

SECOND REGULAR SESSION

SENATE BILL NO. 813

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time January 21, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4463S.04I

AN ACT

To repeal sections 99.805, 99.845, 135.535, 135.950, 135.967, 178.760, 178.762, 178.892, 178.894, 620.1878 and 620.1881, RSMo, and to enact in lieu thereof eleven new sections relating to the development of Missouri businesses.

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

Section A. Sections 99.805, 99.845, 135.535, 135.950, 135.967, 178.760, 178.762, 178.892, 178.894, 620.1878 and 620.1881, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 99.805, 99.845, 135.535, 135.950, 135.967, 178.760, 178.762, 178.892, 178.894, 620.1878 and 620.1881, to read as follows:

99.805. As used in sections 99.800 to 99.865, unless the context clearly requires otherwise, the following terms shall mean:

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

(2) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes or economic activity taxes from taxpayers or the department of revenue;

(3) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years

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

16 or more. Such an area is not yet a blighted area but is detrimental to the public
17 health, safety, morals, or welfare and may become a blighted area because of any
18 one or more of the following factors: dilapidation; obsolescence; deterioration;
19 illegal use of individual structures; presence of structures below minimum code
20 standards; abandonment; excessive vacancies; overcrowding of structures and
21 community facilities; lack of ventilation, light or sanitary facilities; inadequate
22 utilities; excessive land coverage; deleterious land use or layout; depreciation of
23 physical maintenance; and lack of community planning. A conservation area
24 shall meet at least three of the factors provided in this subdivision for projects
25 approved on or after December 23, 1997;

26 (4) "Economic activity taxes", the total additional revenue from taxes
27 which are imposed by a municipality and other taxing districts, and which are
28 generated by economic activities within a redevelopment area over the amount
29 of such taxes generated by economic activities within such redevelopment area
30 in the calendar year prior to the adoption of the ordinance designating such a
31 redevelopment area, while tax increment financing remains in effect, but
32 excluding personal property taxes, taxes imposed on sales or charges for sleeping
33 rooms paid by transient guests of hotels and motels, licenses, fees or special
34 assessments. For redevelopment projects or redevelopment plans approved after
35 December 23, 1997, if a retail establishment relocates within one year from one
36 facility to another facility within the same county and the governing body of the
37 municipality finds that the relocation is a direct beneficiary of tax increment
38 financing, then for purposes of this definition, the economic activity taxes
39 generated by the retail establishment shall equal the total additional revenues
40 from economic activity taxes which are imposed by a municipality or other taxing
41 district over the amount of economic activity taxes generated by the retail
42 establishment in the calendar year prior to its relocation to the redevelopment
43 area;

44 (5) "Economic development area", any area or portion of an area located
45 within the territorial limits of a municipality, which does not meet the
46 requirements of subdivisions (1) and (3) of this section, and in which the
47 governing body of the municipality finds that redevelopment will not be solely
48 used for development of commercial businesses which unfairly compete in the
49 local economy and is in the public interest because it will:

50 (a) Discourage commerce, industry or manufacturing from moving their
51 operations to another state; or

52 (b) Result in increased employment in the municipality; or

53 (c) Result in preservation or enhancement of the tax base of the
54 municipality;

55 (6) "Gambling establishment", an excursion gambling boat as defined in
56 section 313.800, RSMo, and any related business facility including any real
57 property improvements which are directly and solely related to such business
58 facility, whose sole purpose is to provide goods or services to an excursion
59 gambling boat and whose majority ownership interest is held by a person licensed
60 to conduct gambling games on an excursion gambling boat or licensed to operate
61 an excursion gambling boat as provided in sections 313.800 to 313.850,
62 RSMo. This subdivision shall be applicable only to a redevelopment area
63 designated by ordinance adopted after December 23, 1997;

64 (7) "Greenfield area", any vacant, unimproved, or agricultural property
65 that is located wholly outside the incorporated limits of a city, town, or village,
66 or that is substantially surrounded by contiguous properties with agricultural
67 zoning classifications or uses unless said property was annexed into the
68 incorporated limits of a city, town, or village ten years prior to the adoption of the
69 ordinance approving the redevelopment plan for such greenfield area;

70 (8) **"Missouri business", any business with a physical presence in**
71 **this state, with employees who routinely perform job duties within this**
72 **state;**

73 [(8)] (9) "Municipality", a city, village, or incorporated town or any
74 county of this state. For redevelopment areas or projects approved on or after
75 December 23, 1997, "municipality" applies only to cities, villages, incorporated
76 towns or counties established for at least one year prior to such date;

77 (10) **"Net new jobs", an increase to the employment base, in this**
78 **state, of a company counting all of such company's locations within the**
79 **state;**

80 [(9)] (11) "Obligations", bonds, loans, debentures, notes, special
81 certificates, or other evidences of indebtedness issued by a municipality to carry
82 out a redevelopment project or to refund outstanding obligations;

83 [(10)] (12) "Ordinance", an ordinance enacted by the governing body of
84 a city, town, or village or a county or an order of the governing body of a county
85 whose governing body is not authorized to enact ordinances;

86 [(11)] (13) "Payment in lieu of taxes", those estimated revenues from real
87 property in the area selected for a redevelopment project, which revenues

88 according to the redevelopment project or plan are to be used for a private use,
89 which taxing districts would have received had a municipality not adopted tax
90 increment allocation financing, and which would result from levies made after the
91 time of the adoption of tax increment allocation financing during the time the
92 current equalized value of real property in the area selected for the
93 redevelopment project exceeds the total initial equalized value of real property
94 in such area until the designation is terminated pursuant to subsection 2 of
95 section 99.850;

96 **[(12)] (14)** "Redevelopment area", an area designated by a municipality,
97 in respect to which the municipality has made a finding that there exist
98 conditions which cause the area to be classified as a blighted area, a conservation
99 area, an economic development area, an enterprise zone pursuant to sections
100 135.200 to 135.256, RSMo, or a combination thereof, which area includes only
101 those parcels of real property directly and substantially benefited by the proposed
102 redevelopment project;

103 **[(13)] (15)** "Redevelopment plan", the comprehensive program of a
104 municipality for redevelopment intended by the payment of redevelopment costs
105 to reduce or eliminate those conditions, the existence of which qualified the
106 redevelopment area as a blighted area, conservation area, economic development
107 area, or combination thereof, and to thereby enhance the tax bases of the taxing
108 districts which extend into the redevelopment area. Each redevelopment plan
109 shall conform to the requirements of section 99.810;

110 **[(14)] (16)** "Redevelopment project", any development project within a
111 redevelopment area in furtherance of the objectives of the redevelopment plan;
112 any such redevelopment project shall include a legal description of the area
113 selected for the redevelopment project;

114 **[(15)] (17)** "Redevelopment project costs" include the sum total of all
115 reasonable or necessary costs incurred or estimated to be incurred, and any such
116 costs incidental to a redevelopment plan or redevelopment project, as
117 applicable. Such costs include, but are not limited to, the following:

118 (a) Costs of studies, surveys, plans, and specifications;

119 (b) Professional service costs, including, but not limited to, architectural,
120 engineering, legal, marketing, financial, planning or special services. Except the
121 reasonable costs incurred by the commission established in section 99.820 for the
122 administration of sections 99.800 to 99.865, such costs shall be allowed only as
123 an initial expense which, to be recoverable, shall be included in the costs of a

124 redevelopment plan or project;

125 (c) Property assembly costs, including, but not limited to, acquisition of
126 land and other property, real or personal, or rights or interests therein,
127 demolition of buildings, and the clearing and grading of land;

128 (d) Costs of rehabilitation, reconstruction, or repair or remodeling of
129 existing buildings and fixtures;

130 (e) Initial costs for an economic development area;

131 (f) Costs of construction of public works or improvements;

132 (g) Financing costs, including, but not limited to, all necessary and
133 incidental expenses related to the issuance of obligations, and which may include
134 payment of interest on any obligations issued pursuant to sections 99.800 to
135 99.865 accruing during the estimated period of construction of any redevelopment
136 project for which such obligations are issued and for not more than eighteen
137 months thereafter, and including reasonable reserves related thereto;

138 (h) All or a portion of a taxing district's capital costs resulting from the
139 redevelopment project necessarily incurred or to be incurred in furtherance of the
140 objectives of the redevelopment plan and project, to the extent the municipality
141 by written agreement accepts and approves such costs;

142 (i) Relocation costs to the extent that a municipality determines that
143 relocation costs shall be paid or are required to be paid by federal or state law;

144 (j) Payments in lieu of taxes;

145 ~~[(16)]~~ **(18)** "Special allocation fund", the fund of a municipality or its
146 commission which contains at least two separate segregated accounts for each
147 redevelopment plan, maintained by the treasurer of the municipality or the
148 treasurer of the commission into which payments in lieu of taxes are deposited
149 in one account, and economic activity taxes and other revenues are deposited in
150 the other account;

151 ~~[(17)]~~ **(19)** "Taxing districts", any political subdivision of this state
152 having the power to levy taxes;

153 ~~[(18)]~~ **(20)** "Taxing districts' capital costs", those costs of taxing districts
154 for capital improvements that are found by the municipal governing bodies to be
155 necessary and to directly result from the redevelopment project; and

156 ~~[(19)]~~ **(21)** "Vacant land", any parcel or combination of parcels of real
157 property not used for industrial, commercial, or residential buildings.

99.845. 1. A municipality, either at the time a redevelopment project is
2 approved or, in the event a municipality has undertaken acts establishing a

3 redevelopment plan and redevelopment project and has designated a
4 redevelopment area after the passage and approval of sections 99.800 to 99.865
5 but prior to August 13, 1982, which acts are in conformance with the procedures
6 of sections 99.800 to 99.865, may adopt tax increment allocation financing by
7 passing an ordinance providing that after the total equalized assessed valuation
8 of the taxable real property in a redevelopment project exceeds the certified total
9 initial equalized assessed valuation of the taxable real property in the
10 redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if
11 any, arising from the levies upon taxable real property in such redevelopment
12 project by taxing districts and tax rates determined in the manner provided in
13 subsection 2 of section 99.855 each year after the effective date of the ordinance
14 until redevelopment costs have been paid shall be divided as follows:

15 (1) That portion of taxes, penalties and interest levied upon each taxable
16 lot, block, tract, or parcel of real property which is attributable to the initial
17 equalized assessed value of each such taxable lot, block, tract, or parcel of real
18 property in the area selected for the redevelopment project shall be allocated to
19 and, when collected, shall be paid by the county collector to the respective
20 affected taxing districts in the manner required by law in the absence of the
21 adoption of tax increment allocation financing;

22 (2) (a) Payments in lieu of taxes attributable to the increase in the
23 current equalized assessed valuation of each taxable lot, block, tract, or parcel of
24 real property in the area selected for the redevelopment project and any
25 applicable penalty and interest over and above the initial equalized assessed
26 value of each such unit of property in the area selected for the redevelopment
27 project shall be allocated to and, when collected, shall be paid to the municipal
28 treasurer who shall deposit such payment in lieu of taxes into a special fund
29 called the "Special Allocation Fund" of the municipality for the purpose of paying
30 redevelopment costs and obligations incurred in the payment thereof. Payments
31 in lieu of taxes which are due and owing shall constitute a lien against the real
32 estate of the redevelopment project from which they are derived and shall be
33 collected in the same manner as the real property tax, including the assessment
34 of penalties and interest where applicable. The municipality may, in the
35 ordinance, pledge the funds in the special allocation fund for the payment of such
36 costs and obligations and provide for the collection of payments in lieu of taxes,
37 the lien of which may be foreclosed in the same manner as a special assessment
38 lien as provided in section 88.861, RSMo. No part of the current equalized

