

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 222
97TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, May 15, 2013, with recommendation that the Senate Committee Substitute do pass.

0420S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 135.305, 135.350, 135.352, 135.484, 143.119, 253.550, 253.557, 253.559, and 447.708, RSMo, and section 135.630 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bills nos. 20, 15 & 19, ninety-seventh general assembly, first regular session, and to enact in lieu thereof twenty 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 135.305, 135.350, 135.352, 135.484, 143.119, 253.550, 253.557, 253.559, and 447.708, RSMo, and section 135.630 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bills nos. 20, 15 & 19, ninety-seventh general assembly, first regular session, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 67.2050, 135.305, 135.350, 135.352, 135.484, 135.630, 135.1550, 135.1555, 135.1560, 135.1565, 135.1570, 135.1575, 144.810, 253.550, 253.557, 253.559, 348.273, 348.274, 447.708, and 1, 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**

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

8 Classification System developed under the direction and guidance of
9 the federal Office of Management and Budget. Any NAICS sector,
10 subsector, industry group, or industry identified in this section shall
11 include its corresponding classification in previous and subsequent
12 federal industry classification systems;

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

135.305. A Missouri wood energy producer shall be eligible for a tax credit
2 on taxes otherwise due under chapter 143, except sections 143.191 to 143.261, as
3 a production incentive to produce processed wood products in a qualified
4 wood-producing facility using Missouri forest product residue. The tax credit to
5 the wood energy producer shall be five dollars per ton of processed material. The
6 credit may be claimed for a period of five years and is to be a tax credit against
7 the tax otherwise due. No new tax credits, provided for under sections 135.300
8 to 135.311, shall be authorized after June 30, [2013] **2019. In no event shall**
9 **the aggregate amount of all tax credits allowed pursuant to sections**
10 **135.300 to 135.311 exceed three million five hundred thousand dollars**
11 **in any given fiscal year.**

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 fifty**
21 **million dollar cap on tax credit authorizations for projects which are**
22 **not financed through tax exempt bond issuance. For each fiscal year**
23 **beginning on or after July 1, 2013, there shall be a five million dollar**
24 **cap on tax credit authorizations for projects which are financed**
25 **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.**

35 [5.] 6. All or any portion of Missouri tax credits issued in accordance with
36 the provisions of sections 135.350 to 135.362 may be allocated to parties who are
37 eligible pursuant to the provisions of subsection 1 of this section. Beginning
38 January 1, 1995, for qualified projects which began on or after January 1, 1994,
39 an owner of a qualified Missouri project shall certify to the director the amount
40 of credit allocated to each taxpayer. The owner of the project shall provide to the
41 director appropriate information so that the low-income housing tax credit can be
42 properly allocated.

43 [6.] 7. In the event that recapture of Missouri low-income housing tax
44 credits is required pursuant to subsection 2 of section 135.355, any statement
45 submitted to the director as provided in this section shall include the proportion
46 of the state credit required to be recaptured, the identity of each taxpayer subject
47 to the recapture and the amount of credit previously allocated to such taxpayer.

48 8. **A taxpayer that receives state tax credits under the provisions**

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

53 [7.] 9. The director of the department may promulgate rules and
54 regulations necessary to administer the provisions of this section. No rule or
55 portion of a rule promulgated pursuant to the authority of this section shall
56 become effective unless it has been promulgated pursuant to the provisions of
57 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.**

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

- 2 (1) "Contribution", a donation of cash, stock, bonds, or other marketable
3 securities, or real property;
- 4 (2) "Director", the director of the department of social services;
- 5 (3) "Pregnancy resource center", a nonresidential facility located in this
6 state:
- 7 (a) Established and operating primarily to provide assistance to women
8 with crisis pregnancies or unplanned pregnancies by offering pregnancy testing,
9 counseling, emotional and material support, and other similar services to
10 encourage and assist such women in carrying their pregnancies to term; and
- 11 (b) Where childbirths are not performed; and
- 12 (c) Which does not perform, induce, or refer for abortions and which does
13 not hold itself out as performing, inducing, or referring for abortions; and
- 14 (d) Which provides direct client services at the facility, as opposed to
15 merely providing counseling or referral services by telephone; and
- 16 (e) Which provides its services at no cost to its clients; and
- 17 (f) When providing medical services, such medical services must be
18 performed in accordance with Missouri statute; and
- 19 (g) Which is exempt from income taxation pursuant to the Internal
20 Revenue Code of 1986, as amended;
- 21 (4) "State tax liability", in the case of a business taxpayer, any liability
22 incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148,
23 and 153, excluding sections 143.191 to 143.265 and related provisions, and in the
24 case of an individual taxpayer, any liability incurred by such taxpayer pursuant
25 to the provisions of chapter 143, excluding sections 143.191 to 143.265 and
26 related provisions;
- 27 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a
28 shareholder in an S corporation doing business in the state of Missouri and
29 subject to the state income tax imposed by the provisions of chapter 143, or a
30 corporation subject to the annual corporation franchise tax imposed by the

31 provisions of chapter 147, or an insurance company paying an annual tax on its
32 gross premium receipts in this state, or other financial institution paying taxes
33 to the state of Missouri or any political subdivision of this state pursuant to the
34 provisions of chapter 148, or an express company which pays an annual tax on
35 its gross receipts in this state pursuant to chapter 153, or an individual subject
36 to the state income tax imposed by the provisions of chapter 143, or any
37 charitable organization which is exempt from federal income tax and whose
38 Missouri unrelated business taxable income, if any, would be subject to the state
39 income tax imposed under chapter 143.

