

FIRST REGULAR SESSION

SENATE BILL NO. 599

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS CHILDERS AND GIBBONS.

Read 1st time February 26, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1734S.01I

AN ACT

To repeal sections 32.100, 32.105, 32.110, 32.115, 32.117, 32.120, 100.105, 100.710, 100.840, 100.850, 135.220, 135.225, 135.230, 135.235, 135.240, 135.245, 135.247, 135.250, 135.258, 135.313, 135.350, 135.352, 135.355, 135.361, 135.362, 135.363, 135.460, 135.545, 135.750, 253.550, 348.256, 348.261, 620.017, 620.1039, 620.1100, 620.1103, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450, 620.1460, and 620.1560, section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200, as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 135.535 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701 of the ninetieth general assembly, first regular session, and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20 of the ninetieth general assembly, first regular session, RSMo, and to enact in lieu thereof forty-two new sections relating to reform of incentive programs in the department of economic development, with effective dates for certain

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

sections.

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

Section A. Sections 32.100, 32.105, 32.110, 32.115, 32.117, 32.120, 100.105, 100.710, 100.840, 100.850, 135.220, 135.225, 135.230, 135.235, 135.240, 135.245, 135.247, 135.250, 135.258, 135.313, 135.350, 135.352, 135.355, 135.361, 135.362, 135.363, 135.460, 135.545, 135.750, 253.550, 348.256, 348.261, 620.017, 620.1039, 620.1100, 620.1103, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450, 620.1460, and 620.1560, section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200, as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 135.535 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701 of the ninetieth general assembly, first regular session, and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20 of the ninetieth general assembly, first regular session, RSMo, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 32.100, 32.105, 32.115, 100.105, 100.710, 100.840, 100.850, 135.155, 135.200, 135.220, 135.225, 135.230, 135.235, 135.240, 135.245, 135.247, 135.250, 135.258, 135.313, 135.350, 135.352, 135.355, 135.361, 135.362, 135.363, 135.800, 135.805, 135.810, 135.815, 135.820, 135.825, 135.875, 135.880, 135.885, 135.890, 135.895, 253.550, 348.254, 348.256, 348.261, 620.017, and 620.1039, to read as follows:

32.100. Sections 32.100 to 32.125 shall be known and may be cited as the **"[Neighborhood] Affordable Housing Assistance Act"**.

32.105. As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be

considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Size of Household	Percent of State or Geographic Area Family	Median Income
One Person		35%
Two Persons		40%
Three Persons		45%
Four Persons		50%
Five Persons		54%
Six Persons		58%
Seven Persons		62%
Eight Persons		66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

- (4) "Commission", the Missouri housing development commission;
- (5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;
- (6) ["Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;
- (7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department

of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8)] "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (15) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed four million dollars from within any one fiscal year's allocation. Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111, may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) "Eligible farmers' market", a group of farmers, each of whom farms agricultural land located within this state which he or she rents or owns, and who have formed a group for the purpose of allowing each member farmer to sell his or her products derived from his or her farming activities to the public at a common structure or building when at least fifty percent of the costs of such structure or building are paid for by such group of farmers;

(12) "Eligible new generation cooperative", as defined in section 348.340, RSMo;

(13) "Homeless assistance pilot project", the program established pursuant to section 32.117;

(14) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

(15)] (7) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964; or

(d) Contributing funds to help finance a building or structure or purchase equipment located within this state and used to sell agricultural food products or to add value to food products produced in this state by members of an eligible new generation cooperative; or contributing funds to help finance a building or structure or purchase equipment owned by a not-for-profit organization located within this state and used to sell agricultural food products or to add value to food products produced by family farms as defined in subdivision (4) of section 350.010, RSMo, or family farm corporations as defined in subdivision (5) of section 350.010, RSMo;

[(16) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

(17)] (8) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo[;

(18) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo].

32.115. 1. The [department of revenue] **commission** 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, RSMo;

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

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

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

- (5) The corporation franchise tax in chapter 147, RSMo;
- (6) The state income tax in chapter 143, RSMo; and
- (7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. [For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed fifty 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;

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

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

- (a) An area that is not part of a standard metropolitan statistical area;
- (b) A standard metropolitan statistical area but such county has only one city, town or village which has more than fifteen thousand inhabitants; or
- (c) A standard metropolitan statistical area and a substantial number of persons in such county derive their income from agriculture.

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

(4) Such tax credit allocation, equal to seventy percent of the total amount contributed, shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit allocation is committed, the tax credit allocation for such programs shall then be equal to fifty percent credit of the total amount contributed. Regulations establishing special program priorities are to be promulgated during the first month of each fiscal year and at such times during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit shall be approved for any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution

was made may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. Except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six million shall be credits allowed pursuant to section 135.460, RSMo. If six million dollars in credits are not approved, then the remaining credits may be used for programs approved pursuant to sections 32.100 to 32.125;

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

3.] For proposals approved pursuant to section 32.111:

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

(2) For any year during the compliance period indicated in the land use restriction agreement, the owner of the affordable housing rental units for which a credit is being claimed shall certify to the commission that all tenants renting claimed units are income eligible for

affordable housing units and that the rentals for each claimed unit are in compliance with the provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit the records and accounts of the owner to verify such certification;

(3) In the case of owner-occupied affordable housing units, the qualifying owner occupant shall, before the end of the first year in which credits are claimed, certify to the commission that the occupant is income eligible during the preceding two years, and at the time of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further certify to the commission, before the end of the first year in which credits are claimed, that during the compliance period indicated in the land use restriction agreement, the cost of the affordable housing unit to the occupant for the claimed unit can reasonably be projected to be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant acquiring the affordable housing unit during the compliance period indicated in the land use restriction agreement shall make the same certification;

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

[4.] 3. For proposals approved pursuant to section 32.112, the amount of the tax credit shall not exceed fifty-five percent of the total amount contributed to a neighborhood organization by business firms. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. The total amount of tax credit granted for programs approved pursuant to section 32.112 shall not exceed one million dollars for each fiscal year.

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

5. Certificates of tax credit authorized by sections 32.111 and 32.112 may be transferred, sold or assigned by filing a notarized endorsement thereof with the commission which names the transferee and the amount of tax credit transferred, as well as any other information reasonably requested by the commission.

100.105. No later than January thirty-first of each year, the municipality shall file a report with the department of economic development on the previous year's revenue bond issuances and general obligation bond issuances, which report shall contain only the following information:

- (1) The name, address, spokesperson, and telephone number of the issuing entity;
- (2) The name, address, age, and type of business of the beneficiary firm;
- (3) The amount, term, interest rate or rates, and date of issuance of the bonds issued;
- (4) The name and address of the underwriter, if any, of such bonds;
- (5) The name and address of the guarantor, if any;
- (6) The size, by assets and previous year's sales, and the current number of employees, of the beneficiary firm;
- (7) A copy of the preliminary official statement used when offering the bonds for sale;
- (8) The estimated number of new jobs to be generated by the proposed project;
- (9) A list of the use of bond proceeds, including whether the purpose of the project and the funds generated by the issuance of such bonds is to open a new business, build a branch plant, expand an existing facility, or acquire an existing business;
- (10) **The amount of any state sales taxes that were not paid on the project due to the tax-exempt status of the purchaser or owner of goods purchased for the project that are otherwise subject to sales tax;**
- (11) The estimated total cost of the project.

100.710. As used in sections 100.700 to 100.850, the following terms mean:

- (1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;
- (2) "Board", the Missouri development finance board as created by section 100.265;
- (3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;
- (4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;
- (5) "Department", the Missouri department of economic development;
- (6) "Director", the director of the department of economic development;
- (7) "Economic development project":
 - (a) The acquisition of any real property by the board, the eligible industry, or its affiliate; or
 - (b) The fee ownership of real property by the eligible industry or its affiliate; and
 - (c) For both paragraphs (a) and (b) of subdivision (7) of this section, "economic

development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of [fifteen] **seven** million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of [one hundred] **fifty** new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo;

(10) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state;

(11) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

(12) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

(a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

(13) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates.

100.840. 1. To provide funds for the present payment of the costs of economic development projects, the board may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. [The total amount of outstanding certificates sold by the board shall not exceed seventy-five million dollars.] The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board, and may bear interest at such rate or rates as the board shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. Certificates may be issued with respect to

a single project or multiple projects and may contain terms or conditions as the board may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. Certificates may be issued for the purpose of refunding a like, greater or lesser principal amount of certificates and may bear a higher, lower or equivalent rate of interest than the certificates being renewed or refunded.

3. The board shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

4. Certificates issued pursuant to this section shall not be deemed to be an indebtedness of the state or the board or of any political subdivision of the state.

100.850. 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. **In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million dollars annually.**

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceed the amount of the approved company's income tax.

135.155. Notwithstanding any provision of the law to the contrary, no revenue

producing enterprise shall receive the incentives set forth in sections 135.100 through 135.150 for facilities commencing operations on or after August 28, 2003.

135.200. The following terms, whenever used in sections 135.200 to [135.256] **135.258**, mean:

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

(2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;

(6) "Revenue-producing enterprise", means:

(a) Manufacturing activities classified as SICs 20 through 39;

(b) Agricultural activities classified as SIC 025;

(c) Rail transportation terminal activities classified as SIC 4013;

(d) Renting or leasing of residential property to low- and moderate- income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as SIC 4231;

(f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;

(g) Water transportation terminal activities classified as SIC 4491;

(h) Airports, flying fields, and airport terminal services classified as SIC 4581;

(i) Wholesale trade activities classified as SICs 50 and 51;

(j) Insurance carriers activities classified as SICs 631, 632 and 633;

(k) Research and development activities classified as SIC 873, except 8733;

(l) Farm implement dealer activities classified as SIC 5999;

(m) Employment agency activities classified as SIC 7361;

(n) Computer programming, data processing and other computer-related activities classified as SIC 737;

(o) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;

(p) Interexchange telecommunications as defined in subdivision [(20)] **(24) or local exchange telecommunications services as defined in subdivision (31)** of section 386.020,

RSMo, or training activities conducted by an interexchange telecommunications company **or by a local exchange telecommunications company** as defined in [subdivision (19)] subdivisions (23) and (30) of section 386.020, RSMo;

- (q) Recycling activities classified as SIC 5093;
- (r) Banking activities classified as SICs 602 and 603;
- (s) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;
- (t) Mining activities classified as SICs 10 through 14;
- (u) **Photofinishing laboratory activities classified in SIC 7384 and microfilm recording and developing services as contained in SIC classification 7389, provided that each such revenue-producing enterprise employs a minimum of one hundred employees at a single business facility;**
- (v) The administrative management of any of the foregoing activities[; or
- (v)] (w) **A targeted industry; or**
- (x) An industry not otherwise specified but which is considering a new business facility or an expansion of an existing business facility in an enterprise zone which, in the judgment of the director of the department of economic development, is beneficial to the economy of the region of the state as a whole; or
- (y) Any combination of any of the foregoing activities;

A revenue-producing enterprise which is identified by a SIC classification number includes enterprises with the corresponding classification number in subsequent federal industry classification systems;

(7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;

(8) "SIC", the **primary** standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. **For purposes of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed;**

(9) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

135.220. 1. The provisions of chapter 143, RSMo, notwithstanding, **an approved taxpayer shall receive an exemption from taxation pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount**

equal to one-half of the Missouri taxable income attributed to a new business facility in an enterprise zone which is earned by a taxpayer establishing and operating a new business facility located within an enterprise zone [shall be exempt from taxation under chapter 143, RSMo. ~~A~~**n approved** taxpayer operating a revenue producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 may elect to exempt from taxation under chapter 143, RSMo, one-half of the Missouri taxable income attributed to a new business facility in an enterprise zone or may elect to claim a fifty-dollar credit against the tax imposed under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, for each room constructed for use as a bedroom for each qualifying residential unit. A "bedroom" is defined as a structurally separate room used primarily for sleeping, and not as a living room, dining room, kitchen or closet. That portion of income attributed to the new business facility shall be determined in a manner prescribed in paragraph (b) of subdivision (6) of section 135.100, except that compensation paid to truck drivers, or rail or barge vehicle operators shall be excluded from the fraction.

