

FIRST REGULAR SESSION

SENATE BILL NO. 256

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Read 1st time February 10, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1319S.011

AN ACT

To repeal sections 135.300, 135.305, 135.307, 135.309, 135.311, 135.313, 135.535, 135.700, 135.750, 137.1018, 143.119, and 620.495, RSMo, and to enact in lieu thereof one new section relating to the repeal of certain tax credit programs.

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

2 Section A. Sections 135.300, 135.305, 135.307, 135.309, 135.311, 135.313,
3 135.535, 135.700, 135.750, 137.1018, 143.119, and 620.495, RSMo, are repealed
4 and one new section enacted in lieu thereof, to be known as section 137.1018, to
5 read as follows:

137.1018. 1. The commission shall ascertain the statewide average rate
2 of property taxes levied the preceding year, based upon the total assessed
3 valuation of the railroad and street railway companies and the total property
4 taxes levied upon the railroad and street railway companies. It shall determine
5 total property taxes levied from reports prescribed by the commission from the
6 railroad and street railway companies. Total taxes levied shall not include
7 revenues from the surtax on subclass three real property.

8 2. The commission shall report its determination of average property tax
9 rate for the preceding year, together with the taxable distributable assessed
10 valuation of each freight line company for the current year to the director no later
11 than October first of each year.

12 3. Taxes on property of such freight line companies shall be collected at
13 the state level by the director on behalf of the counties and other local public
14 taxing entities and shall be distributed in accordance with sections 137.1021 and
15 137.1024. The director shall tax such property based upon the distributable
16 assessed valuation attributable to Missouri of each freight line company, using

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

17 the average tax rate for the preceding year of the railroad and street railway
18 companies certified by the commission. Such tax shall be due and payable on or
19 before December thirty-first of the year levied and, if it becomes delinquent, shall
20 be subject to a penalty equal to that specified in section 140.100.

21 [4. (1) As used in this subsection, the following terms mean:

22 (a) "Eligible expenses", expenses incurred in this state to manufacture,
23 maintain, or improve a freight line company's qualified rolling stock;

24 (b) "Qualified rolling stock", any freight, stock, refrigerator, or other
25 railcars subject to the tax levied under this section.

26 (2) For all taxable years beginning on or after January 1, 2009, a freight
27 line company shall, subject to appropriation, be allowed a credit against the tax
28 levied under this section for the applicable tax year. The tax credit amount shall
29 be equal to the amount of eligible expenses incurred during the calendar year
30 immediately preceding the tax year for which the credit under this section is
31 claimed. The amount of the tax credit issued shall not exceed the freight line
32 company's liability for the tax levied under this section for the tax year for which
33 the credit is claimed.

34 (3) A freight line company may apply for the credit by submitting to the
35 commission an application in the form prescribed by the state tax commission.

36 (4) Subject to appropriation, the state shall reimburse, on an annual
37 basis, any political subdivision of this state for any decrease in revenue due to the
38 provisions of this subsection.

39 5. Pursuant to section 23.253 of the Missouri sunset act:

40 (1) The provisions of the new program authorized under this section shall
41 automatically sunset six years after August 28, 2008, unless reauthorized by an
42 act of the general assembly; and

43 (2) If such program is reauthorized, the program authorized under this
44 section shall automatically sunset twelve years after the effective date of the
45 reauthorization of this section; and

46 (3) This section shall terminate on September first of the calendar year
47 immediately following the calendar year in which the program authorized under
48 this section is sunset.]

[135.300. As used in sections 135.300 to 135.311, unless the
2 context requires otherwise, the following terms mean:

3 (1) "Missouri forestry industry residue", any residue that
4 results from normal timber harvest or production to include slash,

5 sawdust, shavings, edgings, slabs, leaves, bark, and timber
6 thinnings from timber stand improvements;

7 (2) "Processed wood products", wood pellets, cubes, flour, or
8 any product that results from thermal, chemical, or mechanical
9 processes that sufficiently alter the wood residue to be used as an
10 energy source. Hogged wood and chipped wood do not qualify as
11 processed wood energy resources under sections 135.300 to 135.311;

12 (3) "Wood energy producer", any person, firm or corporation
13 who engages in the business of producing processed wood products,
14 to be used as an energy source, from Missouri forest industry
15 residues;

16 (4) "Wood energy producing facility", a Missouri facility
17 using Missouri forest industry residue to produce processed wood
18 products.]

