

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 718
94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Offered February 12, 2008.

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TERRY L. SPIELER, Secretary.

3497S.04P

AN ACT

To repeal sections 32.105, 135.815, 135.967, 620.495, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof seven new sections relating to certain programs administered by the department of economic development.

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

Section A. Sections 32.105, 135.815, 135.967, 620.495, 620.1878, and
2 620.1881, RSMo, are repealed and seven new sections enacted in lieu thereof, to
3 be known as sections 32.105, 135.681, 135.815, 135.967, 620.495, 620.1878, and
4 620.1881, to read as follows:

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

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

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

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

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

24	Percent of State or	
25	Geographic Area Family	
26	Size of Household	Median Income
27	One Person	5%
28	Two Persons	40%
29	Three Persons	45%
30	Four Persons	50%
31	Five Persons	54%
32	Six Persons	58%
33	Seven Persons	62%
34	Eight Persons	66%

35 (3) "Business firm", person, firm, a partner in a firm, corporation or a
 36 shareholder in an S corporation doing business in the state of Missouri and
 37 subject to the state income tax imposed by the provisions of chapter 143, RSMo,
 38 including any charitable organization that is exempt from federal income tax and
 39 whose Missouri unrelated business taxable income, if any, would be subject to the
 40 state income tax imposed under such chapter, or a corporation subject to the
 41 annual corporation franchise tax imposed by the provisions of chapter 147, RSMo,
 42 or an insurance company paying an annual tax on its gross premium receipts in
 43 this state, or other financial institution paying taxes to the state of Missouri or
 44 any political subdivision of this state pursuant to the provisions of chapter 148,
 45 RSMo, or an express company which pays an annual tax on its gross receipts in
 46 this state;

47 (4) "Commission", the Missouri housing development commission;

48 (5) "Community services", any type of counseling and advice, emergency
 49 assistance or medical care furnished to individuals or groups in the state of
 50 Missouri or transportation services at below-cost rates as provided in sections

51 208.250 to 208.275, RSMo;

52 (6) "Crime prevention", any activity which aids in the reduction of crime
53 in the state of Missouri;

54 (7) "Defense industry contractor", a person, corporation or other entity
55 which will be or has been negatively impacted as a result of its status as a prime
56 contractor of the Department of Defense or as a second or third tier contractor.
57 A "second tier contractor" means a person, corporation or other entity which
58 contracts to perform manufacturing, maintenance or repair services for a prime
59 contractor of the Department of Defense, and a "third tier contractor" means a
60 person, corporation or other entity which contracts with a person, corporation or
61 other entity which contracts with a prime contractor of the Department of
62 Defense;

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

67 (9) "Economic development", the acquisition, renovation, improvement, or
68 the furnishing or equipping of existing buildings and real estate in distressed or
69 blighted areas of the state when such acquisition, renovation, improvement, or
70 the furnishing or equipping of the business development projects will result in the
71 creation or retention of jobs within the state; or, until June 30, 1996, a defense
72 conversion pilot project located in a standard metropolitan statistical area which
73 contains a city with a population of at least three hundred fifty thousand
74 inhabitants, which will assist Missouri-based defense industry contractors in
75 their conversion from predominately defense-related contracting to
76 nondefense-oriented manufacturing. Only neighborhood organizations, as defined
77 in subdivision (13) of this section, may apply to conduct economic development
78 projects. Prior to the approval of an economic development project, the
79 neighborhood organization shall enter into a contractual agreement with the
80 department of economic development. Credits approved for economic development
81 projects may not exceed [four] **six** million dollars from within any one fiscal
82 year's allocation[, except that for fiscal years 2005, 2006, and 2007 credits
83 approved for economic development projects shall not exceed six million
84 dollars]. Neighborhood assistance program tax credits for economic development
85 projects and affordable housing assistance as defined in section 32.111 may be
86 transferred, sold or assigned by a notarized endorsement thereof naming the
87 transferee;

88 (10) "Education", any type of scholastic instruction or scholarship

89 assistance to an individual who resides in the state of Missouri that enables the
90 individual to prepare himself or herself for better opportunities or community
91 awareness activities rendered by a statewide organization established for the
92 purpose of archeological education and preservation;

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

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

99 (13) "Neighborhood organization", any organization performing community
100 services or economic development activities in the state of Missouri and:

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

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

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

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

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

115 (16) "Workfare renovation project", any project initiated pursuant to
116 sections 215.340 to 215.355, RSMo.

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

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

19 **(1) The applicant requests the director to determine whether a**
20 **statute is constitutional or a regulation is lawful;**

21 **(2) The request involves a hypothetical situation or alternative**
22 **plans;**

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

26 **(4) The issue is currently being considered in a rulemaking**
27 **procedure, contested case, or other agency or judicial proceeding that**
28 **may definitely resolve the issue.**

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

35 **4. Letter rulings issued under the authority of this section shall**
36 **not be a rule as defined in section 536.010, RSMo, in that it is an**
37 **interpretation issued by the department with respect to a specific set**
38 **of facts and intended to apply only to that specific set of facts, and**
39 **therefore shall not be subject to the rulemaking requirements of**
40 **chapter 536, RSMo.**

41 **5. Information in letter ruling requests as described in section**
42 **620.014, RSMo, shall be closed to the public. Copies of letter rulings**
43 **shall be available to the public provided that the applicant identifying**
44 **information and otherwise protected information is redacted from the**
45 **letter ruling as provided in subsection 1 of section 610.024, RSMo.**