2. In the case of ~~an approved taxpayer which is~~ a small corporation described in section 143.471, RSMo, or a partnership, in computing the Missouri taxable income of the taxpayers described in subdivisions (1) and (2) of this subsection, a deduction apportioned in proportion to their share of ownership of the business on the last day of the taxpayer's tax period for which such tax credits are being claimed, shall be allowed from their Missouri adjusted gross income in the amount of one-half of the Missouri taxable income earned by the new business facility, as determined by the method prescribed in subsection 1 of this section located within the enterprise zone, as defined in this section, to the following:

- (1) The shareholders of a small corporation described in section 143.471, RSMo;
- (2) The partners in a partnership.

135.225. 1. The credits otherwise [provided] **authorized** by sections 135.100 to 135.150 shall upon proper application be granted to any **approved eligible** taxpayer who shall establish and operate a new business facility located within an enterprise zone, except one designated pursuant to subsection 5 of section 135.230, on the same terms and conditions specified in [those] sections **135.100 to 135.150**, except that:

- (1) The credit otherwise allowed for each new business facility employee employed within an enterprise zone shall be four hundred dollars;
- (2) An additional credit of four hundred dollars shall be granted for each twelve-month period that a new business facility employee is a resident of an enterprise zone;
- (3) An additional credit of four hundred dollars shall be granted for each twelve-month period that the person employed as a new business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section 135.240;
- (4) The credit otherwise allowed for new business facility investment shall be equal to

the sum of ten percent of the first ten thousand dollars of such qualifying investment, plus five percent of the next ninety thousand dollars of such qualifying investment, plus two percent of all remaining qualifying investments within an enterprise zone;

(5) In the case of **an approved taxpayer which is** a small corporation described in section 143.471, RSMo, or a partnership, the credits granted by this section shall be apportioned in proportion to the share of ownership of the taxpayer on the last day of the taxpayer's tax period for which such tax credits are being claimed, to the following:

- (a) The shareholders of a small corporation described in section 143.471, RSMo;
- (b) The partners in a partnership;

(6) In the case of financial institutions described pursuant to the provisions of chapter 148, RSMo, the credits **[allowed in]** **authorized by** subdivisions (1), (2), (3) and (4) of this subsection and the credit **[allowed in]** **authorized by** section 135.235 may be used to offset the tax imposed by chapter 148, RSMo, and, in the case of an insurance company exempt from the thirty-percent employee requirement of section 135.230, any obligations imposed pursuant to section 375.916, RSMo, subject to the same method of apportionment as prescribed for taxes imposed by chapter 143, RSMo, and as provided in subdivision (6) of section 135.100 and subsections **[2 and]** 3 **and** 4 of section 135.110;

(7) If a facility within an enterprise zone, which does not constitute a new business facility, is expanded or improved by the taxpayer within the enterprise zone, the expansion or improvement shall be considered a separate facility eligible for the credits **[allowed in]** **authorized by** this section and section 135.235, and the exemption **[allowed in]** **authorized by** section 135.220, if:

(a) The new business facility investment in the expansion or improvement during the tax period in which such credits and the exemption are claimed exceeds one hundred thousand dollars or, if less than one hundred thousand dollars, is twenty-five percent of the investment in the original facility prior to expansion or improvement; and

- (b) The expansion or improvement otherwise constitutes a new business facility; and

(c) The number of new business facility employees engaged or maintained in employment at the expanded or improved facility for the taxable year for which the credit is claimed equals or exceeds two and the total number of employees at the facility after expansion or improvement is at least two greater than the total number of employees before expansion or improvement. The taxpayer's investment in the expansion or improvement and in the original facility prior to expansion or improvement shall be determined in the manner provided in subdivision (7) of section 135.100;

(8) For the purpose of sections 135.200 to **[135.256]** **135.258**, an office as defined in subdivision (8) of section 135.100, when established, must create and maintain at least two new business facility employees as defined in subdivision (5) of section 135.100;

(9) In the case where a person employed by the new business facility is a resident of the enterprise zone for less than a twelve-month period, or in the case where a person employed as a new business facility employee is a person who, at the time of such employment by the new business facility, met the criteria as set forth in section 135.240, is employed for less than a twelve-month period, the credits allowed by subdivisions (2) and (3) of this subsection shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the person met the requirements prescribed in subdivision (2) or (3) of this subsection, and the denominator of which is three hundred and sixty-five, except that such credit shall not exceed four hundred dollars per employee in any one taxable year;

(10) The deferment of tax credit authorized in section 135.120 shall not be available to taxpayers establishing a new business facility in an enterprise zone;

(11) The allowance for additional ten-year periods to certain new business facilities as prescribed in subsection 1 of section 135.110 shall not be available to taxpayers expanding a new business facility in an enterprise zone, except that any taxpayer who has been eligible to earn enterprise zone tax benefits for ten tax periods, or until the expiration of the fifteen-year period as prescribed in subsection 1 of section 135.230, or for the maximum period otherwise allowed by law, may qualify for the tax credits [allowed in] **authorized by** section 135.110 if otherwise eligible, pursuant to the same terms and conditions prescribed in sections 135.100 to 135.150;

(12) Taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 shall not be required to create and maintain new business facility employees.

2. The tax credits described in subdivisions (1), (2), (3) and (4) of subsection 1 of this section, the training credit [allowed in] **authorized by** section 135.235, and the income exemption [allowed in] **authorized by** section 135.220, shall be allowed to any **approved** taxpayer, under the same terms and conditions specified in such sections, who establishes a new business facility in an enterprise zone designated pursuant to subsection 5 of section 135.230, except that all such tax benefits shall be removed not later than seven years after the enterprise zone is designated as such.

3. Notwithstanding any provision of law to the contrary, any **approved** taxpayer who establishes a new business facility in an enterprise zone, may elect to forfeit the tax credits otherwise [allowed in] **authorized by** section 135.235 and this section and the exemptions otherwise [allowed in] **authorized by** sections 135.215 and 135.220 and the refund otherwise [allowed in] **authorized by** section 135.245, and in lieu thereof, claim the tax credits [allowed in] **authorized by** section 135.110, pursuant to the same terms and conditions prescribed in sections 135.100 to 135.150. To perfect the election, the taxpayer shall attach written notification of such election to the taxpayer's initial application for claiming tax credits. The election shall

be irreversible once perfected.

4. For all revenue-producing enterprises that commence operations prior to August 28, 2003, and otherwise meet the requirements of the provisions of sections 135.200 to 135.258, the right to receive the income exemption described in section 135.220, the tax credits described in subsection 1 of this section and the training credit [allowed in] authorized by section 135.235 shall vest in the taxpayer upon commencement of operations of the revenue-producing enterprise, but such vested right shall be waived by the taxpayer for any given year in which the terms and conditions of sections 135.100 to [135.268] 135.258 are not met. [Representations made by the department and relied upon in good faith by the taxpayer shall be binding upon the state of Missouri insofar as they are consistent with the provisions of this chapter.] The provisions of this subsection shall apply to all revenue-producing enterprises which are eligible for incentives pursuant to this subsection and which commenced operation on or after January 1, 1996, to the extent such incentives do not exceed the fifteen-year limitation pursuant to subsection 1 of section 135.230 or the seven-year limitation pursuant to subsection 5 of section 135.230. [The provisions of this subsection shall apply to all revenue-producing enterprises which are eligible for the incentives set forth in this subsection, and which began operation after January 1, 1996, to the extent such incentives do not exceed the fifteen-year limitation set forth in subsection 1 of section 135.230, or the seven-year limit set forth in subsection 5 of section 135.230.]

135.230. 1. The exemption or credit [established and allowed] authorized by section 135.220 and the credits [allowed and established] authorized by subdivisions (1), (2), (3) and (4) of subsection 1 of section 135.225 [shall] and section 135.235 may be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone [and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such,] subject, however, to the limitation that all such credits [allowed in] authorized by sections 135.225 and 135.235 and the exemption [allowed in] authorized by section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two or the new business facility is a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1 of section 135.225, or both, it shall be required that at least thirty percent of new business facility

employees, as determined by subsection [4] **5** of section 135.110, meet the criteria established in section 135.240 or are residents of an enterprise zone or some combination thereof, except taxpayers who establish a new business facility by operating a revenue-producing enterprise as defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an insurance company that established a new business facility satisfying the requirements of subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and before December 31, 1994, and that employs in excess of three hundred fifty new business facility employees at such facility each tax period for which the credits allowable pursuant to subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to meet such requirement. A new business facility described as SIC 3751 shall be required to employ fifteen percent of such employees instead of the required thirty percent. For the purpose of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for a period of at least [one full calendar month] **thirty days** and must have been employed at the new business facility for at least [one full calendar month] **thirty days**, and persons qualifying because they meet the requirements of section 135.240 must have satisfied such requirement at the time they were employed by the new business facility and must have been employed at the new business facility for at least [one full calendar month] **thirty days**. The director may temporarily reduce or waive this requirement for any business in an enterprise zone with ten or less full-time employees, and for businesses with eleven to twenty full-time employees this requirement may be temporarily reduced. No reduction or waiver may be granted for more than one tax period and shall not be renewable. The exemptions [allowed in] **authorized by** sections 135.215 and 135.220 and the credits [allowed in] **authorized by** sections 135.225 and 135.235 and the refund [established and] authorized [in] **by** section 135.245 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo. For the purposes of achieving the fifteen-percent employment requirement set forth in this subsection, a new business facility described as NAICS 336991 may count employees who were residents of the enterprise zone at the time they were employed by the new business facility and for at least ninety days thereafter, regardless of whether such employees continue to reside in the enterprise zone, so long as the employees remain employed by the new business facility and residents of the state of Missouri.

