

SECOND REGULAR SESSION

# HOUSE BILL NO. 2295

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CASTEEL.

5456H.01I

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal section 32.115, RSMo, and to enact in lieu thereof three new sections relating to tax credits.

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

Section A. Section 32.115, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 32.115, 348.273, and 348.274, to read as follows:

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030;

(4) The tax on other financial institutions in chapter 148;

(5) The corporation franchise tax in chapter 147;

(6) The state income tax in chapter 143; and

(7) The annual tax on gross receipts of express companies in chapter 153.

2. For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed ~~[fifty]~~ **seventy** percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

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.

17           (2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to  
18 seventy percent may be allowed for contributions to programs where activities fall within the  
19 scope of special program priorities as defined with the approval of the governor in regulations  
20 promulgated by the director of the department of economic development;

21           (3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for  
22 contributions to programs located in any community shall be equal to seventy percent of the  
23 total amount contributed where such community is a city, town or village which has fifteen  
24 thousand or less inhabitants as of the last decennial census and is located in a county which is  
25 either located in:

26           (a) An area that is not part of a standard metropolitan statistical area;

27           (b) A standard metropolitan statistical area but such county has only one city, town or  
28 village which has more than fifteen thousand inhabitants; or

29           (c) A standard metropolitan statistical area and a substantial number of persons in  
30 such county derive their income from agriculture.

31

32 Such community may also be in an unincorporated area in such county as provided in  
33 subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic  
34 benefit of the combined federal and state tax savings to the taxpayer exceed the amount  
35 contributed by the taxpayer during the tax year;

36           (4) Such tax credit allocation, equal to seventy percent of the total amount  
37 contributed, shall not exceed four million dollars in fiscal year 1999 and six million dollars in  
38 fiscal year 2000 and any subsequent fiscal year. When the maximum dollar limit on the  
39 seventy percent tax credit allocation is committed, the tax credit allocation for such programs  
40 shall then be equal to fifty percent credit of the total amount contributed. Regulations  
41 establishing special program priorities are to be promulgated during the first month of each  
42 fiscal year and at such times during the year as the public interest dictates. Such credit shall  
43 not exceed two hundred and fifty thousand dollars annually except as provided in subdivision  
44 (5) of this subsection. No tax credit shall be approved for any bank, bank and trust company,  
45 insurance company, trust company, national bank, savings association, or building and loan  
46 association for activities that are a part of its normal course of business. Any tax credit not  
47 used in the period the contribution was made may be carried over the next five succeeding  
48 calendar or fiscal years until the full credit has been claimed. Except as otherwise provided  
49 for proposals approved pursuant to section 32.111, 32.112 or 32.117, in no event shall the  
50 total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed  
51 thirty-two million dollars in any one fiscal year, of which six million shall be credits allowed  
52 pursuant to section 135.460. If six million dollars in credits are not approved, then the  
53 remaining credits may be used for programs approved pursuant to sections 32.100 to 32.125;

54           (5) The credit may exceed two hundred fifty thousand dollars annually and shall not  
55 be limited if community services, crime prevention, education, job training, physical  
56 revitalization or economic development, as defined by section 32.105, is rendered in an area  
57 defined by federal or state law as an impoverished, economically distressed, or blighted area  
58 or as a neighborhood experiencing problems endangering its existence as a viable and stable  
59 neighborhood, or if the community services, crime prevention, education, job training,  
60 physical revitalization or economic development is limited to impoverished persons.

61           3. For proposals approved pursuant to section 32.111:

62           (1) The amount of the tax credit shall not exceed fifty-five percent of the total amount  
63 invested in affordable housing assistance activities or market rate housing in distressed  
64 communities as defined in section 135.530 by a business firm. Whenever such investment is  
65 made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits  
66 may be claimed only where the loan or equity investment is accompanied by a donation  
67 which is eligible for federal income tax charitable deduction, and where the total value of the  
68 tax credits herein plus the value of the federal income tax charitable deduction is less than or  
69 equal to the value of the donation. Any tax credit not used in the period for which the credit  
70 was approved may be carried over the next ten succeeding calendar or fiscal years until the  
71 full credit has been allowed. If the affordable housing units or market rate housing units in  
72 distressed communities for which a tax is claimed are within a larger structure, parts of which  
73 are not the subject of a tax credit claim, then expenditures applicable to the entire structure  
74 shall be reduced on a prorated basis in proportion to the ratio of the number of square feet  
75 devoted to the affordable housing units or market rate housing units in distressed  
76 communities, for purposes of determining the amount of the tax credit. The total amount  
77 of tax credit granted for programs approved pursuant to section 32.111 for the fiscal year  
78 beginning July 1, 1991, shall not exceed two million dollars, to be increased by no more than  
79 two million dollars each succeeding fiscal year, until the total tax credits that may be  
80 approved reaches ten million dollars in any fiscal year;

