

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1501

97TH GENERAL ASSEMBLY

5266H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 99.1205, 135.350, 135.352, 253.545, 253.550, 253.557, and 253.559, RSMo, and to enact in lieu thereof seventeen new sections relating to tax incentive programs.

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

Section A. Section 99.1205, 135.350, 135.352, 253.545, 253.550, 253.557, and 253.559, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 67.2050, 99.1205, 135.350, 135.352, 135.1550, 135.1555, 135.1560, 135.1565, 135.1570, 135.1575, 144.810, 253.545, 253.550, 253.557, 253.559, 348.273, and 348.274 to read as follows:

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

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

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

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

(4) "Technology business facility", a facility purchased, constructed, extended, or improved under this section, provided that such business facility is engaged in:

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

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

17 (c) The transmission of voice, data, text, sound, and video using wired
18 telecommunication networks (NAICS 517110);

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

23 2. The governing body of any municipality may:

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

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

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

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

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

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

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

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

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

9. The provisions of this section shall not be construed to allow political subdivisions to provide telecommunications services or telecommunications facilities to the extent that they are prohibited from doing so by section 392.410.

99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land Assemblage Tax Credit Act".

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

(1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant structures or any portion thereof, together with site and redevelopment area planning and engineering costs regarding one or more eligible parcels, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for a period of [five] twelve years after the acquisition of such eligible parcel. Acquisition costs shall not include costs for [title insurance and survey,] attorney's fees, relocation costs, fines, or bills from a municipality;

(2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation which has:

13 (a) Incurred, within an eligible project area, acquisition costs for the acquisition of land
14 sufficient to satisfy the requirements under subdivision (8) of this subsection; and

15 (b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal
16 authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop
17 an urban renewal area or a redevelopment area that includes all of an eligible project area or
18 whose redevelopment plan or redevelopment area, which encompasses all of an eligible project
19 area, has been approved or adopted under an economic incentive law. In addition to being
20 designated the redeveloper, the applicant shall have been designated to receive economic
21 incentives only after the municipal authority has considered the amount of the tax credits in
22 adopting such economic incentives as provided in subsection 8 of this section. The
23 redevelopment agreement shall provide that:

24 a. the funds generated through the use or sale of the tax credits issued under this section
25 shall be used to redevelop the eligible project area;

26 b. No more than seventy-five percent of the urban renewal area identified in the urban
27 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped
28 by the applicant; and

29 c. The remainder of the urban renewal area or the redevelopment area shall be
30 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its
31 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

32 (3) "Certificate", a tax credit certificate issued under this section;

33 (4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to
34 initiate an action in a court of competent jurisdiction to use the power of eminent domain to
35 acquire a parcel within the eligible project area. Condemnation proceedings shall include any
36 and all actions taken after the submission of a notice of intended acquisition to an owner of a
37 parcel within the eligible project area by a municipal authority or any other person or entity under
38 section 523.250;

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

40 (6) "Economic incentive laws", any provision of Missouri law pursuant to which
41 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,
42 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment
43 projects approved or adopted which include the use of economic incentives to redevelop the land.
44 Economic incentive laws include, but are not limited to, the land clearance for redevelopment
45 authority law under sections 99.300 to 99.660, the real property tax increment allocation
46 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic
47 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation
48 program under sections 99.1080 to 99.1092;

49 (7) "Eligible parcel", a parcel:

50 (a) Which is located within an eligible project area;

51 (b) Which is to be redeveloped;

52 (c) On which the applicant has not commenced construction prior to November 28, 2007;

53 (d) Which has been acquired **either directly by the applicant, or on behalf of the**
54 **applicant through one or more affiliated companies controlled by the applicant or under**
55 **common ownership with the applicant;**

56 (e) **Which has been acquired** without the commencement of any condemnation
57 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel
58 acquired **before August 28, 2007**, by the applicant from a municipal authority shall not
59 constitute an eligible parcel; and

60 [(e)] (f) On which all outstanding taxes, fines, and bills levied by municipal governments
61 that were levied by the municipality during the time period that the applicant held title to the
62 eligible parcel have been paid in full;

63 (8) "Eligible project area", an area which shall have satisfied the following requirements:

64 (a) The eligible project area shall consist of at least seventy-five acres and may include
65 parcels within its boundaries that do not constitute an eligible parcel;

66 (b) At least eighty percent of the eligible project area shall be located within a Missouri
67 qualified census tract area, as designated by the United States Department of Housing and Urban
68 Development under 26 U.S.C. Section 42, or within a distressed community as that term is
69 defined in section 135.530.

70 (c) **Any area including and within one quarter mile of property formerly utilized**
71 **by the state of Missouri as a penitentiary located in any home rule city with more than**
72 **forty-one thousand but fewer than forty-seven thousand inhabitants and partially located**
73 **in any county of the first classification with more than seventy thousand but fewer than**
74 **eighty-three thousand inhabitants.**

75 [(c)] (d) The eligible parcels acquired by the applicant within the eligible project area
76 shall total at least fifty acres, which may consist of contiguous and noncontiguous parcels, **but,**
77 **for purposes of calculating such fifty acre minimum, shall not include any parcel acquired**
78 **by the applicant from a municipal authority;**

79 [(d)] (e) The average number of parcels per acre in an eligible project area shall be four
80 or more;

81 [(e)] (f) Less than five percent of the acreage within the boundaries of the eligible project
82 area shall consist of owner-occupied residences which the applicant has identified for acquisition
83 under the urban renewal plan or the redevelopment plan pursuant to which the applicant was

84 appointed or selected as the redeveloper or by which the person or entity was qualified as an
85 applicant under this section on the date of the approval or adoption of such plan;

86 (9) "Interest costs", interest, loan fees, and closing costs, **any of which relate to or arise**
87 **out of loans relating to acquisition costs, including without limitation, interest, loan fees,**
88 **and closing costs associated with the refinancing of loans relating to acquisition costs.**
89 Interest costs shall not include attorney's fees;

90 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of
91 removing trash, and costs of cutting grass and weeds;

92 (11) "Municipal authority", any city, town, village, county, public body corporate and
93 politic, political subdivision, or land trust of this state established and authorized to own land
94 within the state;

95 (12) "Municipality", any city, town, village, or county;

96 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or
97 recorded as the property of, one or more persons or entities;

98 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan
99 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible
100 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or
101 eliminated by redevelopment or rehabilitation; and

102 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement
103 into which the applicant entered with a municipal authority and which is the agreement for the
104 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant
105 was appointed or selected as the redeveloper or by which the person or entity was qualified as
106 an applicant under this section; and such appointment or selection shall have been approved by
107 an ordinance of the governing body of the municipality, or municipalities, or in the case of any
108 city not within a county, the board of aldermen, in which the eligible project area is located. The
109 redevelopment agreement shall include a time line for redevelopment of the eligible project area,
110 **including deadlines for commencement of work and for project completion, and shall**
111 **provide the municipal authority the right to terminate the rights of the redeveloper under**
112 **the redevelopment agreement if such deadlines are not met.** The redevelopment agreement
113 shall state that the named developer shall be subject to the provisions of chapter 290.

114 3. **Subject to the limitations provided in subsection 7 of this section,** any applicant
115 shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148,
116 except for sections 143.191 to 143.265, in an amount equal to fifty percent of the acquisition
117 costs, and one hundred percent of the interest costs incurred for a period of [five] **twelve** years
118 after the acquisition of an eligible parcel. [No tax credits shall be issued under this section until
119 after January 1, 2008.] **If the applicant has previously been issued tax credits with respect**

120 to acquisition costs or interest costs under any similar preceding statutory regime, the
121 applicant shall not be entitled to additional tax credits under this section for the same
122 acquisition costs or interest costs; provided that the applicant may be issued tax credits
123 under this section with respect to such acquisition costs or interest costs if and to the extent
124 that the applicant was not issued the full amount of tax credits to which the applicant was
125 entitled under such similar preceding statutory regime.

126 4. If the amount of such tax credit exceeds the total tax liability for the year in which the
127 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be
128 carried forward for credit against the taxes imposed under chapters 143, 147, and 148 for the
129 succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall
130 not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265. Applicants
131 entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits
132 granted to a partnership, a limited liability company taxed as a partnership, or multiple owners
133 of property shall be passed through to the partners, members, or owners respectively pro rata or
134 pursuant to an executed agreement among the partners, members, or owners documenting an
135 alternate distribution method.

136 5. A purchaser, transferee, or assignee of the tax credits authorized under this section may
137 use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise
138 imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265. A seller,
139 transferor, or assignor shall perfect such transfer by notifying the department in writing within
140 thirty calendar days following the effective date of the transfer and shall provide any information
141 as may be required by the department to administer and carry out the provisions of this section.