40 2. (1) Beginning on the effective date of this act, any contribution to a
41 pregnancy resource center made on or after January 1, 2013, shall be eligible for
42 tax credits as provided by this section;

43 (2) For all tax years beginning on or after January 1, 2007, a taxpayer
44 shall be allowed to claim a tax credit against the taxpayer's state tax liability in
45 an amount equal to fifty percent of the amount such taxpayer contributed to a
46 pregnancy resource center.

47 3. The amount of the tax credit claimed shall not exceed the amount of the
48 taxpayer's state tax liability for the taxable year for which the credit is claimed,
49 and such taxpayer shall not be allowed to claim a tax credit in excess of fifty
50 thousand dollars per taxable year. However, any tax credit that cannot be
51 claimed in the taxable year the contribution was made may be carried over to the
52 next four succeeding taxable years until the full credit has been claimed.

53 4. Except for any excess credit which is carried over pursuant to
54 subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit
55 unless the total amount of such taxpayer's contribution or contributions to a
56 pregnancy resource center or centers in such taxpayer's taxable year has a value
57 of at least one hundred dollars.

58 5. The director shall determine, at least annually, which facilities in this
59 state may be classified as pregnancy resource centers. The director may require
60 of a facility seeking to be classified as a pregnancy resource center whatever
61 information which is reasonably necessary to make such a determination. The
62 director shall classify a facility as a pregnancy resource center if such facility
63 meets the definition set forth in subsection 1 of this section.

64 6. The director shall establish a procedure by which a taxpayer can
65 determine if a facility has been classified as a pregnancy resource
66 center. Pregnancy resource centers shall be permitted to decline a contribution

67 from a taxpayer. The cumulative amount of tax credits which may be claimed by
68 all the taxpayers contributing to pregnancy resource centers in any one fiscal year
69 shall not exceed two million **five hundred thousand** dollars. Tax credits shall
70 be issued in the order contributions are received.

71 7. The director shall establish a procedure by which, from the beginning
72 of the fiscal year until some point in time later in the fiscal year to be determined
73 by the director, the cumulative amount of tax credits are equally apportioned
74 among all facilities classified as pregnancy resource centers. If a pregnancy
75 resource center fails to use all, or some percentage to be determined by the
76 director, of its apportioned tax credits during this predetermined period of time,
77 the director may reapportion these unused tax credits to those pregnancy
78 resource centers that have used all, or some percentage to be determined by the
79 director, of their apportioned tax credits during this predetermined period of
80 time. The director may establish more than one period of time and reapportion
81 more than once during each fiscal year. To the maximum extent possible, the
82 director shall establish the procedure described in this subsection in such a
83 manner as to ensure that taxpayers can claim all the tax credits possible up to
84 the cumulative amount of tax credits available for the fiscal year.

85 8. Each pregnancy resource center shall provide information to the
86 director concerning the identity of each taxpayer making a contribution to the
87 pregnancy resource center who is claiming a tax credit pursuant to this section
88 and the amount of the contribution. The director shall provide the information
89 to the director of revenue. The director shall be subject to the confidentiality and
90 penalty provisions of section 32.057 relating to the disclosure of tax information.

91 9. Pursuant to section 23.253 of the Missouri sunset act:

92 (1) The program authorized under this section shall be reauthorized as of
93 the effective date of this act and shall expire on December 31, 2019, unless
94 reauthorized by the general assembly; and

95 (2) This section shall terminate on September first of the calendar year
96 immediately following the calendar year in which a program authorized under
97 this section is sunset; and

98 (3) The provisions of this subsection shall not be construed to limit or in
99 any way impair the department's ability to issue tax credits authorized on or
100 before the date the program authorized under this section expires or a taxpayer's
101 ability to redeem such tax 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 located within this state;

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. No tax credits provided under this section shall be authorized
13 after June 30, 2021. Any tax credits authorized on or before June 30,
14 2021, but not issued, may be issued until all such authorized tax credits
15 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.

135.1570. Tax credits granted to a partnership, a limited liability
2 company taxed as a partnership, or multiple owners of property shall
3 be passed through to the partners, members, or owners respectively pro
4 rata or pursuant to an executed agreement among the partners,
5 members, or owners documenting an alternate distribution 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.**

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 one
34 million dollars during a period of up to twenty-four consecutive months
35 and results in the creation of at least one new job during a period of up
36 to twenty-four consecutive months from the date of conditional
37 approval for an exemption under this section, if the average wage of
38 the new job or jobs equals or exceeds one hundred and fifty percent of
39 the county average wage. An expanding facility shall continue to be an
40 expanding facility regardless of a subsequent change in or addition of
41 operating 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 two million**
75 **dollars during a period of up to thirty-six consecutive months from the**
76 **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 two 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 total number of full-time employees located at the expanding data
106 storage center that exceeds the greater of the number of full-time
107 employees located at the project facility on the date of the submission
108 of a project plan under this section or the average number of full-time
109 employees for the number of months the expanding data storage center
110 facility has been in operation prior to the date of the submission of the
111 project plan;

