

SECOND REGULAR SESSION

# HOUSE BILL NO. 1848

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HEGEMAN AND MERIDETH (Co-sponsors).

Read 1<sup>st</sup> time February 7, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4422L.011

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### AN ACT

To repeal sections 135.110, 135.230, 135.700, 253.557, and 447.708, RSMo, and to enact in lieu thereof five new sections relating to economic development tax credit programs, with an emergency clause.

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

Section A. Sections 135.110, 135.230, 135.700, 253.557, and 447.708, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 135.110, 135.230,  
3 135.700, 253.557, and 447.708, to read as follows:

135.110. 1. Any taxpayer who shall establish a new business facility shall be allowed  
2 a credit, each year for ten years, in an amount determined pursuant to subsection 2 or 3 of this  
3 section, whichever is applicable, against the tax imposed by chapter 143, RSMo, excluding  
4 withholding tax imposed by sections 143.191 to 143.265, RSMo, or an insurance company which  
5 shall establish a new business facility by satisfying the requirements in subdivision (7) of section  
6 135.100 shall be allowed a credit against the tax otherwise imposed by chapter 148, RSMo, and  
7 in the case of an insurance company exempt from the thirty percent employee requirement of  
8 section 135.230, against any obligation imposed pursuant to section 375.916, RSMo, except that  
9 no taxpayer shall be entitled to multiple ten-year periods for subsequent expansions at the same  
10 facility, except as otherwise provided in this section. For the purpose of this section, the term  
11 "facility" shall mean, and be limited to, the facility or facilities which are located on the same site  
12 in which the new business facility is located, and in which the business conducted at such facility  
13 or facilities is directly related to the business conducted at the new business facility.  
14 Notwithstanding the provisions of this subsection, a taxpayer may be entitled to an additional  
15 ten-year period if a new business facility is expanded in the eighth, ninth or tenth year of the  
16 current ten-year period or in subsequent years following the expiration of the ten-year period, if

17 the number of new business facility employees attributed to such expansion is at least  
18 twenty-five and the amount of new business facility investment attributed to such expansion is  
19 at least one million dollars. Credits may not be carried forward but shall be claimed for the  
20 taxable year during which commencement of commercial operations occurs at such new business  
21 facility, and for each of the nine succeeding taxable years. A letter of intent, as provided for in  
22 section 135.258, must be filed with the department of economic development no later than  
23 fifteen days prior to the commencement of commercial operations at the new business facility.  
24 The initial application for claiming tax credits must be made in the taxpayer's tax period  
25 immediately following the tax period in which commencement of commercial operations began  
26 at the new business facility. This provision shall have effect on all initial applications filed on  
27 or after August 28, 1992. No credit shall be allowed pursuant to this section unless the number  
28 of new business facility employees engaged or maintained in employment at the new business  
29 facility for the taxable year for which the credit is claimed equals or exceeds two; except that the  
30 number of new business facility employees engaged or maintained in employment by a  
31 revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs  
32 (a) to (g) and (i) to (l) of subdivision (11) of section 135.100 which establishes an office as  
33 defined in subdivision (8) of section 135.100 shall equal or exceed twenty-five.

34 2. For tax periods beginning after August 28, 1991, in the case of a taxpayer operating  
35 an existing business facility, the credit allowed by subsection 1 of this section shall offset the  
36 greater of:

37 (1) Some portion of the income tax otherwise imposed by chapter 143, RSMo, excluding  
38 withholding tax imposed by sections 143.191 to 143.265, RSMo, or in the case of an insurance  
39 company, the tax on the direct premiums, as defined in chapter 148, RSMo, and in the case of  
40 an insurance company exempt from the thirty percent employee requirement of section 135.230,  
41 against any obligation imposed pursuant to section 375.916, RSMo, with respect to such  
42 taxpayer's new business facility income for the taxable year for which such credit is allowed; or

43 (2) Up to fifty percent or, in the case of an economic development project located within  
44 a distressed community as defined in section 135.530, seventy-five percent of the business  
45 income tax otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by  
46 sections 143.191 to 143.265, RSMo, or in the case of an insurance company, the tax on the direct  
47 premiums, as defined in chapter 148, RSMo, and in the case of an insurance company exempt  
48 from the thirty percent employee requirement of section 135.230, against any obligation imposed  
49 pursuant to section 375.916, RSMo, if the business operates no other facilities in Missouri. In  
50 the case of an existing business facility operating more than one facility in Missouri, the credit  
51 allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in  
52 subdivision (1) of this subsection or twenty-five percent or, in the case of an economic