142 6. To claim tax credits authorized under this section, an applicant shall submit to the
143 department an application for a certificate. An applicant shall identify the boundaries of the
144 eligible project area in the application. The department shall verify that the applicant has
145 submitted a valid application in the form and format required by the department. The department
146 shall verify that the municipal authority held the requisite hearings and gave the requisite notices
147 for such hearings in accordance with the applicable economic incentive act, and municipal
148 ordinances. On [an annual] **a quarterly** basis, an applicant may file for the tax credit for the
149 acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this
150 section. If an applicant applying for the tax credit meets the criteria required under this section,
151 the department shall issue a certificate in the appropriate amount. If an applicant receives a tax
152 credit for maintenance costs as a part of the applicant's acquisition costs, the department shall
153 post on its internet website the amount and type of maintenance costs and a description of the
154 redevelopment project for which the applicant received a tax credit within thirty days after the
155 department issues the certificate to the applicant.

156 7. The total aggregate amount of tax credits authorized under this section shall not exceed
157 [ninety-five] **forty-eight** million dollars. At no time shall the annual amount of the tax credits
158 issued under this section exceed twenty million dollars. If the tax credits that are to be issued
159 under this section exceed, in any year, the twenty million dollar limitation, the department shall
160 either:

161 (1) Issue tax credits to the applicant in the amount of twenty million dollars, if there is
162 only one applicant entitled to receive tax credits in that year; or

163 (2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits
164 in that year **as provided in this subdivision. The department shall determine on an ongoing**
165 **basis during the course of each calendar year the amount of tax credits that have been**
166 **issued to each applicant for each eligible project area during such year and the amount of**
167 **tax credits remaining available for issuance with respect to such calendar year, if any.** Any
168 amount of tax credits, which an applicant is, or applicants are, entitled to receive on an annual
169 basis and are not issued due to the twenty million dollar limitation, shall be carried forward for
170 the benefit of the applicant or applicants to subsequent years. No tax credits provided under this
171 section shall be authorized after August 28, [2013] **2020**. Any tax credits which have been
172 authorized on or before August 28, [2013] **2020**, but not issued, may be issued, subject to the
173 limitations provided under this subsection, until all such authorized tax credits have been issued.

174 8. Upon issuance of any tax credits pursuant to this section, the department shall report
175 to the municipal authority the applicant's name and address, the parcel numbers of the eligible
176 parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for
177 which tax credits were issued, and the total value of the tax credits issued. The municipal
178 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but
179 shall include [the] **issued** tax credits in any **subsequent** sources and uses and cost benefit
180 analysis reviewed or created for the purpose of awarding other economic incentives. The amount
181 of the tax credits shall not be considered an applicant's cost in the evaluation of the amount of
182 any award of any other economic incentives, but shall be considered in measuring the
183 reasonableness of the rate of return to the applicant with respect to such award of other economic
184 incentives. The municipal authority shall provide the report to any relevant commission, board,
185 or entity responsible for the evaluation and recommendation or approval of other economic
186 incentives to assist in the redevelopment of the eligible project area. Tax credits authorized
187 under this section shall constitute redevelopment tax credits, as such term is defined under
188 section 135.800, and shall be subject to all provisions applicable to redevelopment tax credits
189 provided under sections 135.800 to 135.830.

190 9. **Following its initial application for tax credits under this section for eligible costs**
191 **incurred in 2014 or any following year and during the period it continues to seek tax**

credits under this section, an applicant shall submit to the department on a quarterly basis at the end of each calendar quarter a report affirming such applicant's continued qualification as an applicant under this section, describing the applicant's progress toward meeting the deadlines for commencement of work and for project completion established under its redevelopment agreement with the applicable municipal authority and including copies of any written notices from such municipal authority asserting or threatening a termination of such development agreement due to a breach or default in the performance of such applicant's obligations under such redevelopment agreement. The department shall review annually the eligibility of each applicant to receive tax credits under this section. The department shall not issue to an applicant any tax credits provided under this section after the date upon which the governing body of the municipality or municipalities, or in the case of any city not within a county, the board of aldermen, makes a finding that the applicant has failed to comply with deadlines regarding project commencement, completion, or other material provisions of its redevelopment agreement with an applicant, and in furtherance of such finding the governing body validly adopts an ordinance terminating its redevelopment agreement with the applicant with the result that such applicant no longer satisfies the requirements of paragraph (b) of subdivision (2) of subsection 2 of this section. The governing body shall notify the department of the governing body's findings and shall deliver to the department a certified copy of the ordinance terminating such redevelopment agreement as soon as practicable.

10. 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 36.010, 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, 2007, shall be invalid and void.

135.350. As used in this section, unless the context clearly requires otherwise, the following words and phrases shall mean:

(1) "Commission", the Missouri housing development commission, or its successor agency;

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

(3) "Eligibility statement", a statement authorized and issued by the commission certifying that a given project qualifies for the Missouri low-income housing tax credit. The commission shall promulgate rules establishing criteria upon which the eligibility statements will

9 be issued. The eligibility statement shall specify the amount of the Missouri low-income housing
10 tax credit allowed. The commission shall only authorize the tax credits to qualified projects
11 which begin after June 18, 1991;

12 (4) **"Federal credit period", the same meaning as is prescribed the term "credit**
13 **period" under section 42 of the 1986 Internal Revenue Code, as amended;**

14 (5) "Federal low-income housing tax credit", the federal tax credit as provided in section
15 42 of the 1986 Internal Revenue Code, as amended;

16 [(5)] (6) "Low-income project", a housing project which has restricted rents that do not
17 exceed thirty percent of median income for at least forty percent of its units occupied by persons
18 of families having incomes of sixty percent or less of the median income, or at least twenty
19 percent of the units occupied by persons or families having incomes of fifty percent or less of the
20 median income;

21 [(6)] (7) "Median income", those incomes which are determined by the federal
22 Department of Housing and Urban Development guidelines and adjusted for family size;

23 [(7)] (8) "Qualified Missouri project", a qualified low-income building as that term is
24 defined in section 42 of the 1986 Internal Revenue Code, as amended, which is located in
25 Missouri;

26 [(8)] (9) "Taxpayer", person, firm or corporation subject to the state income tax imposed
27 by the provisions of chapter 143 (except withholding imposed by sections 143.191 to 143.265)
28 or a corporation subject to the annual corporation franchise tax imposed by the provisions of
29 chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this
30 state, or other financial institution paying taxes to the state of Missouri or any political
31 subdivision of this state under the provisions of chapter 148, or an express company which pays
32 an annual tax on its gross receipts in this state.

135.352. 1. A taxpayer owning an interest in a qualified Missouri project shall, subject
2 to the limitations provided under the provisions of subsection 3 of this section, be allowed a state
3 tax credit, whether or not allowed a federal tax credit, to be termed the Missouri low-income
4 housing tax credit, if the commission issues an eligibility statement for that project.

5 2. For qualified Missouri projects placed in service after January 1, 1997, the Missouri
6 low-income housing tax credit available to a project shall be such amount as the commission
7 shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the
8 federal low-income housing tax credit for a qualified Missouri project, for a federal [tax] **credit**
9 period, and such amount shall be subtracted from the amount of state tax otherwise due for the
10 same tax period.

11 3. No more than six million dollars in tax credits shall be authorized each fiscal year
12 **ending on or before June 30, 2015**, for projects financed through tax-exempt bond issuance.

13 4. For purposes of the limitations provided under this subsection, the aggregate
14 amount of tax credits allowed over a federal credit period shall be attributed to the fiscal
15 year in which such credits are authorized by the commission for a qualified Missouri
16 project. For each fiscal year beginning on or after July 1, 2015, there shall be a four
17 million dollar cap on tax credit authorizations for projects that are financed through tax
18 exempt bond issuance. For projects that are not financed through tax exempt bond
19 issuance, the maximum amount of tax credits authorized shall be as follows:

20 (1) For fiscal year 2015, one hundred thirty million dollars;

21 (2) For fiscal year 2016, one hundred twenty-five million dollars;

22 (3) For fiscal year 2017, one hundred twenty million dollars;

23 (4) For fiscal year 2018, one hundred fifteen million dollars; and

24 (5) For the fiscal years beginning in 2019 and after, one hundred ten million dollars.

25 5. The Missouri low-income housing tax credit shall be taken against the taxes and in
26 the order specified pursuant to section 32.115. The credit authorized by this section shall not be
27 refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be
28 carried back to any of the taxpayer's three prior taxable years or carried forward to any of the
29 taxpayer's five subsequent taxable years. **For projects authorized on or after July 1, 2015, any**
30 **amount of credit that exceeds the tax due for a taxpayer's taxable year shall not be eligible**
31 **to be carried back but may be carried forward to any of the taxpayer's two subsequent**
32 **taxable years.**

33 [5.] 6. All or any portion of Missouri tax credits issued in accordance with the
34 provisions of sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant
35 to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified
36 projects which began on or after January 1, 1994, an owner of a qualified Missouri project shall
37 certify to the director the amount of credit allocated to each taxpayer. The owner of the project
38 shall provide to the director appropriate information so that the low-income housing tax credit
39 can be properly allocated.

40 [6.] 7. In the event that recapture of Missouri low-income housing tax credits is required
41 pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided
42 in this section shall include the proportion of the state credit required to be recaptured, the
43 identity of each taxpayer subject to the recapture and the amount of credit previously allocated
44 to such taxpayer.

45 8. A taxpayer that receives state tax credits under the provisions of sections 253.545
46 to 253.559 shall be ineligible to receive state tax credits under the provisions of sections
47 135.350 to 135.363 for the same project if such project is not financed through tax exempt
48 bond issuance.

