

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1684
95TH GENERAL ASSEMBLY

4256L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 68.025, 68.035, 68.040, 68.070, 144.010, 144.020, and 620.1039, RSMo, and to enact in lieu thereof thirty new sections relating to job development, with an emergency clause for a certain section.

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

Section A. Sections 68.025, 68.035, 68.040, 68.070, 144.010, 144.020, and 620.1039, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 68.025, 68.035, 68.040, 68.070, 68.300, 68.305, 68.310, 68.315, 68.320, 68.325, 68.330, 68.335, 68.340, 68.345, 68.350, 68.355, 68.360, 68.365, 68.370, 144.010, 144.019, 144.020, 144.058, 144.810, 348.273, 348.274, 620.1039, 620.1894, 620.1910, and 620.1920, to read as follows:

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

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

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

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

(4) **Carry out any of the projects enumerated in subdivision (16) of section 68.305;**

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

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

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

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

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

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

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

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

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

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

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

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

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

46 [(13)] (17) Acquire rights-of-way and property of any kind or nature within its port
47 districts necessary for its purposes. Every port authority shall have the right and power to
48 acquire the same by purchase, negotiation, or by condemnation, and should it elect to exercise
49 the right of eminent domain, condemnation proceedings shall be maintained by and in the name
50 of the port authority, and it may proceed in the manner provided by the laws of this state for any

51 county or municipality. The power of eminent domain shall not apply to property actively being
52 used in relation to or in conjunction with river trade or commerce, unless such use is by a port
53 authority pursuant to a lease in which event the power of eminent domain shall apply;

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

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

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

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

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

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

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

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

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

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

68.040. 1. Every local and regional port authority, approved as a political subdivision
2 of the state, may from time to time issue its negotiable revenue bonds or notes in such principal
3 amounts as, in its opinion, shall be necessary to provide sufficient funds for achieving its

4 purposes, including the construction of port facilities **and the financing of port improvement**
5 **projects**; establish reserves to secure such bonds and notes; and make other expenditures,
6 incident and necessary to carry out its purposes and powers.

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

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

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

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

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

68.070. [If, at any time] **Provided a local or regional port authority has no**
2 **outstanding obligations**, the legislative body or county commission of a city or county, in which
3 a local port authority is situated, votes, by majority, to dissolve said port authority, the local port
4 authority shall be dissolved effective the date of approval of the dissolution by the highways and
5 transportation commission of the state. If, at any time, all of the legislative bodies or county
6 commissions of members of a regional port authority vote, by majority, to dissolve the regional
7 port authority, it shall be dissolved effective the date of the approval of dissolution by the
8 highways and transportation commission of the state. In the event of dissolution of a local or

9 regional port authority, all funds and other assets shall be distributed among the cities and
10 counties, who were members, on a pro rata basis.

**68.300. Sections 68.300 to 68.360 shall be known and may be cited as the "Port
2 Improvement District Act."**

**68.305. As used in sections 68.300 to 68.360, unless the context clearly requires
2 otherwise, the following terms shall mean:**

3 **(1) "Act", the port improvement district act, sections 68.300 to 68.360;**

4 **(2) "Approval", for purposes of elections under this act, a simple majority of those
5 qualified voters casting votes in any election;**

6 **(3) "Board", the board of port authority commissioners for the particular port
7 authority that desires to establish or has established a district;**

8 **(4) "Director of revenue", the director of the department of revenue of the state of
9 Missouri;**

10 **(5) "District" or "port improvement district", an area designated by the port
11 authority which is located within its port district boundaries at the time of establishment;**

12 **(6) "Disposal of solid waste or sewage", the entire process of storage, collection,
13 transportation, processing, and disposal of solid wastes or sewage;**

14 **(7) "Election authority", the election authority having jurisdiction over the area
15 in which the boundaries of the district are located under chapter 115;**

16 **(8) "Energy conservation", the reduction of energy consumption;**

17 **(9) "Energy efficiency", the increased productivity or effectiveness of the use of
18 energy resources, the reduction of energy consumption, or the use of renewable energy
19 sources;**

20 **(10) "Obligations", revenue bonds and notes issued by a port authority and any
21 obligations for the repayment of any money obtained by a port authority from any public
22 or private source along with any associated financing costs, including, but not limited to,
23 the costs of issuance, capitalized interest, and debt service;**

24 **(11) "Owner", the individual or individuals or entity or entities who own a fee
25 interest in real property that is located within the boundaries of a district based upon the
26 recorded real estate records of the county recorder, or the city recorder of deeds if the
27 district is located in a city not within a county, as of the thirtieth day prior to any action;**

28 **(12) "Petition", a petition to establish a port improvement district within the port
29 district boundaries or a petition to make a substantial change to an existing district;**

30 **(13) "Pollution", the existence of any noxious substance in the air or waters or on
31 the lands of the state in sufficient quantity and of such amounts, characteristics, and
32 duration as to injure or harm the public health or welfare or animal life or property;**

33 (14) "Port authority", a political subdivision established under this chapter;

34 (15) "Port district boundaries", the boundaries of any port authority on file with
35 the clerk of the county commission, city clerk, or clerk of the legislative or governing body
36 of the county as applicable, which became effective upon approval by the highways and
37 transportation commission of the state of Missouri;

38 (16) "Project" or "port improvement project", with respect to any property within
39 a port improvement district, or benefitting property within a port improvement district:

40 (a) Providing for, or contracting for the provision of, environmental cleanup,
41 including the disposal of solid waste, services to brownfields, or other polluted real
42 property;

43 (b) Providing for, or contracting for the provision of, energy conservation or
44 increased energy efficiency within any building, structure, or facility;

45 (c) Providing for, or contracting for the provision of, wetland creation,
46 preservation, or relocation;

47 (d) The construction of any building, structure, or facility determined by the port
48 authority as essential in developing energy resources, preventing, reducing, or eliminating
49 pollution, or providing water facilities or the disposal of solid waste;

50 (e) Modifications to, or the relocation of, any existing building, structure, or facility
51 that has been acquired or constructed, or which is to be acquired or constructed for the
52 purpose of developing energy resources, preventing, reducing, or eliminating pollution, or
53 providing water facilities or the disposal of solid waste;

54 (f) The acquisition of real property determined by the port authority to be
55 significant in, or in the furtherance of, the history, architecture, archeology, or culture of
56 the United States, the state of Missouri, or its political subdivisions;

57 (g) The operation, maintenance, repair, rehabilitation, or reconstruction of any
58 existing public or private building, structure, or facility determined by the port authority
59 to be significant in, or in the furtherance of, the history, architecture, archeology, or
60 culture of the United States, the state of Missouri, or its political subdivisions;

61 (h) The construction of any new building, structure, or facility that is determined
62 by the port authority to be significant in, or in the furtherance of, the history, architecture,
63 archeology, or culture of the United States, the state of Missouri, or its political
64 subdivisions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68.310. 1. A port authority may establish one or more port improvement districts within its port district boundaries for the purpose of funding qualified project costs associated with an approved port improvement project. However, in any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants a port improvement district shall only be established within five thousand feet of the center of the Missouri River. In order to form a district or to make substantial changes to an existing district, the board shall:

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

(2) Hold a public hearing in accordance with section 68.315;

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

(4) File the approved draft petition in the circuit court of the county where the port improvement district is located, requesting the creation of a port improvement district in accordance with sections 68.300 to 68.360; and

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

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

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

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

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

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

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

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

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

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

41 (6) The name and address of each respondent;

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

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

68.315. 1. Not more than ten days prior to the submission of the petition to the
2 circuit court, the port authority shall hold or cause to be held a public hearing on the
3 proposed project or projects, proposed real property tax or sales and use tax, or both, as
4 applicable, and the establishment of the proposed district and shall give notice of the public

5 hearing in the manner provided in subsection 3 of this section. All reasonable protests,
6 objections, and endorsements shall be heard at the public hearing.

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

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

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

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

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

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

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

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

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

68.320. 1. Within thirty days after the petition is filed, the circuit court clerk shall
2 serve a copy of the petition on the respondents who shall have thirty days after receipt of
3 service to file an answer stating agreement with or opposition to the creation of the district.
4 If any respondent files its answer opposing the creation of the district, it shall recite legal
5 reasons why the petition is defective, why the proposed district is illegal or
6 unconstitutional, or why the proposed method for funding the district is illegal or
7 unconstitutional. The respondent shall ask the court for a declaratory judgment respecting
8 these issues. The answer of each respondent shall be served on each petitioner and every
9 other respondent named in the petition. Any resident or taxpayer within the proposed

10 district not qualifying as a respondent may join in or file a petition supporting or answer
11 opposing the creation of the district and seeking a declaratory judgment respecting these
12 same issues within thirty days after the date notice is last published by the circuit clerk
13 under section 68.325.

