

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 282
94TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, February 22, 2007, with recommendation that the Senate Committee Substitute do pass.

1361S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 135.950, 135.963, 135.967, 178.895, 178.896, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof eight new sections relating to certain department of economic development programs.

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

Section A. Sections 135.950, 135.963, 135.967, 178.895, 178.896, 620.1878, 2 and 620.1881, RSMo, are repealed and eight new sections enacted in lieu thereof, 3 to be known as sections 99.1200, 135.950, 135.963, 135.967, 178.895, 178.896, 4 620.1878, and 620.1881, to read as follows:

99.1200. 1. This section shall be known and may be cited as the
2 **"Distressed Areas Land Assemblage Tax Credit Act".**

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

4 **(1) "Acquisition costs", all costs and expenses incurred in the**
5 **acquisition of an eligible parcel. Acquisition costs include, but are not**
6 **limited to, the purchase price for the eligible parcel, costs for title**
7 **insurance and survey, attorney's fees, costs of environmental**
8 **assessments, closing costs, real estate brokerage fees, demolition costs**
9 **of vacant structures, relocation costs, and maintenance costs incurred**
10 **to maintain an acquired eligible parcel for a period of five years after**
11 **the acquisition of such eligible parcel;**

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

14 **(a) Incurred, within an eligible project area, acquisition costs for**
15 **the acquisition of land sufficient to satisfy the requirements under**

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

16 subdivision (8) of subsection 2 of this section; and

17 (b) Been appointed or selected by a municipal authority as a
18 redeveloper or similar designation under an economic incentive act to
19 redevelop an urban renewal area or a redevelopment area that includes
20 all of an eligible project area or whose redevelopment plan or
21 redevelopment area, which encompasses all of an eligible project area,
22 has been approved or adopted under an economic incentive act;

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

24 (4) "Condemnation proceedings", any action taken by or on behalf
25 of an applicant to initiate an action in a court of competent jurisdiction
26 to use the power of eminent domain to acquire a parcel within the
27 eligible project area. Condemnation proceedings shall include any and
28 all actions taken after the submission of a notice of intended
29 acquisition to an owner of a parcel within the eligible project area by
30 a municipal authority or any other person or entity under section
31 523.250, RSMo;

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

34 (6) "Economic incentive acts", any provision of Missouri law
35 pursuant to which economic incentives are provided to redevelopers of
36 a parcel or parcels to redevelop the land, such as tax abatement or
37 payments in lieu of taxes, or redevelopment plans or redevelopment
38 projects approved or adopted which include the use of economic
39 incentives to redevelop the land. Economic incentive acts include, but
40 are not limited to, the Land Clearance for Redevelopment Authority
41 Law, the Real Property Tax Increment Allocation Redevelopment Act,
42 the Missouri Downtown and Rural Economic Stimulus Act, and the
43 Downtown Revitalization Preservation Program;

44 (7) "Eligible parcel", a parcel which is located within an eligible
45 project area and which has been acquired prior to the commencement
46 of any condemnation proceedings within the eligible project area
47 brought by or on behalf of the applicant. Any parcel acquired by the
48 applicant from a municipal authority shall not constitute an eligible
49 parcel;

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

52 (a) The eligible project area shall consist of at least seventy-five

53 acres and may include parcels within its boundaries that do not
54 constitute eligible parcels;

55 (b) At least eighty percent of the eligible project area shall be
56 located within a Missouri qualified census tract area as designated by
57 the United States Department of Housing and Urban Development
58 under 26 U.S.C. Section 42;

59 (c) The eligible parcels acquired by the applicant within an
60 eligible project area shall total at least fifty acres, which may consist
61 of contiguous or noncontiguous parcels;

62 (d) With respect to an eligible project area located within a city,
63 town, or village, the average number of parcels per acre in an eligible
64 project area shall be at least four; and

65 (e) Less than five percent of the acreage within the boundaries
66 of the eligible project area shall consist of owner-occupied residences
67 which the applicant has identified for acquisition under the urban
68 renewal plan or the redevelopment plan pursuant to which the
69 applicant was appointed or selected as the redeveloper or by which the
70 person or entity was qualified as an applicant under this section on the
71 date of the approval or adoption of such plan;

72 With respect to proposed project areas located within a city, town, or
73 village, with a population equal to or less than fifty thousand
74 inhabitants, the requirements for an eligible project area may be
75 modified or waived as deemed necessary and reasonable by the
76 department based upon information provided in the application
77 required under this section;

78 (9) "Interest costs", all costs and expenses of an applicant for
79 loans incurred by such applicant to finance the acquisition of an
80 eligible parcel. Interest costs include, but are not limited to, interest,
81 loan fees, closing costs, and attorneys' fees;

82 (10) "Municipal authority", any city, town, village, county, public
83 body corporate and politic, political subdivision, or land trust of this
84 state established and authorized to own land within the state; and

85 (11) "Parcel", a single lot or tract of land, and the improvements
86 thereon, owned by, or recorded as the property of, one or more persons
87 or entities.

88 3. Any applicant shall be entitled to a credit against the taxes
89 imposed under chapters 143, 147, and 148, RSMo, except for sections

90 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the
91 acquisition costs, and one hundred percent of the interest costs
92 incurred for a period of five years after the acquisition of an eligible
93 parcel. No tax credits shall be issued under this section until after
94 January 1, 2008.

95 4. If the amount of such credit exceeds the total tax liability for
96 the year in which the applicant is entitled to receive a credit, the
97 amount that exceeds the state tax liability may be carried forward for
98 credit against the taxes imposed under chapters 143, 147, and 148,
99 RSMo, for the succeeding six years, or until the full credit is used,
100 whichever occurs first. The applicant shall not be entitled to a credit
101 for taxes imposed under sections 143.191 to 143.265, RSMo. Applicants
102 entitled to receive such tax credits may transfer, sell, or assign the
103 credits. Credits granted to a partnership, a limited liability company
104 taxed as a partnership, or multiple owners of property shall be passed
105 through to the partners, members, or owners respectively pro rata or
106 pursuant to an executed agreement among the partners, members, or
107 owners documenting an alternate distribution method.

108 5. A purchaser, transferee, or assignee of the tax credits may use
109 acquired credits to offset up to one hundred percent of the tax
110 liabilities otherwise imposed under chapters 143, 147, and 148, RSMo,
111 except for sections 143.191 to 143.265, RSMo. A seller, transferor, or
112 assignor shall perfect such transfer by notifying the department in
113 writing within thirty calendar days following the effective date of the
114 transfer and shall provide any information as may be required by the
115 department to administer and to carry out the provisions of this
116 section.

117 6. To claim credits authorized under this section, an applicant
118 shall submit to the department an application for a certificate. An
119 applicant shall identify the boundaries of the eligible project area in
120 the application. The department shall verify that the applicant has
121 submitted a valid application in the form and format required by the
122 department. On an annual basis, an applicant may file for the credit
123 for the acquisition costs, and for the credit for the interest costs,
124 subject to the limitations of this section. If an applicant applying for
125 the tax credit meets the criteria required under this section, the
126 department shall issue a certificate in the appropriate amount.

