

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 575

95TH GENERAL ASSEMBLY

1684L.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 99.1082, 99.1088, 99.1090, 99.1092, 100.710, 100.760, 100.770, 135.680, 338.337, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof twelve new sections relating to business incentives, with an emergency clause.

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

Section A. Sections 99.1082, 99.1088, 99.1090, 99.1092, 100.710, 100.760, 100.770, 2 135.680, 338.337, 620.1039, 620.1878, and 620.1881, RSMo, are repealed and twelve new 3 sections enacted in lieu thereof, to be known as sections 99.1082, 99.1088, 99.1090, 99.1092, 4 100.710, 100.760, 100.770, 135.680, 338.337, 620.1039, 620.1878, and 620.1881, to read as 5 follows:

99.1082. As used in sections 99.1080 to 99.1092, unless the context clearly requires 2 otherwise, the following terms shall mean:

3 (1) "Baseline year", the calendar year prior to the adoption of an ordinance by the 4 municipality approving a redevelopment project; provided, however, if local sales tax revenues 5 or state sales tax revenues, from businesses other than any out-of-state business or businesses 6 locating in the redevelopment project area, decrease in the redevelopment project area in the year 7 following the year in which the ordinance approving a redevelopment project is approved by a 8 municipality, the baseline year may, at the option of the municipality approving the 9 redevelopment project, be the year following the year of the adoption of the ordinance approving 10 the redevelopment project. When a redevelopment project area is located within a county for 11 which public and individual assistance has been requested by the governor under Section 401 12 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq., 13 for an emergency proclaimed by the governor under section 44.100, RSMo, due to a natural

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 disaster of major proportions and the redevelopment project area is a central business district that
15 sustained severe damage as a result of such natural disaster, as determined by the state
16 emergency management agency, the baseline year may, at the option of the municipality
17 approving the redevelopment project, be the calendar year in which the natural disaster occurred
18 or the year following the year in which the natural disaster occurred, provided that the
19 municipality adopts an ordinance approving the redevelopment project within one year after the
20 occurrence of the natural disaster;

21 (2) "Blighted area", an area which, by reason of the predominance of defective or
22 inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements,
23 improper subdivision or obsolete platting, or the existence of conditions which endanger life or
24 property by fire and other causes, or any combination of such factors, retards the provision of
25 housing accommodations or constitutes an economic or social liability or a menace to the public
26 health, safety, morals, or welfare in its present condition and use;

27 (3) "Central business district", the area at or near the historic core that is locally known
28 as the "downtown" of a municipality that has a median household income of sixty-two thousand
29 dollars or less, according to the last decennial census. In addition, at least fifty percent of
30 existing buildings in this area will have been built in excess of thirty-five years prior or vacant
31 lots that had prior structures built in excess of thirty-five years prior to the adoption of the
32 ordinance approving the redevelopment plan. The historical land use emphasis of a central
33 business district prior to redevelopment will have been a mixed use of business, commercial,
34 financial, transportation, government, and multifamily residential uses;

35 (4) "Conservation area", any improved area within the boundaries of a redevelopment
36 area located within the territorial limits of a municipality in which fifty percent or more of the
37 structures in the area have an age of thirty-five years or more, and such an area is not yet a
38 blighted area but is detrimental to the public health, safety, morals, or welfare and may become
39 a blighted area because of any one or more of the following factors: dilapidation; obsolescence;
40 deterioration; illegal use of individual structures; presence of structures below minimum code
41 standards; abandonment; excessive vacancies; overcrowding of structures and community
42 facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land
43 coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of
44 community planning;

45 (5) "Gambling establishment", an excursion gambling boat as defined in section 313.800,
46 RSMo, and any related business facility including any real property improvements which are
47 directly and solely related to such business facility, whose sole purpose is to provide goods or
48 services to an excursion gambling boat and whose majority ownership interest is held by a person

49 licensed to conduct gambling games on an excursion gambling boat or licensed to operate an
50 excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

51 (6) "Local sales tax increment", at least fifty percent of the local sales tax revenue from
52 taxes that are imposed by a municipality and its county, and that are generated by economic
53 activities within a redevelopment area over the amount of such taxes generated by economic
54 activities within such a redevelopment area in the calendar year prior to the adoption of the
55 ordinance designating such a redevelopment area while financing under sections 99.1080 to
56 99.1092 remains in effect, but excluding personal property taxes, taxes imposed on sales or
57 charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special
58 assessments; provided however, the governing body of any county may, by resolution, exclude
59 any portion of any countywide sales tax of such county. For redevelopment projects or
60 redevelopment plans approved after August 28, 2005, if a retail establishment relocates within
61 one year from one facility within the same county and the governing body of the municipality
62 finds that the retail establishment is a direct beneficiary of tax increment financing, then for the
63 purposes of this subdivision, the economic activity taxes generated by the retail establishment
64 shall equal the total additional revenues from economic activity taxes that are imposed by a
65 municipality or other taxing district over the amount of economic activity taxes generated by the
66 retail establishment in the calendar year prior to its relocation to the redevelopment area;