39 assessed valuation of each lot, block, tract, or parcel of property in the area
40 selected for the redevelopment project attributable to any increase above the total
41 initial equalized assessed value of such properties shall be used in calculating the
42 general state school aid formula provided for in section 163.031, RSMo, until such
43 time as all redevelopment costs have been paid as provided for in this section and
44 section 99.850;

45 (b) Notwithstanding any provisions of this section to the contrary, for
46 purposes of determining the limitation on indebtedness of local government
47 pursuant to article VI, section 26(b) of the Missouri Constitution, the current
48 equalized assessed value of the property in an area selected for redevelopment
49 attributable to the increase above the total initial equalized assessed valuation
50 shall be included in the value of taxable tangible property as shown on the last
51 completed assessment for state or county purposes;

52 (c) The county assessor shall include the current assessed value of all
53 property within the taxing district in the aggregate valuation of assessed property
54 entered upon the assessor's book and verified pursuant to section 137.245, RSMo,
55 and such value shall be utilized for the purpose of the debt limitation on local
56 government pursuant to article VI, section 26(b) of the Missouri Constitution;

57 (3) For purposes of this section, "levies upon taxable real property in such
58 redevelopment project by taxing districts" shall not include the blind pension fund
59 tax levied under the authority of article III, section 38(b) of the Missouri
60 Constitution, or the merchants' and manufacturers' inventory replacement tax
61 levied under the authority of subsection 2 of section 6 of article X of the Missouri
62 Constitution, except in redevelopment project areas in which tax increment
63 financing has been adopted by ordinance pursuant to a plan approved by vote of
64 the governing body of the municipality taken after August 13, 1982, and before
65 January 1, 1998.

66 2. In addition to the payments in lieu of taxes described in subdivision (2)
67 of subsection 1 of this section, for redevelopment plans and projects adopted or
68 redevelopment projects approved by ordinance after July 12, 1990, and prior to
69 August 31, 1991, fifty percent of the total additional revenue from taxes, penalties
70 and interest imposed by the municipality, or other taxing districts, which are
71 generated by economic activities within the area of the redevelopment project over
72 the amount of such taxes generated by economic activities within the area of the
73 redevelopment project in the calendar year prior to the adoption of the
74 redevelopment project by ordinance, while tax increment financing remains in

75 effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by
76 transient guests of hotels and motels, taxes levied pursuant to section 70.500,
77 RSMo, licenses, fees or special assessments other than payments in lieu of taxes
78 and any penalty and interest thereon, or, effective January 1, 1998, taxes levied
79 pursuant to section 94.660, RSMo, for the purpose of public transportation, shall
80 be allocated to, and paid by the local political subdivision collecting officer to the
81 treasurer or other designated financial officer of the municipality, who shall
82 deposit such funds in a separate segregated account within the special allocation
83 fund. Any provision of an agreement, contract or covenant entered into prior to
84 July 12, 1990, between a municipality and any other political subdivision which
85 provides for an appropriation of other municipal revenues to the special allocation
86 fund shall be and remain enforceable.

87 3. In addition to the payments in lieu of taxes described in subdivision (2)
88 of subsection 1 of this section, for redevelopment plans and projects adopted or
89 redevelopment projects approved by ordinance after August 31, 1991, fifty percent
90 of the total additional revenue from taxes, penalties and interest which are
91 imposed by the municipality or other taxing districts, and which are generated
92 by economic activities within the area of the redevelopment project over the
93 amount of such taxes generated by economic activities within the area of the
94 redevelopment project in the calendar year prior to the adoption of the
95 redevelopment project by ordinance, while tax increment financing remains in
96 effect, but excluding personal property taxes, taxes imposed on sales or charges
97 for sleeping rooms paid by transient guests of hotels and motels, taxes levied
98 pursuant to section 70.500, RSMo, taxes levied for the purpose of public
99 transportation pursuant to section 94.660, RSMo, licenses, fees or special
100 assessments other than payments in lieu of taxes and penalties and interest
101 thereon, or any sales tax imposed by a county with a charter form of government
102 and with more than six hundred thousand but fewer than seven hundred
103 thousand inhabitants, for the purpose of sports stadium improvement, shall be
104 allocated to, and paid by the local political subdivision collecting officer to the
105 treasurer or other designated financial officer of the municipality, who shall
106 deposit such funds in a separate segregated account within the special allocation
107 fund.

108 4. Beginning January 1, 1998, for redevelopment plans and projects
109 adopted or redevelopment projects approved by ordinance and which have
110 complied with subsections 4 to 12 of this section, in addition to the payments in

111 lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of
112 this section, up to fifty percent of the new state revenues, as defined in subsection
113 8 of this section, estimated for the businesses within the project area and
114 identified by the municipality in the application required by subsection 10 of this
115 section, over and above the amount of such taxes reported by businesses within
116 the project area as identified by the municipality in their application prior to the
117 approval of the redevelopment project by ordinance, while tax increment
118 financing remains in effect, may be available for appropriation by the general
119 assembly as provided in subsection 10 of this section to the department of
120 economic development supplemental tax increment financing fund, from the
121 general revenue fund, for distribution to the treasurer or other designated
122 financial officer of the municipality with approved plans or projects.

123 5. The treasurer or other designated financial officer of the municipality
124 with approved plans or projects shall deposit such funds in a separate segregated
125 account within the special allocation fund established pursuant to section 99.805.

126 6. No transfer from the general revenue fund to the Missouri
127 supplemental tax increment financing fund shall be made unless an appropriation
128 is made from the general revenue fund for that purpose. No municipality shall
129 commit any state revenues prior to an appropriation being made for that
130 project. For all redevelopment plans or projects adopted or approved after
131 December 23, 1997, appropriations from the new state revenues shall not be
132 distributed from the Missouri supplemental tax increment financing fund into the
133 special allocation fund unless the municipality's redevelopment plan ensures that
134 one hundred percent of payments in lieu of taxes and fifty percent of economic
135 activity taxes generated by the project shall be used for eligible redevelopment
136 project costs while tax increment financing remains in effect. This account shall
137 be separate from the account into which payments in lieu of taxes are deposited,
138 and separate from the account into which economic activity taxes are deposited.

139 7. In order for the redevelopment plan or project to be eligible to receive
140 the revenue described in subsection 4 of this section, the municipality shall
141 comply with the requirements of subsection 10 of this section prior to the time the
142 project or plan is adopted or approved by ordinance. The director of the
143 department of economic development and the commissioner of the office of
144 administration may waive the requirement that the municipality's application be
145 submitted prior to the redevelopment plan's or project's adoption or the
146 redevelopment plan's or project's approval by ordinance.

147 8. For purposes of this section, "new state revenues" means:

148 (1) The incremental increase in the general revenue portion of state sales
149 tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes
150 that are constitutionally dedicated, taxes deposited to the school district trust
151 fund in accordance with section 144.701, RSMo, sales and use taxes on motor
152 vehicles, trailers, boats and outboard motors and future sales taxes earmarked
153 by law. In no event shall the incremental increase include any amounts
154 attributable to retail sales unless the municipality or authority has proven to the
155 Missouri development finance board and the department of economic development
156 and such entities have made a finding that the sales tax increment attributable
157 to retail sales is from new sources which did not exist in the state during the
158 baseline year. The incremental increase in the general revenue portion of state
159 sales tax revenues for an existing or relocated facility shall be the amount that
160 current state sales tax revenue exceeds the state sales tax revenue in the base
161 year as stated in the redevelopment plan as provided in subsection 10 of this
162 section; or

163 (2) The state income tax withheld on behalf of new employees by the
164 employer pursuant to section 143.221, RSMo, at the business located within the
165 project as identified by the municipality. The state income tax withholding
166 allowed by this section shall be the municipality's estimate of the amount of state
167 income tax withheld by the employer within the redevelopment area for new
168 employees who fill new jobs directly created by the tax increment financing
169 project.

170 9. Subsection 4 of this section shall apply only to blighted areas located
171 in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted
172 areas located in federal empowerment zones, or to blighted areas located in
173 central business districts or urban core areas of cities which districts or urban
174 core areas at the time of approval of the project by ordinance, provided that the
175 enterprise zones, federal empowerment zones or blighted areas contained one or
176 more buildings at least fifty years old; and

177 (1) Suffered from generally declining population or property taxes over the
178 twenty-year period immediately preceding the area's designation as a project area
179 by ordinance; or

180 (2) Was a historic hotel located in a county of the first classification
181 without a charter form of government with a population according to the most
182 recent federal decennial census in excess of one hundred fifty thousand and

183 containing a portion of a city with a population according to the most recent
184 federal decennial census in excess of three hundred fifty thousand.

185 10. The initial appropriation of up to fifty percent of the new state
186 revenues authorized pursuant to subsections 4 and 5 of this section shall not be
187 made to or distributed by the department of economic development to a
188 municipality until all of the following conditions have been satisfied:

189 (1) The director of the department of economic development or his or her
190 designee and the commissioner of the office of administration or his or her
191 designee have approved a tax increment financing application made by the
192 municipality for the appropriation of the new state revenues. The municipality
193 shall include in the application the following items in addition to the items in
194 section 99.810:

195 (a) The tax increment financing district or redevelopment area, including
196 the businesses identified within the redevelopment area;

197 (b) The base year of state sales tax revenues or the base year of state
198 income tax withheld on behalf of existing employees, reported by existing
199 businesses within the project area prior to approval of the redevelopment project;

200 (c) The estimate of the incremental increase in the general revenue
201 portion of state sales tax revenue or the estimate for the state income tax
202 withheld by the employer on behalf of new employees expected to fill new jobs
203 created within the redevelopment area after redevelopment;

204 (d) The official statement of any bond issue pursuant to this subsection
205 after December 23, 1997;

206 (e) An affidavit that is signed by the developer or developers attesting
207 that the provisions of subdivision (1) of section 99.810 have been met and
208 specifying that the redevelopment area would not be reasonably anticipated to be
209 developed without the appropriation of the new state revenues;

210 (f) The cost-benefit analysis required by section 99.810 includes a study
211 of the fiscal impact on the state of Missouri; and

212 (g) The statement of election between the use of the incremental increase
213 of the general revenue portion of the state sales tax revenues or the state income
214 tax withheld by employers on behalf of new employees who fill new jobs created
215 in the redevelopment area;

216 (h) The name, street and mailing address, and phone number of the mayor
217 or chief executive officer of the municipality;

218 (i) The street address of the development site;