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

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

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

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

17 or its funding method, as set forth in the petition, is illegal or unconstitutional and should
18 not be approved as directed by this court.

19

20 Clerk of the Circuit Court of County

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

7 2. The public hearing required by this section shall be held and notice of such
8 public hearing shall be given in the manner set forth in section 68.315. The notice shall
9 contain the following information:

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

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

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

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

68.335. 1. For the purposes of providing funds to pay all, or any portion of, the
2 qualified project costs associated with any approved project, subsequent to the
3 establishment of a district under this act, and subsequent to the circuit court's certification
4 of a question regarding any proposed real property tax needed to fund a project, a port
5 authority may levy by resolution a tax upon real property within the boundaries of the
6 district; provided however, no such resolution shall be final nor shall it take effect until the
7 qualified voters approve, by mail-in ballot election conducted in accordance with section
8 68.355, the circuit court's certified question regarding such proposed real property tax.
9 If a majority of the votes cast by the qualified voters voting on the proposed real property
10 tax are in favor of the tax, then the resolution shall become effective. If a majority of the
11 votes cast by the qualified voters voting are opposed to the real property tax, then the
12 resolution seeking to levy the real property tax shall be deemed to be null and void on the
13 date on which the election may no longer be challenged under section 68.355. The port
14 authority may levy a real property tax rate lower than the tax rate ceiling approved by the

15 qualified voters under subsection 1 of this section and may, by resolution, increase that
16 lowered tax rate to a level not exceeding the tax rate ceiling without approval of the
17 qualified voters.

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

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

25 ☐ YES

☐ NO

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

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

34 4. All property, real and personal, assessed under sections 151.010 to 151.340 is
35 hereby specifically exempted from taxes levied, assessed, or payable under this section
36 unless such real property tax levy is agreed to in writing by the property's owner.

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

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

15 final settlement of the port authority account and costs owing, not less than once each year,
16 if necessary.

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

68.345. 1. For the purposes of providing funds to pay all, or any portion of, the
2 qualified project costs associated with any approved project, subsequent to the
3 establishment of a district under this act, and subsequent to the circuit court's certification
4 of a question regarding any proposed sales and use tax needed to fund a project, a port
5 authority may levy by resolution a district wide sales and use tax on all retail sales made
6 in such district which are subject to taxation under sections 144.010 to 144.525, except sales
7 of motor vehicles, trailers, boats or outboard motors, and sales to or from public utilities.
8 Any sales and use tax imposed under this section may be imposed in increments of one-
9 eighth of one percent, up to a maximum of one percent; except that, no resolution adopted
10 under this section shall be final nor shall it take effect until the qualified voters approve,
11 by mail-in ballot election conducted in accordance with section 68.350, the circuit court's
12 certified question regarding such proposed sales and use tax. If a majority of the votes cast
13 by the qualified voters on the proposed sales and use tax are in favor of the sales and use
14 tax, then the resolution shall become effective. If a majority of the votes cast by the
15 qualified voters are opposed to the sales and use tax, then the resolution seeking to levy the
16 sales and use tax shall be deemed null and void on the date on which the election may no
17 longer be challenged under section 68.355.

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

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

24 ☐ YES

☐ NO

25
26 If you are in favor of the question, place an "X" in the box opposite "YES". If you are
27 opposed to the question, place an "X" in the box opposite "NO".

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

33 **4. The director of revenue shall collect any sales and use tax adopted under this**
34 **section and section 32.087.**

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

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

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

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

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

5 **2. After the board has passed a resolution approving the levy of a real property tax**
6 **or a sales and use tax, or both, the board shall provide written notice of such resolution,**
7 **along with the circuit court's certified question regarding the real property tax or the sales**

8 and use tax, or both, as applicable, to the election authority. The board shall be entitled
9 to repeal or amend such resolution provided that written notice of such repeal or
10 amendment is delivered to the election authority prior to the date that the election
11 authority mails the ballots to the qualified voters.

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

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

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

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

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

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

30 (d) The date of the election;

31 (e) The applicable definition of qualified voters;

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

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

38 (h) A statement that any qualified voter that did not receive a ballot in the mail or
39 lost the ballot received in the mail may pick up a mail-in ballot at the election authority's
40 office, specifying the dates and time such ballot will be available and the location of the
41 election authority's office;

42 (3) The election authority shall mail the ballot, a notice containing substantially the
43 same information as the published notice, and a return addressed envelope directed to the

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

51 **FOR REGISTERED VOTERS:**

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

55

56 **Qualified Voter's Signature**

57

58 **Printed Name of Qualified Voter**

59 **FOR REAL PROPERTY OWNERS:**

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

65

66 **Signature**

67

68 **Print Name of Real Property Owner**

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

70 **Name of Signer:**

71 **State Basis of Legal Authority to Sign:**

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

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

77 **5. Mail-in ballots shall be returned to the election authority's office in person, or**
78 **by depositing the ballot in the United States mail addressed to the election authority's office**
79 **and postmarked no later than the date of the election. The election authority shall transmit**

80 all voted ballots to a team of judges of not less than four. The judges shall be selected by
81 the election authority from lists it has compiled. Upon receipt of the voted ballots, the
82 judges shall verify the authenticity of the ballots, canvass the votes, and certify the results.
83 Certification by the election judges shall be final and shall be immediately transmitted to
84 the election authority. Any qualified voter who voted in such election may contest the
85 result in the same manner as provided in chapter 115.

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

89 7. The port authority shall reimburse the election authority for the costs it incurs
90 to conduct an election under this section.

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

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

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

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

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

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

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

144.010. 1. The following words, terms, and phrases when used in sections 144.010 to
2 144.525 have the meanings ascribed to them in this section, except when the context indicates
3 a different meaning:

4 (1) "Admission" includes seats and tables, reserved or otherwise, and other similar
5 accommodations and charges made therefor and amount paid for admission, exclusive of any
6 admission tax imposed by the federal government or by sections 144.010 to 144.525;

7 (2) "Business" includes any activity engaged in by any person, or caused to be engaged
8 in by him, with the object of gain, benefit or advantage, either direct or indirect, and the
9 classification of which business is of such character as to be subject to the terms of sections
10 144.010 to 144.525. The isolated or occasional sale of tangible personal property, service,
11 substance, or thing, by a person not engaged in such business, does not constitute engaging in
12 business within the meaning of sections 144.010 to 144.525 unless the total amount of the gross
13 receipts from such sales, exclusive of receipts from the sale of tangible personal property by
14 persons which property is sold in the course of the partial or complete liquidation of a household,
15 farm or nonbusiness enterprise, exceeds three thousand dollars in any calendar year. The
16 provisions of this subdivision shall not be construed to make any sale of property which is
17 exempt from sales tax or use tax on June 1, 1977, subject to that tax thereafter;

18 (3) "Gross receipts", except as provided in section 144.012, means the total amount of
19 the sale price of the sales at retail including any services other than charges incident to the
20 extension of credit that are a part of such sales made by the businesses herein referred to, capable
21 of being valued in money, whether received in money or otherwise; except that, the term "gross
22 receipts" shall not include the sale price of property returned by customers when the full sale
23 price thereof is refunded either in cash or by credit. In determining any tax due under sections
24 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit shall be
25 specifically exempted. For the purposes of sections 144.010 to 144.525 the total amount of the
26 sale price above mentioned shall be deemed to be the amount received. It shall also include the
27 lease or rental consideration where the right to continuous possession or use of any article of
28 tangible personal property is granted under a lease or contract and such transfer of possession
29 would be taxable if outright sale were made and, in such cases, the same shall be taxable as if
30 outright sale were made and considered as a sale of such article, and the tax shall be computed
31 and paid by the lessee upon the rentals paid;

32 (4) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,
33 ostrich and emu, aquatic products as defined in section 277.024, RSMo, llamas, alpaca, buffalo,
34 elk documented as obtained from a legal source and not from the wild, goats, horses, other
35 equine, or rabbits raised in confinement for human consumption;

36 (5) "Motor vehicle leasing company" shall be a company obtaining a permit from the
37 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
38 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to
39 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
40 144.070, as hereinafter provided;