135.815. 1. Prior to authorization of any tax credit application, an
2 administering agency shall verify through the department of revenue that the tax
3 credit applicant does not owe any delinquent income, sales, or use taxes, or

4 interest or penalties on such taxes, and through the department of insurance that
5 the applicant does not owe any delinquent insurance taxes. Such delinquency
6 shall not affect the authorization of the application for such tax credits, except
7 that the amount of credits issued shall be reduced by the applicant's tax
8 delinquency. If the department of revenue or the department of insurance
9 concludes that a taxpayer is delinquent after June fifteenth but before July first
10 of any year, and the application of tax credits to such delinquency causes a tax
11 deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted
12 thirty days to satisfy the deficiency in which interest, penalties, and additions to
13 tax shall be tolled. After applying all available credits towards a tax delinquency,
14 the administering agency shall notify the appropriate department, and that
15 department shall update the amount of outstanding delinquent tax owed by the
16 applicant. If any credits remain after satisfying all insurance, income, sales, and
17 use tax delinquencies, the remaining credits shall be issued to the applicant,
18 subject to the restrictions of other provisions of law.

19 **2. Any applicant of a tax credit program contained in the**
20 **definition of the term "all tax credit programs" who purposely and**
21 **directly employs unauthorized aliens shall forfeit any tax credits issued**
22 **to such applicant which have not been redeemed, and shall repay the**
23 **amount of any tax credits redeemed by such applicant during the**
24 **period of time such unauthorized alien was employed by the applicanAs**
25 **used in this subsection, the term "unauthorized alien" shall mean an**
26 **alien who does not have the legal right or authorization under federal**
27 **law to work in the United States, as defined under 8 U.S.C. 1324a(h)(3).**

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 ~~[fourteen]~~ **twenty-four** 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 (14)
50 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 (14) of section 135.950, or
63 subdivision (22) of section 135.950, the number of new business facility employees
64 at such facility shall be reduced by the average number of individuals employed,
65 computed as provided in this subsection, at the facility during the taxable year
66 immediately preceding the taxable year in which such expansion, acquisition, or
67 replacement occurred and shall further be reduced by the number of individuals
68 employed by the taxpayer or related taxpayer that was subsequently transferred
69 to the new business facility from another Missouri facility and for which credits
70 authorized in this section are not being earned, whether such credits are earned
71 because of an expansion, acquisition, relocation, or the establishment of a new
72 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 (14) of section 135.950 or subdivision
85 (22) of section 135.950, the amount of the taxpayer's new business facility
86 investment in such facility shall be reduced by the average amount, computed as
87 provided in subdivision (14) of section 135.950 for new business facility
88 investment, of the investment of the taxpayer, or related taxpayer immediately
89 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 tax credits, the department shall verify
114 through the department of revenue, or any other state department, that the tax
115 credit applicant does not owe any delinquent income, sales, or use tax or interest
116 or penalties on such taxes, or any delinquent fees or assessments levied by any
117 state department and through the department of insurance that the applicant
118 does not owe any delinquent insurance taxes. Such delinquency shall not affect
119 the authorization of the application for such tax credits, except that the amount
120 of credits issued shall be reduced by the applicant's tax delinquency. If the
121 department of revenue or the department of insurance, or any other state
122 department, concludes that a taxpayer is delinquent after June fifteenth but
123 before July first of any year and the application of tax credits to such delinquency
124 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
125 be granted thirty days to satisfy the deficiency in which interest, penalties, and
126 additions to tax shall be tolled. After applying all available credits toward a tax
127 delinquency, the administering agency shall notify the appropriate department,
128 and that department shall update the amount of outstanding delinquent tax owed

129 by the applicant. If any credits remain after satisfying all insurance, income,
130 sales, and use tax delinquencies, the remaining credits shall be issued to the
131 applicant, subject to the restrictions of other provisions of law.

620.495. 1. This section shall be known as the "Small Business
2 Incubators Act".

3 2. As used in this section, unless the context clearly indicates otherwise,
4 the following words and phrases shall mean:

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

6 (2) "Incubator", a program in which small units of space may be leased by
7 a tenant and in which management maintains or provides access to business
8 development services for use by tenants or a program without infrastructure in
9 which participants avail themselves of business development services to assist in
10 the growth of their start-up small businesses;

11 (3) "Local sponsor" or "sponsor", an organization which enters into a
12 written agreement with the department to establish, operate and administer a
13 small business incubator program or to provide funding to an organization which
14 operates such a program;

15 (4) "Participant", a sole proprietorship, business partnership or
16 corporation operating a business for profit through which the owner avails
17 himself or herself of business development services in an incubator program;

18 (5) "Tenant", a sole proprietorship, business partnership or corporation
19 operating a business for profit and leasing or otherwise occupying space in an
20 incubator.

21 3. There is hereby established under the direction of the department a
22 loan, loan guarantee and grant program for the establishment, operation and
23 administration of small business incubators, to be known as the "Small Business
24 Incubator Program". A local sponsor may submit an application to the
25 department to obtain a loan, loan guarantee or grant to establish an
26 incubator. Each application shall:

27 (1) Demonstrate that a program exists that can be transformed into an
28 incubator at a specified cost;

29 (2) Demonstrate the ability to directly provide or arrange for the provision
30 of business development services for tenants and participants of the
31 incubator. These services shall include, but need not be limited to, financial
32 consulting assistance, management and marketing assistance, business education,
33 and physical services;

34 (3) Demonstrate a potential for sustained use of the incubator program by
35 eligible tenants and participants, through a market study or other means;

36 (4) Demonstrate the ability to manage and operate the incubator program;
37 (5) Include such other information as the department may require through
38 its guidelines.