127 7. The total aggregate amount of tax credits to be issued under
128 this section shall not exceed one hundred million dollars. At no time
129 shall the annual amount of the tax credits issued under this section
130 exceed twelve million dollars. If the tax credits that are to be issued
131 under this section exceed, in any year, the twelve million dollar
132 limitation, the department shall either:

133 (1) Issue tax credits to the applicant in the amount of twelve
134 million dollars, if there is only one applicant entitled to receive tax
135 credits in that year; or

136 (2) Issue the tax credits on a pro rata basis to all applicants
137 entitled to receive tax credits in that year. Any amount of tax credits,
138 which an applicant is, or applicants are, entitled to receive on an
139 annual basis and are not issued due to the twelve million dollar
140 limitation, shall be carried forward for the benefit of the applicant or
141 applicants to subsequent years.

142 8. The department may promulgate rules to implement the
143 provisions of this section. Any rule or portion of a rule, as that term is
144 defined in section 536.010, RSMo, that is created under the authority
145 delegated in this section shall become effective only if it complies with
146 and is subject to all of the provisions of chapter 536, RSMo, and, if
147 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
148 are nonseverable and if any of the powers vested with the general
149 assembly pursuant to chapter 536, RSMo, to review, to delay the
150 effective date, or to disapprove and annul a rule are subsequently held
151 unconstitutional, then the grant of rulemaking authority and any rule
152 proposed or adopted after August 28, 2007, shall be invalid and void.

153 9. Under section 23.253, RSMo, of the Missouri sunset act:

154 (1) The provisions of the new program authorized under this
155 section shall automatically sunset six years after August 28, 2007,
156 unless reauthorized by an act of the general assembly;

157 (2) If such program is reauthorized, the program authorized
158 under this section shall automatically sunset six years after the
159 effective date of the reauthorization of this section; and

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

135.950. The following terms, whenever used in sections 135.950 to

2 135.970 mean:

3 (1) "Blighted area", an area which, by reason of the predominance of
4 defective or inadequate street layout, unsanitary or unsafe conditions,
5 deterioration of site improvements, improper subdivision or obsolete platting, or
6 the existence of conditions which endanger life or property by fire and other
7 causes, or any combination of such factors, retards the provision of housing
8 accommodations or constitutes an economic or social liability or a menace to the
9 public health, safety, morals, or welfare in its present condition and use;

10 (2) "Board", an enhanced enterprise zone board established pursuant to
11 section 135.957;

12 (3) "Commencement of commercial operations" shall be deemed to occur
13 during the first taxable year for which the new business facility is first put into
14 use by the taxpayer in the enhanced business enterprise in which the taxpayer
15 intends to use the new business facility;

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

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

18 (6) "Employee", a person employed by the enhanced business enterprise

19 [on:

20 (a) A regular, full-time basis;

21 (b) A part-time basis, provided such person is customarily performing
22 such duties an average of at least twenty hours per week; or

23 (c) A seasonal basis, provided such person performs such duties for at
24 least eighty percent of the season customary for the position in which such person
25 is employed] **that is scheduled to work an average of at least one**
26 **thousand hours a year, and such person at all times has health**
27 **insurance offered to him or her, which is at least partially paid for by**
28 **the employer;**

29 (7) "Enhanced business enterprise", an industry or one of a cluster of
30 industries that is either:

31 (a) Identified by the department as critical to the state's economic security
32 and growth; or

33 (b) Will have an impact on industry cluster development, as identified by
34 the governing authority in its application for designation of an enhanced
35 enterprise zone and approved by the department; but excluding gambling
36 establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and
37 45), **educational services (NAICS sector 61), religious organization**

38 **(NAICS industry group 8131), public administration (NAICS sector 92),**
39 **and food and drinking places (NAICS subsector 722), however,**
40 **notwithstanding the above, headquarters or administrative offices of**
41 **an otherwise excluded business may qualify for benefits if the offices**
42 **serve a multistate territory. In the event a national, state, or regional**
43 **headquarters operation is not the predominant activity of a project**
44 **facility, the new jobs and investment of such headquarters operation**
45 **shall be considered eligible for benefits under this section if the other**
46 **requirements are satisfied.** Service industries may be eligible only if a
47 majority of its annual revenues will be derived from [services provided] out of the
48 state;

49 (8) "Existing business facility", any facility in this state which was
50 employed by the taxpayer claiming the credit in the operation of an enhanced
51 business enterprise immediately prior to an expansion, acquisition, addition, or
52 replacement;

53 (9) "Facility", any building used as an enhanced business enterprise
54 located within an enhanced enterprise zone, including the land on which the
55 facility is located and all machinery, equipment, and other real and depreciable
56 tangible personal property acquired for use at and located at or within such
57 facility and used in connection with the operation of such facility;

58 (10) "Facility base employment", the greater of the number of
59 employees located at the facility on the date of the notice of intent, or
60 for the twelve-month period prior to the date of the notice of intent, the
61 average number of employees located at the facility or in the event the
62 project facility has not been in operation for a full twelve-month
63 period, the average number of employees for the number of months the
64 facility has been in operation prior to the date of the notice of intent;

65 (11) "Facility base payroll", the total amount of taxable wages
66 paid by the enhanced business enterprise to employees of the enhanced
67 business enterprise located at the facility in the twelve months prior
68 to the notice of intent, not including the payroll of owners of the
69 enhanced business enterprise unless such enhanced business enterprise
70 is participating in an employee stock ownership plan. For the purposes
71 of calculating the benefits under sections 135.950 to 135.970, the amount
72 of base payroll shall increase each year based on the Consumer Price
73 Index, or other comparable measure, as determined by the department;

74 **(12)** "Governing authority", the body holding primary legislative authority
75 over a county or incorporated municipality;

76 [(11)] **(13)** "NAICS", the 1997 edition of the North American Industry
77 Classification System as prepared by the Executive Office of the President, Office
78 of Management and Budget. Any NAICS sector, subsector, industry group or
79 industry identified in this section shall include its corresponding classification in
80 subsequent federal industry classification systems;

81 [(12)] **(14)** "New business facility", a facility that satisfies the following
82 requirements:

83 (a) Such facility is employed by the taxpayer in the operation of an
84 enhanced business enterprise. Such facility shall not be considered a new
85 business facility in the hands of the taxpayer if the taxpayer's only activity with
86 respect to such facility is to lease it to another person or persons. If the taxpayer
87 employs only a portion of such facility in the operation of an enhanced business
88 enterprise, and leases another portion of such facility to another person or
89 persons or does not otherwise use such other portions in the operation of an
90 enhanced business enterprise, the portion employed by the taxpayer in the
91 operation of an enhanced business enterprise shall be considered a new business
92 facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are
93 satisfied;

94 (b) Such facility is acquired by, or leased to, the taxpayer after December
95 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the
96 taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the
97 transfer of possession pursuant to a binding contract to transfer title to the
98 taxpayer, or the commencement of the term of the lease to the taxpayer occurs
99 after December 31, 2004;

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

105 (d) Such facility is not a replacement business facility, as defined in
106 subdivision [(16)] **(22)** of this section;