[135.305. A Missouri wood energy producer shall be eligible
2 for a tax credit on taxes otherwise due under chapter 143, except
3 sections 143.191 to 143.261, as a production incentive to produce
4 processed wood products in a qualified wood-producing facility
5 using Missouri forest product residue. The tax credit to the wood
6 energy producer shall be five dollars per ton of processed
7 material. The credit may be claimed for a period of five years and
8 is to be a tax credit against the tax otherwise due. No new tax
9 credits, provided for under sections 135.300 to 135.311, shall be
10 authorized after June 30, 2013.]

[135.307. Any amount of credit which exceeds the tax due
2 shall not be refunded but may be carried over to any subsequent
3 taxable year, not to exceed four years.]

[135.309. The wood energy producer may elect to assign to
2 a third party the approved tax credit. Certification of assignment
3 and other appropriate forms must be filed with the Missouri
4 department of revenue.]

[135.311. When applying for a tax credit the wood energy
2 producer shall make application for the credit to the division of
3 energy of the department of natural resources. The application
4 shall include:

5 (1) The number of tons of processed wood products produced

6 during the preceding calendar year;

7 (2) The name and address of the person to whom processed
8 products were sold and the number of tons sold to each person;

9 (3) Other information which the department of natural
10 resources reasonably requires. The application shall be received
11 and reviewed by the division of energy of the department of natural
12 resources and the division shall certify to the department of
13 revenue each applicant which qualifies as a wood energy-producing
14 facility.]

[135.313. 1. Any person, firm or corporation who engages
2 in the business of producing charcoal or charcoal products in the
3 state of Missouri shall be eligible for a tax credit on income taxes
4 otherwise due pursuant to chapter 143, except sections 143.191 to
5 143.261, as an incentive to implement safe and efficient
6 environmental controls. The tax credit shall be equal to fifty
7 percent of the purchase price of the best available control
8 technology equipment connected with the production of charcoal in
9 the state of Missouri or, if the taxpayer manufactures such
10 equipment, fifty percent of the manufacturing cost of the
11 equipment, to and including the year the equipment is put into
12 service. The credit may be claimed for a period of eight years
13 beginning with the 1998 calendar year and is to be a tax credit
14 against the tax otherwise due.

15 2. Any amount of credit which exceeds the tax due shall not
16 be refunded but may be carried over to any subsequent taxable
17 year, not to exceed seven years.

18 3. The charcoal producer may elect to assign to a third
19 party the approved tax credit. Certification of assignment and
20 other appropriate forms must be filed with the Missouri
21 department of revenue and the department of economic
22 development.

23 4. When applying for a tax credit, the charcoal producer
24 specified in subsection 1 of this section shall make application for
25 the credit to the division of environmental quality of the
26 department of natural resources. The application shall identify the
27 specific best available control technology equipment and the

28 purchase price, or manufacturing cost of such equipment. The
29 director of the department of natural resources is authorized to
30 require permits to construct prior to the installation of best
31 available control technology equipment and other information
32 which he or she deems appropriate.

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

[135.535. 1. A corporation, limited liability corporation,
2 partnership or sole proprietorship, which moves its operations from
3 outside Missouri or outside a distressed community into a
4 distressed community, or which commences operations in a
5 distressed community on or after January 1, 1999, and in either
6 case has more than seventy-five percent of its employees at the
7 facility in the distressed community, and which has fewer than one
8 hundred employees for whom payroll taxes are paid, and which is
9 a manufacturing, biomedical, medical devices, scientific research,
10 animal research, computer software design or development,
11 computer programming, including Internet, web hosting, and other
12 information technology, wireless or wired or other
13 telecommunications or a professional firm shall receive a forty
14 percent credit against income taxes owed pursuant to chapter 143,
15 147 or 148, other than taxes withheld pursuant to sections 143.191
16 to 143.265, for each of the three years after such move, if approved
17 by the department of economic development, which shall issue a
18 certificate of eligibility if the department determines that the
19 taxpayer is eligible for such credit. The maximum amount of
20 credits per taxpayer set forth in this subsection shall not exceed
21 one hundred twenty-five thousand dollars for each of the three
22 years for which the credit is claimed. The department of economic
23 development, by means of rule or regulation promulgated pursuant
24 to the provisions of chapter 536, shall assign appropriate North
25 American Industry Classification System numbers to the companies
26 which are eligible for the tax credits provided for in this