39 4. The department shall review and accept applications based on the
40 following criteria:

41 (1) Ability of the local sponsor to carry out the provisions of this section;

42 (2) Economic impact of the incubator on the community;

43 (3) Conformance with areawide and local economic development plans, if
44 such exist;

45 (4) Location of the incubator, in order to encourage geographic
46 distribution of incubators across the state.

47 5. Loans, loan guarantees and grants shall be administered in the
48 following manner:

49 (1) Loans awarded or guaranteed and grants awarded shall be used only
50 for the acquisition and leasing of land and existing buildings, the rehabilitation
51 of buildings or other facilities, construction of new facilities, the purchase of
52 equipment and furnishings which are necessary for the creation and operation of
53 the incubator, and business development services including, but not limited to,
54 business management advising and business education;

55 (2) Loans, loan guarantees and grants may not exceed fifty percent of total
56 eligible project costs;

57 (3) Payment of interest and principal on loans may be deferred at the
58 discretion of the department.

59 6. A local sponsor, or the organization receiving assistance through the
60 local sponsor, shall have the following responsibilities and duties in establishing
61 and operating an incubator with assistance from the small business incubator
62 program:

63 (1) Secure title on a facility for the program or a lease of a facility for the
64 program;

65 (2) Manage the physical development of the incubator program, including
66 the provision of common conference or meeting space;

67 (3) Furnish and equip the program to provide business services to the
68 tenants and participants;

69 (4) Market the program and secure eligible tenants and participants;

70 (5) Provide financial consulting, marketing and management assistance
71 services or arrange for the provision of these services for tenants and participants
72 of the incubator, including assistance in accessing private financial markets;

73 (6) Set rental and service fees;

74 (7) Encourage the sharing of ideas between tenants and participants and
75 otherwise aid the tenants and participants in an innovative manner while they
76 are within the incubator;

77 (8) Establish policies and criteria for the acceptance of tenants and
78 participants into the incubator and for the termination of occupancy of tenants
79 so as to maximize the opportunity to succeed for the greatest number of tenants,
80 consistent with those specified in this section; **and**

81 **(9) Provide a report to the department containing the identity**
82 **of each tenant within the incubator, a brief description of the nature**
83 **of the business of such tenant, and the date in which such tenant**
84 **established tenancy within the incubator. Such report shall be updated**
85 **on an annual basis and provided to the department.**

86 7. The department:

87 (1) May adopt such rules, statements of policy, procedures, forms and
88 guidelines as may be necessary for the implementation of this section;

89 (2) May make loans, loan guarantees and grants to local sponsors for
90 incubators;

91 (3) Shall ensure that local sponsors receiving loans, loan guarantees or
92 grants meet the conditions of this section;

93 (4) Shall receive and evaluate annual reports from local sponsors. Such
94 annual reports shall include, but need not be limited to, a financial statement for
95 the incubator, evidence that all tenants and participants in the program are
96 eligible under the terms of this section, and a list of companies in the incubator.

97 8. The department of economic development is also hereby authorized to
98 review any previous loans made under this program and, where appropriate in
99 the department's judgment, convert such loans to grant status.

100 9. On or before January first of each year, the department shall provide
101 a report to the governor, the chief clerk of the house of representatives and the
102 secretary of the senate which shall include, but need not be limited to:

103 (1) The number of applications for incubators submitted to the
104 department;

105 (2) The number of applications for incubators approved by the
106 department;

107 (3) The number of incubators created through the small business
108 incubator program;

109 (4) The number of tenants and participants engaged in each incubator;

110 (5) The number of jobs provided by each incubator and tenants and
111 participant of each incubator;

- 112 (6) The occupancy rate of each incubator;
- 113 (7) The number of firms still operating in the state after leaving
114 incubators and the number of jobs they have provided; **and**
- 115 **(8) The identity of all current tenants, a brief description of the**
116 **nature of the business of such tenants, and the date in which such**
117 **tenants established tenancy within incubators in this state.**

118 10. There is hereby established in the state treasury a special fund to be
119 known as the "Missouri Small Business Incubators Fund", which shall consist of
120 all moneys which may be appropriated to it by the general assembly, and also any
121 gifts, contributions, grants or bequests received from federal, private or other
122 sources. Moneys for loans, loan guarantees and grants under the small business
123 incubator program may be obtained from appropriations made by the general
124 assembly from the Missouri small business incubators fund. Any moneys
125 remaining in the Missouri small business incubators fund at the end of any fiscal
126 year shall not lapse to the general revenue fund, as provided in section 33.080,
127 RSMo, but shall remain in the Missouri small business incubators fund.