107 [(13)] **(15)** "New business facility employee", an employee of the taxpayer
108 in the operation of a new business facility during the taxable year for which the
109 credit allowed by section 135.967 is claimed, except that truck drivers and rail

110 and barge vehicle operators and other operators of rolling stock for hire shall not
111 constitute new business facility employees;

112 ~~[(14)]~~ **(16)** "New business facility investment", the value of real and
113 depreciable tangible personal property, acquired by the taxpayer as part of the
114 new business facility, which is used by the taxpayer in the operation of the new
115 business facility, during the taxable year for which the credit allowed by 135.967
116 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles,
117 barge vehicles, aircraft and other rolling stock for hire, track, switches, barges,
118 bridges, tunnels, and rail yards and spurs shall not constitute new business
119 facility investments. The total value of such property during such taxable year
120 shall be:

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

122 (b) Eight times the net annual rental rate, if leased by the taxpayer. The
123 net annual rental rate shall be the annual rental rate paid by the taxpayer less
124 any annual rental rate received by the taxpayer from subrentals. The new
125 business facility investment shall be determined by dividing by twelve the sum
126 of the total value of such property on the last business day of each calendar
127 month of the taxable year. If the new business facility is in operation for less
128 than an entire taxable year, the new business facility investment shall be
129 determined by dividing the sum of the total value of such property on the last
130 business day of each full calendar month during the portion of such taxable year
131 during which the new business facility was in operation by the number of full
132 calendar months during such period;

133 ~~[(15)]~~ **(17)** "New job", the number of employees located at the
134 facility that exceeds the facility base employment less any decrease in
135 the number of employees at related facilities below the related facility
136 base employment. No job that was created prior to the date of the
137 notice of intent shall be deemed a new job;

138 **(18)** "Notice of intent", a form developed by the department,
139 completed by the enhanced business enterprise, and submitted to the
140 department which states the enhanced business enterprise's intent to
141 hire new jobs and request benefits under sections 135.950 to 135.970;

142 **(19)** "Related facility", a facility operated by the enhanced
143 business enterprise or a related company located in this state that is
144 directly related to the operations of the project facility;

145 **(20)** "Related facility base employment", the greater of:

146 **(a) The number of employees located at all related facilities on**
147 **the date of the notice of intent; or**

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

152 **(21) "Related taxpayer":**

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

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

157 (c) A corporation, partnership, trust or association controlled by an
158 individual, corporation, partnership, trust or association in control of the
159 taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly,
160 of stock possessing at least fifty percent of the total combined voting power of all
161 classes of stock entitled to vote, "control of a partnership or association" shall
162 mean ownership of at least fifty percent of the capital or profits interest in such
163 partnership or association, and "control of a trust" shall mean ownership, directly
164 or indirectly, of at least fifty percent of the beneficial interest in the principal or
165 income of such trust; ownership shall be determined as provided in Section 318
166 of the Internal Revenue Code of 1986, as amended;

167 ~~[(16)]~~ **(22) "Replacement business facility",** a facility otherwise described
168 in subdivision ~~[(12)]~~ **(14)** of this section, hereafter referred to in this subdivision
169 as "new facility", which replaces another facility, hereafter referred to in this
170 subdivision as "old facility", located within the state, which the taxpayer or a
171 related taxpayer previously operated but discontinued operating on or before the
172 close of the first taxable year for which the credit allowed by this section is
173 claimed. A new facility shall be deemed to replace an old facility if the following
174 conditions are met:

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

179 (b) The old facility was employed by the taxpayer or a related taxpayer
180 in the operation of an enhanced business enterprise and the taxpayer continues
181 the operation of the same or substantially similar enhanced business enterprise

182 at the new facility.

183 Notwithstanding the preceding provisions of this subdivision, a facility shall not
184 be considered a replacement business facility if the taxpayer's new business
185 facility investment, as computed in subdivision [(14)] (16) of this section, in the
186 new facility during the tax period for which the credits allowed in section 135.967
187 are claimed exceed one million dollars and if the total number of employees at the
188 new facility exceeds the total number of employees at the old facility by at least
189 two;

190 [(17)] (23) "Same or substantially similar enhanced business enterprise",
191 an enhanced business enterprise in which the nature of the products produced or
192 sold, or activities conducted, are similar in character and use or are produced,
193 sold, performed, or conducted in the same or similar manner as in another
194 enhanced business enterprise.

135.963. 1. Improvements made to real property as such term is defined
2 in section 137.010, RSMo, which are made **to an "enhanced business**
3 **enterprise", as defined in subdivision (7) of section 135.950**, in an
4 enhanced enterprise zone subsequent to the date such zone or expansion thereto
5 was designated, may, upon approval of an authorizing resolution by the governing
6 authority having jurisdiction of the area in which the improvements are made,
7 be exempt, in whole or in part, from assessment and payment of ad valorem taxes
8 of one or more affected political subdivisions. **In addition to enhanced**
9 **business enterprise, a speculative industrial or warehouse building**
10 **constructed by a public entity or a private entity if the land is leased**
11 **by a public entity, may be subject to such exemption.**

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

18 3. No exemption shall be granted until the governing authority holds a
19 public hearing for the purpose of obtaining the opinions and suggestions of
20 residents of political subdivisions to be affected by the exemption from property
21 taxes. The governing authority shall send, by certified mail, a notice of such
22 hearing to each political subdivision in the area to be affected and shall publish
23 notice of such hearing in a newspaper of general circulation in the area to be

24 affected by the exemption at least twenty days prior to the hearing but not more
25 than thirty days prior to the hearing. Such notice shall state the time, location,
26 date, and purpose of the hearing.

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

44 5. No exemption shall be granted for a period more than twenty-five years
45 following the date on which the original enhanced enterprise zone was designated
46 by the department.

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

49 7. The abatement referred to in this section shall not relieve the assessor
50 or other responsible official from ascertaining the amount of the equalized
51 assessed value of all taxable property annually as required by section 99.855,
52 99.957, or 99.1042, RSMo, and shall not have the effect of reducing the payments
53 in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845,
54 RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or subdivision (2)
55 of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in the
56 plan approved by the governing body of the municipality pursuant to subdivision
57 (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.967. 1. A taxpayer who establishes a new business facility may, upon
2 approval by the department, be allowed a credit, each tax year for up to ten tax

3 years, in an amount determined as set forth in this section, against the tax
4 imposed by chapter 143, RSMo, excluding withholding tax imposed by sections
5 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods
6 for subsequent expansions at the same facility.

7 2. Notwithstanding any provision of law to the contrary, any taxpayer who
8 establishes a new business facility in an enhanced enterprise zone and is awarded
9 state tax credits under this section may not also receive tax credits under sections
10 135.100 to 135.150, sections 135.200 to 135.268, or section 135.535.

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

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

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

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

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

22 (2) The sum calculated based upon the following:

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

25 (b) An additional credit of four hundred dollars for each new business
26 facility employee who is a resident of an enhanced enterprise zone;

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

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

33 5. Prior to January 1, 2007, in no event shall the department authorize
34 more than four million dollars annually to be issued for all enhanced business
35 enterprises. After December 31, 2006, in no event shall the department authorize
36 more than **[seven] twenty-five** million dollars annually to be issued for all
37 enhanced business enterprises.

