

SECOND REGULAR SESSION

# SENATE BILL NO. 545

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RICHARD.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4493S.011

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## AN ACT

To repeal section 253.550, RSMo, and to enact in lieu thereof three new sections relating to historic buildings, with an emergency clause.

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

Section A. Section 253.550, RSMo, is repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 253.550, 620.3200, and 620.3210,  
3 to read as follows:

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20 amount of tax credits for which approval shall be rescinded under the provisions  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 before June 30, 2018**, the department of economic development shall  
23 not approve applications for tax credits under the provisions of subsections 3 and  
24 8 of section 253.559 which, in the aggregate, exceed one hundred forty million  
25 dollars, increased by any amount of tax credits for which approval shall be  
26 rescinded under the provisions of section 253.559. **For each fiscal year**  
27 **beginning on or after July 1, 2018, the department of economic**  
28 **development shall not approve applications for tax credits under the**  
29 **provisions of subsections 3 and 8 of section 253.559 which, in the**  
30 **aggregate, exceed eighty million dollars, increased by any amount of**  
31 **tax credits for which approval shall be rescinded under the provisions**  
32 **of section 253.559.** The limitations provided under this subsection shall not  
33 apply to applications approved under the provisions of subsection 3 of section  
34 253.559 for projects to receive less than two hundred seventy-five thousand  
35 dollars in tax credits.

36 3. For all applications for tax credits approved on or after January 1,  
37 2010, no more than two hundred fifty thousand dollars in tax credits may be  
38 issued for eligible costs and expenses incurred in the rehabilitation of an eligible  
39 property which is a nonincome producing single-family, owner-occupied  
40 residential property and is either a certified historic structure or a structure in  
41 a certified historic district.

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

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

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

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

53 (b) Has received certification, by the state historic preservation officer,  
54 that the rehabilitation plan meets the standards consistent with the standards  
55 of the Secretary of the United States Department of the Interior, and the

56 rehabilitation costs and expenses associated with such rehabilitation shall exceed  
57 fifty percent of the total basis in the property.

**620.3200. The department of economic development may, in  
2 addition to the fees provided under section 620.1900, charge a fee to the  
3 recipient of any tax credits issued by the department under the  
4 provisions of chapter 253 in an amount not to exceed one percent of the  
5 amount of tax credits issued. The fee shall be payable to the Missouri  
6 development finance board for the benefit of the capitol complex fund  
7 established pursuant to section 620.3210 and shall be paid by the  
8 recipient upon the issuance of the tax credits. The department of  
9 economic development shall issue invoices for fees payable under this  
10 section.**

**620.3210. 1. This section shall be known and may be cited as the  
2 "Capitol Complex Tax Credit Act".**

**3 2. As used in this section, the following terms shall mean:**

**4 (1) "Board", the Missouri development finance board, a body  
5 corporate and politic created under sections 100.250 to 100.297 and  
6 100.700 to 100.850;**

**7 (2) "Capitol complex", the following buildings located in Jefferson  
8 City, Missouri:**

**9 (a) State capitol building, 201 West Capitol Avenue;**

**10 (b) Supreme court building, 207 West High Street;**

**11 (c) Old Federal Courthouse, 131 West High Street;**

**12 (d) Highway building, 105 Capitol Avenue;**

**13 (e) Governor's mansion, 100 Madison Street;**

**14 (3) "Certificate", a tax credit certificate issued under this section;**

**15 (4) "Department", the Missouri department of economic  
16 development;**

**17 (5) "Eligible artifact", any items of personal property specifically  
18 for display in a building in the capitol complex or former fixtures  
19 which were previously owned by the state and used within the capitol  
20 complex, but which had been removed. The board of public buildings  
21 shall, in their sole discretion, make all determinations as to which  
22 items are eligible artifacts and may employ such experts as may be  
23 useful to them in making such a determination;**

**24 (6) "Eligible artifact donation", a donation of an eligible artifact  
25 to the board of public buildings. The value of such donation shall be**

26 set by the board of public buildings who may employ such experts as  
27 may be useful to them in making such a determination. The board of  
28 public buildings shall, in their sole discretion, determine if an artifact  
29 is to be accepted;

30 (7) "Eligible monetary donation", donations received from a  
31 qualified donor to the capitol complex fund, created in this section, or  
32 to an organization exempt from taxation under 501(c)(3) of the Internal  
33 Revenue Service Code of 1986, as amended, whose mission and purpose  
34 is to restore, renovate, improve, and maintain one or more buildings in  
35 the capitol complex, that are to be used solely for projects to restore,  
36 renovate, improve, and maintain buildings and their furnishings in the  
37 capitol complex and the administration thereof. Eligible donations may  
38 include:

39 (a) Cash, including checks, money orders, credit card payments,  
40 or similar cash equivalents valued at the face value of the  
41 currency. Currency of other nations shall be valued based on the  
42 exchange rate on the date of the gift. The date of the donation shall be  
43 the date that cash or check is received by the applicant or the date  
44 posted to the donor's account in the case of credit or debit cards;

45 (b) Stocks from a publicly traded company;

46 (c) Bonds which are publicly traded;

47 (8) "Eligible recipient", the capitol complex fund, created in this  
48 section, or an organization exempt from taxation under 501(c)(3) of the  
49 Internal Revenue Service Code of 1986, as amended, whose mission and  
50 purpose is to restore, renovate, improve, and maintain one or more  
51 buildings in the capitol complex;

52 (9) "Qualified donor", any of the following individuals or entities  
53 who make an eligible monetary donation or eligible artifact donation  
54 to the capitol complex fund or other eligible recipient:

55 (a) A person, firm, partner in a firm, corporation, or a  
56 shareholder in an S corporation doing business in the state of Missouri  
57 and subject to the state income tax imposed in chapter 143;

58 (b) A corporation subject to the annual corporation franchise tax  
59 imposed in chapter 147;

60 (c) An insurance company paying an annual tax on its gross  
61 premium receipts in this state;

62 (d) Any other financial institution paying taxes to the state of

63 Missouri or any political subdivision of this state under chapter 148;

64 (e) An individual subject to the state income tax imposed in  
65 chapter 143;

66 (f) Any charitable organization, including any foundation or not-  
67 for-profit corporation, which is exempt from federal income tax and  
68 whose Missouri unrelated business taxable income, if any, would be  
69 subject to the state income tax imposed under chapter 143.

70 3. There is hereby created a fund to be known as the "Capitol  
71 Complex Fund", separate and distinct from all other board funds, which  
72 is hereby authorized to receive any eligible monetary donation as  
73 provided in this section and revenues derived from fees imposed  
74 pursuant to section 620.3200. The capitol complex fund shall be  
75 segregated into two accounts: a rehabilitation and renovation account  
76 and a maintenance account. Ninety percent of the revenues received  
77 from eligible donations pursuant to the provisions of this section and  
78 fees collected pursuant to section 620.3000 shall be deposited in the  
79 rehabilitation and renovation account and seven and one-half percent  
80 of such revenues shall be deposited in the maintenance account. The  
81 assets of these accounts, together with any interest which may accrue  
82 thereon, shall be used by the board solely for the purposes of  
83 restoration and maintenance of the building of the capitol complex as  
84 defined in this section, and for no other purpose. The remaining two  
85 and one-half percent of the revenues deposited into the fund may be  
86 used for the purposes of soliciting donations to the fund, advertising  
87 and promoting the fund, and administrative costs of administering the  
88 fund. Any amounts not used for those purposes shall be deposited back  
89 into the rehabilitation and renovation account and the maintenance  
90 account divided in the manner set forth in this section. The board may,  
91 as an administrative cost, use the funds to hire fund raising  
92 professionals and such other experts or advisors as may be necessary  
93 to carry out the board's duties under this section. The choice of  
94 projects for which the money is to be used, as well as the determination  
95 of the methods of carrying out the project and the procurement of  
96 goods and services thereon shall be made by the commissioner of  
97 administration. No monies shall be released from the fund for any  
98 expense without the approval of the commissioner of administration,  
99 who may delegate that authority as deemed appropriate. All contracts

100 for rehabilitation, renovation, or maintenance work shall be the  
101 responsibility of the commissioner of administration. A memorandum  
102 of understanding may be executed between the commissioner of  
103 administration and the board determining the processes for obligation,  
104 reservation, and payment of eligible costs from the fund. The  
105 commission of administration shall not obligate costs in excess of the  
106 fund balance. The board shall not be responsible for any costs  
107 obligated in excess of available funds and shall be held harmless in any  
108 contracts related to rehabilitation, renovation, and maintenance of  
109 capitol complex buildings. No other board funds shall be used to pay  
110 obligations made by the commissioner of administration related to  
111 activities under this section.

112 4. For all taxable years beginning on or after January 1, 2018,  
113 any qualified donor shall be allowed a credit against the taxes  
114 otherwise due under chapters 143 and 148, except for sections 143.191  
115 to 143.265, in an amount of fifty percent of the eligible monetary  
116 donation. The amount of the tax credit claimed may exceed the amount  
117 of the donor's state income tax liability in the tax year for which the  
118 credit is claimed. Any amount of credit that exceeds the qualified  
119 donor's state income tax liability may be refundable or may be carried  
120 forward to any of the taxpayer's four subsequent taxable years.