81           (2) For any year during the compliance period indicated in the land use restriction  
82 agreement, the owner of the affordable housing rental units for which a credit is being  
83 claimed shall certify to the commission that all tenants renting claimed units are income  
84 eligible for affordable housing units and that the rentals for each claimed unit are in  
85 compliance with the provisions of sections 32.100 to 32.125. The commission is authorized,  
86 in its discretion, to audit the records and accounts of the owner to verify such certification;

87           (3) In the case of owner-occupied affordable housing units, the qualifying owner  
88 occupant shall, before the end of the first year in which credits are claimed, certify to the  
89 commission that the occupant is income eligible during the preceding two years, and at the  
90 time of the initial purchase contract, but not thereafter. The qualifying owner occupant shall

91 further certify to the commission, before the end of the first year in which credits are claimed,  
92 that during the compliance period indicated in the land use restriction agreement, the cost of  
93 the affordable housing unit to the occupant for the claimed unit can reasonably be projected to  
94 be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner  
95 occupant acquiring the affordable housing unit during the compliance period indicated in the  
96 land use restriction agreement shall make the same certification;

97 (4) If at any time during the compliance period the commission determines a project  
98 for which a proposal has been approved is not in compliance with the applicable provisions of  
99 sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one  
100 hundred fifty days of notice to the owner either seek injunctive enforcement action against the  
101 owner, or seek legal damages against the owner representing the value of the tax credits, or  
102 foreclose on the lien in the land use restriction agreement, selling the project at a public sale,  
103 and paying to the owner the proceeds of the sale, less the costs of the sale and less the value of  
104 all tax credits allowed herein. The commission shall remit to the director of revenue the  
105 portion of the legal damages collected or the sale proceeds representing the value of the tax  
106 credits. However, except in the event of intentional fraud by the taxpayer, the proposal's  
107 certificate of eligibility for tax credits shall not be revoked.

108 4. For proposals approved pursuant to section 32.112, the amount of the tax credit  
109 shall not exceed fifty-five percent of the total amount contributed to a neighborhood  
110 organization by business firms. Any tax credit not used in the period for which the credit was  
111 approved may be carried over the next ten succeeding calendar or fiscal years until the full  
112 credit has been allowed. The total amount of tax credit granted for programs approved  
113 pursuant to section 32.112 shall not exceed one million dollars for each fiscal year. For any  
114 fiscal year in which the total amount of tax credits authorized for programs approved pursuant  
115 to section 32.111 is less than ten million dollars, such amount not authorized may be  
116 authorized for programs approved pursuant to section 32.112 during the same fiscal year,  
117 provided that the total combined amount of tax credits for programs approved pursuant to  
118 sections 32.111 and 32.112 during the fiscal year does not exceed eleven million dollars.

119 5. The total amount of tax credits used for market rate housing in distressed  
120 communities pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total  
121 amount of all tax credits authorized pursuant to sections 32.111 and 32.112.

**348.273. 1. This section and section 348.274 shall be known and may be cited as  
2 the "Missouri Angel Investment Incentive Act".**

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

**4 (1) "Cash investment", any moneys or money-equivalent contribution in  
5 consideration of qualified securities;**

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

7           (3) "Designated geographic regions", the following four regions:

8           (a) Region 1: Counties of Bates, Cass, Clay, Jackson, and Platte;

9           (b) Region 2: Counties of Franklin, Jefferson, Lincoln, St. Charles, Warren, and  
10 St. Louis, and the City of St. Louis;

11           (c) Region 3: Counties geographically north of the Missouri River, excluding any  
12 counties in region 1 or region 2; and

13           (d) Region 4: Counties geographically south of the Missouri River, excluding any  
14 counties in region 1 or region 2;

15           (4) "Investor", one of the following persons or entities:

16           (a) A natural person who is an accredited investor as defined under 17 CFR  
17 230.501(a)(5) or 230.501(a)(6), as in effect on July 24, 2013;

18           (b) A permitted entity investor who is an accredited investor as defined under 17  
19 CFR 230.501(a)(8), as in effect on July 24, 2013; or

20           (c) A natural person or permitted entity investor making an investment who  
21 qualifies under the federal Jumpstart Our Business Startups (JOBS) Act, Pub. L. 112-  
22 106, as in effect on April 5, 2012.