- 219 (j) The three-digit North American Industry Classification System number
220 or numbers characterizing the development project;
- 221 (k) The estimated development project costs;
- 222 (l) The anticipated sources of funds to pay such development project costs;
- 223 (m) Evidence of the commitments to finance such development project
224 costs;
- 225 (n) The anticipated type and term of the sources of funds to pay such
226 development project costs;
- 227 (o) The anticipated type and terms of the obligations to be issued;
- 228 (p) The most recent equalized assessed valuation of the property within
229 the development project area;
- 230 (q) An estimate as to the equalized assessed valuation after the
231 development project area is developed in accordance with a development plan;
- 232 (r) The general land uses to apply in the development area;
- 233 (s) The total number of individuals employed in the development area,
234 broken down by full-time, part-time, and temporary positions;
- 235 (t) The total number of full-time equivalent positions in the development
236 area;
- 237 (u) The current gross wages, state income tax withholdings, and federal
238 income tax withholdings for individuals employed in the development area;
- 239 (v) The total number of individuals employed in this state by the
240 corporate parent of any business benefiting from public expenditures in the
241 development area, and all subsidiaries thereof, as of December thirty-first of the
242 prior fiscal year, broken down by full-time, part-time, and temporary positions;
- 243 (w) The number of new jobs to be created by any business benefiting from
244 public expenditures in the development area, broken down by full-time, part-time,
245 and temporary positions;
- 246 (x) The average hourly wage to be paid to all current and new employees
247 at the project site, broken down by full-time, part-time, and temporary positions;
- 248 (y) For project sites located in a metropolitan statistical area, as defined
249 by the federal Office of Management and Budget, the average hourly wage paid
250 to nonmanagerial employees in this state for the industries involved at the
251 project, as established by the United States Bureau of Labor Statistics;
- 252 (z) For project sites located outside of metropolitan statistical areas, the
253 average weekly wage paid to nonmanagerial employees in the county for
254 industries involved at the project, as established by the United States

255 Department of Commerce;

256 (aa) A list of other community and economic benefits to result from the
257 project;

258 (bb) A list of all development subsidies that any business benefiting from
259 public expenditures in the development area has previously received for the
260 project, and the name of any other granting body from which such subsidies are
261 sought;

262 (cc) A list of all other public investments made or to be made by this state
263 or units of local government to support infrastructure or other needs generated
264 by the project for which the funding pursuant to this section is being sought;

265 (dd) A statement as to whether the development project may reduce
266 employment at any other site, within or without the state, resulting from
267 automation, merger, acquisition, corporate restructuring, relocation, or other
268 business activity;

269 (ee) A statement as to whether or not the project involves the relocation
270 of work from another address and if so, the number of jobs to be relocated and the
271 address from which they are to be relocated;

272 (ff) A list of competing businesses in the county containing the
273 development area and in each contiguous county;

274 (gg) A market study for the development area;

275 (hh) A certification by the chief officer of the applicant as to the accuracy
276 of the development plan;

277 (2) The methodologies used in the application for determining the base
278 year and determining the estimate of the incremental increase in the general
279 revenue portion of the state sales tax revenues or the state income tax withheld
280 by employers on behalf of new employees who fill new jobs created in the
281 redevelopment area shall be approved by the director of the department of
282 economic development or his or her designee and the commissioner of the office
283 of administration or his or her designee. Upon approval of the application, the
284 director of the department of economic development or his or her designee and
285 the commissioner of the office of administration or his or her designee shall issue
286 a certificate of approval. The department of economic development may request
287 the appropriation following application approval;

288 (3) The appropriation shall be either a portion of the estimate of the
289 incremental increase in the general revenue portion of state sales tax revenues
290 in the redevelopment area or a portion of the estimate of the state income tax

291 withheld by the employer on behalf of new employees who fill new jobs created
292 in the redevelopment area as indicated in the municipality's application,
293 approved by the director of the department of economic development or his or her
294 designee and the commissioner of the office of administration or his or her
295 designee. At no time shall the annual amount of the new state revenues
296 approved for disbursements from the Missouri supplemental tax increment
297 financing fund exceed thirty-two million dollars;

298 (4) Redevelopment plans and projects receiving new state revenues shall
299 have a duration of up to fifteen years, unless prior approval for a longer term is
300 given by the director of the department of economic development or his or her
301 designee and the commissioner of the office of administration or his or her
302 designee; except that, in no case shall the duration exceed twenty-three years.

303 11. In addition to the areas authorized in subsection 9 of this section, the
304 funding authorized pursuant to subsection 4 of this section shall also be available
305 in a federally approved levee district, where construction of a levee begins after
306 December 23, 1997, and which is contained within a county of the first
307 classification without a charter form of government with a population between
308 fifty thousand and one hundred thousand inhabitants which contains all or part
309 of a city with a population in excess of four hundred thousand or more
310 inhabitants.

311 12. There is hereby established within the state treasury a special fund
312 to be known as the "Missouri Supplemental Tax Increment Financing Fund", to
313 be administered by the department of economic development. The department
314 shall annually distribute from the Missouri supplemental tax increment financing
315 fund the amount of the new state revenues as appropriated as provided in the
316 provisions of subsections 4 and 5 of this section if and only if the conditions of
317 subsection 10 of this section are met. The fund shall also consist of any gifts,
318 contributions, grants or bequests received from federal, private or other
319 sources. Moneys in the Missouri supplemental tax increment financing fund shall
320 be disbursed per project pursuant to state appropriations.

321 13. Redevelopment project costs may include, at the prerogative of the
322 state, the portion of salaries and expenses of the department of economic
323 development and the department of revenue reasonably allocable to each
324 redevelopment project approved for disbursements from the Missouri
325 supplemental tax increment financing fund for the ongoing administrative
326 functions associated with such redevelopment project. Such amounts shall be

327 recovered from new state revenues deposited into the Missouri supplemental tax
328 increment financing fund created under this section.

329 14. For redevelopment plans or projects approved by ordinance that result
330 in net new jobs from the relocation of a national headquarters from another state
331 to the area of the redevelopment project, the economic activity taxes and new
332 state tax revenues shall not be based on a calculation of the incremental increase
333 in taxes as compared to the base year or prior calendar year for such
334 redevelopment project, rather the incremental increase shall be the amount of
335 total taxes generated from the net new jobs brought in by the national
336 headquarters from another state. In no event shall this subsection be construed
337 to allow a redevelopment project to receive an appropriation in excess of up to
338 fifty percent of the new state revenues.

339 **15. Provisions of subsection 4 of this section to the contrary**
340 **notwithstanding, for redevelopment plans or projects approved by**
341 **ordinance that result in net new jobs from a Missouri business**
342 **relocation to, or expansion within, the area of the redevelopment**
343 **project, the director of the department of economic development may,**
344 **upon a finding of economic benefit to the state, increase the percentage**
345 **of new state revenues, defined under subdivision (2) of subsection 8 of**
346 **this section, available for appropriation under the provisions of**
347 **subsection 4 of this section by an amount equal to:**

348 **(1) Up to two percent for redevelopment plans or projects**
349 **involving businesses which have been Missouri businesses for a**
350 **continuous period of at least five years prior to the adoption of such**
351 **ordinance;**

352 **(2) Up to four percent for redevelopment plans or projects**
353 **involving businesses which have been Missouri businesses for a**
354 **continuous period of at least ten years prior to the adoption of such**
355 **ordinance;**

356 **(3) Up to six percent for redevelopment plans or projects**
357 **involving businesses which have been Missouri businesses for a**
358 **continuous period of at least fifteen years prior to the adoption of such**
359 **ordinance;**

360 **(4) Up to eight percent for redevelopment plans or projects**
361 **involving businesses which have been Missouri businesses for a**
362 **continuous period of at least twenty years prior to the adoption of such**
363 **ordinance; or**

364 **(5) Up to ten percent for redevelopment plans or projects**
365 **involving businesses which have been Missouri businesses for a**
366 **continuous period of at least twenty-five years prior to the adoption of**
367 **such ordinance.**

135.535. 1. A corporation, limited liability corporation, partnership or
2 sole proprietorship, which moves its operations from outside Missouri or outside
3 a distressed community into a distressed community, or which commences
4 operations in a distressed community on or after January 1, 1999, and in either
5 case has more than seventy-five percent of its employees at the facility in the
6 distressed community, and which has fewer than one hundred employees for
7 whom payroll taxes are paid, and which is a manufacturing, biomedical, medical
8 devices, scientific research, animal research, computer software design or
9 development, computer programming, including Internet, web hosting, and other
10 information technology, wireless or wired or other telecommunications or a
11 professional firm shall receive a forty percent credit against income taxes owed
12 pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant
13 to sections 143.191 to 143.265, RSMo, for each of the three years after such move,
14 if approved by the department of economic development, which shall issue a
15 certificate of eligibility if the department determines that the taxpayer is eligible
16 for such credit. The maximum amount of credits per taxpayer set forth in this
17 subsection shall not exceed one hundred twenty-five thousand dollars for each of
18 the three years for which the credit is claimed. **In the case of a Missouri**
19 **business, which is otherwise eligible for tax credits authorized under**
20 **the provisions of this subsection, the director of the department of**
21 **economic development may, upon a finding of economic benefit to the**
22 **state, increase the percentage of credit against income taxes owed**
23 **pursuant to chapter 143, 147, or 148, other than taxes withheld**
24 **pursuant to sections 143.191 to 143.265, for each of the three years after**
25 **such move by an amount not to exceed two percent for each continuous**
26 **five year period such corporation, limited liability corporation,**
27 **partnership, or sole proprietorship has been a Missouri business, up to**
28 **a total increase of ten percent. The maximum amount of credits per**
29 **Missouri business set forth in this subsection shall not exceed one**
30 **hundred thirty-seven thousand five hundred dollars for each of the**
31 **three years for which the credit is claimed.** The department of economic
32 development, by means of rule or regulation promulgated pursuant to the

33 provisions of chapter 536, RSMo, shall assign appropriate North American
34 Industry Classification System numbers to the companies which are eligible for
35 the tax credits provided for in this section. Such three-year credits shall be
36 awarded only one time to any company which moves its operations from outside
37 of Missouri or outside of a distressed community into a distressed community or
38 to a company which commences operations within a distressed community. A
39 taxpayer shall file an application for certification of the tax credits for the first
40 year in which credits are claimed and for each of the two succeeding taxable years
41 for which credits are claimed.

42 2. Employees of such facilities physically working and earning wages for
43 that work within a distressed community whose employers have been approved
44 for tax credits pursuant to subsection 1 of this section by the department of
45 economic development for whom payroll taxes are paid shall also be eligible to
46 receive a tax credit against individual income tax, imposed pursuant to chapter
47 143, RSMo, equal to one and one-half percent of their gross salary paid at such
48 facility earned for each of the three years that the facility receives the tax credit
49 provided by this section, so long as they were qualified employees of such
50 entity. The employer shall calculate the amount of such credit and shall report
51 the amount to the employee and the department of revenue.