41 (6) "Person" includes any individual, firm, copartnership, joint adventure, association,
42 corporation, municipal or private, and whether organized for profit or not, state, county, political
43 subdivision, state department, commission, board, bureau or agency, except the state
44 transportation department, estate, trust, business trust, receiver or trustee appointed by the state
45 or federal court, syndicate, or any other group or combination acting as a unit, and the plural as
46 well as the singular number;

47 (7) "Purchaser" means a person who purchases tangible personal property or to whom
48 are rendered services, receipts from which are taxable under sections 144.010 to 144.525;

49 (8) "Research or experimentation activities" are the development of an experimental or
50 pilot model, plant process, formula, invention or similar property, and the improvement of
51 existing property of such type. Research or experimentation activities do not include activities
52 such as ordinary testing or inspection of materials or products for quality control, efficiency
53 surveys, advertising promotions or research in connection with literary, historical or similar
54 projects;

55 (9) "Sale" or "sales" includes installment and credit sales, and the exchange of properties
56 as well as the sale thereof for money, every closed transaction constituting a sale, and means any
57 transfer, exchange or barter, conditional or otherwise, in any manner or by any means
58 whatsoever, of tangible personal property for valuable consideration and the rendering,
59 furnishing or selling for a valuable consideration any of the substances, things and services
60 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

61 (10) "Sale at retail" means any transfer made by any person engaged in business as
62 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use
63 or consumption and not for resale in any form as tangible personal property, for a valuable
64 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax imposed
65 thereby: (i) purchases of tangible personal property made by duly licensed physicians, dentists,
66 optometrists and veterinarians and used in the practice of their professions shall be deemed to
67 be purchases for use or consumption and not for resale; and (ii) the selling of computer printouts,

68 computer output or microfilm or microfiche and computer-assisted photo compositions to a
69 purchaser to enable the purchaser to obtain for his or her own use the desired information
70 contained in such computer printouts, computer output on microfilm or microfiche and
71 computer-assisted photo compositions shall be considered as the sale of a service and not as the
72 sale of tangible personal property. Where necessary to conform to the context of sections
73 144.010 to 144.525 and the tax imposed thereby, the term "sale at retail" shall be construed to
74 embrace:

75 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of
76 amusement, entertainment and recreation, games and athletic events;

77 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to domestic,
78 commercial or industrial consumers;

79 (c) Sales of local and long distance telecommunications service to telecommunications
80 subscribers and to others through equipment of telecommunications subscribers for the
81 transmission of messages and conversations, and the sale, rental or leasing of all equipment or
82 services pertaining or incidental thereto;

83 (d) Sales of service for transmission of messages by telegraph companies;

84 (e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern,
85 inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in
86 which rooms, meals or drinks are regularly served to the public. **The sales or charges shall**
87 **include only amounts received by the operator of any hotel, motel, tavern, inn, restaurant,**
88 **eating house, drugstore, dining car, tourist camp, tourist cabin, or other place in which**
89 **rooms, meals or drinks are regularly served to the public;**

90 (f) Sales of tickets by every person operating a railroad, sleeping car, dining car, express
91 car, boat, airplane, and such buses and trucks as are licensed by the division of motor carrier and
92 railroad safety of the department of economic development of Missouri, engaged in the
93 transportation of persons for hire;

94 (11) "Seller" means a person selling or furnishing tangible personal property or rendering
95 services, on the receipts from which a tax is imposed pursuant to section 144.020;

96 (12) The noun "tax" means either the tax payable by the purchaser of a commodity or
97 service subject to tax, or the aggregate amount of taxes due from the vendor of such commodities
98 or services during the period for which he or she is required to report his or her collections, as
99 the context may require;

100 (13) "Telecommunications service", for the purpose of this chapter, the transmission of
101 information by wire, radio, optical cable, coaxial cable, electronic impulses, or other similar
102 means. As used in this definition, "information" means knowledge or intelligence represented
103 by any form of writing, signs, signals, pictures, sounds, or any other symbols.

104 Telecommunications service does not include the following if such services are separately stated
105 on the customer's bill or on records of the seller maintained in the ordinary course of business:

106 (a) Access to the Internet, access to interactive computer services or electronic
107 publishing services, except the amount paid for the telecommunications service used to provide
108 such access;

109 (b) Answering services and one-way paging services;

110 (c) Private mobile radio services which are not two-way commercial mobile radio
111 services such as wireless telephone, personal communications services or enhanced specialized
112 mobile radio services as defined pursuant to federal law; or

113 (d) Cable or satellite television or music services; and

114 (14) "Product which is intended to be sold ultimately for final use or consumption"
115 means tangible personal property, or any service that is subject to state or local sales or use taxes,
116 or any tax that is substantially equivalent thereto, in this state or any other state.

117 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any other
118 provisions of law pertaining to sales or use taxes which incorporate the provisions of sections
119 144.010 to 144.525 by reference, the term "manufactured homes" shall have the same meaning
120 given it in section 700.010, RSMo.

121 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

144.019. Notwithstanding any other provision of law to the contrary:

2 (1) When a purchase of tangible personal property or taxable service is made for
3 the purpose of resale, such purchase is either exempt or excluded under this chapter if the
4 subsequent sale is:

5 (a) Taxed in Missouri or any other state;

6 (b) For resale;

7 (c) Excluded from tax under this chapter; or

8 (d) Subject to tax but exempt under this chapter or, if such subsequent sale is in
9 another state, exempt under the laws of that state.

10 (2) For purposes of subdivision (2) of subsection 1 of section 144.020, the operator
11 of a place of amusement, entertainment or recreation (including games or athletic events)
12 must charge tax on the amount of gross receipts the operator charges for admissions or
13 seating accommodations to such place of amusement, entertainment or recreation. Any
14 subsequent sale of such admissions or seating accommodations by a purchaser shall not be
15 subject to tax. The provisions of this subsection shall not apply if the purchaser of such
16 admissions or seating accommodations is an entity that is exempt from payment of sales
17 and use taxes in accordance with subsection 2 of section 144.030.

18 **(3) For purposes of subdivision (6) of subsection 1 of section 144.020, the operator**
19 **of a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin,**
20 **tourist camp or other place in which rooms, meals or drinks are regularly served to the**
21 **public must charge tax on the amount of gross receipts the operator charges for all rooms,**
22 **meals and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house,**
23 **drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or**
24 **drinks are regularly served to the public. Any subsequent sale of such rooms, meals or**
25 **drinks by a purchaser shall not be subject to tax. The provisions of this subsection shall**
26 **not apply if the purchaser of such rooms, meals or drinks is an entity that is exempt from**
27 **payment of sales and use taxes in accordance with subsection 2 of section 144.030.**

28 **4. The provisions of this section are intended to clarify the exemption or exclusion**
29 **of purchases for resale from sales and use taxes as originally enacted in this chapter.**

 144.020. 1. A tax is hereby levied and imposed upon all sellers for the privilege of
2 engaging in the business of selling tangible personal property or rendering taxable service at
3 retail in this state. The rate of tax shall be as follows:

4 (1) Upon every retail sale in this state of tangible personal property, including but not
5 limited to motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard
6 motors, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale
7 involves the exchange of property, a tax equivalent to four percent of the consideration paid or
8 charged, including the fair market value of the property exchanged at the time and place of the
9 exchange, except as otherwise provided in section 144.025;

10 (2) A tax equivalent to four percent of the amount paid for admission and seating
11 accommodations, or fees paid to, or in any place of amusement, entertainment or recreation,
12 games and athletic events;

13 (3) A tax equivalent to four percent of the basic rate paid or charged on all sales of
14 electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or
15 industrial consumers;

16 (4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local
17 and long distance telecommunications service to telecommunications subscribers and to others
18 through equipment of telecommunications subscribers for the transmission of messages and
19 conversations and upon the sale, rental or leasing of all equipment or services pertaining or
20 incidental thereto; except that, the payment made by telecommunications subscribers or others,
21 pursuant to section 144.060, and any amounts paid for access to the Internet or interactive
22 computer services shall not be considered as amounts paid for telecommunications services;

23 (5) A tax equivalent to four percent of the basic rate paid or charged for all sales of
24 services for transmission of messages of telegraph companies;

25 (6) A tax equivalent to four percent on the amount of sales or charges **received by the**
26 **operator** for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant,
27 eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms,
28 meals or drinks are regularly served to the public. **For purposes of this section, an "operator"**
29 **shall mean a person or entity that has primary responsibility for the operation of any hotel,**
30 **motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist**
31 **cabin, or other place in which rooms, meals or drinks are regularly served to the public.**
32 **An operator shall not include any third party that provides services to or on behalf of an**
33 **operator;**

34 (7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets
35 by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such
36 buses and trucks as are licensed by the division of motor carrier and railroad safety of the
37 department of economic development of Missouri, engaged in the transportation of persons for
38 hire;

39 (8) A tax equivalent to four percent of the amount paid or charged for rental or lease of
40 tangible personal property, provided that if the lessor or renter of any tangible personal property
41 had previously purchased the property under the conditions of "sale at retail" as defined in
42 subdivision (8) of section 144.010 or leased or rented the property and the tax was paid at the
43 time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or
44 collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property.
45 The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles,
46 boats, and outboard motors shall be taxed and the tax paid as provided in this section and section
47 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale,
48 charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such
49 rental or lease be subject to any tax imposed to, for, or in such places of amusement,
50 entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the
51 provisions of the sales tax laws as provided under such laws for motor vehicles and trailers.
52 Tangible personal property which is exempt from the sales or use tax under section 144.030 upon
53 a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof.