128 11. For any taxable year beginning after December 31, 1989, a taxpayer,
129 including any charitable organization which is exempt from federal income tax
130 and whose Missouri unrelated business taxable income, if any, would be subject
131 to the state income tax imposed under chapter 143, RSMo, shall be entitled to a
132 tax credit against any tax otherwise due under the provisions of chapter 143,
133 RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax
134 imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of
135 any amount contributed by the taxpayer to the Missouri small business
136 incubators fund during the taxpayer's tax year or any contribution by the
137 taxpayer to a local sponsor after the local sponsor's application has been accepted
138 and approved by the department. The tax credit allowed by this subsection shall
139 be claimed by the taxpayer at the time he files his return and shall be applied
140 against the income tax liability imposed by chapter 143, RSMo, or chapter 147,
141 RSMo, or chapter 148, RSMo, after all other credits provided by law have been
142 applied. That portion of earned tax credits which exceeds the taxpayer's tax
143 liability may be carried forward for up to five years. The aggregate of all tax
144 credits authorized under this section shall not exceed [five hundred thousand]
145 **two million** dollars in any taxable year.

146 12. Notwithstanding any provision of Missouri law to the contrary, any
147 taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits
148 allowed in subsection 11 of this section under the terms and conditions prescribed
149 in subdivisions (1) and (2) of this subsection. Such taxpayer, hereinafter the

150 assignor for the purpose of this subsection, may sell, assign, exchange or
151 otherwise transfer earned tax credits:

152 (1) For no less than seventy-five percent of the par value of such credits;
153 and

154 (2) In an amount not to exceed one hundred percent of annual earned
155 credits.

156 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose
157 of this subsection, may use the acquired credits to offset up to one hundred
158 percent of the tax liabilities otherwise imposed by chapter 143, RSMo, or chapter
159 147, RSMo, or chapter 148, RSMo, excluding withholding tax imposed by sections
160 143.191 to 143.265, RSMo. Unused credits in the hands of the assignee may be
161 carried forward for up to five years. The assignor shall enter into a written
162 agreement with the assignee establishing the terms and conditions of the
163 agreement and shall perfect such transfer by notifying the department of
164 economic development in writing within thirty calendar days following the
165 effective day of the transfer and shall provide any information as may be required
166 by the department of economic development to administer and carry out the
167 provisions of this section. The director of the department of economic
168 development shall prescribe the method for submitting applications for claiming
169 the tax credit allowed under subsection 11 of this section and shall, if the
170 application is approved, certify to the director of revenue that the taxpayer
171 claiming the credit has satisfied all the requirements specified in this section and
172 is eligible to claim the credit.

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 qualified
4 company that states the benefits that may be provided by this program;

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

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

9 (4) "County average wage", the average wages in each county as
10 determined by the department for the most recently completed full calendar
11 year. However, if the computed county average wage is above the statewide
12 average wage, the statewide average wage shall be deemed the county average
13 wage for such county for the purpose of determining eligibility. The department
14 shall publish the county average wage for each county at least
15 annually. Notwithstanding the provisions of this subdivision to the contrary, for

16 any qualified company that in conjunction with their project is relocating
17 employees from a Missouri county with a higher county average wage, the
18 company shall obtain the endorsement of the governing body of the community
19 from which jobs are being relocated or the county average wage for their project
20 shall be the county average wage for the county from which the employees are
21 being relocated;

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

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

24 (7) "Employee", a person employed by a qualified company;

25 (8) "Full-time employee", an employee of the qualified company that is
26 scheduled to work an average of at least thirty-five hours per week for a
27 twelve-month period, and one for which the qualified company offers health
28 insurance and pays at least fifty percent of such insurance premiums;

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

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

36 (11) "NAICS", the 1997 edition of the North American Industry
37 Classification System as prepared by the Executive Office of the President, Office
38 of Management and Budget. Any NAICS sector, subsector, industry group or
39 industry identified in this section shall include its corresponding classification in
40 subsequent federal industry classification systems;

41 (12) "New direct local revenue", the present value of the dollar amount of
42 direct net new tax revenues of the local political subdivisions likely to be
43 produced by the project over a ten-year period as calculated by the department,
44 excluding local earnings tax, and net new utility revenues, provided the local
45 incentives include a discount or other direct incentives from utilities owned or
46 operated by the political subdivision;

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

50 (14) "New job", the number of full-time employees located at the project
51 facility that exceeds the project facility base employment less any decrease in the
52 number of full-time employees at related facilities below the related facility base
53 employment. No job that was created prior to the date of the notice of intent

54 shall be deemed a new job. An employee that spends less than fifty percent of the
55 employee's work time at the facility is still considered to be located at a facility
56 if the employee receives his or her directions and control from that facility, is on
57 the facility's payroll, one hundred percent of the employee's income from such
58 employment is Missouri income, and the employee is paid at or above the state
59 average wage;

60 (15) "New payroll", the amount of taxable wages of full-time employees,
61 excluding owners, located at the project facility that exceeds the project facility
62 base payroll. If full-time employment at related facilities is below the related
63 facility base employment, any decrease in payroll for full-time employees at the
64 related facilities below that related facility base payroll shall also be subtracted
65 to determine new payroll;

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

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

72 (18) "Program", the Missouri quality jobs program provided in sections
73 620.1875 to 620.1890;

74 (19) "Project facility", the building used by a qualified company at which
75 the new jobs and new investment will be located. A project facility may include
76 separate buildings that are located within one mile of each other **or within the**
77 **same county** such that their purpose and operations are interrelated;

78 (20) "Project facility base employment", the greater of the number of
79 full-time employees located at the project facility on the date of the notice of
80 intent or for the twelve-month period prior to the date of the notice of intent, the
81 average number of full-time employees located at the project facility. In the event
82 the project facility has not been in operation for a full twelve-month period, the
83 average number of full-time employees for the number of months the project
84 facility has been in operation prior to the date of the notice of intent;