52 3. A tax credit against income taxes owed pursuant to chapter 143, 147
53 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to
54 143.265, RSMo, in lieu of the credit against income taxes as provided in
55 subsection 1 of this section, may be taken by such an entity in a distressed
56 community in an amount of forty percent of the amount of funds expended for
57 computer equipment and its maintenance, medical laboratories and equipment,
58 research laboratory equipment, manufacturing equipment, fiber optic equipment,
59 high speed telecommunications, wiring or software development expense up to a
60 maximum of seventy-five thousand dollars in tax credits for such equipment or
61 expense per year per entity and for each of three years after commencement in
62 or moving operations into a distressed community. **Upon a finding of**
63 **economic benefit to the state, the director of the department of**
64 **economic development may increase the amount of the tax credit,**
65 **authorized under the provisions of this subsection in lieu of the credit**
66 **against income taxes provided under subsection 1 of this section, to be**
67 **taken by a Missouri business by an amount not to exceed two percent**
68 **for each continuous five year period such employer has been a Missouri**

69 **business, up to a total increase of ten percent. The maximum amount**
70 **of credits per Missouri business set forth in this subsection shall not**
71 **exceed eighty-two thousand five hundred dollars for each of the three**
72 **years after commencement in, or moving operations into, a distressed**
73 **community.**

74 4. A corporation, partnership or sole partnership, which has no more than
75 one hundred employees for whom payroll taxes are paid, which is already located
76 in a distressed community and which expends funds for such equipment pursuant
77 to subsection 3 of this section in an amount exceeding its average of the prior two
78 years for such equipment, shall be eligible to receive a tax credit against income
79 taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to
80 the lesser of seventy-five thousand dollars or twenty-five percent of the funds
81 expended for such additional equipment per such entity. **In the case of a**
82 **Missouri business which is otherwise eligible to receive tax credits**
83 **under the provisions of this subsection, the director of the department**
84 **of economic development may, upon a finding of economic benefit to**
85 **the state, increase the amount of the credit authorized under this**
86 **subsection by an amount not to exceed two percent for each continuous**
87 **five year period such employer has been a Missouri business, up to a**
88 **total increase of ten percent.** Tax credits allowed pursuant to this subsection
89 or subsection 1 of this section may be carried back to any of the three prior tax
90 years and carried forward to any of the five tax years.

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

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

109 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this
110 section shall be for an amount of no more than ten million dollars for each year
111 beginning in 1999. To the extent there are available tax credits remaining under
112 the ten million dollar cap provided in this section, up to one hundred thousand
113 dollars in the remaining credits shall first be used for tax credits authorized
114 under section 135.562. The total maximum credit for all entities already located
115 in distressed communities and claiming credits pursuant to subsection 4 of this
116 section shall be seven hundred and fifty thousand dollars. The department of
117 economic development in approving taxpayers for the credit as provided for in
118 subsection 6 of this section shall use information provided by the department of
119 revenue regarding taxes paid in the previous year, or projected taxes for those
120 entities newly established in the state, as the method of determining when this
121 maximum will be reached and shall maintain a record of the order of
122 approval. Any tax credit not used in the period for which the credit was approved
123 may be carried over until the full credit has been allowed.

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

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

136 **10. For purposes of this section, the term "Missouri business"**
137 **shall mean any business with a physical presence in this state, with**
138 **employees who routinely perform job duties within this state.**

 135.950. The following terms, whenever used in sections 135.950 to
2 135.970 mean:

- 3 (1) "Average wage", the new payroll divided by the number of new jobs;
- 4 (2) "Blighted area", an area which, by reason of the predominance of
5 defective or inadequate street layout, unsanitary or unsafe conditions,
6 deterioration of site improvements, improper subdivision or obsolete platting, or
7 the existence of conditions which endanger life or property by fire and other
8 causes, or any combination of such factors, retards the provision of housing
9 accommodations or constitutes an economic or social liability or a menace to the
10 public health, safety, morals, or welfare in its present condition and use;
- 11 (3) "Board", an enhanced enterprise zone board established pursuant to
12 section 135.957;
- 13 (4) "Commencement of commercial operations" shall be deemed to occur
14 during the first taxable year for which the new business facility is first put into
15 use by the taxpayer in the enhanced business enterprise in which the taxpayer
16 intends to use the new business facility;
- 17 (5) "County average wage", the average wages in each county as
18 determined by the department for the most recently completed full calendar
19 year. However, if the computed county average wage is above the statewide
20 average wage, the statewide average wage shall be deemed the county average
21 wage for such county for the purpose of determining eligibility. The department
22 shall publish the county average wage for each county at least
23 annually. Notwithstanding the provisions of this subdivision to the contrary, for
24 any taxpayer that in conjunction with their project is relocating employees from
25 a Missouri county with a higher county average wage, such taxpayer shall obtain
26 the endorsement of the governing body of the community from which jobs are
27 being relocated or the county average wage for their project shall be the county
28 average wage for the county from which the employees are being relocated;
- 29 (6) "Department", the department of economic development;
- 30 (7) "Director", the director of the department of economic development;
- 31 (8) "Employee", a person employed by the enhanced business enterprise
32 that is scheduled to work an average of at least one thousand hours per year, and
33 such person at all times has health insurance offered to him or her, which is
34 partially paid for by the employer;
- 35 (9) "Enhanced business enterprise", an industry or one of a cluster of
36 industries that is either:
- 37 (a) Identified by the department as critical to the state's economic security
38 and growth; or

39 (b) Will have an impact on industry cluster development, as identified by
40 the governing authority in its application for designation of an enhanced
41 enterprise zone and approved by the department; but excluding gambling
42 establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and
43 45), educational services (NAICS sector 61), religious organizations (NAICS
44 industry group 8131), public administration (NAICS sector 92), and food and
45 drinking places (NAICS subsector 722), however, notwithstanding provisions of
46 this section to the contrary, headquarters or administrative offices of an
47 otherwise excluded business may qualify for benefits if the offices serve a
48 multistate territory. In the event a national, state, or regional headquarters
49 operation is not the predominant activity of a project facility, the new jobs and
50 investment of such headquarters operation is considered eligible for benefits
51 under this section if the other requirements are satisfied. Service industries may
52 be eligible only if a majority of its annual revenues will be derived from out of the
53 state;

54 (10) "Existing business facility", any facility in this state which was
55 employed by the taxpayer claiming the credit in the operation of an enhanced
56 business enterprise immediately prior to an expansion, acquisition, addition, or
57 replacement;

58 (11) "Facility", any building used as an enhanced business enterprise
59 located within an enhanced enterprise zone, including the land on which the
60 facility is located and all machinery, equipment, and other real and depreciable
61 tangible personal property acquired for use at and located at or within such
62 facility and used in connection with the operation of such facility;

63 (12) "Facility base employment", the greater of the number of employees
64 located at the facility on the date of the notice of intent, or for the twelve-month
65 period prior to the date of the notice of intent, the average number of employees
66 located at the facility, or in the event the project facility has not been in operation
67 for a full twelve-month period, the average number of employees for the number
68 of months the facility has been in operation prior to the date of the notice of
69 intent;

70 (13) "Facility base payroll", the total amount of taxable wages paid by the
71 enhanced business enterprise to employees of the enhanced business enterprise
72 located at the facility in the twelve months prior to the notice of intent, not
73 including the payroll of owners of the enhanced business enterprise unless the
74 enhanced business enterprise is participating in an employee stock ownership

75 plan. For the purposes of calculating the benefits under this program, the
76 amount of base payroll shall increase each year based on the consumer price
77 index or other comparable measure, as determined by the department;

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

80 (15) **"Missouri business", any business with a physical presence**
81 **in this state, with employees who routinely perform job duties within**
82 **this state;**

83 (16) "Megaproject", any manufacturing or assembling facility, approved
84 by the department for construction and operation within an enhanced enterprise
85 zone, which satisfies the following:

86 (a) The new capital investment is projected to exceed three hundred
87 million dollars over a period of eight years from the date of approval by the
88 department;

89 (b) The number of new jobs is projected to exceed one thousand over a
90 period of eight years beginning on the date of approval by the department;

91 (c) The average wage of new jobs to be created shall exceed the county
92 average wage;

93 (d) The taxpayer shall offer health insurance to all new jobs and pay at
94 least eighty percent of such insurance premiums; and

95 (e) An acceptable plan of repayment, to the state, of the tax credits
96 provided for the megaproject has been provided by the taxpayer;

97 [(16)] (17) "NAICS", the 1997 edition of the North American Industry
98 Classification System as prepared by the Executive Office of the President, Office
99 of Management and Budget. Any NAICS sector, subsector, industry group or
100 industry identified in this section shall include its corresponding classification in
101 subsequent federal industry classification systems;

102 [(17)] (18) "New business facility", a facility that satisfies the following
103 requirements:

104 (a) Such facility is employed by the taxpayer in the operation of an
105 enhanced business enterprise. Such facility shall not be considered a new
106 business facility in the hands of the taxpayer if the taxpayer's only activity with
107 respect to such facility is to lease it to another person or persons. If the taxpayer
108 employs only a portion of such facility in the operation of an enhanced business
109 enterprise, and leases another portion of such facility to another person or
110 persons or does not otherwise use such other portions in the operation of an

enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

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

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

(d) Such facility is not a replacement business facility, as defined in subdivision [(25)] **(26)** of this section;

[(18)] **(19)** "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

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

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

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum

147 of the total value of such property on the last business day of each calendar
148 month of the taxable year. If the new business facility is in operation for less
149 than an entire taxable year, the new business facility investment shall be
150 determined by dividing the sum of the total value of such property on the last
151 business day of each full calendar month during the portion of such taxable year
152 during which the new business facility was in operation by the number of full
153 calendar months during such period;

154 [(20)] **(21)** "New job", the number of employees located at the facility that
155 exceeds the facility base employment less any decrease in the number of the
156 employees at related facilities below the related facility base employment. No job
157 that was created prior to the date of the notice of intent shall be deemed a new
158 job;

159 [(21)] **(22)** "Notice of intent", a form developed by the department which
160 is completed by the enhanced business enterprise and submitted to the
161 department which states the enhanced business enterprise's intent to hire new
162 jobs and request benefits under such program;

163 [(22)] **(23)** "Related facility", a facility operated by the enhanced business
164 enterprise or a related company in this state that is directly related to the
165 operation of the project facility;

166 [(23)] **(24)** "Related facility base employment", the greater of:

167 (a) The number of employees located at all related facilities on the date
168 of the notice of intent; or

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

172 [(24)] **(25)** "Related taxpayer":

173 (a) A corporation, partnership, trust, or association controlled by the
174 taxpayer;

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

177 (c) A corporation, partnership, trust or association controlled by an
178 individual, corporation, partnership, trust or association in control of the
179 taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly,
180 of stock possessing at least fifty percent of the total combined voting power of all
181 classes of stock entitled to vote, "control of a partnership or association" shall
182 mean ownership of at least fifty percent of the capital or profits interest in such

183 partnership or association, and "control of a trust" shall mean ownership, directly
184 or indirectly, of at least fifty percent of the beneficial interest in the principal or
185 income of such trust; ownership shall be determined as provided in Section 318
186 of the Internal Revenue Code of 1986, as amended;

187 [(25)] **(26)** "Replacement business facility", a facility otherwise described
188 in subdivision [(17)] **(18)** of this section, hereafter referred to in this subdivision
189 as "new facility", which replaces another facility, hereafter referred to in this
190 subdivision as "old facility", located within the state, which the taxpayer or a
191 related taxpayer previously operated but discontinued operating on or before the
192 close of the first taxable year for which the credit allowed by this section is
193 claimed. A new facility shall be deemed to replace an old facility if the following
194 conditions are met:

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

199 (b) The old facility was employed by the taxpayer or a related taxpayer
200 in the operation of an enhanced business enterprise and the taxpayer continues
201 the operation of the same or substantially similar enhanced business enterprise
202 at the new facility. Notwithstanding the preceding provisions of this subdivision,
203 a facility shall not be considered a replacement business facility if the taxpayer's
204 new business facility investment, as computed in subdivision [(19)] **(20)** of this
205 section, in the new facility during the tax period for which the credits allowed in
206 section 135.967 are claimed exceed one million dollars and if the total number of
207 employees at the new facility exceeds the total number of employees at the old
208 facility by at least two;

209 [(26)] **(27)** "Same or substantially similar enhanced business enterprise",
210 an enhanced business enterprise in which the nature of the products produced or
211 sold, or activities conducted, are similar in character and use or are produced,
212 sold, performed, or conducted in the same or similar manner as in another
213 enhanced business enterprise.

