidental  
6 expenses related to the issuance of obligations, including reasonable reserves related  
7 thereto and interest payments on obligations issued under this section, and reasonable  
8 interest on MO-JTS eligible project costs from the time such costs are incurred until such  
9 costs are reimbursed;

10 (3) "MO-JTS district" or "Missouri jobs for technology and science district", an  
11 area designated by a municipality under subsection 2 of this section;

12 (4) "MO-JTS plan" or "Missouri jobs for technology and science plan", the  
13 comprehensive plan of a municipality to carry out one or more MO-JTS projects within  
14 a MO-JTS district. A MO-JTS plan shall conform to the requirements under subsection  
15 4 of this section;

16 (5) "MO-JTS project" or "Missouri jobs for technology and science project",  
17 project within a MO-JTS district carried out in furtherance of a MO-JTS plan;

18 (6) "MO-JTS project area", the geographic bounds of a MO-JTS project, as  
19 described by a legal description that shall be included with the ordinance approving any  
20 MO-JTS project;

21 (7) "MO-JTS revenues":

22 (a) Half of the incremental increase in the general revenue portion of state sales tax  
23 revenues received under section 144.020, RSMo, excluding sales taxes that are  
24 constitutionally dedicated, taxes deposited to the school district trust fund in accordance  
25 with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats, and  
26 outboard motors and future sales taxes earmarked by law. In no event shall the

27 incremental increase include any amounts attributable to retail sales unless the  
28 municipality or authority has proven to the department of economic development, and the  
29 department of economic development finds that, the sales tax increment attributable to  
30 retail sales did not exist in the district during the base year. The incremental increase in  
31 the general revenue portion of state sales tax revenues for a facility that existed within the  
32 proposed MO-JTS district before the district was established shall be the amount that  
33 current state sales tax revenue exceeds the state sales tax revenue for such facility in the  
34 base year, and the incremental increase in the general revenue portion of state sales tax  
35 revenues for a business that relocates to the MO-JTS district after the district is established  
36 shall be the amount that current state sales tax revenue exceeds the state sales tax revenue  
37 for such business in the year before its relocation to the district; and

38 (b) Up to one hundred percent of the state income tax withheld on behalf of new  
39 employees by the employers under section 143.221, RSMo, at the businesses located within  
40 the project as identified in the MO-JTS plan. The state income tax withholding allowed  
41 by this section shall be the amount of state income tax withheld by the employers within  
42 the MO-JTS district for new employees who fill new jobs created in the MO-JTS district;

43 (8) "MO-JTS total project costs", the total amount of expenditures, as estimated  
44 in the MO-JTS plan, necessary to complete all MO-JTS projects within a MO-JTS district;

45 (9) "Municipality", a city, village, or incorporated town, or any county of this state,  
46 or any two or more of such entities acting together;

47 (10) "Municipal funding", funding from municipalities and entities affiliated with  
48 municipalities, such as economic development corporations, that will provide funds, or  
49 contributions of real property, infrastructure improvements, or any other in-kind  
50 contribution which shall be valued for purposes of this subdivision at fair market value,  
51 for implementation of the MO-JTS plan constituting at least ten percent of the MO-JTS  
52 eligible project costs that will be available within ten years following establishment of the  
53 MO-JTS district, as estimated in the MO-JTS plan; and

54 (11) "Obligations", bonds, loans, debentures, notes, special certificates, or other  
55 evidences of indebtedness issued by a municipality or development authority created under  
56 subsection 3 of this section to carry out a MO-JTS project or to refund outstanding  
57 obligations.

58 2. Subject to the requirements in subsections 3 to 8 of this section, the governing  
59 body of a municipality may establish a MO-JTS district in which MO-JTS projects may  
60 be implemented according to a MO-JTS plan, by passing one or more ordinances  
61 establishing such MO-JTS district and adopting such MO-JTS projects and plan. The  
62 governing body shall not adopt a MO-JTS project before adopting a MO-JTS plan, and

63 shall not adopt a MO-JTS plan before establishing a MO-JTS district, but the MO-JTS  
64 district may be established and the MO-JTS projects and plan may be adopted  
65 concurrently.

66 3. A municipality may:

67 (1) Make and enter into all contracts necessary or incidental to the implementation  
68 and furtherance of its MO-JTS plan or projects;

69 (2) Under a MO-JTS plan, subject to any constitutional limitations, acquire by  
70 purchase, donation, lease or, as part of a MO-JTS project, own, convey, lease, mortgage,  
71 or dispose of land and other property, real or personal, or rights or interests therein, and  
72 grant or acquire licenses, easements, and options with respect thereto, all in the manner  
73 and at such price the municipality determines is reasonably necessary to achieve the  
74 objectives of the redevelopment plan. No conveyance, lease, mortgage, disposition of land  
75 or other property, acquired by the municipality, or agreement relating to the development  
76 of the property shall be made except upon the adoption of an ordinance by the governing  
77 body of the municipality;

78 (3) Within a MO-JTS district, clear any land by demolition or removal of existing  
79 buildings and structures;

80 (4) Within a MO-JTS district, renovate, rehabilitate, or construct any structure or  
81 building;

82 (5) Install, repair, construct, reconstruct, or relocate streets, utilities, and site  
83 improvements essential to the preparation of the MO-JTS district for use in accordance  
84 with a MO-JTS plan;

85 (6) Within a MO-JTS district, fix, charge, and collect fees, rents, and other charges  
86 for the use of any building or property owned or leased by it or any part thereof, or facility  
87 therein;

88 (7) Accept grants, guarantees, and donations of property, labor, or other things of  
89 value from a public or private source for use within a MO-JTS district;

90 (8) Acquire and construct public and private facilities within a MO-JTS district;

91 (9) Incur MO-JTS eligible project costs and other MO-JTS project costs and issue  
92 obligations;

93 (10) Charge as MO-JTS eligible project costs the reasonable costs incurred by its  
94 clerk or other official in administering MO-JTS projects;

95 (11) Establish by ordinance a development authority, consisting of such persons as  
96 the governing body shall determine, which shall not transact any business or exercise any  
97 powers until or unless the governing body shall approve by ordinance the exercise of such  
98 power, functions, and duties, but in no event shall such powers include the power of

eminent domain. The governing body may grant to a development authority the power to issue obligations under this section, alone or in conjunction with a municipality, according to terms and limitations set forth by ordinance.

