

FIRST EXTRAORDINARY SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2
95TH GENERAL ASSEMBLY

6003L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 67.1461, 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, 137.115, 144.054, and 620.1881, RSMo, and to enact in lieu thereof fourteen new sections relating to job growth.

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

Section A. Sections 67.1461, 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, 137.115, 144.054, and 620.1881, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 67.1461, 67.2050, 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, 135.969, 137.115, 144.054, 144.810, 620.1881, and 620.1910, to read as follows:

67.1461. 1. Each district shall have all the powers, except to the extent any such power has been limited by the petition approved by the governing body of the municipality to establish the district, necessary to carry out and effectuate the purposes and provisions of sections 67.1401 to 67.1571 including, but not limited to, the following:

(1) To adopt, amend, and repeal bylaws, not inconsistent with sections 67.1401 to 67.1571, necessary or convenient to carry out the provisions of sections 67.1401 to 67.1571;

(2) To sue and be sued;

(3) To make and enter into contracts and other instruments, with public and private entities, necessary or convenient to exercise its powers and carry out its duties pursuant to sections 67.1401 to 67.1571;

(4) To accept grants, guarantees and donations of property, labor, services, or other things of value from any public or private source;

(5) To employ or contract for such managerial, engineering, legal, technical, clerical, accounting, or other assistance as it deems advisable;

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 (6) To acquire by purchase, lease, gift, grant, bequest, devise, or otherwise, any real
16 property within its boundaries, personal property, or any interest in such property;

17 (7) To sell, lease, exchange, transfer, assign, mortgage, pledge, hypothecate, or otherwise
18 encumber or dispose of any real or personal property or any interest in such property;

19 (8) To levy and collect special assessments and taxes as provided in sections 67.1401
20 to 67.1571. However, no such assessments or taxes shall be levied on any property exempt from
21 taxation pursuant to subdivision (5) of section 137.100, RSMo. Those exempt pursuant to
22 subdivision (5) of section 137.100, RSMo, may voluntarily participate in the provisions of
23 sections 67.1401 to 67.1571;

24 (9) If the district is a political subdivision, to levy real property taxes and business
25 license taxes in the county seat of a county of the first classification containing a population of
26 at least two hundred thousand, as provided in sections 67.1401 to 67.1571. However, no such
27 assessments or taxes shall be levied on any property exempt from taxation pursuant to
28 subdivisions (2) and (5) of section 137.100, RSMo. Those exempt pursuant to subdivisions (2)
29 and (5) of section 137.100, RSMo, may voluntarily participate in the provisions of sections
30 67.1401 to 67.1571;

31 (10) If the district is a political subdivision, to levy sales taxes pursuant to sections
32 67.1401 to 67.1571;

33 (11) To fix, charge, and collect fees, rents, and other charges for use of any of the
34 following:

35 (a) The district's real property, except for public rights-of-way for utilities;

36 (b) The district's personal property, except in a city not within a county; or

37 (c) Any of the district's interests in such real or personal property, except for public
38 rights-of-way for utilities;

39 (12) To borrow money from any public or private source and issue obligations and
40 provide security for the repayment of the same as provided in sections 67.1401 to 67.1571;

41 (13) To loan money as provided in sections 67.1401 to 67.1571;

42 (14) To make expenditures, create reserve funds, and use its revenues as necessary to
43 carry out its powers or duties and the provisions and purposes of sections 67.1401 to 67.1571;

44 (15) To enter into one or more agreements with the municipality for the purpose of
45 abating any public nuisance within the boundaries of the district including, but not limited to,
46 the stabilization, repair or maintenance or demolition and removal of buildings or structures,
47 provided that the municipality has declared the existence of a public nuisance;

48 (16) Within its boundaries, to provide assistance to or to construct, reconstruct, install,
49 repair, maintain, and equip any of the following public improvements:

50 (a) Pedestrian or shopping malls and plazas;

- 51 (b) Parks, lawns, trees, and any other landscape;
52 (c) Convention centers, arenas, aquariums, aviaries, and meeting facilities;
53 (d) Sidewalks, streets, alleys, bridges, ramps, tunnels, overpasses and underpasses, traffic
54 signs and signals, utilities, drainage, water, storm and sewer systems, and other site
55 improvements;
56 (e) Parking lots, garages, or other facilities;
57 (f) Lakes, dams, and waterways;
58 (g) Streetscape, lighting, benches or other seating furniture, trash receptacles, marquees,
59 awnings, canopies, walls, and barriers;
60 (h) Telephone and information booths, bus stop and other shelters, rest rooms, and
61 kiosks;
62 (i) Paintings, murals, display cases, sculptures, and fountains;
63 (j) Music, news, and child-care facilities; and
64 (k) Any other useful, necessary, or desired improvement;
65 (17) To dedicate to the municipality, with the municipality's consent, streets, sidewalks,
66 parks, and other real property and improvements located within its boundaries for public use;
67 (18) Within its boundaries and with the municipality's consent, to prohibit or restrict
68 vehicular and pedestrian traffic and vendors on streets, alleys, malls, bridges, ramps, sidewalks,
69 and tunnels and to provide the means for access by emergency vehicles to or in such areas;
70 (19) Within its boundaries, to operate or to contract for the provision of music, news,
71 child-care, or parking facilities, and buses, minibuses, or other modes of transportation;
72 (20) Within its boundaries, to lease space for sidewalk café tables and chairs;
73 (21) Within its boundaries, to provide or contract for the provision of security personnel,
74 equipment, or facilities for the protection of property and persons;
75 (22) Within its boundaries, to provide or contract for cleaning, maintenance, and other
76 services to public and private property;
77 (23) To produce and promote any tourism, recreational or cultural activity or special
78 event in the district by, but not limited to, advertising, decoration of any public place in the
79 district, promotion of such activity and special events, and furnishing music in any public place;
80 (24) To support business activity and economic development in the district including,
81 but not limited to, the promotion of business activity, development and retention, and the
82 recruitment of developers and businesses;
83 (25) To provide or support training programs for employees of businesses within the
84 district;
85 (26) To provide refuse collection and disposal services within the district;
86 (27) To contract for or conduct economic, planning, marketing or other studies;

87 (28) To repair, restore, or maintain any abandoned cemetery on public or private land
88 within the district; and

89 (29) To carry out any other powers set forth in sections 67.1401 to 67.1571.

90 2. Each district which is located in a blighted area or which includes a blighted area shall
91 have the following additional powers:

92 (1) Within its blighted area, to contract with any private property owner to demolish and
93 remove, renovate, reconstruct, **construct**, or rehabilitate any building or structure **or**
94 **improvement** owned by such private property owner; and

95 (2) To expend its revenues or loan its revenues pursuant to a contract entered into
96 pursuant to this subsection, provided that the governing body of the municipality has determined
97 that the action to be taken pursuant to such contract is reasonably anticipated to remediate the
98 blighting conditions and will serve a public purpose.

99 3. Each district shall annually reimburse the municipality for the reasonable and actual
100 expenses incurred by the municipality to establish such district and review annual budgets and
101 reports of such district required to be submitted to the municipality; provided that, such annual
102 reimbursement shall not exceed one and one-half percent of the revenues collected by the district
103 in such year.

104 4. Nothing in sections 67.1401 to 67.1571 shall be construed to delegate to any district
105 any sovereign right of municipalities to promote order, safety, health, morals, and general
106 welfare of the public, except those such police powers, if any, expressly delegated pursuant to
107 sections 67.1401 to 67.1571.

108 5. The governing body of the municipality establishing the district shall not decrease the
109 level of publicly funded services in the district existing prior to the creation of the district or
110 transfer the financial burden of providing the services to the district unless the services at the
111 same time are decreased throughout the municipality, nor shall the governing body discriminate
112 in the provision of the publicly funded services between areas included in such district and areas
113 not so included.

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

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

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

6 (3) "NAICS", the 2007 edition of the North American Industry Classification
7 System developed under the direction and guidance of the federal Office of Management
8 and Budget. Any NAICS sector, subsector, industry group, or industry identified in this

9 section shall include its corresponding classification in previous and subsequent federal
10 industry classification systems;

11 (4) "Technology business facility", a facility purchased, constructed, extended, or
12 improved under this section, 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 (5) "Technology business facility project" or "project", the purchase, construction,
17 extension, and improvement of technology business facilities, whether of the facility as a
18 whole or of any one or more of the facility's components of real estate, buildings, fixtures,
19 machinery, and equipment.

20 2. The governing body of any municipality may:

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

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

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

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

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

44 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525
45 and 144.600 to 144.745.

46 5. Leasehold interests granted and held under this section shall not be subject to
47 property taxes.