23

24 The term "investor" shall not include any person who serves as an executive, officer, or  
25 employee of the business in which an otherwise qualified cash investment is made, and  
26 such person shall not qualify for the issuance of tax credits for such investment.  
27 However, an investor who serves solely as a director may qualify for the issuance of tax  
28 credits;

29           (5) "MTC", the Missouri technology corporation established under section  
30 348.251;

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

33           (7) "Permitted entity investor", any general partnership; limited partnership;  
34 corporation that has in effect a valid election to be taxed as an S corporation under the  
35 Internal Revenue Code of 1986, as amended; revocable living trust; nonprofit  
36 corporation; or limited liability company that has elected to be taxed as a  
37 partnership under the Internal Revenue Code of 1986, as amended, and that was  
38 established and is operated for the purpose of making investments in other entities;

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

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

45           (a) Any partnership, association, limited liability company, or corporation  
46 domiciled in Missouri; or

47           (b) Any limited liability company or corporation that is domiciled outside the  
48 state of Missouri but has its business operations located primarily in Missouri or does  
49 substantially all of such business's production in Missouri;

50           (10) "Qualified securities", a cash investment through any form or combination  
51 of forms of financial assistance as provided under this subdivision. Such forms of  
52 financial assistance include, but are not limited to:

53           (a) Any form of equity, such as:

54               a. A general or limited partnership interest;

55               b. Common stock;

56               c. Simple agreement for future equity (SAFE); or

57               d. Preferred stock, without regard to voting rights or seniority position and  
58 regardless of whether convertible into common stock; and

59           (b) Any debt instrument subordinate to the general creditors of the qualified  
60 Missouri business debtor that requires no payment from the qualified Missouri business  
61 debtor and that shall convert to some form of equity prior to, or in conjunction with, the  
62 qualified Missouri business raising any additional funds;

63           (11) "Rural county", any county in the state of Missouri with fewer than twenty-  
64 five thousand inhabitants, and such term shall be deemed to include both the farm and  
65 nonfarm population thereof. The number of inhabitants specified in this subdivision  
66 shall be increased by six percent every ten years after each decennial census beginning  
67 in 2030;

68           (12) "Tax credit", a credit against the tax otherwise due under chapter 143,  
69 excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148.

70           3. (1) For all tax years beginning on or after January 1, 2027, a tax credit shall  
71 be allowed for an investor's cash investment in the qualified securities of a qualified  
72 Missouri business. The credit shall be in a total amount equal to forty percent of such  
73 investor's cash investment in any qualified Missouri business, subject to the limitations  
74 set forth in this subsection. The credit shall be in a total amount equal to fifty percent  
75 where the investor's cash investment in the qualified securities of a qualified Missouri  
76 business are in a rural county. If the amount by which that portion of the credit allowed  
77 by this section exceeds the investor's tax liability in any one tax year, the remaining  
78 portion of the credit may be carried forward five years or until the total amount of the

79 credit is used, whichever occurs first. If the investor is a permitted entity investor, the  
80 credit provided by this section shall be claimed by the permitted entity investor in  
81 proportion to such owner's equity investment in the permitted entity investor.