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 135.286, or section 135.535, and may not
11 simultaneously receive tax credits under sections 620.1875 to 620.1890, RSMo,
12 at the same facility.

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

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

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

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

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

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

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

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

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

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

35 **5. The director may, upon a finding of economic benefit to the**
36 **state, increase the annual amount authorized by the department under**
37 **the provisions of subsection 4 of this section, for an enhanced business**
38 **enterprise which is a Missouri business by an amount not to exceed two**
39 **percent for every continuous five year period such enhanced business**
40 **enterprise has been a Missouri business up to a total increase of ten**
41 **percent.**

42 **6.** Prior to January 1, 2007, in no event shall the department authorize
43 more than four million dollars annually to be issued for all enhanced business
44 enterprises. After December 31, 2006, in no event shall the department authorize
45 more than twenty-four million dollars annually to be issued for all enhanced
46 business enterprises.

47 **[6.] 7.** If a facility, which does not constitute a new business facility, is
48 expanded by the taxpayer, the expansion shall be considered eligible for the credit
49 allowed by this section if:

50 (1) The taxpayer's new business facility investment in the expansion
51 during the tax period in which the credits allowed in this section are claimed
52 exceeds one hundred thousand dollars and if the number of new business facility
53 employees engaged or maintained in employment at the expansion facility for the
54 taxable year for which credit is claimed equals or exceeds two, and the total
55 number of employees at the facility after the expansion is at least two greater
56 than the total number of employees before the expansion; and

57 (2) The taxpayer's investment in the expansion and in the original facility
58 prior to expansion shall be determined in the manner provided in subdivision
59 **[(19)] (20)** of section 135.950.

60 **[7.] 8.** The number of new business facility employees during any taxable
61 year shall be determined by dividing by twelve the sum of the number of
62 individuals employed on the last business day of each month of such taxable year.
63 If the new business facility is in operation for less than the entire taxable year,
64 the number of new business facility employees shall be determined by dividing
65 the sum of the number of individuals employed on the last business day of each
66 full calendar month during the portion of such taxable year during which the new
67 business facility was in operation by the number of full calendar months during
68 such period. For the purpose of computing the credit allowed by this section in
69 the case of a facility which qualifies as a new business facility under subsection
70 **[6] 7** of this section, and in the case of a new business facility which satisfies the
71 requirements of paragraph (c) of subdivision **[(17)] (18)** of section 135.950, or
72 subdivision **[(25)] (26)** of section 135.950, the number of new business facility
73 employees at such facility shall be reduced by the average number of individuals
74 employed, computed as provided in this subsection, at the facility during the
75 taxable year immediately preceding the taxable year in which such expansion,
76 acquisition, or replacement occurred and shall further be reduced by the number
77 of individuals employed by the taxpayer or related taxpayer that was

78 subsequently transferred to the new business facility from another Missouri
79 facility and for which credits authorized in this section are not being earned,
80 whether such credits are earned because of an expansion, acquisition, relocation,
81 or the establishment of a new facility.

82 **[8.] 9.** In the case where a new business facility employee who is a
83 resident of an enhanced enterprise zone for less than a twelve-month period is
84 employed for less than a twelve-month period, the credits allowed by paragraph
85 (b) of subdivision (2) of subsection 4 of this section shall be determined by
86 multiplying four hundred dollars by a fraction, the numerator of which is the
87 number of calendar days during the taxpayer's tax year for which such credits are
88 claimed, in which the employee was a resident of an enhanced enterprise zone,
89 and the denominator of which is three hundred sixty-five.

90 **[9.] 10.** For the purpose of computing the credit allowed by this section
91 in the case of a facility which qualifies as a new business facility pursuant to
92 subsection **[6] 7** of this section, and in the case of a new business facility which
93 satisfies the requirements of paragraph (c) of subdivision **[(17)] (18)** of section
94 135.950 or subdivision **[(25)] (26)** of section 135.950, the amount of the taxpayer's
95 new business facility investment in such facility shall be reduced by the average
96 amount, computed as provided in subdivision **[(19)] (20)** of section 135.950 for
97 new business facility investment, of the investment of the taxpayer, or related
98 taxpayer immediately preceding such expansion or replacement or at the time of
99 acquisition. Furthermore, the amount of the taxpayer's new business facility
100 investment shall also be reduced by the amount of investment employed by the
101 taxpayer or related taxpayer which was subsequently transferred to the new
102 business facility from another Missouri facility and for which credits authorized
103 in this section are not being earned, whether such credits are earned because of
104 an expansion, acquisition, relocation, or the establishment of a new facility.

105 **[10.] 11.** For a taxpayer with flow-through tax treatment to its members,
106 partners, or shareholders, the credit shall be allowed to members, partners, or
107 shareholders in proportion to their share of ownership on the last day of the
108 taxpayer's tax period.

109 **[11.] 12.** Credits may not be carried forward but shall be claimed for the
110 taxable year during which commencement of commercial operations occurs at
111 such new business facility, and for each of the nine succeeding taxable years for
112 which the credit is issued.

113 **[12.] 13.** Certificates of tax credit authorized by this section may be

114 transferred, sold, or assigned by filing a notarized endorsement thereof with the
115 department that names the transferee, the amount of tax credit transferred, and
116 the value received for the credit, as well as any other information reasonably
117 requested by the department. The sale price cannot be less than seventy-five
118 percent of the par value of such credits.

119 [13.] 14. The director of revenue shall issue a refund to the taxpayer to
120 the extent that the amount of credits allowed in this section exceeds the amount
121 of the taxpayer's income tax.

122 [14.] 15. Prior to the issuance of tax credits, the department shall verify
123 through the department of revenue, or any other state department, that the tax
124 credit applicant does not owe any delinquent income, sales, or use tax or interest
125 or penalties on such taxes, or any delinquent fees or assessments levied by any
126 state department and through the department of insurance, financial institutions
127 and professional registration that the applicant does not owe any delinquent
128 insurance taxes. Such delinquency shall not affect the authorization of the
129 application for such tax credits, except that the amount of credits issued shall be
130 reduced by the applicant's tax delinquency. If the department of revenue or the
131 department of insurance, financial institutions and professional registration, or
132 any other state department, concludes that a taxpayer is delinquent after June
133 fifteenth but before July first of any year and the application of tax credits to
134 such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then
135 the taxpayer shall be granted thirty days to satisfy the deficiency in which
136 interest, penalties, and additions to tax shall be tolled. After applying all
137 available credits toward a tax delinquency, the administering agency shall notify
138 the appropriate department, and that department shall update the amount of
139 outstanding delinquent tax owed by the applicant. If any credits remain after
140 satisfying all insurance, income, sales, and use tax delinquencies, the remaining
141 credits shall be issued to the applicant, subject to the restrictions of other
142 provisions of law.

178.760. As used in sections 178.760 to 178.764, the following terms
2 mean:

3 (1) "Agreement", the agreement between an employer and a community
4 college district concerning a project. An agreement may be for a period not to
5 exceed ten years when the program services associated with a project are not in
6 excess of five hundred thousand dollars. For a project where the associated
7 program costs are greater than five hundred thousand dollars, the agreement may

- 8 not exceed a period of eight years;
- 9 (2) "Board of trustees", the board of trustees of a community college
10 district;
- 11 (3) "Capital investment", an investment in research and development,
12 working capital, and real and tangible personal business property except
13 inventory or property intended for sale to customers. Trucks, truck trailers, truck
14 semi-trailers, rail and barge vehicles and other rolling stock for hire, track,
15 switches, barges, bridges, tunnels, rail yards, and spurs shall not qualify as a
16 capital investment. The amount of such investment shall be the original cost of
17 the property if owned, or eight times the net annual rental rate if leased;
- 18 (4) "Certificate", industrial retained jobs training certificates issued under
19 section 178.763;
- 20 (5) "Date of commencement of the project", the date of the agreement;
- 21 (6) "Employee", the person employed in a retained job;
- 22 (7) "Employer", the person maintaining retained jobs in conjunction with
23 a project;
- 24 (8) "Industry", a business located within this state which enters into an
25 agreement with a community college district and which is engaged in interstate
26 or intrastate commerce for the purpose of manufacturing, processing, or
27 assembling products, conducting research and development, or providing services
28 in interstate commerce, but excluding retail services;
- 29 (9) **"Missouri business", any business with a physical presence in**
30 **this state, with employees who routinely perform job duties within this**
31 **state;**
- 32 (10) "Program costs", all necessary and incidental costs of providing
33 program services, including payment of the principal, premium, and interest on
34 certificates, including capitalized interest, issued to finance a project, funding and
35 maintenance of a debt service reserve fund to secure such certificates and wages,
36 salaries and benefits of employees participating in on-the-job training;
- 37 [(10)] (11) "Program services" includes, but is not limited to, the
38 following:
- 39 (a) Retained jobs training;
- 40 (b) Adult basic education and job-related instruction;
- 41 (c) Vocational and skill-assessment services and testing;
- 42 (d) Training facilities, equipment, materials, and supplies;
- 43 (e) On-the-job training;

44 (f) Administrative expenses equal to seventeen percent of the total
45 training costs, two percent to be paid to the department of economic development
46 for deposit into the Missouri job development fund created under section 620.478,
47 RSMo;

48 (g) Subcontracted services with state institutions of higher education,
49 private colleges or universities, or other federal, state, or local agencies;

50 (h) Contracted or professional services; and

51 (i) Issuance of certificates;

52 [(11)] (12) "Project", a training arrangement which is the subject of an
53 agreement entered into between the community college district and an employer
54 to provide program services that is not also the subject of an agreement entered
55 into between a community college district and an employer to provide program
56 services under sections 178.892 to 178.896;

57 [(12)] (13) "Retained job", a job in a stable industry, not including jobs
58 for recalled workers, which was in existence for at least two consecutive calendar
59 years preceding the year in which the application for the retained jobs training
60 program was made;

61 [(13)] (14) "Retained jobs credit from withholding", the credit as provided
62 in section 178.762;

63 [(14)] (15) "Retained jobs training program", or "program", the project or
64 projects established by a community college district for the retention of jobs, by
65 providing education and training of workers for existing jobs for stable industry
66 in the state;

67 [(15)] (16) "Stable industry", a business that otherwise meets the
68 definition of industry and retains existing jobs. To be a stable industry, the
69 business shall have:

70 (a) Maintained at least one hundred employees per year at the employer's
71 site in the state at which the jobs are based, for each of the two calendar years
72 preceding the year in which application for the program is made;

73 (b) Retained at that site the level of employment that existed in the
74 taxable year immediately preceding the year in which application for the program
75 is made; and

76 (c) Made or agree to make a capital investment aggregating at least one
77 million dollars to acquire or improve long-term assets (including leased facilities)
78 such as property, plant, or equipment (excluding program costs) at the employer's
79 site in the state at which jobs are based over a period of three consecutive

80 calendar years, as certified by the employer and:

81 a. Have made substantial investment in new technology requiring the
82 upgrading of worker's skills; or

83 b. Be located in a border county of the state and represent a potential risk
84 of relocation from the state; or

85 c. Be determined to represent a substantial risk of relocation from the
86 state by the director of the department of economic development;

87 [(16)] (17) "Total training costs", costs of training, including supplies,
88 wages and benefits of instructors, subcontracted services, on-the-job training,
89 training facilities, equipment, skill assessment, and all program services
90 excluding issuance of certificates.