121 5. For all taxable years beginning on or after January 1, 2018,  
122 any qualified donor shall be allowed a credit against the taxes  
123 otherwise due under chapters 143 and 148, except for sections 143.191  
124 to 143.265, in an amount of thirty percent of the eligible artifact  
125 donation. The amount of the tax credit claimed may not exceed the  
126 amount of the qualified donor's state income tax liability in the tax  
127 year for which the credit is claimed. Any amount of credit that exceeds  
128 the qualified donor's state income tax liability shall not be refundable  
129 but may be carried forward to any other taxpayer's four subsequent  
130 taxable years.

131 6. To claim a credit for an eligible monetary donation as set forth  
132 in subsection 4 of this section, a qualified donor shall make an eligible  
133 monetary donation to the board as custodian of the capitol complex  
134 fund or other eligible recipient. Upon receipt of such donation, the  
135 board or other eligible recipient shall issue to the qualified donor a  
136 statement evidencing receipt of such donation, including the value of

137 such donation, with a copy to the department. Upon receipt of the  
138 statement from the eligible recipient, the department shall issue a tax  
139 credit certificate equal to fifty percent of the amount of the donation,  
140 to the qualified donor, as indicated in the statement from the eligible  
141 recipient.

142       7. To claim a credit for an eligible artifact donation as set forth  
143 in subsection 5 of this section, a qualified donor shall donate an eligible  
144 artifact to the board of public buildings. If the board of public  
145 buildings determines that artifact is an eligible artifact and has  
146 determined to accept the artifact, it shall issue a statement of donation  
147 to the eligible donor specifying the value placed on the artifact by the  
148 board of public buildings, with a copy to the department. Upon  
149 receiving a statement from the board of public buildings, the  
150 department shall issue a tax credit certificate equal to thirty percent  
151 of the amount of the donation, to the qualified donor as indicated in the  
152 statement from the board of public buildings.

153       8. The department shall not authorize more than ten million  
154 dollars in tax credits provided under this section in any calendar  
155 year. Donations shall be processed for tax credits on a first come, first  
156 serve basis. Donations received in excess of the tax credit cap shall be  
157 placed in line for tax credits issued the following year or shall be given  
158 the opportunity to complete their donation without the expectation of  
159 a tax credit, or shall request to have their donation returned.

160       9. Tax credits issued under the provisions of this section shall  
161 not be subject to the payment of any fee required under the provisions  
162 of section 620.1900.

163       10. Tax credits issued under this section may be assigned,  
164 transferred, sold, or otherwise conveyed, and the new owner of the tax  
165 credit shall have the same rights in the credit as the  
166 taxpayer. Whenever a certificate is assigned, transferred, sold, or  
167 otherwise conveyed, a notarized endorsement shall be filed with the  
168 department specifying the name and address of the new owner of the  
169 tax credit and the value of the credit.

170       11. The department may promulgate rules to implement the  
171 provisions of this section. Any rule or portion of a rule, as that term is  
172 defined in section 536.010 that is created under the authority delegated  
173 in this section shall become effective only if it complies with and is

174 **subject to all of the provisions of chapter 536, and, if applicable, section**  
175 **536.028. This section and chapter 536 are nonseverable and if any of**  
176 **the powers vested with the general assembly pursuant to chapter 536,**  
177 **to review, to delay the effective date, or to disapprove and annul a rule**  
178 **are subsequently held unconstitutional, then the grant of rulemaking**  
179 **authority and any rule proposed or adopted after August 28, 2018, shall**  
180 **be invalid and void.**

181 **12. Pursuant to section 23.253 of the Missouri sunset act:**

182 **(1) The provisions of the new program authorized under this**  
183 **section shall sunset automatically six years after August 28, 2018,**  
184 **unless reauthorized by an act of the general assembly; and**

185 **(2) If such program is reauthorized, the program authorized**  
186 **under this section shall sunset automatically twelve years after August**  
187 **28, 2018; and**

188 **(3) This section shall terminate on September first of the**  
189 **calendar year immediately following the calendar year in which the**  
190 **program authorized under this section is sunset.**

Section B. Because of the need to provide for the maintenance and upkeep  
2 of the capitol complex, section A of this act is deemed necessary for the immediate  
3 preservation of the public health, welfare, peace and safety, and is hereby  
4 declared to be an emergency act within the meaning of the constitution, and  
5 section A of this act shall be in full force and effect upon its passage and  
6 approval.

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