

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 120
97TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, February 20, 2013, with recommendation that the Senate Committee Substitute do pass.

0722S.11C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 135.350, 135.352, 135.484, 143.119, 253.550, 253.557, 253.559, and 447.708, RSMo, and to enact in lieu thereof sixteen new sections relating to tax incentives, with an emergency clause for certain sections.

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

Section A. Sections 135.350, 135.352, 135.484, 143.119, 253.550, 253.557, 253.559, and 447.708, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 67.2050, 135.350, 135.352, 135.484, 135.1550, 135.1555, 135.1560, 135.1565, 135.1570, 135.1575, 143.119, 144.810, 253.550, 253.557, 253.559, and 447.708, to read as follows:

67.2050. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Facility", a location composed of real estate, buildings, fixtures, machinery, and equipment;

(2) "Municipality", any county, city, incorporated town, village of the state, or any utilities board thereof;

(3) "NAICS", the 2007 edition of the North American Industry Classification System developed under the direction and guidance of the federal Office of Management and Budget. Any NAICS sector, subsector, industry group, or industry identified in this section shall include its corresponding classification in previous and subsequent federal industry classification systems;

(4) "Technology business facility", a facility purchased, constructed, extended, or improved under this section, provided that

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

15 such business facility is engaged in:

16 (a) Data processing, hosting, and related services (NAICS
17 518210);

18 (b) Internet publishing and broadcasting and web search portals
19 (NAICS 519130), at the business facility; or

20 (c) The transmission of voice, data, text, sound, and video using
21 wired telecommunication networks (NAICS 517110);

22 (5) "Technology business facility project" or "project", the
23 purchase, sale, lease, construction, extension, and improvement of
24 technology business facilities, whether of the facility as a whole or of
25 any one or more of the facility's components of real estate, buildings,
26 fixtures, machinery, and equipment.

27 2. The governing body of any municipality may:

28 (1) Carry out technology business facility projects for economic
29 development under this section;

30 (2) Accept grants from the federal and state governments for
31 technology business facility project purposes, and may enter into such
32 agreements as are not contrary to the laws of this state and which may
33 be required as a condition of grants by the federal government or its
34 agencies; and

35 (3) Receive gifts and donations from private sources to be used
36 for technology business facility project purposes.

37 3. The governing body of the municipality may enter into loan
38 agreements, sell, lease, or mortgage to private persons, partnerships,
39 or corporations any one or more of the components of a facility
40 received, purchased, constructed, or extended by the municipality for
41 development of a technology business facility project. The loan
42 agreement, installment sale agreement, lease, or other such document
43 shall contain such other terms as are agreed upon between the
44 municipality and the obligor, provided that such terms shall be
45 consistent with this section. When, in the judgment of the governing
46 body of the municipality, the technology business facility project will
47 result in economic benefits to the municipality, the governing body may
48 lawfully enter into an agreement that includes nominal monetary
49 consideration to the municipality in exchange for the use of one or
50 more components of the facility.

51 4. Transactions involving the lease or rental of any components

52 of a project under this section shall be specifically exempted from the
53 provisions of the local sales tax law as defined in section 32.085, section
54 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761, and from
55 the computation of the tax levied, assessed, or payable under the local
56 sales tax law as defined in section 32.085, section 238.235, and sections
57 144.010 to 144.525 and 144.600 to 144.745.

58 5. Leasehold interests granted and held under this section shall
59 not be subject to property taxes.

60 6. Any payments in lieu of taxes expected to be made by any
61 lessee of the project shall be applied in accordance with this
62 section. The lessee may reimburse the municipality for its actual costs
63 of administering the plan. All amounts paid in excess of such actual
64 costs shall, immediately upon receipt thereof, be disbursed by the
65 municipality's treasurer or other financial officer to each affected
66 taxing entity in proportion to the current ad valorem tax levy of each
67 affected taxing entity.

68 7. The county assessor shall include the current assessed value
69 of all property within the affected taxing entities in the aggregate
70 valuation of assessed property entered upon the assessor's book and
71 verified under section 137.245, and such value shall be used for the
72 purpose of the debt limitation on local government under section 26(b),
73 article VI, Constitution of Missouri.

74 8. The governing body of any municipality may sell or otherwise
75 dispose of the property, buildings, or plants acquired under this section
76 to private persons or corporations for technology business facility
77 project purposes upon approval by the governing body. The terms and
78 method of the sale or other disposal shall be established by the
79 governing body so as to reasonably protect the economic well-being of
80 the municipality and to promote the development of technology
81 business facility projects. A private person or corporation that initially
82 transfers property to the municipality for the purposes of a technology
83 business facility project and does not charge a purchase price to the
84 municipality shall retain the right, upon request to the municipality,
85 to have the municipality retransfer the donated property to the person
86 or corporation at no cost.

87 9. The provisions of this section shall not be construed to allow
88 political subdivisions to provide telecommunications services or

89 **telecommunications facilities to the extent that they are prohibited**
90 **from doing so by section 392.410.**

91 **10. This section shall terminate on September 1, 2019. The**
92 **termination of this section shall not be construed to limit or in any way**
93 **impair any agreements entered into or exemptions granted before the**
94 **termination of this section.**

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

3 (1) "Commission", the Missouri housing development commission, or its
4 successor agency;

5 (2) "Director", director of the department of revenue;

6 (3) "Eligibility statement", a statement authorized and issued by the
7 commission certifying that a given project qualifies for the Missouri low-income
8 housing tax credit. The commission shall promulgate rules establishing criteria
9 upon which the eligibility statements will be issued. The eligibility statement
10 shall specify the amount of the Missouri low-income housing tax credit
11 allowed. The commission shall only authorize the tax credits to qualified projects
12 which begin after June 18, 1991;

13 (4) **"Federal credit period", the same meaning as is prescribed the**
14 **term "credit period" under section 42 of the 1986 Internal Revenue**
15 **Code, as amended;**

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

18 [(5)] (6) "Low-income project", a housing project which has restricted
19 rents that do not exceed thirty percent of median income for at least forty percent
20 of its units occupied by persons of families having incomes of sixty percent or less
21 of the median income, or at least twenty percent of the units occupied by persons
22 or families having incomes of fifty percent or less of the median income;

23 [(6)] (7) "Median income", those incomes which are determined by the
24 federal Department of Housing and Urban Development guidelines and adjusted
25 for family size;

26 [(7)] (8) "Qualified Missouri project", a qualified low-income building as
27 that term is defined in section 42 of the 1986 Internal Revenue Code, as
28 amended, which is located in Missouri;

29 [(8)] (9) "Taxpayer", person, firm or corporation subject to the state
30 income tax imposed by the provisions of chapter 143 (except withholding imposed

31 by sections 143.191 to 143.265) or a corporation subject to the annual corporation
32 franchise tax imposed by the provisions of chapter 147, or an insurance company
33 paying an annual tax on its gross premium receipts in this state, or other
34 financial institution paying taxes to the state of Missouri or any political
35 subdivision of this state under the provisions of chapter 148, or an express
36 company which pays an annual tax on its gross receipts in this state.

135.352. 1. A taxpayer owning an interest in a qualified Missouri project
2 shall, subject to the limitations provided under the provisions of subsection 3 of
3 this section, be allowed a state tax credit, whether or not allowed a federal tax
4 credit, to be termed the Missouri low-income housing tax credit, if the commission
5 issues an eligibility statement for that project.

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

13 3. No more than six million dollars in tax credits shall be authorized each
14 fiscal year **ending on or before June 30, 2013**, for projects financed through
15 tax-exempt bond issuance.

16 4. **For purposes of the limitations provided under this**
17 **subsection, the aggregate amount of tax credits allowed over a federal**
18 **credit period shall be attributed to the fiscal year in which such credits**
19 **are authorized by the commission for a qualified Missouri project. For**
20 **each fiscal year beginning on or after July 1, 2013, there shall be a one**
21 **hundred million dollar cap on tax credit authorizations for projects**
22 **which are not financed through tax exempt bond issuance. For each**
23 **fiscal year beginning on or after July 1, 2013, there shall be a ten**
24 **million dollar cap on tax credit authorizations for projects which are**
25 **financed through tax exempt bond issuance.**

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

31 subsequent taxable years. **For projects authorized on or after July 1, 2013,**
32 **any amount of credit that exceeds the tax due for a taxpayer's taxable**
33 **year may be carried forward to any of the taxpayer's two subsequent**
34 **taxable years or carried back to any of the taxpayer's two prior taxable**
35 **years.**

36 [5.] **6.** All or any portion of Missouri tax credits issued in accordance with
37 the provisions of sections 135.350 to 135.362 may be allocated to parties who are
38 eligible pursuant to the provisions of subsection 1 of this section. Beginning
39 January 1, 1995, for qualified projects which began on or after January 1, 1994,
40 an owner of a qualified Missouri project shall certify to the director the amount
41 of credit allocated to each taxpayer. The owner of the project shall provide to the
42 director appropriate information so that the low-income housing tax credit can be
43 properly allocated.