53 development project located within a distressed community as defined in section 135.530,  
54 thirty-five percent of the business' tax, except that no taxpayer operating more than one facility  
55 in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an  
56 economic development project located within a distressed community as defined in section  
57 135.530, thirty-five percent of the taxpayer's business income tax in any tax period under the  
58 method prescribed in this subdivision. Such credit shall be an amount equal to the sum of one  
59 hundred dollars or, in the case of an economic development project located within a distressed  
60 community as defined in section 135.530, one hundred fifty dollars for each new business facility  
61 employee plus one hundred dollars or, in the case of an economic development project located  
62 within a distressed community as defined in section 135.530, one hundred fifty dollars for each  
63 one hundred thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one  
64 percent or more) in new business facility investment. For the purpose of this section, tax credits  
65 earned by a taxpayer, who establishes a new business facility because it satisfies the requirements  
66 of paragraph (c) of subdivision (4) of section 135.100, shall offset the greater of the portion  
67 prescribed in subdivision (1) of this subsection or up to fifty percent or, in the case of an  
68 economic development project located within a distressed community as defined in section  
69 135.530, seventy-five percent of the business' tax provided the business operates no other  
70 facilities in Missouri. In the case of a business operating more than one facility in Missouri, the  
71 credit allowed in subsection 1 of this section shall offset up to the greater of the portion  
72 prescribed in subdivision (1) of this subsection or twenty-five percent or, in the case of an  
73 economic development project located within a distressed community as defined in section  
74 135.530, thirty-five percent of the business' tax, except that no taxpayer operating more than one  
75 facility in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an  
76 economic development project located within a distressed community as defined in section  
77 135.530, thirty-five percent of the taxpayer's business income tax in any tax period under the  
78 method prescribed in this subdivision.

79 3. For tax periods beginning after August 28, 1991, in the case of a taxpayer not  
80 operating an existing business facility, the credit allowed by subsection 1 of this section shall  
81 offset the greater of:

82 (1) Some portion of the income tax otherwise imposed by chapter 143, RSMo, excluding  
83 withholding tax imposed by sections 143.191 to 143.265, RSMo, or in the case of an insurance  
84 company, the tax on the direct premiums, as defined in chapter 148, RSMo, and in the case of  
85 an insurance company exempt from the thirty percent employee requirement of section 135.230,  
86 against any obligation imposed pursuant to section 375.916, RSMo, with respect to such  
87 taxpayer's new business facility income for the taxable year for which such credit is allowed; or

88 (2) Up to one hundred percent of the business income tax otherwise imposed by chapter

89 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or in  
90 the case of an insurance company, the tax on the direct premiums, as defined in chapter 148,  
91 RSMo, and in the case of an insurance company exempt from the thirty percent employee  
92 requirement of section 135.230, against any obligation imposed pursuant to section 375.916,  
93 RSMo, if the business has no other facilities operating in Missouri. In the case of a taxpayer not  
94 operating an existing business and operating more than one facility in Missouri, the credit  
95 allowed by subsection 1 of this section shall offset up to the greater of the portion prescribed in  
96 subdivision (1) of this subsection or twenty-five percent or, in the case of an economic  
97 development project located within a distressed community as defined in section 135.530,  
98 thirty-five percent of the business' tax, except that no taxpayer operating more than one facility  
99 in Missouri shall be allowed to offset more than twenty-five percent or, in the case of an  
100 economic development project located within a distressed community as defined in section  
101 135.530, thirty-five percent of the taxpayer's business income tax in any tax period under the  
102 method prescribed in this subdivision. Such credit shall be an amount equal to the sum of  
103 seventy-five dollars or, in the case of an economic development project located within a  
104 distressed community as defined in section 135.530, one hundred twenty-five dollars for each  
105 new business facility employee plus seventy-five dollars or, in the case of an economic  
106 development project located within a distressed community as defined in section 135.530, one  
107 hundred twenty-five dollars for each one hundred thousand dollars, or major fraction thereof  
108 (which shall be deemed to be fifty-one percent or more) in new business facility investment.

109 4. The number of new business facility employees during any taxable year shall be  
110 determined by dividing by twelve the sum of the number of individuals employed on the last  
111 business day of each month of such taxable year. If the new business facility is in operation for  
112 less than the entire taxable year, the number of new business facility employees shall be  
113 determined by dividing the sum of the number of individuals employed on the last business day  
114 of each full calendar month during the portion of such taxable year during which the new  
115 business facility was in operation by the number of full calendar months during such period. For  
116 the purpose of computing the credit allowed by this section in the case of a facility which  
117 qualifies as a new business facility because it qualifies as a separate facility pursuant to  
118 subsection 6 of this section, and, in the case of a new business facility which satisfies the  
119 requirements of paragraph (c) of subdivision (4) of section 135.100, or subdivision (10) of  
120 section 135.100, the number of new business facility employees at such facility shall be reduced  
121 by the average number of individuals employed, computed as provided in this subsection, at the  
122 facility during the taxable year immediately preceding the taxable year in which such expansion,  
123 acquisition, or replacement occurred and shall further be reduced by the number of individuals  
124 employed by the taxpayer or related taxpayer that was subsequently transferred to the new

125 business facility from another Missouri facility and for which credits authorized in this section  
126 are not being earned, whether such credits are earned because of an expansion, acquisition,  
127 relocation or the establishment of a new facility.