54 2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525
55 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the
56 words "This ticket is subject to a sales tax."

144.058. In addition to the exemptions granted under this chapter, there shall also
2 **be specifically exempted from state and local sales and use taxes defined, levied, or**
3 **calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761,**
4 **or section 238.235, all electrical energy, gas whether natural, artificial or propane, water,**

5 and other utilities including telecommunication services, and machinery and equipment
6 which is used or consumed by any person, firm, corporation, or partnership operating a
7 business, which after August 28, 2010, relocates such business to a facility located within
8 a portion of an underground mine that is not used for mining and contains at least five
9 hundred thousand square feet of space, provided such business facility is utilized for:

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

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

144.810. 1. As used in this section, unless the context clearly indicates otherwise,
2 the following terms shall mean:

3 (1) "Commencement of commercial operations", shall be deemed to occur during
4 the first calendar year for which the data storage center or server farm facility is first
5 available for use by the operating taxpayer, or first capable of being used by the operating
6 taxpayer, as a data storage center or server farm facility;

7 (2) "Constructing taxpayer", where more than one taxpayer is responsible for a
8 project, a taxpayer responsible for the purchase or construction of the facility, as opposed
9 to a taxpayer responsible for the equipping and ongoing operations of the facility;

10 (3) "Data storage center" or "server farm facility" or "facility", a facility
11 purchased, constructed, extended, improved or operating pursuant to this section,
12 provided that such business facility is engaged in:

- 13 (a) Data processing, hosting, and related services (NAICS 518210); or
14 (b) Internet publishing and broadcasting and web search portals (NAICS 519130),
15 at the business facility;

16 (4) "Existing facility", a data storage center or server farm facility in this state as
17 it existed prior to August 28, 2010, as determined by the department;

18 (5) "Expanding facility" or "expanding data storage center or server farm
19 facility", an existing facility or replacement facility that expands its operations in this state
20 on or after August 28, 2010, and has net new investment related to the expansion of

21 operations in this state of at least one million dollars during a period of up to twelve
22 consecutive months. An expanding facility shall continue to be an expanding facility
23 regardless of a subsequent change in or addition of operating taxpayers or constructing
24 taxpayers;

25 (6) "Expanding facility project" or "expanding data storage center or server farm
26 facility project", the purchase, construction, extension, improvement equipping and
27 operation of an expanding facility;

28 (7) "NAICS", the 2007 edition of the North American Industry Classification
29 System as prepared by the Executive Office of the President, Office of Management and
30 Budget. Any NAICS sector, subsector, industry group or industry identified in this section
31 shall include its corresponding classification in previous and subsequent federal industry
32 classification systems;

33 (8) "New facility" or "new data storage center or server farm facility", a facility
34 in this state meeting the following requirements:

35 (a) The facility is acquired by, or leased to, an operating taxpayer on or after
36 August 28, 2010. A facility shall be deemed to have been acquired by, or leased to, an
37 operating taxpayer on or after August 28, 2010, if the transfer of title to an operating
38 taxpayer, the transfer of possession pursuant to a binding contract to transfer title to an
39 operating taxpayer, or the commencement of the term of the lease to an operating taxpayer
40 occurs on or after August 28, 2010, or, if the facility is constructed, erected or installed by
41 or on behalf of an operating taxpayer, such construction, erection or installation is
42 commenced on or after August 28, 2010;

43 (b) If such facility was acquired by an operating taxpayer from another person or
44 persons on or after August 28, 2010, and such facility was employed prior to August 28,
45 2010, by any other person or persons in the operation of a data storage center or server
46 farm facility, the facility shall not be considered a new facility;

47 (c) Such facility is not a replacement facility, as defined in subdivision (12) of this
48 subsection;

49 (d) The new facility project investment is at least five million dollars during a
50 period of up to thirty-six consecutive months. Where more than one taxpayer is
51 responsible for a project, the investment requirement may be met by an operating
52 taxpayer, a constructing taxpayer or a combination of constructing taxpayers and
53 operating taxpayers; and

54 (e) A new facility shall continue to be a new facility regardless of a subsequent
55 change in or addition of operating taxpayers or constructing taxpayers;

56 (9) "New data storage center or server farm facility project", or "new facility
57 project" the purchase, construction, extension, improvement equipping and operation of
58 a new facility;

59 (10) "Operating taxpayer", where more than one taxpayer is responsible for a
60 project, a taxpayer responsible for the equipping and ongoing operations of the facility, as
61 opposed to a taxpayer responsible for the purchasing or construction of the facility;

62 (11) "Project taxpayers", each constructing taxpayer and each operating taxpayer
63 for a data storage center or server farm facility project;

64 (12) "Replacement facility" or "replacement data storage center or server farm
65 facility", a facility in this state otherwise described in subdivision (8) of this subsection, but
66 which replaces another facility located within the state, which the taxpayer or a related
67 taxpayer previously operated but discontinued operating within one year prior to the
68 commencement of commercial operations at the new facility;

69 (13) "Taxpayer", the purchaser of tangible personal property or a service that is
70 subject to state or local sales or use tax and from whom state or local sales or use tax is
71 owed. Taxpayer shall not mean the seller charged by law with collecting the sales tax from
72 the purchaser.

73 2. Beginning August 28, 2010, in addition to the exemptions granted under this
74 chapter, there shall also be specifically exempted from state and local sales and use taxes
75 defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections
76 144.600 to 144.761, or section 238.235:

77 (1) All electrical energy, gas, water, and other utilities including telecommunication
78 services used in a new data storage center or server farm facility;

79 (2) All machinery, equipment, and computers used in any new data storage center
80 or server farm facility; and

81 (3) All sales at retail of tangible personal property and materials for the purpose
82 of constructing, repairing, or remodeling any new data storage center or server farm
83 facility.

84 3. Any data storage center and server farm facility project seeking a tax exemption
85 under subsection 2 of this section shall submit a project plan to the department of economic
86 development, including identifying each known constructing taxpayer and each known
87 operating taxpayer for the project. The department of economic development shall
88 determine whether the project is eligible for the exemption under subsection 2 of this
89 section conditional upon subsequent verification by the department that the project meets
90 the requirement in paragraph (d) of subdivision (8) of subsection 1 of this section of at least
91 five million dollars of new facility investment over a time period not to exceed thirty-six

consecutive months. The department of economic development shall convey such conditional approval to the department of revenue and the identified project taxpayers. After a conditionally approved new facility project has met the investment amount, the project taxpayers shall provide proof of such investment to the department of economic development. Upon verification of such proof, the department of economic development shall certify the project to the department of revenue as being eligible for the exemption dating retroactively to the first day of the thirty six- month period or the first day of the new investment in the event the investment is met in less than thirty-six months. The department of revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day of the thirty-six month period, or the first day of the new investment in the event the investment is met in less than thirty-six months, shall issue a refund of sales taxes paid as set forth in this section to each operating taxpayer and each constructing taxpayer and issue a certificate of exemption to each new project taxpayer for ongoing exemptions under subdivisions (1), (2), and (3) of subsection 2 of this section.