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

117 (14) "Operating taxpayer", where more than one taxpayer is
118 responsible for a project, a taxpayer responsible for the equipping and
119 ongoing operations of the facility, as opposed to a taxpayer responsible
120 for the purchasing or construction of the facility;

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

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

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

134 2. In addition to the exemptions granted under chapter 144,
135 project taxpayers for a new data storage center project shall be
136 entitled, for a project period not to exceed fifteen years from the date

137 of conditional approval under this section and subject to the
138 requirements of subsection 3 of this section, to an exemption of one
139 hundred percent of the state and local sales and use taxes defined,
140 levied, or calculated under section 32.085, sections 144.010 to 144.525,
141 sections 144.600 to 144.761, or section 238.235, limited to the net fiscal
142 benefit of the state calculated over a ten-year period, on:

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

146 (2) All machinery, equipment, and computers used in any new
147 data storage center; and

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

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

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

169 (2) The department of economic development shall convey
170 conditional approvals to the department of revenue and the identified
171 project taxpayers. After a conditionally approved new facility has met
172 the requirements in subsection 1 of this section for a new facility and
173 the execution of the agreement specified in subsection 6 of this section,

174 the project taxpayers shall provide proof of the same to the department
175 of economic development. Upon verification of such proof, the
176 department of economic development shall certify the new facility to
177 the department of revenue as being eligible for the exemption dating
178 retroactively to the first day of construction on the new facility. The
179 department of revenue, upon receipt of adequate proof of the amount
180 of sales taxes paid since the first day of construction, shall issue a
181 refund of taxes paid but eligible for exemption under subsection 2 of
182 this section to any applicable taxpayer and issue a certificate of
183 exemption to each new project taxpayer for ongoing exemptions under
184 subsection 2 of this section. The department of revenue shall issue
185 such a refund within thirty days of receipt of certification from the
186 department of economic development.

187 (3) Any project that does not meet the minimum investment or
188 new job requirements of subsection 1 of this section may, at the
189 discretion of the department of economic development, be awarded
190 exemptions under subsection 2 of this section provided such exemption
191 shall not exceed the projected net fiscal benefit to the state over a
192 period of ten years.

193 (4) The commencement of the exemption period may be delayed
194 at the option of the operating taxpayer, but not more than twenty-four
195 months after the execution of the agreement required under subsection
196 6 of this section.

197 4. In addition to the exemptions granted under chapter 144, upon
198 approval by the department of economic development, project
199 taxpayers for expanding data center projects may, for a period not to
200 exceed ten years, be specifically exempted from state and local sales
201 and use taxes defined, levied, or calculated under section 32.085,
202 sections 144.010 to 144.525, sections 144.600 to 144.761, or section
203 238.235 on:

204 (1) All electrical energy, gas, water, and other utilities including
205 telecommunication and internet services used in an expanding data
206 storage center which, on an annual basis, exceeds the amount of
207 electrical energy, gas, water, and other utilities including
208 telecommunication and internet services used in the existing facility or
209 the replaced facility prior to the expansion. For purposes of this
210 subdivision only, "amount" shall be measured in kilowatt hours, gallons,

211 cubic feet, or other measures applicable to a utility service as opposed
212 to in dollars, to account for increases in utility rates;

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

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

218 The amount of any exemption provided under this subsection shall not
219 exceed the projected net fiscal benefit to the state over a period of ten
220 years, as determined by the department of economic development using
221 the Regional Economic Modeling, Inc. dataset or comparable date.

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

239 (2) The department of economic development shall convey such
240 conditional approval to the department of revenue and the identified
241 project taxpayers. After a conditional approved facility has met the
242 requirements in subsection 1 of this section, the project taxpayers shall
243 provide proof of the same to the department of economic
244 development. Upon verification of such proof, the department of
245 economic development shall certify the project to the department of
246 revenue as being eligible for the exemption dating retroactively to the
247 first day of the expansion of the facility. The department of revenue,

248 upon receipt of adequate proof of the amount of sales taxes paid since
249 the first day of the expansion of the facility, shall issue a refund of
250 taxes paid but eligible for exemption under subsection 4 of this section
251 to any applicable project taxpayer and issue a certificate of exemption
252 to any applicable project taxpayer for ongoing exemptions under
253 subsection 4 of this section. The department of revenue shall issue
254 such a refund within thirty days of receipt of certification from the
255 department of economic development.

256 (3) Any project that does not meet the minimum investment or
257 new job requirements of subsection 1 of this section may, at the
258 discretion of the department of economic development, be awarded
259 exemptions under subsection 4 of this section provided such exemption
260 shall not exceed the projected net fiscal benefit to the state over a
261 period of ten years.

262 (4) The commencement of the exemption period may be delayed
263 at the option of the operating taxpayer, but not more than twenty-four
264 months after the execution of the agreement required under subsection
265 6 of this section.