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

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

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

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

- 2 (1) "Average wage", the new payroll divided by the number of new jobs;
- 3 (2) "Blighted area", an area which, by reason of the predominance of defective or
4 inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,
5 improper subdivision or obsolete platting, or the existence of conditions which endanger life or
6 property by fire and other causes, or any combination of such factors, retards the provision of
7 housing accommodations or constitutes an economic or social liability or a menace to the public
8 health, safety, morals, or welfare in its present condition and use;
- 9 (3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;
- 10 (4) "Certified site zone", an area of real property that:

- 11 **(a) Encompasses not less than fifty acres that has been approved as a certified site**
12 **by the department;**
- 13 **(b) Has been found to be blighted by the governing authority; and**
- 14 **(c) Is located in a census tract which has a poverty rate of fifteen percent or more,**
15 **or for which the median income that is less than:**
- 16 **a. Statewide median income; or**
- 17 **b. The metropolitan median income for the metropolitan statistical area in which**
18 **the certified site zone is located;**
- 19 **(5) "Certified site", an area of property designated as a certified site by the**
20 **department under the certified sites program;**
- 21 **(6) "Commencement of commercial operations" shall be deemed to occur during the first**
22 **taxable year for which the new business facility is first put into use by the taxpayer in the**
23 **enhanced business enterprise in which the taxpayer intends to use the new business facility;**
- 24 **[(5)] (7) "County average wage", the average wages in each county as determined by the**
25 **department for the most recently completed full calendar year. However, if the computed county**
26 **average wage is above the statewide average wage, the statewide average wage shall be deemed**
27 **the county average wage for such county for the purpose of determining eligibility. The**
28 **department shall publish the county average wage for each county at least annually.**
29 **Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in**
30 **conjunction with their project is relocating employees from a Missouri county with a higher**
31 **county average wage, such taxpayer shall obtain the endorsement of the governing body of the**
32 **community from which jobs are being relocated or the county average wage for their project shall**
33 **be the county average wage for the county from which the employees are being relocated;**
- 34 **[(6)] (8) "Department", the department of economic development;**
- 35 **[(7)] (9) "Director", the director of the department of economic development;**
- 36 **(10) "Dormant manufacturing plant zone", an area of real property:**
- 37 **(a) Encompassing not less than two hundred fifty acres that, within five years of**
38 **the date of the notice of intent, was predominantly used for manufacturing or assembly**
39 **and employed not less than three thousand persons but has since ceased all activity;**
- 40 **(b) That has been found, by an ordinance adopted by the governing body, to be a**
41 **blighted area and designated for redevelopment; and**
- 42 **(c) That:**
- 43 **a. Is located in a census tract with, according to United States Census Bureau's**
44 **American Community Survey based on the most recent of five-year period estimated data**
45 **in which the estimate ends in either zero or five, a poverty rate of fifteen percent or more,**
46 **or the median household income is below the statewide median household income or the**

47 **metropolitan median household income for the metropolitan statistical area in which the**
48 **property is located; or**

49 **b. Involves funding provided by a federal agency of at least one million dollars to**
50 **facilitate the redevelopment of such property;**

51 [(8)] (11) "Employee", a person employed by the enhanced business enterprise that is
52 scheduled to work an average of at least one thousand hours per year, and such person at all
53 times has health insurance offered to him or her, which is partially paid for by the employer;

54 [(9)] (12) "Enhanced business enterprise", an industry or one of a cluster of industries
55 that is either:

56 (a) Identified by the department as critical to the state's economic security and growth,
57 **or in the case of a business enterprise located in a certified site zone, will also include data**
58 **processing, hosting, and related services (NAICS 518210) and internet publishing,**
59 **broadcasting, and web search portals (NAICS 519130); or**

60 (b) Will have an impact on industry cluster development, as identified by the governing
61 authority in its application for designation of an enhanced enterprise zone and approved **or**
62 **deemed approved** by the department; but excluding gambling establishments (NAICS industry
63 group 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61),
64 religious organizations (NAICS industry group 8131), public administration (NAICS sector 92),
65 and food and drinking places (NAICS subsector 722), however, notwithstanding provisions of
66 this section to the contrary, headquarters or administrative offices of an otherwise excluded
67 business may qualify for benefits if the offices serve a multistate territory. In the event a
68 national, state, or regional headquarters operation is not the predominant activity of a project
69 facility, the new jobs and investment of such headquarters operation is considered eligible for
70 benefits under this section if the other requirements are satisfied. Service industries may be
71 eligible only if a majority of its annual revenues will be derived from out of the state;

72 [(10)] (13) "Existing business facility", any facility in this state which was employed by
73 the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately
74 prior to an expansion, acquisition, addition, or replacement;

75 [(11)] (14) "Facility", any building used as an enhanced business enterprise located
76 within an enhanced enterprise zone, including the land on which the facility is located and all
77 machinery, equipment, and other real and depreciable tangible personal property acquired for use
78 at and located at or within such facility and used in connection with the operation of such
79 facility;

80 [(12)] (15) "Facility base employment", the greater of the number of employees located
81 at the facility on the date of the notice of intent, or for the twelve-month period prior to the date
82 of the notice of intent, the average number of employees located at the facility, or in the event

83 the project facility has not been in operation for a full twelve-month period, the average number
84 of employees for the number of months the facility has been in operation prior to the date of the
85 notice of intent;

86 [(13)] **(16)** "Facility base payroll", the total amount of taxable wages paid by the
87 enhanced business enterprise to employees of the enhanced business enterprise located at the
88 facility in the twelve months prior to the notice of intent, not including the payroll of owners of
89 the enhanced business enterprise unless the enhanced business enterprise is participating in an
90 employee stock ownership plan. For the purposes of calculating the benefits under this program,
91 the amount of base payroll shall increase each year based on the consumer price index or other
92 comparable measure, as determined by the department;

93 [(14)] **(17)** "Governing authority", the body holding primary legislative authority over
94 a county or incorporated municipality;

95 [(15)] **(18)** "Megaproject", any manufacturing or assembling facility, approved by the
96 department for construction and operation within an enhanced enterprise zone, which satisfies
97 the following:

98 (a) The new capital investment is projected to exceed three hundred million dollars over
99 a period of eight years from the date of approval by the department;

100 (b) The number of new jobs is projected to exceed one thousand over a period of eight
101 years beginning on the date of approval by the department;

102 (c) The average wage of new jobs to be created shall exceed the county average wage;

103 (d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty
104 percent of such insurance premiums; and

105 (e) An acceptable plan of repayment, to the state, of the tax credits provided for the
106 megaproject has been provided by the taxpayer;

107 [(16)] **(19)** "NAICS", the [1997] **2007** edition of the North American Industry
108 Classification System as prepared by the Executive Office of the President, Office of
109 Management and Budget. Any NAICS sector, subsector, industry group or industry identified
110 in this section shall include its corresponding classification in subsequent federal industry
111 classification systems;

112 [(17)] **(20)** "New business facility", a facility that satisfies the following requirements:

113 (a) Such facility is employed by the taxpayer in the operation of an enhanced business
114 enterprise. Such facility shall not be considered a new business facility in the hands of the
115 taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person
116 or persons. If the taxpayer employs only a portion of such facility in the operation of an
117 enhanced business enterprise, and leases another portion of such facility to another person or
118 persons or does not otherwise use such other portions in the operation of an enhanced business

119 enterprise, the portion employed by the taxpayer in the operation of an enhanced business
120 enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c),
121 and (d) of this subdivision are satisfied;

122 (b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A
123 facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31,
124 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding
125 contract to transfer title to the taxpayer, or the commencement of the term of the lease to the
126 taxpayer occurs after December 31, 2004;

127 (c) If such facility was acquired by the taxpayer from another taxpayer and such facility
128 was employed immediately prior to the acquisition by another taxpayer in the operation of an
129 enhanced business enterprise, the operation of the same or a substantially similar enhanced
130 business enterprise is not continued by the taxpayer at such facility; and

131 (d) Such facility is not a replacement business facility, as defined in subdivision [(25)]
132 (28) of this section;

133 [(18)] (21) "New business facility employee", an employee of the taxpayer in the
134 operation of a new business facility during the taxable year for which the credit allowed by
135 section 135.967 or **section 135.969** is claimed, except that truck drivers and rail and barge
136 vehicle operators and other operators of rolling stock for hire shall not constitute new business
137 facility employees;

138 [(19)] (22) "New business facility investment", the value of real and depreciable tangible
139 personal property, acquired by the taxpayer **or on its behalf in the case of a lease**, as part of the
140 new business facility, which is used by the taxpayer in the operation of the new business facility,
141 during the taxable year for which the credit allowed by **section 135.967 or 135.969** is claimed,
142 except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and
143 other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall
144 not constitute new business facility investments. The total value of such property during such
145 taxable year shall be:

146 (a) Its original cost if owned by the taxpayer; or

147 (b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental
148 rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the
149 taxpayer from subrentals. The new business facility investment shall be determined by dividing
150 by twelve the sum of the total value of such property on the last business day of each calendar
151 month of the taxable year. If the new business facility is in operation for less than an entire
152 taxable year, the new business facility investment shall be determined by dividing the sum of the
153 total value of such property on the last business day of each full calendar month during the

154 portion of such taxable year during which the new business facility was in operation by the
155 number of full calendar months during such period;

156 [(20)] **(23)** "New job", the number of employees located at the facility that exceeds the
157 facility base employment less any decrease in the number of the employees at related facilities
158 below the related facility base employment. No job that was created prior to the date of the
159 notice of intent shall be deemed a new job;

160 [(21)] **(24)** "Notice of intent", a form developed by the department which is completed
161 by the enhanced business enterprise and submitted to the department which states the enhanced
162 business enterprise's intent to hire new jobs and request benefits under such program;

163 [(22)] **(25)** "Related facility", a facility operated by the enhanced business enterprise or
164 a related company in this state that is directly related to the operation of the project facility;

165 [(23)] **(26)** "Related facility base employment", the greater of:

166 (a) The number of employees located at all related facilities on the date of the notice of
167 intent; or

168 (b) For the twelve-month period prior to the date of the notice of intent, the average
169 number of employees located at all related facilities of the enhanced business enterprise or a
170 related company located in this state;

171 [(24)] **(27)** "Related taxpayer":

172 (a) A corporation, partnership, trust, or association controlled by the taxpayer;

