

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 549, Page 1,
2 Section A, Line 3, by inserting immediately after all of said section and line the following:

3
4 "135.700. For all tax years beginning on or after January 1, 1999, but before January 1,
5 2019, a grape grower or wine producer shall be allowed a tax credit against the state tax liability
6 incurred pursuant to chapter 143, exclusive of the provisions relating to the withholding of tax as
7 provided in sections 143.191 to 143.265, in an amount equal to twenty-five percent of the purchase
8 price of all new equipment and materials used directly in the growing of grapes or the production of
9 wine in the state. Each grower or producer shall apply to the department of economic development
10 and specify the total amount of such new equipment and materials purchased during the calendar
11 year. The department of economic development shall certify to the department of revenue the
12 amount of such tax credit to which a grape grower or wine producer is entitled pursuant to this
13 section. The provisions of this section notwithstanding, a grower or producer may only apply for
14 and receive the credit authorized by this section for five tax periods.

15 135.800. 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited
16 as the "Tax Credit Accountability Act of 2004".

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

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

21 (2) "Agricultural tax credits", the agricultural product utilization contributor tax credit
22 created pursuant to section 348.430, the new generation cooperative incentive tax credit created
23 pursuant to section 348.432, the family farm breeding livestock loan tax credit created under section
24 348.505, the qualified beef tax credit created under section 135.679, and the wine and grape
25 production tax credit created pursuant to section 135.700;

26 (3) "All tax credit programs", or "any tax credit program", the tax credit programs included
27 in the definitions of agricultural tax credits, business recruitment tax credits, community
28 development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental
29 tax credits, financial and insurance tax credits, housing tax credits, redevelopment tax credits, and
30 training and educational tax credits;

31 (4) "Business recruitment tax credits", the business facility tax credit created pursuant to
32 sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant
33 to sections 135.200 to 135.270, the business use incentives for large-scale development programs
34 created pursuant to sections 100.700 to 100.850, the development tax credits created pursuant to
35 sections 32.100 to 32.125, the rebuilding communities tax credit created pursuant to section
36 135.535, the film production tax credit created pursuant to section 135.750, the enhanced enterprise

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1 zone created pursuant to sections 135.950 to 135.970, and the Missouri quality jobs program created
 2 pursuant to sections 620.1875 to 620.1900;

3 (5) "Community development tax credits", the neighborhood assistance tax credit created
 4 pursuant to sections 32.100 to 32.125, the family development account tax credit created pursuant to
 5 sections 208.750 to 208.775, the dry fire hydrant tax credit created pursuant to section 320.093, and
 6 the transportation development tax credit created pursuant to section 135.545;

7 (6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to
 8 section 135.460 and sections 620.1100 to 620.1103, the shelter for victims of domestic violence
 9 created pursuant to section 135.550, the senior citizen or disabled person property tax credit created
 10 pursuant to sections 135.010 to 135.035, the special needs adoption tax credit created pursuant to
 11 sections 135.325 to 135.339, the champion for children tax credit created pursuant to section
 12 135.341, the maternity home tax credit created pursuant to section 135.600, the surviving spouse tax
 13 credit created pursuant to section 135.090, the residential treatment agency tax credit created
 14 pursuant to section 135.1150, the pregnancy resource center tax credit created pursuant to section
 15 135.630, the food pantry tax credit created pursuant to section 135.647, the health care access fund
 16 tax credit created pursuant to section 135.575, the residential dwelling access tax credit created
 17 pursuant to section 135.562, the developmental disability care provider tax credit created under
 18 section 135.1180, and the shared care tax credit created pursuant to section 192.2015;

19 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400
 20 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529,
 21 the seed capital tax credit created pursuant to sections 348.300 to 348.318, the new enterprise
 22 creation tax credit created pursuant to sections 620.635 to 620.653, the research tax credit created
 23 pursuant to section 620.1039, the small business incubator tax credit created pursuant to section
 24 620.495, the guarantee fee tax credit created pursuant to section 135.766, and the new generation
 25 cooperative tax credit created pursuant to sections 32.105 to 32.125;

26 (8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section
 27 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, and the
 28 alternative fuel stations tax credit created pursuant to section 135.710;

29 (9) "Financial and insurance tax credits", the bank franchise tax credit created pursuant to
 30 section 148.030, the bank tax credit for S corporations created pursuant to section 143.471, the
 31 exam fee tax credit created pursuant to section 148.400, the health insurance pool tax credit created
 32 pursuant to section 376.975, the life and health insurance guaranty tax credit created pursuant to
 33 section 376.745, the property and casualty guaranty tax credit created pursuant to section 375.774,
 34 and the self-employed health insurance tax credit created pursuant to section 143.119;