4. Each MO-JTS plan shall include, but need not be limited to:

(1) A description of how the plan will advance one or more targeted industry clusters, as defined by the department of economic development, within the MO-JTS district, and how the program will integrate business, education, science, and technology within the MO-JTS district;

(2) A description of the MO-JTS district, including the existing businesses within the district;

(3) The estimated MO-JTS total project costs, MO-JTS eligible project costs, and the timetable for the MO-JTS projects, including any project phasing;

(4) Land acquisition strategy;

(5) The anticipated sources, amounts, and timing of funds to pay the MO-JTS eligible project costs and other MO-JTS project costs, including any MO-JTS revenues as set forth in subsection 11 of this section, any municipal funding, and any other sources of funds, including the percentage of all MO-JTS project costs and MO-JTS eligible project costs represented by each source of funds;

(6) Evidence of the commitments to finance the MO-JTS project costs;

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

(8) The general land uses to apply in the MO-JTS district;

(9) Proof of a commitment by at least one Missouri-based higher education institution, including but not limited to universities, colleges, and community colleges, or any recognized Missouri-based institution whose primary focus is science or technology research, to have a significant physical presence in the MO-JTS district, and a description of the educational resources that will be provided by the higher education institution in the MO-JTS district, such as classrooms, curriculum, dedicated faculty, graduate students, and defined partnerships with target industry clusters, or a description of the defined partnerships with target industry clusters that will be initiated by any research institutions;

(10) The base year of state sales tax revenues and the base year of state income tax withheld on behalf of employees within the MO-JTS district;

(11) The estimate of the incremental increase in the general revenue portion of state sales tax revenue and the requested amount of estimated state income tax withheld by any employer on behalf of new employees expected to fill new jobs created within the MO-JTS district after implementation of the MO-JTS projects;

- 135           (12) An affidavit that is signed by the developer or developers attesting that the  
136 MO-JTS plan would not be reasonably anticipated to be successful without the  
137 appropriation of MO-JTS revenues;
- 138           (13) The three-digit North American Industry Classification System codes  
139 characterizing the MO-JTS plan and projects;
- 140           (14) The total number of individuals currently employed in the MO-JTS district,  
141 listed by full-time, part-time, and temporary positions;
- 142           (15) The total number of current full-time equivalent positions in the MO-JTS  
143 district;
- 144           (16) The current gross wages and state income tax withholdings for individuals  
145 employed in the MO-JTS district;
- 146           (17) The number of new jobs to be created by any business benefiting from public  
147 expenditures in the MO-JTS district, listed by full-time, part-time, and temporary  
148 positions;
- 149           (18) The average hourly wage to be paid to all current and new employees at the  
150 project site, listed by full-time, part-time, and temporary positions;
- 151           (19) For a MO-JTS district located in a metropolitan statistical area, as defined by  
152 the federal Office of Management and Budget, the average hourly wage paid to  
153 nonmanagerial employees in this state for the industries involved in the MO-JTS district,  
154 as established by the United States Bureau of Labor Statistics;
- 155           (20) For a MO-JTS district located outside of metropolitan statistical areas, the  
156 average weekly wage paid to nonmanagerial employees in the county for industries  
157 involved in the MO-JTS district, as established by the United States Department of  
158 Commerce;
- 159           (21) A list of other community and economic benefits to result from the project;
- 160           (22) A list of all development subsidies that any business benefiting from public  
161 expenditures in the MO-JTS district has previously received for the MO-JTS projects, and  
162 the name of any other granting body from which such subsidies are sought;
- 163           (23) A list of all other public investments made or to be made by this state or units  
164 of local government to support infrastructure or other needs generated by the MO-JTS  
165 projects for which the funding under this section is being sought;
- 166           (24) Documentation from a municipality describing the municipality's public  
167 investment that has been made or is anticipated to improve infrastructure outside the  
168 MO-JTS district as a result of or in support of development within the MO-JTS district;



(25) A statement as to whether the MO-JTS projects may reduce employment at any other site within the state resulting from automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(26) A statement as to whether the MO-JTS projects involve the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated;

(27) A report analyzing the resources potentially available to the MO-JTS district in support of the MO-JTS plan; and

(28) A certification by the chief officer of the applicant as to the accuracy of the MO-JTS plan.

5. No MO-JTS plan shall be adopted by a municipality without findings that:

(1) The MO-JTS plan conforms to the comprehensive plan for the development of the municipality as a whole;

(2) The estimated dates, which shall not be more than twenty-five years from the adoption of the ordinance approving a MO-JTS project within a MO-JTS district, of completion of any MO-JTS project and retirement of obligations incurred to finance MO-JTS project costs, provided that no ordinance approving a MO-JTS project shall be adopted later than ten years from the adoption of the ordinance approving the MO-JTS plan under which such project is authorized. No MO-JTS district shall have the power to acquire any real property by eminent domain;

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

(4) MO-JTS revenues do not exceed fifty percent of the MO-JTS total project costs;

(5) Municipal funding has been pledged to one or more MO-JTS projects;

(6) The MO-JTS plan is compatible with one or more targeted industry clusters, and there is a substantial commitment and physical presence planned by a Missouri-based higher education institution, including but not limited to universities, colleges, and community colleges, or any recognized Missouri-based institution whose primary focus is science or technology research, as part of the MO-JTS plan, providing two or more of the following resources linked to the advancement of one or more targeted industry clusters: industry supportive curriculum, dedicated credentialed faculty, graduate students, research, and faculty support services, that are supportive of a MO-JTS district and are designed to assist in promoting, advancing, and growing targeted industry clusters through research, innovation, defined partnerships, and commercialization of the targeted industry clusters; and

(7) If the proposed MO-JTS district is not fully contiguous, the proposed district is sufficiently geographically cohesive to ensure that the district will function as a fully contiguous district. Separation of real property by any roadway, whether public or private, or any public right-of-way, shall not disrupt the contiguous nature of such real property for purposes of this section. Any otherwise noncontiguous real property shall be deemed contiguous with the other real property in the proposed district if the governing body determines that inclusion of the noncontiguous real property would further the municipality's goals in establishing the district, as set forth in the ordinance establishing the district under subsection 2 of this section.

6. Before a municipality's establishment of a MO-JTS district and adoption of a MO-JTS plan and one or more MO-JTS projects under subsection 2 of this section, the governing body shall hold a public hearing. The governing body shall hear all protests, objections, comments, and evidence at the public hearing. The hearing, for which notice is given under subsection 7 of this section, may be continued to a later date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. Hearings with regard to a MO-JTS district, plan, and project may be held simultaneously.

7. (1) Notice of the public hearing required by subsection 6 of this section shall be given by:

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

(b) Mailing.