173 (b) An individual, corporation, partnership, trust, or association in control of the
174 taxpayer; or

175 (c) A corporation, partnership, trust or association controlled by an individual,
176 corporation, partnership, trust or association in control of the taxpayer. "Control of a
177 corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty
178 percent of the total combined voting power of all classes of stock entitled to vote, "control of a
179 partnership or association" shall mean ownership of at least fifty percent of the capital or profits
180 interest in such partnership or association, and "control of a trust" shall mean ownership, directly
181 or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such
182 trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code
183 of 1986, as amended;

184 [(25)] **(28)** "Replacement business facility", a facility otherwise described in subdivision
185 [(17)] **(20)** of this section, hereafter referred to in this subdivision as "new facility", which
186 replaces another facility, hereafter referred to in this subdivision as "old facility", located within
187 the state, which the taxpayer or a related taxpayer previously operated but discontinued operating
188 on or before the close of the first taxable year for which the credit allowed by this section is

189 claimed. A new facility shall be deemed to replace an old facility if the following conditions are
190 met:

191 (a) The old facility was operated by the taxpayer or a related taxpayer during the
192 taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which
193 commencement of commercial operations occurs at the new facility; and

194 (b) The old facility was employed by the taxpayer or a related taxpayer in the operation
195 of an enhanced business enterprise and the taxpayer continues the operation of the same or
196 substantially similar enhanced business enterprise at the new facility. Notwithstanding the
197 preceding provisions of this subdivision, a facility shall not be considered a replacement business
198 facility if the taxpayer's new business facility investment, as computed in subdivision [(19)] **(22)**
199 of this section, in the new facility during the tax period for which the credits allowed in section
200 135.967 **or 135.969** are claimed exceed one million dollars and if the total number of employees
201 at the new facility exceeds the total number of employees at the old facility by at least two;

202 [(26)] **(29)** "Same or substantially similar enhanced business enterprise", an enhanced
203 business enterprise in which the nature of the products produced or sold, or activities conducted,
204 are similar in character and use or are produced, sold, performed, or conducted in the same or
205 similar manner as in another enhanced business enterprise.

135.953. 1. For purposes of sections 135.950 to 135.970, an area shall meet the
2 following criteria in order to qualify as an enhanced enterprise zone:

3 (1) The area shall be a blighted area, have pervasive poverty, unemployment and general
4 distress; and

5 (2) At least sixty percent of the residents living in the area have incomes below ninety
6 percent of the median income of all residents:

7 (a) Within the state of Missouri, according to the last decennial census or other
8 appropriate source as approved by the director; or

9 (b) Within the county or city not within a county in which the area is located, according
10 to the last decennial census or other appropriate source as approved by the director; and

11 (3) The resident population of the area shall be at least five hundred but not more than
12 one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies
13 within a metropolitan statistical area, as established by the United States Census Bureau, or if
14 the area does not lie within a metropolitan statistical area, the resident population of the area at
15 the time of designation shall be at least five hundred but not more than forty thousand
16 inhabitants. If the population of the jurisdiction of the governing authority does not meet the
17 minimum population requirements set forth in this subdivision, the population of the area must
18 be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise

19 zone shall be created which consists of the total area within the political boundaries of a county;
20 and

21 (4) The level of unemployment of persons, according to the most recent data available
22 from the United States Bureau of Census and approved by the director, within the area is equal
23 to or exceeds the average rate of unemployment for:

24 (a) The state of Missouri over the previous twelve months; or

25 (b) The county or city not within a county over the previous twelve months.

26 2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an
27 enhanced enterprise zone may be established in an area located within a county for which public
28 and individual assistance has been requested by the governor pursuant to Section 401 of the
29 Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for
30 an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural
31 disaster of major proportions, if the area to be designated is blighted and sustained severe
32 damage as a result of such natural disaster, as determined by the state emergency management
33 agency. An application for designation as an enhanced enterprise zone pursuant to this
34 subsection shall be made before the expiration of one year from the date the governor requested
35 federal relief for the area sought to be designated.

36 3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an
37 enhanced enterprise zone may be designated in a county of declining population if it meets the
38 requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the
39 purposes of this subsection, a "county of declining population" is one that has lost one percent
40 or more of its population as demonstrated by comparing the most recent decennial census
41 population to the next most recent decennial census population for the county.

42 **4. Notwithstanding the requirements of subsection 1 of this section to the contrary,**
43 **a certified site zone or a dormant manufacturing plant zone may be designated as an**
44 **enhanced enterprise zone if the certified site zone meets the criteria set forth in subdivision**
45 **(4) of section 135.950 or if the dormant manufacturing plant zone meets the criteria set**
46 **forth in subdivision (10) of section 135.950.**

47 **5.** In addition to meeting the requirements of subsection 1, 2, **3**, or [3] **4** of this section,
48 an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing
49 authority to have either:

50 (1) The potential to create sustainable jobs in a targeted industry; or

51 (2) A demonstrated impact on local industry cluster development.

135.957. 1. A governing authority planning to seek designation of an enhanced
2 enterprise zone shall establish an enhanced enterprise zone board. The number of members on

3 the board shall be seven. One member of the board shall be appointed by the school district or
4 districts located within the area proposed for designation as an enhanced enterprise zone. One
5 member of the board shall be appointed by other affected taxing districts. The remaining five
6 members shall be chosen by the chief elected official of the county or municipality.

7 2. The school district member and the affected taxing district member shall each have
8 initial terms of five years. Of the five members appointed by the chief elected official, two shall
9 have initial terms of four years, two shall have initial terms of three years, and one shall have an
10 initial term of two years. Thereafter, members shall serve terms of five years. Each
11 commissioner shall hold office until a successor has been appointed. All vacancies shall be filled
12 in the same manner as the original appointment. For inefficiency or neglect of duty or
13 misconduct in office, a member of the board may be removed by the applicable appointing
14 authority.

15 3. A majority of the members shall constitute a quorum of such board for the purpose
16 of conducting business and exercising the powers of the board and for all other purposes. Action
17 may be taken by the board upon a vote of a majority of the members present.

18 4. The members of the board annually shall elect a chair from among the members.

19 5. **In the case of a certified site zone or a dormant manufacturing plant zone**
20 **regarding which a finding of blight has been made as provided in subdivision (1) of**
21 **subsection 1 of section 99.810, the commission created under section 99.820 may, at the sole**
22 **option of the governing authority, supplant and replace the board established in**
23 **accordance with subsection 1 of this section, and the composition and organization of such**
24 **commission shall be in accordance with section 99.820. If the governing authority elects**
25 **for such commission to serve in the capacity of the enhanced enterprise zone board instead**
26 **of the board established in accordance with subsection 1 of this section, the commission**
27 **shall fulfill the duties of the board established under subsection 6 of this section.**

28 6. The role of the board or commission, as described in subsection 5 of this section,
29 shall be to conduct the activities necessary to advise the governing authority on the designation
30 of an enhanced enterprise zone and any other advisory duties as determined by the governing
31 authority. The role of the board after the designation of an enhanced enterprise zone shall be
32 review and assessment of zone activities as it relates to the annual reports as set forth in section
33 135.960.

135.960. 1. Any governing authority that desires to have any portion of a city or
2 unincorporated area of a county under its control designated as an enhanced enterprise zone shall
3 hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons
4 who will be affected by such designation. The governing authority shall notify the director of

5 such hearing at least thirty days prior thereto and shall publish notice of such hearing in a
6 newspaper of general circulation in the area to be affected by such designation at least twenty
7 days prior to the date of the hearing but not more than thirty days prior to such hearing. Such
8 notice shall state the time, location, date, and purpose of the hearing. The director, or the
9 director's designee, shall attend such hearing. **In the alternative, any governing authority that**
10 **has made the necessary findings by ordinance to designate a certified site zone or a**
11 **dormant manufacturing plant zone as a blighted area as contemplated under subdivision**
12 **(1) of subsection 1 of section 99.820, prior to December 31, 2010, shall not be required to**
13 **conduct an additional public hearing to establish the certified site zone or the dormant**
14 **manufacturing plant zone as an enhanced enterprise zone so long as the governing**
15 **authority notified the director of such hearing, at least thirty days prior thereto. Any**
16 **governing authority that seeks to make the necessary finding to designate a certified site**
17 **zone or a dormant manufacturing plant zone as an enhanced enterprise zone after**
18 **December 31, 2010, may do so under a public hearing required under sections 99.820 and**
19 **99.825 conducted by the commission, and such public hearing shall satisfy the public**
20 **hearing requirement set forth in subsection 1 of this section so long as the governing**
21 **authority shall notify the director of such hearing at least thirty days prior thereto.**

22 2. After a public hearing is held as required in subsection 1 of this section, the governing
23 authority may file a petition with the department requesting the designation of a specific area as
24 an enhanced enterprise zone. Such petition shall include, in addition to a description of the
25 physical, social, and economic characteristics of the area:

26 (1) A plan to provide adequate police protection within the area;

27 (2) A specific and practical process for individual businesses to obtain waivers from
28 burdensome local regulations, ordinances, and orders which serve to discourage economic
29 development within the area to be designated an enhanced enterprise zone, except that such
30 waivers shall not substantially endanger the health or safety of the employees of any such
31 business or the residents of the area;

32 (3) A description of what other specific actions will be taken to support and encourage
33 private investment within the area;

34 (4) A plan to ensure that resources are available to assist area residents to participate in
35 increased development through self-help efforts and in ameliorating any negative effects of
36 designation of the area as an enhanced enterprise zone;

37 (5) A statement describing the projected positive and negative effects of designation of
38 the area as an enhanced enterprise zone;

39 (6) A specific plan to provide assistance to any person or business dislocated as a result
40 of activities within the enhanced enterprise zone. Such plan shall determine the need of
41 dislocated persons for relocation assistance; provide, prior to displacement, information about
42 the type, location, and price of comparable housing or commercial property; provide information
43 concerning state and federal programs for relocation assistance and provide other advisory
44 services to displaced persons. Public agencies may choose to provide assistance under the
45 Uniform Relocation and Real Property Acquisition Act, 42 U.S.C. Section 4601, et seq., to meet
46 the requirements of this subdivision; and

47 (7) A description or plan that demonstrates the requirements of subsection 4 of section
48 135.953.