178.762. 1. If an agreement provides that all or part of program costs are
2 to be met by receipt of retained jobs credit from withholding, such retained jobs
3 credit from withholding shall be determined and paid as follows:

4 (1) Retained jobs credit from withholding shall be based upon the wages
5 paid to the employees in the retained jobs;

6 (2) A portion of the total payments made by the employer under section
7 143.221, RSMo, shall be designated as the retained jobs credit from
8 withholding. Such portion shall be an amount equal to two and one-half percent
9 of the gross wages paid by the employer for each of the first one hundred jobs
10 included in the project and one and one-half percent of the gross wages paid by
11 the employer for each of the remaining jobs included in the project. If business
12 or employment conditions cause the amount of the retained jobs credit from
13 withholding to be less than the amount projected in the agreement for any time
14 period, then other withholding tax paid by the employer under section 143.221,
15 RSMo, shall be credited to the Missouri community college retained job training
16 fund by the amount of such difference.

17 The employer shall remit the amount of the retained jobs credit to the
18 department of revenue in the manner prescribed in section 178.764. When all
19 program costs, including the principal, premium, and interest on the certificates
20 have been paid, the employer credits shall cease;

21 (3) The community college district participating in a project shall
22 establish a special fund for and in the name of the project. All funds
23 appropriated by the general assembly from the Missouri community college job
24 training retention program fund and disbursed by the division of workforce
25 development for the project and other amounts received by the district in respect

26 of the project and required by the agreement to be used to pay program costs for
27 the project shall be deposited in the special fund. Amounts held in the special
28 fund may be used and disbursed by the district only to pay program costs for the
29 project. The special fund may be divided into such accounts and subaccounts as
30 shall be provided in the agreement, and amounts held therein may be invested
31 in investments which are legal for the investment of the district's other funds;

32 (4) Any disbursement in respect of a project received from the division of
33 workforce development under sections 178.760 to 178.764 and the special fund
34 into which it is paid may be irrevocably pledged by a community college district
35 for the payment of the principal, premium, and interest on the certificate issued
36 by a community college district to finance or refinance, in whole or in part, the
37 project;

38 (5) The employer shall certify to the department of revenue that the credit
39 from withholding is in accordance with an agreement and shall provide other
40 information the department may require;

41 (6) An employee participating in a project will receive full credit for the
42 amount designated as a retained jobs credit from withholding and withheld as
43 provided in section 143.221, RSMo;

44 (7) If an agreement provides that all or part of program costs are to be
45 met by receipt of retained jobs credit from withholding, the provisions of this
46 subsection shall also apply to any successor to the original employer until such
47 time as the principal and interest on the certificates have been paid.

48 **2. The director of the department of economic development may,**
49 **upon a finding of economic benefit to the state, increase the amount of**
50 **the retained jobs credit from withholding, provided under subsection**
51 **1 of this section, for a project involving an employer which is a**
52 **Missouri business by an amount not to exceed two percent for every**
53 **continuous five year period such employer has been a Missouri**
54 **business up to a total increase of ten percent.**

178.892. As used in sections 178.892 to 178.896, the following terms
2 mean:

3 (1) "Agreement", the agreement, between an employer and a community
4 college district, concerning a project. An agreement may be for a period not to
5 exceed ten years when the program services associated with a project are not in
6 excess of five hundred thousand dollars. For a project where associated program
7 costs are greater than five hundred thousand dollars, the agreement may not

8 exceed a period of eight years. No agreement shall be entered into between an
9 employer and a community college district which involves the training of
10 potential employees with the purpose of replacing or supplanting employees
11 engaged in an authorized work stoppage;

12 (2) "Board of trustees", the board of trustees of a community college
13 district;

14 (3) "Certificate", industrial new jobs training certificates issued pursuant
15 to section 178.895;

16 (4) "Date of commencement of the project", the date of the agreement;

17 (5) "Employee", the person employed in a new job;

18 (6) "Employer", the person providing new jobs in conjunction with a
19 project;

20 (7) "Essential industry", a business that otherwise meets the definition
21 of industry but instead of creating new jobs maintains existing jobs. To be an
22 essential industry, the business must have maintained at least two thousand jobs
23 each year for a period of four years preceding the year in which application for
24 the program authorized by sections 178.892 to 178.896 is made and must be
25 located in a home rule city with more than twenty-six thousand but less than
26 twenty-seven thousand inhabitants located in any county with a charter form of
27 government and with more than one million inhabitants;

28 (8) "Existing job", a job in an essential industry that pays wages or salary
29 greater than the average of the county in which the project will be located;

30 (9) "Industry", a business located within the state of Missouri which
31 enters into an agreement with a community college district and which is engaged
32 in interstate or intrastate commerce for the purpose of manufacturing, processing,
33 or assembling products, conducting research and development, or providing
34 services in interstate commerce, but excluding retail services. "Industry" does not
35 include a business which closes or substantially reduces its operation in one area
36 of the state and relocates substantially the same operation in another area of the
37 state. This does not prohibit a business from expanding its operations in another
38 area of the state provided that existing operations of a similar nature are not
39 closed or substantially reduced;

40 (10) **"Missouri business", any business with a physical presence**
41 **in this state, with employees who routinely perform job duties within**
42 **this state;**

43 (11) "New job", a job in a new or expanding industry not including jobs

44 of recalled workers, or replacement jobs or other jobs that formerly existed in the
45 industry in the state. For an essential industry, an existing job shall be
46 considered a new job for the purposes of the new job training programs;

47 ~~[(11)] (12)~~ "New jobs credit from withholding", the credit as provided in
48 section 178.894;

49 ~~[(12)] (13)~~ "New jobs training program" or "program", the project or
50 projects established by a community college district for the creation of jobs by
51 providing education and training of workers for new jobs for new or expanding
52 industry in the state;

53 ~~[(13)] (14)~~ "Program costs", all necessary and incidental costs of
54 providing program services including payment of the principal of, premium, if
55 any, and interest on certificates, including capitalized interest, issued to finance
56 a project, funding and maintenance of a debt service reserve fund to secure such
57 certificates and wages, salaries and benefits of employees participating in
58 on-the-job training;

59 ~~[(14)] (15)~~ "Program services" includes, but is not limited to, the
60 following:

- 61 (a) New jobs training;
- 62 (b) Adult basic education and job-related instruction;
- 63 (c) Vocational and skill-assessment services and testing;
- 64 (d) Training facilities, equipment, materials, and supplies;
- 65 (e) On-the-job training;
- 66 (f) Administrative expenses equal to fifteen percent of the total training
67 costs;
- 68 (g) Subcontracted services with state institutions of higher education,
69 private colleges or universities, or other federal, state, or local agencies;
- 70 (h) Contracted or professional services; and
- 71 (i) Issuance of certificates;

72 ~~[(15)] (16)~~ "Project", a training arrangement which is the subject of an
73 agreement entered into between the community college district and an employer
74 to provide program services;

75 ~~[(16)] (17)~~ "Total training costs", costs of training, including supplies,
76 wages and benefits of instructors, subcontracted services, on-the-job training,
77 training facilities, equipment, skill assessment and all program services excluding
78 issuance of certificates.

178.894. 1. If an agreement provides that all or part of program costs are

2 to be met by receipt of new jobs credit from withholding, such new jobs credit
3 from withholding shall be determined and paid as follows:

4 (1) New jobs credit from withholding shall be based upon the wages paid
5 to the employees in the new jobs;

6 (2) A portion of the total payments made by the employer pursuant to
7 section 143.221, RSMo, shall be designated as the new jobs credit from
8 withholding. Such portion shall be an amount equal to two and one-half percent
9 of the gross wages paid by the employer for each of the first one hundred jobs
10 included in the project and one and one-half percent of the gross wages paid by
11 the employer for each of the remaining jobs included in the project. If business
12 or employment conditions cause the amount of the new jobs credit from
13 withholding to be less than the amount projected in the agreement for any time
14 period, then other withholding tax paid by the employer pursuant to section
15 143.221, RSMo, shall be credited to the Missouri community college job training
16 fund by the amount of such difference. The employer shall remit the amount of
17 the new jobs credit to the department of revenue in the manner prescribed in
18 section 178.896. When all program costs, including the principal of, premium, if
19 any, and interest on the certificates have been paid, the employer credits shall
20 cease;

21 (3) The community college district participating in a project shall
22 establish a special fund for and in the name of the project. All funds
23 appropriated by the general assembly from the Missouri community college job
24 training program fund and disbursed by the division of job development and
25 training for the project and other amounts received by the district in respect of
26 the project and required by the agreement to be used to pay program costs for the
27 project shall be deposited in the special fund. Amounts held in the special fund
28 may be used and disbursed by the district only to pay program costs for the
29 project. The special fund may be divided into such accounts and subaccounts as
30 shall be provided in the agreement, and amounts held therein may be invested
31 in investments which are legal for the investment of the district's other funds;

32 (4) Any disbursement in respect of a project received from the division of
33 job development and training under the provisions of sections 178.892 to 178.896
34 and the special fund into which it is paid may be irrevocably pledged by a
35 community college district for the payment of the principal of, premium, if any,
36 and interest on the certificate issued by a community college district to finance
37 or refinance, in whole or in part, the project;

38 (5) The employer shall certify to the department of revenue that the credit
39 from withholding is in accordance with an agreement and shall provide other
40 information the department may require;

41 (6) An employee participating in a project will receive full credit for the
42 amount designated as a new jobs credit from withholding and withheld as
43 provided in section 143.221, RSMo;

44 (7) If an agreement provides that all or part of program costs are to be
45 met by receipt of new jobs credit from withholding, the provisions of this
46 subsection shall also apply to any successor to the original employer until such
47 time as the principal and interest on the certificates have been paid.