38 6. If a facility, which does not constitute a new business facility, is

39 expanded by the taxpayer, the expansion shall be considered eligible for the credit
40 allowed by this section if:

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

48 (2) The taxpayer's investment in the expansion and in the original facility
49 prior to expansion shall be determined in the manner provided in subdivision
50 [(12)] (14) of section 135.950.

51 7. The number of new business facility employees during any taxable year
52 shall be determined by dividing by twelve the sum of the number of individuals
53 employed on the last business day of each month of such taxable year. If the new
54 business facility is in operation for less than the entire taxable year, the number
55 of new business facility employees shall be determined by dividing the sum of the
56 number of individuals employed on the last business day of each full calendar
57 month during the portion of such taxable year during which the new business
58 facility was in operation by the number of full calendar months during such
59 period. For the purpose of computing the credit allowed by this section in the
60 case of a facility which qualifies as a new business facility under subsection 6 of
61 this section, and in the case of a new business facility which satisfies the
62 requirements of paragraph (c) of subdivision [(12)] (14) of section 135.950, or
63 subdivision [(16)] (22) of section 135.950, the number of new business facility
64 employees at such facility shall be reduced by the average number of individuals
65 employed, computed as provided in this subsection, at the facility during the
66 taxable year immediately preceding the taxable year in which such expansion,
67 acquisition, or replacement occurred and shall further be reduced by the number
68 of individuals employed by the taxpayer or related taxpayer that was
69 subsequently transferred to the new business facility from another Missouri
70 facility and for which credits authorized in this section are not being earned,
71 whether such credits are earned because of an expansion, acquisition, relocation,
72 or the establishment of a new facility.

73 8. In the case where a new business facility employee who is a resident
74 of an enhanced enterprise zone for less than a twelve-month period is employed

75 for less than a twelve-month period, the credits allowed by paragraph (b) of
76 subdivision (2) of subsection 4 of this section shall be determined by multiplying
77 four hundred dollars by a fraction, the numerator of which is the number of
78 calendar days during the taxpayer's tax year for which such credits are claimed,
79 in which the employee was a resident of an enhanced enterprise zone, and the
80 denominator of which is three hundred sixty-five.

81 9. For the purpose of computing the credit allowed by this section in the
82 case of a facility which qualifies as a new business facility pursuant to subsection
83 6 of this section, and in the case of a new business facility which satisfies the
84 requirements of paragraph (c) of subdivision [(12)] **(14)** of section 135.950 or
85 subdivision [(16)] **(22)** of section 135.950, the amount of the taxpayer's new
86 business facility investment in such facility shall be reduced by the average
87 amount, computed as provided in subdivision [(12)] **(14)** of section 135.950 for
88 new business facility investment, of the investment of the taxpayer, or related
89 taxpayer immediately preceding such expansion or replacement or at the time of
90 acquisition. Furthermore, the amount of the taxpayer's new business facility
91 investment shall also be reduced by the amount of investment employed by the
92 taxpayer or related taxpayer which was subsequently transferred to the new
93 business facility from another Missouri facility and for which credits authorized
94 in this section are not being earned, whether such credits are earned because of
95 an expansion, acquisition, relocation, or the establishment of a new facility.

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

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

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

110 13. The director of revenue shall issue a refund to the taxpayer to the

111 extent that the amount of credits allowed in this section exceeds the amount of
112 the taxpayer's income tax.

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

178.895. 1. To provide funds for the present payment of the costs of new
2 jobs training programs, a community college district may borrow money and issue
3 and sell certificates payable from a sufficient portion of the future receipts of
4 payments authorized by the agreement including disbursements from the
5 Missouri community college job training program to the special fund established
6 by the district for each project. The total amount of outstanding certificates sold
7 by all junior college districts shall not exceed twenty million dollars, unless an
8 increased amount is authorized in writing by a majority of members of the
9 Missouri job training joint legislative oversight committee. The certificates shall
10 be marketed through financial institutions authorized to do business in
11 Missouri. The receipts shall be pledged to the payment of principal of and
12 interest on the certificates. Certificates may be sold at public sale or at private
13 sale at par, premium, or discount of not less than ninety-five percent of the par

14 value thereof, at the discretion of the board of trustees, and may bear interest at
15 such rate or rates as the board of trustees shall determine, notwithstanding the
16 provisions of section 108.170, RSMo, to the contrary. However, chapter 176,
17 RSMo, does not apply to the issuance of these certificates. Certificates may be
18 issued with respect to a single project or multiple projects and may contain terms
19 or conditions as the board of trustees may provide by resolution authorizing the
20 issuance of the certificates.

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

31 3. Before certificates are issued, the board of trustees shall publish once
32 a notice of its intention to issue the certificates, stating the amount, the purpose,
33 and the project or projects for which the certificates are to be issued. A person
34 may, within fifteen days after the publication of the notice, by action in the
35 circuit court of a county in the district, appeal the decision of the board of
36 trustees to issue the certificates. The action of the board of trustees in
37 determining to issue the certificates is final and conclusive unless the circuit
38 court finds that the board of trustees has exceeded its legal authority. An action
39 shall not be brought which questions the legality of the certificates, the power of
40 the board of trustees to issue the certificates, the effectiveness of any proceedings
41 relating to the authorization of the project, or the authorization and issuance of
42 the certificates from and after fifteen days from the publication of the notice of
43 intention to issue.

44 4. The board of trustees shall determine if revenues provided in the
45 agreement are sufficient to secure the faithful performance of obligations in the
46 agreement.

47 5. Certificates issued under this section shall not be deemed to be an
48 indebtedness of the state or the community college district or of any other
49 political subdivision of the state and the principal and interest on such

50 certificates shall be payable only from the sources provided in subdivision (1) of
51 section 178.893 which are pledged in the agreement.

52 6. The department of economic development shall coordinate the new jobs
53 training program, and may promulgate rules that districts will use in developing
54 projects with new and expanding industrial new jobs training proposals which
55 shall include rules providing for the coordination of such proposals with the
56 service delivery areas established in the state to administer federal funds
57 pursuant to the federal Job Training Partnership Act.

58 No rule or portion of a rule promulgated under the authority of sections 178.892
59 to 178.896 shall become effective unless it has been promulgated pursuant to the
60 provisions of chapter 536, RSMo. All rulemaking authority delegated prior to
61 June 27, 1997, is of no force and effect and repealed; however, nothing in this
62 section shall be interpreted to repeal or affect the validity of any rule filed or
63 adopted prior to June 27, 1997, if such rule complied with the provisions of
64 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are
65 nonseverable and if any of the powers vested with the general assembly pursuant
66 to chapter 536, RSMo, including the ability to review, to delay the effective date,
67 or to disapprove and annul a rule or portion of a rule, are subsequently held
68 unconstitutional, then the purported grant of rulemaking authority and any rule
69 so proposed and contained in the order of rulemaking shall be invalid and void.