49 [7.] 9. The director of the department may promulgate rules and regulations necessary
50 to administer the provisions of this section. No rule or portion of a rule promulgated pursuant
51 to the authority of this section shall become effective unless it has been promulgated pursuant
52 to the provisions of section 536.024.

135.1550. 1. Sections 135.1550 to 135.1575 shall be known and may be cited as the
2 "Missouri Export Incentive Act".

3 2. As used in sections 135.1550 to 135.1575, unless the context clearly requires
4 otherwise, the following terms shall mean:

5 (1) "Air export tax credit", the tax credit against the taxes imposed under chapters
6 143, 147, and 148, except for sections 143.191 to 143.265, to be issued by the department
7 to a claiming freight forwarder for the shipment of air cargo on a qualifying outbound
8 flight;

9 (2) "Airport", an airport which is owned and operated by a city located within this
10 state;

11 (3) "Chargeable kilo", the shipment of a kilo of freight as measured by the greater
12 of:

13 (a) Actual weight; or

14 (b) A dimensional weight, as determined by the conversion factors promulgated by
15 the International Air Transport Association, on a qualifying outbound flight;

16 (4) "Claiming freight forwarder", the freight forwarder designated as the "agent"
17 on the airway bill for the qualifying outbound flight for which such air export tax credit
18 is sought;

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

20 (6) "Direct international aircraft flight", a single aircraft transoceanic flight that
21 operates to an international destination in accordance with the operator's bilateral route
22 authority;

23 (7) "Freight forwarder", a person who assumes responsibility in the ordinary
24 course of business for the transportation of cargo from the place of receipt to the place of
25 destination, including the utilization of a qualifying outbound flight;

26 (8) "Qualifying outbound flight", a direct international aircraft flight from the
27 airport to an international destination that carries either all cargo or a mix of passengers
28 and cargo.

135.1555. 1. For all fiscal years beginning on or after July 1, 2014, a claiming
2 freight forwarder shall be entitled to an air export tax credit for the shipment of cargo on
3 a qualifying outbound flight in an amount equal to forty cents per chargeable kilo.

4 2. The department shall index, and the secretary of state shall publish in the
5 Missouri Register, the amount of the air export tax credits to adjust each year depending
6 upon fluctuations in the cost of fuel for over-the-road transportation.

135.1560. 1. To receive benefits provided under section 135.1555, a claiming freight
2 forwarder shall file an application with the department within one hundred twenty
3 calendar days of the date of shipment. The documentation to be presented by the claiming
4 freight forwarder in such an application shall consist of the master airway bill for the
5 shipment on the qualifying outbound flight for which the claiming freight forwarder is
6 seeking air export tax credits. The department shall establish procedures to allow claiming
7 freight forwarders that file applications for air export tax credits to receive such tax credits
8 within twenty business days of the filing of the application.

9 2. No tax credits provided under this section shall be authorized after June 30,
10 2022. Any tax credits authorized on or before June 30, 2022, but not issued, may be issued
11 until all such authorized tax credits have been issued.

135.1565. The total aggregate amount for air export tax credits authorized under
2 section 135.1555 shall not exceed sixty million dollars. The amount of the air export tax
3 credits issued under section 135.1555 shall not exceed three million six hundred thousand
4 dollars for each fiscal year beginning on or after July 1, 2014. The amount of tax credits
5 issued for each fiscal year thereafter shall not exceed eight million fifty-seven thousand
6 dollars.

135.1570. Tax credits granted to a partnership, a limited liability company taxed
2 as a partnership, or multiple owners of property shall be passed through to the partners,
3 members, or owners respectively pro rata or as determined under an executed agreement
4 among the partners, members, or owners documenting an alternate distribution method.

135.1575. 1. The department may promulgate rules to implement the provisions
2 of sections 135.1550 to 135.1575. Any rule or portion of a rule, as that term is defined in
3 section 536.010 that is created under the authority delegated in this section shall become
4 effective only if it complies with and is subject to all of the provisions of chapter 536, and,
5 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
6 the powers vested with the general assembly under chapter 536, to review, to delay the
7 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
8 then the grant of rulemaking authority and any rule proposed or adopted after the
9 effective date of this act, shall be invalid and void.

10 2. The provisions of section 23.253 of the Missouri sunset act notwithstanding:

11 (1) The provisions of the new programs authorized under sections 135.1550 to
12 135.1575 shall automatically sunset eight years after the effective date of this act, unless
13 reauthorized by an act of the general assembly;

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

17 (3) This section shall terminate on September first of the calendar year immediately
18 following the calendar year in which the programs authorized under sections 135.1550 to
19 135.1575 sunset.

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

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

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

10 (3) "County average wage", the average wage in each county as determined by the
11 department for the most recently completed full calendar year. However, if the computed
12 county average wage is above the statewide average wage, the statewide average wage shall
13 be deemed the county average wage for such county for the purpose of determining
14 eligibility;

15 (4) "Data storage center" or "facility", a facility constructed, extended, improved,
16 or operating under this section, provided that such business facility is engaged primarily
17 in:

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

19 (b) Internet publishing and broadcasting and web search portals (NAICS 519130),
20 at the business facility; or

21 (c) Customer service, customer contact, or customer support operations through
22 the use of computer databases and telecommunications services at the business facility;

23 (5) "Existing facility", a data storage center in this state as it existed prior to
24 August 28, 2014, as determined by the department;

25 (6) "Expanding facility" or "expanding data storage center", an existing facility
26 or replacement facility that expands its operations in this state on or after August 28, 2014,
27 and has a net new investment related to the expansion of operations in this state of at least

28 two million dollars during a period of up to twelve consecutive months and results in the
29 creation of at least two new jobs during a period of up to twenty-four consecutive months
30 from the date of conditional approval for an exemption under this section if the average
31 wage of the new jobs equals or exceeds one hundred and fifty percent of the county average
32 wage. An expanding facility shall continue to be an expanding facility regardless of a
33 subsequent change in or addition of operating taxpayers or constructing taxpayers;

34 (7) "Expanding facility project" or "expanding data storage center project", the
35 construction, extension, improvement, equipping, and operation of an expanding facility;

36 (8) "Investment" shall include the value of real and depreciable personal property
37 acquired as part of the new or expanding facility project which is used in the operation of
38 the facility following conditional approval of an exemption under this section;

39 (9) "NAICS", the 2007 edition of the North American Industry Classification
40 System as prepared by the Executive Office of the President, Office of Management and
41 Budget. Any NAICS sector, subsector, industry group, or industry identified in this section
42 shall include its corresponding classification in previous and subsequent federal industry
43 classification systems;

44 (10) "New facility" or "new data storage center", a facility in this state meeting the
45 following requirements:

46 (a) The facility is acquired by or leased to an operating taxpayer on or after August
47 28, 2014. A facility shall be deemed to have been acquired by or leased to an operating
48 taxpayer on or after August 28, 2014, if the transfer of title to an operating taxpayer, the
49 transfer of possession under a binding contract to transfer title to an operating taxpayer,
50 or the commencement of the term of the lease to an operating taxpayer occurs on or after
51 August 28, 2014, or, if the facility is constructed, erected, or installed by or on behalf of an
52 operating taxpayer, such construction, erection, or installation is commenced on or after
53 August 28, 2014;

54 (b) If such facility was acquired by an operating or constructing taxpayer from
55 another person or persons on or after August 28, 2014, and such facility was employed
56 prior to August 28, 2014, by any other person or persons in the operation of a data storage
57 center the facility shall not be considered a new facility;

58 (c) Such facility is not an expanding or replacement facility, as defined in this
59 section;

60 (d) The new facility project investment is at least five million dollars during a
61 period of up to thirty-six consecutive months from the date of the conditional approval for
62 an exemption under this section. If more than one taxpayer is responsible for a project,

63 the investment requirement may be met by an operating taxpayer, a constructing taxpayer,
64 or a combination of constructing taxpayers and operating taxpayers;

65 (e) At least five new jobs are created at the new facility during a period of up to
66 thirty-six consecutive months from the date of conditional approval for an exemption
67 under this section if the average wage of the new jobs equals or exceeds one hundred fifty
68 percent of the county average wage; and

69 (f) A new facility shall continue to be a new facility regardless of a subsequent
70 change in or addition of operating taxpayers or constructing taxpayers;

71 (11) "New data storage center project" or "new facility project", the construction,
72 extension, improvement, equipping, and operation of a new facility;

73 (12) "New job" in the case of a new data center project, the total number of full-
74 time employees located at a new data storage center for a period of up to thirty-six
75 consecutive months from the date of conditional approval for an exemption under this
76 section. In the case of an expanding data storage center project, the total number of full-
77 time employees located at the expanding data storage center that exceeds the greater of the
78 number of full-time employees located at the project facility on the date of the submission
79 of a project plan under this section or for the twelve-month period prior to the date of the
80 submission of a project plan, the average number of full-time employees located at the
81 expanding data storage center facility. In the event the expanding data storage center
82 facility has not been in operation for a full twelve-month period at the time of the
83 submission of a project plan, the average number of full-time employees for the number
84 of months the expanding data storage center facility has been in operation prior to the date
85 of the submission of the project plan;

86 (13) "Notice of intent", a form developed by the department of economic
87 development, completed by the project taxpayer, and submitted to the department which
88 states the project taxpayer's intent to construct or expand a data center and requests the
89 exemptions under this program;

90 (14) "Operating taxpayer", if more than one taxpayer is responsible for a project,
91 a taxpayer responsible for the equipping and ongoing operations of the facility, as opposed
92 to a taxpayer responsible for the purchasing or construction of the facility;

93 (15) "Project taxpayers", each constructing taxpayer and each operating taxpayer
94 for a data storage center project;

95 (16) "Replacement facility", a facility in this state otherwise described in
96 subdivision (7) of this subsection, but which replaces another facility located within the
97 state, which the taxpayer or a related taxpayer previously operated but discontinued

98 operating within one year prior to the commencement of commercial operations at the new
99 facility;

100 (17) "Taxpayer", the purchaser of tangible personal property or a service that is
101 subject to state or local sales or use tax and from whom state or local sales or use tax is
102 owed. Taxpayer shall not mean the seller charged by law with collecting the sales tax from
103 the purchaser.