27 section. Such three-year credits shall be awarded only one time to
28 any company which moves its operations from outside of Missouri
29 or outside of a distressed community into a distressed community
30 or to a company which commences operations within a distressed
31 community. A taxpayer shall file an application for certification of
32 the tax credits for the first year in which credits are claimed and
33 for each of the two succeeding taxable years for which credits are
34 claimed.

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

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

60 4. A corporation, partnership or sole partnership, which has
61 no more than one hundred employees for whom payroll taxes are
62 paid, which is already located in a distressed community and which

63 expends funds for such equipment pursuant to subsection 3 of this
64 section in an amount exceeding its average of the prior two years
65 for such equipment, shall be eligible to receive a tax credit against
66 income taxes owed pursuant to chapters 143, 147 and 148 in an
67 amount equal to the lesser of seventy-five thousand dollars or
68 twenty-five percent of the funds expended for such additional
69 equipment per such entity. Tax credits allowed pursuant to this
70 subsection or subsection 1 of this section may be carried back to
71 any of the three prior tax years and carried forward to any of the
72 five tax years.

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

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

95 7. The tax credits allowed pursuant to subsections 1, 2, 3,
96 4 and 5 of this section shall be for an amount of no more than ten
97 million dollars for each year beginning in 1999. To the extent
98 there are available tax credits remaining under the ten million

99 dollar cap provided in this section, up to one hundred thousand
100 dollars in the remaining credits shall first be used for tax credits
101 authorized under section 135.562. The total maximum credit for
102 all entities already located in distressed communities and claiming
103 credits pursuant to subsection 4 of this section shall be seven
104 hundred and fifty thousand dollars. The department of economic
105 development in approving taxpayers for the credit as provided for
106 in subsection 6 of this section shall use information provided by the
107 department of revenue regarding taxes paid in the previous year,
108 or projected taxes for those entities newly established in the state,
109 as the method of determining when this maximum will be reached
110 and shall maintain a record of the order of approval. Any tax
111 credit not used in the period for which the credit was approved may
112 be carried over until the full credit has been allowed.

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

122 9. Notwithstanding any provision of law to the contrary, no
123 taxpayer shall earn the tax credits allowed in this section and the
124 tax credits otherwise allowed in section 135.110, or the tax credits,
125 exemptions, and refund otherwise allowed in sections 135.200,
126 135.220, 135.225 and 135.245, respectively, for the same business
127 for the same tax period.]

2 [135.700. For all tax years beginning on or after January
3 1, 1999, a grape grower or wine producer shall be allowed a tax
4 credit against the state tax liability incurred pursuant to chapter
5 143, exclusive of the provisions relating to the withholding of tax
6 as provided in sections 143.191 to 143.265, in an amount equal to
7 twenty-five percent of the purchase price of all new equipment and
materials used directly in the growing of grapes or the production

of wine in the state. Each grower or producer shall apply to the department of economic development and specify the total amount of such new equipment and materials purchased during the calendar year. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a grape grower or wine producer is entitled pursuant to this section. The provisions of this section notwithstanding, a grower or producer may only apply for and receive the credit authorized by this section for five tax periods.]

[135.750. 1. As used in this section, the following terms mean:

(1) "Highly compensated individual", any individual who receives compensation in excess of one million dollars in connection with a single qualified film production project;

(2) "Qualified film production project", any film, video, commercial, or television production, as approved by the department of economic development and the office of the Missouri film commission, that is under thirty minutes in length with an expected in-state expenditure budget in excess of fifty thousand dollars, or that is over thirty minutes in length with an expected in-state expenditure budget in excess of one hundred thousand dollars. Regardless of the production costs, "qualified film production project" shall not include any:

- (a) News or current events programming;
- (b) Talk show;
- (c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;
- (d) Sports event or sports program;
- (e) Gala presentation or awards show;
- (f) Infomercial or any production that directly solicits funds;
- (g) Political ad;
- (h) Production that is considered obscene, as defined in section 573.010;