44 [6.] **7.** In the event that recapture of Missouri low-income housing tax
45 credits is required pursuant to subsection 2 of section 135.355, any statement
46 submitted to the director as provided in this section shall include the proportion
47 of the state credit required to be recaptured, the identity of each taxpayer subject
48 to the recapture and the amount of credit previously allocated to such taxpayer.

49 **8. A taxpayer that receives state tax credits under the provisions**
50 **of sections 253.545 to 253.559 shall be ineligible to receive state tax**
51 **credits under the provisions of sections 135.350 to 135.363 for the same**
52 **project, if such project is not financed through tax exempt bond**
53 **issuance.**

54 [7.] **9.** The director of the department may promulgate rules and
55 regulations necessary to administer the provisions of this section. No rule or
56 portion of a rule promulgated pursuant to the authority of this section shall
57 become effective unless it has been promulgated pursuant to the provisions of
58 section 536.024.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed
2 pursuant to section 135.481 in an amount not to exceed sixteen million dollars
3 per year. Of this total amount of tax credits in any given year, eight million
4 dollars shall be set aside for projects in areas described in subdivision (6) of
5 section 135.478 and eight million dollars for projects in areas described in
6 subdivision (10) of section 135.478. The maximum tax credit for a project
7 consisting of multiple-unit qualifying residences in a distressed community shall
8 not exceed three million dollars.

9 2. Any amount of credit which exceeds the tax liability of a taxpayer for
10 the tax year in which the credit is first claimed may be carried back to any of the
11 taxpayer's three prior tax years and carried forward to any of the taxpayer's five
12 subsequent tax years. A certificate of tax credit issued to a taxpayer by the
13 department may be assigned, transferred, sold or otherwise conveyed. Whenever
14 a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a
15 notarized endorsement shall be filed with the department specifying the name
16 and address of the new owner of the tax credit and the value of the credit.

17 3. The tax credits allowed pursuant to sections 135.475 to 135.487 may
18 not be claimed in addition to any other state tax credits, with the exception of the
19 historic structures rehabilitation tax credit authorized pursuant to sections
20 253.545 to 253.559, which insofar as sections 135.475 to 135.487 are concerned
21 may be claimed only in conjunction with the tax credit allowed pursuant to
22 subsection 4 of section 135.481. In order for a taxpayer eligible for the historic
23 structures rehabilitation tax credit to claim the tax credit allowed pursuant to
24 subsection 4 of section 135.481, the taxpayer must comply with the requirements
25 of sections 253.545 to 253.559, and in such cases, the amount of the tax credit
26 pursuant to subsection 4 of section 135.481 shall be limited to the lesser of twenty
27 percent of the taxpayer's eligible costs or forty thousand dollars.

28 4. **No tax credits provided under sections 135.475 to 135.487 shall**
29 **be authorized on or after the effective date of this act. The provisions**
30 **of this subsection shall not be construed to limit or in any way impair**
31 **the department's ability to issue tax credits authorized prior to the**
32 **effective date of this act, or a taxpayer's ability to redeem such tax**
33 **credits.**

135.1550. 1. Sections 135.1550 to 135.1575, shall be known and
2 **may be cited as the "Missouri Export Incentive Act".**

3 **2. As used in sections 135.1550 to 135.1575, unless the context**
4 **clearly requires otherwise, the following terms shall mean:**

5 **(1) "Air export tax credit", the tax credit against the taxes**
6 **imposed under chapters 143, 147, and 148, except for sections 143.191**
7 **to 143.265, to be issued by the department to a claiming freight**
8 **forwarder for the shipment of air cargo on a qualifying outbound flight;**

9 **(2) "Airport", an airport which is owned and operated by a city**
10 **not within a county;**

11 **(3) "Chargeable kilo", the shipment of a kilo of freight, as**

12 measured by the greater of:

13 (a) Actual weight; or

14 (b) A dimensional weight, as determined by the conversion
15 factors promulgated by the International Air Transport Association, on
16 a qualifying outbound flight;

17 (4) "Claiming freight forwarder", the freight forwarder
18 designated as the "agent" on the airway bill for the qualifying outbound
19 flight for which such air export tax credit is sought;

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

22 (6) "Direct international aircraft flight", a single aircraft
23 transoceanic flight that operates to an international destination in
24 accordance with the operators bilateral route authority;

25 (7) "Freight forwarder", a person that assumes responsibility in
26 the ordinary course of its business for the transportation of cargo from
27 the place of receipt to the place of destination, including the utilization
28 of a qualifying outbound flight;

29 (8) "Qualifying outbound flight", a direct international aircraft
30 flight from the airport to an international destination that carries
31 either all cargo or a mix of passengers and cargo.

135.1555. 1. For all fiscal years beginning on or after July 1,
2 2013, a claiming freight forwarder shall be entitled to an air export tax
3 credit for the shipment of cargo on a qualifying outbound flight in an
4 amount equal to forty cents per chargeable kilo.

5 2. The department shall index, and the secretary of state shall
6 publish in the Missouri Register, the amount of the air export tax
7 credits to adjust each year depending upon fluctuations in the cost of
8 fuel for over-the-road transportation.

135.1560. 1. To receive benefits provided under section 135.1555,
2 a claiming freight forwarder shall file an application with the
3 department within one hundred twenty calendar days of the date of
4 shipment. The documentation to be presented by the claiming freight
5 forwarder in such an application shall consist of the master airway bill
6 for the shipment on the qualifying outbound flight for which the
7 claiming freight forwarder is seeking air export tax credits. The
8 department shall establish procedures to allow claiming freight
9 forwarders that file applications for air export tax credits to receive

10 such tax credits within twenty business days of the filing of the
11 application.

12 2. If the fiscal year cap on the issuance of air export tax credits
13 provided under section 135.1565 is met in a given fiscal year, then the
14 amount of such tax credits which have been authorized, but remain
15 unissued, shall be carried forward and issued in the subsequent fiscal
16 year.

17 3. No tax credits provided under this section shall be authorized
18 after June 30, 2021. Any tax credits authorized on or before June 30,
19 2021, but not issued, may be issued until all such authorized tax credits
20 have been issued.

135.1565. The total aggregate amount for air export tax credits
2 authorized under section 135.1555 shall not exceed sixty million
3 dollars. The amount of the air export tax credits issued under section
4 135.1555 shall not exceed seven million five hundred thousand dollars
5 for each fiscal year beginning on or after July 1, 2013, unless
6 authorized by the department. Any amount issued exceeding seven
7 million five hundred thousand dollars in a fiscal year shall be reduced
8 first from the authorized amount for the fiscal year ending June 30,
9 2021, and then the preceding fiscal years, until all such authorized
10 credits have been issued.

135.1570. If the amount of any tax credit authorized under
2 sections 135.1550 to 135.1575 exceeds the total tax liability for the year
3 in which the applicant is entitled to receive a tax credit, the amount
4 that exceeds the state tax liability may be carried forward for credit
5 against the taxes imposed under chapters 143, 147, and 148, except
6 sections 143.191 to 143.265, for the succeeding six years, or until the full
7 credit is used, whichever occurs first. Tax credits authorized under the
8 provisions of sections 135.1550 to 135.1575 may be transferred, sold, or
9 otherwise assigned. Tax credits granted to a partnership, a limited
10 liability company taxed as a partnership, or multiple owners of
11 property shall be passed through to the partners, members, or owners
12 respectively pro rata or pursuant to an executed agreement among the
13 partners, members, or owners documenting an alternate distribution
14 method.

135.1575. 1. The department may promulgate rules to implement
2 the provisions of sections 135.1550 to 135.1575. Any rule or portion of

3 a rule, as that term is defined in section 536.010 that is created under
4 the authority delegated in this section shall become effective only if it
5 complies with and is subject to all of the provisions of chapter 536, and,
6 if applicable, section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the general assembly
8 pursuant to chapter 536, to review, to delay the effective date, or to
9 disapprove and annul a rule are subsequently held unconstitutional,
10 then the grant of rulemaking authority and any rule proposed or
11 adopted after the effective date of this act, shall be invalid and void.