2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge lines or railroads engaged in transporting property for hire or any interexchange telecommunications company that establish a new business facility shall be eligible to qualify for the exemptions [allowed in] **authorized by** sections 135.215 and 135.220, and the credits [allowed in] **authorized by** sections 135.225 and 135.235 and the refund [established and] authorized [in] **by** section 135.245, except that trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire, track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business facility investment nor shall truck drivers or rail or

barge vehicle operators constitute new business facility employees.

3. Notwithstanding any other provision of sections 135.200 to [135.256] **135.258** to the contrary, motor carriers establishing a new business facility on or after January 1, 1993, but before January 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and the exemption provided in section 135.220, even if such new business facility has not satisfied the employee criteria, provided that such taxpayer employs an average of at least two hundred persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an average investment of at least ten million dollars at such facility, exclusive of rolling stock, during the tax period for which such credits and exemption are being claimed.

4. Any governing authority having jurisdiction of an area that has been designated an enterprise zone may petition the department to expand the boundaries of such existing enterprise zone. The director may approve such expansion if the director finds that:

- (1) The area to be expanded meets the requirements prescribed in section 135.207 or 135.210, whichever is applicable;
- (2) The area to be expanded is contiguous to the existing enterprise zone; and
- (3) The number of expansions [do] **does** not exceed three after August 28, 1994.

5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this section, any governing authority having jurisdiction of an area that has been designated as an enterprise zone by the director, except one designated pursuant to this subsection, may file a petition, as prescribed by the director, for redesignation of such area for an additional period not to exceed seven years following the fifteenth anniversary of the enterprise zone's initial designation date; provided:

(1) The petition is filed with the director within three years prior to the date the tax credits authorized [in] **by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by** section 135.220 are required to be removed pursuant to subsection 1 of this section;

(2) The governing authority identifies and conforms the boundaries of the area to be designated a new enterprise zone to the political boundaries established by the latest decennial census, unless otherwise approved by the director;

(3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of section 135.205 according to the latest decennial census or other appropriate source as approved by the director;

(4) The governing authority satisfies the requirements prescribed in sections 135.210, 135.215 and 135.255;

(5) The director finds that the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation; and

(6) The director's recommendation that the area be designated as an enterprise zone is approved by the joint committee on economic development policy and planning, as otherwise required in subsection 3 of section 135.210.

6. Any **approved** taxpayer having established a new business facility in an enterprise zone except one designated pursuant to subsection 5 of this section, who did not earn the tax credits authorized **[in]** **by** sections 135.225 and 135.235 and the exemption **[allowed in]** **authorized by** section 135.220 for the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this section, shall be granted such benefits for ten tax years, less the number of tax years the benefits were claimed or could have been claimed prior to the expiration of the original fifteen-year period, except that such tax benefits shall not be earned for more than seven tax periods during the ensuing seven-year period, provided the taxpayer continues to operate the new business facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section. Any **approved** taxpayer who establishes a new business facility subsequent to the commencement of the ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections 135.100 to **[135.256]** **135.258**. The designation of any enterprise zone pursuant to subsection 5 of this section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of section 135.210.

135.235. To the extent that expenses incurred by a new business facility in an enterprise zone for the training of persons employed in the operation of the new business facility is not covered by an existing federal, state or local program, **[such]** **an approved** new business facility shall be eligible for a full tax credit equal to eighty percent of that portion of such training expenses which are in excess of four hundred dollars for each trainee who is a resident of the enterprise zone or who was at the time of such employment at the new business facility unemployable or difficult to employ as defined in section 135.240, provided such credit shall not exceed four hundred dollars for each employee trained. In the case of a small corporation described in section 143.471, RSMo, or a partnership, all credits **[allowed]** **authorized** by this section shall be apportioned in proportion to the share of ownership of the business to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo; or
- (2) The partners in a partnership.

135.240. The provisions of subdivision (3) of section 135.225 and section 135.230 shall apply to employees determined to:

(1) Be difficult to employ. For the purpose of this section, "a person difficult to employ" shall mean a person who was unemployed for at least **[three months]** **ninety days** immediately prior to being employed at the new business facility in the enterprise zone; or

(2) Be eligible for [aid to families with dependent children] **temporary assistance for needy families, medical assistance for families** or general relief programs.

135.245. 1. Notwithstanding any other provision of Missouri law, some portion of the tax credits earned by [a] **an approved** newly established new business facility within an enterprise zone through the provisions of sections 135.200 to [135.256] **135.258**, except one designated pursuant to subsection 5 of section 135.230, which exceeds its total income tax liability shall be considered an overpayment of the income tax and shall be refunded to the taxpayer as provided by this section, except that such refund shall only apply to taxpayers subject to the tax imposed pursuant to chapter 143, RSMo. The refund allowed by this section shall be limited to taxpayers who establish new facilities in enterprise zones. The refund shall not be allowed to a taxpayer who establishes a new business facility because it qualifies as a separate facility pursuant to subsection [6] **7** of section 135.110 or subdivision (7) of subsection 1 of section 135.225 or because it satisfies the requirements of paragraph (c) of subdivision (4) of section 135.100 or subdivision (10) of section 135.100. The provisions of this section shall have effect on all initial applications filed on or after August 28, 1992. The provisions of this section shall only be available to a taxpayer for the first two consecutive years during which the taxpayer is eligible for the credits provided by sections 135.200 to [135.256] **135.258**, and the portion of tax credit which is considered an overpayment of the income tax shall be limited to fifty percent or fifty thousand dollars, whichever is less, in the first year and twenty-five percent or twenty-five thousand dollars, whichever is less, in the second year in which the taxpayer is eligible. The overpayment of the income tax for the first year shall not be refunded to the taxpayer until the third taxable year of operation by the new business facility and the overpayment of the income tax for the second year shall not be refunded to the taxpayer until the fourth taxable year of operation by the new business facility.

2. The portion of tax credit which is considered an overpayment of the income tax by any **approved** taxpayer who establishes a new business facility in an enterprise zone designated pursuant to subsection 5 of section 135.230 shall be limited to twenty-five percent or twenty-five thousand dollars, whichever is less, in the first year of the ensuing seven-year period. Such overpayment of tax shall not be refunded to the taxpayer until the third taxable year of operation by the new business facility.

3. Such refunds to [the] **an approved** taxpayer shall be made as otherwise provided by law. In the case of a small corporation described in section 143.471, RSMo, or a partnership, all refunds allowed by this section shall be apportioned in proportion to the share of ownership of the business on the last day of the taxpayer's tax period for which such tax credits are being claimed, to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo; or
- (2) The partners in a partnership.

135.247. 1. Notwithstanding the provisions of sections 135.205, 135.207, and 135.210 or any other provisions to the contrary, any area having been designated by the United States Department of Housing and Urban Development as a federal empowerment zone or by the United States Department of Agriculture as an enterprise community pursuant to the federal Omnibus Budget Reconciliation Act of 1993, title XIII, chapter I, subchapter c, shall immediately upon such federal designation become and remain a state enterprise zone until the expiration of such federal designation.

2. The credits otherwise [provided] **authorized** by sections 135.225 and 135.235, the exemption [provided] **authorized** by section 135.220, and the refund [provided] **authorized** by section 135.245 shall be available to any taxpayer who establishes and operates a new business facility located within a federal empowerment zone or enterprise community on the same terms and conditions specified in sections 135.100 to [135.256] **135.258**. The exemption provided in section 135.215 shall be available to any taxpayer who makes improvements to real property after the date the area is designated as a federal empowerment zone or enterprise community pursuant to the same terms and conditions specified in section 135.215.

3. Notwithstanding any provision of law to the contrary, **approved** retail businesses, as defined by SICs 52 through 59, **approved** hotels and motels, as defined by SIC 7011, and **approved** recreational facilities as defined by SIC 7999, shall be eligible for all benefits [provided pursuant to] **authorized** by the provisions of sections 135.200 to [135.256] **135.258**, if:

(1) In the case of a retail business, such business is located within a state-designated enterprise zone located wholly or partially within a federal empowerment zone or enterprise community; or

(2) Such business is located within a satellite enterprise zone, established pursuant to subdivision (1) or (3) of subsection 1 of section 135.207, whether or not such satellite zone is contained within a federal empowerment zone or enterprise community; and

(3) In the case of a hotel or motel, such business is located within an enterprise zone which is located within any county of the first classification with a population of at least five hundred thousand but less than seven hundred thousand inhabitants according to the last decennial census, or in an enterprise zone which is located within any city of the third classification which is partially located within a county of the first class with a population of one hundred fifty thousand or more which is adjacent to a county of the first classification with a population of at least five hundred thousand but less than seven hundred thousand according to the last decennial census; and

(4) In the case of a recreational facility, such business is located within an area designated a satellite enterprise zone pursuant to subdivision (1) of subsection 1 of section 135.207, by the director after January 1, 1991, and before January 1, 1992, in any city not within a county, and further provided the director approves the eligibility of such recreational

facility to claim tax benefits otherwise [allowed in] **authorized by** sections 135.200 to [135.256] **135.258**. When making such determination, the director shall consider the number and quality of new jobs to be created, the amount of payroll and investment to be generated from the proposed project, the extent to which such tax concessions are needed to induce the development, whether the area is unlikely to support reasonable tax assessment or to experience reasonable economic growth without such designation and the overall economic benefits to be realized from the proposed project.

4. For purposes of qualifying for benefits pursuant to this section, recreational facilities, as defined by SIC 7999, shall not include:

- (1) An excursion gambling boat licensed pursuant to sections 313.800 to 313.850, RSMo, and the docking facility associated with such licensed excursion gambling boat; or
- (2) An excursion gambling boat and docking facility as proposed on an application filed with the Missouri gaming commission.