85 (21) "Project facility base payroll", the total amount of taxable wages paid
86 by the qualified company to full-time employees of the qualified company located
87 at the project facility in the twelve months prior to the notice of intent, not
88 including the payroll of the owners of the qualified company unless the qualified
89 company is participating in an employee stock ownership plan. For purposes of
90 calculating the benefits under this program, the amount of base payroll shall
91 increase each year based on an appropriate measure, as determined by the

92 department;

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

95 (23) "Qualified company", a firm, partnership, joint venture, association,
96 private or public corporation whether organized for profit or not, or headquarters
97 of such entity registered to do business in Missouri that is the owner or operator
98 of a project facility, offers health insurance to all full-time employees of all
99 facilities located in this state, and pays at least fifty percent of such insurance
100 premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified
101 company" shall not include:

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

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

104 (c) Food and drinking places (NAICS subsector 722);

105 (d) Public utilities (NAICS 221 including water and sewer services);

106 (e) Any company that is delinquent in the payment of any nonprotested
107 taxes or any other amounts due the state or federal government or any other
108 political subdivision of this state;

109 (f) Any company that has filed for or has publicly announced its intention
110 to file for bankruptcy protection;

111 (g) Educational services (NAICS sector 61);

112 (h) Religious organizations (NAICS industry group 8131); or

113 (i) Public administration (NAICS sector 92).

114 Notwithstanding any provision of this section to the contrary, the headquarters
115 or administrative offices of an otherwise excluded business may qualify for
116 benefits if the offices serve a multistate territory. In the event a national, state,
117 or regional headquarters operation is not the predominant activity of a project
118 facility, the new jobs and investment of such headquarters operation is considered
119 eligible for benefits under this section if the other requirements are satisfied;

120 (24) **"Qualified renewable energy sources", means:**

121 (a) **Open-looped biomass;**

122 (b) **Close-looped biomass;**

123 (c) **Solar;**

124 (d) **Wind;**

125 (e) **Geothermal;**

126 (f) **Hydropower;**

127 (25) "Related company" means:

128 (a) A corporation, partnership, trust, or association controlled by the
129 qualified company;

130 (b) An individual, corporation, partnership, trust, or association in control
131 of the qualified company; or

132 (c) Corporations, partnerships, trusts or associations controlled by an
133 individual, corporation, partnership, trust or association in control of the
134 qualified company. As used in this subdivision, control of a corporation shall
135 mean ownership, directly or indirectly, of stock possessing at least fifty percent
136 of the total combined voting power of all classes of stock entitled to vote, control
137 of a partnership or association shall mean ownership of at least fifty percent of
138 the capital or profits interest in such partnership or association, control of a trust
139 shall mean ownership, directly or indirectly, of at least fifty percent of the
140 beneficial interest in the principal or income of such trust, and ownership shall
141 be determined as provided in Section 318 of the Internal Revenue Code of 1986,
142 as amended;

143 [(25)] (26) "Related facility", a facility operated by the qualified company
144 or a related company located in this state that is directly related to the operations
145 of the project facility;

146 [(26)] (27) "Related facility base employment", the greater of the number
147 of full-time employees located at all related facilities on the date of the notice of
148 intent or for the twelve-month period prior to the date of the notice of intent, the
149 average number of full-time employees located at all related facilities of the
150 qualified company or a related company located in this state;

151 [(27)] (28) "Related facility base payroll", the total amount of taxable
152 wages paid by the qualified company to full-time employees of the qualified
153 company located at a related facility in the twelve months prior to the filing of
154 the notice of intent, not including the payroll of the owners of the qualified
155 company unless the qualified company is participating in an employee stock
156 ownership plan. For purposes of calculating the benefits under this program, the
157 amount of related facility base payroll shall increase each year based on an
158 appropriate measure, as determined by the department;

159 [(28)] (29) "Rural area", a county in Missouri with a population less than
160 seventy-five thousand or that does not contain an individual city with a
161 population greater than fifty thousand according to the most recent federal
162 decennial census;

163 [(29)] (30) "Small and expanding business project", a qualified company
164 that within two years of the date of the approval creates a minimum of twenty
165 new jobs if the project facility is located in a rural area or a minimum of forty
166 new jobs if the project facility is not located in a rural area and creates fewer
167 than one hundred new jobs regardless of the location of the project facility;

168 [(30)] (31) "Tax credits", tax credits issued by the department to offset
169 the state income taxes imposed by chapters 143 and 148, RSMo, or which may be
170 sold or refunded as provided for in this program;

171 [(31)] (32) "Technology business project", a qualified company that within
172 two years of the date of the approval creates a minimum of ten new jobs involved
173 in the operations of a technology company as determined by a regulation
174 promulgated by the department under the provisions of section 620.1884 or
175 classified by NAICS codes; or which researches, develops, or manufactures power
176 system technology for: aerospace; space; defense; hybrid vehicles; or implantable
177 or wearable medical devices **or which owns or leases a facility which**
178 **produces electricity derived from qualified renewable energy sources,**
179 **or produces fuel for the generation of electricity from qualified**
180 **renewable energy sources, but does not include any company that has**
181 **received the alcohol mixture credit, alcohol credit, or small ethanol**
182 **producer credit under 26 U.S.C. Section 40 of the tax code in the**
183 **previous tax year;**