12 2. The provisions of section 23.253 of the Missouri sunset act
13 notwithstanding:

14 (1) The provisions of the new programs authorized under
15 sections 135.1550 to 135.1575 shall automatically sunset eight years
16 after the effective date of this act, unless reauthorized by an act of the
17 general assembly;

18 (2) If such program is reauthorized, the program authorized
19 under this section shall automatically sunset eight years after the
20 effective date of the reauthorization of this section; and

21 (3) This section shall terminate on September first of the
22 calendar year immediately following the calendar year in which the
23 programs authorized under sections 135.1550 to 135.1575 sunset.

143.119. 1. A self-employed taxpayer, as such term is used in the federal
2 internal revenue code, who is otherwise ineligible for the federal income tax
3 health insurance deduction under Section 162 of the federal internal revenue code
4 shall be entitled to a credit against the tax otherwise due under this chapter,
5 excluding withholding tax imposed by sections 143.191 to 143.265, in an amount
6 equal to the portion of such taxpayer's federal tax liability incurred due to such
7 taxpayer's inclusion of such payments in federal adjusted gross income. The tax
8 credits authorized under this section shall be nontransferable. To the extent tax
9 credit issued under this section exceeds a taxpayer's state income tax liability,
10 such excess shall be considered an overpayment of tax and shall be refunded to
11 the taxpayer. **No tax credit shall be issued pursuant to this section after
12 December 31, 2013.**

13 2. The director of the department of revenue shall promulgate rules and
14 regulations to administer the provisions of this section. Any rule or portion of a
15 rule, as that term is defined in section 536.010, that is created under the

16 authority delegated in this section shall become effective only if it complies with
17 and is subject to all of the provisions of chapter 536 and, if applicable, section
18 536.028. This section and chapter 536 are nonseverable and if any of the powers
19 vested with the general assembly pursuant to chapter 536 to review, to delay the
20 effective date, or to disapprove and annul a rule are subsequently held
21 unconstitutional, then the grant of rulemaking authority and any rule proposed
22 or adopted after August 28, 2007, shall be invalid and void.

144.810. 1. As used in this section, unless the context clearly
2 indicates otherwise, the following terms mean:

3 (1) "Commencement of commercial operations", shall be deemed
4 to occur during the first calendar year for which the data storage
5 center is first available for use by the operating taxpayer, or first
6 capable of being used by the operating taxpayer, as a data storage
7 center;

8 (2) "Constructing taxpayer", where more than one taxpayer is
9 responsible for a project, a taxpayer responsible for the construction
10 of the facility, as opposed to a taxpayer responsible for the equipping
11 and ongoing operations of the facility;

12 (3) "County average wage", the average wages in each county as
13 determined by the department for the most recently completed full
14 calendar year. However, if the computed county average wage is above
15 the statewide average wage, the statewide average wage shall be
16 deemed the county average wage for such county for the purpose of
17 determining eligibility;

18 (4) "Data storage center" or "facility", a facility constructed,
19 extended, improved, or operating under this section, provided that such
20 business facility is engaged primarily in:

21 (a) Data processing, hosting, and related services (NAICS
22 518210);

23 (b) Internet publishing and broadcasting and web search portals
24 (NAICS 519130), at the business facility; or

25 (c) Customer service, customer contact, or customer support
26 operations through the use of computer databases and
27 telecommunications services at the business facility;

28 (5) "Existing facility", a data storage center in this state as it
29 existed prior to August 28, 2013, as determined by the department;

30 (6) "Expanding facility" or "expanding data storage center", an

31 existing facility or replacement facility that expands its operations in
32 this state on or after August 28, 2013, and has net new investment
33 related to the expansion of operations in this state of at least five
34 million dollars during a period of up to twelve consecutive months and
35 results in the creation of at least five new jobs during a period of up to
36 twenty-four consecutive months from the date of conditional approval
37 for an exemption under this section, if the average wage of the new
38 jobs equals or exceeds one hundred and fifty percent of the county
39 average wage. An expanding facility shall continue to be an expanding
40 facility regardless of a subsequent change in or addition of operating
41 taxpayers or constructing taxpayers;

42 (7) "Expanding facility project" or "expanding data storage center
43 project", the construction, extension, improvement, equipping, and
44 operation of an expanding facility;

45 (8) "Investment" shall include the value of real and depreciable
46 personal property, acquired as part of the new or expanding facility
47 project which is used in the operation of the facility following
48 conditional approval of an exemption under this section;

49 (9) "NAICS", the 2007 edition of the North American Industry
50 Classification System as prepared by the Executive Office of the
51 President, Office of Management and Budget. Any NAICS sector,
52 subsector, industry group, or industry identified in this section shall
53 include its corresponding classification in previous and subsequent
54 federal industry classification systems;

55 (10) "New facility" or "new data storage center", a facility in this
56 state meeting the following requirements:

57 (a) The facility is acquired by, or leased to, an operating
58 taxpayer on or after August 28, 2013. A facility shall be deemed to have
59 been acquired by, or leased to, an operating taxpayer on or after
60 August 28, 2013, if the transfer of title to an operating taxpayer, the
61 transfer of possession under a binding contract to transfer title to an
62 operating taxpayer, or the commencement of the term of the lease to an
63 operating taxpayer occurs on or after August 28, 2013, or, if the facility
64 is constructed, erected, or installed by or on behalf of an operating
65 taxpayer, such construction, erection, or installation is commenced on
66 or after August 28, 2013;

67 (b) If such facility was acquired by an operating or constructing

68 taxpayer from another person or persons on or after August 28, 2013,
69 and such facility was employed prior to August 28, 2013, by any other
70 person or persons in the operation of a data storage center the facility
71 shall not be considered a new facility;

72 (c) Such facility is not an expanding or replacement facility, as
73 defined in this section;

74 (d) The new facility project investment is at least thirty-seven
75 million dollars during a period of up to thirty-six consecutive months
76 from the date of the conditional approval for an exemption under this
77 section. Where more than one taxpayer is responsible for a project, the
78 investment requirement may be met by an operating taxpayer, a
79 constructing taxpayer, or a combination of constructing taxpayers and
80 operating taxpayers;

81 (e) At least thirty new jobs are created at the new facility during
82 a period of up to thirty-six consecutive months from the date of
83 conditional approval for an exemption under this section if the average
84 wage of the new jobs equals or exceeds one hundred fifty percent of the
85 county average wage; and

86 (f) A new facility shall continue to be a new facility regardless
87 of a subsequent change in or addition of operating taxpayers or
88 constructing taxpayers;

89 (11) "New data storage center project" or "new facility project",
90 the construction, extension, improvement, equipping, and operation of
91 a new facility;

92 (12) "New job" in the case of a new data center project, the total
93 number of full-time employees located at a new data storage center for
94 a period of up to thirty-six consecutive months from the date of
95 conditional approval for an exemption under this section. In the case
96 of an expanding data storage center project, the total number of full-
97 time employees located at the expanding data storage center that
98 exceeds the greater of the number of full-time employees located at the
99 project facility on the date of the submission of a project plan under
100 this section or for the twelve-month period prior to the date of the
101 submission of a project plan, the average number of full-time employees
102 located at the expanding data storage center facility. In the event the
103 expanding data storage center facility has not been in operation for a
104 full twelve-month period at the time of the submission of a project plan,

105 the average number of full-time employees for the number of months
106 the expanding data storage center facility has been in operation prior
107 to the date of the submission of the project plan;

108 (13) "Notice of intent", a form developed by the department of
109 economic development, completed by the project taxpayer, and
110 submitted to the department, which states the project taxpayer's intent
111 to construct or expand a data center and request the exemptions under
112 this program;

113 (14) "Operating taxpayer", where more than one taxpayer is
114 responsible for a project, a taxpayer responsible for the equipping and
115 ongoing operations of the facility, as opposed to a taxpayer responsible
116 for the purchasing or construction of the facility;

117 (15) "Project taxpayers", each constructing taxpayer and each
118 operating taxpayer for a data storage center project;

119 (16) "Replacement facility", a facility in this state otherwise
120 described in subdivision (7) of this subsection, but which replaces
121 another facility located within the state, which the taxpayer or a
122 related taxpayer previously operated but discontinued operating within
123 one year prior to the commencement of commercial operations at the
124 new facility;

125 (17) "Taxpayer", the purchaser of tangible personal property or
126 a service that is subject to state or local sales or use tax and from
127 whom state or local sales or use tax is owed. Taxpayer shall not mean
128 the seller charged by law with collecting the sales tax from the
129 purchaser.