4. Beginning August 28, 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, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235:

(1) All electrical energy, gas, water, and other utilities including telecommunication services used in an expanding data storage center or server farm facility which, on an annual basis, exceeds the amount of electrical energy, gas, water, and other utilities including telecommunication services used in the existing facility or the replaced facility prior to the expansion. "Amount" shall be measured in kilowatt hours, gallons, cubic feet or other measures applicable to a utility service as opposed to in dollars, to account for increases in rates;

(2) All machinery, equipment, and computers used in any new data storage center or server farm facility, the cost of which, on an annual basis, exceeds the average of the previous three years' expenditures on machinery, equipment, and computers at the existing facility or the replaced facility prior to the expansion. Existing facilities or replaced facilities in existence for less than three years shall have the average expenditures calculated based upon the applicable time of existence; and

(3) All sales at retail of the tangible personal property and materials for the purpose of constructing, repairing, or remodeling any expanding data storage center or server farm facility.

5. Any data storage center and server farm facility project seeking a tax exemption under subsection 4 of this section shall submit an expanding project plan to the department

of economic development, including identifying each known constructing taxpayer and each known operating taxpayer for the project. The project applicants shall also provide proof satisfactory to the department of economic development that the facility is an expanding facility and has net new investment related to the expansion of operations in this state of at least one million dollars during a time period not to exceed twelve consecutive months. Upon verification of such proof, the department of economic development shall certify the project to the department of revenue as being eligible for the exemption. The department of revenue shall issue a certificate of exemption to each expanding project taxpayer for ongoing exemptions under subdivisions (1), (2) and (3) of subsection 4 of this section.

6. The sales tax exemptions in subsections 2 and 4 of this section shall be tied to the new or expanding facility project. A certificate of exemption in the hands of a taxpayer that is no longer an operating or constructing taxpayer of the new or expanding facility project shall be invalid as of the date the taxpayer was no longer an operating or constructing taxpayer of the new or expanding facility project. New certificates of exemption shall be issued to successor constructing taxpayers and operating taxpayers at such new or expanding facility projects. The right to the exemption by successor taxpayers shall exist without regard to subsequent levels of investment in the new or expanding facility by successor taxpayers.

7. The department of economic development and the department of revenue shall cooperate in conducting random audits to make certain the intent of this section is followed.

8. The department of economic development and the department of revenue shall jointly prescribe such rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

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

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

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

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, 2010; or

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

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

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

29 (a) A general or limited partnership interest;

30 (b) Common stock;

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

33 (d) Convertible debt;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 e. Insurance;

52 f. Construction or construction management or contracting;

53 g. Business consulting or brokerage;

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

58 i. Any Missouri certified capital formation company;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

amount of tax credits that may be allowed under this section shall not exceed five million dollars per tax year.

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

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

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

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

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

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

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

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

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

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a partnership, or any charitable organization which is exempt from federal income tax and whose

3 Missouri unrelated business taxable income, if any, would be subject to the state income tax
4 imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471,
5 RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same
6 meaning as prescribed in 26 U.S.C. 41, **except that such qualified research expenses shall be**
7 **limited to those incurred in the research and development of agricultural biotechnology,**
8 **plant genomics products, diagnostic and therapeutic medical devices, prescription**
9 **pharmaceuticals consumed by humans or animals, or qualified research expenses incurred**
10 **in the research, development or manufacture of power system technology for aerospace,**
11 **space, defense, or implantable or wearable medical devices. It is not the intent of this**
12 **section to include research as defined by article III, section 38(d) of the Missouri**
13 **Constitution or section 196.1127.**

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

26 3. The director of economic development shall prescribe the manner in which the tax
27 credit may be applied for. The tax credit authorized by this section may be claimed by the
28 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that
29 becomes due in the tax year during which such qualified research expenses were incurred;
30 **provided, however, that if the return required to be filed under section 143.511 or 148.050**
31 **for such tax year has already been filed, the taxpayer may claim the tax credit authorized**
32 **by this section by claiming the tax credit against the tax liability imposed by chapter 143**
33 **or 148 in the tax year following the tax year in which such qualified research expenses were**
34 **incurred.** Where the amount of the credit exceeds the tax liability, the difference between the
35 credit and the tax liability may only be carried forward for the next five succeeding taxable years
36 **after the tax year in which the credit was first claimed** or until the full credit has been
37 claimed, whichever first occurs. The application for tax credits authorized by the director
38 pursuant to subsection 2 of this section shall be made **no earlier than January first and** no later

39 than [the end of] **July first of the calendar year immediately following the calendar year in**
40 **which** the taxpayer's tax period [immediately following the tax period] for which the credits are
41 being claimed **ended. The director shall act on any such application for tax credits no**
42 **sooner than August first but no later than August fifteenth of each year for applications**
43 **filed in that calendar year.**

44 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
45 assigned by filing a notarized endorsement thereof with the department which names the
46 transferee and the amount of tax credit transferred. The director of economic development may
47 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of
48 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year
49 commencing on or after January 1, [1996] **2011**, and ending not later than December 31, [1999]
50 **2016**. Such taxpayer shall file, by December 31, [2001] **2019**, an application with the
51 department which names the transferee, the amount of tax credit desired to be transferred, and
52 a certification that the funds received by the applicant as a result of the transfer, sale or
53 assignment of the tax credit shall be expended within three years at the state university for the
54 sole purpose of conducting research activities agreed upon by the department, the taxpayer and
55 the state university. Failure to expend such funds in the manner prescribed pursuant to this
56 section shall cause the applicant to be subject to the provisions of section 620.017.

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

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

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

620.1894. 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 6 of this section to consider**
4 **establishing the MO-JFF 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-JFF eligible project costs from the time such costs are incurred until such**
9 **costs are reimbursed;**

10 (3) **"MO-JFF district" or "Missouri jobs for the future district", an area**
11 **designated by a municipality under subsection 2 of this section;**

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

15 (5) **"MO-JFF project" or "Missouri jobs for the future project", a project within**
16 **a MO-JFF district carried out in furtherance of a MO-JFF plan;**

17 (6) **"MO-JFF project area" or "Missouri jobs for the future project area", the**
18 **geographic bounds of a MO-JFF project from which MO-JFF revenues will be collected,**
19 **as described by a legal description that shall be included with the ordinance approving any**
20 **MO-JFF project;**

21 (7) **"MO-JFF revenues":**

22 (a) **Half of the incremental increase in the general revenue portion of state sales tax**
23 **revenues received under section 144.020, excluding sales taxes that are constitutionally**
24 **dedicated, taxes deposited to the school district trust fund in accordance with section**
25 **144.701, sales and use taxes on motor vehicles, trailers, boats, and outboard motors, and**
26 **future sales taxes earmarked by law. The incremental increase in the general revenue**
27 **portion of state sales tax revenues for a facility that existed within the proposed MO-JFF**
28 **district before the district was established shall be the amount that current state sales tax**
29 **revenue exceeds the state sales tax revenue for such facility in the base year, and the**
30 **incremental increase in the general revenue portion of state sales tax revenues for a**
31 **business that relocates to the MO-JFF district after the district is established shall be the**

32 amount that current state sales tax revenue exceeds the state sales tax revenue for such
33 business in the year before its relocation to the district; and

34 (b) The state income tax withheld on behalf of new employees by the employers
35 under section 143.221 at the businesses located within the MO-JFF district. The state
36 income tax withholding allowed by this section shall be the amount of state income tax
37 withheld by the employers within the MO-JFF district for new employees who fill new jobs
38 created in the MO-JFF district as compared to the base year;

39 (8) "MO-JFF total project costs", the total amount of expenditures, as estimated
40 in the MO-JFF plan, necessary to complete all MO-JFF projects within a MO-JFF district,
41 which shall include all development-related costs within the MO-JFF district that will be
42 financed with MO-JFF revenues or any other public or private funds;

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

45 (10) "Municipal funding", funding or the pledge of funding from municipalities
46 and entities affiliated with municipalities, such as economic development corporations,
47 which may include financial contributions or contributions of real property, infrastructure
48 improvements, or any other in-kind contribution valued for purposes of this subdivision
49 at fair market value, for implementation of the MO-JFF plan, including any infrastructure
50 or other improvements outside the MO-JFF district that benefit such district as long as
51 such infrastructure or improvements outside the district were directly funded during or
52 after the base year, which shall constitute at least ten percent of the amount of MO-JFF
53 eligible project costs (excluding any financing costs) estimated to be financed with MO-JFF
54 revenues;

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

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

65 3. A municipality may:

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

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

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

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

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

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

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

89 (8) Acquire and construct public and private facilities within a MO-JFF district;

90 (9) Incur MO-JFF eligible project costs and other MO-JFF project costs and issue
91 obligations under subsection 20 of this section;

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

94 (11) Establish by ordinance a development authority, consisting of such persons as
95 the governing body shall determine, which shall not transact any business or exercise any
96 powers until or unless the governing body shall approve by ordinance the exercise of such
97 power, functions, and duties, but in no event shall such powers include the power of
98 eminent domain. The governing body may grant to a development authority the power to
99 issue obligations under subsection 20 of this section, alone or in conjunction with a
100 municipality, according to terms and limitations set forth by ordinance. If a development
101 authority already exists, a municipality may authorize such development authority to issue
102 obligations under subsection 20 of this section and otherwise exercise any powers that a
103 municipality may grant to a development authority under this section.