184 [(32)] (33) "Withholding tax", the state tax imposed by sections 143.191
185 to 143.265, RSMo. For purposes of this program, the withholding tax shall be
186 computed using a schedule as determined by the department based on average
187 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 an
3 approval or a rejection of the notice of intent. The department shall give
4 preference to qualified companies and projects targeted at an area of the state
5 which has recently been classified as a disaster area by the federal
6 government. Failure to respond on behalf of the department of economic
7 development shall result in the notice of intent being deemed an approval for the
8 purposes of this section. A qualified company who is provided an approval for a
9 project shall be allowed a benefit as provided in this program in the amount and
10 duration provided in this section. A qualified company may receive additional
11 periods for subsequent new jobs at the same facility after the full initial period
12 if the minimum thresholds are met as set forth in sections 620.1875 to
13 620.1890. There is no limit on the number of periods a qualified company may
14 participate in the program, as long as the minimum thresholds are achieved and
15 the qualified company provides the department with the required reporting and
16 is in proper compliance for this program or other state programs. A qualified
17 company may elect to file a notice of intent to start a new project period
18 concurrent with an existing project period if the minimum thresholds are

19 achieved and the qualified company provides the department with the required
20 reporting and is in proper compliance for this program and other state programs;
21 however, the qualified company may not receive any further benefit under the
22 original approval for jobs created after the date of the new notice of intent, and
23 any jobs created before the new notice of intent may not be included as new jobs
24 for the purpose of benefit calculation in relation to the new approval.

25 2. Notwithstanding any provision of law to the contrary, any qualified
26 company that is awarded benefits under this program may not simultaneously
27 receive tax credits or exemptions under sections 135.100 to 135.150, sections
28 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906, RSMo, at the
29 same project facility. The benefits available to the company under any other
30 state programs for which the company is eligible and which utilize withholding
31 tax from the new jobs of the company must first be credited to the other state
32 program before the withholding retention level applicable under the Missouri
33 quality jobs act will begin to accrue. These other state programs include, but are
34 not limited to, the new jobs training program under sections 178.892 to 178.896,
35 RSMo, the job retention program under sections 178.760 to 178.764, RSMo, the
36 real property tax increment allocation redevelopment act, sections 99.800 to
37 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under
38 sections 99.915 to 99.980, RSMo. If any qualified company also participates in
39 the new jobs training program in sections 178.892 to 178.896, RSMo, the company
40 shall retain no withholding tax, but the department shall issue a refundable tax
41 credit for the full amount of benefit allowed under this subdivision. The calendar
42 year annual maximum amount of tax credits which may be issued to a qualifying
43 company that also participates in the new job training program shall be increased
44 by an amount equivalent to the withholding tax retained by that company under
45 the new jobs training program. However, if the combined benefits of the quality
46 jobs program and the new jobs training program exceed the projected state
47 benefit of the project, as determined by the department of economic development
48 through a cost-benefit analysis, the increase in the maximum tax credits shall be
49 limited to the amount that would not cause the combined benefits to exceed the
50 projected state benefit. Any taxpayer who is awarded benefits under this
51 program who knowingly hires individuals who are not allowed to work legally in
52 the United States shall immediately forfeit such benefits and shall repay the
53 state an amount equal to any state tax credits already redeemed and any
54 withholding taxes already retained.

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

56 (1) Small and expanding business projects: in exchange for the

57 consideration provided by the new tax revenues and other economic stimuli that
58 will be generated by the new jobs created by the program, a qualified company
59 may retain an amount equal to the withholding tax as calculated under
60 subdivision (32) of section 620.1878 from the new jobs that would otherwise be
61 withheld and remitted by the qualified company under the provisions of sections
62 143.191 to 143.265, RSMo, for a period of three years from the date the required
63 number of new jobs were created if the average wage of the new payroll equals
64 or exceeds the county average wage or for a period of five years from the date the
65 required number of new jobs were created if the average wage of the new payroll
66 equals or exceeds one hundred twenty percent of the county average wage;

67 (2) Technology business projects: in exchange for the consideration
68 provided by the new tax revenues and other economic stimuli that will be
69 generated by the new jobs created by the program, a qualified company may
70 retain an amount equal to a maximum of five percent of new payroll for a period
71 of five years from the date the required number of jobs were created from the
72 withholding tax of the new jobs that would otherwise be withheld and remitted
73 by the qualified company under the provisions of sections 143.191 to 143.265,
74 RSMo, if the average wage of the new payroll equals or exceeds the county
75 average wage. An additional one-half percent of new payroll may be added to the
76 five percent maximum if the average wage of the new payroll in any year exceeds
77 one hundred twenty percent of the county average wage in the county in which
78 the project facility is located, plus an additional one-half percent of new payroll
79 may be added if the average wage of the new payroll in any year exceeds one
80 hundred forty percent of the average wage in the county in which the project
81 facility is located. The department shall issue a refundable tax credit for any
82 difference between the amount of benefit allowed under this subdivision and the
83 amount of withholding tax retained by the company, in the event the withholding
84 tax is not sufficient to provide the entire amount of benefit due to the qualified
85 company under this subdivision. The calendar year annual maximum amount of
86 tax credits that may be issued to any qualified company for a project or
87 combination of projects is five hundred thousand dollars;