70 7. No community college district may sell certificates as described in this
71 section after July 1, [2008] **2018**.

178.896. 1. There is hereby established within the state treasury a
2 special fund, to be known as the "Missouri Community College Job Training
3 Program Fund", to be administered by the division of job development and
4 training. The department of revenue shall credit to the community college job
5 training program fund, as received, all new jobs credit from withholding remitted
6 by employers pursuant to section 178.894. The fund shall also consist of any
7 gifts, contributions, grants or bequests received from federal, private or other
8 sources. The general assembly, however, shall not provide for any transfer of
9 general revenue funds into the community college job training program
10 fund. Moneys in the Missouri community college job training program fund shall
11 be disbursed to the division of job development and training pursuant to regular
12 appropriations by the general assembly. The division shall disburse such
13 appropriated funds in a timely manner into the special funds established by
14 community college districts for projects, which funds shall be used to pay program

15 costs, including the principal of, premium, if any, and interest on certificates
16 issued by the district to finance or refinance, in whole or in part, a project. Such
17 disbursements by the division of job development and training shall be made to
18 the special fund for each project in the same proportion as the new jobs credit
19 from withholding remitted by the employer participating in such project bears to
20 the total new jobs credit from withholding remitted by all employers participating
21 in projects during the period for which the disbursement is made. Moneys for
22 new jobs training programs established under the provisions of sections 178.892
23 to 178.896 shall be obtained from appropriations made by the general assembly
24 from the Missouri community college job training program fund. All moneys
25 remaining in the Missouri community college job training program fund at the
26 end of any fiscal year shall not lapse to the general revenue fund, as provided in
27 section 33.080, RSMo, but shall remain in the Missouri community college job
28 training program fund.

29 2. The department of revenue shall develop such forms as are necessary
30 to demonstrate accurately each employer's new jobs credit from withholding paid
31 into the Missouri community college job training program fund. The new jobs
32 credit from withholding shall be accounted as separate from the normal
33 withholding tax paid to the department of revenue by the
34 employer. Reimbursements made by all employers to the Missouri community
35 college job training program fund shall be no less than all allocations made by the
36 division of job development and training to all community college districts for all
37 projects. The employer shall remit the amount of the new job credit to the
38 department of revenue in the same manner as provided in sections 143.191 to
39 143.265, RSMo.

40 3. Sections 178.892 to 178.896 shall expire July 1, [2018] **2028**.

 620.1878. For the purposes of sections 620.1875 to 620.1890, the following
2 terms shall mean:

3 (1) **"Approval", a document submitted by the department to the**
4 **qualified company that states the benefits that may be provided by this**
5 **program;**

6 (2) "Average wage", the new payroll divided by the number of new jobs;

7 [(2)] (3) "Commencement of operations", the starting date for the
8 qualified company's first new employee, which must be no later than twelve
9 months from the date of the [proposal] **approval;**

10 [(3)] (4) "County average wage", the average wages in each county as

11 determined by the department for the most recently completed full calendar
12 year. However, if the computed county average wage is above the statewide
13 average wage, the statewide average wage shall be deemed the county average
14 wage for such county **for the purpose of determining eligibility**. The
15 department shall publish the county average wage for each county at least
16 annually. **Notwithstanding provisions of this subdivision to the**
17 **contrary, for any qualified company that in conjunction with their**
18 **project is relocating more than twenty-five full-time equivalent**
19 **employees from a related facility in a Missouri county with a higher**
20 **county average wage to the project facility during a period of the**
21 **initial five year benefit period of the project facility, the county**
22 **average wage for the project facility shall be the county average wage**
23 **for the county of the related facility;**

24 [(4)] (5) "Department", the Missouri department of economic
25 development;

26 [(5)] (6) "Director", the director of the department of economic
27 development;

28 [(6)] (7) "Employee", a person employed by a qualified company;

29 [(7) "Full-time equivalent employees", employees of the qualified company
30 converted to reflect an equivalent of the number of full-time, year-round
31 employees. The method for converting part-time and seasonal employees into an
32 equivalent number of full-time, year-round employees shall be published in a rule
33 promulgated by the department as authorized in section 620.1884;]

34 (8) "Full-time[, year-round] employee", an employee of the **qualified**
35 company that [works] **is scheduled to work** an average of at least thirty-five
36 hours per week for a twelve-month period, and one for which the qualified
37 company offers health insurance and pays at least fifty percent of such insurance
38 premiums;

39 (9) "High-impact project", a qualified company that, within two years from
40 commencement of operations, creates one hundred or more new jobs;

41 (10) "Local incentives", the present value of the dollar amount of direct
42 benefit received by a qualified company for a project facility from one or more
43 local political subdivisions, but shall not include loans or other funds provided to
44 the qualified company that must be repaid by the qualified company to the
45 political subdivision;

46 (11) "NAICS", the 1997 edition of the North American Industry

47 Classification System as prepared by the Executive Office of the President, Office
48 of Management and Budget. Any NAICS sector, subsector, industry group, or
49 industry identified in this section shall include its corresponding classification in
50 subsequent federal industry classification systems;

51 (12) "New direct local revenue", the present value of the dollar amount of
52 direct net new tax revenues of the local political subdivisions, **excluding local**
53 **earnings taxes**, likely to be produced by the project over a ten-year period as
54 calculated by the department and net new utility revenues, provided the local
55 incentives include a discount or other direct incentives from utilities owned or
56 operated by the political subdivision;

57 (13) "New investment", the purchase or leasing of new tangible assets to
58 be placed in operation at the project facility, which will be directly related to the
59 new jobs;

60 (14) "New job", the number of full-time[, year-round] employees located
61 at the project facility that exceeds the project facility base employment less any
62 decrease in the number of full-time [equivalent] employees at related facilities
63 below the related facility base employment. **No job that was created prior to**
64 **the date of the notice of intent shall be deemed a new job;**

65 (15) "New payroll", [the amount of wages paid by a qualified company to
66 employees in new jobs] **the amount of taxable wages of full-time**
67 **employees, excluding owners, located at the project facility which**
68 **exceeds the project facility base payroll. If full-time employment at**
69 **related facilities is below the related facility base employment, any**
70 **decrease in payroll for full-time employees at the related facilities**
71 **below the related facility base payroll shall also be subtracted to**
72 **determine new payroll;**

73 (16) "Notice of intent", a form developed by the department, completed by
74 the qualified company and submitted to the department which states the
75 qualified company's intent to hire new jobs and request benefits under this
76 program;

77 (17) "Percent of local incentives", the amount of local incentives divided
78 by the amount of new direct local revenue;

79 (18) "Program", the Missouri quality jobs program provided in sections
80 620.1875 to 620.1890;

81 (19) "Project facility", the building used by a qualified company at which
82 the new jobs and new investment will be located. A project facility may include

83 separate buildings that are located within one mile of each other such that their
84 purpose and operations are interrelated;

85 (20) "Project facility base employment", **the greater of the number of**
86 **full-time employees located at the project facility on the date of the**
87 **notice of intent or** for the twelve-month period prior to the date of the
88 [proposal] **notice of intent**, the average number of full-time [equivalent]
89 employees located at the project facility. In the event the project facility has not
90 been in operation for a full twelve-month period, [project facility base employment
91 is] the average number of full-time [equivalent] employees for the number of
92 months the project facility has been in operation prior to the date of the
93 [proposal] **notice of intent**;