(3) "Qualifying expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified film production project:

28 (a) Goods and services leased or purchased by the
29 production company. For goods with a purchase price of
30 twenty-five thousand dollars or more, the amount included in
31 qualifying expenses shall be the purchase price less the fair market
32 value of the goods at the time the production is completed;

33 (b) Compensation and wages paid by the production
34 company on which the production company remitted withholding
35 payments to the department of revenue under chapter 143. For
36 purposes of this section, compensation and wages shall not include
37 any amounts paid to a highly compensated individual;

38 (4) "Tax credit", a credit against the tax otherwise due
39 under chapter 143, excluding withholding tax imposed by sections
40 143.191 to 143.265, or otherwise due under chapter 148;

41 (5) "Taxpayer", any individual, partnership, or corporation
42 as described in section 143.441, 143.471, or section 148.370 that is
43 subject to the tax imposed in chapter 143, excluding withholding
44 tax imposed by sections 143.191 to 143.265, or the tax imposed in
45 chapter 148 or any charitable organization which is exempt from
46 federal income tax and whose Missouri unrelated business taxable
47 income, if any, would be subject to the state income tax imposed
48 under chapter 143.

49 2. For all taxable years beginning on or after January 1,
50 1999, but ending on or before December 31, 2007, a taxpayer shall
51 be granted a tax credit for up to fifty percent of the amount of
52 investment in production or production-related activities in any
53 film production project with an expected in-state expenditure
54 budget in excess of three hundred thousand dollars. For all taxable
55 years beginning on or after January 1, 2008, a taxpayer shall be
56 allowed a tax credit for up to thirty-five percent of the amount of
57 qualifying expenses in a qualified film production project. Each
58 film production company shall be limited to one qualified film
59 production project per year. Activities qualifying a taxpayer for the
60 tax credit pursuant to this subsection shall be approved by the
61 office of the Missouri film commission and the department of
62 economic development.

63 3. Taxpayers shall apply for the film production tax credit

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

4. For all taxable years ending on or before December 31, 2007, tax credits certified pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year. For all taxable years beginning on or after January 1, 2008, tax credits certified under subsection 1 of this section shall not exceed a total for all tax credits certified of four million five hundred thousand dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

5. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 2 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after November 28,

100 2007, unless reauthorized by an act of the general assembly; and

101 (2) If such program is reauthorized, the program authorized
102 under this section shall automatically sunset twelve years after the
103 effective date of the reauthorization of this section; and

104 (3) This section shall terminate on September first of the
105 calendar year immediately following the calendar year in which the
106 program authorized under this section is sunset.]

[143.119. 1. A self-employed taxpayer, as such term is used
2 in the federal internal revenue code, who is otherwise ineligible for
3 the federal income tax health insurance deduction under Section
4 162 of the federal internal revenue code shall be entitled to a credit
5 against the tax otherwise due under this chapter, excluding
6 withholding tax imposed by sections 143.191 to 143.265, in an
7 amount equal to the portion of such taxpayer's federal tax liability
8 incurred due to such taxpayer's inclusion of such payments in
9 federal adjusted gross income. The tax credits authorized under
10 this section shall be nontransferable. To the extent tax credit
11 issued under this section exceeds a taxpayer's state income tax
12 liability, such excess shall be considered an overpayment of tax and
13 shall be refunded to the taxpayer.

14 2. The director of the department of revenue shall
15 promulgate rules and regulations to administer the provisions of
16 this section. Any rule or portion of a rule, as that term is defined
17 in section 536.010, that is created under the authority delegated in
18 this section shall become effective only if it complies with and is
19 subject to all of the provisions of chapter 536 and, if applicable,
20 section 536.028. This section and chapter 536 are nonseverable
21 and if any of the powers vested with the general assembly pursuant
22 to chapter 536 to review, to delay the effective date, or to
23 disapprove and annul a rule are subsequently held
24 unconstitutional, then the grant of rulemaking authority and any
25 rule proposed or adopted after August 28, 2007, shall be invalid
26 and void.]

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

3 2. As used in this section, unless the context clearly

indicates otherwise, the following words and phrases shall mean:

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

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

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

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

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

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

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

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

(3) Demonstrate a potential for sustained use of the incubator program by eligible tenants and participants, through a

40 market study or other means;

41 (4) Demonstrate the ability to manage and operate the
42 incubator program;

43 (5) Include such other information as the department may
44 require through its guidelines.