130 2. In addition to the exemptions granted under chapter 144,
131 project taxpayers for a new data storage center project shall be
132 entitled, for a project period not to exceed fifteen years from the date
133 of conditional approval under this section and subject to the
134 requirements of subsection 3 of this section, to an exemption of one
135 hundred percent of the state and local sales and use taxes defined,
136 levied, or calculated under section 32.085, sections 144.010 to 144.525,
137 sections 144.600 to 144.761, or section 238.235, limited to the net fiscal
138 benefit of the state calculated over a ten-year period, on:

139 (1) All electrical energy, gas, water, and other utilities including
140 telecommunication and internet services used in a new data storage
141 center;

142 **(2) All machinery, equipment, and computers used in any new**
143 **data storage center; and**

144 **(3) All sales at retail of tangible personal property and materials**
145 **for the purpose of constructing any new data storage center.**

146 **The amount of any exemption provided under this subsection shall not**
147 **exceed the projected net fiscal benefit to the state over a period of ten**
148 **years, as determined by the department of economic development using**
149 **the Regional Economic Modeling, Inc. dataset or comparable data.**

150 **3. (1) Any data storage center project seeking a tax exemption**
151 **under subsection 2 of this section shall submit a notice of intent and a**
152 **project plan to the department of economic development, which shall**
153 **identify each known constructing taxpayer and known operating**
154 **taxpayer for the project and include any additional information the**
155 **department of economic development may require to determine**
156 **eligibility for the exemption. The department of economic development**
157 **shall review the project plan and determine whether the project is**
158 **eligible for the exemption under subsection 2 of this section,**
159 **conditional upon subsequent verification by the department that the**
160 **project meets the requirements in subsection 1 of this section for a new**
161 **facility project. The department shall make such conditional**
162 **determination within thirty days of submission by the operating**
163 **taxpayer. Failure of the department to respond within thirty days shall**
164 **result in a project plan being deemed conditionally approved.**

165 **(2) The department of economic development shall convey**
166 **conditional approvals to the department of revenue and the identified**
167 **project taxpayers. After a conditionally approved new facility has met**
168 **the requirements in subsection 1 of this section for a new facility and**
169 **the execution of the agreement specified in subsection 6 of this section,**
170 **the project taxpayers shall provide proof of the same to the department**
171 **of economic development. Upon verification of such proof, the**
172 **department of economic development shall certify the new facility to**
173 **the department of revenue as being eligible for the exemption dating**
174 **retroactively to the first day of construction on the new facility. The**
175 **department of revenue, upon receipt of adequate proof of the amount**
176 **of sales taxes paid since the first day of construction, shall issue a**
177 **refund of taxes paid but eligible for exemption under subsection 2 of**
178 **this section to each operating taxpayer and each constructing taxpayer**

179 and issue a certificate of exemption to each new project taxpayer for
180 ongoing exemptions under subsection 2 of this section. The department
181 of revenue shall issue such a refund within thirty days of receipt of
182 certification from the department of economic development.

183 (3) Any project that does not meet the minimum investment or
184 new job requirements of subsection 1 of this section may still be
185 eligible for the exemption under subsection 2 of this section, as long as
186 the exemptions for such project plan do not exceed the projected net
187 fiscal benefit to the state over a period of ten years.

188 (4) The commencement of the exemption period may be delayed
189 at the option of the operating taxpayer, but not more than twenty-four
190 months after the execution of the agreement required under subsection
191 6 of this section.

192 4. In addition to the exemptions granted under chapter 144, upon
193 approval by the department of economic development, project
194 taxpayers for expanding data center projects may, for a period not to
195 exceed ten years, be specifically exempted from state and local sales
196 and use taxes defined, levied, or calculated under section 32.085,
197 sections 144.010 to 144.525, sections 144.600 to 144.761, or section
198 238.235 on:

199 (1) All electrical energy, gas, water, and other utilities including
200 telecommunication and internet services used in an expanding data
201 storage center which, on an annual basis, exceeds the amount of
202 electrical energy, gas, water, and other utilities including
203 telecommunication and internet services used in the existing facility or
204 the replaced facility prior to the expansion. For purposes of this
205 subdivision only, "amount" shall be measured in kilowatt hours, gallons,
206 cubic feet, or other measures applicable to a utility service as opposed
207 to in dollars, to account for increases in utility rates;

208 (2) All machinery, equipment, and computers used in any
209 expanding data storage center; and

210 (3) All sales at retail of tangible personal property and materials
211 for the purpose of constructing, repairing, or remodeling any
212 expanding data storage center.

213 The amount of any exemption provided under this subsection shall not
214 exceed the projected net fiscal benefit to the state over a period of ten
215 years, as determined by the department of economic development.

216 **5. (1) Any data storage center project seeking a tax exemption**
217 **under subsection 4 of this section shall submit a notice of intent and a**
218 **project plan to the department of economic development, which shall**
219 **identify each known constructing taxpayer and each known operating**
220 **taxpayer for the project and include any additional information the**
221 **department of economic development may reasonably require to**
222 **determine eligibility for the exemption. The department of economic**
223 **development shall review the project plan and determine whether the**
224 **project is eligible for the exemption under subsection 4 of this section,**
225 **conditional upon subsequent verification by the department that the**
226 **project meets the requirements in subsection 1 of this section for an**
227 **expanding facility project and the execution of the agreement specified**
228 **in subsection 6 of this section. The department shall make such**
229 **conditional determination within thirty days of submission by the**
230 **operating taxpayer. Failure of the department to respond within thirty**
231 **days shall result in a project plan being deemed conditionally**
232 **approved.**

233 **(2) The department of economic development shall convey such**
234 **conditional approval to the department of revenue and the identified**
235 **project taxpayers. After a conditional approved facility has met the**
236 **requirements in subsection 1 of this section, the project taxpayers shall**
237 **provide proof of the same to the department of economic**
238 **development. Upon verification of such proof, the department of**
239 **economic development shall certify the project to the department of**
240 **revenue as being eligible for the exemption dating retroactively to the**
241 **first day of the expansion of the facility. The department of revenue,**
242 **upon receipt of adequate proof of the amount of sales taxes paid since**
243 **the first day of the expansion of the facility, shall issue a refund of**
244 **taxes paid but eligible for exemption under subsection 4 of this section**
245 **to any applicable project taxpayer and issue a certificate of exemption**
246 **to any applicable project taxpayer for ongoing exemptions under**
247 **subsection 4 of this section. The department of revenue shall issue**
248 **such a refund within thirty days of receipt of certification from the**
249 **department of economic development.**

250 **(3) Any project that does not meet the minimum investment or**
251 **new job requirements of subsection 1 of this section may still be**
252 **eligible for the exemption under subsection 4 of this section, as long as**

253 the exemptions for such project plan do not exceed the projected net
254 fiscal benefit to the state over a period of ten years.

255 (4) The commencement of the exemption period may be delayed
256 at the option of the operating taxpayer, but not more than twenty-four
257 months after the execution of the agreement required under subsection
258 6 of this section.

259 6. (1) The exemptions in subsections 2 and 4 of this section shall
260 be tied to the new or expanding facility project. A certificate of
261 exemption in the hands of a taxpayer that is no longer an operating or
262 constructing taxpayer of the new or expanding facility project shall be
263 invalid as of the date the taxpayer was no longer an operating or
264 constructing taxpayer of the new or expanding facility project. New
265 certificates of exemption shall be issued to successor constructing
266 taxpayers and operating taxpayers at such new or expanding facility
267 projects. The right to the exemption by successor taxpayers shall exist
268 without regard to subsequent levels of investment in the new or
269 expanding facility by successor taxpayers.

270 (2) As a condition of receiving an exemption under subsection 2
271 or 4 of this section, the project taxpayers shall enter into an agreement
272 with the department of economic development providing for repayment
273 penalties in the event the data storage center project fails to comply
274 with any of the requirements of this section.

275 (3) The department of revenue shall credit any amounts remitted
276 by the project taxpayers under this subsection to the fund to which the
277 sales and use taxes exempted would have otherwise been credited.

278 7. The department of economic development and the department
279 of revenue shall cooperate in conducting random audits to ensure that
280 the intent of this section is followed.

281 8. Notwithstanding any other provision of law to the contrary,
282 no recipient of an exemption pursuant to this section shall be eligible
283 for benefits under any business recruitment tax credit, as defined in
284 section 135.800.