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

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

109 **(2) A description of the MO-JFF district, including the existing businesses within**
110 **the district;**

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

113 **(4) Land acquisition strategy;**

114 **(5) The anticipated sources, amounts, and timing of funds to pay the MO-JFF**
115 **eligible project costs and other MO-JFF project costs, including any MO-JFF revenues as**
116 **set forth in subdivision (7) of subsection 1, any municipal funding, and any other sources**
117 **of funds, including the percentage of all MO-JFF eligible project costs and other MO-JFF**
118 **project costs represented by each source of funds;**

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

120 **(7) The general land uses proposed in the MO-JFF district;**

121 **(8) Proof of a commitment by at least one Missouri-based higher education**
122 **institution, including but not limited to universities, colleges, and community colleges, or**
123 **any recognized Missouri-based institution whose primary focus is science or technology**
124 **research, to have a significant physical presence in the MO-JFF district, and a description**
125 **of the educational resources that will be provided by the higher education institution in the**
126 **MO-JFF district, such as classrooms, curriculum, dedicated faculty, graduate students, and**
127 **defined partnerships with targeted industry clusters, or a description of the defined**
128 **partnerships with targeted industry clusters that will be initiated by any research**
129 **institution, and how they are intended to promote, advance, or expand targeted industry**
130 **clusters in the state through the promotion or advancement of science or technology;**

131 **(9) The base year amount of state sales tax revenues and the base year number of**
132 **full-time, part-time, or temporary employees within the MO-JFF district;**

133 **(10) The estimated number of new jobs to be created by any business in the**
134 **MO-JFF district, listed by full-time, part-time, and temporary positions;**

135 **(11) The estimated average hourly wage to be paid to all current and new**
136 **employees at the project site, listed by full-time, part-time, and temporary positions;**

137 **(12) The estimate of MO-JFF revenues following implementation of the MO-JFF**
138 **projects;**

(13) An affidavit that is signed by the developer or developers attesting that the MO-JFF plan would not be reasonably anticipated to be successful without the appropriation of MO-JFF revenues;

(14) The three-digit North American Industry Classification System codes characterizing the MO-JFF plan and projects;

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

(16) A list of all development subsidies that any business benefitting from public expenditures in the MO-JFF district has previously received for the MO-JFF projects, and the name of any other granting body from which such subsidies are sought;

(17) A list of all other public investments made or to be made by this state or units of local government to support infrastructure or other needs generated by the MO-JFF projects;

(18) Documentation from a municipality describing the municipality's public investment that has been made or is anticipated to improve infrastructure outside the MO-JFF district as a result of or in support of development within the MO-JFF district;

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

(20) A certification by the chief officer of the applicant as to the accuracy of the MO-JFF plan; and

(21) A detailed project or business plan, by each Missouri-based higher education institution and recognized Missouri-based institution whose primary focus is science or technology research planning to locate within the MO-JFF district, setting forth sufficient information to demonstrate satisfaction of the requirements in subdivision (6) of subsection 5 of this section.

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

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

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

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

176 (4) The amount of MO-JFF eligible costs (excluding financing costs) estimated to
177 be financed with MO-JFF revenues, as set forth in the MO-JFF plan, does not exceed fifty
178 percent of the MO-JFF plan's estimated MO-JFF total project costs (excluding financing
179 costs);

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

181 (6) There is a commitment and significant physical presence planned in the
182 MO-JFF district by a Missouri-based higher education institution, including but not
183 limited to universities, colleges, and community colleges, or any recognized Missouri-based
184 institution whose primary focus is science or technology research, as part of the MO-JFF
185 plan, for such higher education institution to provide educational resources such as
186 classrooms, curriculum, dedicated faculty, graduate students, and defined partnerships
187 with targeted industry clusters, or for such research institution to initiate partnerships
188 with targeted industry clusters, both of which must be intended to promote, advance, or
189 expand targeted industry clusters in the state through the promotion or advancement of
190 science or technology;

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

200 (8) The estimated annual MO-JFF revenues expected to be generated by each MO-
201 JFF project, as set forth in the MO-JFF plan, are reasonable estimates.

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

210 **7. (1) Notice of the public hearing required by subsection 6 of this section shall be**
211 **given by:**

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

216 **(b) Mailing, as set forth in subdivisions (3) and (4) of this subsection.**

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

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

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

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

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

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

227 **(3) Notice by mailing shall be given by depositing such notice in the United States**
228 **mail by certified mail addressed to the person or persons in whose name the general taxes**
229 **for the last preceding year were paid on each lot, block, tract, or parcel of land lying within**
230 **the proposed MO-JFF district. Such notice shall be mailed not less than ten days before**
231 **the date set for the public hearing. In the event taxes for the last preceding year were not**
232 **paid, the notice shall also be sent to the persons last listed on the tax rolls within the**
233 **preceding three years as the owners of such property.**

234 **(4) Notice by mailing shall also be given not less than forty-five days before the date**
235 **set for the public hearing to the department of economic development, and in addition to**
236 **the other requirements under subdivision (2) of this subsection, the notice shall include an**
237 **invitation to submit comments to the municipality's governing body concerning the subject**
238 **matter of the hearing before the date of the hearing.**

239 **8. After the public hearing and up until six months following the adoption of an**
240 **ordinance establishing a MO-JFF district or approving a MO-JFF plan or project, changes**
241 **may be made to the MO-JFF district, plan, or project, as applicable, without a further**
242 **hearing, if such changes do not enlarge the exterior boundaries of the MO-JFF district and**
243 **do not substantially affect the general land uses established in the MO-JFF plan or**
244 **substantially change the nature of the MO-JFF 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. (1) Following a municipality's approval of one or more MO-JFF projects under subsection 2 of this section, the amount of MO-JFF revenues generated from within the MO-JFF project area of any approved MO-JFF 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.

(2) At no time shall the annual amount of MO-JFF revenues approved for disbursement by the department of economic development for a particular MO-JFF project exceed the amount of MO-JFF revenues projected in that particular year for such project in the MO-JFF plan; provided, however, if in one or more prior years the amount of MO-JFF revenues disbursed by the department of economic development for a particular MO-JFF project is less than the amount projected for such project in the associated MO-JFF plan for that prior year or years, such cumulative shortfall of MO-JFF revenues shall be disbursed by the department of revenue to the MO-JFF project in subsequent years to the extent that such project generates MO-JFF revenues in excess of the amount projected in the MO-JFF plan for those subsequent years.

10. The treasurer or other designated financial officer of the municipality shall deposit MO-JFF revenues received from the department of economic development in a segregated fund known as a "MO-JFF 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 must approve or disapprove disbursement requests within thirty days of receiving such requests, and shall approve any disbursement request that is consistent with the applicable MO-JFF plan and project or projects. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, 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-JFF revenues before such an appropriation.