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

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

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

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

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

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

(3) Notice by mailing shall be given by depositing such notice in the United States mail by certified mail addressed to the person or persons in whose name the general taxes

for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the proposed MO-JTS district. Such notice shall be mailed not less than ten days before the date set for the public hearing. In the event taxes for the last preceding year were not paid, the notice shall also be sent to the persons last listed on the tax rolls within the preceding three years as the owners of such property.

(4) Notice by mailing shall also be given not less than forty-five days before the date set for the public hearing to the department of economic development, and in addition to the other requirements under paragraph (a) of subdivision (1) of this subsection, the notice shall include an invitation to submit comments to the municipality's governing body concerning the subject matter of the hearing before the date of the hearing.

8. After the public hearing and up and until six months following the adoption of an ordinance establishing a MO-JTS district or approving a MO-JTS plan or project, changes may be made to the MO-JTS district, plan, or project without a further hearing, if such changes do not enlarge the exterior boundaries of the MO-JTS district and do not substantially affect the general land uses established in the MO-JTS plan or substantially change the nature of the MO-JTS project, provided that notice of such changes shall be given by mail to the department of economic development not less than ten days before the adoption of the changes by ordinance.

9. Following a municipality's establishment of one or more MO-JTS projects under subsection 2 of this section, the amount of MO-JTS revenues generated from within the MO-JTS project area of any approved MO-JTS project, shall be available for appropriation by the general assembly from the general revenue fund to the department of economic development for distribution to the treasurer or other designated financial officer of the municipality.

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

11. No transfer under subsection 9 of this section from the general revenue fund to the department of economic development shall be made unless an appropriation is made

from the general revenue fund for that purpose. No municipality shall commit any MO-JTS revenues before an appropriation being made for particular MO-JTS projects.

12. The initial appropriation of MO-JTS revenues authorized under subsection 9 of this section shall not be made to or distributed by the department of economic development to a municipality until the director of the department of economic development or the director's designee has certified a MO-JTS plan and project or projects. Any such certification shall include a recommendation as to what portion of the revenues defined in paragraph (b) of subdivision (7) of subsection 1 of this section shall be included as MO-JTS revenues, and such recommendation shall be based on the specific attributes and financial needs of the MO-JTS plan and projects. The director of economic development or the director's designee shall certify a MO-JTS plan and projects if they find that:

(1) The MO-JTS plan is compatible with one or more targeted industry clusters, and there is a substantial commitment and physical presence planned by a Missouri-based higher education institution, including but not limited to universities, colleges, and community colleges, or any recognized Missouri-based institution whose primary focus is science or technology research, as part of the MO-JTS plan, providing two or more of the following resources linked to the advancement of one or more targeted industry clusters: industry supportive curriculum, dedicated credentialed faculty, graduate students, research, and faculty support services, that are supportive of a MO JTS district and are designed to assist in promoting, advancing, and growing targeted industry clusters through research, innovation, defined partnerships, and commercialization of the targeted industry clusters;

(2) The estimated dates, which shall not be more than twenty-five years from the adoption of the municipal ordinance approving a MO-JTS project within a MO-JTS district, of completion of any MO-JTS project and retirement of obligations incurred to finance MO-JTS project costs have been stated, provided that no ordinance approving a MO-JTS project shall be adopted later than ten years from the adoption of the ordinance approving the MO-JTS plan under which such project is authorized. No MO-JTS district shall have the power to acquire any real property by eminent domain;

(3) MO-JTS revenues do not exceed fifty percent of the MO-JTS total project costs;

(4) Municipal funding has been pledged to one or more MO-JTS projects; and

(5) The MO-JTS plan and projects would result in a net benefit to the state, with particular emphasis on such factors as the short and long term potential for the creation of new jobs in the state, growth of state tax revenues, strengthening the state's reputation as a hub of one or more targeted industry clusters, advancement of the development of

science and technology industries in the state, and the potential to leverage new federal funding for science and technology.

13. MO-JTS revenues deposited in the MO-JTS projects financing fund established by the municipality under subsection 9 of this section shall be used to pay for MO-JTS eligible project costs, to provide reimbursement for MO-JTS eligible project costs incurred either before or after the MO-JTS district is established under this section, and to make payments on obligations whose proceeds were used to pay MO-JTS eligible project costs. MO-JTS revenues generated in one MO-JTS project area may be used to pay for or reimburse MO-JTS eligible project costs in any part of the MO-JTS district, or make payments on obligations whose proceeds were used to pay for MO-JTS eligible project costs in any part of the district. MO-JTS eligible project costs shall include costs related to:

(1) Formation of a MO-JTS district, drafting a MO-JTS plan, and designing MO-JTS projects, including but not limited to reasonable fees of architects, engineers, attorneys, and consultants, and any other reasonably related costs;

(2) Acquisition of land within the boundaries of the MO-JTS district, including but not limited to associated surveyor costs, title related fees, legal fees, brokers' fees, feasibility studies, and other due diligence;

(3) Extension, expansion, and construction of all infrastructure serving the MO-JTS district, including, but not limited to, water services, storm and sanitary sewers, electrical services, roads, sidewalks, and any public amenities;

(4) Developing public buildings and parking, including site preparation and building construction;

(5) Financing costs; and

(6) Any other costs related to attracting private investment and creating new jobs within the MO-JTS district.

14. Following the initial appropriation of MO-JTS revenues under subsection 9 of this section and continuing until termination of the MO-JTS district, the municipality shall annually submit a report to the department of economic development which shall provide an update of the MO-JTS projects' timetables, status of municipal funding, and other funding sources, including but not limited to, the number of jobs created, the annual payroll, and the public and private capital investment in the MO-JTS district.