35 (10) "Housing tax credits", the neighborhood preservation tax credit created pursuant to
 36 sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections 135.350
 37 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125;

38 (11) "Recipient", the individual or entity who is the original applicant for and who receives
 39 proceeds from a tax credit program directly from the administering agency, the person or entity
 40 responsible for the reporting requirements established in section 135.805;

41 (12) "Redevelopment tax credits", the historic preservation tax credit created pursuant to
 42 sections 253.545 to 253.559, the brownfield redevelopment program tax credit created pursuant to
 43 sections 447.700 to 447.718, the community development corporations tax credit created pursuant
 44 to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of
 45 section 100.286, the bond guarantee tax credit created pursuant to section 100.297, the disabled
 46 access tax credit created pursuant to section 135.490, ~~the new markets tax credit created pursuant to~~
 47 ~~section 135.680,~~ and the distressed areas land assemblage tax credit created pursuant to section
 48 99.1205;

1 (13) "Training and educational tax credits", the Missouri works new jobs tax credit and
2 Missouri works retained jobs credit created pursuant to sections 620.800 to 620.809.

3 447.708. 1. For eligible projects, the director of the department of economic development,
4 with notice to the directors of the departments of natural resources and revenue, and subject to the
5 other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may
6 decide that a prospective operator of a facility being remedied and renovated pursuant to sections
7 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to
8 135.150 and sections 135.200 to 135.257. The tax credits allowed pursuant to this subsection shall
9 be used to offset the tax imposed by chapter 143, excluding withholding tax imposed by sections
10 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax otherwise imposed by
11 chapter 148. No tax credit authorized under this subsection shall be issued after August 28, 2018.
12 For purposes of this subsection:

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

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

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

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

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

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

43 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1), (2)
44 and (3) of this subsection, it shall be required that at least ten new jobs be created and maintained
45 during the taxpayer's tax period for which the credits are earned, in the case of an eligible project
46 that does not replace a similar facility in Missouri. "New job" means a person who was not
47 previously employed by the taxpayer or related taxpayer within the twelve-month period
48 immediately preceding the time the person was employed by that taxpayer to work at, or in

1 connection with, the eligible project on a full-time basis. "Full-time basis" means the employee
2 works an average of at least thirty-five hours per week during the taxpayer's tax period for which
3 the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning
4 as defined in subdivision (10) of section 135.100;

5 (8) For the purpose of meeting the existing job retention requirement, if the eligible project
6 replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
7 period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs
8 be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's
9 tax period for which the credits are earned. "Retained job" means a person who was previously
10 employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed
11 elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are
12 earned, within the tax period immediately preceding the time the person was employed by the
13 taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time
14 basis" means the employee works an average of at least thirty-five hours per week during the
15 taxpayer's tax period for which the tax credits are earned;

16 (9) In the case where an eligible project replaces a similar facility that closed elsewhere in
17 Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the owner
18 and operator of the eligible project shall provide the director with a written statement explaining the
19 reason for discontinuing operations at the closed facility. The statement shall include a comparison
20 of the activities performed at the closed facility prior to the date the facility ceased operating, to the
21 activities performed at the eligible project, and a detailed account describing the need and rationale
22 for relocating to the eligible project. If the director finds the relocation to the eligible project
23 significantly impaired the economic stability of the area in which the closed facility was located,
24 and that such move was detrimental to the overall economic development efforts of the state, the
25 director may deny the taxpayer's request to claim tax benefits;

26 (10) Notwithstanding any provision of law to the contrary, for the purpose of this section,
27 the number of new jobs created and maintained, the number of existing jobs retained, and the value
28 of new qualified investment used at the eligible project during any tax year shall be determined by
29 dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the
30 eligible project, or in the case of new qualified investment, the value of new qualified investment
31 used at the eligible project, on the last business day of each full calendar month of the tax year. If
32 the eligible project is in operation for less than the entire tax year, the number of new jobs created
33 and maintained, the number of existing jobs retained, and the value of new qualified investment
34 created at the eligible project during any tax year shall be determined by dividing the sum of the
35 number of individuals employed at the eligible project, or in the case of new qualified investment,
36 the value of new qualified investment used at the eligible project, on the last business day of each
37 full calendar month during the portion of the tax year during which the eligible project was in
38 operation, by the number of full calendar months during such period;

39 (11) For the purpose of this section, "new qualified investment" means new business facility
40 investment as defined and as determined in subdivision (8) of section 135.100 which is used at and
41 in connection with the eligible project. New qualified investment shall not include small tools,
42 supplies and inventory. "Small tools" means tools that are portable and can be hand held.