88 (3) High impact projects: in exchange for the consideration provided by
89 the new tax revenues and other economic stimuli that will be generated by the
90 new jobs created by the program, a qualified company may retain an amount from
91 the withholding tax of the new jobs that would otherwise be withheld and
92 remitted by the qualified company under the provisions of sections 143.191 to
93 143.265, RSMo, equal to three percent of new payroll for a period of five years
94 from the date the required number of jobs were created if the average wage of the

95 new payroll equals or exceeds the county average wage of the county in which the
96 project facility is located. The percentage of payroll allowed under this
97 subdivision shall be three and one-half percent of new payroll if the average wage
98 of the new payroll in any year exceeds one hundred twenty percent of the county
99 average wage in the county in which the project facility is located. The
100 percentage of payroll allowed under this subdivision shall be four percent of new
101 payroll if the average wage of the new payroll in any year exceeds one hundred
102 forty percent of the county average wage in the county in which the project
103 facility is located. An additional one percent of new payroll may be added to
104 these percentages if local incentives equal between ten percent and twenty-four
105 percent of the new direct local revenue; an additional two percent of new payroll
106 is added to these percentages if the local incentives equal between twenty-five
107 percent and forty-nine percent of the new direct local revenue; or an additional
108 three percent of payroll is added to these percentages if the local incentives equal
109 fifty percent or more of the new direct local revenue. The department shall issue
110 a refundable tax credit for any difference between the amount of benefit allowed
111 under this subdivision and the amount of withholding tax retained by the
112 company, in the event the withholding tax is not sufficient to provide the entire
113 amount of benefit due to the qualified company under this subdivision. The
114 calendar year annual maximum amount of tax credits that may be issued to any
115 qualified company for a project or combination of projects is seven hundred fifty
116 thousand dollars. The calendar year annual maximum amount of tax credit that
117 may be issued to any qualified company for a project or combination of projects
118 may be increased up to one million dollars if the number of new jobs will exceed
119 five hundred and if such action is proposed by the department and approved by
120 the quality jobs advisory task force established in section 620.1887; provided,
121 however, until such time as the initial at-large members of the quality jobs
122 advisory task force are appointed, this determination shall be made by the
123 director of the department of economic development. In considering such a
124 request, the task force shall rely on economic modeling and other information
125 supplied by the department when requesting the increased limit on behalf of the
126 project;

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

130 (a) For each of the twenty-four months preceding the year in which
131 application for the program is made the qualified company must have maintained
132 at least one thousand full-time employees at the employer's site in the state at

133 which the jobs are based, and the average wage of such employees must meet or
134 exceed the county average wage;

135 (b) The qualified company retained at the project facility the level of
136 full-time employees that existed in the taxable year immediately preceding the
137 year in which application for the program is made;

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

144 (d) The qualified company in the project facility will cause to be invested
145 a minimum of seventy million dollars in new investment prior to the end of two
146 years or will cause to be invested a minimum of thirty million dollars in new
147 investment prior to the end of two years and maintain an annual payroll of at
148 least seventy million dollars during each of the years for which a credit is
149 claimed; and

150 (e) The local taxing entities shall provide local incentives of at least fifty
151 percent of the new direct local revenues created by the project over a ten-year
152 period.

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

171 shall be issued for job retention projects approved by the department after August
172 30, [2007] **2013**;

173 (5) Small business job retention and flood survivor relief: a qualified
174 company may receive a tax credit under sections 620.1875 to 620.1890 for the
175 retention of jobs and flood survivor relief in this state for each job retained over
176 a three-year period, provided that:

177 (a) The qualified company did not receive any state or federal benefits,
178 incentives, or tax relief or abatement in locating its facility in a flood plain;

179 (b) The qualified company and related companies have fewer than one
180 hundred employees at the time application for the program is made;

181 (c) The average wage of the qualified company's and related companies'
182 employees must meet or exceed the county average wage;

183 (d) All of the qualified company's and related companies' facilities are
184 located in this state;

185 (e) The facilities at the primary business site in this state have been
186 directly damaged by floodwater rising above the level of a five hundred year flood
187 at least two years, but fewer than eight years, prior to the time application is
188 made;

189 (f) The qualified company made significant efforts to protect the facilities
190 prior to any impending danger from rising floodwaters;

191 (g) For each year it receives tax credits under sections 620.1875 to
192 620.1890, the qualified company and related companies retained, at the
193 company's facilities in this state, at least the level of full-time, year-round
194 employees that existed in the taxable year immediately preceding the year in
195 which application for the program is made; and

196 (h) In the years it receives tax credits under sections 620.1875 to
197 620.1890, the company cumulatively invests at least two million dollars in capital
198 improvements in facilities and equipment located at such facilities that are not
199 located within a five hundred year flood plain as designated by the Federal
200 Emergency Management Agency, and amended from time to time.

201 The amount of the small business job retention and flood survivor relief credit
202 granted may be equal to up to one hundred percent of the amount of withholding
203 tax generated by the full-time jobs at the project facility for a period of three
204 years. The calendar year annual maximum amount of tax credit that may be
205 issued to any qualified company for a small business job retention and survivor
206 relief project shall be two hundred fifty thousand dollars per year, but the
207 maximum amount may be increased up to five hundred thousand dollars if such
208 action is proposed by the department and approved by the quality jobs advisory

209 task force established in section 620.1887. In considering such a request, the
210 task force shall rely on economic modeling and other information supplied by the
211 department when requesting an increase in the limit on behalf of the small
212 business job retention and flood survivor relief project. In no event shall the total
213 amount of all tax credits issued for the entire small business job retention and
214 flood survivor relief program under this subdivision exceed five hundred thousand
215 dollars annually. Notwithstanding the provisions of this subdivision to the
216 contrary, no tax credits shall be issued for small business job retention and flood
217 survivor relief projects approved by the department after August 30, 2010.