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

85 (3) The department and the MTC shall not allow tax credits of more than  
86 seventy-five thousand dollars for a single qualified Missouri business per investor who is  
87 a natural person or a permitted entity investor and shall not allow a total of three  
88 hundred thousand dollars in tax credits for a single tax year per investor who is a  
89 natural person or a permitted entity investor. No tax credit authorized by this section or  
90 section 348.274 shall be allowed for any cash investments in qualified securities made in  
91 any year after December 31, 2033. The total amount of tax credits that may be allowed  
92 under this section shall not exceed six million dollars during either calendar year 2027  
93 or 2028. Beginning in calendar year 2029, the total amount of tax credits allowed under  
94 this section shall be annually increased by twenty percent of the total amount of tax  
95 credits allowed in the immediately preceding calendar year, so long as the total amount  
96 of tax credits allowed in the immediately preceding calendar year were issued during  
97 such calendar year. For each successive year thereafter, if the total amount of tax  
98 credits allowed in the immediately preceding calendar year under this section are  
99 issued, the total amount of tax credits shall be increased by an additional twenty  
100 percent. Such increase of twenty percent of tax credits allowed shall continue, so long as  
101 the total amount of tax credits allowed in the immediately preceding calendar year were  
102 completely issued. The balance of unissued tax credits may be carried over for issuance  
103 in future years before December 31, 2035. The balance of unissued tax credits carried  
104 over, if any, shall not be used in the calculation of the total amount of tax credits allowed  
105 in a given calendar year.

106 (4) At the beginning of each calendar year, the MTC shall equally designate the  
107 total amount of tax credits available during the first six months of that calendar year to  
108 each designated geographic region. As soon as practicable at the end of the first six  
109 months of that calendar year, the MTC shall prepare and issue a report to the director  
110 of the department designating all tax credit awards for that year to date, so that the  
111 department may issue such tax credits in accordance with the provisions of this section  
112 and section 348.274.

113 (5) During the last six months of the calendar year, any unissued tax credits  
114 previously allocated to any designated geographic region may be awarded at the

discretion of the MTC to a qualified Missouri business in any designated geographic region throughout the state.

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

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

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

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

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

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

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

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

(3) The designation of a business as a qualified Missouri business shall be made by the MTC, and each qualified Missouri business shall annually apply to renew such designation, to be approved by the MTC. A business shall be so designated if the MTC determines, based upon the application submitted by the business and any additional information provided in connection with such application or as reasonably requested by the MTC, that such business meets established criteria, including at least the following:

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

(b) Businesses that are not bioscience businesses shall have been in operation for less than five years, and bioscience businesses 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 section and section 348.274;



(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; however, contract research or manufacturing organizations, sometimes referred to as CROs or CMOs, 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 moneys primarily to purchase real estate, land, or fixtures; or

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 making a substantial financial 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 needs and opportunities specific to the region, this state, or both;

(l) The business has made binding commitments to the 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

187 access to the financial records of the business; the right of the department and the MTC  
188 to record and publish normal and customary data and information related to the  
189 issuance of tax credits that are not otherwise determined to be trade or business secrets;  
190 and other such protections as may be in the best interest of Missouri taxpayers to  
191 achieve the goals of this section and section 348.274; and

192 (m) The business shall satisfy all other requirements of this section and section  
193 348.274.

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

196 (5) The MTC shall establish an application fee for qualified Missouri businesses  
197 and investors or transferees. This fee shall be utilized by the MTC to administer this  
198 act, issue the tax credits, and review the applications.

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

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

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

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

21 (c) Such other information as may be reasonably required under this section and  
22 section 348.273 or reasonably requested by the department or the MTC.

23 2. (1) The state of Missouri, the department, or the MTC shall not be held liable  
24 for any damages to any investor that makes an investment in any qualified security of a  
25 qualified Missouri business, any business that applies to be designated as a qualified

26 Missouri business and is denied, or any investor that makes an investment in a business  
27 that applies to be designated as a qualified Missouri business and is denied.

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

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

42 (4) If the MTC determines that a business is not in substantial compliance with  
43 the requirements under 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  
46 date of mailing of the notice unless such business corrects the deficiencies and is once  
47 again in compliance with the requirements for designation and provides the MTC with  
48 evidence of correcting the deficiencies as the MTC reasonably requests.

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

53 (6) A business may lose its designation as a qualified Missouri business under  
54 this section and section 348.273 by moving either its headquarters outside of Missouri or  
55 a substantial number of the jobs created in Missouri to a location outside Missouri  
56 within ten years after receiving financial assistance under this section and section  
57 348.273, provided that no business may lose its designation as a qualified Missouri  
58 business under this section and section 348.273 if such move is in connection with the  
59 acquisition of the business by sale of all or substantially all of its business, whether by  
60 merger, sale of stock, sale of assets, or otherwise.