135.250. 1. The director [of the department of economic development] may, subject to the requirements of [section 536.021] **chapter 536**, RSMo, issue such rules and regulations as he deems necessary regarding the qualifications necessary for an area to be deemed an "enterprise zone" and for the continuation of such designation. [Beginning January 1, 1987,]

2. **For taxpayers commencing operations on or after August 28, 2003, no more than fifty million dollars in tax credits may be authorized in any year under this program. The director shall determine and implement appropriate procedures to ensure that the cap is not exceeded in any year. These procedures will be submitted to the joint committee on economic development policy and planning pursuant to section 620.080, RSMo.**

3. **The department may adopt such rules, statements of policy, procedures, forms and guidelines as may be necessary for the implementation of this program. The director shall prescribe the method for submitting applications for [claiming] participation in the program authorized by sections 135.200 to 135.258 and for a taxpayer receiving tax credits to claim the tax credits [allowed in] **authorized by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by** section 135.220 and shall, if such application is approved, certify same to the director of revenue that the taxpayer claiming the credits [allowed in] **authorized by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by** section 135.220 has satisfied all requirements prescribed in sections 135.200 to [135.255] **135.258**, and is [therefore] eligible to claim the credits and exemption. The director shall also calculate and specify the amount of the credits earned by the taxpayer during the taxpayer's first taxable year in which such credits are claimed and for each of the nine succeeding taxable years the credits are claimed by the taxpayer and shall certify such amounts to the director of revenue. The director shall certify the extent to which such earned credits and the exemption**

[allowed in] **authorized by** section 135.220 can be claimed to the director of revenue and shall notify the taxpayer in writing of such determination. [The director may prescribe such rules and regulations necessary to carry out the provisions of sections 135.200 to 135.255.

2.] 4. The director of revenue shall determine the amount of the taxpayer's refund, as [allowed in] **authorized by** section 135.245, if any, and shall notify the taxpayer in writing of any amount to be refunded. The director of revenue may, subject to the requirements of section 536.021, RSMo, prescribe rules and regulations necessary to process the credits [allowed in] **authorized by** sections 135.225 and 135.235 and the exemption [allowed in] **authorized by** section 135.220 and the refund [allowed in] **authorized by** section 135.245 following certification of eligibility by the director. [No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo.** This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2003, shall be invalid and void.

3.] 5. Any taxpayer who **commences operations before August 28, 2003, or any taxpayer who commences operations on or after August 28, 2003, and has been approved for participation in the program and** has submitted an application for claiming tax credits as [allowed in] **authorized by** sections 135.225, 135.235, or the exemption [allowed in] **authorized by** section 135.220 or an application to be certified as a new business facility for the purpose of claiming the refund as allowed in section 135.245, may file with the director [of economic development], a protest within sixty days (one hundred fifty days if the taxpayer is outside the United States) after the date of such certification notice or the date of the notice denying such certification. The protest shall be in writing and shall set forth the grounds on which the protest is based.

4.] 6. If a protest is filed, the director [of economic development] shall consider the taxpayer's grounds for protest and make a determination concerning such protest. The director [of economic development] shall notify the taxpayer in writing of such determination within thirty days following the date in which the written protest was received. Such notice shall be mailed to the taxpayer by certified or registered mail and such notice shall set forth briefly the [director of economic development's] **director's** findings of fact and the basis of decision.

5.] 7. The decision of the director [of economic development] on the taxpayer's protest

is final upon the expiration of thirty days from the date when [he] **the director** mails notice of his **or her** action to the taxpayer unless within this period, the taxpayer seeks review of the [director of economic development's] **director's** determination by the administrative hearing commission.

135.258. 1. A taxpayer shall not be entitled to receive the tax credits, the exemption and the refunds [respectively provided for in] **authorized by** sections 135.110, 135.220, 135.225, **135.235**, and 135.245 solely because the taxpayer has met and maintained the new investment and new job creation criteria required by sections 135.100 [through 135.256] **to 135.258**. In addition to meeting these criteria, the taxpayer must **meet the following requirements**:

(1) **A taxpayer who commences operations on or after January 1, 1999, but before August 28, 2003, must** be in receipt of an approved letter of intent as described in subsection 2 of this section **to be eligible for the tax credits, exemptions and refunds authorized by sections 135.100, 135.220, 135.225, 135.235, and 135.245**. The taxpayer shall make available such copies of the approved letter of intent, as may be required, to the department of revenue;

(2) **A taxpayer must file the initial application for claiming tax credits in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new business facility.**

2. [In order to be eligible for the tax credits, exemption and refunds specified in subsection 1 of this section, a taxpayer must submit a letter of intent to the director of the department of economic development.] The letter of intent shall be completed on a form that shall be prepared by the department. It need not contain an estimate of the amounts of the tax credits, exemption or refunds for which the taxpayer may become eligible. The letter of intent shall be submitted to the director at least fifteen days prior to the commencement of commercial operations as defined in subdivision (1) of section 135.100. The director shall approve or deny the letter of intent and return such to the taxpayer within fifteen days of its receipt.

135.313. 1. Any person, firm or corporation who engages in the business of producing charcoal or charcoal products in the state of Missouri shall be eligible for a tax credit on income taxes otherwise due pursuant to chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as an incentive to implement safe and efficient environmental controls. The tax credit shall be equal to fifty percent of the purchase price of the best available control technology equipment connected with the production of charcoal in the state of Missouri or, if the taxpayer manufactures such equipment, fifty percent of the manufacturing cost of the equipment, to and including the year the equipment is put into service. The credit may be claimed for a period of eight years beginning with the 1998 calendar year and is to be a tax credit against the tax otherwise due.

2. Any amount of credit which exceeds the tax due shall not be refunded but may be

carried over to any subsequent taxable year, not to exceed seven years.

3. The charcoal producer may elect to assign to a third party the approved tax credit. Certification of assignment and other appropriate forms must be filed with the Missouri department of revenue and the department of [economic development] **natural resources**.

4. When applying for a tax credit, the charcoal producer specified in subsection 1 of this section shall make application for the credit to the division of environmental quality of the department of natural resources. The application shall identify the specific best available control technology equipment and the purchase price, or manufacturing cost of such equipment. The director of the department of natural resources is authorized to require permits to construct prior to the installation of best available control technology equipment and other information which he or she deems appropriate.

5. The director of the department of natural resources [in conjunction with the department of economic development] shall certify to the department of revenue that the best available control technology equipment meets the requirements to obtain a tax credit as specified in this section.

135.350. As used in [this section] **sections 135.350 to 135.363**, unless the context clearly requires otherwise, the following words and phrases shall mean:

(1) **"Certificate", a tax credit certificate issued by the commission in accordance with sections 135.350 to 135.363;**

(2) **"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 be issued.] The eligibility statement shall specify the amount of the Missouri low-income housing tax credit [allowed] **authorized**. The commission shall only authorize the tax credits to qualified projects which begin after June 18, 1991;

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

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

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

(7) **"Qualified Missouri project"**, a qualified low-income building as that term is defined

in section 42 of the 1986 Internal Revenue Code, as amended, which is located in Missouri;

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

135.352. 1. A taxpayer **or other entity** owning an interest in a qualified Missouri project [shall] **may** be [allowed] **allocated** a state tax credit, [whether or not allowed] if **allocated** a federal tax credit, to be termed the Missouri low-income housing tax credit, if the commission issues an eligibility statement for that project.

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

3. The Missouri low-income housing tax credit shall be taken against the taxes and in the order specified pursuant to section 32.115, RSMo. The credit authorized by this section shall not be refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be carried back to any of the taxpayer's three prior taxable years or carried forward to any of the taxpayer's five subsequent taxable years.

4. All or any portion of Missouri tax credits issued in accordance with the provisions of sections 135.350 to [135.362 may be allocated to parties who are eligible pursuant to the provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994,] **135.363 granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting an alternate distribution method.** An owner of a qualified Missouri project shall certify to the **commission and to the** director the amount of credit allocated to each taxpayer. The owner of the project shall provide to the director appropriate information so that the low-income housing tax credit can be properly allocated.

5. [In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided in this section shall include the proportion of the state credit required to be recaptured, the

identity of each taxpayer subject to the recapture and the amount of credit previously allocated to such taxpayer] Certificates of tax credit authorized by sections 135.350 to 135.363 may be transferred, sold or assigned by filing a notarized endorsement thereof with the commission which names the transferee and the amount of tax credit transferred, as well as any other information reasonably requested by the commission.

6. The [director of the department] **commission** may promulgate rules and regulations necessary to administer the provisions of this section. [No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2003, shall be invalid and void.

135.355. [1.] The **commission** shall provide a certificate to the owner of a qualified Missouri project eligible for the Missouri low-income housing tax credit [shall submit, at the time of filing the owner's return, an eligibility statement. In the case of failure to attach the eligibility statement, no credit under this section shall be allowed with respect to such project for that year until these copies are provided to the department of revenue.

2. If under Section 42 of the 1986 Internal Revenue Code, as amended, a portion of any federal low-income housing credits taken on a low-income project is required to be recaptured only during the first ten years after a project is placed in service, the taxpayer claiming state credits with respect to such project shall also be required to recapture a portion of any state credits authorized by this section. The state recapture amount shall be equal to the proportion of the state credit claimed by the taxpayer that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture], and shall also notify the department of revenue or department of insurance, as applicable, of the issuance of a certificate.

135.361. [Any rule or portion of a rule promulgated pursuant to this bill shall become effective only as provided pursuant to chapter 536, RSMo, including but not limited to section 536.028, RSMo, if applicable, after August 28, 1997. All rulemaking authority delegated prior to August 28, 1997, is of no force and effect and repealed. The provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, if applicable, to review, to delay the effective date, or to disapprove and annul

a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.] **The commission may promulgate rules necessary to carry out the provisions of sections 135.350 to 135.363. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2003, shall be invalid and void.**

135.362. 1. The provisions of subdivision [(3)] (4) of section 135.350 shall not apply to any qualified Missouri project:

(1) With respect to which a loan is made or insured under Title V of the U.S. Housing Act of 1949; or

(2) In which at least ten percent of the total reasonably expected basis in such project was incurred by the project owner prior to June 18, 1991, and such project is placed in service no later than December 31, 1993.

2. Qualified Missouri projects described in subdivisions (1) and (2) of subsection 1 of this section shall continue to be governed by the provisions of subdivision [(2)] (4) of section 135.350 in effect prior to June 18, 1991.

135.363. 1. All or any portion of tax credits issued in accordance with the provisions of sections 135.350 to 135.363 may be transferred, sold or assigned to parties who are eligible under the provisions of subsection 1 of section 135.352.

2. Beginning January 1, 1995, for qualified projects which began on or after January 1, 1994, an owner or transferee desiring to make a transfer, sale or assignment as described in subsection 1 of this section shall submit to the [director of the department of revenue] **commission** a statement which describes the amount of credit for which such transfer, sale or assignment of credit is eligible. The owner shall provide to the [director of revenue] **commission** appropriate information so that the low-income housing tax credit can be properly allocated.

3. [In the event that recapture of Missouri low-income housing tax credits is required pursuant to subsection 2 of section 135.355, any statement submitted to the director of the department of revenue as provided in this section shall include the proportion of the state credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.

4.] The [director of the department of revenue] **commission** may prescribe rules and

regulations necessary for the administration of the provisions of this section.

135.800. 1. Sections 135.800 to 135.820 shall be known and may be cited as the "Sustainable Neighborhoods and Communities Tax Credit Act".