49 3. An enhanced enterprise zone designation shall be effective upon such approval **or**
50 **deemed approval** by the department and shall expire in twenty-five years. **Notwithstanding**
51 **the requirement of subsection 2 of this section to the contrary, any certified site zone or**
52 **dormant manufacturing plant zone that has been designated as a blighted redevelopment**
53 **area as contemplated under subdivision (1) of subsection 1 of section 99.820 by the**
54 **governing body or any certified site zone or dormant manufacturing plant zone that has**
55 **been otherwise designated as an enhanced enterprise zone by the governing authority**
56 **under this section shall be deemed approved and designated as an enhanced enterprise**
57 **zone without further approval of or additional action being taken by the department. Such**
58 **approval of the department of the certified site zone or dormant manufacturing plant zone**
59 **as an enhanced enterprise zone and the designation of the certified site zone or dormant**
60 **manufacturing plant zone as an enhanced enterprise zone shall be deemed effective when**
61 **the governing authority provides written notice to the department of its intent to establish**
62 **such enhanced enterprise zone and such notice is accompanied with a petition that includes**
63 **all of the information required by subsection 2 of this section and, as applicable, an**
64 **acknowledgment by the governing authority that the provisions of subdivision (7) of**
65 **subsection 3 of section 137.115 shall apply to certain tangible personal property in such**
66 **area.**

67 4. Each designated enhanced enterprise zone board shall report to the director on an
68 annual basis regarding the status of the zone and business activity within the zone.

135.963. 1. Improvements made to real property as such term is defined in section
2 137.010, RSMo, which are made in an enhanced enterprise zone subsequent to the date such
3 zone or expansion thereto was designated, may, upon approval of an authorizing resolution by
4 the governing authority having jurisdiction of the area in which the improvements are made, be
5 exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more

6 affected political subdivisions. In addition to enhanced business enterprises, a speculative
7 industrial or warehouse building constructed by a public entity or a private entity if the land is
8 leased by a public entity may be subject to such exemption.

9 2. Such authorizing resolution shall specify the percent of the exemption to be granted,
10 the duration of the exemption to be granted, and the political subdivisions to which such
11 exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy
12 of the resolution shall be provided to the director within thirty calendar days following adoption
13 of the resolution by the governing authority.

14 3. No exemption shall be granted until the governing authority holds a public hearing
15 for the purpose of obtaining the opinions and suggestions of residents of political subdivisions
16 to be affected by the exemption from property taxes. The governing authority shall send, by
17 certified mail, a notice of such hearing to each political subdivision in the area to be affected and
18 shall publish notice of such hearing in a newspaper of general circulation in the area to be
19 affected by the exemption at least twenty days prior to the hearing but not more than thirty days
20 prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

21 4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes
22 otherwise imposed on subsequent improvements to real property located in an enhanced
23 enterprise zone of enhanced business enterprises or speculative industrial or warehouse buildings
24 as indicated in subsection 1 of this section shall become and remain exempt from assessment and
25 payment of ad valorem taxes of any political subdivision of this state or municipality thereof for
26 a period of not less than ten years following the date such improvements were assessed, provided
27 the improved properties are used for enhanced business enterprises. The exemption for
28 speculative buildings is subject to the approval of the governing authority for a period not to
29 exceed two years if the building is owned by a private entity and five years if the building is
30 owned or ground leased by a public entity. This shall not preclude the building receiving an
31 exemption for the remaining time period established by the governing authority if it was
32 occupied by an enhanced business enterprise. The two- and five-year time periods indicated for
33 speculative buildings shall not be an addition to the local abatement time period for such facility.

34 5. No exemption shall be granted for a period more than twenty-five years following the
35 date on which the original enhanced enterprise zone was designated **or deemed approved** by
36 the department.

37 6. The provisions of subsection 1 of this section shall not apply to improvements made
38 to real property begun prior to August 28, 2004.

39 7. The abatement referred to in this section shall not relieve the assessor or other
40 responsible official from ascertaining the amount of the equalized assessed value of all taxable

41 property annually as required by section 99.855, 99.957, or 99.1042, RSMo, and shall not have
42 the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection
43 1 of section 99.845, RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or
44 subdivision (2) of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in
45 the plan approved by the governing body of the municipality pursuant to subdivision (1) of
46 subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by
2 the department, be allowed a credit, each tax year for up to ten tax years, in an amount
3 determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding
4 withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive
5 multiple [ten-year] **five-year** periods for subsequent expansions at the same facility.
6 **Notwithstanding the provisions of this subsection, the provisions of section 135.969 shall**
7 **govern the issuance of tax credits for a new business facility in a certified site zone or**
8 **dormant manufacturing plant zone approved and designated as an enhanced enterprise**
9 **zone, except for the amount of tax credits to be issued with respect to such certified site**
10 **zone or dormant manufacturing plant zone as provided in subsection 5 of this section.**

11 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
12 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
13 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to
14 135.286, or section 135.535, and may not simultaneously receive tax credits under sections
15 620.1875 to 620.1890, RSMo, at the same facility.

16 3. No credit shall be issued pursuant to this section unless:

17 (1) The number of new business facility employees engaged or maintained in
18 employment at the new business facility for the taxable year for which the credit is claimed
19 equals or exceeds two; and

20 (2) The new business facility investment for the taxable year for which the credit is
21 claimed equals or exceeds one hundred thousand dollars.

22 4. The annual amount of credits allowed for an approved enhanced business enterprise
23 shall be the lesser of:

24 (1) The annual amount authorized by the department for the enhanced business
25 enterprise, which shall be limited to the projected state economic benefit, as determined by the
26 department; or

27 (2) [The sum calculated based upon] **An amount not to exceed the sum of the**
28 following:

29 (a) [A credit of four hundred dollars for each new business facility employee employed
30 within an enhanced enterprise zone;

31 (b) An additional credit of four hundred dollars for each new business facility employee
32 who is a resident of an enhanced enterprise zone] **A tax credit up to five percent of the gross**
33 **wages of each new business facility employee employed within the enhanced enterprise**
34 **zone if the average wage of the new jobs of the enhanced business enterprise exceeds the**
35 **county average wage, or if the average wage is below the county average wage, up to three**
36 **percent; and**

37 (b) **A tax credit up to one percent of new business facility investment within an**
38 **enhanced enterprise zone made during the current taxable year if the average wage of the**
39 **new jobs of the enhanced business enterprise exceeds the county average wage, or if the**
40 **average wage is below the county average wage, up to one-half percent;**

41 (c) An additional credit of four hundred dollars for each new business facility employee
42 who is paid by the enhanced business enterprise a wage that exceeds the average wage paid
43 within the county in which the facility is located, as determined by the department; and

44 (d) A credit equal to two percent of new business facility investment within an enhanced
45 enterprise zone.

46 5. Prior to January 1, 2007, in no event shall the department authorize more than four
47 million dollars annually to be issued for all enhanced business enterprises. After December 31,
48 2006, in no event shall the department authorize more than twenty-four million dollars annually
49 to be issued for all enhanced business enterprises **including any such enhanced business**
50 **enterprises located in certified site zones or dormant manufacturing plant zones under**
51 **section 135.969.**

52 6. If a facility, which does not constitute a new business facility, is expanded by the
53 taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

54 (1) The taxpayer's new business facility investment in the expansion during the tax
55 period in which the credits allowed in this section are claimed exceeds one hundred thousand
56 dollars and if the number of new business facility employees engaged or maintained in
57 employment at the expansion facility for the taxable year for which credit is claimed equals or
58 exceeds two, and the total number of employees at the facility after the expansion is at least two
59 greater than the total number of employees before the expansion; and

60 (2) The taxpayer's investment in the expansion and in the original facility prior to
61 expansion shall be determined in the manner provided in subdivision [(19)] **(22)** of section
62 135.950.

63 7. The number of new business facility employees during any taxable year shall be
64 determined by dividing by twelve the sum of the number of individuals employed on the last
65 business day of each month of such taxable year. If the new business facility is in operation for
66 less than the entire taxable year, the number of new business facility employees shall be
67 determined by dividing the sum of the number of individuals employed on the last business day
68 of each full calendar month during the portion of such taxable year during which the new
69 business facility was in operation by the number of full calendar months during such period. For
70 the purpose of computing the credit allowed by this section in the case of a facility which
71 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
72 business facility which satisfies the requirements of paragraph (c) of subdivision [(17)] **(20)** of
73 section 135.950, or subdivision [(25)] **(28)** of section 135.950, the number of new business
74 facility employees at such facility shall be reduced by the average number of individuals
75 employed, computed as provided in this subsection, at the facility during the taxable year
76 immediately preceding the taxable year in which such expansion, acquisition, or replacement
77 occurred and shall further be reduced by the number of individuals employed by the taxpayer or
78 related taxpayer that was subsequently transferred to the new business facility from another
79 Missouri facility and for which credits authorized in this section are not being earned, whether
80 such credits are earned because of an expansion, acquisition, relocation, or the establishment of
81 a new facility.