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

47 3. (1) The director of the department of economic development, with the approval of the
48 director of the department of natural resources, may, in addition to the tax credits allowed in

1 subsection 1 of this section, grant a remediation tax credit to the applicant for up to one hundred
2 percent of the costs of materials, supplies, equipment, labor, professional engineering, consulting
3 and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct
4 utility charges for performing the voluntary remediation activities for the preexisting hazardous
5 substance contamination and releases, including, but not limited to, the costs of performing
6 operation and maintenance of the remediation equipment at the property beyond the year in which
7 the systems and equipment are built and installed at the eligible project and the costs of performing
8 the voluntary remediation activities over a period not in excess of four tax years following the
9 taxpayer's tax year in which the system and equipment were first put into use at the eligible project,
10 provided the remediation activities are the subject of a plan submitted to, and approved by, the
11 director of natural resources pursuant to sections 260.565 to 260.575. The tax credit may also
12 include up to one hundred percent of the costs of demolition that are not directly part of the
13 remediation activities, provided that the demolition is on the property where the voluntary
14 remediation activities are occurring, the demolition is necessary to accomplish the planned use of
15 the facility where the remediation activities are occurring, and the demolition is part of a
16 redevelopment plan approved by the municipal or county government and the department of
17 economic development. The demolition may occur on an adjacent property if the project is located
18 in a municipality which has a population less than twenty thousand and the above conditions are
19 otherwise met. The adjacent property shall independently qualify as abandoned or underutilized.
20 The amount of the credit available for demolition not associated with remediation cannot exceed the
21 total amount of credits approved for remediation including demolition required for remediation.

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

25 (3) The director may, with the approval of the director of natural resources, extend the tax
26 credits allowed for performing voluntary remediation maintenance activities, in increments of three-
27 year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this
28 subsection shall be used to offset the tax imposed by chapter 143, excluding withholding tax
29 imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax
30 otherwise imposed by chapter 148. The remediation tax credit may be taken in the same tax year in
31 which the tax credits are received or may be taken over a period not to exceed twenty years.

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

35 (5) No more than seventy-five percent of earned remediation tax credits may be issued
36 when the remediation costs were paid, and the remaining percentage may be issued when the
37 department of natural resources issues a letter of completion letter or covenant not to sue following
38 completion of the voluntary remediation activities. It shall not include any costs associated with
39 ongoing operational environmental compliance of the facility or remediation costs arising out of
40 spills, leaks, or other releases arising out of the ongoing business operations of the facility. In the
41 event the department of natural resources issues a letter of completion for a portion of a property, an
42 impacted media such as soil or groundwater, or for a site or a portion of a site improvement, a
43 prorated amount of the remaining percentage may be released based on the percentage of the total
44 site receiving a letter of completion.

45 4. In the exercise of the sound discretion of the director of the department of economic
46 development or the director's designee, the tax credits and exemptions described in this section may
47 be terminated, suspended or revoked if the eligible project fails to continue to meet the conditions
48 set forth in this section. In making such a determination, the director shall consider the severity of

1 the condition violation, actions taken to correct the violation, the frequency of any condition
2 violations and whether the actions exhibit a pattern of conduct by the eligible facility owner and
3 operator. The director shall also consider changes in general economic conditions and the
4 recommendation of the director of the department of natural resources, or his or her designee,
5 concerning the severity, scope, nature, frequency and extent of any violations of the environmental
6 compliance conditions. The taxpayer or person claiming the tax credits or exemptions may appeal
7 the decision regarding termination, suspension or revocation of any tax credit or exemption in
8 accordance with the procedures outlined in subsections 4 and 5 of section 135.250. The director of
9 the department of economic development shall notify the directors of the departments of natural
10 resources and revenue of the termination, suspension or revocation of any tax credits as determined
11 in this section or pursuant to the provisions of section 447.716.

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

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

19 (1) That portion of the taxpayer's income attributed to the eligible project; or
20 (2) One hundred percent of the total business' income tax if the eligible facility does not
21 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
22 period in which the tax credits are earned, and further provided the taxpayer does not operate any
23 other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax
24 if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of
25 the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not
26 operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the
27 total business income if the taxpayer operates, in addition to the eligible facility, any other facilities
28 in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be
29 allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period.
30 That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision
31 (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225 and subsection
32 3 of this section may apply, shall be determined in the same manner as prescribed in subdivision (5)
33 of section 135.100. That portion of the taxpayer's franchise tax attributed to the eligible project for
34 which the remediation tax credit may offset, shall be determined in the same manner as prescribed
35 in paragraph (a) of subdivision (5) of section 135.100.