128         5. For the purpose of computing the credit allowed by this section in the case of a facility  
129 which qualifies as a new business facility because it qualifies as a separate facility pursuant to  
130 subsection 6 of this section, and, in the case of a new business facility which satisfies the  
131 requirements of paragraph (c) of subdivision (4) of section 135.100 or subdivision (10) of section  
132 135.100, the amount of the taxpayer's new business facility investment in such facility shall be  
133 reduced by the average amount, computed as provided in subdivision (7) of section 135.100 for  
134 new business facility investment, of the investment of the taxpayer, or related taxpayer  
135 immediately preceding such expansion or replacement or at the time of acquisition.  
136 Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced  
137 by the amount of investment employed by the taxpayer or related taxpayer which was  
138 subsequently transferred to the new business facility from another Missouri facility and for which  
139 credits authorized in this section are not being earned, whether such credits are earned because  
140 of an expansion, acquisition, relocation or the establishment of a new facility.

141         6. If a facility, which does not constitute a new business facility, is expanded by the  
142 taxpayer, the expansion shall be considered a separate facility eligible for the credit allowed by  
143 this section if:

144         (1) The taxpayer's new business facility investment in the expansion during the tax  
145 period in which the credits allowed in this section are claimed exceeds one hundred thousand  
146 dollars, or, if less, one hundred percent of the investment in the original facility prior to  
147 expansion and if the number of new business facility employees engaged or maintained in  
148 employment at the expansion facility for the taxable year for which credit is claimed equals or  
149 exceeds two, except that the number of new business facility employees engaged or maintained  
150 in employment at the expansion facility for the taxable year for which the credit is claimed  
151 equals or exceeds twenty-five if an office as defined in subdivision (8) of section 135.100 is  
152 established by a revenue-producing enterprise other than a revenue-producing enterprise defined  
153 in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of section 135.100 and the total number  
154 of employees at the facility after the expansion is at least two greater than the total number of  
155 employees before the expansion, except that the total number of employees at the facility after  
156 the expansion is at least greater than the number of employees before the expansion by  
157 twenty-five, if an office as defined in subdivision (8) of section 135.100 is established by a  
158 revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs  
159 (a) to (g) and (i) to (l) of subdivision (11) of section 135.100; and

160         (2) The expansion otherwise constitutes a new business facility. The taxpayer's

investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (7) of section 135.100.

7. No credit shall be allowed pursuant to this section to a public utility, as such term is defined in section 386.020, RSMo. Notwithstanding any provision of this subsection to the contrary, motor carriers, barge lines or railroads engaged in transporting property for hire, or any interexchange telecommunications company or local exchange telecommunications company that establishes a new business facility shall be eligible to qualify for credits allowed in this section.

8. For the purposes of the credit described in this section, in the case of a corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax liability, this credit shall be allowed to the following:

(1) The shareholders of the corporation described in section 143.471, RSMo;

(2) The partners of the partnership.

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

9. Notwithstanding any provision of law to the contrary, any employee-owned engineering firm classified as SIC 8711, architectural firm as classified SIC 8712, or accounting firm classified SIC 8721 establishing a new business facility because it qualifies as a headquarters as defined in subsection 10 of this section, shall be allowed the credits described in subsection 11 of this section under the same terms and conditions prescribed in sections 135.100 to 135.150; provided:

(1) Such facility maintains an average of at least five hundred new business facility employees as defined in subdivision (5) of section 135.100 during the taxpayer's tax period in which such credits are being claimed; and

(2) Such facility maintains an average of at least twenty million dollars in new business facility investment as defined in subdivision (7) of section 135.100 during the taxpayer's tax period in which such credits are being claimed.

10. For the purpose of the credits allowed in subsection 9 of this section:

(1) "Employee-owned" means the business employees own directly or indirectly, including through an employee stock ownership plan or trust at least:

(a) Seventy-five percent of the total business stock, if the taxpayer is a corporation described in section 143.441, RSMo; or

(b) One hundred percent of the interest in the business if the taxpayer is a corporation described in section 143.471, RSMo, a partnership, or a limited liability company; and

(2) "Headquarters" means:

197 (a) The administrative management of at least three integrated facilities operated by the  
198 taxpayer or related taxpayer; and

199 (b) The taxpayer's business has been headquartered in this state for more than fifty years.

200 11. The tax credits allowed in subsection 9 of this section shall be the greater of:

201 (1) Four hundred dollars for each new business facility employee as computed in  
202 subsection 4 of this section and four percent of new business facility investment as computed in  
203 subsection 5 of this section; or

204 (2) Five hundred dollars for each new business facility employee as computed in  
205 subsection 4 of this section, and five hundred dollars of each one hundred thousand dollars of  
206 new business facility investment as computed in subsection 5 of this section.

207 12. For the purpose of the credit described in subsection 9 of this section, in the case of  
208 a small corporation described in section 143.471, RSMo, or a partnership, or a limited liability  
209 company, the credits allowed in subsection 9 of this section shall be apportioned in proportion  
210 to the share of ownership of each shareholder, partner or stockholder on the last day of the  
211 taxpayer's tax period for which such credits are being claimed.