82 8. In the case where a new business facility employee who is a resident of an enhanced
83 enterprise zone for less than a twelve-month period is employed for less than a twelve-month
84 period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section
85 shall be determined by multiplying four hundred dollars by a fraction, the numerator of which
86 is the number of calendar days during the taxpayer's tax year for which such credits are claimed,
87 in which the employee was a resident of an enhanced enterprise zone, and the denominator of
88 which is three hundred sixty-five.

89 9. For the purpose of computing the credit allowed by this section in the case of a facility
90 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
91 of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(17)]
92 **(20)** of section 135.950 or subdivision [(25)] **(28)** of section 135.950, the amount of the
93 taxpayer's new business facility investment in such facility shall be reduced by the average
94 amount, computed as provided in subdivision [(19)] **(22)** of section 135.950 for new business
95 facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding
96 such expansion or replacement or at the time of acquisition. Furthermore, the amount of the
97 taxpayer's new business facility investment shall also be reduced by the amount of investment

108 employed by the taxpayer or related taxpayer which was subsequently transferred to the new
109 business facility from another Missouri facility and for which credits authorized in this section
100 are not being earned, whether such credits are earned because of an expansion, acquisition,
101 relocation, or the establishment of a new facility.

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

105 11. Credits may not be carried forward but shall be claimed for the taxable year during
106 which commencement of commercial operations occurs at such new business facility, and for
107 each of the nine succeeding taxable years for which the credit is issued.

108 12. Certificates of tax credit authorized by this section may be transferred, sold, or
109 assigned by filing a notarized endorsement thereof with the department that names the transferee,
110 the amount of tax credit transferred, and the value received for the credit, as well as any other
111 information reasonably requested by the department. The sale price cannot be less than
112 seventy-five percent of the par value of such credits.

113 13. The director of revenue shall issue a refund to the taxpayer to the extent that the
114 amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

115 14. Prior to the issuance of tax credits, the department shall verify through the
116 department of revenue, or any other state department, that the tax credit applicant does not owe
117 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
118 fees or assessments levied by any state department and through the department of insurance,
119 financial institutions and professional registration that the applicant does not owe any delinquent
120 insurance taxes. Such delinquency shall not affect the authorization of the application for such
121 tax credits, except that the amount of credits issued shall be reduced by the applicant's tax
122 delinquency. If the department of revenue or the department of insurance, financial institutions
123 and professional registration, or any other state department, concludes that a taxpayer is
124 delinquent after June fifteenth but before July first of any year and the application of tax credits
125 to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer
126 shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions
127 to tax shall be tolled. After applying all available credits toward a tax delinquency, the
128 administering agency shall notify the appropriate department, and that department shall update
129 the amount of outstanding delinquent tax owed by the applicant. If any credits remain after
130 satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be
131 issued to the applicant, subject to the restrictions of other provisions of law.

135.969. 1. A taxpayer who establishes a new business facility in a certified site zone or a dormant manufacturing plant zone approved or designated as an enhanced enterprise zone shall receive a tax credit each tax year for five tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265. No taxpayer shall receive multiple five-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in a certified site zone or dormant manufacturing plant zone approved or designated as an enhanced enterprise zone and accepts state tax credits under this section shall not also receive tax credits or other benefits for the same new jobs under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, section 135.967, or sections 620.1875 to 620.1890 unless such benefits are determined to be necessary by the department.

3. The taxpayer shall be entitled to receive the tax credit upon satisfaction of one of the following criteria:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds nine; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds five hundred thousand dollars.

4. The annual amount of tax credits to be issued for an enhanced business enterprise located in a certified site zone or dormant manufacturing plant zone shall be equal to the lesser of:

(1) The annual amount of projected state economic benefit for such enhanced business enterprise, as determined by the department; or

(2) An annual amount equal to the sum of the following:

(a) A tax credit equal to seven percent of the gross wages of each new business facility employee employed within the enhanced enterprise zone if the average wage of the new jobs of the enhanced business enterprise exceeds the county average wage, or if the average wage is below the county average wage, equal to four percent; and

(b) A tax credit equal to two percent of new business facility investment within an enhanced enterprise zone if the average wage of the new jobs of the enhanced business enterprise exceeds the county average wage, or if the average wage is below the county average wage, equal to one percent.

35 **5. As set forth in section 135.967, up to twenty-four million dollars of tax credits**
36 **shall be authorized annually for issuance of tax credits for all enhanced enterprise zones**
37 **including any tax credits issued with respect to certified site zones and dormant**
38 **manufacturing plant zones of which ten million shall be used exclusively for tax credits**
39 **attributable to taxpayers in accordance with this section who establish new business**
40 **facilities in a certified site zone qualified as such under subdivision (4) of section 135.950,**
41 **provided that for calendar years 2010 and 2011, the ten million dollar limitation may be**
42 **reduced to equal the balance of tax credits available under the entire program if, as of**
43 **August 28, 2010, the department has made irrevocable allocations to qualified applicants**
44 **for tax credits under section 135.967 such that the total of all available tax credit capacity**
45 **of this program is less than ten million dollars. Beginning January 1, 2011, if no such**
46 **taxpayer or taxpayers have applied for tax credits attributable to new business facilities**
47 **in a certified site zone qualified as such under subdivision (4) of section 135.950 by**
48 **November fifteenth of each calendar year for the entire ten million dollars, or such lesser**
49 **amount as computed for calendar years 2010 and 2011, any remaining tax credits for**
50 **which an application has not been made will be available for issuance for all enhanced**
51 **enterprise zones for that calendar year. If a new business facility investment in a certified**
52 **site zone qualified as such under subdivision (4) of section 135.950 qualifies the taxpayer**
53 **for tax credits under subsection 4 of this section, in excess of the available annual**
54 **authorization limit set forth in this subsection, the taxpayer may carry such excess new**
55 **business facility investment amount forward to subsequent years and such excess shall be**
56 **treated as a new business facility investment for such later taxable years until the taxpayer**
57 **has received issuance of all tax credits authorized under this section, and, for each such**
58 **taxable year, the taxpayer shall receive such tax credits on a pro rata basis with other**
59 **applicants for the tax credits if there are other applicants.**

60 **6. If a facility, which does not constitute a new business facility, is expanded by the**
61 **taxpayer, the expansion shall be considered eligible for the credit allowed by this section**
62 **if:**

63 **(1) The taxpayer's new business facility investment in the expansion during the tax**
64 **period in which the credits allowed in this section are claimed exceeds five hundred**
65 **thousand dollars and if the number of new business facility employees engaged or**
66 **maintained in employment at the expansion facility for the taxable year for which credit**
67 **is claimed equals or exceeds two, and the total number of employees at the facility after the**
68 **expansion is at least two greater than the total number of employees before the expansion;**
69 **and**

70 (2) The taxpayer's investment in the expansion and in the original facility prior to
71 expansion shall be determined in the manner provided in subdivision (22) of section
72 135.950.

73 7. The number of new business facility employees during any taxable year shall be
74 determined by dividing by twelve the sum of the number of individuals employed on the
75 last business day of each month of such taxable year. If the new business facility is in
76 operation for less than the entire taxable year, the number of new business facility
77 employees shall be determined by dividing the sum of the number of individuals employed
78 on the last business day of each full calendar month during the portion of such taxable year
79 during which the new business facility was in operation by the number of full calendar
80 months during such period. For the purpose of computing the credit allowed by this
81 section in the case of a facility which qualifies as a new business facility under subsection
82 6 of this section, and in the case of a new business facility which satisfies the requirements
83 of paragraph (c) of subdivision (20) or (28) of section 135.950, the number of new business
84 facility employees at such facility shall be reduced by the average number of individuals
85 employed, computed as provided in this subsection, at the facility during the taxable year
86 immediately preceding the taxable year in which such expansion, acquisition, or
87 replacement occurred and shall further be reduced by the number of individuals employed
88 by the taxpayer or related taxpayer that was subsequently transferred to the new business
89 facility from another Missouri facility and for which credits authorized in this section are
90 not being earned, whether such credits are earned because of an expansion, acquisition,
91 relocation, or the establishment of a new facility.

92 8. For the purpose of computing the credit allowed by this section in the case of a
93 facility which qualifies as a new business facility under subsection 6 of this section, and in
94 the case of a new business facility which satisfies the requirements of paragraph (c) of
95 subdivision (20) or (28) of section 135.950, the amount of the taxpayer's new business
96 facility investment in such facility shall be reduced by the average amount, computed as
97 provided in subdivision (22) of section 135.950 for new business facility investment, of the
98 investment of the taxpayer, or related taxpayer immediately preceding such expansion or
99 replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new
100 business facility investment shall also be reduced by the amount of investment employed
101 by the taxpayer or related taxpayer which was subsequently transferred to the new
102 business facility from another Missouri facility and for which credits authorized in this
103 section are not being earned, whether such credits are earned because of an expansion,
104 acquisition, relocation, or the establishment of a new facility.