45 4. The department shall review and accept applications
46 based on the following criteria:

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

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

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

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

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

56 (1) Loans awarded or guaranteed and grants awarded shall
57 be used only for the acquisition and leasing of land and existing
58 buildings, the rehabilitation of buildings or other facilities,
59 construction of new facilities, the purchase of equipment and
60 furnishings which are necessary for the creation and operation of
61 the incubator, and business development services including, but not
62 limited to, business management advising and business education;

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

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

67 6. A local sponsor, or the organization receiving assistance
68 through the local sponsor, shall have the following responsibilities
69 and duties in establishing and operating an incubator with
70 assistance from the small business incubator program:

71 (1) Secure title on a facility for the program or a lease of a
72 facility for the program;

73 (2) Manage the physical development of the incubator
74 program, including the provision of common conference or meeting
75 space;

76 (3) Furnish and equip the program to provide business
77 services to the tenants and participants;

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

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

84 (6) Set rental and service fees;

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

88 (8) Establish policies and criteria for the acceptance of
89 tenants and participants into the incubator and for the termination
90 of occupancy of tenants so as to maximize the opportunity to
91 succeed for the greatest number of tenants, consistent with those
92 specified in this section.

93 7. The department:

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

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

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

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

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

110 9. On or before January first of each year, the department
111 shall provide a report to the governor, the chief clerk of the house

112 of representatives and the secretary of the senate which shall
113 include, but need not be limited to:

114 (1) The number of applications for incubators submitted to
115 the department;

116 (2) The number of applications for incubators approved by
117 the department;

118 (3) The number of incubators created through the small
119 business incubator program;

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

122 (5) The number of jobs provided by each incubator and
123 tenants and participant of each incubator;

124 (6) The occupancy rate of each incubator;

125 (7) The number of firms still operating in the state after
126 leaving incubators and the number of jobs they have provided.

127 10. There is hereby established in the state treasury a
128 special fund to be known as the "Missouri Small Business
129 Incubators Fund", which shall consist of all moneys which may be
130 appropriated to it by the general assembly, and also any gifts,
131 contributions, grants or bequests received from federal, private or
132 other sources. Moneys for loans, loan guarantees and grants under
133 the small business incubator program may be obtained from
134 appropriations made by the general assembly from the Missouri
135 small business incubators fund. Any moneys remaining in the
136 Missouri small business incubators fund at the end of any fiscal
137 year shall not lapse to the general revenue fund, as provided in
138 section 33.080, but shall remain in the Missouri small business
139 incubators fund.

140 11. For any taxable year beginning after December 31,
141 1989, a taxpayer, including any charitable organization which is
142 exempt from federal income tax and whose Missouri unrelated
143 business taxable income, if any, would be subject to the state
144 income tax imposed under chapter 143, shall be entitled to a tax
145 credit against any tax otherwise due under the provisions of
146 chapter 143, or chapter 147, or chapter 148, excluding withholding
147 tax imposed by sections 143.191 to 143.265, in the amount of fifty

percent of any amount contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's application has been accepted and approved by the department. The tax credit allowed by this subsection shall be claimed by the taxpayer at the time he files his return and shall be applied against the income tax liability imposed by chapter 143, or chapter 147, or chapter 148, after all other credits provided by law have been applied. That portion of earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five years. The aggregate of all tax credits authorized under this section shall not exceed five hundred thousand dollars in any taxable year.

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

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

(2) In an amount not to exceed one hundred percent of annual earned credits. The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection, may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, or chapter 147, or chapter 148 excluding withholding tax imposed by sections 143.191 to 143.265. Unused credits in the hands of the assignee may be carried forward for up to five years. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the department of economic development in writing within thirty calendar days following the effective day of the transfer and shall provide any information as may be required by the department of economic development to administer and carry

184 out the provisions of this section. The director of the department
185 of economic development shall prescribe the method for submitting
186 applications for claiming the tax credit allowed under subsection
187 11 of this section and shall, if the application is approved, certify
188 to the director of revenue that the taxpayer claiming the credit has
189 satisfied all the requirements specified in this section and is
190 eligible to claim the credit.]

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