212 13. For the purpose of the credit described in subsection 9 of this section, tax credits  
213 earned, to the extent such credits exceed the taxpayer's Missouri tax on taxable business income,  
214 shall constitute an overpayment of taxes and in such case, be refunded to the taxpayer provided  
215 such refunds are used by the taxpayer to purchase specified facility items. For the purpose of the  
216 refund as authorized in this subsection, "specified facility items" means equipment, computers,  
217 computer software, copiers, tenant finishing, furniture and fixtures installed and in use at the new  
218 business facility during the taxpayer's taxable year. The taxpayer shall perfect such refund by  
219 attesting in writing to the director, subject to the penalties of perjury, the requirements prescribed  
220 in this subsection have been met and submitting any other information the director may require.

221 14. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign,  
222 exchange, convey or otherwise transfer tax credits allowed in subsection 9 of this section under  
223 the terms and conditions prescribed in subdivisions (1) and (2) of this subsection. Such taxpayer,  
224 referred to as the assignor for the purpose of this subsection, may sell, assign, exchange or  
225 otherwise transfer earned tax credits:

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

227 (2) In an amount not to exceed one hundred percent of such earned credits. The taxpayer  
228 acquiring the earned credits referred to as the assignee for the purpose of this subsection may use  
229 the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed  
230 by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261,  
231 RSMo, or chapter 148, RSMo, or in the case of an insurance company exempt from the thirty  
232 percent employee requirement of section 135.230, against any obligation imposed pursuant to

section 375.916, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which commencement of commercial operations occurred at the new business facility. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the director in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the director to administer and carry out the provisions of this subsection. Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the difference between the amount paid by the assignee and the par value of the credits shall be taxable as income of the assignee.

**15. Beginning July 1, 2002, the cumulative amount of tax credits which may be claimed pursuant to this section in any one fiscal year shall not exceed six million seven hundred fifty thousand dollars. The director of the department of economic development shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of the department of economic development, the cumulative amount of tax credits are equally apportioned among all taxpayers qualifying for the tax credits pursuant to this section. The director of the department of economic development may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of the department of economic development shall establish the procedure described in this subsection in such a manner that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for that fiscal year.**

135.230. 1. The exemption or credit established and allowed by section 135.220 and the credits allowed and established by subdivisions (1), (2), (3) and (4) of subsection 1 of section 135.225 shall be granted with respect to any new business facility located within an enterprise zone for a vested period not to exceed ten years following the date upon which the new business facility commences operation within the enterprise zone and such exemption shall be calculated, for each succeeding year of eligibility, in accordance with the formulas applied in the initial year in which the new business facility is certified as such, subject, however, to the limitation that all such credits allowed in sections 135.225 and 135.235 and the exemption allowed in section 135.220 shall be removed not later than fifteen years after the enterprise zone is designated as such. No credits shall be allowed pursuant to subdivision (1), (2), (3) or (4) of subsection 1 of section 135.225 or section 135.235 and no exemption shall be allowed pursuant to section 135.220 unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed



14 equals or exceeds two or the new business facility is a revenue-producing enterprise as defined  
15 in paragraph (d) of subdivision (6) of section 135.200. In order to qualify for either the  
16 exemption pursuant to section 135.220 or the credit pursuant to subdivision (4) of subsection 1  
17 of section 135.225, or both, it shall be required that at least thirty percent of new business facility  
18 employees, as determined by subsection 4 of section 135.110, meet the criteria established in  
19 section 135.240 or are residents of an enterprise zone or some combination thereof, except  
20 taxpayers who establish a new business facility by operating a revenue-producing enterprise as  
21 defined in paragraph (d) of subdivision (6) of section 135.200 or any taxpayer that is an  
22 insurance company that established a new business facility satisfying the requirements of  
23 subdivision (8) of section 135.100 located within an enterprise zone after June 30, 1993, and  
24 before December 31, 1994, and that employs in excess of three hundred fifty new business  
25 facility employees at such facility each tax period for which the credits allowable pursuant to  
26 subdivisions (1) to (4) of subsection 1 of section 135.225 are claimed shall not be required to  
27 meet such requirement. A new business facility described as SIC 3751 shall be required to  
28 employ fifteen percent of such employees instead of the required thirty percent. For the purpose  
29 of satisfying the thirty-percent requirement, residents must have lived in the enterprise zone for  
30 a period of at least one full calendar month and must have been employed at the new business  
31 facility for at least one full calendar month, and persons qualifying because they meet the  
32 requirements of section 135.240 must have satisfied such requirement at the time they were  
33 employed by the new business facility and must have been employed at the new business facility  
34 for at least one full calendar month. The director may temporarily reduce or waive this  
35 requirement for any business in an enterprise zone with ten or less full-time employees, and for  
36 businesses with eleven to twenty full-time employees this requirement may be temporarily  
37 reduced. No reduction or waiver may be granted for more than one tax period and shall not be  
38 renewable. The exemptions allowed in sections 135.215 and 135.220 and the credits allowed  
39 in sections 135.225 and 135.235 and the refund established and authorized in section 135.245  
40 shall not be allowed to any "public utility", as such term is defined in section 386.020, RSMo.  
41 For the purposes of achieving the fifteen-percent employment requirement set forth in this  
42 subsection, a new business facility described as NAICS 336991 may count employees who were  
43 residents of the enterprise zone at the time they were employed by the new business facility and  
44 for at least ninety days thereafter, regardless of whether such employees continue to reside in the  
45 enterprise zone, so long as the employees remain employed by the new business facility and  
46 residents of the state of Missouri.