105 **9. For a taxpayer with flow-through tax treatment to its members, partners, or**
106 **shareholders, the credit shall be allowed to members, partners, or shareholders in**
107 **proportion to their share of ownership on the last day of the taxpayer's tax period.**

108 **10. Except as allowed in subsection 5 of this section, credits may not be carried**
109 **forward but shall be claimed for the taxable year during which commencement of**
110 **commercial operations occurs at such new business facility, and for each of the nine**
111 **succeeding taxable years for which the credit is issued.**

112 **11. Certificates of tax credit authorized by this section may be transferred, sold, or**
113 **assigned by filing a notarized endorsement thereof with the department that names the**
114 **transferee, the amount of tax credit transferred, and the value received for the credit, as**
115 **well as any other information reasonably requested by the department. The sale price**
116 **cannot be less than seventy-five percent of the par value of such credits.**

117 **12. The director of revenue shall issue a refund to the taxpayer to the extent that**
118 **the amount of credits allowed in this section exceeds the amount of the taxpayer's income**
119 **tax.**

120 **13. Prior to the issuance of tax credits, the department shall verify through the**
121 **department of revenue, or any other state department, that the tax credit applicant does**
122 **not owe any delinquent income, sales, or use tax or interest or penalties on such taxes, or**
123 **any delinquent fees or assessments levied by any state department and through the**
124 **department of insurance, financial institutions and professional registration that the**
125 **applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect**
126 **the authorization of the application for such tax credits, except that the amount of credits**
127 **issued shall be reduced by the applicant's tax delinquency. If the department of revenue**
128 **or the department of insurance, financial institutions and professional registration, or any**
129 **other state department, concludes that a taxpayer is delinquent after June fifteenth but**
130 **before July first of any year and the application of tax credits to such delinquency causes**
131 **a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty**
132 **days to satisfy the deficiency in which interest, penalties, and additions to tax shall be**
133 **tolled. After applying all available credits toward a tax delinquency, the administering**
134 **agency shall notify the appropriate department, and that department shall update the**
135 **amount of outstanding delinquent tax owed by the applicant. If any credits remain after**
136 **satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits**
137 **shall be issued to the applicant, subject to the restrictions of other provisions of law.**

137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's
2 deputies in all counties of this state including the city of St. Louis shall annually make a list of

3 all real and tangible personal property taxable in the assessor's city, county, town or district.
4 Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor
5 shall annually assess all personal property at thirty-three and one-third percent of its true value
6 in money as of January first of each calendar year. The assessor shall annually assess all real
7 property, including any new construction and improvements to real property, and possessory
8 interests in real property at the percent of its true value in money set in subsection 5 of this
9 section. The true value in money of any possessory interest in real property in subclass (3),
10 where such real property is on or lies within the ultimate airport boundary as shown by a federal
11 airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139
12 certification and owned by a political subdivision, shall be the otherwise applicable true value
13 in money of any such possessory interest in real property, less the total dollar amount of costs
14 paid by a party, other than the political subdivision, towards any new construction or
15 improvements on such real property completed after January 1, 2008, and which are included in
16 the above-mentioned possessory interest, regardless of the year in which such costs were incurred
17 or whether such costs were considered in any prior year. The assessor shall annually assess all
18 real property in the following manner: new assessed values shall be determined as of January
19 first of each odd-numbered year and shall be entered in the assessor's books; those same assessed
20 values shall apply in the following even-numbered year, except for new construction and
21 property improvements which shall be valued as though they had been completed as of January
22 first of the preceding odd-numbered year. The assessor may call at the office, place of doing
23 business, or residence of each person required by this chapter to list property, and require the
24 person to make a correct statement of all taxable tangible personal property owned by the person
25 or under his or her care, charge or management, taxable in the county. On or before January first
26 of each even-numbered year, the assessor shall prepare and submit a two-year assessment
27 maintenance plan to the county governing body and the state tax commission for their respective
28 approval or modification. The county governing body shall approve and forward such plan or
29 its alternative to the plan to the state tax commission by February first. If the county governing
30 body fails to forward the plan or its alternative to the plan to the state tax commission by
31 February first, the assessor's plan shall be considered approved by the county governing body.
32 If the state tax commission fails to approve a plan and if the state tax commission and the
33 assessor and the governing body of the county involved are unable to resolve the differences, in
34 order to receive state cost-share funds outlined in section 137.750, the county or the assessor
35 shall petition the administrative hearing commission, by May first, to decide all matters in
36 dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter
37 may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by

38 the parties. The final decision of the administrative hearing commission shall be subject to
39 judicial review in the circuit court of the county involved. In the event a valuation of subclass
40 (1) real property within any county with a charter form of government, or within a city not within
41 a county, is made by a computer, computer-assisted method or a computer program, the burden
42 of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be
43 on the assessor at any hearing or appeal. In any such county, unless the assessor proves
44 otherwise, there shall be a presumption that the assessment was made by a computer,
45 computer-assisted method or a computer program. Such evidence shall include, but shall not be
46 limited to, the following:

47 (1) The findings of the assessor based on an appraisal of the property by generally
48 accepted appraisal techniques; and

49 (2) The purchase prices from sales of at least three comparable properties and the address
50 or location thereof. As used in this subdivision, the word "comparable" means that:

51 (a) Such sale was closed at a date relevant to the property valuation; and

52 (b) Such properties are not more than one mile from the site of the disputed property,
53 except where no similar properties exist within one mile of the disputed property, the nearest
54 comparable property shall be used. Such property shall be within five hundred square feet in size
55 of the disputed property, and resemble the disputed property in age, floor plan, number of rooms,
56 and other relevant characteristics.

57 2. Assessors in each county of this state and the city of St. Louis may send personal
58 property assessment forms through the mail.

59 3. The following items of personal property shall each constitute separate subclasses of
60 tangible personal property and shall be assessed and valued for the purposes of taxation at the
61 following percentages of their true value in money:

62 (1) Grain and other agricultural crops in an unmanufactured condition, one-half of one
63 percent;

64 (2) Livestock, twelve percent;

65 (3) Farm machinery, twelve percent;

66 (4) Motor vehicles which are eligible for registration as and are registered as historic
67 motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five
68 years old and which are used solely for noncommercial purposes and are operated less than fifty
69 hours per year or aircraft that are home built from a kit, five percent;

70 (5) Poultry, twelve percent; [and]

71 (6) Tools and equipment used for pollution control and tools and equipment used in
72 retooling for the purpose of introducing new product lines or used for making improvements to

73 existing products by any company which is located in a state enterprise zone and which is
74 identified by any standard industrial classification number cited in subdivision (6) of section
75 135.200, RSMo, twenty-five percent; and

76 **(7) Tools, telecommunications equipment, power production and transmission**
77 **machinery and equipment, data processing machinery and equipment, and other**
78 **machinery and equipment that is used in an enhanced enterprise zone designated as such**
79 **a zone for a certified site zone as defined in subdivision (4) of section 135.950, one-half of**
80 **one percent.**

81 4. The person listing the property shall enter a true and correct statement of the property,
82 in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed
83 and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered
84 to the assessor.

85 5. All subclasses of real property, as such subclasses are established in section 4(b) of
86 article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the
87 following percentages of true value:

88 (1) For real property in subclass (1), nineteen percent;

89 (2) For real property in subclass (2), twelve percent; and

90 (3) For real property in subclass (3), thirty-two percent.

91 6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used
92 as dwelling units shall be assessed at the same percentage of true value as residential real
93 property for the purpose of taxation. The percentage of assessment of true value for such
94 manufactured homes shall be the same as for residential real property. If the county collector
95 cannot identify or find the manufactured home when attempting to attach the manufactured home
96 for payment of taxes owed by the manufactured home owner, the county collector may request
97 the county commission to have the manufactured home removed from the tax books, and such
98 request shall be granted within thirty days after the request is made; however, the removal from
99 the tax books does not remove the tax lien on the manufactured home if it is later identified or
100 found. A manufactured home located in a manufactured home rental park, rental community or
101 on real estate not owned by the manufactured home owner shall be considered personal property.
102 A manufactured home located on real estate owned by the manufactured home owner may be
103 considered real property.

104 7. Each manufactured home assessed shall be considered a parcel for the purpose of
105 reimbursement pursuant to section 137.750, unless the manufactured home has been converted
106 to real property in compliance with section 700.111, RSMo, and assessed as a realty
107 improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank,

143 processor, or issuer for its service. A county or city collector may accept payment by electronic
144 transfers of funds in payment of any tax or license and charge the person making such payment
145 a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic
146 payment.

147 15. Any county or city not within a county in this state may, by an affirmative vote of
148 the governing body of such county, opt out of the provisions of this section and sections 137.073,
149 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general
150 assembly, second regular session and section 137.073 as modified by house committee substitute
151 for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general
152 assembly, second regular session, for the next year of the general reassessment, prior to January
153 first of any year. No county or city not within a county shall exercise this opt-out provision after
154 implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo,
155 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and
156 section 137.073 as modified by house committee substitute for senate substitute for senate
157 committee substitute for senate bill no. 960, ninety-second general assembly, second regular
158 session, in a year of general reassessment. For the purposes of applying the provisions of this
159 subsection, a political subdivision contained within two or more counties where at least one of
160 such counties has opted out and at least one of such counties has not opted out shall calculate a
161 single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general
162 assembly, second regular session. A governing body of a city not within a county or a county
163 that has opted out under the provisions of this subsection may choose to implement the
164 provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by
165 house bill no. 1150 of the ninety-first general assembly, second regular session, and section
166 137.073 as modified by house committee substitute for senate substitute for senate committee
167 substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the
168 next year of general reassessment, by an affirmative vote of the governing body prior to
169 December thirty-first of any year.