218 4. The qualified company shall provide an annual report of the number
219 of jobs and such other information as may be required by the department to
220 document the basis for the benefits of this program. The department may
221 withhold the approval of any benefits until it is satisfied that proper
222 documentation has been provided, and shall reduce the benefits to reflect any
223 reduction in full-time employees or new payroll. Upon approval by the
224 department, the qualified company may begin the retention of the withholding
225 taxes when it reaches the minimum number of new jobs and the average wage
226 exceeds the county average wage. Tax credits, if any, may be issued upon
227 satisfaction by the department that the qualified company has exceeded the
228 county average wage and the minimum number of new jobs. In such annual
229 report, if the average wage is below the county average wage, the qualified
230 company has not maintained the employee insurance as required, or if the
231 number of new jobs is below the minimum, the qualified company shall not
232 receive tax credits or retain the withholding tax for the balance of the benefit
233 period. In the case of a qualified company that initially filed a notice of intent
234 and received an approval from the department for high impact benefits and the
235 minimum number of new jobs in an annual report is below the minimum for high
236 impact projects, the company shall not receive tax credits for the balance of the
237 benefit period but may continue to retain the withholding taxes if it otherwise
238 meets the requirements of a small and expanding business under this program.

239 5. The maximum calendar year annual tax credits issued for the entire
240 program shall not exceed [forty] **sixty** million dollars. Notwithstanding any
241 provision of law to the contrary, the maximum annual tax credits authorized
242 under section 135.535, RSMo, are hereby reduced from ten million dollars to eight
243 million dollars, with the balance of two million dollars transferred to this
244 program. There shall be no limit on the amount of withholding taxes that may
245 be retained by approved companies under this program.

246 6. The department shall allocate the annual tax credits based on the date

247 of the approval, reserving such tax credits based on the department's best
248 estimate of new jobs and new payroll of the project, and the other factors in the
249 determination of benefits of this program. However, the annual issuance of tax
250 credits is subject to the annual verification of the actual new payroll. The
251 allocation of tax credits for the period assigned to a project shall expire if, within
252 two years from the date of commencement of operations, or approval if applicable,
253 the minimum thresholds have not been achieved. The qualified company may
254 retain authorized amounts from the withholding tax under this section once the
255 minimum new jobs thresholds are met for the duration of the project period. No
256 benefits shall be provided under this program until the qualified company meets
257 the minimum new jobs thresholds. In the event the qualified company does not
258 meet the minimum new job threshold, the qualified company may submit a new
259 notice of intent or the department may provide a new approval for a new project
260 of the qualified company at the project facility or other facilities.

261 7. For a qualified company with flow-through tax treatment to its
262 members, partners, or shareholders, the tax credit shall be allowed to members,
263 partners, or shareholders in proportion to their share of ownership on the last
264 day of the qualified company's tax period.

265 8. Tax credits may be claimed against taxes otherwise imposed by
266 chapters 143 and 148, RSMo, and may not be carried forward but shall be claimed
267 within one year of the close of the taxable year for which they were issued, except
268 as provided under subdivision (4) of subsection 3 of this section.

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

274 10. Prior to the issuance of tax credits, the department shall verify
275 through the department of revenue, or any other state department, that the tax
276 credit applicant does not owe any delinquent income, sales, or use tax or interest
277 or penalties on such taxes, or any delinquent fees or assessments levied by any
278 state department and through the department of insurance that the applicant
279 does not owe any delinquent insurance taxes. Such delinquency shall not affect
280 the authorization of the application for such tax credits, except that at issuance
281 credits shall be first applied to the delinquency and any amount issued shall be
282 reduced by the applicant's tax delinquency. If the department of revenue or the
283 department of insurance, or any other state department, concludes that a
284 taxpayer is delinquent after June fifteenth but before July first of any year and

285 the application of tax credits to such delinquency causes a tax deficiency on
286 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to
287 satisfy the deficiency in which interest, penalties, and additions to tax shall be
288 tolled. After applying all available credits toward a tax delinquency, the
289 administering agency shall notify the appropriate department and that
290 department shall update the amount of outstanding delinquent tax owed by the
291 applicant. If any credits remain after satisfying all insurance, income, sales, and
292 use tax delinquencies, the remaining credits shall be issued to the applicant,
293 subject to the restrictions of other provisions of law.

294 11. Except as provided under subdivision (4) of subsection 3 of this
295 section, the director of revenue shall issue a refund to the qualified company to
296 the extent that the amount of credits allowed in this section exceeds the amount
297 of the qualified company's income tax.

298 12. An employee of a qualified company will receive full credit for the
299 amount of tax withheld as provided in section 143.211, RSMo.

300 13. If any provision of sections 620.1875 to 620.1890 or application thereof
301 to any person or circumstance is held invalid, the invalidity shall not affect other
302 provisions or application of these sections which can be given effect without the
303 invalid provisions or application, and to this end, the provisions of sections
304 620.1875 to 620.1890 are hereby declared severable.

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