285 9. The department of economic development and the department
286 of revenue shall jointly prescribe such rules and regulations necessary
287 to carry out the provisions of this section. Any rule or portion of a
288 rule, as that term is defined in section 536.010, that is created under
289 the authority delegated in this section shall become effective only if it

290 **complies with and is subject to all of the provisions of chapter 536 and,**
291 **if applicable, section 536.028. This section and chapter 536 are**
292 **nonseverable and if any of the powers vested with the general assembly**
293 **pursuant to chapter 536 to review, to delay the effective date, or to**
294 **disapprove and annul a rule are subsequently held unconstitutional,**
295 **then the grant of rulemaking authority and any rule proposed or**
296 **adopted after August 28, 2013, shall be invalid and void.**

297 **10. This section shall terminate on September 1, 2019. The**
298 **termination of this section shall not be construed to limit or in any way**
299 **impair the exemption for any project approved prior to the termination**
300 **of this section.**

253.550. 1. Any taxpayer incurring costs and expenses for the
2 rehabilitation of eligible property, which is a certified historic structure or
3 structure in a certified historic district, may, subject to the provisions of this
4 section and section 253.559, receive a credit against the taxes imposed pursuant
5 to chapters 143 and 148, except for sections 143.191 to 143.265, on such taxpayer
6 in an amount equal to twenty-five percent of the total costs and expenses of
7 rehabilitation incurred after January 1, 1998, which shall include, but not be
8 limited to, qualified rehabilitation expenditures as defined under section
9 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related
10 regulations thereunder, provided the rehabilitation costs associated with
11 rehabilitation and the expenses exceed fifty percent of the total basis in the
12 property and the rehabilitation meets standards consistent with the standards
13 of the Secretary of the United States Department of the Interior for rehabilitation
14 as determined by the state historic preservation officer of the Missouri
15 department of natural resources.

16 2. During the period beginning on January 1, 2010, but ending on or after
17 June 30, 2010, the department of economic development shall not approve
18 applications for tax credits under the provisions of subsections 3 and 8 of section
19 253.559 which, in the aggregate, exceed seventy million dollars, increased by any
20 amount of tax credits for which approval shall be rescinded under the provisions
21 of section 253.559. For each fiscal year beginning on or after July 1, 2010, **but**
22 **ending on or before June 30, 2013**, the department of economic development
23 shall not approve applications for tax credits under the provisions of subsections
24 3 and 8 of section 253.559 which, in the aggregate, exceed one hundred forty
25 million dollars, increased by any amount of tax credits for which approval shall

26 be rescinded under the provisions of section 253.559. The limitations provided
27 under this subsection shall not apply to applications approved under the
28 provisions of subsection 3 of section 253.559 for projects to receive less than two
29 hundred seventy-five thousand dollars in tax credits.

30 3. For all applications for tax credits approved on or after January 1,
31 2010, **but before July 1, 2013**, no more than two hundred fifty thousand dollars
32 in tax credits may be issued for eligible costs and expenses incurred in the
33 rehabilitation of an eligible property which is a nonincome producing
34 single-family, owner-occupied residential property and is either a certified historic
35 structure or a structure in a certified historic district.

36 4. The limitations on tax credit authorization provided under the
37 provisions of subsections 2 and 3 of this section shall not apply to:

38 (1) Any application submitted by a taxpayer, which has received approval
39 from the department prior to January 1, 2010; or

40 (2) Any taxpayer applying for tax credits, provided under this section,
41 which, on or before January 1, 2010, has filed an application with the department
42 evidencing that such taxpayer:

43 (a) Has incurred costs and expenses for an eligible property which exceed
44 the lesser of five percent of the total project costs or one million dollars and
45 received an approved Part I from the Secretary of the United States Department
46 of Interior; or

47 (b) Has received certification, by the state historic preservation officer,
48 that the rehabilitation plan meets the standards consistent with the standards
49 of the Secretary of the United States Department of the Interior, and the
50 rehabilitation costs and expenses associated with such rehabilitation shall exceed
51 fifty percent of the total basis in the property.

52 **5. For each fiscal year beginning on or after July 1, 2013, the**
53 **department of economic development shall not approve applications for**
54 **tax credits under the provisions of subsections 3 and 8 of section**
55 **253.559 which, in the aggregate, exceed sixty-five million dollars,**
56 **increased by any amount of tax credits for which approval shall be**
57 **rescinded under the provisions of section 253.559. The limitations**
58 **provided under this subsection shall not apply to applications approved**
59 **under the provisions of subsection 3 of section 253.559 for projects to**
60 **receive less than two hundred seventy-five thousand dollars in tax**
61 **credits.**

62 **6. For all applications for tax credits approved on or after the**
63 **effective date of this act, no more than one hundred and twenty-five**
64 **thousand dollars in tax credits may be issued for eligible costs and**
65 **expenses incurred in the rehabilitation of an eligible property which**
66 **is a nonincome producing single-family, owner-occupied residential**
67 **property and is either a certified historic structure or a structure in a**
68 **certified historic district.**

69 **7. In lieu of the limitations on tax credit authorization provided**
70 **under the provisions of subsections 5 and 6 of this section, the**
71 **limitations on tax credit authorization provided under the provisions**
72 **of subsections 2 and 3 of this section shall apply to:**

73 **(1) Any application submitted by a taxpayer, which has received**
74 **approval from the department prior to the effective date of this act; or**

75 **(2) Any application for tax credits provided under this section**
76 **for a project, which on or before the effective date of this act:**

77 **(a) Received an approved Part I from the Secretary of the United**
78 **States Department of Interior and has incurred costs and expenses for**
79 **an eligible property which exceed the lesser of fifteen percent of the**
80 **total project costs or three million dollars; or**

81 **(b) Has received certification, by the state historic preservation**
82 **officer, that the rehabilitation plan meets the standards consistent with**
83 **the standards of the Secretary of the United States Department of the**
84 **Interior, and the rehabilitation costs and expenses associated with such**
85 **rehabilitation would, upon completion, be expected to exceed fifty**
86 **percent of the total basis in the property.**

87 **8. For each fiscal year beginning on or after July 1, 2013, the**
88 **department of economic development shall not approve applications for**
89 **projects to receive less than two hundred seventy-five thousand dollars**
90 **in tax credits which, in the aggregate, exceed ten million dollars,**
91 **increased by any amount of tax credits for which approval shall be**
92 **rescinded under the provisions of section 253.559. The limitations on**
93 **tax credit authorization provided under the provisions of this**
94 **subsection, shall not apply to:**

95 **(1) Any application submitted by a taxpayer, which has received**
96 **approval from the department prior to the effective date of this act; or**

97 **(2) Any application for tax credits provided under this section**
98 **for a project, which on or before the effective date of this act:**

99 **(a) Received an approved Part I from the Secretary of the United**
100 **States Department of Interior and has incurred costs and expenses for**
101 **an eligible property which exceed five percent of the total project costs;**
102 **or**

103 **(b) Has received certification, by the state historic preservation**
104 **officer, that the rehabilitation plan meets the standards consistent with**
105 **the standards of the Secretary of the United States Department of the**
106 **Interior, and the rehabilitation costs and expenses associated with such**
107 **rehabilitation would, upon completion, be expected to exceed fifty**
108 **percent of the total basis in the property.**

253.557. 1. If the amount of such credit exceeds the total tax liability for
2 the year in which the rehabilitated property is placed in service, the amount that
3 exceeds the state tax liability may be carried back to any of the three preceding
4 years and carried forward for credit against the taxes imposed pursuant to
5 chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the
6 succeeding ten years, or until the full credit is used, whichever occurs first. **For**
7 **all tax credits authorized under the provisions of sections 253.545 to**
8 **253.559 on or after the effective date of this act, if the total amount of**
9 **such credit exceeds the total tax liability for the year in which the**
10 **rehabilitated property is placed in service, the amount that exceeds the**
11 **state tax liability may be carried back to the preceding year and**
12 **carried forward for credit against the taxes imposed pursuant to**
13 **chapter 143 and chapter 148, except for sections 143.191 to 143.265 for**
14 **the succeeding two years, or until the full credit is used, whichever**
15 **occurs first.** Not-for-profit entities, including but not limited to corporations
16 organized as not-for-profit corporations pursuant to chapter 355 shall be ineligible
17 for the tax credits authorized under sections 253.545 [through 253.561] to
18 **253.559. Any taxpayer that receives state tax credits under the**
19 **provisions of sections 135.350 to 135.363 for a project that is not**
20 **financed through tax exempt bonds issuance shall be ineligible for the**
21 **state tax credits authorized under sections 253.545 to 253.559 for the**
22 **same project.** Taxpayers eligible for such tax credits may transfer, sell or
23 assign the credits to **any other taxpayer including, but not limited to, a**
24 **not-for-profit entity.** Credits granted to a partnership, a limited liability
25 company taxed as a partnership or multiple owners of property shall be passed
26 through to the partners, members or owners **including, but not limited to,**

27 **any not-for-profit entity that is a partner, member, or owner**, respectively
28 pro rata or pursuant to an executed agreement among [the] **such** partners,
29 members or owners documenting an alternate distribution method.