94 (21) "Project facility base payroll", **the total amount of taxable**
95 **wages paid by the qualified company to full-time employees of the**
96 **qualified company located at the project facility in the twelve months**
97 **prior to the notice of intent, not including the payroll of owners of the**
98 **qualified company unless the qualified company is participating in an**
99 **employee stock ownership plan. For the purposes of calculating the**
100 **benefits under this program, the amount of base payroll shall increase**
101 **each year based on an appropriate measure, as determined by the**
102 **department**;

103 (22) "Project period", the time period that the benefits are provided to a
104 qualified company;

105 [(22) "Proposal", a document submitted by the department to the qualified
106 company that states the benefits that may be provided by this program. The
107 effective date of such proposal cannot be prior to the commencement of
108 operations. The proposal shall not offer benefits regarding any jobs created prior
109 to its effective date unless the proposal is for a job retention project;]

110 (23) "Qualified company", a firm, partnership, joint venture, association,
111 private or public corporation whether organized for profit or not, or headquarters
112 of such entity registered to do business in Missouri [that], **which** is the owner
113 or operator of a project facility, **offers health insurance to all full-time**
114 **employees of all facilities located in this state, and pays at least fifty**
115 **percent of such insurance premiums**. For the purposes of sections 620.1875
116 to 620.1890, the term "qualified company" shall not include:

117 (a) Gambling establishments (NAICS industry group 7132);

118 (b) Retail trade establishments (NAICS sectors 44 and 45);

- 119 (c) Food and drinking places (NAICS subsector 722);
- 120 (d) [Utilities regulated by the Missouri public service commission] **Public**
- 121 **utilities (NAIC sector 221) including water and sewer services;**
- 122 (e) Any company that is delinquent in the payment of any nonprotested
- 123 taxes or any other amounts due the state or federal government or any other
- 124 political subdivision of this state; [or]
- 125 (f) Any company that has filed for or has publicly announced its intention
- 126 to file for bankruptcy protection;
- 127 **(g) Educational services (NAIC sector 61);**
- 128 **(h) Religious organizations (NAIC industry group 8131); or**
- 129 **(i) Public administration (NAIC sector 92).**

130 **Notwithstanding provisions of this subdivision to the contrary,**

131 **headquarters or administrative offices of an otherwise excluded**

132 **business may qualify for benefits if the offices serve a multistate**

133 **territory. In the event a national, state, or regional headquarters**

134 **operation is not the predominant activity of a project facility, the new**

135 **jobs of such headquarters operation shall be considered eligible for**

136 **benefits under this section if the other requirements are satisfied.**

137 (24) "Related company" means:

138 (a) A corporation, partnership, trust, or association controlled by the

139 qualified company;

140 (b) An individual, corporation, partnership, trust, or association in control

141 of the qualified company; or

142 (c) Corporations, partnerships, trusts or associations controlled by an

143 individual, corporation, partnership, trust or association in control of the

144 qualified company. As used in this subdivision, ["control of a corporation["] shall

145 mean ownership, directly or indirectly, of stock possessing at least fifty percent

146 of the total combined voting power of all classes of stock entitled to vote,

147 ["control of a partnership or association["] shall mean ownership of at least fifty

148 percent of the capital or profits interest in such partnership or association,

149 ["control of a trust["] shall mean ownership, directly or indirectly, of at least

150 fifty percent of the beneficial interest in the principal or income of such trust, and

151 ownership shall be determined as provided in Section 318 of the Internal Revenue

152 Code of 1986, as amended;

153 (25) "Related facility", a facility operated by the qualified company or a

154 related company located in this state that is directly related to the operations of

155 the project facility;

156 (26) "Related facility base employment", **the greater of the number of**
157 **full-time employees located at all related facilities on the date of the**
158 **notice of intent or** for the twelve-month period prior to the date of the
159 **[proposal] notice of intent**, the average number of full-time [equivalent]
160 employees located at all related facilities of the qualified company or a related
161 company located in this state;

162 (27) "Related facility base payroll", **the total amount of taxable**
163 **wages paid by the qualified company to full-time employees of the**
164 **qualified company located at a related facility in the twelve months**
165 **prior to the filing of the notice of intent, not including the payroll of**
166 **owners of the qualified company unless the qualified company is**
167 **participating in an employee stock ownership plan. For the purposes**
168 **of calculating the benefits under this program, the amount of related**
169 **facility base payroll shall increase each year based on an appropriate**
170 **measure, as determined by the department;**

171 (28) "Rural area", a county in Missouri with a population less than
172 seventy-five thousand or that does not contain an individual city with a
173 population greater than fifty thousand according to the most recent federal
174 decennial census;

175 [(28)] (29) "Small and expanding business project", a qualified company
176 that within two years of the date of the [proposal] **approval** creates a minimum
177 of twenty new jobs if the project facility is located in a rural area or a minimum
178 of forty new jobs if the project facility is not located in a rural area and creates
179 fewer than one hundred new jobs regardless of the location of the project facility;

180 [(29)] (30) "Tax credits", tax credits issued by the department to offset
181 the state income taxes imposed by chapter 143 **and 148**, RSMo, or which may be
182 sold or refunded as provided for in this program;

183 [(30)] (31) "Technology business project", a qualified company that within
184 two years of the date of the [proposal] **approval** creates a minimum of ten new
185 jobs [with at least seventy-five percent of the new jobs directly involved] in the
186 operations of a technology company as determined by a regulation promulgated
187 by the department under the provisions of section 620.1884 [and] **or** classified by
188 NAICS codes;

189 [(31)] (32) "Withholding tax", the state tax imposed by sections 143.191
190 to 143.265, RSMo. **Withholding tax shall be computed using a schedule,**

191 **as determined by the department based on average wages.**

620.1881. 1. The department of economic development shall respond
2 within thirty days to a company who provides a notice of intent with either [a
3 proposal] **an approval** or a rejection of the notice of intent. Failure to respond
4 on behalf of the department of economic development shall result in the notice of
5 intent being deemed [a proposal] **an approval** for the purposes of this section.
6 A qualified company who is provided [a proposal] **an approval** for a project shall
7 be allowed a benefit as provided in this program in the amount and duration
8 provided in this section. A qualified company may receive additional periods for
9 subsequent new jobs at the same facility after the full initial period if the
10 minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There
11 is no limit on the number of periods a qualified company may participate in the
12 program, as long as the minimum thresholds are achieved and the qualified
13 company provides the department with the required reporting and is in proper
14 compliance for this program or other state programs. A qualified company may
15 elect to file a notice of intent to start a new project period concurrent with an
16 existing project period if the minimum thresholds are achieved and the qualified
17 company provides the department with the required reporting and is in proper
18 compliance for this program and other state programs; however, the qualified
19 company may not receive any further benefit under the original [proposal]
20 **approval** for jobs created after the date of the new notice of intent, and any jobs
21 created before the new notice of intent may not be included as new jobs for the
22 purpose of benefit calculation in relation to the new [proposal] **approval**.