2. As used in sections 135.800 to 135.820, the following terms shall mean:

(1) "Approved project", a project approved by the director to participate in the program established by sections 135.800 to 135.820;

(2) "Blighted area", that portion of a city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design, or physical deterioration, have become economic and social liabilities, and that such conditions are conducive to ill health, transmission of disease, crime, or inability to pay reasonable taxes;

(3) "Business", a private for-profit entity doing business in the state of Missouri;

(4) "Capital campaign project", the raising of funds for the acquisition, construction, rehabilitation, or permanent improvement to real property to be used by a community-based organization for the provision of direct services or youth services;

(5) "Community bank", shall have the same meaning as prescribed in subdivision (2) of section 135.400;

(6) "Community-based organization":

(a) A private organization that is representative of a community, or a significant segment of a community, that:

a. Holds a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to section 501(c)(3) of the Internal Revenue Code; or

b. Is incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(b) A community development corporation designated as such by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964.

(7) "Community development financial institution", shall have the same meaning as prescribed in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C.A. Section 4702;

(8) "Community services", services designed to minimize the effects of poverty, furnished primarily to impoverished people in the state of Missouri;

(9) "Contribution", a donation of cash, property, or services, except that donations of property or services may be limited and shall be valued as provided by the department;

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

(11) "Director", the director of the department of economic development or a person acting under the supervision of the director;

(12) "Direct services", community services, workforce training services, and workforce support services;

(13) "Impoverished people", people in Missouri approved as such by the department. Such approval shall be made on the basis of generally recognized low-income criteria used by federal and state agencies;

(14) "Person", any natural person or entity, including a corporation, general or limited partnership, trust, or limited liability company;

(15) "Revitalization project", the furnishing of financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of all or any part of a central business district that is a blighted area pursuant to an organized redevelopment effort;

(16) "Program", the sustainable neighborhoods and communities tax credit program created by sections 135.800 to 135.820;

(17) "Small business revolving loan project", a revolving loan program operated by a community-based organization, a community bank, or a community development financial institution;

(18) "Taxpayer", a person subject to the state income tax imposed by the provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo;

(19) "Workforce support services", services such as transportation assistance, child care assistance, and permanent housing assistance that help support an individuals' ability to prepare for and become employable, maintain employment, or be able to seek a higher grade of employment;

(20) "Workforce training services", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire skills so that the individual can become employable or be able to seek a higher grade of employment;

(21) "Youth employment project", employment, internship, or apprenticeship programs in business or trades for persons no more than twenty-one years of age;

(22) "Youth services project", development, establishment, implementation, operation, and expansion of the following activities and programs:

- (a) Programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;
- (b) New or existing youth clubs or associations;
- (c) Mentor and role model programs;
- (d) Drug and alcohol abuse prevention training programs for youth;
- (e) Youth violence prevention;
- (f) Youth activity centers;
- (g) Youth outreach and counseling programs.

135.805. 1. Categories of projects that are eligible to participate in the program are as follows:

(1) Direct services project. A direct services project may be sponsored by either a community-based organization or a business. A direct services project sponsored by a business may be denied if, in the opinion of the director, the business' contribution can more consistently with the purposes of this program be made through contributions to a community-based organization. Tax credits will not be given to a business whose contributions are for activities that are a part of its normal course of business. For direct service projects, the tax credit shall be a percentage of the amount of funds expended by a business in providing direct services or a percentage of contributions made to a community-based organization for such project by a taxpayer;

(2) Capital campaign projects. For capital campaign projects, the tax credit shall be a percentage of the amount of contributions made to a community-based organization for the project by a taxpayer;

(3) Small business revolving loan program projects. For a small business revolving loan program project, the tax credit shall be a percentage of a taxpayer's investment in or contribution to a designated revolving loan fund of a community-based organization, community bank, or community development financial institution;

(4) Youth employment projects. For youth employment projects, the tax credit shall be a percentage of the amount paid to the intern or apprentice by a business that is a taxpayer;

(5) Physical revitalization projects. For physical revitalization projects, the tax credit shall be a percentage of contributions to a community-based organization for such project;

(6) Youth services projects. For youth services projects, the tax credit shall be a percentage of contributions made to a community-based organization for such project by a taxpayer.

2. The department, after public hearings, shall adopt a multi-year plan

determining program priorities and any set-asides for the categories set forth in subsection 1 of this section.

3. A community-based organization or business entity seeking approval of a project for participation in the program shall submit an application containing information as required by the department in a format determined by the department. No application shall be approved which does not have the endorsement of the agency of local government within the area in which the project is engaging in program activities. The time frame for application submission will be announced by the department. The department shall review applications on at least an annual basis.

4. After review of applications, the director will approve or disapprove a project and establish the amount of tax credit to be granted. Projects may be approved for up to two years, corresponding with the state's fiscal year. Capital campaign projects may be approved for up to three years at the discretion of the director.

5. Approval of any project is effective as of the effective date of the contract between the department and the business or community-based organization. Approved project activities and the solicitation of contributions for approved project activities shall begin after the effective date of the contract. Any funds expended or contributions made prior to approval of a project for participation in the program shall be ineligible for a tax credit.

6. Approved projects will be notified by the department of the total amount of tax credits approved for the project and whether the credits are fifty percent credits or seventy percent credits, as provided in section 135.810.

7. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section.

135.810. The percentage credit as set forth in subsection 1 of section 135.805 shall be fifty percent except that a seventy percent credit may be awarded for projects in a city, town, village, or unincorporated area that has fifteen thousand or less inhabitants as of the last decennial census and is located in a county which is either located in:

- (1) An area that is not part of a standard metropolitan statistical area;
- (2) A standard metropolitan statistical area but such county has only one city, town, or village which has more than fifteen thousand inhabitants; or
- (3) A standard metropolitan statistical area and a substantial number of persons in such county derive their income from agriculture.

135.815. 1. The tax credit authorized by sections 135.800 to 135.820 may be claimed by a taxpayer to offset the tax liability imposed by chapter 143, RSMo,

excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which the investment or contribution was made. Where the amount of the credit exceeds the tax liability for the year in which the investment or contribution was made, the difference between the credit and the tax liability may be carried forward for the next three succeeding taxable years or until the full credit has been claimed, whichever first occurs.

2. Credits granted to a partnership, a limited liability company taxed as a partnership, an S corporation or multiple owners of property shall be passed through to the partners, members or owners respectively pro rata.

3. The aggregate of all tax credits authorized pursuant to sections 135.800 to 135.820 shall not exceed fifteen million dollars in any year.

4. The department may revoke a tax credit certificate if any representation to the department in connection with the application proves to have been false when made or if the application violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department may determine. The department shall specify the amount of credit being revoked and shall send notice of the revocation to the taxpayer and to the state department of revenue.

135.820. The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary for the implementation of this program. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

135.825. 1. No projects may be approved by the director of the department of economic development for the neighborhood assistance program, the youth opportunities and violence prevention program, or the development tax credit program, on or after August 28, 2003.

2. No tax credits may be issued by the department of economic development for the neighborhood assistance program, the youth opportunities and violence prevention program, or the development tax credit program on or after January 1, 2006.

3. The provisions of this section terminate on January 1, 2006.

135.875. 1. Sections 135.875 to 135.895 shall be known and may be cited as the "Competitive Communities Tax Credit Act".

2. As used in sections 135.875 to 135.895, the following terms shall mean:

(1) "Approved project", a project approved by the director to participate in the

program established by sections 135.875 to 135.895;

- (2) "Business", a private for-profit entity doing business in the state of Missouri;
- (3) "Department", the department of economic development;
- (4) "Director", the director of the department of economic development or a person acting under the supervision of the director;
- (5) "Distressed community", as defined in section 135.530;
- (6) "Economic development project", a project that will improve, develop, or finance a new, existing, or expanding business, and will create, retain, or improve jobs in the state;
- (7) "Program", the competitive communities tax credit program created by sections 135.875 to 135.895;
- (8) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo; and
- (9) "Taxpayer", a person subject to the state income tax imposed by the provisions of chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company paying an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo.

135.880. 1. The department, after public hearings, shall adopt a multi-year plan determining program priorities and any limitations on eligibility based upon, but not limited to, the following criteria:

- (1) Whether a business is a targeted industry;
- (2) The potential impact of a project on the economy of Missouri;
- (3) The economy of the county where a project is to occur;
- (4) Whether a project is in a distressed community;
- (5) The payroll attributable to a project;
- (6) The investment attributable to a project;
- (7) The amount the average wage paid by a business at a project;
- (8) The costs to Missouri and the affected political subdivisions with respect to a project; and
- (9) The financial assistance that is otherwise provided by Missouri and the affected political subdivisions.

2. A business seeking approval of an economic development project for participation in the program shall submit an application containing information as required by the department in a format determined by the department.

135.885. 1. After review of an application, the director will approve or disapprove a project and establish the amount of tax credit to be granted and the terms and conditions thereof.

2. An agreement between the business and the department regarding an approved project shall contain any provisions required by section 620.017, RSMo, and may also contain the following, as applicable:

(1) A detailed description of the project that is the subject of the agreement;

(2) A specific method for determining the number of persons employed in new or retained jobs at the project;

(3) A requirement that the business shall at least annually report to the department the number of new or retained jobs, the total amount of salaries and wages paid to persons in the new or retained jobs at the project;

(4) A requirement that the business shall provide written notification to the director not more than thirty days after the business makes or receives a proposal that would transfer the business' state tax liability obligations to a successor taxpayer;

(5) A requirement that the business shall maintain operations at the project for a specified period of time; and

(6) Any other performance conditions that the department determines are appropriate.

3. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section.

135.890. 1. The tax credit authorized by sections 135.875 to 135.895 may be claimed by a taxpayer to offset the tax liability imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, chapter 147, RSMo, chapter 148, RSMo, or chapter 153, RSMo, that becomes due in the tax year during which the investment was made or jobs were created or retained. Where the amount of the credit exceeds the tax liability for the year in which the investment was made or the jobs created or retained, the difference between the credit and the tax liability may be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs.

2. Credits granted to a partnership, a limited liability company taxed as a partnership, an S corporation or multiple owners of property shall be passed through to the partners, members or owners respectively pro rata.

3. Certificates of tax credit issued pursuant to this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred, as well as any other information reasonably requested by the department.

4. The aggregate of all tax credits authorized pursuant to sections 135.875 to 135.895 shall not exceed five million dollars in any year.

5. In addition to any penalties that may be prescribed in the agreement required by subsection 2 of section 135.860, the department may revoke a tax credit certificate if any representation to the department in connection with the application proves to have been false when made or if the application violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department may determine. The department shall specify the amount of credit being revoked and shall send notice of the revocation to the taxpayer and to the state department of revenue.