15. This section shall not preclude or affect in any way the implementation or continuation of any other type of public incentives, including tax increment financing under sections 99.800 to 99.865, RSMo, community improvement districts under sections

347 **67.1401 to 67.1571, RSMo, and transportation development districts under sections 238.200**  
348 **to 238.280, RSMo, for any real property within or without the MO-JTS district.**

349 **16. The development of any MO-JTS project, appropriations of MO-JTS revenues**  
350 **under this section for such MO-JTS project, and the retirement of obligations incurred to**  
351 **finance such MO-JTS project shall not continue more than twenty-five years after a**  
352 **municipality's adoption of such MO-JTS project by ordinance under subsection 2 of this**  
353 **section; provided that, no ordinance approving a MO-JTS project shall be adopted later**  
354 **than ten years from the adoption of the ordinance approving the MO-JTS plan under**  
355 **which such project is authorized. No MO-JTS district shall have the power to acquire any**  
356 **real property by eminent domain.**

357 **17. A MO-JTS project area from which MO-JTS revenues may be collected after**  
358 **such MO-JTS project receives all necessary municipal and state approvals under this**  
359 **section, including an appropriation by the general assembly, may include any real property**  
360 **located within the MO-JTS district, regardless of what improvements, if any, are planned**  
361 **for such real property as part of the MO-JTS project, as long as the inclusion of such real**  
362 **property is reasonably expected to contribute to the success of the MO-JTS plan.**

363 **18. To expand a MO-JTS district after the district has been established under**  
364 **subsection 2 of this section, the governing body of the municipality shall establish the**  
365 **expanded MO-JTS district under the requirements in this section for establishing a**  
366 **MO-JTS district and, to receive MO-JTS revenues associated with the expanded portion**  
367 **of the MO-JTS district, the provisions in this section applicable to securing an allocation**  
368 **of MO-JTS revenues for a MO-JTS district shall apply. For purposes of this section, the**  
369 **expanded portion of the MO-JTS district shall be deemed to have been established at the**  
370 **time of the establishment of the original MO-JTS district.**

371 **19. MO-JTS project costs may include, at the prerogative of a municipality or the**  
372 **state, the portion of salaries and expenses of the municipal government, the department of**  
373 **economic development, or the department of revenue reasonably allocable to each MO-JTS**  
374 **project approved for disbursements from the department of economic development for the**  
375 **ongoing administrative functions associated with such MO-JTS project. For**  
376 **municipalities, such amounts shall be recovered from MO-JTS revenues deposited in the**  
377 **MO-JTS projects financing fund. For the state, such amounts shall be recovered from**  
378 **MO-JTS revenues deposited with the department of economic development under this**  
379 **section.**

380 **20. (1) A municipality may issue obligations, as may any development authority**  
381 **created under subsection 3 of this section, secured by all or any part of the funds in and**  
382 **to be deposited in the MO-JTS projects financing fund created under subsection 9 of this**

section to provide for MO-JTS eligible project costs. Such obligations, when so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of such obligations by the receipts of MO-JTS revenues, as and when appropriated and as deposited in the MO-JTS projects financing fund. In addition to funds in and to be deposited in the MO-JTS projects financing fund, a municipality or development authority may pledge a mortgage on part or all of the MO-JTS project area, or any other security or other interest, to secure its obligations.

(2) Obligations issued under this section may be issued in one or more series bearing interest at such rate or rates as the issuing body of the municipality shall determine by ordinance or resolution. Such obligations shall bear such date or dates, mature at such time or times not exceeding twenty-five years from their respective dates, when secured by the MO-JTS projects financing fund, be in such denomination, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Any such obligations issued may be sold at public or private sale at such price. No referendum approval of the electors shall be required as a condition to the issuance of obligations under this section.

(3) Any funds in the MO-JTS projects financing fund which are not required for payment of obligations and current or anticipated MO-JTS eligible project costs, shall be returned to the department of economic development for credit to the general revenue fund.

(4) The ordinance authorizing the issuance of obligations may provide that the obligations shall contain a recital that they are issued under this section, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(5) A municipality may also issue its obligations to refund, in whole or in part, obligations theretofore issued by such municipality under the authority of this section, whether at or before maturity; provided, however, that the last maturity of the refunding obligations shall not be expressed to mature later than the last maturity date of the obligations to be refunded.

(6) In the event a municipality issues obligations under home rule powers or other legislative authority, the proceeds of which are pledged to pay for MO-JTS eligible project costs, the municipality may, if it has followed the procedures in conformance with this section, retire such obligations from funds in the MO-JTS projects financing fund in amounts and in such manner as if such obligations had been issued under the provisions of this section.

(7) The obligations shall not constitute indebtedness within the meaning of any constitutional, statutory, or charter debt limitation or restriction.

21. The director of economic development or the director's designee shall not approve a new MO-JTS plan under subsection 11 of this section after December 31, 2014. This limitation shall not apply to consideration of an amended MO-JTS plan under subsection 12 of this section whereby the original version of such plan was approved under subsection 12 of this section before December 31, 2014.

620.2050. 1. Sections 620.2050 to 620.2077 shall be known and may be cited as the "Missouri Advantage Act".

2. As used in sections 620.2050 to 620.2077, the following words and phrases shall mean:

(1) "Base year", the year immediately preceding the year of application;

(2) "Base-year employee", any individual who was employed in Missouri and subject to the Missouri income tax on compensation received from the taxpayer or its predecessors during the base year and who is employed at the project;

(3) "Compensation", the wages and other payments subject to withholding for federal income tax purposes;

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

(5) "Entitlement period", for a tier one or tier three project, the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the end of the ninth year following the year of application or the sixth year after the year the required increases were met or exceeded, whichever is sooner. Entitlement period, for a tier two, tier four, or tier five project, means the year during which the required increases in employment and investment were met or exceeded and each year thereafter until the end of the sixth year after the year the required increases were met or exceeded;

(6) "Equivalent employees", the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year;

(7) "Investment", the value of qualified property incorporated into or used at the project. For qualified property owned by the taxpayer, the value shall be the original cost of the property. For qualified property rented by the taxpayer, the average net annual rent shall be multiplied by the number of years of the lease for which the taxpayer was originally bound, not to exceed ten years. The rental of land included in and incidental to the leasing of a building shall not be excluded from the computation;

(8) "Missouri average weekly wage", for any calendar year, the most recent average weekly wage paid by all employers in all counties in Missouri as reported by the



30 department of labor and industrial relations by October first of the year prior to  
31 application;

32 (9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon  
33 tracks, except farm tractors;

34 (10) "Number of new employees", for a tier one, tier two, tier three, or tier four  
35 project, the number of equivalent employees that are employed at the project during a year  
36 that are in excess of the number of equivalent employees during the base year, not to  
37 exceed the number of equivalent employees employed at the project during a year who are  
38 not base-year employees and who are paid wages at a rate equal to at least sixty percent  
39 of the Missouri average weekly wage for the year of application;

40 (11) "Qualified business": (a) Includes the following:

41 a. For a tier two, tier three, tier four, or tier five project, any business engaged in:

42 (i) The conducting of research, development, or testing for scientific, agricultural,  
43 animal husbandry, food product, or industrial purposes;

44 (ii) The performance of data processing, telecommunication, insurance, or financial  
45 services;

46 (iii) The assembly, fabrication, manufacture, or processing of tangible personal  
47 property;