23 2. Notwithstanding any provision of law to the contrary, any qualified
24 company that is awarded benefits under this program may not [also]
25 **simultaneously** receive tax credits or exemptions under sections 135.100 to
26 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to
27 135.906, RSMo, [for the same new jobs] at the **same** project facility. The benefits
28 available to the company under any other state programs for which the company
29 is eligible and which utilize withholding tax from the new jobs of the company
30 must first be credited to the other state program before the withholding retention
31 level applicable under the Missouri quality jobs act will begin to accrue. These
32 other state programs include, but are not limited to, the new jobs training
33 program under sections 178.892 to 178.896, RSMo, the job retention program
34 under sections 178.760 to 178.764, RSMo, the real property tax increment
35 allocation redevelopment act, sections 99.800 to 99.865, RSMo, or the Missouri

36 downtown and rural economic stimulus act under sections 99.915 to 99.980,
37 RSMo. If any qualified company also participates in the new jobs training
38 program in sections 178.892 to 178.896, RSMo, the company shall retain no
39 withholding tax, but the department shall issue a refundable tax credit for the
40 full amount of benefit allowed under this subdivision. **The calendar year**
41 **annual maximum amount of tax credits that may be issued to a**
42 **qualifying company that also participates in the new job training**
43 **program shall be increased by an amount equivalent to the withholding**
44 **tax retained by such company under the new jobs training**
45 **program. However, if the combined benefits of the quality jobs training**
46 **program and the new jobs training program exceed the projected state**
47 **benefit of the project, as determined by the department of economic**
48 **development through a cost-benefit analysis, the increase in the**
49 **maximum tax credits shall be limited to the amount that would not**
50 **cause the combined benefits to exceed the projected state benefit.**

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

52 (1) Small and expanding business projects: in exchange for the
53 consideration provided by the new tax revenues and other economic [stimulus]
54 **stimuli** that will be generated by the new jobs created by the program, a
55 qualified company may retain an amount equal to the withholding tax **as**
56 **calculated under subdivision (32) of section 620.1878** from the new jobs
57 that would otherwise be withheld and remitted by the qualified company under
58 the provisions of sections 143.191 to 143.265, RSMo, for a period of three years
59 from the date the required number of new jobs were created if the average wage
60 of the new payroll equals or exceeds the county average wage or for a period of
61 five years from the date the required number of new jobs were created if the
62 average wage of the new payroll equals or exceeds one hundred twenty percent
63 of the county average wage;

64 (2) Technology business projects: in exchange for the consideration
65 provided by the new tax revenues and other economic [stimulus] **stimuli** that
66 will be generated by the new jobs created by the program, a qualified company
67 may retain an amount equal to a maximum of five percent of new payroll for a
68 period of five years from the date the required number of jobs were created from
69 the withholding tax of the new jobs that would otherwise be withheld and
70 remitted by the qualified company under the provisions of sections 143.191 to
71 143.265, RSMo, if the average wage of the new payroll equals or exceeds the

72 county average wage. An additional one-half percent of new payroll may be
73 added to the five percent maximum if the average wage of the new payroll in any
74 year exceeds one hundred twenty percent of the county average wage in the
75 county in which the project facility is located, plus an additional one-half percent
76 of new payroll may be added if the average wage of the new payroll in any year
77 exceeds one hundred forty percent of the average wage in the county in which the
78 project facility is located. The department shall issue a refundable tax credit for
79 any difference between the amount of benefit allowed under this subdivision and
80 the amount of withholding tax retained by the company, in the event the
81 withholding tax is not sufficient to provide the entire amount of benefit due to the
82 qualified company under this subdivision. The calendar year annual maximum
83 amount of tax credits that may be issued to any qualified company for a project
84 or combination of projects is five hundred thousand dollars;

85 (3) High impact projects: in exchange for the consideration provided by
86 the new tax revenues and other economic [stimulus] **stimuli** that will be
87 generated by the new jobs created by the program, a qualified company may
88 retain an amount from the withholding tax of the new jobs that would otherwise
89 be withheld and remitted by the qualified company under the provisions of
90 sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a
91 period of five years from the date the required number of jobs were created if the
92 average wage of the new payroll equals or exceeds the county average wage of the
93 county in which the project facility is located. The percentage of payroll allowed
94 under this subdivision shall be three and one-half percent of new payroll if the
95 average wage of the new payroll in any year exceeds one hundred twenty percent
96 of the county average wage in the county in which the project facility is
97 located. The percentage of payroll allowed under this subdivision shall be four
98 percent of new payroll if the average wage of the new payroll in any year exceeds
99 one hundred forty percent of the county average wage in the county in which the
100 project facility is located. An additional one percent of new payroll may be added
101 to these percentages if local incentives equal between ten percent and twenty-four
102 percent of the new direct local revenue; an additional two percent of new payroll
103 is added to these percentages if the local incentives equal between twenty-five
104 percent and forty-nine percent of the new direct local revenue; or an additional
105 three percent of payroll is added to these percentages if the local incentives equal
106 fifty percent or more of the new direct local revenue. The department shall issue
107 a refundable tax credit for any difference between the amount of benefit allowed

108 under this subdivision and the amount of withholding tax retained by the
109 company, in the event the withholding tax is not sufficient to provide the entire
110 amount of benefit due to the qualified company under this subdivision. The
111 calendar year annual maximum amount of tax credits that may be issued to any
112 qualified company for a project or combination of projects is seven hundred fifty
113 thousand dollars. The calendar year annual maximum amount of tax credit that
114 may be issued to any qualified company for a project or combination of projects
115 may be increased up to one million dollars **if the number of new jobs will**
116 **exceed five hundred and** if such action is proposed by the department and
117 approved by the quality jobs advisory task force established in section 620.1887;
118 provided, however, until such time as the initial at-large members of the quality
119 jobs advisory task force are appointed, this determination shall be made by the
120 director of the department of economic development. In considering such a
121 request, the task force shall rely on economic modeling and other information
122 supplied by the department when requesting the increased limit on behalf of the
123 project;

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

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

132 (b) The qualified company retained at the project facility the level of
133 full-time[, year-round] employees that existed in the taxable year immediately
134 preceding the year in which application for the program is made;

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

141 (d) The qualified company in the project facility will cause to be invested
142 a minimum of seventy million dollars in new investment prior to the end of two
143 years or will cause to be invested a minimum of thirty million dollars in new

144 investment prior to the end of two years and maintain an annual payroll of at
145 least seventy million dollars during each of the years for which a credit is
146 claimed; and

147 (e) The local taxing entities shall provide local incentives of at least fifty
148 percent of the new direct local revenues created by the project over a ten-year
149 period. The quality jobs advisory task force may recommend to the department
150 of economic development that appropriate penalties be applied to the company for
151 violating the agreement. The amount of the job retention credit granted may be
152 equal to up to fifty percent of the amount of withholding tax generated by the
153 full-time[, year-round] jobs at the project facility for a period of five years. The
154 calendar year annual maximum amount of tax credit that may be issued to any
155 qualified company for a job retention project or combination of job retention
156 projects shall be seven hundred fifty thousand dollars per year, but the maximum
157 amount may be increased up to one million dollars if such action is proposed by
158 the department and approved by the quality jobs advisory task force established
159 in section 620.1887; provided, however, until such time as the initial at-large
160 members of the quality jobs advisory task force are appointed, this determination
161 shall be made by the director of the department of economic development. In
162 considering such a request, the task force shall rely on economic modeling and
163 other information supplied by the department when requesting the increased
164 limit on behalf of the job retention project. In no event shall the total amount of
165 all tax credits issued for the entire job retention program under this subdivision
166 exceed three million dollars annually. Notwithstanding the above, no tax credits
167 shall be issued for job retention projects approved by the department after August
168 30, 2007.