30 2. The assignee of the tax credits, hereinafter the assignee for purposes
31 of this subsection, may use acquired credits to offset up to one hundred percent
32 of the tax liabilities otherwise imposed pursuant to chapter 143 and chapter 148,
33 except for sections 143.191 to 143.265. The assignor shall perfect such transfer
34 by notifying the department of economic development in writing within thirty
35 calendar days following the effective date of the transfer and shall provide any
36 information as may be required by the department of economic development to
37 administer and carry out the provisions of this section.

253.559. 1. To obtain approval for tax credits allowed under sections
2 253.545 to 253.559, a taxpayer shall submit an application for tax credits to the
3 department of economic development. Each application for approval, including
4 any applications received for supplemental allocations of tax credits as provided
5 under subsection 8 of this section, shall be prioritized for review and approval,
6 in the order of the date on which the application was postmarked, with the oldest
7 postmarked date receiving priority. Applications postmarked on the same day
8 shall go through a lottery process to determine the order in which such
9 applications shall be reviewed.

10 2. Each application shall be reviewed by the department of economic
11 development for approval. In order to receive approval, an application, other
12 than applications submitted under the provisions of subsection 8 of this section,
13 shall include:

14 (1) Proof of ownership or site control. Proof of ownership shall include
15 evidence that the taxpayer is the fee simple owner of the eligible property, such
16 as a warranty deed or a closing statement. Proof of site control may be evidenced
17 by a leasehold interest or an option to acquire such an interest. If the taxpayer
18 is in the process of acquiring fee simple ownership, proof of site control shall
19 include an executed sales contract or an executed option to purchase the eligible
20 property;

21 (2) Floor plans of the existing structure, architectural plans, and, where
22 applicable, plans of the proposed alterations to the structure, as well as proposed
23 additions;

24 (3) The estimated cost of rehabilitation, the anticipated total costs of the
25 project, the actual basis of the property, as shown by proof of actual acquisition

26 costs, the anticipated total labor costs, the estimated project start date, and the
27 estimated project completion date;

28 (4) Proof that the property is an eligible property and a certified historic
29 structure or a structure in a certified historic district; and

30 (5) Any other information which the department of economic development
31 may reasonably require to review the project for approval. Only the property for
32 which a property address is provided in the application shall be reviewed for
33 approval. Once selected for review, a taxpayer shall not be permitted to request
34 the review of another property for approval in the place of the property contained
35 in such application. Any disapproved application shall be removed from the
36 review process. If an application is removed from the review process, the
37 department of economic development shall notify the taxpayer in writing of the
38 decision to remove such application. Disapproved applications shall lose priority
39 in the review process. A disapproved application, which is removed from the
40 review process, may be resubmitted, but shall be deemed to be a new submission
41 for purposes of the priority procedures described in this section.

42 3. If the department of economic development deems the application
43 sufficient, the taxpayer shall be notified in writing of the approval for an amount
44 of tax credits equal to the amount provided under section 253.550 less any
45 amount of tax credits previously approved. Such approvals shall be granted to
46 applications in the order of priority established under this section and shall
47 require full compliance thereafter with all other requirements of law as a
48 condition to any claim for such credits.

49 4. Following approval of an application, the identity of the taxpayer
50 contained in such application shall not be modified except:

51 (1) The taxpayer may add partners, members, or shareholders as part of
52 the ownership structure, so long as the principal remains the same, provided
53 however, that subsequent to the commencement of renovation and the
54 expenditure of at least ten percent of the proposed rehabilitation budget, removal
55 of the principal for failure to perform duties and the appointment of a new
56 principal thereafter shall not constitute a change of the principal; or

57 (2) Where the ownership of the project is changed due to a foreclosure,
58 deed in lieu of a foreclosure or voluntary conveyance, or a transfer in
59 bankruptcy. **Upon any such change in ownership, the taxpayer contained**
60 **in such application shall notify the department of such change.**

61 5. In the event that the department of economic development grants

62 approval for tax credits equal to the **applicable** total amount available under
63 subsection 2, **5, or 8** of section 253.550, or sufficient that when totaled with all
64 other approvals, the **applicable** amount available under subsection 2, **5, or 8** of
65 section 253.550 is exhausted, all taxpayers with applications then awaiting
66 approval or thereafter submitted for approval shall be notified by the department
67 of economic development that no additional approvals shall be granted during the
68 fiscal year and shall be notified of the priority given to such taxpayer's
69 application then awaiting approval. Such applications shall be kept on file by the
70 department of economic development and shall be considered for approval for tax
71 credits in the order established in this section in the event that additional credits
72 become available due to the rescission of approvals or when a new fiscal year's
73 allocation of credits becomes available for approval.

74 6. All taxpayers with applications receiving approval on or after the
75 effective date of this act shall commence rehabilitation within two years of the
76 date of issuance of the letter from the department of economic development
77 granting the approval for tax credits. "Commencement of rehabilitation" shall
78 mean that as of the date in which actual physical work, contemplated by the
79 architectural plans submitted with the application, has begun, the taxpayer has
80 incurred no less than ten percent of the estimated costs of rehabilitation provided
81 in the application. Taxpayers with approval of a project shall submit evidence of
82 compliance with the provisions of this subsection. If the department of economic
83 development determines that a taxpayer has failed to comply with the
84 requirements provided under this section, the approval for the amount of tax
85 credits for such taxpayer shall be rescinded and such amount of tax credits shall
86 then be included in the **applicable** total amount of tax credits, provided under
87 subsection 2, **5, or 8** of section 253.550, from which approvals may be
88 granted. Any taxpayer whose approval shall be subject to rescission shall be
89 notified of such from the department of economic development and, upon receipt
90 of such notice, may submit a new application for the project.

91 7. To claim the credit authorized under sections 253.550 to 253.559, a
92 taxpayer with approval shall apply for final approval and issuance of tax credits
93 from the department of economic development which, in consultation with the
94 department of natural resources, shall determine the final amount of eligible
95 rehabilitation costs and expenses and whether the completed rehabilitation meets
96 the standards of the Secretary of the United States Department of the Interior
97 for rehabilitation as determined by the state historic preservation officer of the

98 Missouri department of natural resources. For financial institutions credits
99 authorized pursuant to sections 253.550 to 253.561 shall be deemed to be
100 economic development credits for purposes of section 148.064. The approval of all
101 applications and the issuing of certificates of eligible credits to taxpayers shall
102 be performed by the department of economic development. The department of
103 economic development shall inform a taxpayer of final approval by letter and
104 shall issue, to the taxpayer, tax credit certificates. The taxpayer shall attach the
105 certificate to all Missouri income tax returns on which the credit is claimed.

106 8. Except as expressly provided in this subsection, tax credit certificates
107 shall be issued in the final year that costs and expenses of rehabilitation of the
108 project are incurred, or within the twelve-month period immediately following the
109 conclusion of such rehabilitation. In the event the amount of eligible
110 rehabilitation costs and expenses incurred by a taxpayer would result in the
111 issuance of an amount of tax credits in excess of the amount provided under such
112 taxpayer's approval granted under subsection 3 of this section, such taxpayer may
113 apply to the department for issuance of tax credits in an amount equal to such
114 excess. Applications for issuance of tax credits in excess of the amount provided
115 under a taxpayer's application shall be made on a form prescribed by the
116 department. Such applications shall be subject to all provisions regarding
117 priority provided under subsection 1 of this section.

118 9. The department of economic development shall determine, on an annual
119 basis, the overall economic impact to the state from the rehabilitation of eligible
120 property.

121 **10. By no later than January 1, 2014, the department of economic**
122 **development shall propose rules to implement the provisions of**
123 **sections 253.550 to 253.559. Prior to proposing such rules, the**
124 **department shall conduct a stakeholder process designed to solicit**
125 **input from interested parties. Any rule or portion of a rule, as that**
126 **term is defined in section 536.010, that is created under the authority**
127 **delegated herein shall become effective only if it complies with and is**
128 **subject to all of the provisions of chapter 536 and, if applicable, section**
129 **536.028. This section and chapter 536 are nonseverable and if any of**
130 **the powers vested with the general assembly pursuant to chapter 536**
131 **to review, to delay the effective date, or to disapprove and annul a rule**
132 **are subsequently held unconstitutional, then the grant of rulemaking**
133 **authority and any rule proposed or adopted after the effective date of**

134 **this act, shall be invalid and void.**

447.708. 1. For eligible projects, the director of the department of
2 economic development, with notice to the directors of the departments of natural
3 resources and revenue, and subject to the other provisions of sections 447.700 to
4 447.718, may not create a new enterprise zone but may decide that a prospective
5 operator of a facility being remedied and renovated pursuant to sections 447.700
6 to 447.718 may receive the tax credits and exemptions pursuant to sections
7 135.100 to 135.150 and sections 135.200 to 135.257. The tax credits allowed
8 pursuant to this subsection shall be used to offset the tax imposed by chapter
9 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax
10 otherwise imposed by chapter 147, or the tax otherwise imposed by chapter
11 148. **Notwithstanding any provisions of law to the contrary, the**
12 **department shall not authorize tax credits and exemptions pursuant to**
13 **this subsection after the effective date of this act.** For purposes of this
14 subsection:

15 (1) For receipt of the ad valorem tax abatement pursuant to section
16 135.215, the eligible project must create at least ten new jobs or retain businesses
17 which supply at least twenty-five existing jobs. The city, or county if the eligible
18 project is not located in a city, must provide ad valorem tax abatement of at least
19 fifty percent for a period not less than ten years and not more than twenty-five
20 years;

21 (2) For receipt of the income tax exemption pursuant to section 135.220
22 and tax credit for new or expanded business facilities pursuant to sections
23 135.100 to 135.150, and 135.225, the eligible project must create at least ten new
24 jobs or retain businesses which supply at least twenty-five existing jobs, or
25 combination thereof. For purposes of sections 447.700 to 447.718, the tax credits
26 described in section 135.225 are modified as follows: the tax credit shall be four
27 hundred dollars per employee per year, an additional four hundred dollars per
28 year for each employee exceeding the minimum employment thresholds of ten and
29 twenty-five jobs for new and existing businesses, respectively, an additional four
30 hundred dollars per year for each person who is a person difficult to employ as
31 defined by section 135.240, and investment tax credits at the same amounts and
32 levels as provided in subdivision (4) of subsection 1 of section 135.225;

33 (3) For eligibility to receive the income tax refund pursuant to section
34 135.245, the eligible project must create at least ten new jobs or retain businesses
35 which supply at least twenty-five existing jobs, or combination thereof, and

36 otherwise comply with the provisions of section 135.245 for application and use
37 of the refund and the eligibility requirements of this section;

38 (4) The eligible project operates in compliance with applicable
39 environmental laws and regulations, including permitting and registration
40 requirements, of this state as well as the federal and local requirements;

41 (5) The eligible project operator shall file such reports as may be required
42 by the director of economic development or the director's designee;

43 (6) The taxpayer may claim the state tax credits authorized by this
44 subsection and the state income exemption for a period not in excess of ten
45 consecutive tax years. For the purpose of this section, "taxpayer" means an
46 individual proprietorship, partnership or corporation described in section 143.441
47 or 143.471 who operates an eligible project. The director shall determine the
48 number of years the taxpayer may claim the state tax credits and the state
49 income exemption based on the projected net state economic benefits attributed
50 to the eligible project;

51 (7) For the purpose of meeting the new job requirement prescribed in
52 subdivisions (1), (2) and (3) of this subsection, it shall be required that at least
53 ten new jobs be created and maintained during the taxpayer's tax period for
54 which the credits are earned, in the case of an eligible project that does not
55 replace a similar facility in Missouri. "New job" means a person who was not
56 previously employed by the taxpayer or related taxpayer within the twelve-month
57 period immediately preceding the time the person was employed by that taxpayer
58 to work at, or in connection with, the eligible project on a full-time
59 basis. "Full-time basis" means the employee works an average of at least
60 thirty-five hours per week during the taxpayer's tax period for which the tax
61 credits are earned. For the purposes of this section, related taxpayer has the
62 same meaning as defined in subdivision (9) of section 135.100;

63 (8) For the purpose of meeting the existing job retention requirement, if
64 the eligible project replaces a similar facility that closed elsewhere in Missouri
65 prior to the end of the taxpayer's tax period in which the tax credits are earned,
66 it shall be required that at least twenty-five existing jobs be retained at, and in
67 connection with the eligible project, on a full-time basis during the taxpayer's tax
68 period for which the credits are earned. "Retained job" means a person who was
69 previously employed by the taxpayer or related taxpayer, at a facility similar to
70 the eligible project that closed elsewhere in Missouri prior to the end of the
71 taxpayer's tax period in which the tax credits are earned, within the tax period

72 immediately preceding the time the person was employed by the taxpayer to work
73 at, or in connection with, the eligible project on a full-time basis. "Full-time
74 basis" means the employee works an average of at least thirty-five hours per week
75 during the taxpayer's tax period for which the tax credits are earned;

76 (9) In the case where an eligible project replaces a similar facility that
77 closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which
78 the tax credits are earned, the owner and operator of the eligible project shall
79 provide the director with a written statement explaining the reason for
80 discontinuing operations at the closed facility. The statement shall include a
81 comparison of the activities performed at the closed facility prior to the date the
82 facility ceased operating, to the activities performed at the eligible project, and
83 a detailed account describing the need and rationale for relocating to the eligible
84 project. If the director finds the relocation to the eligible project significantly
85 impaired the economic stability of the area in which the closed facility was
86 located, and that such move was detrimental to the overall economic development
87 efforts of the state, the director may deny the taxpayer's request to claim tax
88 benefits;

89 (10) Notwithstanding any provision of law to the contrary, for the purpose
90 of this section, the number of new jobs created and maintained, the number of
91 existing jobs retained, and the value of new qualified investment used at the
92 eligible project during any tax year shall be determined by dividing by twelve, in
93 the case of jobs, the sum of the number of individuals employed at the eligible
94 project, or in the case of new qualified investment, the value of new qualified
95 investment used at the eligible project, on the last business day of each full
96 calendar month of the tax year. If the eligible project is in operation for less than
97 the entire tax year, the number of new jobs created and maintained, the number
98 of existing jobs retained, and the value of new qualified investment created at the
99 eligible project during any tax year shall be determined by dividing the sum of
100 the number of individuals employed at the eligible project, or in the case of new
101 qualified investment, the value of new qualified investment used at the eligible
102 project, on the last business day of each full calendar month during the portion
103 of the tax year during which the eligible project was in operation, by the number
104 of full calendar months during such period;

105 (11) For the purpose of this section, "new qualified investment" means
106 new business facility investment as defined and as determined in subdivision (7)
107 of section 135.100 which is used at and in connection with the eligible

108 project. "New qualified investment" shall not include small tools, supplies and
109 inventory. "Small tools" means tools that are portable and can be hand held.

110 2. The determination of the director of economic development pursuant
111 to subsection 1 of this section shall not affect requirements for the prospective
112 purchaser to obtain the approval of the granting of real property tax abatement
113 by the municipal or county government where the eligible project is located.

114 3. (1) The director of the department of economic development, with the
115 approval of the director of the department of natural resources, may, [in addition
116 to the tax credits allowed in subsection 1 of this section,] grant a remediation tax
117 credit to the applicant for up to one hundred percent of the costs of materials,
118 supplies, equipment, labor, professional engineering, consulting and architectural
119 fees, permitting fees and expenses, demolition, asbestos abatement, and direct
120 utility charges for performing the voluntary remediation activities for the
121 preexisting hazardous substance contamination and releases, including, but not
122 limited to, the costs of performing operation and maintenance of the remediation
123 equipment at the property beyond the year in which the systems and equipment
124 are built and installed at the eligible project and the costs of performing the
125 voluntary remediation activities over a period not in excess of four tax years
126 following the taxpayer's tax year in which the system and equipment were first
127 put into use at the eligible project, provided the remediation activities are the
128 subject of a plan submitted to, and approved by, the director of natural resources
129 pursuant to sections 260.565 to 260.575. The tax credit may also include up to
130 one hundred percent of the costs of demolition that are not directly part of the
131 remediation activities, provided that the demolition is on the property where the
132 voluntary remediation activities are occurring, the demolition is necessary to
133 accomplish the planned use of the facility where the remediation activities are
134 occurring, and the demolition is part of a redevelopment plan approved by the
135 municipal or county government and the department of economic
136 development. The demolition may occur on an adjacent property if the project is
137 located in a municipality which has a population less than twenty thousand and
138 the above conditions are otherwise met. The adjacent property shall
139 independently qualify as abandoned or underutilized. The amount of the credit
140 available for demolition not associated with remediation cannot exceed the total
141 amount of credits approved for remediation including demolition required for
142 remediation.

143 (2) The amount of remediation tax credits issued shall be limited to the

144 least amount necessary to cause the project to occur, as determined by the
145 director of the department of economic development.

146 (3) The director may, with the approval of the director of natural
147 resources, extend the tax credits allowed for performing voluntary remediation
148 maintenance activities, in increments of three-year periods, not to exceed five
149 consecutive three-year periods. The tax credits allowed in this subsection shall
150 be used to offset the tax imposed by chapter 143, excluding withholding tax
151 imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter
152 147, or the tax otherwise imposed by chapter 148. The remediation tax credit
153 may be taken in the same tax year in which the tax credits are received or may
154 be taken over a period not to exceed twenty years.