47 2. Notwithstanding the provisions of subsection 1 of this section, motor carriers, barge  
48 lines or railroads engaged in transporting property for hire or any interexchange  
49 telecommunications company that establish a new business facility shall be eligible to qualify

50 for the exemptions allowed in sections 135.215 and 135.220, and the credits allowed in sections  
51 135.225 and 135.235 and the refund established and authorized in section 135.245, except that  
52 trucks, truck-trailers, truck semitrailers, rail or barge vehicles or other rolling stock for hire,  
53 track, switches, bridges, barges, tunnels, rail yards and spurs shall not constitute new business  
54 facility investment nor shall truck drivers or rail or barge vehicle operators constitute new  
55 business facility employees.

56 3. Notwithstanding any other provision of sections 135.200 to 135.256 to the contrary,  
57 motor carriers establishing a new business facility on or after January 1, 1993, but before January  
58 1, 1995, may qualify for the tax credits available pursuant to sections 135.225 and 135.235 and  
59 the exemption provided in section 135.220, even if such new business facility has not satisfied  
60 the employee criteria, provided that such taxpayer employs an average of at least two hundred  
61 persons at such facility, exclusive of truck drivers and provided that such taxpayer maintains an  
62 average investment of at least ten million dollars at such facility, exclusive of rolling stock,  
63 during the tax period for which such credits and exemption are being claimed.

64 4. Any governing authority having jurisdiction of an area that has been designated an  
65 enterprise zone may petition the department to expand the boundaries of such existing enterprise  
66 zone. The director may approve such expansion if the director finds that:

67 (1) The area to be expanded meets the requirements prescribed in section 135.207 or  
68 135.210, whichever is applicable;

69 (2) The area to be expanded is contiguous to the existing enterprise zone; and

70 (3) The number of expansions do not exceed three after August 28, 1994.

71 5. Notwithstanding the fifteen-year limitation as prescribed in subsection 1 of this  
72 section, any governing authority having jurisdiction of an area that has been designated as an  
73 enterprise zone by the director, except one designated pursuant to this subsection, may file a  
74 petition, as prescribed by the director, for redesignation of such area for an additional period not  
75 to exceed seven years following the fifteenth anniversary of the enterprise zone's initial  
76 designation date; provided:

77 (1) The petition is filed with the director within three years prior to the date the tax  
78 credits authorized in sections 135.225 and 135.235 and the exemption allowed in section  
79 135.220 are required to be removed pursuant to subsection 1 of this section;

80 (2) The governing authority identifies and conforms the boundaries of the area to be  
81 designated a new enterprise zone to the political boundaries established by the latest decennial  
82 census, unless otherwise approved by the director;

83 (3) The area satisfies the requirements prescribed in subdivisions (3), (4) and (5) of  
84 section 135.205 according to the latest decennial census or other appropriate source as approved  
85 by the director;

86 (4) The governing authority satisfies the requirements prescribed in sections 135.210,  
87 135.215 and 135.255;

88 (5) The director finds that the area is unlikely to support reasonable tax assessment or  
89 to experience reasonable economic growth without such designation; and

90 (6) The director's recommendation that the area be designated as an enterprise zone is  
91 approved by the joint committee on economic development policy and planning, as otherwise  
92 required in subsection 3 of section 135.210.

93 6. Any taxpayer having established a new business facility in an enterprise zone except  
94 one designated pursuant to subsection 5 of this section, who did not earn the tax credits  
95 authorized in sections 135.225 and 135.235 and the exemption allowed in section 135.220 for  
96 the full ten-year period because of the fifteen-year limitation as prescribed in subsection 1 of this  
97 section, shall be granted such benefits for ten tax years, less the number of tax years the benefits  
98 were claimed or could have been claimed prior to the expiration of the original fifteen-year  
99 period, except that such tax benefits shall not be earned for more than seven tax periods during  
100 the ensuing seven-year period, provided the taxpayer continues to operate the new business  
101 facility in an area that is designated an enterprise zone pursuant to subsection 5 of this section.  
102 Any taxpayer who establishes a new business facility subsequent to the commencement of the  
103 ensuing seven-year period, as authorized in subsection 5 of this section, may qualify for the tax  
104 credits authorized in sections 135.225 and 135.235, and the exemptions authorized in sections  
105 135.215 and 135.220, pursuant to the same terms and conditions as prescribed in sections  
106 135.100 to 135.256. The designation of any enterprise zone pursuant to subsection 5 of this  
107 section shall not be subject to the fifty enterprise zone limitation imposed in subsection 4 of  
108 section 135.210.