104 2. In addition to the exemptions granted under chapter 144, project taxpayers for
105 a new data storage center project shall be entitled, for a project period not to exceed fifteen
106 years from the date of conditional approval under this section and subject to the
107 requirements of subsection 3 of this section, to an exemption of one hundred percent of the
108 state and local sales and use taxes defined, levied, or calculated under section 32.085,
109 sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, limited to the
110 net fiscal benefit of the state calculated over a ten year period, on:

111 (1) All electrical energy, gas, water, and other utilities including telecommunication
112 and internet services used in a new data storage center;

113 (2) All machinery, equipment, and computers used in any new data storage center;
114 and

115 (3) All sales at retail of tangible personal property and materials for the purpose
116 of constructing any new data storage center.

117

118 The amount of any exemption provided under this subsection shall not exceed the
119 projected net fiscal benefit to the state over a period of ten years as determined by the
120 department of economic development.

121 3. (1) Any data storage center project seeking a tax exemption under subsection
122 2 of this section shall submit a notice of intent and a project plan to the department of
123 economic development, which shall identify each known constructing taxpayer and known
124 operating taxpayer for the project and include any additional information the department
125 of economic development may require to determine eligibility for the exemption. The
126 department of economic development shall review the project plan and determine whether
127 the project is eligible for the exemption under subsection 2 of this section, conditional upon
128 subsequent verification by the department that the project meets the requirements in
129 subsection 1 of this section for a new facility project. The department shall make such
130 conditional determination within thirty days of submission by the operating taxpayer.
131 Failure of the department to respond within thirty days shall result in a project plan being
132 deemed conditionally approved.

(2) The department of economic development shall convey conditional approvals to the department of revenue and the identified project taxpayers. After a conditionally approved new facility has met the requirements in subsection 1 of this section for a new facility and the execution of the agreement specified in subsection 6 of this section, the project taxpayers shall provide proof of the same to the department of economic development. Upon verification of such proof, the department of economic development shall certify the new facility to the department of revenue as being eligible for the exemption dating retroactively to the first day of construction on the new facility. The department of revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day of construction, shall issue a refund of taxes paid but eligible for exemption under subsection 2 of this section to each operating taxpayer and each constructing taxpayer and issue a certificate of exemption to each new project taxpayer for ongoing exemptions under subsection 2 of this section. The department of revenue shall issue such a refund within thirty days of receipt of certification from the department of economic development.

(3) Any project that does not meet the minimum investment or new job requirements of subsection 1 of this section may still be eligible for the exemption under subsection 2 of this section, as long as the exemptions for such project plan do not exceed the projected net fiscal benefit to the state over a period of ten years.

(4) The commencement of the exemption period may be delayed at the option of the operating taxpayer but not more than twenty-four months after the execution of the agreement required under subsection 6 of this section.

4. In addition to the exemptions granted under chapter 144, upon approval by the department of economic development, project taxpayers for expanding data center projects may for a period not to exceed ten years be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235 on:

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

(2) All machinery, equipment, and computers used in any expanding data storage center; and

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

171
172 The amount of any exemption provided under this subsection shall not exceed the
173 projected net fiscal benefit to the state over a period of ten years as determined by the
174 department of economic development.

175 5. (1) Any data storage center project seeking a tax exemption under subsection
176 4 of this section shall submit a notice of intent and a project plan to the department of
177 economic development which shall identify each known constructing taxpayer and each
178 known operating taxpayer for the project and include any additional information the
179 department of economic development may reasonably require to determine eligibility for
180 the exemption. The department of economic development shall review the project plan and
181 determine whether the project is eligible for the exemption under subsection 4 of this
182 section, conditional upon subsequent verification by the department that the project meets
183 the requirements in subsection 1 of this section for an expanding facility project and the
184 execution of the agreement specified in subsection 6 of this section. The department shall
185 make such conditional determination within thirty days of submission by the operating
186 taxpayer. Failure of the department to respond within thirty days shall result in a project
187 plan being deemed conditionally approved.

188 (2) The department of economic development shall convey such conditional
189 approval to the department of revenue and the identified project taxpayers. After a
190 conditional approved facility has met the requirements in subsection 1 of this section, the
191 project taxpayers shall provide proof of the same to the department of economic
192 development. Upon verification of such proof, the department of economic development
193 shall certify the project to the department of revenue as being eligible for the exemption
194 dating retroactively to the first day of the expansion of the facility. The department of
195 revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day
196 of the expansion of the facility, shall issue a refund of taxes paid but eligible for exemption
197 under subsection 4 of this section to any applicable project taxpayer and issue a certificate
198 of exemption to any applicable project taxpayer for ongoing exemptions under subsection
199 4 of this section. The department of revenue shall issue such a refund within thirty days
200 of receipt of certification from the department of economic development.

201 (3) Any project that does not meet the minimum investment or new job
202 requirements of subsection 1 of this section may still be eligible for the exemption under
203 subsection 4 of this section, as long as the exemptions for such project plan do not exceed
204 the projected net fiscal benefit to the state over a period of ten years.

(4) The commencement of the exemption period may be delayed at the option of the operating taxpayer, but not more than twenty-four months after the execution of the agreement required under subsection 6 of this section.

6. (1) The 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.

(2) As a condition of receiving an exemption under subsection 2 or 4 of this section, the project taxpayers shall enter into an agreement with the department of economic development providing for repayment penalties in the event the data storage center project fails to comply with any of the requirements of this section.

(3) The department of revenue shall credit any amounts remitted by the project taxpayers under this subsection to the fund to which the sales and use taxes exempted would have otherwise been credited.

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

8. Notwithstanding any other provision of law to the contrary, no recipient of an exemption under this section shall be eligible for benefits under any business recruitment tax credit, as defined in section 135.800.

9. 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 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 August 28, 2014, shall be invalid and void.

239 **10. This section shall terminate on September 1, 2020. The termination of this**
240 **section shall not be construed to limit or in any way impair the exemption for any project**
241 **approved prior to the termination of this section.**

253.545. As used in sections 253.545 to 253.559, the following terms mean, unless the
2 context requires otherwise:

3 (1) "Certified historic structure", a property located in Missouri and listed individually
4 on the National Register of Historic Places;

5 (2) "Deed in lieu of foreclosure or voluntary conveyance", a transfer of title from a
6 borrower to the lender to satisfy the mortgage debt and avoid foreclosure;

7 (3) "Eligible property", property located in Missouri and offered or used for residential
8 or business purposes;

9 (4) "Leasehold interest", a lease in an eligible property for a term of not less than thirty
10 years;

11 (5) "Principal", a managing partner, general partner, or president of a taxpayer;

12 (6) "Structure in a certified historic district", a structure located in Missouri which is
13 certified by the department of natural resources as contributing to the historic significance of a
14 certified historic district listed on the National Register of Historic Places, or a local district that
15 has been certified by the United States Department of the Interior;

16 (7) "Taxpayer", any person, firm, partnership, trust, estate, limited liability company, or
17 corporation;

18 **(8) "Total costs and expenses of rehabilitation", all costs and expenses related to**
19 **the rehabilitation of eligible property that is a certified historic structure or a structure in**
20 **a certified historic district including, but not limited to, qualified rehabilitation**
21 **expenditures as defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as**
22 **amended, and any related regulations promulgated under such section. Such costs and**
23 **expenses shall include, but not be limited to, rehabilitation work in progress, accrued**
24 **developer fees, and costs and expenses related to rehabilitation incurred at the taxpayers**
25 **own risk up to one year before the date of submission of a preliminary application under**
26 **section 253.559. Provided however, that accrued developer fees shall only be considered**
27 **"total costs and expenses of rehabilitation" if an agreement or other contractual document**
28 **provides for the payment of such fees within no more than six years of completion of the**
29 **rehabilitation.**

253.550. 1. Any taxpayer incurring costs and expenses for the rehabilitation of eligible
2 property, which is a certified historic structure or structure in a certified historic district, [may]
3 **shall**, subject to the provisions of this section and section 253.559, receive a credit against the
4 taxes imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265, on such