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

277 (2) In order to received exemptions under subsection 2 or 4 of
278 this section, the project taxpayers shall enter into an agreement with
279 the department of economic development providing for repayment
280 penalties in the event the data storage center project fails to:

281 (a) Comply with any of the requirements of this section; or

282 (b) Satisfy the investment or job creation projected in the notice
283 of intent submitted for the project;

284 (3) The department of revenue shall credit any amounts remitted

285 **by the project taxpayers under this subsection to the fund to which the**
286 **sales and use taxes exempted would have otherwise been credited.**

287 **7. The department of economic development and the department**
288 **of revenue shall cooperate in conducting random audits to ensure that**
289 **the intent of this section is followed.**

290 **8. Notwithstanding any other provision of law to the contrary,**
291 **no recipient of an exemption pursuant to this section shall be eligible**
292 **for benefits under any business recruitment tax credit, as defined in**
293 **section 135.800.**

294 **9. The department of economic development and the department**
295 **of revenue shall jointly prescribe such rules and regulations necessary**
296 **to carry out the provisions of this section. Any rule or portion of a**
297 **rule, as that term is defined in section 536.010, that is created under**
298 **the authority delegated in this section shall become effective only if it**
299 **complies with and is subject to all of the provisions of chapter 536 and,**
300 **if applicable, section 536.028. This section and chapter 536 are**
301 **nonseverable and if any of the powers vested with the general assembly**
302 **pursuant to chapter 536 to review, to delay the effective date, or to**
303 **disapprove and annul a rule are subsequently held unconstitutional,**
304 **then the grant of rulemaking authority and any rule proposed or**
305 **adopted after August 28, 2013, shall be invalid and void.**

306 **10. This section shall terminate on September 1, 2019. The**
307 **termination of this section shall not be construed to limit or in any way**
308 **impair the exemption for any project approved prior to the termination**
309 **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 the effective date of this act**, no more than two hundred
32 fifty thousand dollars in tax credits may be issued for eligible costs and expenses
33 incurred in the rehabilitation of an eligible property which is a nonincome
34 producing single-family, owner-occupied residential property and is either a
35 certified historic 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 forty-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 five 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 forward for credit against the taxes
12 imposed pursuant to chapter 143 and chapter 148, except for sections
13 143.191 to 143.265 for the succeeding two years, or until the full credit
14 is used, whichever occurs first. Not-for-profit entities, including but not

15 limited to corporations organized as not-for-profit corporations pursuant to
16 chapter 355 shall be ineligible for the tax credits authorized under sections
17 253.545 [through 253.561] to **253.559**. **Any taxpayer that receives state tax**
18 **credits under the provisions of sections 135.350 to 135.363 for a project**
19 **that is not financed through tax exempt bonds issuance shall be**
20 **ineligible for the state tax credits authorized under sections 253.545 to**
21 **253.559 for the same project.** Taxpayers eligible for such tax credits may
22 transfer, sell or assign the credits. Credits granted to a partnership, a limited
23 liability company taxed as a partnership or multiple owners of property shall be
24 passed through to the partners, members or owners respectively pro rata or
25 pursuant to an executed agreement among [the] **such** partners, members or
26 owners documenting an alternate distribution method.

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

348.273. 1. This section and section 348.274 shall be known and
2 may be cited as the "Missouri Angel Investment Incentive Act".

3 2. As used in this section and section 348.274, the following terms
4 mean:

5 (1) "Cash investment", money or money equivalent contribution;

6 (2) "Department", the department of economic development;

7 (3) "Investor":

8 (a) A natural person who is an accredited investor as defined in
9 17 CFR 230.501(a)(5) or 17 CFR 230.501(a)(6), as in effect on August 28,
10 2013;

11 (b) A permitted entity investor who is an accredited investor as
12 defined in 17 CFR 230.501(a)(8), as in effect on August 28, 2013; or

13 (c) A natural person or permitted entity investor making an
14 investment that is permitted under the Jumpstart Our Business
15 Startups Act, Pub. L. No. 112-106, Sections 301-305, 126 Stat. 315-323, as
16 in effect on August 28, 2013.

17 A person who serves as an executive, officer, or employee of the
18 business in which an otherwise qualified cash investment is made is not
19 an investor and such person shall not qualify for the issuance of tax
20 credits for such investment;

21 (4) "Owner", any natural person who is, directly or indirectly, a
22 partner, stockholder, or member in a permitted entity investor;

23 (5) "Permitted entity investor", any charitable organization which
24 is exempt from federal income tax and whose Missouri unrelated
25 business taxable income, if any, would be subject to the state income
26 tax imposed under chapter 143, general partnership, limited
27 partnership, small corporation described in section 143.471, revocable

28 living trust, or limited liability company that has elected to be taxed as
29 a partnership under the United States internal revenue code, and that
30 was established and is operated for the purpose of making investments
31 in other entitites;

32 (6) "Qualified knowledge-based company", a company based on
33 the use of ideas and information to provide innovative technologies,
34 products, and services;

35 (7) "Qualified Missouri business", the Missouri businesses that
36 are approved and certified as qualified knowledge-based companies by
37 the regional SBTDC that meet at least one of the following criteria:

38 (a) Any business owned by an individual;