48 (iv) The administrative management of the taxpayer's activities, including  
49 headquarter facilities relating to such activities or the administrative management of any  
50 of the activities of any business entity or entities in which the taxpayer or a group of its  
51 shareholders holds any direct or indirect ownership interest of at least ten percent,  
52 including headquarter facilities relating to such activities;

53 (v) The storage, warehousing, distribution, transportation, or sale of tangible  
54 personal property;

55 (vi) The sale of software development services, computer systems design, product  
56 testing services, or guidance or surveillance systems design services or the licensing of  
57 technology if the taxpayer derives at least seventy-five percent of the sales or revenue  
58 attributable to such activities relating to the project from sales or licensing either to  
59 customers who are not related persons and located outside the state or to the United States  
60 government;

61 (vii) The research, development, and maintenance of an Internet web portal. For  
62 purposes of this item, Internet web portal means an Internet web site that allows users to  
63 access, search, and navigate the Internet; or

64 (viii) Any combination of the activities listed in this subparagraph;

65 b. For a tier one project, any business engaged in:

66 (i) The conducting of research, development, or testing for scientific, agricultural,  
67 animal husbandry, food product, or industrial purposes;

68 (ii) The assembly, fabrication, manufacture, or processing of tangible personal  
69 property;

70 (iii) The sale of software development services, computer systems design, product  
71 testing services, or guidance or surveillance systems design services or the licensing of  
72 technology if the taxpayer derives at least seventy-five percent of the sales or revenue  
73 attributable to such activities relating to the project from sales or licensing either to  
74 customers who are not related persons and are located outside the state or to the United  
75 States government; or

76 (iv) Any combination of activities listed in this subparagraph;

77 (b) Qualified business does not include any business activity in which eighty  
78 percent or more of the total sales are sales to the ultimate consumer of food prepared for  
79 immediate consumption or are sales to the ultimate consumer of tangible personal property  
80 which is not assembled, fabricated, manufactured, or processed by the taxpayer or used  
81 by the purchaser in any of the activities listed in subparagraphs a. and b. of this  
82 subdivision;

83 (12) "Qualified employee leasing company", a company which places all employees  
84 of a client-lessee on its payroll and leases such employees to the client-lessee on an ongoing  
85 basis for a fee and, by written agreement between the employee leasing company and a  
86 client-lessee, grants to the client-lessee input into the hiring and firing of the employees  
87 leased to the client-lessee;

88 (13) "Qualified property", any tangible property of a type subject to depreciation,  
89 amortization, or other recovery under the Internal Revenue Code of 1986, as amended, or  
90 the components of such property, that will be located and used at the project. Qualified  
91 property does not include aircraft, barges, motor vehicles, railroad rolling stock, or  
92 watercraft; or property that is rented by the taxpayer qualifying under the Missouri  
93 advantage act to another person;

94 (14) "Related persons", any corporations, partnerships, limited liability companies,  
95 or joint ventures which are or would otherwise be members of the same unitary group, if  
96 incorporated, or any persons who are considered to be related persons under Sections  
97 267(b) and 267(c) or Section 707(b) of the Internal Revenue Code of 1986, as amended;

98 (15) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
99 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo;

100 (16) "Wages", compensation;

101 (17) "Year", the taxable year of the taxpayer;

102           (18) "Year of application", the year that a completed application is filed under the  
103 Missouri advantage act.

**620.2053.** An employee of a qualified employee leasing company shall be considered  
2 to be an employee of the client-lessee for purposes of the Missouri advantage act if the  
3 employee performs services for the client-lessee. A qualified employee leasing company  
4 shall provide the department access to the records of employees leased to the client-lessee.

**620.2056. 1.** Applicants may qualify for benefits under the Missouri advantage act  
2 in one of five tiers:

3           (1) Tier one, investment in qualified property of at least one million dollars and the  
4 hiring of at least ten new employees;

5           (2) Tier two, investment in qualified property of at least three million dollars and  
6 the hiring of at least thirty new employees;

7           (3) Tier three, the hiring of at least thirty new employees;

8           (4) Tier four, investment in qualified property of at least ten million dollars and the  
9 hiring of at least one hundred new employees; or

10          (5) Tier five, investment in qualified property of at least thirty million dollars.

11

12 Failure to maintain an average number of equivalent employees greater than or equal to  
13 the number of equivalent employees in the base year shall result in a partial recapture of  
14 benefits;

15          **2.** Any taxpayer who qualifies for a tier one, tier two, tier three, or tier four project  
16 shall be entitled to a credit equal to three percent times the average wage of new employees  
17 times the number of new employees if the average wage of the new employees equals at  
18 least sixty percent of the Missouri average annual wage for the year of application. The  
19 credit shall equal four percent times the average wage of new employees times the number  
20 of new employees if the average wage of the new employees equals at least seventy-five  
21 percent of the Missouri average annual wage for the year of application. The credit shall  
22 equal five percent times the average wage of new employees times the number of new  
23 employees if the average wage of the new employees equals at least one hundred percent  
24 of the Missouri average annual wage for the year of application. The credit shall equal six  
25 percent times the average wage of new employees times the number of new employees if  
26 the average wage of the new employees equals at least one hundred twenty-five percent of  
27 the Missouri average annual wage for the year of application. For computation of such  
28 credit:

29          (1) Average annual wage means the total compensation paid to employees during  
30 the year at the project who are not base-year employees and who are paid wages equal to

31 at least sixty percent of the Missouri average weekly wage for the year of application,  
32 excluding any compensation in excess of one million dollars paid to any one employee  
33 during the year, divided by the number of equivalent employees making up such total  
34 compensation;

35 (2) Average wage of new employees means the average annual wage paid to  
36 employees during the year at the project who are not base-year employees and who are  
37 paid wages equal to at least sixty percent of the Missouri average weekly wage for the year  
38 of application, excluding any compensation in excess of one million dollars paid to any one  
39 employee during the year; and

40 (3) Missouri average annual wage means the Missouri average weekly wage times  
41 fifty-two.

42 3. Any taxpayer who has met the required levels of employment and investment for  
43 a tier two or tier four project shall receive a credit equal to ten percent of the investment  
44 made in qualified property at the project. Any taxpayer who has met the required levels  
45 of investment and employment for a tier one project shall receive a credit equal to three  
46 percent of the investment made in qualified property at the project.

47 4. The credits prescribed in subsections 2 and 3 of this section shall be allowable  
48 for compensation paid and investments made during each year of the entitlement period  
49 that the taxpayer is at or above the required levels of employment and investment.