135.895. The department may adopt such rules, statements of policy, procedures, forms and guidelines as may be necessary for the implementation of this program. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

253.550. 1. Any person, firm, partnership, trust, estate, or corporation incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on that person or entity in an amount equal to twenty-five percent of the total costs and expenses of rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed fifty percent of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources, **and provided the requirements of subsections 2, 3, and 4 of this section are met.**

2. Before incurring costs and expenses for the rehabilitation of eligible property, in order to be eligible to receive the credits as set forth in subsection 1 of this section, any person, firm, partnership, trust, estate, or corporation must file a pre-application with the department of economic development and be in receipt of a preliminary approval by the department of economic development for the property.

3. In order to be eligible to receive the credits as set forth in subsection 1 of this section, a project must be placed into service no later than three years after the date of preliminary approval by the department of economic development.

4. An application for issuance of tax credits authorized pursuant to sections 253.545 through 253.561 must be received by the department of economic development no later than the end of the tax year following the tax year in which the project was placed into service. Applications received after such date shall be ineligible for tax credits.

5. The department of economic development may promulgate rules necessary to carry out the provisions of sections 253.545 to 253.561. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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, 2003, shall be invalid and void.

348.254. Records and documents submitted to the Missouri Technology Corporation relating to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business, or records and documents submitted to the Missouri Technology Corporation relating to tax credits except for the amount and recipient of any tax credits that are awarded may be deemed a "closed record" as such term is defined in section 610.010, RSMo.

348.256. The articles of incorporation and bylaws of the Missouri technology corporation shall provide that:

(1) The purposes of the corporation are to contribute to the strengthening of the economy of the state through the development of science and technology, to promote the modernization of Missouri businesses by supporting the transfer of science, technology and quality improvement methods to the workplace, and to enhance the productivity and modernization of Missouri businesses by providing leadership in the establishment of methods of technology application, technology commercialization and technology development;

(2) The board of directors of the corporation is composed of [fifteen] sixteen persons. The governor shall annually appoint one of its members, who must be from the private sector, as chairman. The board shall consist of the following members:

(a) The director of the department of economic development, or the director's designee;

- (b) The president of the University of Missouri system, or the president's designee;
- (c) **The commission of higher education;**
- (d) A member of the state senate, appointed by the president pro tem of the senate;
- [d] (e) A member of the house of representatives, appointed by the speaker of the house;

[e] (f) Eleven members appointed by the governor, two of which shall be from the public sector and nine members from the private sector who shall include, but shall not be limited to, individuals who represent technology-based businesses and industrial interests;

[f] (g) Each of the directors of the corporation who is appointed by the governor shall serve for a term of four years and until a successor is duly appointed; except that, of the directors serving on the corporation as of August 28, 1995, three directors shall be designated by the governor to serve a term of four years, three directors shall be designated to serve a term of three years, three directors shall be designated to serve a term of two years, and two directors shall be designated to serve a term of one year. Each director shall continue to serve until a successor is duly appointed by the governor unless removed by the governor. The governor may remove any director if fully satisfied of his or her inefficiency, neglect of duty, or misconduct in office;

(3) [The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(4) The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 348.261;

[5] Any changes in the articles of incorporation or bylaws must be approved by the governor;

[6] (4) The corporation shall submit an annual report to the governor and to the Missouri general assembly. The report shall be due on the first day of November for each year and shall include detailed information on the structure, operation and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen days prior to the hearing; and

[7] (5) The corporation is subject to an annual audit by the state auditor and that the corporation shall bear the full cost of the audit.

348.261. The corporation, after being certified by the governor as provided by section 348.251, may:

- (1) **Sue and be sued in its official name;**
- (2) **Adopt and use an official seal;**
- (3) Apply for and accept gifts, grants, loans or contributions from any source, public or private;**

(4) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(5) Sell, convey, lease, exchange, transfer or otherwise dispose of, all or any of its property or any interest therein, wherever situated;

(6) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary, however, the department of economic development may provide administrative staff support in the event the corporation is not adequately funded for employees;

(7) Make all expenditures which are incident and necessary to carry out its purposes and powers;

(8) Assess or charge a fee for each application it receives for financial incentives authorized to be administered by the corporation and assess or charge other fees as the corporation determines to be reasonable to carry out its purposes, including, but not limited to, fees or premiums for loans;

(9) Create such other separate accounts outside of the state treasury as deemed necessary or appropriate by the corporation to carry out the duties and purposes of sections 348.251 to 348.266;

(10) Establish a statewide business modernization network to assist Missouri businesses in identifying ways to enhance productivity and market competitiveness;

[(2)] (11) Identify scientific and technological problems and opportunities related to the economy of Missouri and formulate proposals to overcome those problems or realize those opportunities;

[(3)] (12) Identify specific areas where scientific research and technological investigation will contribute to the improvement of productivity of Missouri manufacturers and farmers;

[(4)] (13) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Missouri could be enhanced or increased if state resources were made available to assist in financing activities;

[(5)] (14) Assist in establishing cooperative associations of universities in Missouri and of private enterprises for the purpose of coordinating research and development programs that will, consistent with the primary educational function of the universities, aid in the creation of new jobs in Missouri;

[(6)] (15) Assist in financing the establishment and continued development of technology-intensive businesses in Missouri;

[(7)] (16) Advise universities of the research needs of Missouri business and improve the exchange of scientific and technological information for the mutual benefit of universities and private business;

[(8)] **(17)** Coordinate programs established by universities to provide Missouri businesses with scientific and technological information;

[(9)] **(18)** Establish programs in scientific education [which] **that** will support the accelerated development of technology-intensive businesses in Missouri;

[(10)] **(19)** Provide financial assistance through contracts, grants and loans to programs of scientific and technological research and development;

[(11)] **(20)** Determine how public universities can increase income derived from the sale or licensure of products or processes having commercial value that are developed as a result of university sponsored research programs;

[(12)] **(21)** Contract with innovation centers, as established in section 348.271, small business development corporations, as established in sections 620.1000 to 620.1007, RSMo, centers for advanced technology, as established in section 348.272, and other entities or organizations for the provision of technology application, technology commercialization and technology development services. Such contracting procedures shall not be subject to the provisions of chapter 34, RSMo; and

[(13)] **(22)** Make direct seed capital or venture capital investments in Missouri business investment funds or businesses which demonstrate the promise of growth and job creation. Investments from the corporation may be in the form of debt or equity in the respective businesses.

620.017. **1.** The department of economic development shall require that any contract or agreement with any party which provides grants, loans, other financial assistance or services, to which a monetary value can be assigned, to such party through a program administered by the department of economic development shall;

(1) Specify that such party shall use the proceeds of any such grant, loan, other financial assistance or the benefits of any services solely as required by that program through which the loan, grant, financial assistance or service is provided;

(2) Describe the economic incentive, including the amount and type of economic incentive;

(3) State why the economic incentive is needed;

(4) State the public purpose or purposes for the economic incentive;

(5) State the goal or goals for the economic incentive and the time periods by which these goals will be met;

(6) Describe the financial obligation of the party if the requirements of the contract or agreement are not met;

(7) State the name and address of the parent corporation of the recipient, if any; and

(8) State all other financial assistance known by the department that was

received by the recipient for the same project.

2. In addition, such a contract or agreement shall require that any recipient which uses the proceeds or services for any other purpose or fails to comply with any requirement established by the program through which the loan, grant, **tax credit**, financial assistance or service is provided shall return any remaining proceeds to the department and shall also require that any proceeds expended or the value of any **incentives or services to which a monetary value can be assigned** received by the party shall be repaid to the department as required by the contract.

3. The contracts or agreements required by this section shall be governed by and enforceable through the applicable provisions of contract law.

4. The department of economic development shall prepare an annual report regarding all economic incentives administered in the previous calendar year and submit such report to the governor, the president pro tem of the senate and the speaker of the house of representatives by July first of each year. The annual report shall be made available to the public and shall include, but not be limited to, the following elements:

- (1) The total amount of economic incentives awarded by region of the state;
- (2) The total amount of economic incentives awarded by industry;
- (3) The distribution of economic incentives by type and public purpose;
- (4) The distribution of economic incentives by the size of all business recipients; and
- (5) A reporting of any legal action taken by the department or the state with any parties which have failed to comply with a contract or agreement pursuant to this section.

620.1039. 1. As used in this section, the [term] following terms mean:

- (1) "Department", the Missouri department of economic development;
- (2) "Director", the director of the department of economic development, or a person acting under the supervision of the director;
- (3) "Qualified research expenses", has the same meaning as prescribed in 26 U.S.C. Section 41, except that contract research expenses paid or incurred by the taxpayer for research conducted at a university may be counted at one hundred percent of such amounts;

(4) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

(5) "Taxpayer" [means], an individual, a partnership, or a corporation as described in

section 143.441 or 143.471, RSMo, or section 148.370, RSMo, [and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41] **that is a targeted industry;**

(6) "University", a public university of the state of Missouri.

2. For tax years beginning on or after January 1, [2001] **2004**, the director [of the department of economic development] may authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director [of the department of economic development], within this state during the taxable year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years **except that a taxpayer that has been in existence for three years shall be limited to two hundred percent of the average expenses incurred during the immediately preceding two taxable years, a taxpayer that has been in existence for two years shall be limited to two hundred percent of the expenses incurred during the immediately preceding taxable year, and a taxpayer that has been in existence for one year shall not be so limited.**

3. The director [of economic development] shall prescribe the manner in which the tax credit may be applied for. The tax credit authorized by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application for tax credits authorized by the director pursuant to subsection 2 of this section shall be made no later than the end of the taxpayer's tax period immediately following the tax period for which the credits are being claimed.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. [The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996, and ending not later than December 31, 1999. Such taxpayer shall file, by December 31, 2001, an application with the department which

names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.]

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

6. The [aggregate of all] tax credits authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year.

[32.110. Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, eligible farmers' markets or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the proposal of the business firm; except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision (15) of section 32.105, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the

department of revenue. The total amount of tax credit granted for programs approved pursuant to sections 32.100 to 32.125 shall not exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars in fiscal year 2000, and any subsequent fiscal year, except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117. All tax credits authorized pursuant to the provisions of sections 32.100 to 32.125 may be used as a state match to secure additional federal funding. The total amount of tax credits allowed for programs of neighborhood organizations defined pursuant to paragraph (d) of subdivision (15) of section 32.105 is two and one-half million dollars per fiscal year for fiscal years 2002 to 2006.]

[32.117. 1. Any business firm which engages in the activity of providing a homeless assistance project for low-income persons in the state of Missouri shall receive a tax credit as provided in section 32.115, if the division of community development within the department of economic development annually approves the proposal of the business firm. The proposal shall only be approved if the project is located in a city with a population of four hundred thousand or more inhabitants which is located in more than one county and which serves a mix of rural and urban counties.