169 4. The qualified company shall provide an annual report of the number
170 of jobs and such other information as may be required by the department to
171 document the basis for the benefits of this program. The department may
172 withhold the approval of any benefits until it is satisfied that proper
173 documentation has been provided, and shall reduce the benefits to reflect any
174 reduction in full-time[, year-round] employees **or new payroll. Upon approval**
175 **by the department, the qualified company may begin the retention of**
176 **withholding taxes when it reaches the minimum number of new jobs**
177 **and the average wage exceeds the county average wage. Tax credits,**
178 **if any, may be issued upon satisfaction by the department that the**
179 **qualified company has exceeded the county average wage and the**

180 **minimum number of new jobs. In such annual report, if the average**
181 **wage is below the county average wage, the qualified company has not**
182 **maintained the employee insurance as required, or if the number of**
183 **new jobs is below the minimum, the qualified company shall not receive**
184 **tax credits or retain the withholding tax for the balance of the benefit**
185 **period. In the case of a qualified company that initially filed a notice**
186 **of intent and received an approval from the department for high impact**
187 **benefits, and the minimum number of new jobs in an annual report is**
188 **below the minimum for high impact projects, the company shall not**
189 **receive tax credits for the balance of the benefit period, but may**
190 **continue to retain the withholding taxes if it otherwise meets the**
191 **requirements of a small and expanding business under this program.**

192 5. The maximum calendar year annual tax credits issued for the entire
193 program shall not exceed [twelve] **seventy-five** million dollars. [Notwithstanding any
194 provision of law to the contrary, the maximum annual tax credits authorized under
195 section 135.535, RSMo, are hereby reduced from ten million dollars to eight
196 million dollars, with the balance of two million dollars transferred to this
197 program.] There shall be no limit on the amount of withholding taxes that may
198 be retained by approved companies under this program.

199 6. The department shall allocate the annual tax credits based on the date
200 of the [proposal] **approval**, reserving such tax credits based on the department's
201 best estimate of new jobs and new payroll of the project, and the other factors in
202 the determination of benefits of this program. However, the annual issuance of
203 tax credits is subject to the annual verification of the actual new payroll. The
204 allocation of tax credits for the period assigned to a project shall expire if, within
205 two years from the date of commencement of operations, or [proposal] **approval**
206 if applicable, the minimum thresholds have not been achieved. The qualified
207 company may retain authorized amounts from the withholding tax under this
208 section once the minimum new jobs thresholds are met for the duration of the
209 project period. No benefits shall be provided under this program until the
210 qualified company meets the minimum new jobs thresholds. In the event the
211 qualified company does not meet the minimum new job threshold, the qualified
212 company may submit a new notice of intent or the department may provide a new
213 [proposal] **approval** for a new project of the qualified company at the project
214 facility or other facilities.

215 7. For a qualified company with flow-through tax treatment to its

216 members, partners, or shareholders, the tax credit shall be allowed to members,
217 partners, or shareholders in proportion to their share of ownership on the last
218 day of the qualified company's tax period.

219 8. Tax credits may be claimed against taxes otherwise imposed by
220 chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed
221 within one year of the close of the taxable year for which they were issued.

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

227 10. **Prior to the issuance of any tax credits, the department shall**
228 **verify through the department of revenue that the tax credit applicant**
229 **does not owe any delinquent income, sales, or use taxes, or interest or**
230 **penalties on such taxes, and through the department of insurance that**
231 **the applicant does not owe any delinquent insurance taxes. Such**
232 **delinquency shall not affect the authorization of the application for**
233 **such tax credits, except that at issuance credits shall be first applied**
234 **to the delinquency, and any amount issued shall be reduced by the**
235 **applicant's tax delinquency. If the department of revenue or the**
236 **department of insurance concludes that a taxpayer is delinquent after**
237 **June fifteenth but before July first of any year, and the application of**
238 **tax credits to such delinquency causes a tax deficiency on behalf of the**
239 **taxpayer to arise, then the taxpayer shall be granted thirty days to**
240 **satisfy the deficiency in which interest, penalties, and additions to tax**
241 **shall be tolled. After applying all available credits towards a tax**
242 **delinquency, the administering agency shall notify the appropriate**
243 **department, and that department shall update the amount of**
244 **outstanding delinquent tax owed by the applicant. If any credits**
245 **remain after satisfying all insurance, income, sales, and use tax**
246 **delinquencies, the remaining credits shall be issued to the applicant,**
247 **subject to the restrictions of other provisions of law.**

248 11. The director of revenue shall issue a refund to the qualified company
249 to the extent that the amount of credits allowed in this section exceeds the
250 amount of the qualified company's income tax.

251 [11.] 12. An employee of a qualified company will receive full credit for

252 the amount of tax withheld as provided in section [143.221] **143.211**, RSMo.

253 [12.] **13.** If any provision of sections 620.1875 to 620.1890 or application
254 thereof to any person or circumstance is held invalid, the invalidity shall not
255 affect other provisions or application of these sections which can be given effect
256 without the invalid provisions or application, and to this end, the provisions of
257 sections 620.1875 to 620.1890 are hereby declared severable.

258 **14. For any notice of intent filed by a qualified company that**
259 **involves the relocation of more than twenty-five full-time employees**
260 **from a related facility located in a different county of the project**
261 **facility during a period of the initial five-year benefit period of the**
262 **project facility, the governing authority of the recognized incorporated**
263 **local government of the related facility, or county, if such county has**
264 **more than seventy incorporated cities, will be sent a notice by the**
265 **department offering such authority an opportunity to object to the**
266 **benefits that the qualified company would otherwise receive under this**
267 **section at the project facility. The authority must indicate its objection**
268 **to the department within ten business days of receipt of such notice. If**
269 **the authority indicates its objection, the qualified company may not**
270 **receive benefits under this section for the initial five-year benefit**
271 **period at the project facility. In the event a qualified company fails to**
272 **indicate such relocation in the notice of intent and the relocation**
273 **occurs during the initial five-year benefit period, and if the community**
274 **indicates its objection to the department of such relocation at any time**
275 **during the five-year benefit period, the qualified company must repay**
276 **any benefits received under this section plus any costs incurred by the**
277 **department to collect such repayment, and any additional benefits that**
278 **were otherwise to have been provided during the initial five-year**
279 **benefit period shall be cancelled.**

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