109 **7. Beginning July 1, 2002, the cumulative amount of tax credits which may be**  
110 **claimed pursuant to this section in any one fiscal year shall not exceed twenty-two million**  
111 **four hundred thousand dollars. The director of the department of economic development**  
112 **shall establish a procedure by which, from the beginning of the fiscal year until some point**  
113 **in time later in the fiscal year to be determined by the director of the department of**  
114 **economic development, the cumulative amount of tax credits are equally apportioned**  
115 **among all taxpayers qualifying for the tax credits pursuant to this section. The director**  
116 **of the department of economic development may establish more than one period of time**  
117 **and reapportion more than once during each fiscal year. To the maximum extent possible,**  
118 **the director of the department of economic development shall establish the procedure**  
119 **described in this subsection in such a manner that taxpayers can claim all the tax credits**  
120 **possible up to the cumulative amount of tax credits available for that fiscal year.**

135.700. 1. For all tax years beginning on or after January 1, 1999, a grape grower or

2 wine producer shall be allowed a tax credit against the state tax liability incurred pursuant to  
3 chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided  
4 in sections 143.191 to 143.265, RSMo, in an amount equal to twenty-five percent of the purchase  
5 price of all new equipment and materials used directly in the growing of grapes or the production  
6 of wine in the state. Each grower or producer shall apply to the department of economic  
7 development and specify the total amount of such new equipment and materials purchased  
8 during the calendar year. The department of economic development shall certify to the  
9 department of revenue the amount of such tax credit to which a grape grower or wine producer  
10 is entitled pursuant to this section. The provisions of this section notwithstanding, a grower or  
11 producer may only apply for and receive the credit authorized by this section for five tax periods.

12 **2. Beginning July 1, 2002, the cumulative amount of tax credits which may be**  
13 **claimed pursuant to this section in any one fiscal year shall not exceed four hundred sixty**  
14 **thousand dollars. The director of the department of economic development shall establish**  
15 **a procedure by which, from the beginning of the fiscal year until some point in time later**  
16 **in the fiscal year to be determined by the director of the department of economic**  
17 **development, the cumulative amount of tax credits are equally apportioned among all**  
18 **taxpayers qualifying for the tax credits pursuant to this section. The director of the**  
19 **department of economic development may establish more than one period of time and**  
20 **reapportion more than once during each fiscal year. To the maximum extent possible, the**  
21 **director of the department of economic development shall establish the procedure**  
22 **described in this subsection in such a manner that taxpayers can claim all the tax credits**  
23 **possible up to the cumulative amount of tax credits available for that fiscal year.**

253.557. 1. If the amount of such credit exceeds the total tax liability for the year in  
2 which the rehabilitated property is placed in service, the amount that exceeds the state tax  
3 liability may be carried back to any of the three preceding years and carried forward for credit  
4 against the taxes imposed pursuant to chapter 143, RSMo, and chapter 148, RSMo, except for  
5 sections 143.191 to 143.265, RSMo, for the succeeding ten years, or until the full credit is used,  
6 whichever occurs first. Not-for-profit entities, including but not limited to corporations  
7 organized as not-for-profit corporations pursuant to chapter 355, RSMo, shall be ineligible for  
8 the tax credits authorized under sections 253.545 through 253.561. Taxpayers eligible for such  
9 tax credits may transfer, sell or assign the credits. Credits granted to a partnership, a limited  
10 liability company taxed as a partnership or multiple owners of property shall be passed through  
11 to the partners, members or owners respectively pro rata or pursuant to an executed agreement  
12 among the partners, members or owners documenting an alternate distribution method.

13 2. The assignee of the tax credits, hereinafter the assignee for purposes of this  
14 subsection, may use acquired credits to offset up to one hundred percent of the tax liabilities

15 otherwise imposed pursuant to chapter 143, RSMo, and chapter 148, RSMo, except for sections  
16 143.191 to 143.265, RSMo. The assignor shall perfect such transfer by notifying the department  
17 of economic development in writing within thirty calendar days following the effective date of  
18 the transfer and shall provide any information as may be required by the department of economic  
19 development to administer and carry out the provisions of this section.

20 **3. Beginning July 1, 2002, the cumulative amount of tax credits which may be**  
21 **claimed pursuant to this section in any one fiscal year shall not exceed thirty six million**  
22 **dollars. The director of the department of economic development shall establish a**  
23 **procedure by which, from the beginning of the fiscal year until some point in time later in**  
24 **the fiscal year to be determined by the director of the department of economic**  
25 **development, the cumulative amount of tax credits are equally apportioned among all**  
26 **taxpayers qualifying for the tax credits pursuant to this section. The director of the**  
27 **department of economic development may establish more than one period of time and**  
28 **reapportion more than once during each fiscal year. To the maximum extent possible, the**  
29 **director of the department of economic development shall establish the procedure**  
30 **described in this subsection in such a manner that taxpayers can claim all the tax credits**  
31 **possible up to the cumulative amount of tax credits available for that fiscal year.**