2. For purposes of this section "low-income persons" shall mean families or persons with incomes of fifty percent or less of median income adjusted for family size as allowed by the Department of Housing and Urban Development (HUD) under section 8.

3. The purpose of a homeless assistance project shall be to serve low-income families or persons who are experiencing economic crisis caused by one or more of the following:

- (1) Loss of employment;
- (2) Medical disability or emergency;
- (3) Loss or delay of some form of public assistance benefits;
- (4) Natural disaster;
- (5) Substantial change in household composition;
- (6) Victimization by criminal activity;
- (7) Illegal action by a landlord;
- (8) Displacement by government or private action; or
- (9) Some other condition which constitutes a hardship.

4. The amount of the tax credit shall not exceed fifty-five percent of the value of the proposal benefits, which shall include one or more of the following types of benefits to low-income persons in order to be eligible:

- (1) Payment of rent or mortgage for not more than three months during any twelve-month period;
- (2) Payment to a landlord of a rent deposit or a security deposit for not more than

two months during any twelve-month period;

(3) Case management services which shall include support services such as child care, education resource assistance, job resource assistance, counseling, and resource and referral;

- (4) Outreach services to low-income persons to prevent homelessness;
- (5) Transitional housing facilities with support services.

5. The homeless assistance program shall give priority to the following types of low-income families or individuals:

(1) Families with minor children who are in imminent danger of removal from the family because of a lack of suitable housing accommodation;

- (2) Single parent household;
- (3) Other households with children;
- (4) Households with a disabled household member or a household member who is at least sixty-five years of age;
- (5) All other households.

6. The organization implementing a homeless assistance program pursuant to this section shall make annual reports identifying the goal of the program, the number of recipients served, the type of services rendered, and moneys expended to provide the program. The program report shall be submitted to the governor, speaker of the house of representatives and the president pro tem of the senate. These reports shall also be available to the general public upon request.

7. For each of the fiscal years beginning on July 1, 1991, and July 1, 1992, one million dollars in tax credits may be allowed to be used for the homeless assistance pilot project, pursuant to this section.]

[32.120. The decision of the director of the department of economic development to approve or disapprove a proposal pursuant to section 32.110 shall be in writing, and if he approves the proposal, he shall state the maximum credit allowable to the business firm. A copy of the decision of the director of the department of economic development shall be transmitted to the director of revenue and to the governor.]

[32.125. 1. No rule or portion of a rule promulgated under the authority of this chapter or any provisions of any other chapter by the department of revenue shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

- 2. Upon filing any proposed rule with the secretary of state, the department of

revenue shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

3. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the department of revenue may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

4. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

5. If the committee disapproves any rule or portion thereof, the department of revenue shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

6. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

7. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.]

[135.200. The following terms, whenever used in sections 135.200 to 135.256, mean:

- (1) "Department", the department of economic development;
- (2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;

(6) "Revenue-producing enterprise", means:

(a) Manufacturing activities classified as SICs 20 through 39;

(b) Agricultural activities classified as SIC 025;

(c) Rail transportation terminal activities classified as SIC 4013;

(d) Renting or leasing of residential property to low and moderate income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as SIC 4231;

(f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;

(g) Water transportation terminal activities classified as SIC 4491;

(h) Wholesale trade activities classified as SICs 50 and 51;

(i) Insurance carriers activities classified as SICs 631, 632 and 633;

(j) Research and development activities classified as SIC 873, except 8733;

(k) Farm implement dealer activities classified as SIC 5999;

(l) Employment agency activities classified as SIC 7361;

(m) Computer programming, data processing and other computer-related activities classified as SIC 737;

(n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;

(o) Interexchange telecommunications as defined in subdivision (20) of section 386.020, RSMo, or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020, RSMo;

(p) Recycling activities classified as SIC 5093;

(q) Banking activities classified as SICs 602 and 603;

(r) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;

(s) Mining activities classified as SICs 10 through 14;

- (t) The administrative management of any of the foregoing activities; or
- (u) Any combination of any of the foregoing activities;

(7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;

(8) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed.]

[135.200. The following terms, whenever used in sections 135.200 to 135.256, mean:

- (1) "Department", the department of economic development;
- (2) "Director", the director of the department of economic development;
- (3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;
- (4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;
- (5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;
- (6) "Revenue-producing enterprise" means:
 - (a) Manufacturing activities classified as SICs 20 through 39;
 - (b) Agricultural activities classified as SIC 025;
 - (c) Rail transportation terminal activities classified as SIC 4013;
 - (d) Renting or leasing of residential property to low and moderate income persons as defined in federal law, 42 U.S.C. 5302(a)(20);
 - (e) Motor freight transportation terminal activities classified as SIC 4231;
 - (f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self- storage;
 - (g) Water transportation terminal activities classified as SIC 4491;
 - (h) Wholesale trade activities classified as SICs 50 and 51;
 - (i) Insurance carriers activities classified as SICs 631, 632 and 633;
 - (j) Research and development activities classified as SIC 873, except 8733;

- (k) Farm implement dealer activities classified as SIC 5999;
- (l) Employment agency activities classified as SIC 7361;
- (m) Computer programming, data processing and other computer-related activities classified as SIC 737;
- (n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;
- (o) Interexchange telecommunications as defined in subdivision (20) of section 386.020, RSMo, or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020, RSMo;
- (p) Recycling activities classified as SIC 5093;
- (q) Banking activities classified as SICs 602 and 603;
- (r) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;
- (s) Mining activities classified as SICs 10 through 14;
- (t) Photofinishing laboratory activities classified in SIC 7384 and microfilm recording and developing services as contained in SIC classification 7389, provided that each such revenue-producing enterprise employs a minimum of one hundred employees at a single business facility;

- (u) The administrative management of any of the foregoing activities; or
- (v) Any combination of any of the foregoing activities;

(7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;

(8) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget.]

[135.460. 1. Section 135.460 and sections 620.1100 and 620.1103, RSMo, shall be known and may be cited as the "Youth Opportunities and Violence Prevention Act".

2. As used in this section, the term "taxpayer" shall include corporations as defined in section 143.441 or 143.471, RSMo, and individuals, individual proprietorships and partnerships.

3. A taxpayer shall be allowed a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, chapter 147, RSMo, chapter 148, RSMo, or chapter 153, RSMo, in an amount equal to thirty percent for property contributions and fifty percent for monetary contributions of the amount such taxpayer contributed to the programs described in subsection 5 of this section, not to exceed two hundred thousand dollars per taxable year, per taxpayer; except as otherwise provided in subdivision (5) of subsection 5 of this

section. The department of economic development shall prescribe the method for claiming the tax credits allowed in this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

4. The tax credits allowed by this section shall be claimed by the taxpayer to offset the taxes that become due in the taxpayer's tax period in which the contribution was made. Any tax credit not used in such tax period may be carried over the next five succeeding tax periods.

5. The tax credit allowed by this section may only be claimed for monetary or property contributions to public or private programs authorized to participate pursuant to this section by the department of economic development and may be claimed for the development, establishment, implementation, operation, and expansion of the following activities and programs:

(1) An adopt-a-school program. Components of the adopt-a-school program shall include donations for school activities, seminars, and functions; school-business employment programs; and the donation of property and equipment of the corporation to the school;

(2) Expansion of programs to encourage school dropouts to reenter and complete high school or to complete a graduate equivalency degree program;

(3) Employment programs. Such programs shall initially, but not exclusively, target unemployed youth living in poverty and youth living in areas with a high incidence of crime;

(4) New or existing youth clubs or associations;

(5) Employment/internship/apprenticeship programs in business or trades for persons less than twenty years of age, in which case the tax credit claimed pursuant to this section shall be equal to one-half of the amount paid to the intern or apprentice in that tax year, except that such credit shall not exceed ten thousand dollars per person;

(6) Mentor and role model programs;

(7) Drug and alcohol abuse prevention training programs for youth;
(8) Donation of property or equipment of the taxpayer to schools, including schools which primarily educate children who have been expelled from other schools, or donation of the same to municipalities, or not-for-profit corporations or other not-for-profit organizations which offer programs dedicated to youth violence prevention as authorized by the department;

- (9) Not-for-profit, private or public youth activity centers;
- (10) Nonviolent conflict resolution and mediation programs;
- (11) Youth outreach and counseling programs.

6. Any program authorized in subsection 5 of this section shall, at least annually, submit a report to the department of economic development outlining the purpose and objectives of such program, the number of youth served, the specific activities provided pursuant to such program, the duration of such program and recorded youth attendance where applicable.

7. The department of economic development shall, at least annually submit a report to the Missouri general assembly listing the organizations participating, services offered and the number of youth served as the result of the implementation of this section.

8. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1995.

9. For the purposes of the credits described in this section, in the case of a corporation described in section 143.471, RSMo, partnership, limited liability company described in section 347.015, RSMo, cooperative, marketing enterprise, or partnership, in computing Missouri's tax liability, such credits shall be allowed to the following:

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership;
- (3) The members of the limited liability company; and
- (4) Individual members of the cooperative or marketing enterprise.

Such credits shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.]

[135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a

manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate standard industrial classification numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall, also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community. A corporation,

partnership or sole proprietorship, which has no more than one hundred employees for whom payroll taxes are paid, and which is already located in a distressed community, which expends funds for such equipment as set forth in this subsection in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a twenty-five percent tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, up to a maximum of seventy-five thousand dollars in tax credits for such additional equipment and expense per such entity. Tax credits pursuant to this subsection or subsection 1 may be used to satisfy the state tax liability due in the tax year the credit is certified, and that was due during the previous three years, and in any of the five tax years thereafter.

4. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

5. The tax credits allowed pursuant to subsections 1, 2 and 3 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 3 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 4 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

6. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1 or 3 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

7. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.

8. An existing business located within a distressed community, that hires new

employees within such distressed communities may be eligible for the tax credits provided in this section. In order to be eligible for such tax credits, the business located within the distressed community, during one of its tax years, must employ within such distressed communities at least twice as many workers as were employed at the beginning of that tax year. Prior to the addition of the new employees, the business shall have no more than one hundred employees. The provisions of this section shall apply only to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, or telecommunications business or a professional firm.]

[135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate standard industrial classification numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall, also be eligible to receive a tax credit against

individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than one hundred employees before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.]

[135.545. A taxpayer shall be allowed a credit for taxes paid pursuant to chapter 143, 147 or 148, RSMo, in an amount equal to fifty percent of a qualified investment in transportation development for aviation, mass transportation, including parking facilities for users of mass transportation, railroads, ports, including parking facilities and limited access roads within ports, waterborne transportation, bicycle and pedestrian paths, or rolling stock located in a distressed community as defined in section 135.530, and which are part of a development plan approved by the appropriate local agency. If the department of economic development determines the investment has been so approved, the department shall grant the tax credit in order of date received. A taxpayer may carry forward any unused tax credit for up to ten years and may carry it back for the previous three years until such credit has been fully claimed. Certificates of tax credit issued in

accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee. The tax credits allowed pursuant to this section shall be for an amount of no more than ten million dollars for each year. This credit shall apply to returns filed for all taxable years beginning on or after January 1, 1999. Any unused portion of the tax credit authorized pursuant to this section shall be available for use in the future by those entities until fully claimed.]