48 **2. The director of the department of economic development may,**
49 **upon a finding of economic benefit to the state, increase the amount of**
50 **the new jobs credit from withholding, provided under subsection 1 of**
51 **this section, for a project involving an employer which is a Missouri**
52 **business by an amount not to exceed two percent for every continuous**
53 **five year period such employer has been a Missouri business up to a**
54 **total increase of ten percent.**

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 annually.
15 Notwithstanding the provisions of this subdivision to the contrary, for any
16 qualified company that in conjunction with their project is relocating employees
17 from a Missouri county with a higher county average wage, the company shall
18 obtain the endorsement of the governing body of the community from which jobs
19 are being relocated or the county average wage for their project shall be the

20 county average wage for the county from which the employees are being relocated;

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

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

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

24 (8) "Full-time employee", an employee of the qualified company that is

25 scheduled to work an average of at least thirty-five hours per week for a

26 twelve-month period, and one for which the qualified company offers health

27 insurance and pays at least fifty percent of such insurance premiums;

28 (9) "High-impact project", a qualified company that, within two years from

29 commencement of operations, creates one hundred or more new jobs;

30 (10) "Local incentives", the present value of the dollar amount of direct

31 benefit received by a qualified company for a project facility from one or more

32 local political subdivisions, but shall not include loans or other funds provided to

33 the qualified company that must be repaid by the qualified company to the

34 political subdivision;

35 (11) **"Missouri business", any business with a physical presence**

36 **in this state, with employees who routinely perform job duties within**

37 **this state;**

38 (12) "NAICS", the 1997 edition of the North American Industry

39 Classification System as prepared by the Executive Office of the President, Office

40 of Management and Budget. Any NAICS sector, subsector, industry group or

41 industry identified in this section shall include its corresponding classification in

42 subsequent federal industry classification systems;

43 [(12)] (13) "New direct local revenue", the present value of the dollar

44 amount of direct net new tax revenues of the local political subdivisions likely to

45 be produced by the project over a ten-year period as calculated by the

46 department, excluding local earnings tax, and net new utility revenues, provided

47 the local incentives include a discount or other direct incentives from utilities

48 owned or operated by the political subdivision;

49 [(13)] (14) "New investment", the purchase or leasing of new tangible

50 assets to be placed in operation at the project facility, which will be directly

51 related to the new jobs;

52 [(14)] (15) "New job", the number of full-time employees located at the

53 project facility that exceeds the project facility base employment less any decrease

54 in the number of full-time employees at related facilities below the related facility

55 base employment. No job that was created prior to the date of the notice of intent

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

62 [(15)] **(16)** "New payroll", the amount of taxable wages of full-time
63 employees, excluding owners, located at the project facility that exceeds the
64 project facility base payroll. If full-time employment at related facilities is below
65 the related facility base employment, any decrease in payroll for full-time
66 employees at the related facilities below that related facility base payroll shall
67 also be subtracted to determine new payroll;

68 [(16)] **(17)** "Notice of intent", a form developed by the department,
69 completed by the qualified company and submitted to the department which
70 states the qualified company's intent to hire new jobs and request benefits under
71 this program;

72 [(17)] **(18)** "Percent of local incentives", the amount of local incentives
73 divided by the amount of new direct local revenue;

74 [(18)] **(19)** "Program", the Missouri quality jobs program provided in
75 sections 620.1875 to 620.1890;

76 [(19)] **(20)** "Project facility", the building used by a qualified company at
77 which the new jobs and new investment will be located. A project facility may
78 include separate buildings that are located within fifteen miles of each other or
79 within the same county such that their purpose and operations are interrelated;

80 [(20)] **(21)** "Project facility base employment", the greater of the number
81 of full-time employees located at the project facility on the date of the notice of
82 intent or for the twelve-month period prior to the date of the notice of intent, the
83 average number of full-time employees located at the project facility. In the event
84 the project facility has not been in operation for a full twelve-month period, the
85 average number of full-time employees for the number of months the project
86 facility has been in operation prior to the date of the notice of intent;

87 [(21)] **(22)** "Project facility base payroll", the total amount of taxable
88 wages paid by the qualified company to full-time employees of the qualified
89 company located at the project facility in the twelve months prior to the notice of
90 intent, not including the payroll of the owners of the qualified company unless the
91 qualified company is participating in an employee stock ownership plan. For

92 purposes of calculating the benefits under this program, the amount of base
93 payroll shall increase each year based on an appropriate measure, as determined
94 by the department;

95 [(22)] **(23)** "Project period", the time period that the benefits are provided
96 to a qualified company;

97 [(23)] **(24)** "Qualified company", a firm, partnership, joint venture,
98 association, private or public corporation whether organized for profit or not, or
99 headquarters of such entity registered to do business in Missouri that is the
100 owner or operator of a project facility, offers health insurance to all full-time
101 employees of all facilities located in this state, and pays at least fifty percent of
102 such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the
103 term "qualified company" shall not include:

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

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

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

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

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

111 (f) Any company that has filed for or has publicly announced its intention
112 to file for bankruptcy protection. However, a company that has filed for or has
113 publicly announced its intention to file for bankruptcy between January 1, 2009,
114 and December 31, 2009, may be a qualified company provided that such company:

115 a. Certifies to the department that it plans to reorganize and not to
116 liquidate; and

117 b. After its bankruptcy petition has been filed, it produces proof, in a form
118 and at times satisfactory to the department, that it is not delinquent in filing any
119 tax returns or making any payment due to the state of Missouri, including but
120 not limited to all tax payments due after the filing of the bankruptcy petition and
121 under the terms of the plan of reorganization. Any taxpayer who is awarded
122 benefits under this subsection and who files for bankruptcy under Chapter 7 of
123 the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the
124 department and shall forfeit such benefits and shall repay the state an amount
125 equal to any state tax credits already redeemed and any withholding taxes
126 already retained;

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

128 (h) Religious organizations (NAICS industry group 8131);
129 (i) Public administration (NAICS sector 92);
130 (j) Ethanol distillation or production; or
131 (k) Biodiesel production. Notwithstanding any provision of this section
132 to the contrary, the headquarters or administrative offices of an otherwise
133 excluded business may qualify for benefits if the offices serve a multistate
134 territory. In the event a national, state, or regional headquarters operation is not
135 the predominant activity of a project facility, the new jobs and investment of such
136 headquarters operation is considered eligible for benefits under this section if the
137 other requirements are satisfied;

138 **[(24)] (25)** "Qualified renewable energy sources" shall not be construed
139 to include ethanol distillation or production or biodiesel production; however, it
140 shall include:

- 141 (a) Open-looped biomass;
- 142 (b) Close-looped biomass;
- 143 (c) Solar;
- 144 (d) Wind;
- 145 (e) Geothermal; and
- 146 (f) Hydropower;

147 **[(25)] (26)** "Related company" means:

- 148 (a) A corporation, partnership, trust, or association controlled by the
149 qualified company;
- 150 (b) An individual, corporation, partnership, trust, or association in control
151 of the qualified company; or
- 152 (c) Corporations, partnerships, trusts or associations controlled by an
153 individual, corporation, partnership, trust or association in control of the
154 qualified company. As used in this subdivision, "control of a corporation" shall
155 mean ownership, directly or indirectly, of stock possessing at least fifty percent
156 of the total combined voting power of all classes of stock entitled to vote, "control
157 of a partnership or association" shall mean ownership of at least fifty percent of
158 the capital or profits interest in such partnership or association, "control of a
159 trust" shall mean ownership, directly or indirectly, of at least fifty percent of the
160 beneficial interest in the principal or income of such trust, and ownership shall
161 be determined as provided in Section 318 of the Internal Revenue Code of 1986,
162 as amended;

163 **[(26)] (27)** "Related facility", a facility operated by the qualified company

164 or a related company located in this state that is directly related to the operations
165 of the project facility;

166 [(27)] **(28)** "Related facility base employment", the greater of the number
167 of full-time employees located at all related facilities on the date of the notice of
168 intent or for the twelve-month period prior to the date of the notice of intent, the
169 average number of full-time employees located at all related facilities of the
170 qualified company or a related company located in this state;

171 [(28)] **(29)** "Related facility base payroll", the total amount of taxable
172 wages paid by the qualified company to full-time employees of the qualified
173 company located at a related facility in the twelve months prior to the filing of
174 the notice of intent, not including the payroll of the owners of the qualified
175 company unless the qualified company is participating in an employee stock
176 ownership plan. For purposes of calculating the benefits under this program, the
177 amount of related facility base payroll shall increase each year based on an
178 appropriate measure, as determined by the department;

179 [(29)] **(30)** "Rural area", a county in Missouri with a population less than
180 seventy-five thousand or that does not contain an individual city with a
181 population greater than fifty thousand according to the most recent federal
182 decennial census;

183 [(30)] **(31)** "Small and expanding business project", a qualified company
184 that within two years of the date of the approval creates a minimum of twenty
185 new jobs if the project facility is located in a rural area or a minimum of forty
186 new jobs if the project facility is not located in a rural area and creates fewer
187 than one hundred new jobs regardless of the location of the project facility;

188 [(31)] **(32)** "Tax credits", tax credits issued by the department to offset
189 the state income taxes imposed by chapters 143 and 148, RSMo, or which may be
190 sold or refunded as provided for in this program;

191 [(32)] **(33)** "Technology business project", a qualified company that within
192 two years of the date of the approval creates a minimum of ten new jobs involved
193 in the operations of a company:

194 (a) Which is a technology company, as determined by a regulation
195 promulgated by the department under the provisions of section 620.1884 or
196 classified by NAICS codes;

197 (b) Which owns or leases a facility which produces electricity derived from
198 qualified renewable energy sources, or produces fuel for the generation of
199 electricity from qualified renewable energy sources, but does not include any

200 company that has received the alcohol mixture credit, alcohol credit, or small
201 ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the
202 previous tax year;

203 (c) Which researches, develops, or manufactures power system technology
204 for: aerospace; space; defense; hybrid vehicles; or implantable or wearable
205 medical devices; or

206 (d) Which is a clinical molecular diagnostic laboratory focused on
207 detecting and monitoring infections in immunocompromised patient populations;

208 [(33)] (34) "Withholding tax", the state tax imposed by sections 143.191
209 to 143.265, RSMo. For purposes of this program, the withholding tax shall be
210 computed using a schedule as determined by the department based on average
211 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. When a

25 qualified company has filed and received approval of a notice of intent and
26 subsequently files another notice of intent, the department shall apply the
27 definition of project facility under subdivision (19) of section 620.1878 to the new
28 notice of intent as well as all previously approved notices of intent and shall
29 determine the application of the definitions of new job, new payroll, project
30 facility base employment, and project facility base payroll accordingly.