12. The initial appropriation of MO-JFF revenues authorized under subsection 9 of this section shall not be made or distributed by the department of economic development

281 to a municipality until the director of the department of economic development or the
282 director's designee has certified a MO-JFF plan and project or projects. After such
283 certification, upon the initial and any subsequent appropriations, the department of
284 economic development shall immediately distribute such appropriated amounts to the
285 appropriate municipality. The director of economic development or the director's designee
286 shall certify a MO-JFF plan and projects if they find that:

287 (1) There is a commitment and significant physical presence planned in the
288 MO-JFF district by a Missouri-based higher education institution, including but not
289 limited to universities, colleges, and community colleges, or any recognized Missouri-based
290 institution whose primary focus is science or technology research, as part of the MO-JFF
291 plan, for such higher education institution to provide educational resources such as
292 classrooms, curriculum, dedicated faculty, graduate students, and defined partnerships
293 with targeted industry clusters, or for such research institution to initiate partnerships
294 with targeted industry clusters, both of which must be intended to promote, advance, or
295 expand targeted industry clusters in the state through the promotion or advancement of
296 science or technology;

297 (2) The estimated dates of completion of each MO-JFF project and retirement of
298 obligations incurred to finance each such MO-JFF project's costs shall not be more than
299 twenty-five years after the adoption of the ordinance approving the relevant MO-JFF
300 project, provided that no ordinance approving a MO-JFF project shall be adopted later
301 than ten years from the adoption of the ordinance approving the MO-JFF plan under
302 which such project is authorized. No MO-JFF district shall have the power to acquire any
303 real property by eminent domain;

304 (3) The amount of MO-JFF eligible costs (excluding financing costs) estimated to
305 be financed with MO-JFF revenues, as set forth in the MO-JFF plan, does not exceed fifty
306 percent of the MO-JFF plan's estimated MO-JFF total project costs (excluding financing
307 costs);

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

309 (5) The MO-JFF plan and projects would result in a net benefit to the state, with
310 particular emphasis on such factors as the short and long term potential for the creation
311 of new twenty-first century jobs in the state, growth of state tax revenues, strengthening
312 the state's reputation as a hub of one or more targeted industry clusters, advancement of
313 the development of science and technology industries in the state, and the potential to
314 leverage new federal funding for science and technology.

315 13. MO-JFF revenues deposited in the MO-JFF projects financing fund established
316 by the municipality under subsection 10 of this section shall be used to pay for MO-JFF

317 eligible project costs, to provide reimbursement for MO-JFF eligible project costs incurred
318 either before or after the MO-JFF district is established under this section, and to make
319 payments on obligations whose proceeds were used to pay MO-JFF eligible project costs.
320 MO-JFF revenues generated in one MO-JFF project area may be used to pay for or
321 reimburse MO-JFF eligible project costs in any part of the MO-JFF district, or outside the
322 MO-JFF district for the benefit of such district, or make payments on obligations whose
323 proceeds were used to pay for MO-JFF eligible project costs in any part of the district or
324 outside the district for the benefit of the district, including, for example, where MO-JFF
325 revenues collected from an approved MO-JFF project area is used to finance the purchase
326 of land or cost of constructing infrastructure in an area of the MO-JFF district that is not
327 part of an approved MO-JFF project area. MO-JFF eligible project costs shall include
328 costs related to:

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

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

335 (3) Extension, expansion, and construction of all infrastructure serving the
336 MO-JFF district, including, but not limited to, water services, storm and sanitary sewers,
337 electrical services, roads, sidewalks, parking, and any other utilities or infrastructure;

338 (4) Developing buildings, including site preparation, design, and building
339 construction;

340 (5) Financing costs; and

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

343
344 Provided that, MO-JFF revenues may only be used to finance the cost of land or
345 improvements described in this subsection if such land or improvements are owned, at the
346 time such costs are incurred, by a public entity, and any such land or improvements
347 subsequently sold, leased, or otherwise transferred to a private individual or entity shall
348 be sold, leased, or otherwise transferred for no less than fair market value. For the
349 purposes of this subsection, "public entity" shall include, without limitation, any
350 Missouri-based private higher education institutions or recognized Missouri-based
351 institutions whose primary focus is science or technology research, where such sale, lease,

or transfer is in furtherance of the component of a MO-JFF plan described in subdivision (8) of subsection 4 of this section.

14. Following the initial appropriation of MO-JFF revenues under subsection 9 of this section and continuing until termination of the MO-JFF district, the municipality shall annually submit a report to the department of economic development which shall provide an update of the MO-JFF 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-JFF district.

15. This section shall not 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, community improvement districts under sections 67.1401 to 67.1571, and transportation development districts under sections 238.200 to 238.280 for any real property within or without the MO-JFF district; provided, however, if some or all of the revenues that would be captured as MO-JFF revenues within a particular MO-JFF project area under this section would otherwise also be captured under any other public incentive program, such revenues shall be:

(1) Exclusively captured as MO-JFF revenues when the other incentive program's approval to begin capturing such revenues from real property, a business or other entity, or an employer located within such MO-JFF project area did not occur until after the certification of the relevant MO-JFF project under subsection 12 of this section; and

(2) Exclusively captured by such other incentive program and not as MO-JFF revenues when such other incentive program's approval to begin capturing such revenues from real property, a business or other entity, or an employer located within such MO-JFF project area occurred prior to the certification of the relevant MO-JFF project under subsection 12 of this section, but only until such other incentive program's capture of the relevant revenues terminates.

16. The development of any MO-JFF project, appropriations of MO-JFF revenues under this section for such MO-JFF project, and the retirement of obligations incurred to finance such MO-JFF project shall not continue more than twenty-five years after a municipality's adoption of such MO-JFF project by ordinance under subsection 2 of this section; provided that, no ordinance approving a MO-JFF project shall be adopted later than ten years from the adoption of the ordinance approving the MO-JFF plan under which such project is authorized. No MO-JFF district shall have the power to acquire any real property by eminent domain. Any MO-JFF plan or projects that are approved under this section shall be deemed to promote the health, safety, and welfare of the public.

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

393 **18. To expand a MO-JFF district after the district has been established under**
394 **subsection 2 of this section, the governing body of the municipality shall establish the**
395 **expanded MO-JFF district under the requirements in this section for establishing a**
396 **MO-JFF district and, to receive MO-JFF revenues associated with the expanded portion**
397 **of the MO-JFF district, the provisions in this section applicable to securing an**
398 **appropriation of MO-JFF revenues for a MO-JFF district shall apply. For purposes of this**
399 **section, the expanded portion of the MO-JFF district shall be deemed to have been**
400 **established, and the municipality's public hearing to consider such district expansion shall**
401 **be deemed to have been held, at the same time as the original MO-JFF district was**
402 **established and the associated public hearing was held, respectively.**

403 **19. MO-JFF eligible project costs may include, at the prerogative of a municipality**
404 **or the state, the portion of salaries and expenses of the municipal government, the**
405 **department of economic development, or the department of revenue reasonably allocable**
406 **to each MO-JFF project approved for disbursements from the department of economic**
407 **development for the ongoing administrative functions associated with such MO-JFF**
408 **project. For municipalities, such amounts shall be recovered from MO-JFF revenues**
409 **deposited in the MO-JFF projects financing fund. For the state, such amounts shall be**
410 **recovered from MO-JFF revenues deposited with the department of economic development**
411 **under this section.**

412 **20. (1) A municipality may issue obligations, as may any development authority**
413 **created under subsection 3 of this section, secured by all or any part of the funds in and**
414 **to be deposited in the MO-JFF projects financing fund created under subsection 10 of this**
415 **section to provide for MO-JFF eligible project costs. Such obligations, when so issued,**
416 **shall be retired in the manner provided in the ordinance authorizing the issuance of such**
417 **obligations by the receipts of MO-JFF revenues, as and when appropriated and as**
418 **deposited in the MO-JFF projects financing fund. In addition to funds in and to be**
419 **deposited in the MO-JFF projects financing fund, a municipality or development authority**
420 **may pledge a mortgage on part or all of the MO-JFF project area, or any other security**
421 **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 the twenty-five year limit under subsection 16 of this section, 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) 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.

(4) 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.

(5) 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-JFF 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-JFF projects financing fund in amounts and in such manner as if such obligations had been issued under the provisions of this section.

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

21. Ten years after the effective date of this section, the department of economic development shall conduct a comprehensive review of the implementation and performance of this section in achieving this section's goals and objectives, which shall include in part an analysis of the number of jobs created, the payroll for such jobs, capital investment attracted, and overall economic growth generated.

620.1910. 1. This section shall be known and may be cited as the "Manufacturing Jobs Act".