5 taxpayer in an amount equal to twenty-five percent of the total costs and expenses of
6 rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified
7 rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code
8 of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs
9 associated with rehabilitation and the expenses exceed fifty percent of the total basis in the
10 property and the rehabilitation meets standards consistent with the standards of the Secretary of
11 the United States Department of the Interior for rehabilitation as determined by the state historic
12 preservation officer of the Missouri department of natural resources. **The department of**
13 **economic development shall determine the total costs and expenses of rehabilitation under**
14 **subsection 7 of section 253.559, but in no case shall such total costs and expenses of**
15 **rehabilitation be defined more narrowly than qualified rehabilitation expenditures as**
16 **defined in Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and any**
17 **related regulations promulgated under such section, as required by section 253.545.**

18 2. During the period beginning on January 1, 2010, but ending on or after June 30, 2010,
19 the department of economic development shall not approve applications for tax credits under the
20 provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed seventy
21 million dollars, increased by any amount of tax credits for which approval shall be rescinded
22 under the provisions of section 253.559. For each fiscal year beginning on or after July 1, 2010,
23 **but ending on or before June 30, 2015**, the department of economic development shall not
24 approve applications for tax credits under the provisions of subsections 3 and 8 of section
25 253.559 which, in the aggregate, exceed one hundred forty million dollars, increased by any
26 amount of tax credits for which approval shall be rescinded under the provisions of section
27 253.559. The limitations provided under this subsection shall not apply to applications approved
28 under the provisions of subsection 3 of section 253.559 for projects to receive less than two
29 hundred seventy-five thousand dollars in tax credits.

30 3. For all applications for tax credits approved on or after January 1, 2010, **but before**
31 **July 1, 2015**, no more than two hundred fifty thousand dollars in tax credits may be issued for
32 eligible costs and expenses incurred in the rehabilitation of an eligible property which is a
33 nonincome producing single-family, owner-occupied residential property and is either a certified
34 historic structure or a structure in a certified historic district.

35 4. The limitations on tax credit authorization provided under the provisions of
36 subsections 2 and 3 of this section shall not apply to:

37 (1) Any application submitted by a taxpayer, which has received approval from the
38 department prior to January 1, 2010; or

39 (2) Any taxpayer applying for tax credits, provided under this section, which, on or
40 before January 1, 2010, has filed an application with the department evidencing that such
41 taxpayer:

42 (a) Has incurred costs and expenses for an eligible property which exceed the lesser of
43 five percent of the total project costs or one million dollars and received an approved Part I from
44 the Secretary of the United States Department of Interior; or

45 (b) Has received certification, by the state historic preservation officer, that the
46 rehabilitation plan meets the standards consistent with the standards of the Secretary of the
47 United States Department of the Interior, and the rehabilitation costs and expenses associated
48 with such rehabilitation shall exceed fifty percent of the total basis in the property.

49 **5. For each fiscal year beginning on or after July 1, 2015, the department of**
50 **economic development shall not approve applications for tax credits under the provisions**
51 **of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed ninety million**
52 **dollars, increased by any amount of tax credits for which approval shall be rescinded**
53 **under the provisions of section 253.559. The limitations provided under this subsection**
54 **shall not apply to applications approved under the provisions of subsection 3 of section**
55 **253.559 for projects to receive less than two hundred seventy-five thousand dollars in tax**
56 **credits.**

57 **6. For all applications for tax credits approved on or after July 1, 2015, no more**
58 **than one hundred twenty-five thousand dollars in tax credits may be issued for eligible**
59 **costs and expenses incurred in the rehabilitation of an eligible property which is a**
60 **nonincome producing single-family, owner-occupied residential property and is either a**
61 **certified historic structure or a structure in a certified historic district.**

62 **7. In lieu of the limitations on tax credit authorization provided under the**
63 **provisions of subsections 5 and 6 of this section, the limitations on tax credit authorization**
64 **provided under the provisions of subsections 2 and 3 of this section shall apply to:**

65 **(1) Any application submitted by a taxpayer which has received approval from the**
66 **department prior to July 1, 2015; or**

67 **(2) Any application for tax credits provided under this section for a project which**
68 **on or before July 1, 2015:**

69 (a) Received an approved Part I from the Secretary of the United States
70 Department of Interior and has incurred costs and expenses for an eligible property which
71 exceed the lesser of fifteen percent of the total project costs or three million dollars; or

72 (b) Has received certification by the state historic preservation officer that the
73 rehabilitation plan meets the standards consistent with the standards of the Secretary of
74 the United States Department of the Interior, and the rehabilitation costs and expenses

75 associated with such rehabilitation would, upon completion, be expected to exceed fifty
76 percent of the total basis in the property.

77 8. For each fiscal year beginning on or after July 1, 2015, the department of
78 economic development shall not approve applications for projects to receive less than two
79 hundred seventy-five thousand dollars in tax credits which, in the aggregate, exceed twenty
80 million dollars, increased by any amount of tax credits for which approval shall be
81 rescinded under the provisions of section 253.559. The limitations on tax credit
82 authorization provided under the provisions of this subsection shall not apply to:

83 (1) Any application submitted by a taxpayer, which has received approval from the
84 department prior to the July 1, 2015; or

85 (2) Any application for tax credits provided under this section for a project, which
86 on or before July 1, 2015:

87 (a) Received an approved Part I from the Secretary of the United States Department
88 of Interior and has incurred costs and expenses for an eligible property which exceed five
89 percent of the total project costs; or

90 (b) Has received certification, by the state historic preservation officer, that the
91 rehabilitation plan meets the standards consistent with the standards of the Secretary of
92 the United States Department of the Interior, and the rehabilitation costs and expenses
93 associated with such rehabilitation would, upon completion, be expected to exceed fifty
94 percent of the total basis in the property.

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in
2 which the rehabilitated property is placed in service, the amount that exceeds the state tax
3 liability may be carried back to any of the three preceding years and carried forward for credit
4 against the taxes imposed pursuant to chapter 143 and chapter 148, except for sections 143.191
5 to 143.265 for the succeeding ten years, or until the full credit is used, whichever occurs first.
6 Not-for-profit entities, including but not limited to corporations organized as not-for-profit
7 corporations pursuant to chapter 355 shall be ineligible for the tax credits authorized under
8 sections 253.545 [through 253.561] to 253.559. Any taxpayer that receives state tax credits
9 under the provisions of sections 135.350 to 135.363 for a project that is not financed
10 through tax exempt bonds issuance shall be ineligible for the state tax credits authorized
11 under sections 253.545 to 253.559 for the same project. Taxpayers eligible for such tax
12 credits may transfer, sell or assign the credits. Credits granted to a partnership, a limited liability
13 company taxed as a partnership or multiple owners of property shall be passed through to the
14 partners, members or owners respectively pro rata or pursuant to an executed agreement among
15 the partners, members or owners documenting an alternate distribution method.

16 2. The assignee of the tax credits, hereinafter the assignee for purposes of this
17 subsection, may use acquired credits to offset up to one hundred percent of the tax liabilities
18 otherwise imposed pursuant to chapter 143 and chapter 148, except for sections 143.191 to
19 143.265. The assignor shall perfect such transfer by notifying the department of economic
20 development in writing within thirty calendar days following the effective date of the transfer
21 and shall provide any information as may be required by the department of economic
22 development to administer and carry out the provisions of this section.

 253.559. 1. To obtain approval for tax credits allowed under sections 253.545 to
2 253.559, a taxpayer shall submit an application for tax credits to the department of economic
3 development. Each application for approval, including any applications received for
4 supplemental allocations of tax credits as provided under subsection 8 of this section, shall be
5 prioritized for review and approval, in the order of the date on which the application was
6 postmarked, with the oldest postmarked date receiving priority. Applications postmarked on the
7 same day shall go through a lottery process to determine the order in which such applications
8 shall be reviewed.

9 2. Each application shall be reviewed by the department of economic development for
10 approval. In order to receive approval, an application, other than applications submitted under
11 the provisions of subsection 8 of this section, shall include:

12 (1) Proof of ownership or site control. Proof of ownership shall include evidence that
13 the taxpayer is the fee simple owner of the eligible property, such as a warranty deed or a closing
14 statement. Proof of site control may be evidenced by a leasehold interest or an option to acquire
15 such an interest. If the taxpayer is in the process of acquiring fee simple ownership, proof of site
16 control shall include an executed sales contract or an executed option to purchase the eligible
17 property;

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

20 (3) The estimated cost of rehabilitation, the anticipated total costs of the project, the
21 actual basis of the property, as shown by proof of actual acquisition costs, the anticipated total
22 labor costs, the estimated project start date, and the estimated project completion date;

23 (4) Proof that the property is an eligible property and a certified historic structure or a
24 structure in a certified historic district, **or evidence that the taxpayer has submitted the**
25 **necessary documentation to qualify the property as an eligible property and a certified**
26 **historic structure or as a structure in a certified historic district. A final determination of**
27 **such qualifications shall not be a prerequisite for approval of the application or the**
28 **incurrence of eligible costs; and**

29 (5) Any other information which the department of economic development may
30 reasonably require to review the project for approval. Only the property for which a property
31 address is provided in the application shall be reviewed for approval. Once selected for review,
32 a taxpayer shall not be permitted to request the review of another property for approval in the
33 place of the property contained in such application. Any disapproved application shall be
34 removed from the review process. If an application is removed from the review process, the
35 department of economic development shall notify the taxpayer in writing of the decision to
36 remove such application. Disapproved applications shall lose priority in the review process. A
37 disapproved application, which is removed from the review process, may be resubmitted, but
38 shall be deemed to be a new submission for purposes of the priority procedures described in this
39 section.