50 5. The credit prescribed in subsection 3 of this section shall also be allowable  
51 during the first year of the entitlement period for investment in qualified property at the  
52 project after the date of the application and before the required levels of employment and  
53 investment were met.

54 6. A taxpayer who has met the required levels of employment and investment for  
55 a tier four project shall receive the incentive provided in this subsection. A taxpayer who  
56 has a project for an Internet web portal and who has met the required level of investment  
57 for a tier five project shall receive the incentive provided in this subsection for computer  
58 systems, made up of equipment that is interconnected in order to enable the acquisition,  
59 storage, manipulation, management, movement, control, display, transmission, or reception  
60 of data involving computer software and hardware, used for business information  
61 processing which require environmental controls of temperature and power and which are  
62 capable of simultaneously supporting more than one transaction and more than one user.  
63 A computer system includes peripheral components which require environmental controls  
64 of temperature and power connected to such computer systems. Peripheral components  
65 shall be limited to additional memory units, tape drives, disk drives, power supplies,  
66 cooling units, data switches, and communication controllers. Such investment and hiring

67 of new employees shall be considered a required level of investment and employment for  
68 this subsection and for the recapture of benefits under this subsection only.

2 **620.2059. 1. In order to utilize the incentives set forth in the Missouri advantage**  
3 **act, the taxpayer shall file an application, on a form developed by the department,**  
4 **requesting an agreement with the department.**

4 **2. The application shall contain:**

5 **(1) A written statement describing the plan of employment and investment for a**  
6 **qualified business in this state;**

7 **(2) Sufficient documents, plans, and specifications as required by the department**  
8 **to support the plan and to define a project;**

9 **(3) If more than one location within this state is involved, sufficient documentation**  
10 **to show that the employment and investment at different locations are interdependent**  
11 **parts of the plan. A headquarters shall be presumed to be interdependent with each other**  
12 **location directly controlled by such headquarters. A showing that the parts of the plan**  
13 **would be considered parts of a unitary business for corporate income tax purposes shall**  
14 **not be sufficient to show interdependence for the purposes of this subdivision;**

15 **(4) A nonrefundable application fee of one thousand dollars for a tier one project,**  
16 **two thousand five hundred dollars for a tier two, tier three, or tier five project, and five**  
17 **thousand dollars for a tier four project. The fee shall be credited to the Missouri incentives**  
18 **fund created in section 620.2068; and**

19 **(5) A timetable showing the expected sales tax refunds and what year they are**  
20 **expected to be claimed. The timetable shall include both direct refunds due to investment**  
21 **and credits taken as sales tax refunds as accurately as possible.**

22

23 **The application and all supporting information shall be confidential except for the name**  
24 **of the taxpayer, the location of the project, the amounts of increased employment and**  
25 **investment, and the information required to be reported by section 620.2071.**

26 **3. An application shall be complete to establish the date of the application. An**  
27 **application shall be considered complete once it contains the items listed in subsection 2 of**  
28 **this section, regardless of the department's additional needs pertaining to information or**  
29 **clarification in order to approve or disapprove the application.**

30 **4. Once satisfied that the plan in the application defines a project consistent with**  
31 **the purposes stated in the Missouri advantage act in one or more qualified business**  
32 **activities within this state, that the taxpayer and the plan will qualify for benefits under**  
33 **sections 620.2050 to 620.2077, and that the required levels of employment and investment**  
34 **for the project will be met prior to the end of the fourth year after the year in which the**

35 application was submitted for a tier one or tier three project or the end of the sixth year  
36 after the year in which the application was submitted for a tier two, tier four, or tier five  
37 project, the department shall approve the application.

38 5. After approval, the taxpayer and the department shall enter into a written  
39 agreement. The taxpayer shall agree to complete the project, and the department, on  
40 behalf of the state of Missouri, shall designate the approved plan of the taxpayer as a  
41 project and, in consideration of the taxpayer's agreement, agree to allow the taxpayer to  
42 use the incentives contained in the Missouri advantage act. The application, and all  
43 supporting documentation, to the extent approved, shall be considered a part of the  
44 agreement. The agreement shall state:

45 (1) The levels of employment and investment required by sections 620.2050 to  
46 620.2077 for the project;

47 (2) The time period under sections 620.2050 to 620.2077 in which the required  
48 levels must be met;

49 (3) The documentation the taxpayer will need to supply when claiming an incentive  
50 under sections 620.2050 to 620.2077;

51 (4) The date the application was filed; and

52 (5) A requirement that the company update the department annually on any  
53 changes in plans or circumstances which affect the timetable of sales tax refunds as set out  
54 in the application. If the company fails to comply with this requirement, the department  
55 may defer any pending sales tax refunds until the company does comply.

56 6. Any taxpayer receiving an incentive under sections 620.2050 to 620.2077 shall  
57 not be allowed to simultaneously receive benefits under the Missouri quality jobs act under  
58 sections 620.1875 to 620.1890 for any project.

59 7. A taxpayer and the department may enter into agreements for more than one  
60 project and may include more than one project in a single agreement. The projects may  
61 be either sequential or concurrent. A project may involve the same location as another  
62 project. No new employment or new investment shall be included in more than one project  
63 for either the meeting of the employment or investment requirements or the creation of  
64 credits. When projects overlap and the plans do not clearly specify, then the taxpayer shall  
65 specify in which project the employment or investment belongs.

620.2062. 1. (1) The credits prescribed in section 620.2056 shall be established by  
2 filing the forms required by the department with the income tax return for the year. The  
3 credits may be used and shall be applied in the order in which they were first allowed. The  
4 credits may be used after any other nonrefundable credits to reduce the taxpayer's income

5 tax liability imposed by chapter 143, RSMo. Any decision on how part of the credit is  
6 applied shall not limit how the remaining credit could be applied under this section.

7 (2) The taxpayer may use the credit provided in subsection 2 of section 620.2056  
8 to reduce the taxpayer's income tax withholding to the extent such liability is attributable  
9 to the number of new employees at the project. To the extent of the credit used, such  
10 withholding shall not constitute public funds or state tax revenue and shall not constitute  
11 a trust fund or be owned by the state. The use by the taxpayer of the credit shall not  
12 change the amount that otherwise would be reported by the taxpayer to the employee as  
13 income tax withheld and shall not reduce the amount that otherwise would be allowed by  
14 the state as a refundable credit on an employee's income tax return as income tax withheld.  
15 The amount of credits used against income tax withholding shall not exceed the  
16 withholding attributable to new employees at the project. If the amount of credit used by  
17 the taxpayer against income tax withholding exceeds this amount, the excess withholding  
18 shall be returned to the department of revenue, such excess amount returned shall be  
19 considered unused, and the amount of unused credits may be used as otherwise permitted  
20 in this section.