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

- 4 (1) "Approval", a document submitted by the department to the qualified
5 manufacturing facility or qualified supplier that states the benefits that may be provided
6 under this section;
- 7 (2) "Department", the department of economic development;
- 8 (3) "Employee" or "employees", a person or persons employed by a qualified
9 manufacturing facility or qualified supplier;
- 10 (4) "NAICS", the 1997 edition of the North American Industry Classification
11 System as prepared by the Executive Office of the President, Office of Management and
12 Budget. Any NAICS sector, subsector, industry group or industry identified in this section
13 shall include its corresponding classification in subsequent federal industry classification
14 systems;
- 15 (5) "New job", the number of full-time employees located at the project facility that
16 exceeds the project facility base employment less any decrease in the number of full-time
17 employees at related facilities below the related facility base employment. No job that was
18 created prior to the date of the notice of intent shall be deemed a new job. An employee
19 that spends less than fifty percent of the employee's work time at the facility is still
20 considered to be located at a facility if the employee receives his or her directions and
21 control from that facility, is on the facility's payroll, one hundred percent of the employee's
22 income from such employment is Missouri income, and the employee is paid at or above
23 the state average wage;
- 24 (6) "Notice of intent", a form developed by the department, completed by the
25 qualified manufacturing facility or qualified supplier and submitted to the department
26 which states the qualified manufacturing facility's or qualified supplier's intent to hire new
27 jobs or retain current jobs and request benefits under this section;
- 28 (7) "Qualified manufacturing facility", a business that:
- 29 (a) Manufactures goods in Missouri;
- 30 (b) Derives more than ten percent of total sales revenues of the facility from goods
31 produced at the facility which are exported outside the United States or sold to the federal
32 government for export outside the United States or that derives more than twenty percent
33 of all total sales revenues of the facility from goods produced at the facility which are
34 exported outside the state of Missouri;
- 35 (c) Makes an additional capital investment of at least fifty thousand dollars per
36 full-time employee equivalent retained at the facility;
- 37 (d) Manufactures a new product that has not been manufactured in Missouri by
38 the company that owns the facility at any time prior to the date of the notice of intent; and

- 39 (e) Continues to manufacture such goods meeting paragraphs (a) to (d) of this
40 subdivision for a period of at least five years from the date of the notice of intent;
- 41 (8) "Qualified supplier", a company that:
- 42 (a) Derives more than ten percent of the total annual revenues of the company from
43 sales to a qualified manufacturing facility;
- 44 (b) Adds five or more new jobs;
- 45 (c) Pays wages for such new jobs that are equal to or exceed industry average wage
46 for Missouri as determined by the department using NAICS industry classifications as
47 defined in section 620.1878; and
- 48 (d) Provides health insurance to employees and pays at least fifty percent of the
49 premiums of such insurance;
- 50 (7) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
51 excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in
52 chapter 147, 148, or 153;
- 53 (9) "Withholding tax", the state tax imposed by sections 143.191 to 143.265.
- 54 3. The department shall respond within thirty days to a qualified manufacturing
55 facility or a qualified supplier who provides a notice of intent to receive benefits under this
56 section with either an approval or a rejection of the notice of intent. Failure to respond on
57 behalf of the department shall result in the notice of intent being deemed an approval for
58 the purposes of this section. A qualified manufacturing facility or qualified supplier who
59 is provided an approval shall be allowed a benefit as provided in this section.
- 60 4. A qualified manufacturing facility may, upon approval of a notice of intent by
61 the department, retain fifty percent of the withholding tax from retained jobs for a period
62 of ten years. The method of determining the amount to be withheld shall be prescribed by
63 regulations of the department. Such qualified manufacturing facility shall be eligible for
64 participation in the Missouri quality jobs program in sections 620.1875 to 620.1890,
65 provided the facility meets all qualifications for that program, for all new jobs created at
66 the qualified manufacturing facility.
- 67 5. A qualified supplier may, upon approval of a notice of intent by the department,
68 retain all withholding tax from new jobs as defined in section 620.1878 for a period of three
69 years from the date of approval of the notice of intent or a qualified supplier may retain
70 all withholding tax from new jobs as defined in section 620.1878 for a period of five years
71 if the supplier pays wages for the new jobs equal to or greater than one hundred twenty
72 percent of industrial average wage for Missouri as determined by the department using
73 NAICS industry classification.

74 **6. The total aggregate amount of retained withholding tax authorized under this**
75 **section shall not exceed thirty-five million dollars per year.**

76 **7. Notwithstanding any provision of law to the contrary, any qualified**
77 **manufacturing facility that is awarded benefits under this section shall not simultaneously**
78 **receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to**
79 **135.286, section 135.535, or sections 135.900 to 135.906. The benefits available to the**
80 **qualified manufacturing facility under any other state programs for which the qualified**
81 **manufacturing facility is eligible and which utilize withholding tax from the new jobs of**
82 **the qualified manufacturing facility shall first be credited to the other state program before**
83 **the withholding retention level applicable under this section will begin to accrue. These**
84 **other state programs include, but are not limited to, the new jobs training program under**
85 **sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764,**
86 **the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, or**
87 **the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980.**
88 **If any qualified manufacturing facility also participates in the new jobs training program**
89 **in sections 178.892 to 178.896, such qualified manufacturing facility shall not retain any**
90 **withholding tax that has already been allocated for use in the new jobs training program.**
91 **Any taxpayer who is awarded benefits under this program who knowingly hires**
92 **individuals who are not allowed to work legally in the United States shall immediately**
93 **forfeit such benefits and shall repay the state an amount equal to any withholding taxes**
94 **already retained. Subsection 5 of section 285.530 shall not apply to taxpayers awarded**
95 **benefits under this program.**

96 **8. The department may promulgate rules to implement the provisions of this**
97 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
98 **created under the authority delegated in this section shall become effective only if it**
99 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
100 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
101 **vested with the general assembly under chapter 536 to review, to delay the effective date,**
102 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
103 **of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be**
104 **invalid and void.**

105 **9. Under section 23.253 of the Missouri sunset act:**

106 **(1) The provisions of the new program authorized under this section shall**
107 **automatically sunset six years after the effective date of this section unless reauthorized by**
108 **an act of the general assembly; and**

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

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

10. If a qualified manufacturing facility or qualified supplier fails to comply with all provisions of this section, the department shall issue a final decision to that effect and such facility or supplier shall repay all benefits previously obtained from the state with interest of five percent per annum from the date the benefit was originally received by such facility or supplier. A final decision of the department under this subsection shall be subject to review by the administrative hearing commission under the provisions of chapter 621 and may be further appealed as provided by law.

11. Prior to March first each year, the department shall provide a report to the general assembly including the names of participating qualified manufacturing facilities or qualified suppliers, location of such facilities or suppliers, the annual amount of benefits provided, the estimated net state fiscal impact (direct and indirect new state taxes derived), and the number of new jobs created or jobs retained.

620.1920. 1. This section shall be known and may be cited as the "Missouri Business First Act".

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

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

(2) "Expansion", the addition of net new jobs in this state;

(3) "Increase", the amount by which the tax credit, withholding retention, or other economic benefit that may be awarded by the director of the department under this section may be enlarged. Such amount shall be equal to two percent for every five-year period the company has been a Missouri business not to exceed a ten percent total increase over the existing tax credit, withholding retention, or other economic benefit otherwise provided by statute. All other existing statutory or regulatory requirements for the program shall continue to apply;

(4) "Missouri business", a business with a physical presence in Missouri, with employees performing their job duties who are physically present in Missouri, and that has been in operation in this state for five years or more as of the date it applies for any tax credit, withholding retention, or economic benefit;

(5) "Net new", new jobs specific to that location as well as new jobs to the state (an increase to the employment base in Missouri counting all of the company locations).

19 **3. The director of the department shall, upon a finding of economic benefit to the**
20 **state, authorize an increase in the amount of tax credit, withholding percentage, or other**
21 **economic benefit that a Missouri business expansion project would otherwise qualify for,**
22 **up to a total of an additional ten percent, under the following:**

23 **(1) The withholding tax percentage authorized under an approved state tax**
24 **increment finance plan under section 99.845;**

25 **(2) The rebuilding communities tax credit authorized under section 135.535;**

26 **(3) The enhanced enterprise zone tax credit authorized under section 135.967;**

27 **(4) The retained jobs training tax credit or withholding tax retention authorized**
28 **under section 178.762;**

29 **(5) The new jobs training tax credit or withholding tax retention authorized under**
30 **section 178.894;**

31 **(6) The customized industry training and retraining assistance benefit authorized**
32 **under section 620.472; or**

33 **(7) The quality jobs tax credit or withholding tax retention authorized under**
34 **section 620.1881;**

35

36 **or any of the regulations promulgated under subdivisions (1) to (7) of this subsection.**

37 **4. Any increased tax credit, withholding retention, or other economic benefit shall**
38 **also be subject to the provisions of section 620.017.**

Section B. Because immediate action is necessary to limit legal actions in Missouri, the
2 enactment of section 144.019 of section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and the enactment of section 144.019 of
5 section A of this act shall be in full force and effect upon its passage and approval.

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