40 3. If the department of economic development deems the application sufficient, the
41 taxpayer shall be notified in writing of the approval for an amount of tax credits equal to the
42 amount provided under section 253.550 less any amount of tax credits previously approved.
43 Such approvals shall be granted to applications in the order of priority established under this
44 section and shall require full compliance thereafter with all other requirements of law as a
45 condition to any claim for such credits. **Notwithstanding any provision of law to the**
46 **contrary, a determination of the department of economic development, in consultation with**
47 **the department of natural resources, as to whether the completed rehabilitation meets the**
48 **standards of the Secretary of the United States Department of the Interior for**
49 **rehabilitation as determined by the state historic preservation officer of the department**
50 **of natural resources under subsection 7 of this section, shall not be required for the**
51 **department of economic development to approve an application under this subsection.**

52 4. Following approval of an application, the identity of the taxpayer contained in such
53 application shall not be modified except:

54 (1) The taxpayer may add partners, members, or shareholders as part of the ownership
55 structure, so long as the principal remains the same, provided however, that subsequent to the
56 commencement of renovation and the expenditure of at least ten percent of the proposed
57 rehabilitation budget, removal of the principal for failure to perform duties and the appointment
58 of a new principal thereafter shall not constitute a change of the principal; or

59 (2) Where the ownership of the project is changed due to a foreclosure, deed in lieu of
60 a foreclosure or voluntary conveyance, or a transfer in bankruptcy. **Upon any such change in**
61 **ownership, the taxpayer contained in such application, or any successor owner of the**
62 **project, shall notify the department of such change.**

63 5. In the event that the department of economic development grants approval for tax
64 credits equal to the **applicable** total amount available under subsection 2 **or 5** of section 253.550,

65 or sufficient that when totaled with all other approvals, the **applicable** amount available under
66 subsection 2 **or 5** of section 253.550 is exhausted, all taxpayers with applications then awaiting
67 approval or thereafter submitted for approval shall be notified by the department of economic
68 development that no additional approvals shall be granted during the fiscal year and shall be
69 notified of the priority given to such taxpayer's application then awaiting approval. Such
70 applications shall be kept on file by the department of economic development and shall be
71 considered for approval for tax credits in the order established in this section in the event that
72 additional credits become available due to the rescission of approvals or when a new fiscal year's
73 allocation of credits becomes available for approval.

74 6. All taxpayers with applications receiving approval on or after the effective date of this
75 act shall commence rehabilitation within two years of the date of issuance of the letter from the
76 department of economic development granting the approval for tax credits. "Commencement
77 of rehabilitation" shall mean that as of the date in which actual physical work, contemplated by
78 the architectural plans submitted with the application, has begun, the taxpayer has incurred no
79 less than ten percent of the estimated costs of rehabilitation provided in the application.
80 Taxpayers with approval of a project shall submit evidence of compliance with the provisions
81 of this subsection. If the department of economic development determines that a taxpayer has
82 failed to comply with the requirements provided under this section, the approval for the amount
83 of tax credits for such taxpayer shall be rescinded and such amount of tax credits shall then be
84 included in the **applicable** total amount of tax credits, provided under subsection 2 **or 5** of
85 section 253.550, from which approvals may be granted. Any taxpayer whose approval shall be
86 subject to rescission shall be notified of such from the department of economic development and,
87 upon receipt of such notice, may submit a new application for the project.

88 7. To claim the credit authorized under sections 253.550 to 253.559, a taxpayer with
89 approval shall apply for final approval and issuance of tax credits from the department of
90 economic development [which,] . **Such application for final approval and issuance of tax**
91 **credits shall include a cost and expense certification prepared by a licensed certified public**
92 **accountant that is not an affiliate of the applicant certifying the total costs and expenses**
93 **of rehabilitation and the total amount of tax credits for which such taxpayer is eligible**
94 **under sections 253.550 to 253.559. Cost and expense certifications required under this**
95 **section shall separately state any accrued developer fees. No later than forty-five calendar**
96 **days following receipt of a taxpayer's application for final approval and issuance of tax**
97 **credits, the department of economic development shall determine,** in consultation with the
98 department of natural resources, [shall determine the final amount of eligible rehabilitation costs
99 and expenses and] whether the completed rehabilitation meets the standards of the Secretary of
100 the United States Department of the Interior for rehabilitation [as determined by the state historic

101 preservation officer of the Missouri department of natural resources]. **If the completed**
102 **rehabilitation meets such standards, the department of economic development shall within**
103 **forty-five calendar days following the receipt of the taxpayer's application for final**
104 **approval and tax credit issuance inform such taxpayer of its initial determination by letter**
105 **and issue such taxpayer an initial tax credit issuance. A taxpayer receiving an initial tax**
106 **credit issuance shall receive tax credit certificates in an amount equal to the lesser of**
107 **seventy-five percent of the total amount of tax credits for which the taxpayer is eligible**
108 **under sections 253.550 to 253.559, as certified in the cost and expense certification, or the**
109 **amount of tax credits approved for such project under subsection 3 of this section. Within**
110 **one hundred and twenty calendar days following receipt of a taxpayer's application for**
111 **final approval and tax credit issuance, the department shall determine the final amount of**
112 **eligible rehabilitation costs and expenses. For a taxpayer receiving an initial tax credit**
113 **issuance, no later than one hundred and twenty calendar days following receipt of such**
114 **taxpayer's application for final approval and tax credit issuance, the department shall**
115 **notify such taxpayer of its final determination by letter and issue such taxpayer tax credit**
116 **certificates in an amount equal to the lesser of the remaining amount of tax credits for**
117 **which such taxpayer is eligible to receive under sections 253.550 to 253.559, as determined**
118 **by the department, or the remaining amount of tax credits for which such taxpayer was**
119 **approved under subsection 3 of this section but not issued under the initial tax credit**
120 **issuance. If the department of economic development determines that the amount of tax**
121 **credits issued to a taxpayer in the initial tax credit issuance is in excess of the total amount**
122 **of tax credits such taxpayer is eligible to receive under sections 253.550 to 253.559, the**
123 **department shall notify such taxpayer and such taxpayer shall repay the state an amount**
124 **equal to such excess. For financial institutions credits authorized pursuant to sections 253.550**
125 **to [253.561] 253.559 shall be deemed to be economic development credits for purposes of**
126 **section 148.064. The approval of all applications and the issuing of certificates of eligible credits**
127 **to taxpayers shall be performed by the department of economic development. [The department**
128 **of economic development shall inform a taxpayer of final approval by letter and shall issue, to**
129 **the taxpayer, tax credit certificates.] The taxpayer shall attach the certificate to all Missouri**
130 **income tax returns on which the credit is claimed. Taxpayers which receive tax credit**
131 **certificates under sections 253.550 to 253.559, attributable to accrued developer fees shall,**
132 **within six years of completion of rehabilitation, submit an additional cost and expense**
133 **certification verifying the total amount of developer fees actually accrued and paid. To the**
134 **extent the amount of developer fees contained in a taxpayer's cost and expense certification**
135 **included with such taxpayers application for final approval and tax credit issuance exceeds**
136 **the amount of developer fees actually accrued and paid, as evidenced by the additional cost**

137 **and expense certification, such taxpayer shall repay to the state an amount equal to twenty-**
138 **five percent of such excess.**

139 8. Except as expressly provided in this subsection, tax credit certificates shall be issued
140 in the final year that costs and expenses of rehabilitation of the project are incurred, or within the
141 twelve-month period immediately following the conclusion of such rehabilitation. In the event
142 the amount of eligible rehabilitation costs and expenses incurred by a taxpayer would result in
143 the issuance of an amount of tax credits in excess of the amount provided under such taxpayer's
144 approval granted under subsection 3 of this section, such taxpayer may apply to the department
145 for issuance of tax credits in an amount equal to such excess. Applications for issuance of tax
146 credits in excess of the amount provided under a taxpayer's application shall be made on a form
147 prescribed by the department **and shall be substantially in the form of the department of**
148 **economic development form titled "Historic Preservation Tax Credit Program - Request**
149 **for Additional Credits" in effect by the effective date of this act.** Such applications shall be
150 subject to all provisions regarding priority provided under subsection 1 of this section.

151 9. The department of economic development shall determine, on an annual basis, the
152 overall economic impact to the state from the rehabilitation of eligible property.