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

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

62 (1) Small and expanding business projects: in exchange for the
63 consideration provided by the new tax revenues and other economic stimuli that
64 will be generated by the new jobs created by the program, a qualified company
65 may retain an amount equal to the withholding tax as calculated under
66 subdivision (33) of section 620.1878 from the new jobs that would otherwise be
67 withheld and remitted by the qualified company under the provisions of sections
68 143.191 to 143.265, RSMo, for a period of three years from the date the required
69 number of new jobs were created if the average wage of the new payroll equals
70 or exceeds the county average wage or for a period of five years from the date the
71 required number of new jobs were created if the average wage of the new payroll
72 equals or exceeds one hundred twenty percent of the county average wage. **The**
73 **director may, upon a finding of economic benefit to the state, increase**
74 **the withholding retention amount provided under this subdivision if**
75 **the qualified company is a Missouri business by an amount not to**
76 **exceed two percent for every continuous five year period such company**
77 **has been a Missouri business up to a total increase of ten percent;**

78 (2) Technology business projects: in exchange for the consideration
79 provided by the new tax revenues and other economic stimuli that will be
80 generated by the new jobs created by the program, a qualified company may
81 retain an amount equal to a maximum of five percent of new payroll for a period
82 of five years from the date the required number of jobs were created from the
83 withholding tax of the new jobs that would otherwise be withheld and remitted
84 by the qualified company under the provisions of sections 143.191 to 143.265,
85 RSMo, if the average wage of the new payroll equals or exceeds the county
86 average wage. An additional one-half percent of new payroll may be added to the
87 five percent maximum if the average wage of the new payroll in any year exceeds
88 one hundred twenty percent of the county average wage in the county in which
89 the project facility is located, plus an additional one-half percent of new payroll
90 may be added if the average wage of the new payroll in any year exceeds one
91 hundred forty percent of the average wage in the county in which the project
92 facility is located. **The director may, upon a finding of economic benefit**
93 **to the state, increase the new payroll retention provided under this**
94 **subdivision if the qualified company is a Missouri business by an**
95 **amount not to exceed two percent for every continuous five year period**
96 **such company has been a Missouri business up to a total increase of ten**

97 **percent.** The department shall issue a refundable tax credit for any difference
98 between the amount of benefit allowed under this subdivision and the amount of
99 withholding tax retained by the company, in the event the withholding tax is not
100 sufficient to provide the entire amount of benefit due to the qualified company
101 under this subdivision;

102 (3) High impact projects: in exchange for the consideration provided by
103 the new tax revenues and other economic stimuli that will be generated by the
104 new jobs created by the program, a qualified company may retain an amount from
105 the withholding tax of the new jobs that would otherwise be withheld and
106 remitted by the qualified company under the provisions of sections 143.191 to
107 143.265, RSMo, equal to three percent of new payroll for a period of five years
108 from the date the required number of jobs were created if the average wage of the
109 new payroll equals or exceeds the county average wage of the county in which the
110 project facility is located. For high-impact projects in a facility located within two
111 adjacent counties, the new payroll shall equal or exceed the higher county
112 average wage of the adjacent counties. The percentage of payroll allowed under
113 this subdivision shall be three and one-half percent of new payroll if the average
114 wage of the new payroll in any year exceeds one hundred twenty percent of the
115 county average wage in the county in which the project facility is located. The
116 percentage of payroll allowed under this subdivision shall be four percent of new
117 payroll if the average wage of the new payroll in any year exceeds one hundred
118 forty percent of the county average wage in the county in which the project
119 facility is located. An additional one percent of new payroll may be added to
120 these percentages if local incentives equal between ten percent and twenty-four
121 percent of the new direct local revenue; an additional two percent of new payroll
122 is added to these percentages if the local incentives equal between twenty-five
123 percent and forty-nine percent of the new direct local revenue; or an additional
124 three percent of payroll is added to these percentages if the local incentives equal
125 fifty percent or more of the new direct local revenue. **The director may, upon**
126 **a finding of economic benefit to the state, increase the percentage of**
127 **payroll allowed under this subdivision for qualified companies which**
128 **are Missouri businesses by an amount not to exceed two percent for**
129 **every continuous five year period such company has been a Missouri**
130 **business, up to a total increase of ten percent.** The department shall issue
131 a refundable tax credit for any difference between the amount of benefit allowed
132 under this subdivision and the amount of withholding tax retained by the

133 company, in the event the withholding tax is not sufficient to provide the entire
134 amount of benefit due to the qualified company under this subdivision;

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

138 (a) For each of the twenty-four months preceding the year in which
139 application for the program is made the qualified company must have maintained
140 at least one thousand full-time employees at the employer's site in the state at
141 which the jobs are based, and the average wage of such employees must meet or
142 exceed the county average wage;

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

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

152 (d) The qualified company in the project facility will cause to be invested
153 a minimum of seventy million dollars in new investment prior to the end of two
154 years or will cause to be invested a minimum of thirty million dollars in new
155 investment prior to the end of two years and maintain an annual payroll of at
156 least seventy million dollars during each of the years for which a credit is
157 claimed; and

158 (e) The local taxing entities shall provide local incentives of at least fifty
159 percent of the new direct local revenues created by the project over a ten-year
160 period. The quality jobs advisory task force may recommend to the department
161 of economic development that appropriate penalties be applied to the company for
162 violating the agreement. The amount of the job retention credit granted may be
163 equal to up to fifty percent of the amount of withholding tax generated by the
164 full-time jobs at the project facility for a period of five years. The calendar year
165 annual maximum amount of tax credit that may be issued to any qualified
166 company for a job retention project or combination of job retention projects shall
167 be seven hundred fifty thousand dollars per year, but the maximum amount may
168 be increased up to one million dollars if such action is proposed by the

169 department and approved by the quality jobs advisory task force established in
170 section 620.1887; provided, however, until such time as the initial at-large
171 members of the quality jobs advisory task force are appointed, this determination
172 shall be made by the director of the department of economic development. **The**
173 **director may, upon a finding of economic benefit to the state, increase**
174 **the amount of tax credits issued to qualified companies which are**
175 **Missouri businesses by an amount not to exceed two percent of the**
176 **amount of withholding tax generated by the full-time jobs at the project**
177 **facility for each continuous five year period such qualified company**
178 **has been a Missouri business, up to a total increase of ten percent of**
179 **the amount of withholding tax generated by the full-time jobs at the**
180 **project** facility. In considering such a request, the task force shall rely on
181 economic modeling and other information supplied by the department when
182 requesting the increased limit on behalf of the job retention project. In no event
183 shall the total amount of all tax credits issued for the entire job retention
184 program under this subdivision exceed three million dollars
185 annually. Notwithstanding the above, no tax credits shall be issued for job
186 retention projects approved by the department after August 30, 2013;

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

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

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

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

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

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

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

205 (g) For each year it receives tax credits under sections 620.1875 to
206 620.1890, the qualified company and related companies retained, at the
207 company's facilities in this state, at least the level of full-time, year-round
208 employees that existed in the taxable year immediately preceding the year in
209 which application for the program is made; and

210 (h) In the years it receives tax credits under sections 620.1875 to
211 620.1890, the company cumulatively invests at least two million dollars in capital
212 improvements in facilities and equipment located at such facilities that are not
213 located within a five hundred year flood plain as designated by the Federal
214 Emergency Management Agency, and amended from time to time. The amount
215 of the small business job retention and flood survivor relief credit granted may
216 be equal to up to one hundred percent of the amount of withholding tax generated
217 by the full-time jobs at the project facility for a period of three years. The
218 calendar year annual maximum amount of tax credit that may be issued to any
219 qualified company for a small business job retention and survivor relief project
220 shall be two hundred fifty thousand dollars per year, but the maximum amount
221 may be increased up to five hundred thousand dollars if such action is proposed
222 by the department and approved by the quality jobs advisory task force
223 established in section 620.1887. In considering such a request, the task force
224 shall rely on economic modeling and other information supplied by the
225 department when requesting an increase in the limit on behalf of the small
226 business job retention and flood survivor relief project. In no event shall the total
227 amount of all tax credits issued for the entire small business job retention and
228 flood survivor relief program under this subdivision exceed five hundred thousand
229 dollars annually. Notwithstanding the provisions of this subdivision to the
230 contrary, no tax credits shall be issued for small business job retention and flood
231 survivor relief projects approved by the department after August 30, 2010.

232 4. The qualified company shall provide an annual report of the number
233 of jobs and such other information as may be required by the department to
234 document the basis for the benefits of this program. The department may
235 withhold the approval of any benefits until it is satisfied that proper
236 documentation has been provided, and shall reduce the benefits to reflect any
237 reduction in full-time employees or new payroll. Upon approval by the
238 department, the qualified company may begin the retention of the withholding
239 taxes when it reaches the minimum number of new jobs and the average wage
240 exceeds the county average wage. Tax credits, if any, may be issued upon

241 satisfaction by the department that the qualified company has exceeded the
242 county average wage and the minimum number of new jobs. In such annual
243 report, if the average wage is below the county average wage, the qualified
244 company has not maintained the employee insurance as required, or if the
245 number of new jobs is below the minimum, the qualified company shall not
246 receive tax credits or retain the withholding tax for the balance of the benefit
247 period. In the case of a qualified company that initially filed a notice of intent
248 and received an approval from the department for high-impact benefits and the
249 minimum number of new jobs in an annual report is below the minimum for
250 high-impact projects, the company shall not receive tax credits for the balance of
251 the benefit period but may continue to retain the withholding taxes if it otherwise
252 meets the requirements of a small and expanding business under this program.

253 5. The maximum calendar year annual tax credits issued for the entire
254 program shall not exceed eighty million dollars. Notwithstanding any provision
255 of law to the contrary, the maximum annual tax credits authorized under section
256 135.535, RSMo, are hereby reduced from ten million dollars to eight million
257 dollars, with the balance of two million dollars transferred to this
258 program. There shall be no limit on the amount of withholding taxes that may
259 be retained by approved companies under this program.

260 6. The department shall allocate the annual tax credits based on the date
261 of the approval, reserving such tax credits based on the department's best
262 estimate of new jobs and new payroll of the project, and the other factors in the
263 determination of benefits of this program. However, the annual issuance of tax
264 credits is subject to the annual verification of the actual new payroll. The
265 allocation of tax credits for the period assigned to a project shall expire if, within
266 two years from the date of commencement of operations, or approval if applicable,
267 the minimum thresholds have not been achieved. The qualified company may
268 retain authorized amounts from the withholding tax under this section once the
269 minimum new jobs thresholds are met for the duration of the project period. No
270 benefits shall be provided under this program until the qualified company meets
271 the minimum new jobs thresholds. In the event the qualified company does not
272 meet the minimum new job threshold, the qualified company may submit a new
273 notice of intent or the department may provide a new approval for a new project
274 of the qualified company at the project facility or other facilities.

275 7. For a qualified company with flow-through tax treatment to its
276 members, partners, or shareholders, the tax credit shall be allowed to members,

277 partners, or shareholders in proportion to their share of ownership on the last
278 day of the qualified company's tax period.

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

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

288 10. Prior to the issuance of tax credits, the department shall verify
289 through the department of revenue, or any other state department, that the tax
290 credit applicant does not owe any delinquent income, sales, or use tax or interest
291 or penalties on such taxes, or any delinquent fees or assessments levied by any
292 state department and through the department of insurance, financial institutions
293 and professional registration that the applicant does not owe any delinquent
294 insurance taxes. Such delinquency shall not affect the authorization of the
295 application for such tax credits, except that at issuance credits shall be first
296 applied to the delinquency and any amount issued shall be reduced by the
297 applicant's tax delinquency. If the department of revenue or the department of
298 insurance, financial institutions and professional registration, or any other state
299 department, concludes that a taxpayer is delinquent after June fifteenth but
300 before July first of any year and the application of tax credits to such delinquency
301 causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
302 be granted thirty days to satisfy the deficiency in which interest, penalties, and
303 additions to tax shall be tolled. After applying all available credits toward a tax
304 delinquency, the administering agency shall notify the appropriate department
305 and that department shall update the amount of outstanding delinquent tax owed
306 by the applicant. If any credits remain after satisfying all insurance, income,
307 sales, and use tax delinquencies, the remaining credits shall be issued to the
308 applicant, subject to the restrictions of other provisions of law.

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

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

315 13. If any provision of sections 620.1875 to 620.1890 or application thereof
316 to any person or circumstance is held invalid, the invalidity shall not affect other
317 provisions or application of these sections which can be given effect without the
318 invalid provisions or application, and to this end, the provisions of sections
319 620.1875 to 620.1890 are hereby declared severable.

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