155 (4) The project facility shall be projected to create at least ten new jobs
156 or at least twenty-five retained jobs, or a combination thereof, as determined by
157 the department of economic development, to be eligible for tax credits pursuant
158 to this section.

159 (5) No more than seventy-five percent of earned remediation tax credits
160 may be issued when the remediation costs were paid, and the remaining
161 percentage may be issued when the department of natural resources issues a
162 letter of completion letter or covenant not to sue following completion of the
163 voluntary remediation activities. It shall not include any costs associated with
164 ongoing operational environmental compliance of the facility or remediation costs
165 arising out of spills, leaks, or other releases arising out of the ongoing business
166 operations of the facility. In the event the department of natural resources issues
167 a letter of completion for a portion of a property, an impacted media such as soil
168 or groundwater, or for a site or a portion of a site improvement, a prorated
169 amount of the remaining percentage may be released based on the percentage of
170 the total site receiving a letter of completion.

171 4. In the exercise of the sound discretion of the director of the department
172 of economic development or the director's designee, the tax credits and
173 exemptions described in this section may be terminated, suspended or revoked,
174 if the eligible project fails to continue to meet the conditions set forth in this
175 section. In making such a determination, the director shall consider the severity
176 of the condition violation, actions taken to correct the violation, the frequency of
177 any condition violations and whether the actions exhibit a pattern of conduct by
178 the eligible facility owner and operator. The director shall also consider changes
179 in general economic conditions and the recommendation of the director of the

180 department of natural resources, or his or her designee, concerning the severity,
181 scope, nature, frequency and extent of any violations of the environmental
182 compliance conditions. The taxpayer or person claiming the tax credits or
183 exemptions may appeal the decision regarding termination, suspension or
184 revocation of any tax credit or exemption in accordance with the procedures
185 outlined in subsections 4 to 6 of section 135.250. The director of the department
186 of economic development shall notify the directors of the departments of natural
187 resources and revenue of the termination, suspension or revocation of any tax
188 credits as determined in this section or pursuant to the provisions of section
189 447.716.

190 5. Notwithstanding any provision of law to the contrary, no taxpayer shall
191 earn the tax credits, exemptions or refund otherwise allowed in subdivisions (2),
192 (3) and (4) of subsection 1 of this section and the tax credits otherwise allowed in
193 section 135.110, or the tax credits, exemptions and refund otherwise allowed in
194 sections 135.215, 135.220, 135.225 and 135.245, respectively, for the same facility
195 for the same tax period.

196 6. The total amount of the tax credits allowed in subsection 1 of this
197 section may not exceed the greater of:

198 (1) That portion of the taxpayer's income attributed to the eligible project;
199 or

200 (2) One hundred percent of the total business' income tax if the eligible
201 facility does not replace a similar facility that closed elsewhere in Missouri prior
202 to the end of the taxpayer's tax period in which the tax credits are earned, and
203 further provided the taxpayer does not operate any other facilities besides the
204 eligible project in Missouri; fifty percent of the total business' income tax if the
205 eligible facility replaces a similar facility that closed elsewhere in Missouri prior
206 to the end of the taxpayer's tax period in which the credits are earned, and
207 further provided the taxpayer does not operate any other facilities besides the
208 eligible project in Missouri; or twenty-five percent of the total business income if
209 the taxpayer operates, in addition to the eligible facility, any other facilities in
210 Missouri. In no case shall a taxpayer operating more than one eligible project in
211 Missouri be allowed to offset more than twenty-five percent of the taxpayer's
212 business income in any tax period. That portion of the taxpayer's income
213 attributed to the eligible project as referenced in subdivision (1) of this
214 subsection, for which the credits allowed in sections 135.110 and 135.225 and
215 subsection 3 of this section, may apply, shall be determined in the same manner

216 as prescribed in subdivision (6) of section 135.100. That portion of the taxpayer's
217 franchise tax attributed to the eligible project for which the remediation tax
218 credit may offset, shall be determined in the same manner as prescribed in
219 paragraph (a) of subdivision (6) of section 135.100.

220 7. Taxpayers claiming the state tax benefits allowed in subdivisions (2)
221 and (3) of subsection 1 of this section shall be required to file all applicable tax
222 credit applications, forms and schedules prescribed by the director during the
223 taxpayer's tax period immediately after the tax period in which the eligible
224 project was first put into use. Otherwise, the taxpayer's right to claim such state
225 tax benefits shall be forfeited. Unused business facility and enterprise zone tax
226 credits shall not be carried forward but shall be initially claimed for the tax
227 period during which the eligible project was first capable of being used, and
228 during any applicable subsequent tax periods.

229 8. Taxpayers claiming the remediation tax credit allowed in subsection 3
230 of this section shall be required to file all applicable tax credit applications, forms
231 and schedules prescribed by the director during the taxpayer's tax period
232 immediately after the tax period in which the eligible project was first put into
233 use, or during the taxpayer's tax period immediately after the tax period in which
234 the voluntary remediation activities were performed.

235 9. The recipient of remediation tax credits, for the purpose of this
236 subsection referred to as assignor, may assign, sell or transfer, in whole or in
237 part, the remediation tax credit allowed in subsection 3 of this section to any
238 other person, for the purpose of this subsection referred to as assignee. To perfect
239 the transfer, the assignor shall provide written notice to the director of the
240 assignor's intent to transfer the tax credits to the assignee, the date the transfer
241 is effective, the assignee's name, address and the assignee's tax period and the
242 amount of tax credits to be transferred. The number of tax periods during which
243 the assignee may subsequently claim the tax credits shall not exceed twenty tax
244 periods, less the number of tax periods the assignor previously claimed the credits
245 before the transfer occurred.

246 10. In the case where an operator and assignor of an eligible project has
247 been certified to claim state tax benefits allowed in subdivisions (2) and (3) of
248 subsection 1 of this section, and sells or otherwise transfers title of the eligible
249 project to another taxpayer or assignee who continues the same or substantially
250 similar operations at the eligible project, the director shall allow the assignee to
251 claim the credits for a period of time to be determined by the director; except

252 that, the total number of tax periods the tax credits may be earned by the
253 assignor and the assignee shall not exceed ten. To perfect the transfer, the
254 assignor shall provide written notice to the director of the assignor's intent to
255 transfer the tax credits to the assignee, the date the transfer is effective, the
256 assignee's name, address, and the assignee's tax period, and the amount of tax
257 credits to be transferred.

258 11. For the purpose of the state tax benefits described in this section, in
259 the case of a corporation described in section 143.471 or partnership, in
260 computing Missouri's tax liability, such state benefits shall be allowed to the
261 following:

- 262 (1) The shareholders of the corporation described in section 143.471;
263 (2) The partners of the partnership.

264 The credit provided in this subsection shall be apportioned to the entities
265 described in subdivisions (1) and (2) of this subsection in proportion to their share
266 of ownership on the last day of the taxpayer's tax period.

267 **12. (1) For each fiscal year beginning on or after July 1, 2013,**
268 **the amount of tax credits authorized under the provisions of sections**
269 **447.700 to 447.718 shall not exceed thirty million dollars.**

270 **(2) For each fiscal year beginning on or after July 1, 2013, but**
271 **ending on or before June 30, 2017, an additional ten million dollars in**
272 **tax credits shall be authorized under the provisions of sections 447.700**
273 **to 447.718 for projects which receive benefits under the provisions of**
274 **section 99.1205. For each fiscal year beginning on or after July 1, 2017,**
275 **an additional five million dollars in tax credits shall be authorized**
276 **under the provisions of sections 447.700 to 447.718 for projects which**
277 **receive benefits under the provisions of section 99.1205. The additional**
278 **amounts authorized under this subdivision are contingent upon the**
279 **benefits under the provisions of section 99.1205 being authorized for**
280 **those years.**

Section B. Because immediate action is necessary to encourage economic
2 development in the state, the enactment of sections 135.1550, 135.1555, 135.1560,
3 135.1565, 135.1570, and 135.1575 and the repeal and reenactment of sections
4 135.350, 135.352, 135.484, 253.550, 253.557, 253.559, and 447.708 of this act is
5 deemed necessary for the immediate preservation of the public health, welfare,
6 peace and safety, and is hereby declared to be an emergency act within the
7 meaning of the constitution, and the enactment of sections 135.1550, 135.1555,

8 135.1560, 135.1565, 135.1570, and 135.1575 and the repeal and reenactment of
9 sections 135.350, 135.352, 135.484, 253.550, 253.557, 253.559, and 447.708 of this
10 act shall be in full force and effect upon its passage and approval.

✓

Unofficial

Bill

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