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

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

48 9. The recipient of remediation tax credits, for the purpose of this subsection referred to as

1 assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in
 2 subsection 3 of this section to any other person, for the purpose of this subsection referred to as
 3 assignee. To perfect the transfer, the assignor shall provide written notice to the director of the
 4 assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the
 5 assignee's name, address and the assignee's tax period and the amount of tax credits to be
 6 transferred. The number of tax periods during which the assignee may subsequently claim the tax
 7 credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously
 8 claimed the credits before the transfer occurred.

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

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

- 22 (1) The shareholders of the corporation described in section 143.471;
- 23 (2) The partners of the partnership.

24
 25 The credit provided in this subsection shall be apportioned to the entities described in subdivisions
 26 (1) and (2) of this subsection in proportion to their share of ownership on the last day of the
 27 taxpayer's tax period.

28 12. Notwithstanding any provision of law to the contrary, in any county ~~[of the first~~
 29 ~~classification]~~ that has a charter form of government and that has a population of over nine hundred
 30 thousand inhabitants, all demolition costs incurred during the redevelopment of any former
 31 automobile manufacturing plant shall be allowable costs eligible for tax credits under sections
 32 447.700 to 447.718 so long as the redevelopment of such former automobile manufacturing plant
 33 shall be projected to create at least two hundred fifty new jobs or at least three hundred retained
 34 jobs, or a combination thereof, as determined by the department of economic development. The
 35 amount of allowable costs eligible for tax credits shall be limited to the least amount necessary to
 36 cause the project to occur, as determined by the director of the department of economic
 37 development, provided that no tax credit shall be issued under this subsection until July 1, 2017.
 38 For purposes of this subsection, "former automobile manufacturing plant" means a redevelopment
 39 area that qualifies as an eligible project under section 447.700, that consists of at least one hundred
 40 acres, and that was used primarily for the manufacture of automobiles but, after 2007, ceased such
 41 manufacturing."; and

42
 43 Further amend said bill, Page 14, Section 620.2020, Line 213, by inserting after all of said section
 44 and line the following:

45
 46 ~~"[135.680. 1. As used in this section, the following terms shall mean:~~

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

48 ~~(a) The amount paid to the issuer of a qualified equity investment for such qualified~~

1 equity investment; and

2 (b) The following fraction:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (c) Is designated by the issuer as a qualified equity investment under this subdivision
6 and is certified by the department of economic development as not exceeding the limitation
7 contained in subsection 2 of this section. This term shall include any qualified equity
8 investment that does not meet the provisions of paragraph (a) of this subdivision if such
9 investment was a qualified equity investment in the hands of a prior holder;

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

17 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding
18 withholding tax imposed in sections 143.191 to 143.265, or otherwise due under section
19 375.916 or chapter 147, 148, or 153;

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

23 2. A taxpayer that makes a qualified equity investment earns a vested right to tax
24 credits under this section. On each credit allowance date of such qualified equity investment
25 the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a
26 tax credit during the taxable year including such credit allowance date. The tax credit
27 amount shall be equal to the applicable percentage of the adjusted purchase price paid to the
28 issuer of such qualified equity investment. The amount of the tax credit claimed shall not
29 exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit
30 is claimed. No tax credit claimed under this section shall be refundable or transferable. Tax
31 credits earned by a partnership, limited liability company, S-corporation, or other pass-
32 through entity may be allocated to the partners, members, or shareholders of such entity for
33 their direct use in accordance with the provisions of any agreement among such partners,
34 members, or shareholders. Any amount of tax credit that the taxpayer is prohibited by this
35 section from claiming in a taxable year may be carried forward to any of the taxpayer's five
36 subsequent taxable years. The department of economic development shall limit the
37 monetary amount of qualified equity investments permitted under this section to a level
38 necessary to limit tax credit utilization at no more than twenty-five million dollars of tax
39 credits in any fiscal year. Such limitation on qualified equity investments shall be based on
40 the anticipated utilization of credits without regard to the potential for taxpayers to carry
41 forward tax credits to later tax years.