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

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

16 (2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax  
17 credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and  
18 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which  
19 supply at least twenty-five existing jobs, or combination thereof. For purposes of sections

20 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows:  
21 the tax credit shall be four hundred dollars per employee per year, an additional four hundred  
22 dollars per year for each employee exceeding the minimum employment thresholds of ten and  
23 twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars  
24 per year for each person who is "a person difficult to employ" as defined by section 135.240,  
25 RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4)  
26 of subsection 1 of section 135.225, RSMo;

27 (3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo,  
28 the eligible project must create at least ten new jobs or retain businesses which supply at least  
29 twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of  
30 section 135.245, RSMo, for application and use of the refund and the eligibility requirements of  
31 this section;

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

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

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

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

54 (8) For the purpose of meeting the existing job retention requirement, if the eligible  
55 project replaces a similar facility that closed elsewhere in Missouri prior to the end of the

56 taxpayer's tax period in which the tax credits are earned, it shall be required that at least  
57 twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time  
58 basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a  
59 person who was previously employed by the taxpayer or related taxpayer, at a facility similar to  
60 the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period  
61 in which the tax credits are earned, within the tax period immediately preceding the time the  
62 person was employed by the taxpayer to work at, or in connection with, the eligible project on  
63 a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five  
64 hours per week during the taxpayer's tax period for which the tax credits are earned;

65 (9) In the case where an eligible project replaces a similar facility that closed elsewhere  
66 in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the  
67 owner and operator of the eligible project shall provide the director with a written statement  
68 explaining the reason for discontinuing operations at the closed facility. The statement shall  
69 include a comparison of the activities performed at the closed facility prior to the date the facility  
70 ceased operating, to the activities performed at the eligible project, and a detailed account  
71 describing the need and rationale for relocating to the eligible project. If the director finds the  
72 relocation to the eligible project significantly impaired the economic stability of the area in  
73 which the closed facility was located, and that such move was detrimental to the overall  
74 economic development efforts of the state, the director may deny the taxpayer's request to claim  
75 tax benefits;

76 (10) Notwithstanding any provision of law to the contrary, for the purpose of this  
77 section, the number of new jobs created and maintained, the number of existing jobs retained,  
78 and the value of new qualified investment used at the eligible project during any tax year shall  
79 be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals  
80 employed at the eligible project, or in the case of new qualified investment, the value of new  
81 qualified investment used at the eligible project, on the last business day of each full calendar  
82 month of the tax year. If the eligible project is in operation for less than the entire tax year, the  
83 number of new jobs created and maintained, the number of existing jobs retained, and the value  
84 of new qualified investment created at the eligible project during any tax year shall be  
85 determined by dividing the sum of the number of individuals employed at the eligible project,  
86 or in the case of new qualified investment, the value of new qualified investment used at the  
87 eligible project, on the last business day of each full calendar month during the portion of the tax  
88 year during which the eligible project was in operation, by the number of full calendar months  
89 during such period;

90 (11) For the purpose of this section, "new qualified investment" means new business  
91 facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo,

92 which is used at and in connection with the eligible project. "New qualified investment" shall  
93 not include small tools, supplies and inventory. "Small tools" means tools that are portable and  
94 can be hand held.

95 2. The determination of the director of economic development pursuant to subsection  
96 1 of this section, shall not affect requirements for the prospective purchaser to obtain the  
97 approval of the granting of real property tax abatement by the municipal or county government  
98 where the eligible project is located.

99 3. (1) The director of the department of economic development, with the approval of  
100 the director of the department of natural resources, may, in addition to the tax credits allowed  
101 in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one  
102 hundred percent of the costs of materials, supplies, equipment, labor, professional engineering,  
103 consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement,  
104 and direct utility charges for performing the voluntary remediation activities for the preexisting  
105 hazardous substance contamination and releases, including, but not limited to, the costs of  
106 performing operation and maintenance of the remediation equipment at the property beyond the  
107 year in which the systems and equipment are built and installed at the eligible project and the  
108 costs of performing the voluntary remediation activities over a period not in excess of four tax  
109 years following the taxpayer's tax year in which the system and equipment were first put into use  
110 at the eligible project, provided the remediation activities are the subject of a plan submitted to,  
111 and approved by, the director of natural resources pursuant to sections 260.565 to 260.575,  
112 RSMo.

113 (2) The director of the department of economic development, with the approval of the  
114 director of the department of natural resources, may, in addition to the tax credits otherwise  
115 allowed in this section, grant a demolition tax credit to the applicant for up to one hundred  
116 percent of the costs of demolition that are not part of the voluntary remediation activities,  
117 provided that the demolition is either on the property where the voluntary remediation activities  
118 are occurring or on any adjacent property, and that the demolition is part of a redevelopment plan  
119 approved by the municipal or county government and the department of economic development.