21 (3) Credits may be used to obtain a refund of sales and use taxes which are not  
22 otherwise refundable that are paid on purchases, including rentals, for use at the project  
23 for a tier one, tier two, tier three, or tier four project.

24 (4) Credits may be carried over until fully utilized, except that such credits may not  
25 be carried over more than nine years after the year of application for a tier one or tier  
26 three project or fourteen years after the year of application for a tier two or tier four  
27 project.

28 2. (1) No refund claims shall be filed until after the required levels of employment  
29 and investment have been met.

30 (2) Refund claims shall be filed no more than once each quarter for refunds under  
31 the Missouri advantage act, except that any claim for a refund in excess of twenty-five  
32 thousand dollars may be filed at any time.

33 (3) Any refund claim for sales and use taxes on materials incorporated into real  
34 estate as a part of the project shall be filed by and the refund paid to the owner of the  
35 improvement to real estate. A refund claim for such materials purchased by a purchasing  
36 agent shall include a copy of the purchasing agent appointment, the contract price, and a  
37 certification by the contractor or repairperson of the percentage of the materials  
38 incorporated into the project on which sales and use taxes were paid to Missouri after  
39 appointment as purchasing agent.

40           (4) All refund claims shall be filed, processed, and allowed as any other claim,  
41 except that the amounts allowed to be refunded under the Missouri advantage act shall be  
42 deemed to be overpayments and shall be refunded notwithstanding any limitation to the  
43 contrary. The refund may be allowed if the claim is filed within three calendar years from  
44 the end of the year the required levels of employment and investment are met or within the  
45 period.

46           (5) If a claim for a refund of sales and use taxes of more than twenty-five thousand  
47 dollars is filed by June fifteenth of a given year, the refund shall be made on or after  
48 November fifteenth of the same year. If such a claim is filed on or after June sixteenth of  
49 a given year, the refund shall not be made until on or after November fifteenth of the  
50 following year. The department shall notify the affected city, village, county, or municipal  
51 county of the amount of refund claims of sales and use taxes that are in excess of  
52 twenty-five thousand dollars on or before July first of the year before the claims will be  
53 paid under this section.

54           (6) Interest shall not be allowed on any taxes refunded under the Missouri  
55 advantage act.

56           3. The appointment of purchasing agents shall be recognized for the purpose of  
57 changing the status of a contractor or repairperson as the ultimate consumer of tangible  
58 personal property purchased after the date of the appointment which is physically  
59 incorporated into the project and becomes the property of the owner of the improvement  
60 to real estate. The purchasing agent shall be jointly liable for the payment of the sales and  
61 use tax on the purchases with the owner of the improvement to real estate.

62           4. A determination that a taxpayer is not engaged in a qualified business or has  
63 failed to meet or maintain the required levels of employment or investment for incentives,  
64 exemptions, or recapture may be protested within sixty days after the mailing of the  
65 written notice of the proposed determination. If the notice of proposed determination is  
66 not protested within the sixty-day period, the proposed determination is a final  
67 determination. If the notice is protested, the department shall issue a written order  
68 resolving such protests. The written order of the department resolving a protest may be  
69 appealed to the circuit court of Cole County within thirty days after the issuance of the  
70 order.

620.2065. 1. If the taxpayer fails either to meet the required levels of employment  
2 or investment for the applicable project by the end of the fourth year after the end of the  
3 year the application was submitted for a tier one or tier three or by the end of the sixth  
4 year after the end of the year the application was submitted for a tier two, tier four, or tier  
5 five project or to utilize such project in a qualified business at employment and investment



6 levels at or above those required in the agreement for the entire entitlement period, all or  
7 a portion of the incentives set forth in the Missouri advantage act shall be recaptured or  
8 disallowed.

9       2. If the taxpayer receives any refunds or reduction in tax to which the taxpayer  
10 was not entitled or which were in excess of the amount to which the taxpayer was entitled,  
11 the refund or reduction in tax shall be recaptured separate from any other recapture  
12 otherwise required by this section. Any amount recaptured under this subsection shall be  
13 excluded from the amounts subject to recapture under other subsections of this section.

14       3. Any refunds or reduction in tax due, to the extent required to be recaptured,  
15 shall be deemed to be an underpayment of the tax and shall be immediately due and  
16 payable. When tax benefits were received in more than one year, the tax benefits received  
17 in the most recent year shall be recovered first and then the benefits received in earlier  
18 years up to the extent of the required recapture.

19       4. Notwithstanding any other limitations contained in the laws of this state,  
20 collection of any taxes deemed to be underpayments by this section shall be allowed for a  
21 period of three years after the end of the entitlement period.

22       5. Any amounts due under this section shall be recaptured notwithstanding other  
23 allowable credits and shall not be subsequently refunded under any provision of the  
24 Missouri advantage act unless the recapture was in error.

25       6. The recapture required by this section shall not occur if the failure to maintain  
26 the required levels of employment or investment was caused by an act of God or national  
27 emergency.

      620.2068. There is hereby created in the state treasury the "Missouri Incentives  
2 Fund", which shall consist of money collected under section 620.2059. The state treasurer  
3 shall be custodian of the fund and shall approve disbursements from the fund in  
4 accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the  
5 fund shall be used solely for the administration of sections 620.2050 to 620.2077.  
6 Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys  
7 remaining in the fund at the end of the biennium shall not revert to the credit of the  
8 general revenue fund. The state treasurer shall invest moneys in the fund in the same  
9 manner as other funds are invested. Any interest and moneys earned on such investments  
10 shall be credited to the fund.

      620.2071. 1. The department shall submit an annual report to the general assembly  
2 no later than July fifteenth of each year.