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

48 4. The department of economic development shall recapture the tax credit allowed

1 under this section with respect to such qualified equity investment under this section if:

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

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

9 5. The department of economic development shall promulgate rules to implement
10 the provisions of this section, including recapture provisions on a scaled proportional basis,
11 and to administer the allocation of tax credits issued for qualified equity investments, which
12 shall be conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that
13 term is defined in section 536.010, that is created under the authority delegated in this
14 section shall become effective only if it complies with and is subject to all of the provisions
15 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
16 nonseverable and if any of the powers vested with the general assembly pursuant to chapter
17 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
18 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
19 adopted after September 4, 2007, shall be invalid and void.

20 6. For fiscal years following fiscal year 2010, qualified equity investments shall not
21 be made under this section unless reauthorization is made pursuant to this subsection. For
22 all fiscal years following fiscal year 2010, unless the general assembly adopts a concurrent
23 resolution granting authority to the department of economic development to approve
24 qualified equity investments for the Missouri new markets development program and clearly
25 describing the amount of tax credits available for the next fiscal year, or otherwise complies
26 with the provisions of this subsection, no qualified equity investments may be permitted to
27 be made under this section. The amount of available tax credits contained in such a
28 resolution shall not exceed the limitation provided under subsection 2 of this section. In any
29 year in which the provisions of this section shall sunset pursuant to subsection 7 of this
30 section, reauthorization shall be made by general law and not by concurrent resolution.
31 Nothing in this subsection shall preclude a taxpayer who makes a qualified equity
32 investment prior to the expiration of authority to make qualified equity investments from
33 claiming tax credits relating to such qualified equity investment for each applicable credit
34 allowance date.

35 7. Under section 23.253 of the Missouri sunset act:

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

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

42 (3) This section shall terminate on September first of the calendar year immediately
43 following the calendar year in which the program authorized under this section is sunset.
44 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity
45 investment prior to sunset of this section under the provisions of section 23.253 from
46 claiming tax credits relating to such qualified equity investment for each credit allowance
47 date.]
48

1 ~~[135.682. 1. The director of the department of economic development or the~~
2 ~~director's designee shall issue letter rulings regarding the tax credit program authorized~~
3 ~~under section 135.680, subject to the terms and conditions set forth in this section. The~~
4 ~~director of the department of economic development may impose additional terms and~~
5 ~~conditions consistent with this section to requests for letter rulings by regulation~~
6 ~~promulgated under chapter 536. For the purposes of this section, the term "letter ruling"~~
7 ~~means a written interpretation of law to a specific set of facts provided by the applicant~~
8 ~~requesting a letter ruling.~~

9 ~~2. The director or director's designee shall respond to a request for a letter ruling~~
10 ~~within sixty days of receipt of such request. The applicant may provide a draft letter ruling~~
11 ~~for the department's consideration. The applicant may withdraw the request for a letter~~
12 ~~ruling, in writing, prior to the issuance of the letter ruling. The director or the director's~~
13 ~~designee may refuse to issue a letter ruling for good cause, but must list the specific reasons~~
14 ~~for refusing to issue the letter ruling. Good cause includes, but is not limited to:~~

15 ~~(1) The applicant requests the director to determine whether a statute is~~
16 ~~constitutional or a regulation is lawful;~~

17 ~~(2) The request involves a hypothetical situation or alternative plans;~~

18 ~~(3) The facts or issues presented in the request are unclear, overbroad, insufficient,~~
19 ~~or otherwise inappropriate as a basis upon which to issue a letter ruling; and~~

20 ~~(4) The issue is currently being considered in a rulemaking procedure, contested~~
21 ~~case, or other agency or judicial proceeding that may definitely resolve the issue.~~

22 ~~3. Letter rulings shall bind the director and the director's agents and their successors~~
23 ~~until such time as the taxpayer or its shareholders, members, or partners, as applicable, claim~~
24 ~~all of such tax credits on a Missouri tax return, subject to the terms and conditions set forth~~
25 ~~in properly published regulations. The letter ruling shall apply only to the applicant.~~

26 ~~4. Letter rulings issued under the authority of this section shall not be a rule as~~
27 ~~defined in section 536.010 in that it is an interpretation issued by the department with~~
28 ~~respect to a specific set of facts and intended to apply only to that specific set of facts, and~~
29 ~~therefore shall not be subject to the rulemaking requirements of chapter 536.~~

30 ~~5. Information in letter ruling requests as described in section 620.014 shall be~~
31 ~~closed to the public. Copies of letter rulings shall be available to the public provided that the~~
32 ~~applicant identifying information and otherwise protected information is redacted from the~~
33 ~~letter ruling as provided in subsection 1 of section 610.024.]; and~~

34
35 Further amend said bill by amending the title, enacting clause, and intersectional references
36 accordingly.
37