39 (b) Any partnership, association, or corporation domiciled in
40 Missouri; or

41 (c) Any corporation, even if a wholly owned subsidiary of a
42 foreign corporation, that does business primarily in Missouri or does
43 substantially all of such business's production in Missouri;

44 (8) "Qualified securities", a cash investment through any one or
45 more forms of financial assistance as provided in this subdivision and
46 that have been approved in form and substance by the
47 department. Forms of such financial assistance include:

48 (a) Any form of equity, such as:

49 a. A general or limited partnership interest;

50 b. Common stock;

51 c. Preferred stock, with or without voting rights, without regard
52 to seniority position, and whether or not convertible into common
53 stock; or

54 d. Any form of subordinate or convertible debt, or both, with
55 warrants or other means of equity conversion attached; or

56 (b) A debt instrument, such as a note or debenture that is
57 secured or unsecured, subordinated to the general creditors of the
58 debtor and requires no payments of principal, other than principal
59 payments required to be made out of any future profits of the debtor,
60 for at least a seven-year period after commencement of such debt
61 instrument's term;

62 (9) "SBTDC", the Missouri small business and technology
63 development center; and

64 (10) "Tax credit", a credit against the tax otherwise due under

65 chapter 143, excluding withholding tax imposed by sections 143.191 to
66 143.265.

67 3. The Missouri angel investment incentive act shall be
68 administered by the regional SBTDCs and the department, with the
69 primary goal of encouraging individuals to provide seed-capital
70 financing for emerging Missouri businesses engaged in the
71 development, implementation, and commercialization of innovative
72 technologies, products, and services. Each regional SBTDC shall
73 establish a regional committee consisting of no fewer than three but no
74 more than five persons for the purpose of reviewing applications from
75 businesses requesting designation as a qualified Missouri business and
76 allocating the amount of available tax credits among the qualified
77 Missouri businesses. The department shall establish its own rules of
78 procedure, including the form and substance of applications to be used
79 by each regional SBTDC and the criteria to be considered by each
80 regional SBTDC when evaluating a qualified Missouri business, such
81 applications and criteria to be not less than the minimum requirements
82 set forth in subsection 5 of this section. The department shall issue tax
83 credits to qualified investors that make cash investments in qualified
84 Missouri businesses that have been allocated available tax credits by
85 a regional SBTDC.

86 4. (1) A tax credit shall be allowed for an investor's cash
87 investment in the qualified securities of a qualified Missouri
88 business. The credit shall be in a total amount equal to fifty percent of
89 such investor's cash investment in any qualified Missouri business,
90 subject to the limitations set forth in this subsection. This tax credit
91 may be used in its entirety in the taxable year in which the cash
92 investment is made except that no tax credit shall be allowed in a year
93 prior to the year beginning January 1, 2014. If the amount by which
94 that portion of the credit allowed by this section exceeds the investor's
95 liability in any one taxable year, the remaining portion of the credit
96 may be carried forward five years or until the total amount of the
97 credit is used, whichever occurs first. If the investor is a permitted
98 entity investor, the credit provided by this section shall be claimed by
99 the owners of the permitted entity investor in proportion to their
100 equity investment in the permitted entity investor.

101 (2) A cash investment in a qualified security shall be deemed to

102 have been made on the date of acquisition of the qualified security, as
103 such date is determined in accordance with the provisions of the
104 Internal Revenue Code of 1986, as amended.

105 (3) The director of the department of revenue shall not allow tax
106 credits of more than fifty thousand dollars for a single qualified
107 Missouri business or a total of two hundred fifty thousand dollars in
108 tax credits for a single year per investor who is a natural person or
109 owner of a permitted entity investor. No tax credits authorized by this
110 section and section 348.274 shall be allowed for any cash investments
111 in qualified securities for any year beginning after December 31,
112 2019. The total amount of tax credits allocated under this section shall
113 not exceed six million dollars per year.

114 (4) At the beginning of each calendar year, the department shall
115 equally designate the tax credits available during that year to each
116 regional SBTDC. At the beginning of each calendar quarter, the
117 department shall allocate to each regional SBTDC one-fourth of the
118 total tax credits designated to such regional SBTDC for the calendar
119 year such that the regional SBTDC can allocate tax credits among the
120 qualified Missouri businesses. The department shall then issue tax
121 credits to qualified investors for cash investments in such qualified
122 Missouri businesses during that calendar quarter.

123 (5) At the end of each calendar quarter, each regional SBTDC
124 shall report to the department any unallocated tax credits for the
125 preceding quarter. Such report shall meet the requirements set forth
126 in section 348.274. The department shall aggregate all such tax credits
127 and reallocate them equally among the regional SBTDCs as soon as
128 possible during the next consecutive calendar quarter. Each regional
129 SBTDC shall receive such reallocation in addition to the new allocation
130 of designated tax credits for such quarter.