61 (7) In the event that a business loses its designation as a qualified Missouri  
62 business, such business shall be precluded from being issued any additional tax credits

63 available under this section and section 348.273 with respect to the business, shall be  
64 precluded from being approved as a qualified Missouri business, and shall be subject to  
65 an appropriate clawback provision that the MTC, in cooperation with the department  
66 by and through its service on the MTC board of directors, may institute.

67 (8) Investors who lawfully make an investment in a qualified Missouri business  
68 shall not have issued tax credits disallowed solely due to the business subsequently losing  
69 its designation as a qualified Missouri business. In the event such qualified business  
70 loses its designation as a qualified Missouri business, the amount of tax credits issued  
71 under this section and section 348.273 shall be subject to clawback provisions from the  
72 qualified Missouri business, to be determined by the department and the MTC board of  
73 directors.

74 (9) The portions of documents and other materials submitted to the department  
75 or MTC that contain confidential information shall be kept confidential and shall be  
76 maintained in a secured environment. For the purposes of this section and section  
77 348.273, confidential information shall include, but not be limited to, such portions of  
78 trade secrets, documents, any customer lists, and other materials; any formula,  
79 compound, production data, or compilation of information that will allow certain  
80 individuals within a commercial concern using such portions of documents and other  
81 material the means to fabricate, produce, or compound an article of trade; or any  
82 service having commercial value that gives the user an opportunity to obtain a business  
83 advantage over competitors who do not know or use such service.

84 (10) The department and the MTC may prepare and adopt procedures, rules,  
85 and published guidance concerning the performance of the duties placed upon each  
86 respective entity by this section and section 348.273.

87 3. Any investor who makes a cash investment in a qualified security of a  
88 qualified Missouri business may transfer the tax credits such investor may receive under  
89 subsection 3 of section 348.273 to any natural person. So long as the investor has not  
90 claimed the tax credit against the investor's Missouri income tax liability, such  
91 transferee may claim the tax credit against the transferee's Missouri income tax liability  
92 as provided in subdivision (1) of subsection 3 of section 348.273, subject to all  
93 restrictions and limitations set forth in this section and section 348.273. Documentation  
94 of any tax credit transfer under this section shall be provided by the investor in the  
95 manner established by the MTC and the department by and through its service on the  
96 MTC board of directors.

97 4. (1) Each qualified Missouri business for which tax credits were issued under  
98 this section and section 348.273 shall report to the MTC annually on or before February  
99 first. The MTC shall provide copies of the reports to the department under appropriate

100 confidentiality agreements as may be necessary under the circumstances. Such reports  
101 shall include the following:

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

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

107 (c) Such other information as may be reasonably required under this section and  
108 section 348.273.

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

112 (a) The number of applications received;

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

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

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

118 (3) The MTC and the department, as applicable, shall also report annually to the  
119 governor, the director of the department of economic development, the president pro  
120 tempore of the senate, and the speaker of the house of representatives, on or before  
121 April first, on the allocation and issuance of the tax credits. Such reports shall include:

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

125 (b) The types of businesses that benefited from the tax credits;

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

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

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

133 (f) The total cash investments made for the purchase of qualified securities of  
134 qualified Missouri businesses within the state during the preceding year and  
135 cumulatively since the effective date of this section and section 348.273;

136           **(g) An estimate of jobs created and jobs preserved by cash investments made in**  
137 **qualified Missouri businesses within the state;**

138           **(h) An estimate of the multiplier effect on the economy of the cash investments**  
139 **made under this section and section 348.273; and**

140           **(i) Information regarding what businesses deriving benefits from the tax credits**  
141 **remained in the designated geographic region, what businesses ceased business**  
142 **operations, what businesses were purchased, and what businesses may have moved**  
143 **out of a designated geographic region or the state.**

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

149           **5. Notwithstanding any provision of section 105.1500 to the contrary, any**  
150 **requirement to provide information, documents, or records under section 348.273 or**  
151 **348.274, and any requirement established by the MTC or any state agency to provide**  
152 **information, documents, or records for the purpose of administering these sections,**  
153 **shall be exempt from section 105.1500 of the personal privacy protection act.**

154           **6. Tax credits issued under section 348.273 or 348.274 shall be classified as**  
155 **entrepreneurial tax credits under section 135.800 of the tax credit accountability act.**

156           **7. Section 348.273 and this section shall expire on December 31, 2033.**

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