153 **10. (1) Taxpayers or duly authorized representatives may appeal any official**
154 **decision, including all preliminary or final approvals and denials of approvals, made by**
155 **the department or the department of natural resources with regard to an application**
156 **submitted under sections 253.550 to 253.559 to an independent third-party appeals officer**
157 **designated by the department within fourteen days of receipt of the appeal by the**
158 **department. Such appeals under this section shall constitute an administrative review of**
159 **the decision from which appealed and shall not be conducted as an adjudicative**
160 **proceeding.**

161 **(2) Appeals shall be submitted to the designated appeals officer in writing within**
162 **thirty days of receipt by the taxpayer or the taxpayer's duly authorized representative of**
163 **the decision that is the subject of the appeal and shall include all information the appellant**
164 **wishes the appeals officer to consider in deciding the appeal.**

165 **(3) Within fourteen days of receipt of an appeal, the appeals officer shall notify the**
166 **department or the department of natural resources that an appeal is pending, identify the**
167 **decision being appealed, and forward a copy of the information submitted by the appellant.**
168 **The department or the department of natural resources may submit a written response to**
169 **the appeal within thirty days.**

170 **(4) The appellant shall be entitled to one meeting with the appeals officer to discuss**
171 **the appeal, but the appeals officer may schedule additional meetings at the officer's**

discretion. The department or the department of natural resources may appear at all meetings.

(5) The appeals officer shall consider the record of the decision in question, any further written submissions by the appellant, the department or the department of natural resources, and other available information and shall deliver a written decision to all parties as promptly as circumstances permit, but not later than ninety days after the initial receipt of an appeal by the appeals officer.

11. By no later than January 1, 2015, the department shall propose rules to implement the provisions of sections 253.550 to 253.559. Prior to proposing such rules, the department shall conduct a stakeholder process designed to solicit input from interested parties. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated herein 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 August 28, 2014, shall be invalid and void.

348.273. 1. This section and section 348.274 shall be known and may be cited as the "Missouri Angel Investment Incentive Act" and referred to herein as the "act."

2. As used in this section and section 348.274, the following terms mean:

(1) "Cash investment", money or money equivalent contribution;

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

(3) "Investor":

(a) A natural person who is an accredited investor as defined in 17 CFR 230.501(a)(5) or 230.501(a)(6), as in effect on August 28, 2014;

(b) A permitted entity investor who is an accredited investor as defined in 17 CFR 230.501(a)(8), as in effect on August 28, 2014; or

(c) A natural person or permitted entity investor making an investment who qualifies under the Jumpstart Our Business Startups (JOBS) Act, Pub.L.No. 112-106, as in effect on August 28, 2014.

The term "investor" shall not include any person who serves as an executive, officer, or employee of the business in which an otherwise qualified cash investment is made, and such person shall not qualify for the issuance of tax credits for such investment, provided,

18 however, an investor who serves solely as a director may qualify for the issuance of tax
19 credits;

20 (4) "Missouri innovation center", a Missouri center established under section
21 348.271 may provide assistance to technology-based business ventures;

22 (5) "MTC", the Missouri technology corporation, established under section
23 348.250;

24 (6) "Owner", any natural person who is, directly or indirectly, a partner,
25 stockholder, or member in a permitted entity investor;

26 (7) "Permitted entity investor", any general partnership, limited partnership,
27 corporation that has in effect a valid election to be taxed as an S corporation under the
28 Internal Revenue Code of 1986, as amended, revocable living trust, nonprofit corporation,
29 or limited liability company that has elected to be taxed as a partnership under the United
30 States Internal Revenue Code of 1986, as amended, and that was established and is
31 operated for the purpose of making investments in other entities;

32 (8) "Qualified knowledge-based company", a company engaged in the research,
33 development, implementation, and commercialization of innovative technologies, products,
34 and services for use in the commercial marketplace;

35 (9) "Qualified Missouri business", a Missouri business that is approved and
36 certified as a qualified knowledge-based company by the MTC that meets at least one of
37 the following criteria:

38 (a) Any business owned by an individual;

39 (b) Any partnership, association, or corporation domiciled in Missouri; or

40 (c) Any corporation, even if a wholly owned subsidiary of a foreign corporation,
41 that has its business operations located primarily in Missouri or does substantially all of
42 such business's production in Missouri;

43 (10) "Qualified securities", a cash investment through any one or more forms of
44 financial assistance as provided in this subdivision and that has been approved in form and
45 substance by the MTC, in coordination with the department by and through its service on
46 the MTC board of directors. Forms of such financial assistance include any form of equity,
47 such as:

48 (a) A general or limited partnership interest;

49 (b) Common stock;

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

52 (d) Any form of subordinate or convertible debt, or both, with warrants or other
53 means of equity conversion attached.

54 (11) "Tax credit", a credit against the tax otherwise due under chapter 143,
55 excluding withholding tax imposed by sections 143.191 to 143.265.

56 3. The primary goal of the Missouri angel investment incentive act shall be to
57 encourage individuals to provide early-stage financing for emerging qualified
58 knowledge-based companies in Missouri through the issuance of tax credits to qualified
59 investors who make cash investments for such early-stage financing.

60 4. (1) For all taxable years beginning on or after January 1, 2014, a tax credit shall
61 be allowed for an investor's cash investment in the qualified securities of a qualified
62 Missouri business occurring on or after August 28, 2014. The credit shall be in a total
63 amount equal to fifty percent of such investor's cash investment in any qualified Missouri
64 business, subject to the limitations set forth in this subsection. If the amount by which that
65 portion of the credit allowed by this section exceeds the investor's tax liability in any one
66 taxable year, the remaining portion of the credit may be carried forward five years or until
67 the total amount of the credit is used, whichever occurs first. If the investor is a permitted
68 entity investor, the credit provided by this section shall be claimed by the owners of the
69 permitted entity investor in proportion to their equity investment in the permitted entity
70 investor.

71 (2) A cash investment in a qualified security shall be deemed to have been made on
72 the date of acquisition of the qualified security, as such date is determined in accordance
73 with the provisions of the Internal Revenue Code of 1986, as amended.

74 (3) The department and the MTC shall not allow more than a total of fifty thousand
75 dollars in tax credits in a single year per investor for each qualified Missouri business or
76 a total of two hundred fifty thousand dollars in tax credits for a single year per investor.
77 No tax credits authorized by this section and section 348.274 shall be allowed for any cash
78 investments in qualified securities made in any year beginning after December 31, 2024.
79 The total amount of tax credits which may be allowed under this section shall not exceed
80 six million dollars during the 2014 tax year and each tax year thereafter. The balance of
81 unissued tax credits may be carried over for issuance in future years until December 31,
82 2024.

83 (4) At the beginning of each calendar year, the MTC shall equally designate the
84 total tax credits available during that calendar year to each region. At the beginning of
85 each calendar quarter, the MTC shall make available one-fourth of the total annual tax
86 credits for each region for investments made in qualified Missouri businesses located in
87 each such region. As soon as practicable at the end of each calendar quarter, the MTC
88 shall prepare and issue a report to the director of the department designating all tax credit

89 awards for that quarter, so that the department may issue such tax credits in accordance
90 with the provisions of this act.

91 (5) Notwithstanding subsection (4) above, any unissued tax credits allocated to any
92 region for any quarter may be reallocated and awarded in any other region in a following
93 quarter, provided however, in the fourth quarter any unissued tax credits may be
94 reallocated and awarded in that quarter in accordance with this section.

95 5. (1) Before an investor may be entitled to receive tax credits under this section and
96 section 348.274, such investor shall have made a cash investment in a qualified security of
97 a qualified Missouri business. The business shall have been approved as a qualified
98 Missouri business before the date on which the cash investment was made. To be
99 designated as a qualified Missouri business, a business shall apply to MTC.

100 (2) The application by a business shall be in the form and substance as required by
101 the MTC, in coordination with the department by and through its service on the MTC
102 board of directors, but shall include at least the following:

103 (a) The name of the business and certified copies of the organizational documents
104 of the business;

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

107 (c) A statement of the potential economic impact of the business, including the
108 number, location, and types of jobs expected to be created;

109 (d) A description of the qualified securities to be issued, the consideration to be paid
110 for the qualified securities, and the amount of any tax credits requested;

111 (e) A statement of the amount, timing, and projected use of the proceeds to be raised
112 from the proposed sale of qualified securities; and

113 (f) Such other information as may be reasonably requested.

114 (3) The designation of a business as a qualified Missouri business shall be made by
115 the MTC, and such designation shall be renewed annually. A business shall be so
116 designated if the MTC determines, based upon the application submitted by the business
117 and any additional information provided in connection with such application, that such
118 business meets the established criteria, which shall include at least the following:

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

121 (b) Businesses that are not deemed to be bioscience businesses shall have been in
122 operation for less than five years, and businesses determined to be bioscience businesses
123 shall have been in operation for less than ten years;

(c) The ability of investors in the business to receive tax credits for cash investments in qualified securities of the business is beneficial to advancing the goals of this act;

(d) The business shall not have ownership interests including, but not limited to, common or preferred shares of stock that can be traded via a public stock exchange before the date that a qualifying investment is made;

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

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

b. The provision of professional services, such as legal, accounting, or engineering services, provided, however, that contract research organizations, sometimes referred to as CROs, shall not be subject to this exclusion;

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

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

e. Insurance;

f. Construction, construction management, or contracting;

g. Business consulting or brokerage;

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

i. Any activity that is in violation of the law;

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

and

k. Any gambling-related business;

(f) The business has a reasonable chance of success;

(g) The business has the reasonable potential to create measurable employment within the region, this state, or both;

(h) The business is based on an innovative technology, product, or service designed to be used in the commercial marketplace;

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

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

(k) The business has the reasonable potential to address the needs and opportunities specific to the region, this state, or both;

(l) The business has made binding commitments to MTC for adequate reporting of financial data, including a requirement for an annual report, or, if required, an annual audit of the financial and operational records of the business, the right of access to the financial records of the business, the right of the department and MTC to record and publish normal and customary data and information related to the issuance of tax credits that are not otherwise determined to be trade or business secrets, and other such protections as may be in the best interest of Missouri taxpayers to achieve the goals of this act;

(m) The business shall satisfy all other requirements of this act; and

(n) This section and all referenced sections herein are subject to the provisions of section 196.1127.