131 (6) During the fourth calendar quarter, a regional SBTDC in
132 need of additional tax credits for transactions closing in the fourth
133 calendar quarter may request that another regional SBTDC with
134 unallocated tax credits permit such unallocated tax credits to be
135 allocated by the requesting SBTDC. No regional SBTDC shall be
136 required to grant such request. When a granting SBTDC transfers the
137 allocation of the unallocated tax credits to a requesting SBTDC under
138 this subdivision, the granting SBTDC shall provide to the requesting

139 SBTDC a written confirmation authorizing such transfer, the granting
140 SBTDC shall include a copy of such written confirmation in its reports
141 provided under section 348.274, and the requesting SBTDC shall include
142 a copy of such written confirmation in its reports provided under
143 section 348.274.

144 5. (1) Before an investor may be entitled to receive tax credits
145 under this section and section 348.274, such investor shall have made
146 a cash investment in a qualified security of a qualified Missouri
147 business. The business shall have been approved by a regional SBTDC
148 as a qualified Missouri business before the date on which the cash
149 investment was made. To be designated as a qualified Missouri
150 business, a business shall make application to a regional SBTDC in
151 accordance with the provisions of this section.

152 (2) The application by a business to a regional SBTDC shall be
153 in the form and substance as required by the department, but shall
154 include at least the following:

155 (a) The name of the business and certified copies of the
156 organizational documents of the business;

157 (b) A business plan, including a description of the business and
158 the management, product, market, and financial plan of the business;

159 (c) A statement of the potential economic impact of the
160 enterprise, including the number, location, and types of jobs expected
161 to be created;

162 (d) A description of the qualified securities to be issued, the
163 consideration to be paid for the qualified securities, and the amount of
164 any tax credits requested;

165 (e) A statement of the amount, timing, and projected use of the
166 proceeds to be raised from the proposed sale of qualified securities;
167 and

168 (f) Such other information as the regional SBTDC or the
169 department may reasonably request.

170 (3) The designation of a business as a qualified Missouri business
171 shall be made by the regional SBTDC, and such designation shall be
172 renewed annually. A business shall be so designated if the regional
173 SBTDC determines, based upon the application submitted by the
174 business and any additional investigation the regional SBTDC shall
175 make, that such business meets the criteria established by the

176 **department. Such criteria shall include at least the following:**

177 **(a) The business shall not have had annual gross revenues of**
178 **more than five million dollars in the most recent tax year of the**
179 **business;**

180 **(b) Businesses that are not bioscience businesses shall have been**
181 **in operation for less than five years, and bioscience businesses shall**
182 **have been in operation for less than ten years;**

183 **(c) The ability of investors in the business to receive tax credits**
184 **for cash investments in qualified securities of the business is beneficial,**
185 **because funding otherwise available for the business is not available**
186 **on commercially reasonable terms;**

187 **(d) The business shall not have ownership interests including,**
188 **but not limited to, common or preferred shares of stock, that can be**
189 **traded via a public stock exchange before the date that a qualifying**
190 **investment is made;**

191 **(e) The business shall not be engaged primarily in any one or**
192 **more of the following enterprises:**

193 **a. The business of banking, savings and loan or lending**
194 **institutions, credit or finance, or financial brokerage or investments;**

195 **b. The provision of professional services, such as legal,**
196 **accounting, or engineering services;**

197 **c. Governmental, charitable, religious, or trade organizations;**

198 **d. The ownership, development brokerage, sales, or leasing of**
199 **real estate;**

200 **e. Insurance;**

201 **f. Construction or construction management or contracting;**

202 **g. Business consulting or brokerage;**

203 **h. Any business engaged primarily as a passive business, having**
204 **irregular or noncontinuous operations, or deriving substantially all of**
205 **the income of the business from passive investments that generate**
206 **interest, dividends, royalties, or capital gains, or any business**
207 **arrangements the effect of which is to immunize an investor from risk**
208 **of loss;**

209 **i. Any activity that is in violation of the law;**

210 **j. Any business raising money primarily to purchase real estate,**
211 **land, or fixtures; and**

212 **k. Any gambling related business;**

- 213 **(f) The business has a reasonable chance of success;**
- 214 **(g) The business has the reasonable potential to create**
215 **measurable employment within the region, this state, or both;**
- 216 **(h) The business has an innovative and proprietary technology,**
217 **product, or service;**
- 218 **(i) The existing owners of the business and other founders have**
219 **made or are committed to make a substantial financial and time**
220 **commitment to the business;**
- 221 **(j) The securities to be issued and purchased are qualified**
222 **securities;**
- 223 **(k) The business has the reasonable potential to address the**
224 **needs and opportunities specific to the region or this state, or both;**
- 225 **(l) The business has made binding commitments to the regional**
226 **SBTDC for adequate reporting of financial data, including a**
227 **requirement for an annual report, or, if required by the regional**
228 **SBTDC, an annual audit of the financial and operational records of the**
229 **business, the right of access to the financial records of the business,**
230 **and the right of the regional SBTDC to record and publish normal and**
231 **customary data and information related to the issuance of tax credits**
232 **that are not otherwise determined to be trade or business secrets; and**
- 233 **(m) The business shall satisfy all other requirements of this**
234 **section and section 348.274.**
- 235 **(4) Notwithstanding the requirements of subdivision (3) of this**
236 **subsection, a business may be considered as a qualified Missouri**
237 **business under the provisions of this section and section 348.274 if such**
238 **business falls within a standard industrial classification code**
239 **established by the department.**
- 240 **(5) A qualified Missouri business shall have the burden of proof**
241 **to demonstrate to the regional SBTDC the qualifications of the business**
242 **under this section.**
- 243 **6. Any rule or portion of a rule, as that term is defined in section**
244 **536.010 that is created under the authority delegated in this section**
245 **and section 348.274 shall become effective only if it complies with and**
246 **is subject to all of the provisions of chapter 536, and, if applicable,**
247 **section 536.028. This section and chapter 536 are nonseverable and if**
248 **any of the powers vested with the general assembly pursuant to chapter**
249 **536, to review, to delay the effective date, or to disapprove and annul**

250 a rule are subsequently held unconstitutional, then the grant of
251 rulemaking authority and any rule proposed or adopted after August
252 28, 2013, shall be invalid and void.