170 16. The governing body of any city of the third classification with more than twenty-six
171 thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located
172 in any county that has exercised its authority to opt out under subsection 15 of this section may
173 levy separate and differing tax rates for real and personal property only if such city bills and
174 collects its own property taxes or satisfies the entire cost of the billing and collection of such
175 separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax
176 rate ceiling.

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

2 (1) "Processing", any mode of treatment, act, or series of acts performed upon materials
3 to transform or reduce them to a different state or thing, including treatment necessary to
4 maintain or preserve such processing by the producer at the production facility;

5 (2) "Recovered materials", those materials which have been diverted or removed from
6 the solid waste stream for sale, use, reuse, or recycling, whether or not they require subsequent
7 separation and processing.

8 2. In addition to all other exemptions granted under this chapter, there is hereby
9 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
10 144.761, and from the computation of the tax levied, assessed, or payable under sections 144.010
11 to 144.525 and 144.600 to 144.761, electrical energy and gas, whether natural, artificial, or
12 propane, water, coal, and energy sources, chemicals, machinery, equipment, and materials used
13 or consumed in the manufacturing, processing, compounding, mining, or producing of any
14 product, or used or consumed in the processing of recovered materials, or used in research and
15 development related to manufacturing, processing, compounding, mining, or producing any
16 product. The exemptions granted in this subsection shall not apply to local sales taxes as defined
17 in section 32.085, RSMo, and the provisions of this subsection shall be in addition to any state
18 and local sales tax exemption provided in section 144.030.

19 3. In addition to all other exemptions granted under this chapter, there is hereby
20 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
21 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085,
22 RSMo, and from the computation of the tax levied, assessed, or payable under sections 144.010
23 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as
24 defined in section 32.085, RSMo, all utilities, machinery, and equipment used or consumed
25 directly in television or radio broadcasting and all sales and purchases of tangible personal
26 property, utilities, services, or any other transaction that would otherwise be subject to the state
27 or local sales or use tax when such sales are made to or purchases are made by a contractor for
28 use in fulfillment of any obligation under a defense contract with the United States government,
29 and all sales and leases of tangible personal property by any county, city, incorporated town, or
30 village, provided such sale or lease is authorized under chapter 100, RSMo, and such transaction
31 is certified for sales tax exemption by the department of economic development, and tangible
32 personal property used for railroad infrastructure brought into this state for processing,
33 fabrication, or other modification for use outside the state in the regular course of business, **and**
34 **all tangible personal property, including tools, telecommunications equipment, power**
35 **production and transmission machinery and equipment and data processing machinery**
36 **and equipment, and any other tools, materials, machinery, or equipment used or consumed**

37 **in an enhanced enterprise zone designated as such a zone for a certified site zone as defined**
38 **in subdivision (4) of section 135.950.**

39 4. In addition to all other exemptions granted under this chapter, there is hereby
40 specifically exempted from the provisions of sections 144.010 to 144.525 and 144.600 to
41 144.761, and section 238.235, RSMo, and the local sales tax law as defined in section 32.085,
42 RSMo, and from the computation of the tax levied, assessed, or payable under sections 144.010
43 to 144.525 and 144.600 to 144.761, and section 238.235, RSMo, and the local sales tax law as
44 defined in section 32.085, RSMo, all sales and purchases of tangible personal property, utilities,
45 services, or any other transaction that would otherwise be subject to the state or local sales or use
46 tax when such sales are made to or purchases are made by a private partner for use in completing
47 a project under sections 227.600 to 227.669, RSMo.

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 under this section, provided that
12 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 section;

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 section, 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
92 consecutive months. The department of economic development shall convey such
93 conditional approval to the department of revenue and the identified project taxpayers.

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

106 4. Beginning August 28, 2010, in addition to the exemptions granted under this
107 chapter, there shall also be specifically exempted from state and local sales and use taxes
108 defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections
109 144.600 to 144.761, or section 238.235:

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

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

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

126 5. Any data storage center and server farm facility project seeking a tax exemption
127 under subsection 4 of this section shall submit an expanding project plan to the department
128 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.

620.1881. 1. The department of economic development shall respond within thirty days to a company who provides a notice of intent with either an approval or a rejection of the notice of intent. The department shall give preference to qualified companies and projects targeted at an area of the state which has recently been classified as a disaster area by the federal

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

26 2. Notwithstanding any provision of law to the contrary, any qualified company that is
27 awarded benefits under this program may not simultaneously receive tax credits or exemptions
28 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
29 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company
30 under any other state programs for which the company is eligible and which utilize withholding
31 tax from the new jobs of the company must first be credited to the other state program before the
32 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.
33 These other state programs include, but are not limited to, the new jobs training program under
34 sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to
35 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800
36 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections
37 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training
38 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,
39 but the department shall issue a refundable tax credit for the full amount of benefit allowed under

40 this subdivision. The calendar year annual maximum amount of tax credits which may be issued
41 to a qualifying company that also participates in the new job training program shall be increased
42 by an amount equivalent to the withholding tax retained by that company under the new jobs
43 training program. However, if the combined benefits of the quality jobs program and the new
44 jobs training program exceed the projected state benefit of the project, as determined by the
45 department of economic development through a cost-benefit analysis, the increase in the
46 maximum tax credits shall be limited to the amount that would not cause the combined benefits
47 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program
48 who knowingly hires individuals who are not allowed to work legally in the United States shall
49 immediately forfeit such benefits and shall repay the state an amount equal to any state tax
50 credits already redeemed and any withholding taxes already retained.

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

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

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

75 under this subdivision and the amount of withholding tax retained by the company, in the event
76 the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
77 company under this subdivision;

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

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

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

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

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

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

122 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
123 new direct local revenues created by the project over a ten-year period. The quality jobs advisory
124 task force may recommend to the department of economic development that appropriate
125 penalties be applied to the company for violating the agreement. The amount of the job retention
126 credit granted may be equal to up to fifty percent of the amount of withholding tax generated by
127 the full-time jobs at the project facility for a period of five years. The calendar year annual
128 maximum amount of tax credit that may be issued to any qualified company for a job retention
129 project or combination of job retention projects shall be seven hundred fifty thousand dollars per
130 year, but the maximum amount may be increased up to one million dollars if such action is
131 proposed by the department and approved by the quality jobs advisory task force established in
132 section 620.1887; provided, however, until such time as the initial at-large members of the
133 quality jobs advisory task force are appointed, this determination shall be made by the director
134 of the department of economic development. In considering such a request, the task force shall
135 rely on economic modeling and other information supplied by the department when requesting
136 the increased limit on behalf of the job retention project. In no event shall the total amount of
137 all tax credits issued for the entire job retention program under this subdivision exceed three
138 million dollars annually. Notwithstanding the above, no tax credits shall be issued for job
139 retention projects approved by the department after August 30, 2013;

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

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

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

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

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

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

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

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

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

177 for small business job retention and flood survivor relief projects approved by the department
178 after August 30, 2010.

179 4. The qualified company shall provide an annual report of the number of jobs and such
180 other information as may be required by the department to document the basis for the benefits
181 of this program. The department may withhold the approval of any benefits until it is satisfied
182 that proper documentation has been provided, and shall reduce the benefits to reflect any
183 reduction in full-time employees or new payroll. Upon approval by the department, the qualified
184 company may begin the retention of the withholding taxes when it reaches the minimum number
185 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be
186 issued upon satisfaction by the department that the qualified company has exceeded the county
187 average wage and the minimum number of new jobs. In such annual report, if the average wage
188 is below the county average wage, the qualified company has not maintained the employee
189 insurance as required, or if the number of new jobs is below the minimum, the qualified
190 company shall not receive tax credits or retain the withholding tax for the balance of the benefit
191 period. In the case of a qualified company that initially filed a notice of intent and received an
192 approval from the department for high- impact benefits and the minimum number of new jobs
193 in an annual report is below the minimum for high-impact projects, the company shall not
194 receive tax credits for the balance of the benefit period but may continue to retain the
195 withholding taxes if it otherwise meets the requirements of a small and expanding business under
196 this program.

197 5. The maximum calendar year annual tax credits issued for the entire program shall not
198 exceed eighty million dollars, **except as provided in this subsection. Beginning January 1,**
199 **2012, fifteen million dollars of such eighty million dollars shall be used for retaining**
200 **withholding tax by all qualified manufacturing companies under section 620.1910.**
201 Notwithstanding any provision of law to the contrary, the maximum annual tax credits
202 authorized under section 135.535, RSMo, are hereby reduced from ten million dollars to eight
203 million dollars, with the balance of two million dollars transferred to this program. There shall
204 be no limit on the amount of withholding taxes that may be retained by approved companies
205 under this program.

206 6. The department shall allocate the annual tax credits based on the date of the approval,
207 reserving such tax credits based on the department's best estimate of new jobs and new payroll
208 of the project, and the other factors in the determination of benefits of this program. However,
209 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
210 The allocation of tax credits for the period assigned to a project shall expire if, within two years
211 from the date of commencement of operations, or approval if applicable, the minimum

thresholds have not been achieved. The qualified company may retain authorized amounts from the withholding tax under this section once the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be provided under this program until the qualified company meets the minimum new jobs thresholds. In the event the qualified company does not meet the minimum new job threshold, the qualified company may submit a new notice of intent or the department may provide a new approval for a new project of the qualified company at the project facility or other facilities.

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

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

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

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

246 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
247 of other provisions of law.