120 (3) The amount of remediation and demolition tax credits issued shall be limited to the  
121 least amount necessary to cause the project to occur, as determined by the director of the  
122 department of economic development.

123 (4) The director may, with the approval of the director of natural resources, extend the  
124 tax credits allowed for performing voluntary remediation maintenance activities, in increments  
125 of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed  
126 in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding  
127 withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed



128 by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation  
129 and demolition tax credit may be taken in the same tax year in which the tax credits are received  
130 or may be taken over a period not to exceed twenty years.

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

134 (6) No more than seventy-five percent of earned remediation tax credits may be issued  
135 when the remediation costs were paid, and the remaining percentage may be issued when the  
136 department of natural resources issues a "Letter of Completion" letter or covenant not to sue  
137 following completion of the voluntary remediation activities. It shall not include any costs  
138 associated with ongoing operational environmental compliance of the facility or remediation  
139 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations  
140 of the facility.

141 4. In the exercise of the sound discretion of the director of the department of economic  
142 development or the director's designee, the tax credits and exemptions described in this section  
143 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the  
144 conditions set forth in this section. In making such a determination, the director shall consider  
145 the severity of the condition violation, actions taken to correct the violation, the frequency of any  
146 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility  
147 owner and operator. The director shall also consider changes in general economic conditions and  
148 the recommendation of the director of the department of natural resources, or his or her designee,  
149 concerning the severity, scope, nature, frequency and extent of any violations of the  
150 environmental compliance conditions. The taxpayer or person claiming the tax credits or  
151 exemptions may appeal the decision regarding termination, suspension or revocation of any tax  
152 credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section  
153 135.250, RSMo. The director of the department of economic development shall notify the  
154 directors of the departments of natural resources and revenue of the termination, suspension or  
155 revocation of any tax credits as determined in this section or pursuant to the provisions of section  
156 447.716.

157 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
158 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection  
159 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax  
160 credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and  
161 135.245, RSMo, respectively, for the same facility for the same tax period.

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

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

165 (2) One hundred percent of the total business' income tax if the eligible facility does not  
166 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax  
167 period in which the tax credits are earned, and further provided the taxpayer does not operate any  
168 other facilities besides the eligible project in Missouri; fifty percent of the total business' income  
169 tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the  
170 end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer  
171 does not operate any other facilities besides the eligible project in Missouri; or twenty-five  
172 percent of the total business income if the taxpayer operates, in addition to the eligible facility,  
173 any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible  
174 project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business  
175 income in any tax period. That portion of the taxpayer's income attributed to the eligible project  
176 as referenced in subdivision (1) of this subsection, for which the credits allowed in sections  
177 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined  
178 in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of  
179 the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit  
180 may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision  
181 (6) of section 135.100, RSMo.

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

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

195 9. The recipient of remediation tax credits, for the purpose of this subsection referred to  
196 as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed  
197 in subsection 3 of this section, to any other person, for the purpose of this subsection referred to  
198 as assignee. To perfect the transfer, the assignor shall provide written notice to the director of  
199 the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective,

200 the assignee's name, address and the assignee's tax period and the amount of tax credits to be  
201 transferred. The number of tax periods during which the assignee may subsequently claim the  
202 tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor  
203 previously claimed the credits before the transfer occurred.

204 10. In the case where an operator and assignor of an eligible project has been certified  
205 to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and  
206 sells or otherwise transfers title of the eligible project to another taxpayer or assignee who  
207 continues the same or substantially similar operations at the eligible project, the director shall  
208 allow the assignee to claim the credits for a period of time to be determined by the director;  
209 except that, the total number of tax periods the tax credits may be earned by the assignor and the  
210 assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice  
211 to the director of the assignor's intent to transfer the tax credits to the assignee, the date the  
212 transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount  
213 of tax credits to be transferred.

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

217 (1) The shareholders of the corporation described in section 143.471, RSMo;

218 (2) The partners of the partnership.

219

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

223 **12. Beginning July 1, 2002, the cumulative amount of tax credits which may be**  
224 **claimed pursuant to this section in any one fiscal year shall not exceed four million five**  
225 **hundred thousand dollars. The director of the department of economic development shall**  
226 **establish a procedure by which, from the beginning of the fiscal year until some point in**  
227 **time later in the fiscal year to be determined by the director of the department of economic**  
228 **development, the cumulative amount of tax credits are equally apportioned among all**  
229 **taxpayers qualifying for the tax credits pursuant to this section. The director of the**  
230 **department of economic development may establish more than one period of time and**  
231 **reapportion more than once during each fiscal year. To the maximum extent possible, the**  
232 **director of the department of economic development shall establish the procedure**  
233 **described in this subsection in such a manner that taxpayers can claim all the tax credits**  
234 **possible up to the cumulative amount of tax credits available for that fiscal year.**

Section B. Because immediate action is necessary to resolve the current state budget

2 crisis, section A of this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the  
4 meaning of the constitution, and section A of this act shall be in full force and effect on July 1,  
5 2002, or upon its passage and approval, whichever later occurs.