(4) A qualified Missouri business shall have the burden of proof to demonstrate the qualifications of the business under this section.

348.274. 1. (1) The MTC is authorized to allocate tax credits to qualified Missouri businesses, and the department is authorized to issue tax credits to qualified investors in such qualified Missouri businesses. Such tax credits shall be allocated to those qualified Missouri businesses which, as determined by MTC, are most likely to provide the greatest economic benefit to the region or the state, or both. The MTC may allocate, and the department may issue, whole or partial tax credits in accordance with the report issued to the director of the department based on MTC's assessment of the qualified Missouri businesses. The MTC may consider numerous factors in such assessment including, but not limited to, the quality and experience of the management team, the size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model, and the quality and reasonableness of financial projections for the business.

(2) Each qualified Missouri business, for which the MTC has allocated tax credits such that the department can issue tax credits to the qualified investors of such qualified Missouri business, shall submit to the MTC a report before such tax credits are issued. Such report shall include the following:

(a) The name, address, and taxpayer identification number of each investor who has made cash investment in the qualified securities of the qualified Missouri business;

(b) Proof of such investment, including copies of the securities' purchase agreements and cancelled checks or wire transfer receipts; and

(c) Such other information as may be reasonably required under this act.

2. (1) The state of Missouri shall not be held liable for any damages to any investor that makes an investment in any qualified security of a qualified Missouri business, any

24 business that applies to be designated as a qualified Missouri business and is turned down,
25 or any investor that makes an investment in a business that applies to be designated as a
26 qualified Missouri business and is turned down.

27 (2) Each qualified Missouri business shall have the obligation to notify the MTC,
28 which shall notify the director of the department, of any changes in the qualifications of
29 the business or in the eligibility of investors to claim a tax credit for cash investment in a
30 qualified security.

31 (3) The director of the department, in cooperation with MTC, shall provide the
32 information specified in subdivision (3) of subsection 4 of this section to the director of the
33 department of revenue on an annual basis. The MTC shall conduct an annual review of the
34 activities undertaken under this section and section 348.273 to ensure that tax credits
35 issued under this section and section 348.273 are issued in compliance with the provisions
36 of this section and section 348.273 or rules and regulations promulgated by the MTC or the
37 department with respect to this section and section 348.273. The reasonable costs of the
38 annual review and other administrative work necessary or convenient to carry out the
39 provisions of this act shall be recovered by the MTC according to a reasonable fee schedule
40 adopted by the MTC in cooperation with the department by and through its service on the
41 MTC board of directors.

42 (4) If the MTC determines that a business is not in substantial compliance with the
43 requirements of this section and section 348.273 to maintain its designation, the
44 department or MTC, by written notice, may inform the business that such business will
45 lose its designation as a qualified Missouri business one hundred twenty days from the date
46 of mailing of the notice unless such business corrects the deficiencies and is once again in
47 compliance with the requirements for designation.

48 (5) At the end of the one hundred twenty-day period, if the qualified Missouri
49 business is still not in substantial compliance, the department or MTC may send a notice
50 of loss of designation to the business, the director of the department of revenue, and to all
51 known investors in the business.

52 (6) A business may lose its designation as a qualified Missouri business under this
53 section and section 348.273 by moving either its headquarters outside of Missouri or a
54 substantial number of the jobs created in Missouri to a location outside Missouri, within
55 ten years after receiving financial assistance under this section and section 348.273.

56 (7) In the event that a business loses its designation as a qualified Missouri business,
57 such business shall be precluded from being issued any additional tax credits with respect
58 to the business, shall be precluded from being approved as a qualified Missouri business,
59 and shall be subject to an appropriate clawback provision that MTC, in cooperation with

60 department by and through its service on the MTC board of directors, provides for in
61 connection with the administration of this act.

62 (8) Investors in a qualified Missouri business shall be entitled to keep all of the tax
63 credits properly issued to such investors under this section and section 348.273.

64 (9) The portions of documents and other materials submitted to the department or
65 MTC that contain confidential information shall be kept confidential and shall be
66 maintained in a secured environment. For the purposes of this section and section 348.273,
67 confidential information may include, but not be limited to, such portions of trade secrets,
68 documents, any customer lists, and other materials; any formula, compound, production
69 data, or compilation of information that will allow certain individuals within a commercial
70 concern using such portions of documents and other material the means to fabricate,
71 produce, or compound an article of trade; or any service having commercial value which
72 gives the user an opportunity to obtain a business advantage over competitors who do not
73 know or use such service.

74 (10) The department and MTC may prepare and adopt procedures, rules, and
75 publish guidelines concerning the performance of the duties placed upon each respective
76 entity by this section and section 348.273.

77 3. Any qualified investor who makes a cash investment in a qualified security of a
78 qualified Missouri business may transfer the tax credits such qualified investor may receive
79 under subsection 4 of section 348.273 to any natural person. Such transferee may claim the
80 tax credit against the transferee's Missouri income tax liability as provided in subdivision
81 (1) of subsection 4 of section 348.273, subject to all restrictions and limitations set forth in
82 this section and section 348.273. Only the full credit for any one investment shall be
83 transferred and this interest shall only be transferred one time. Documentation of any tax
84 credit transfer under this section shall be provided by the qualified investor in the manner
85 established by MTC and the department, by and through its service on the MTC board of
86 directors.

87 4. (1) Each qualified Missouri business for which tax credits have been issued under
88 this section and section 348.273 shall report to MTC on an annual basis, on or before
89 February first. MTC shall provide copies of the reports to the department under
90 appropriate confidentiality agreements as may be necessary under the circumstances. Such
91 reports shall include the following:

92 (a) The name, address, and taxpayer identification number of each investor who has
93 made a cash investment in the qualified securities of the qualified Missouri business and
94 has received tax credits for this investment during the preceding year;

95 (b) The amounts of cash investments by each investor and a description of the
96 qualified securities issued in consideration of such cash investments; and

97 (c) Such other information as may be reasonably required under this act.

98 (2) The MTC shall report quarterly to the director of the department on the
99 allocation of the tax credits in the preceding calendar quarter. Such reports shall include:

100 (a) The amount of applications received;

101 (b) The number and ratio of successful applications to unsuccessful applications;

102 (c) The amount of tax credits allocated but not issued in the previous quarter,
103 including what percentage was allocated to individuals and what percentage was allocated
104 to investment firms; and

105 (d) Such other information as reasonably agreed upon from time to time.

106 (3) The MTC and the department, as applicable, shall also report annually to the
107 governor; the director of the department of economic development; the president pro tem
108 of the senate; and the speaker of the house of representatives, on or before April first, on
109 the allocation and issuance of the tax credits. Such reports shall include:

110 (a) The amount of tax credits issued in the previous fiscal year, including what
111 percentage was issued to individuals and what percentage was issued to investment firms;

112 (b) The types of businesses that benefitted from the tax credits;

113 (c) The amount of allocated but unissued tax credits and the information about the
114 unissued tax credits set forth in subdivision (2) of this subsection;

115 (d) Any aggregate job creation or capital investment in the region that resulted from
116 the use of the tax credits for a period of five years beginning from the date on which the
117 tax credits were awarded;

118 (e) The manner in which the purpose of this section and section 348.273 has been
119 carried out with regard to a region;

120 (f) The total cash investments made for the purchase of qualified securities of
121 qualified Missouri businesses within each region during the preceding year and
122 cumulatively since the effective date of this section and section 348.273;

123 (g) An estimate of jobs created and jobs preserved by cash investments made in
124 qualified Missouri businesses within each region;

125 (h) An estimate of the multiplier effect on the economy of each region of the cash
126 investments made under this section and section 348.273;

127 (i) Information regarding what businesses deriving benefits from the tax credits
128 remained in the region, what businesses ceased business, what businesses were purchased,
129 and what businesses may have moved out of a region or the state.

130 **(4) Any violation of the reporting requirements of this subsection by a qualified**
131 **Missouri business may be grounds for the loss of designation of such qualified Missouri**
132 **business, and any such business that loses its designation as a qualified Missouri business**
133 **shall be subject to the restrictions upon loss of designation set forth in subsection 2 of this**
134 **section.**

135 **5. Sections 348.273 and 348.274 shall expire on December 31, 2024.**

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