348.274. 1. (1) Each regional SBTDC is authorized to allocate tax
2 credits to qualified Missouri businesses. The department is authorized
3 to issue tax credits to qualified investors in such qualified Missouri
4 businesses. Such tax credits shall be allocated to those qualified
5 Missouri businesses which, as determined by the regional SBTDC, are
6 most likely to provide the greatest economic benefit to the region, the
7 state, or both. The regional SBTDC may allocate, and the department
8 may issue, whole or partial tax credits based on the regional SBTDC's
9 assessment of the qualified Missouri businesses. The regional SBTDC
10 may consider numerous factors in such assessment, including but not
11 limited to, the quality and experience of the management team, the size
12 of the estimated market opportunity, the risk from current or future
13 competition, the ability to defend intellectual property, the quality and
14 utility of the business model, and the quality and reasonableness of
15 financial projections for the business.

16 (2) Each qualified Missouri business for which a regional SBTDC
17 has allocated tax credits such that the department can issue tax credits
18 to the qualified investors of such qualified Missouri business shall
19 submit to the regional SBTDC a report before such tax credits are
20 issued. The regional SBTDC shall provide copies of this report to the
21 department. Such report shall include the following:

22 (a) The name, address, and taxpayer identification number of
23 each investor who has made cash investment in the qualified securities
24 of the qualified Missouri business;

25 (b) Proof of such investment, including copies of the securities
26 purchase agreements and cancelled checks or wire transfer receipts;
27 and

28 (c) Any additional information as the regional SBTDC may
29 reasonably require under this section and section 348.273.

30 2. (1) The state of Missouri shall not be held liable for any
31 damages to any investor that makes an investment in any qualified
32 security of a qualified Missouri business, any business that applies to
33 be designated as a qualified Missouri business and is turned down, or
34 any investor that makes an investment in a business that applies to be

35 designated as a qualified Missouri business and is turned down.

36 (2) Each qualified Missouri business shall have the obligation to
37 notify the regional SBTDC that allocated tax credits to the qualified
38 Missouri business and the department in a timely manner of any
39 changes in the qualifications of the business or in the eligibility of
40 investors to claim a tax credit for cash investment in a qualified
41 security.

42 (3) The department shall provide the information specified in
43 subdivision (3) of subsection 4 of this section to the department of
44 revenue on an annual basis. The department shall conduct an annual
45 review of the activities undertaken under this section and section
46 348.273 to ensure that tax credits issued under this section and section
47 348.273 are issued in compliance with the provisions of this section and
48 section 348.273 or rules and regulations promulgated by each regional
49 SBTDC or the department with respect to this section and section
50 348.273.

51 (4) If the department determines that a business is not in
52 substantial compliance with the requirements of this section and
53 section 348.273 to maintain its designation, the department, by written
54 notice, shall inform the business that such business will lose its
55 designation as a qualified Missouri business one hundred twenty days
56 from the date of mailing of the notice unless such business corrects the
57 deficiencies and is once again in compliance with the requirements for
58 designation.

59 (5) At the end of the one hundred twenty-day period, if the
60 qualified Missouri business is still not in substantial compliance, the
61 department shall send a notice of loss of designation to the business,
62 each regional SBTDC, the director of the department of revenue and to
63 all known investors in the business.

64 (6) A business shall lose its designation as a qualified Missouri
65 business under this section and section 348.273 by moving its
66 operations outside Missouri within ten years after receiving financial
67 assistance under this section and section 348.273.

68 (7) In the event that a business loses its designation as a
69 qualified Missouri business, such business shall be precluded from
70 being issued any additional tax credits with respect to the business,
71 shall be precluded from being approved as a qualified Missouri

72 **business and shall repay any financial assistance to the regional**
73 **SBTDC, in an amount to be determined by the regional SBTDC. Each**
74 **qualified Missouri business that loses its designation as a qualified**
75 **Missouri business shall enter into a repayment agreement with the**
76 **regional SBTDC specifying the terms of such repayment obligation.**

77 **(8) Investors in a qualified Missouri business shall be entitled to**
78 **keep all of the tax credits properly issued to such investors under this**
79 **section and section 348.273.**