[135.750. 1. Beginning January 1, 1999, a taxpayer shall be granted a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo, for up to fifty percent of the amount of investment in production or production-related activities in a qualified film production project. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, and the term "qualified film production project" means any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. Each film production company shall be limited to one qualified film production project per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

2. Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production project. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.

3. Tax credits certified pursuant to subsection 1 of this section shall not exceed five hundred thousand dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

4. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 1 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo. Unused acquired

credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.]

[620.1100. 1. The "Youth Opportunities and Violence Prevention Program" is hereby established in the division of community and economic development of the department of economic development to broaden and strengthen opportunities for positive development and participation in community life for youth, and to discourage such persons from engaging in criminal and violent behavior. For the purposes of section 135.460, RSMo, this section and section 620.1103, the term "advisory committee" shall mean an advisory committee to the division of community and economic development established pursuant to this section composed of ten members of the public. The ten members of the advisory committee shall include members of the private sector with expertise in youth programs, and at least one person under the age of twenty-one. Such members shall be appointed for two-year terms by the director of the department of economic development.

2. The "Youth Opportunities and Violence Prevention Fund" is hereby established in the state treasury and shall be administered by the department of economic development. The department may accept for deposit into the fund any grants, bequests, gifts, devises, contributions, appropriations, federal funds, and any other funds from whatever source derived. Moneys in the fund shall be used solely for purposes provided in section 135.460, RSMo, this section and section 620.1103. Any unexpended balance in the fund at the end of a fiscal year shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund.

3. The department of economic development in conjunction with the advisory committee shall establish program criteria and evaluation methods for tax credits claimed pursuant to section 135.460, RSMo. Such criteria and evaluation methods shall measure program effectiveness and outcomes, and shall give priority to local, neighborhood, community-based programs. The department shall monitor and evaluate all programs funded pursuant to section 135.460, RSMo, this section and section 620.1103. Such programs shall provide a priority for applications from areas of the state which have statistically higher incidence of crime, violence and poverty and such programs shall be funded before the programs which have applied from areas which do not exhibit crime, violence, and poverty to the same degree. The committee shall focus and support specific programs designed to generate self-esteem and a positive self-reliance in youth and which abate youth violence.

4. The department shall develop and operate a database which lists all participating and related programs. The database shall include indexes and cross references and shall be accessible by the public by computer-modem connection. The division of data processing and telecommunications of the office of administration and the department of economic development shall cooperate with the advisory committee in the development and operation of the program.]

[620.1103. 1. Notwithstanding any provision of law to the contrary, the department may in its discretion assign moneys from the youth opportunities and violence prevention fund to any entity designated by the department, for programs designated in section 135.460, RSMo, section 620.1100 and this section, including, but not limited to, schools, state agencies, political subdivisions and agencies thereof, not-for-profit corporations or not-for-profit organizations, the Missouri youth conservation corps, community action agencies, caring community programs, or any other entity or program such as any early childhood program, including, but not limited to, the parents as teachers program or similar programs; provided that, such assignment of funds does not exceed fifteen percent of the total value of the fund, and provided further that no more than ten percent of such funds assigned shall be used for administrative purposes.

2. Any entity receiving funds pursuant to the youth opportunities and violence prevention act shall sign an agreement to utilize such funds for the programs designated in section 135.460, RSMo, section 620.1100 and this section. The state auditor may conduct an audit to monitor the utilization of funds assigned by the department. If an entity uses funds for purposes other than for the programs designated in section 135.460, RSMo, section 620.1100 and this section, the department shall require the entity to repay such funds to the department.]

[620.1400. Sections 620.1400 to 620.1460 shall be known and may be cited as the "Missouri Individual Training Account Program Act" and its provisions shall be effective only within distressed communities as defined by section 135.530, RSMo.]

[620.1410. There is hereby established an "Individual Training Account Program" within the department of economic development. Job training and retraining activities conducted pursuant to the provisions of sections 620.1400 to 620.1460 shall be directed to employee advancement, where jobs are linked to training before the training commences, and shall emphasize upgrade training where current or potential employers, by means of educational programs, provide existing employees with training for higher skilled positions. Job training activities provided pursuant to the provisions of the individual training account program shall attempt to prepare employed workers, including those with obsolete or inadequate job skills, for positions that remain unfilled or that may be created by current or potential employers.]

[620.1420. As used in sections 620.1400 to 620.1460, the following terms mean:

- (1) "Costs of classroom training", the normal costs incurred in the provision of classroom training which may also include specifically identified costs incurred for instructors, classroom space and facilities, administrative support services, and directly related expenses, that together do not exceed the amount normally allowed for support of vocational and technical classes;
- (2) "Department", the department of economic development;
- (3) "Employee", a full-time or part-time employed worker whose salary is equal to or less than two hundred percent of the federal poverty level;
- (4) "Employee upgrade training", the progressive development of skills associated with the defined set of work processes. Such training shall be consistent with a career pattern of advancement, as measured by skill proficiency and the progressive earnings and related benefits, that are recognized within an occupation, trade or industry;
- (5) "Individual training account", an account funded by the tax credits provided for in section 620.1440 for the provision of employee upgrade training to employees through their participation in classroom training provided by educational institutions;
- (6) "Local educational institution", a publicly funded or privately funded local educational institution which is certified by a recognized accrediting association as capable of providing adequate classroom training to accomplish the purpose of sections 620.1400 to 620.1460.]

[620.1430. 1. A Missouri employer who desires to participate in the individual training account program shall provide the department of economic development with notification of intent to participate. The notification shall include, but need not be limited to, the names and occupations of employees whom the employer has selected to be trained, whether or not the employees are currently working for the employer, the name of the local educational institution that will provide the training, and a brief description of the training to be given by the institution.

2. The employer shall have complete discretion in the selection of the local educational institution or institutions to provide training and shall be responsible for the payment of the costs of classroom training.]

[620.1440. 1. Employers may be reimbursed for the costs of training provided pursuant to the provisions of the individual training account program. Such reimbursement shall be in the form of tax credits as authorized in subsection 2 of this section. The tax credits may be claimed for courses provided in no more than two calendar years for each employee. For each year, the maximum amount of credit per employee which can be certified by the department of economic development shall be the

lesser of fifty percent of the costs of classroom training or one thousand five hundred dollars.

2. Tax credits may be claimed against any liability incurred by the employer pursuant to the provisions of chapter 143, RSMo, and chapter 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo. Earned tax credits may be carried forward for a period not to exceed five years and may be sold or transferred.

3. No claim for tax credits submitted to the department by an employer shall be certified until the employer provides documentation that an employee has successfully completed the employee's course training and has been employed by the employer in a new, full-time position for a period of at least three months. It must be demonstrated satisfactorily to the department that the new position in which the employee located is an upgrade in employment, in terms of salary and responsibilities, from the previously held position. All such increases in salary shall be in addition to normal cost-of-living increases provided for in authorized labor-management contracts. If the employee was previously employed in a part-time position, the base salary for the position shall be calculated as if it were a full-time position.]

[620.1450. The maximum amount of tax credits allowable pursuant to the provisions of the individual training account program shall not annually exceed six million dollars.]

[620.1460. The department of economic development may promulgate necessary rules and regulations to carry out the provisions of sections 620.1400 to 620.1460. No rule or portion of a rule promulgated pursuant to the authority of sections 620.1400 to 620.1460 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[620.1560. 1. For purposes of this section, the following terms mean:

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

(2) "Disadvantaged", an individual shall be considered disadvantaged and eligible to participate in the program if such individual meets any one of the following elements:

(a) The family income is at or below one hundred fifty percent of the poverty line;

(b) The individual is receiving public support for the care of a foster child;

(c) The individual faces serious barriers to employment including displaced homemakers; dislocated workers; veterans; or individuals who possess outdated skills;

(3) "Program", the mature worker child care program.

2. There is hereby established within the department of economic development a program to be known as the "Mature Worker Child Care Program". The program will administer a statewide community service, in cooperation with the neighborhood

assistance program, to enroll disadvantaged individuals, who are fifty years of age or older, to work in child-care assignments. Enrollees may include qualified individuals who are currently participating in existing community service programs.

3. The department shall solicit proposals from organizations seeking to contract to supervise the participants. Organizations that are awarded a contract will be responsible for recruiting and training participants, locating child-care assignments, and paying participants. Contract proposals shall include:

(1) A requirement that participants in the program be paid the federal minimum wage;

(2) A process that allows participants to work an average of twenty- four hours a week for public and not-for-profit day care providers and for school latch-key programs that provide before- and after-school care;

(3) A description of the range of services to be performed by program participants, including, but not limited to, child care, food preparation, transportation, activity coordination, and clerical duties;

(4) A requirement that the participating facilities provide proof of required licensure under sections 210.201 to 210.259, RSMo, with the exception of the public school system.

4. The program shall be implemented by July 1, 2000, and shall be funded through general revenue funds with no more than twelve percent of the funds to be used for administrative purposes.

5. In addition to tax credits currently available under the neighborhood assistance program, a participating facility shall be allowed a credit against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, pursuant to this section. The amount of tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed. Taxpayers eligible for such tax credit may transfer, sell or assign them. Individual salaries up to ten thousand dollars per program participant each taxable year are eligible for the tax credit which shall not exceed twenty-five percent of the eligible salary amount. Total tax credits taken through the program shall not exceed two million dollars.

6. The department of economic development shall verify all tax credit claims by participating facilities. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1999.

7. Subject to appropriations and to the provisions of chapter 34, RSMo, the oversight division of the committee on legislative research shall award up to thirty thousand dollars every two years for an independent evaluation of the program. Based

on this program evaluation, the department shall provide a comprehensive report on the program to the speaker of the house and the president pro tem of the senate by March first of each year, beginning in 2001.]

Section B. The repeal and reenactment of sections 100.105, 135.350, 135.352, 135.355, 135.361, 135.362, 135.363, 135.545, 620.017, and 620.1039, RSMo, shall be effective January 1, 2004.

Section C. The repeal of sections 32.110, 32.117, 32.120, 135.460, 620.1100, 620.1103, and section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, and the repeal and reenactment of sections 32.100, 32.105, and 32.115 of this act shall become effective on January 1, 2006.

Section D. The repeal of section 135.535 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701 of the ninetieth general assembly, first regular session, and section 135.535 as ~~enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20 of the ninetieth general assembly, first regular session,~~ shall become effective on January 1, 2004.

T

Bill

Copy