3       2. The report shall list:

4       (1) The agreements which have been signed during the previous calendar year;

- 5           (2) The agreements which are still in effect;
- 6           (3) The identity of each taxpayer who is party to an agreement; and
- 7           (4) The location of each project.
- 8           3. The report shall also state, for taxpayers who are parties to agreements, by
- 9 industry group:
- 10          (1) The specific incentive options applied for under the Missouri advantage act;
- 11          (2) The refunds allowed on the investment;
- 12          (3) The credits earned;
- 13          (4) The credits used to reduce the corporate income tax and the credits used to
- 14 reduce the individual income tax;
- 15          (5) The credits used to obtain sales and use tax refunds;
- 16          (6) The credits used against withholding liability;
- 17          (7) The number of jobs created under sections 620.2050 to 620.2077;
- 18          (8) The total number of employees employed in the state on the last day of the
- 19 calendar quarter prior to the application date and the total number of employees employed
- 20 in the state on subsequent reporting dates;
- 21          (9) The expansion of capital investment;
- 22          (10) The estimated wage levels of jobs created under sections 620.2050 to 620.2077
- 23 subsequent to the application date;
- 24          (11) The total number of qualified applicants;
- 25          (12) The projected future state revenue gains and losses;
- 26          (13) The sales tax refunds owed;
- 27          (14) The credits outstanding under sections 620.2050 to 620.2077.
- 28          4. In estimating the projected future state revenue gains and losses, the report shall
- 29 detail the methodology utilized, state the economic multipliers, and industry multipliers
- 30 used to determine the amount of economic growth and positive tax revenue; describe the
- 31 analysis used to determine the percentage of new jobs attributable to the Missouri
- 32 advantage act assumption; and identify limitations that are inherent in the analysis
- 33 method.
- 34          5. The report shall provide an explanation of the audit and review processes of the
- 35 department in approving and rejecting applications or the grant of incentives and in
- 36 enforcing incentive recapture. The report shall also specify the median period of time
- 37 between the date of application and the date the agreement is executed for all agreements
- 38 executed by December thirty-first of the prior year.
- 39          6. The report shall provide information on project-specific total incentives used
- 40 every two years for each approved project. The report shall disclose:

- 41           (1) The identity of the taxpayer;  
42           (2) The location of the project; and  
43           (3) The total credits used and refunds approved during the immediately preceding  
44 two years expressed as a single, aggregated total.

45

46 The incentive information required to be reported under this subsection shall not be  
47 reported for the first year the taxpayer attains the required employment and investment  
48 thresholds. The information on first-year incentives used shall be combined with and  
49 reported as part of the second year. Thereafter, the information on incentives used for  
50 succeeding years shall be reported for each project every two years containing information  
51 on two years of credits used and refunds approved. The incentives used shall include  
52 incentives which have been approved by the department, but not necessarily received,  
53 during the previous two calendar years.

54           7. The report shall include an executive summary which shows aggregate  
55 information for all projects for which the information on incentives used in subsection 6  
56 of this section is reported as follows:

57           (1) The total incentives used by all taxpayers for projects detailed in subsection 6  
58 of this section during the previous two years;

59           (2) The number of projects;

60           (3) The total number of employees of these taxpayers employed in the state on the  
61 last day of the calendar quarter prior to the application date, the new jobs at the project  
62 for which credits have been granted, and the total number of employees employed in the  
63 state by these taxpayers on subsequent reporting dates;

64           (4) The average compensation paid employees in the state in the year of application  
65 and for the new jobs at the project; and

66           (5) The total investment for which incentives were granted.

67

68 The executive summary shall summarize the number of states which grant investment tax  
69 credits, job tax credits, and sales and use tax refunds for qualified investment, and the  
70 investment and employment requirements under which they may be granted.

71           8. No information shall be provided in the report that is protected by state or  
72 federal confidentiality laws.

620.2074. 1. The incentives allowed under the Missouri advantage act shall not be  
2 transferable except in the following situations:

3           (1) Any credit allowable to a partnership, a limited liability company, a Subchapter  
4 S corporation, a cooperative, including a cooperative exempt under Section 521 of the

5 Internal Revenue Code of 1986, as amended, or an estate or trust may be distributed to the  
6 partners, members, shareholders, patrons, or beneficiaries in the same manner as income  
7 is distributed for use against their income tax liabilities, and such partners, members,  
8 shareholders, or beneficiaries shall be deemed to have made an underpayment of their  
9 income taxes for any recapture required by section 620.2065. A credit distributed shall be  
10 considered a credit used and the partnership, limited liability company, Subchapter S  
11 corporation, cooperative, including a cooperative exempt under Section 521 of the Internal  
12 Revenue Code of 1986, as amended, estate, or trust shall be liable for any repayment  
13 required by section 620.2065; and

14 (2) The incentives previously allowed and the future allowance of incentives may  
15 be transferred when a project covered by an agreement is transferred in its entirety by sale  
16 or lease to another taxpayer or in an acquisition of assets qualifying under Section 381 of  
17 the Internal Revenue Code of 1986, as amended.

18 2. The acquiring taxpayer, as of the date of notification of the department of the  
19 completed transfer, shall be entitled to any unused credits and to any future incentives  
20 allowable under sections 620.2050 to 620.2077.

21 3. The acquiring taxpayer shall be liable for any recapture that becomes due after  
22 the date of the transfer for the repayment of any benefits received either before or after the  
23 transfer.

24 4. If a taxpayer operating a project and allowed a credit under sections 620.2050  
25 to 620.2077 dies and there is a credit remaining after the filing of the final return for the  
26 taxpayer, the personal representative shall determine the distribution of the credit or any  
27 remaining carryover with the initial fiduciary return filed for the estate. The  
28 determination of the distribution of the credit may be changed only after obtaining the  
29 permission of the department.

620.2077. The department, in conjunction with the department of revenue shall  
2 promulgate rules to implement the provisions of sections 620.2050 to 620.2077. Any rule  
3 or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under  
4 the authority delegated in this section shall become effective only if it complies with and  
5 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
6 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
7 vested with the general assembly under chapter 536, RSMo, to review, to delay the effective  
8 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
9 grant of rulemaking authority and any rule proposed or adopted after August 28, 2009,  
10 shall be invalid and void.

Section B. Because immediate action is necessary to stimulate economic growth in Missouri, the repeal and reenactment of sections 105.145, 135.680, 238.207, 238.212, 238.235, 338.337, 447.708, 620.1039, 620.1878, and 620.1881, and the enactment of sections 71.275, 144.055, 620.1895, 620.2050, 620.2053, 620.2056, 620.2059, 620.2062, 620.2065, 620.2068, 620.2071, 620.2074, and 620.2077 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 105.145, 135.680, 238.207, 238.212, 238.235, 338.337, 447.708, 620.1039, 620.1878, and 620.1881, and the enactment of sections 71.275, 144.055, 620.1895, 620.2050, 620.2053, 620.2056, 620.2059, 620.2062, 620.2065, 620.2068, 620.2071, 620.2074, and 620.2077 of section A of this act shall be in full force and effect upon their passage and approval.

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