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

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

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

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

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

**4 (1) "Approval", a document submitted by the department to the qualified
5 manufacturing company or qualified supplier that states the benefits that may be provided
6 under this section;**

**7 (2) "Capital investment", expenditures made by a qualified manufacturing
8 company to retool or reconfigure a manufacturing facility directly related to the
9 manufacturing of a new product or the expansion or modification of the manufacture of
10 an existing product;**

**11 (3) "County average wage", the same meaning as such term is defined in section
12 620.1878;**

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

**14 (5) "Facility", a building or buildings located in Missouri at which the qualified
15 manufacturing company manufactures a product;**

**16 (6) "Full-time job", a job for which a person is compensated for an average of at
17 least thirty-five hours per week for a twelve-month period, and one for which the qualified
18 manufacturing company or qualified supplier offers health insurance and pays at least fifty
19 percent of such insurance premiums;**

**20 (7) "NAICS industry classification", the most recent edition of the North American
21 Industry Classification System as prepared by the Executive Office of the President, Office
22 of Management and Budget;**

23 (8) "New job", the same meaning as such term is defined in section 620.1878;

24 (9) "New product", a new model or line of a manufactured good that has not been
25 manufactured in Missouri by the qualified manufacturing company at any time prior to
26 the date of the notice of intent, or an existing brand, model, or line of a manufactured good
27 that is redesigned with more than seventy-five percent new exterior body parts and
28 incorporates new powertrain options;

29 (10) "Notice of intent", a form developed by the department, completed by the
30 qualified manufacturing company or qualified supplier and submitted to the department
31 which states the qualified manufacturing company's or qualified supplier's intent to create
32 new jobs or retain current jobs and make additional capital investment, as applicable, and
33 request benefits under this section. The notice of intent shall specify the minimum number
34 of such new or retained jobs and the minimum amount of such capital investment;

35 (11) "Qualified manufacturing company", a business with a NAICS code of 336
36 that:

37 (a) Manufactures goods at a facility in Missouri;

38 (b) In the case of the manufacture of a new product, commits to make a capital
39 investment of at least seventy-five thousand dollars per retained job within no more than
40 two years of the date the qualified manufacturing company begins to retain withholding
41 tax under this section, or in the case of the modification or expansion of the manufacture
42 of an existing product, commits to make a capital investment of at least fifty thousand
43 dollars per retained job within no more than two years of the date the qualified
44 manufacturing company begins to retain withholding tax under this section;

45 (c) Manufactures a new product or has commenced making capital improvements
46 to the facility necessary for the manufacturing of such new product, or modifies or expands
47 the manufacture of an existing product or has commenced making capital improvements
48 to the facility necessary for the modification or expansion of the manufacture of such
49 existing product; and

50 (d) Continues to meet the requirements of paragraphs (a) to (c) of this subdivision
51 for the withholding period;

52 (12) "Qualified supplier", a manufacturing company that:

53 (a) Attests to the department that it derives more than ten percent of the total
54 annual sales of the company from sales to a qualified manufacturing company;

55 (b) Adds five or more new jobs;

56 (c) Has an average wage, as defined in section 135.950, for such new jobs that are
57 equal to or exceed the lower of the county average wage for Missouri as determined by the

58 department using NAICS industry classifications, but not lower than sixty percent of the
59 statewide average wage; and

60 (d) Provides health insurance to employees and pays at least fifty percent of the
61 premiums of such insurance;

62 (13) "Retained job", the number of full-time jobs of persons employed by the
63 qualified manufacturing company located at the facility that existed as of the last working
64 day of the month immediately preceding the month in which notice of intent is submitted;

65 (14) "Statewide average wage", an amount equal to the quotient of the sum of the
66 total gross wages paid for the corresponding four calendar quarters divided by the average
67 annual employment for such four calendar quarters, which shall be computed using the
68 Quarterly Census of Employment and Wages Data for All Private Ownership Businesses
69 in Missouri, as published by the Bureau of Labor Statistics of the United States
70 Department of Labor;

71 (15) "Withholding period", the seven- or ten-year period in which a qualified
72 manufacturing company may receive benefits under this section;

73 (16) "Withholding tax", the same meaning as such term is defined in section
74 620.1878.

75 3. The department shall respond within thirty days to a qualified manufacturing
76 company or a qualified supplier who provides a notice of intent with either an approval
77 or a rejection of the notice of intent. Failure to respond on behalf of the department shall
78 result in the notice of intent being deemed an approval for the purposes of this section.

79 4. A qualified manufacturing company that manufactures a new product may,
80 upon the department's approval of a notice of intent and the execution of an agreement
81 that meets the requirements of subsection 9 of this section, but no earlier than January 1,
82 2012, retain one hundred percent of the withholding tax from full-time jobs at the facility
83 for a period of ten years. A qualified manufacturing company that modifies or expands
84 the manufacture of an existing product may, upon the department's approval of a notice
85 of intent and the execution of an agreement that meets the requirements of subsection 9 of
86 this section, but no earlier than January 1, 2012, retain fifty percent of the withholding tax
87 from full-time jobs at the facility for a period of seven years. Except as otherwise allowed
88 under subsection 7 of this section, the commencement of the withholding period may be
89 delayed by no more than twenty-four months after execution of the agreement at the option
90 of the qualified manufacturing company. Such qualified manufacturing company shall be
91 eligible for participation in the Missouri quality jobs program in sections 620.1875 to

92 **620.1890 for any new jobs for which it does not retain withholding tax under this section,**
93 **provided all qualifications for such program are met.**

94 **5. A qualified supplier may, upon approval of a notice of intent by the department,**
95 **retain all withholding tax from new jobs for a period of three years from the date of**
96 **approval of the notice of intent or for a period of five years if the supplier pays wages for**
97 **the new jobs equal to or greater than one hundred twenty percent of county average wage.**
98 **Notwithstanding any other provision of law to the contrary, a qualified supplier that is**
99 **awarded benefits under this section shall not receive any tax credit or exemption or be**
100 **entitled to retain withholding under sections 100.700 to 100.850, sections 135.100 to**
101 **135.150, sections 135.200 to 135.286, section 135.535, sections 135.900 to 135.906, sections**
102 **135.950 to 135.970, or section 620.1881 for the same jobs.**

103 **6. Notwithstanding any other provision of law to the contrary, the maximum**
104 **amount of withholding tax that may be retained by any one qualified manufacturing**
105 **company under this section shall not exceed ten million dollars per calendar year. The**
106 **aggregate amount of withholding tax that may be retained by all qualified manufacturing**
107 **companies under this section shall not exceed fifteen million dollars per calendar year.**

108 **7. Notwithstanding any other provision of law to the contrary, any qualified**
109 **manufacturing company that is awarded benefits under this section shall not**
110 **simultaneously receive tax credits or exemptions under sections 100.700 to 100.850, sections**
111 **135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to**
112 **135.906 for the jobs created or retained or capital improvement which qualified for**
113 **benefits under this section. The benefits available to the qualified manufacturing company**
114 **under any other state programs for which the qualified manufacturing company is eligible**
115 **and which utilize withholding tax from the jobs at the facility shall first be credited to the**
116 **other state program before the applicable withholding period for benefits provided under**
117 **this section shall begin. These other state programs include, but are not limited to, the new**
118 **jobs training program under sections 178.892 to 178.896, the job retention program under**
119 **sections 178.760 to 178.764, the real property tax increment allocation redevelopment act**
120 **under sections 99.800 to 99.865, or the Missouri downtown and rural economic stimulus**
121 **act under sections 99.915 to 99.980. If any qualified manufacturing company also**
122 **participates in the new jobs training program in sections 178.892 to 178.896, such qualified**
123 **manufacturing company shall not retain any withholding tax that has already been**
124 **allocated for use in the new jobs training program. Any taxpayer who is awarded benefits**
125 **under this program who knowingly hires individuals who are not allowed to work legally**
126 **in the United States shall immediately forfeit such benefits and shall repay the state an**

amount equal to any withholding taxes already retained. Subsection 5 of section 285.530 shall not apply to taxpayers awarded benefits under this program.

8. The department may promulgate rules to implement 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 under 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 the effective date of this section shall be invalid and void.

9. Within six months of completion of a notice of intent required under this section, the qualified manufacturing company shall enter into an agreement with the department that memorializes the content of the notice of intent, the requirements of this section, and the consequences for failing to meet such requirements, which shall include the following:

(1) If the amount of capital investment made by the qualified manufacturing company is not made within the two-year period provided for such investment, the qualified manufacturing company shall immediately cease retaining any withholding tax with respect to jobs at the facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period. In addition, the qualified manufacturing company shall repay any amounts of withholding tax retained plus interest of five percent per annum. However, in the event that such capital investment shortfall is due to economic conditions beyond the control of the qualified manufacturing company, the director may, at the qualified manufacturing company's request, suspend rather than terminate its privilege to retain withholding tax under this section for up to three years. Any such suspension shall extend the withholding period by the same amount of time. No more than one such suspension shall be granted to a qualified manufacturing company;

(2) If the qualified manufacturing company discontinues the manufacturing of the new product and does not replace it with a subsequent or additional new product manufactured at the facility at any time during the withholding period, the qualified manufacturing company shall immediately cease retaining any withholding tax with respect to jobs at that facility and it shall forfeit all rights to retain withholding tax for the remainder of the withholding period.

10. Prior to March first each year, the department shall provide a report to the general assembly including the names of participating qualified manufacturing companies

162 or qualified suppliers, location of such companies or suppliers, the annual amount of
163 benefits provided, the estimated net state fiscal impact including direct and indirect new
164 state taxes derived, and the number of new jobs created or jobs retained.

165 **11. Under section 23.253 of the Missouri sunset act:**

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

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

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

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