80 **(9) The portions of documents and other materials submitted to**
81 **any regional SBTDC or the department that contain trade secrets shall**
82 **be kept confidential and shall be maintained in a secured environment**
83 **by the regional SBTDC and the department, as applicable. For the**
84 **purposes of this section and section 348.273, "trade secrets" means any**
85 **customer lists, formula, compound, production data, or compilation of**
86 **information that will allow individuals within a commercial concern**
87 **using such information the means to fabricate, produce, or compound**
88 **an article of trade or perform any service having commercial value,**
89 **which gives the user an opportunity to obtain a business advantage**
90 **over competitors who do not know or use such service.**

91 **(10) Each regional SBTDC and the department may prepare and**
92 **adopt procedures concerning the performance of the duties placed**
93 **upon each respective entity by this section and section 348.273.**

94 **3. Any qualified investor who makes a cash investment in a**
95 **qualified security of a qualified Missouri business may transfer the tax**
96 **credits such qualified investor may receive under subsection 4 of**
97 **section 348.273 to any natural person. Such transferee may claim the**
98 **tax credit against the transferee's Missouri income tax liability as**
99 **provided in subdivision (1) of subsection 4 of section 348.273, subject to**
100 **all restrictions and limitations set forth in this section and section**
101 **348.273. Only the full credit for any one investment shall be transferred**
102 **and this interest shall only be transferred one time. Documentation of**
103 **any tax credit transfer under this section shall be provided by the**
104 **qualified investor in the manner required by the department.**

105 **4. (1) Each qualified Missouri business for which tax credits**
106 **have been issued under this section and section 348.273 shall report to**
107 **the applicable regional SBTDC on an annual basis, on or before**
108 **February first. The regional SBTDC shall provide copies of the reports**

109 to the department. Such reports shall include the following:

110 (a) The name, address, and taxpayer identification number of
111 each investor who has made cash investment in the qualified securities
112 of the qualified Missouri business and has received tax credits for this
113 investment during the preceding year;

114 (b) The amounts of these cash investments by each investor and
115 a description of the qualified securities issued in consideration of such
116 cash investments; and

117 (c) Any additional information as the regional SBTDC or the
118 department may reasonably require under this section and section
119 348.273.

120 (2) Each regional SBTDC shall report quarterly to the
121 department on the allocation of the tax credits in the preceding
122 calendar quarter. Such reports shall include:

123 (a) The amount of applications the regional SBTDC received;

124 (b) The number and ratio of successful applications to
125 unsuccessful applications;

126 (c) The amount of tax credits allocated but not issued in the
127 previous quarter, including what percentage was allocated to
128 individuals and what percentage was allocated to investment firms;

129 (d) The amount of unallocated tax credits; and

130 (e) Such other information as reasonably agreed upon by each
131 regional SBTDC and the department.

132 (3) The department shall also report annually to the governor,
133 the president pro tempore of the senate, and the speaker of the house
134 of representatives, on or before April first, on the allocation and
135 issuance of the tax credits. Such reports shall include:

136 (a) The amount of tax credits issued in the previous fiscal year,
137 including what percentage was issued to individuals and what
138 percentage was issued to investment firms;

139 (b) The types of businesses that benefitted from the tax credits;

140 (c) The amount of allocated but unissued tax credits and the
141 information about the unissued tax credits set forth in subdivision (2)
142 of this subsection;

143 (d) Any aggregate job creation or capital investment in the
144 region that resulted from the use of the tax credits for a period of five
145 years beginning from the date on which the tax credits were awarded;

146 **(e) The manner in which the purpose of this section and section**
147 **348.273 has been carried out with regard to the region;**

148 **(f) The total cash investments made for the purchase of qualified**
149 **securities of qualified Missouri businesses within the region during the**
150 **preceding year and cumulatively since the effective date of this section**
151 **and section 348.273;**

152 **(g) An estimate of jobs created and jobs preserved by cash**
153 **investments made in qualified Missouri businesses within the region;**

154 **(h) An estimate of the multiplier effect on the economy of the**
155 **region of the cash investments made under this section and section**
156 **348.273;**

157 **(i) Information regarding what businesses derived benefit from**
158 **the tax credits remained in the region, what businesses ceased**
159 **business, what businesses were purchased, and what businesses may**
160 **have moved out-of-region or out-of-state and why.**

161 **(4) Any violation of the reporting requirements of this subsection**
162 **by a qualified Missouri business may be grounds for the loss of**
163 **designation of such qualified Missouri business, and such business that**
164 **loses its designation as a qualified Missouri business shall be subject**
165 **to the restrictions upon loss of designation set forth in subsection 2 of**
166 **this section.**

167 **5. Notwithstanding sections 23.250 to 23.298 of the Missouri**
168 **sunset act, sections 348.273 and 348.274 shall expire on December 31,**
169 **2019.**

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. For each fiscal year beginning on or after July 1, 2013, no**
268 **more than twenty million dollars in tax credits shall be authorized**
269 **under the provisions of section 447.700 to 447.718.**

Section 1. 1. No political subdivision shall be responsible for
2 **costs associated with upgrading infrastructure due to an increased use**
3 **of such infrastructure caused by the program authorized under sections**
4 **135.1550 to 135.1575.**

5 **2. The department of natural resources shall conduct a**
6 **comprehensive water study on the impact that the program authorized**
7 **under sections 135.1550 to 135.1575 has on surrounding storm water**
8 **drainage.**

[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.]

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.

✓

Bill

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