67 (7) "Local sales tax revenue", city sales tax revenues received under sections 94.500 to
68 94.550, RSMo, and county sales tax revenues received under sections 67.500 to 67.594, RSMo;

69 (8) "Major initiative", a development project within a central business district which
70 promotes tourism, cultural activities, arts, entertainment, education, research, arenas,
71 multipurpose facilities, libraries, ports, mass transit, museums, economic development, or
72 conventions for the municipality, and where the capital investment within the redevelopment
73 project area is:

74 (a) At least five million dollars for a project area within a city having a population of one
75 hundred thousand to one hundred ninety-nine thousand nine hundred and ninety-nine inhabitants;

76 (b) At least one million dollars for a project area within a city having a population of
77 fifty thousand to ninety-nine thousand nine hundred and ninety-nine inhabitants;

78 (c) At least five hundred thousand dollars for a project area within a city having a
79 population of ten thousand to forty-nine thousand nine hundred and ninety-nine inhabitants; or

80 (d) At least two hundred fifty thousand dollars for a project area within a city having a
81 population of one to nine thousand nine hundred and ninety-nine inhabitants;

82 (9) "Municipality", any city or county of this state having fewer than two hundred
83 thousand inhabitants;

84 (10) "Obligations", bonds, loans, debentures, notes, special certificates, or other
85 evidences of indebtedness issued by the municipality or authority, or other public entity
86 authorized to issue such obligations under sections 99.1080 to 99.1092 to carry out a
87 redevelopment project or to refund outstanding obligations;

88 (11) "Ordinance", an ordinance enacted by the governing body of any municipality;

89 (12) **"Other net new revenues", the amount of state sales tax increment or state**
90 **income tax increment or the combination of the amount of each such increment as**
91 **determined under section 99.918;**

92 (13) "Redevelopment area", an area designated by a municipality in respect to which the
93 municipality has made a finding that there exist conditions which cause the area to be classified
94 as a blighted area or a conservation area, which area shall have the following characteristics:

95 (a) It can be renovated through one or more redevelopment projects;

96 (b) It is located in the central business district;

97 (c) The redevelopment area shall not exceed ten percent of the entire geographic area of
98 the municipality. Subject to the limitation set forth in this subdivision, the redevelopment area
99 can be enlarged or modified as provided in section 99.1088;

100 [(13)] (14) "Redevelopment plan", the comprehensive program of a municipality to
101 reduce or eliminate those conditions which qualify a redevelopment area as a blighted area or
102 a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into
103 the redevelopment area through the reimbursement, payment, or other financing of
104 redevelopment project costs in accordance with sections 99.1080 to 99.1092 and through
105 application for and administration of downtown revitalization preservation program financing
106 under sections 99.1080 to 99.1092;

107 [(14)] (15) "Redevelopment project", any redevelopment project **described in a**
108 **redemption plan and** within a redevelopment area which constitutes a major initiative in
109 furtherance of the objectives of the redevelopment plan, and any such redevelopment project
110 shall include a legal description of the area selected for such redevelopment project;

111 [(15)] (16) "Redevelopment project area", the area located within a redevelopment area
112 selected for a redevelopment project;

113 [(16)] (17) "Redevelopment project costs" include such costs to the redevelopment plan
114 or a redevelopment project, as applicable, which are expended on public property, buildings, or
115 rights-of-way for public purposes to provide infrastructure to support a redevelopment project,
116 including facades. Such costs shall only be allowed as an initial expense which, to be
117 recoverable, must be included in the costs of a redevelopment plan or redevelopment project,
118 except in circumstances of plan amendments approved by the department of economic
119 development. Such infrastructure costs include, but are not limited to, the following:

- 120 (a) Costs of studies, appraisals, surveys, plans, and specifications;
- 121 (b) Professional service costs, including, but not limited to, architectural, engineering,
122 legal, marketing, financial, planning, or special services;
- 123 (c) Property assembly costs, including, but not limited to, acquisition of land and other
124 property, real or personal, or rights or interests therein, demolition of buildings, and the clearing
125 and grading of land;
- 126 (d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public
127 buildings and fixtures;
- 128 (e) Costs of construction of public works or improvements;
- 129 (f) Financing costs, including, but not limited to, all necessary expenses related to the
130 issuance of obligations issued to finance all or any portion of the infrastructure costs of one or
131 more redevelopment projects, and which may include capitalized interest on any such obligations
132 and reasonable reserves related to any such obligations;
- 133 (g) All or a portion of a taxing district's capital costs resulting from any redevelopment
134 project necessarily incurred or to be incurred in furtherance of the objectives of the
135 redevelopment plan, to the extent the municipality by written agreement accepts and approves
136 such infrastructure costs;
- 137 (h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted
138 by approval of a redevelopment project when all debt is retired;
- 139 (i) State government costs, including, but not limited to, the reasonable costs incurred
140 by the department of economic development and the department of revenue in evaluating an
141 application for and administering downtown revitalization preservation financing for a
142 redevelopment project;
- 143 **(18) "State income tax increment", the estimate of the income tax due the state for**
144 **salaries or wages paid to new employees in new jobs at a business located in the**
145 **redevelopment project area and created by the redevelopment project. The estimate shall**
146 **be a percentage of the gross payroll which percentage shall be based upon an analysis by**
147 **the department of revenue of the practical tax rate on gross payroll as a factor in overall**
148 **taxable income. In no event shall the percentage exceed two percent;**
- 149 [(17)] (19) "State sales tax increment", up to one-half of the incremental increase in the
150 state sales tax revenue in the redevelopment project area provided the local taxing jurisdictions
151 commit one-half of their local sales tax to paying for redevelopment project costs. The
152 incremental increase shall be the amount by which the state sales tax revenue generated at the
153 facility or within the redevelopment project area exceeds the state sales tax revenue generated
154 at the facility or within the redevelopment project area in the baseline year. For redevelopment
155 projects or redevelopment plans approved after August 28, 2005, if a retail establishment

156 relocates within one year from one facility to another facility within the same county and the
157 governing body of the municipality finds that the retail establishment is a direct beneficiary of
158 tax increment financing, then for the purposes of this subdivision, the economic activity taxes
159 generated by the retail establishment shall equal the total additional revenues from economic
160 activity taxes that are imposed by a municipality or other taxing district over the amount of
161 economic activity taxes generated by the retail establishment in the calendar year prior to the
162 relocation to the redevelopment area;

163 [(18)] (20) "State sales tax revenues", the general revenue portion of state sales tax
164 revenues received under section 144.020, RSMo, excluding sales taxes that are constitutionally
165 dedicated, taxes deposited to the school district trust fund in accordance with section 144.701,
166 RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales
167 taxes earmarked by law;

168 [(19)] (21) "Taxing district's capital costs", those costs of taxing districts for capital
169 improvements that are found by the municipal governing bodies to be necessary and to directly
170 result from a redevelopment project;

171 [(20)] (22) "Taxing districts", any political subdivision of this state having the power
172 to levy taxes.

99.1088. 1. Prior to the adoption of the ordinance designating a redevelopment area,
2 adopting a redevelopment plan, or approving a redevelopment project, the municipality or
3 authority shall fix a time and place for a public hearing and notify each taxing district located
4 wholly or partially within the boundaries of the proposed redevelopment area or redevelopment
5 project area affected. Such notice shall comply with the provisions of subsections 2 and 3 of this
6 section. At the public hearing any interested person or affected taxing district may file with the
7 municipality or authority written objections to, or comments on, and may be heard orally in
8 respect to any issues regarding the plan or issues embodied in the notice. The municipality or
9 authority shall hear and consider all protests, objections, comments, and other evidence presented
10 at the hearing. The hearing may be continued to another date without further notice other than
11 a motion to be entered upon the minutes fixing the time and place of the subsequent hearing.
12 Prior to the conclusion of the hearing, changes may be made in the redevelopment plan,
13 redevelopment project, redevelopment area or redevelopment project area, provided that written
14 notice of such changes is available at the public hearing. After the public hearing but prior to
15 the adoption of an ordinance designating a redevelopment area, adopting a redevelopment plan
16 or approving a redevelopment project, changes may be made to any such proposed
17 redevelopment plan, redevelopment project, redevelopment area, or redevelopment project area
18 without a further hearing, if such changes do not enlarge the exterior boundaries of the
19 redevelopment area, and do not substantially affect the general land uses established in a

20 redevelopment plan or redevelopment project, provided that notice of such changes shall be
21 given by mail to each affected taxing district and by publication in a newspaper of general
22 circulation in the redevelopment area or redevelopment project area, as applicable, not less than
23 ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance
24 designating the redevelopment area, adopting a redevelopment plan, approving a redevelopment
25 project, or designating a redevelopment project area, no ordinance shall be adopted altering the
26 exterior boundaries of the redevelopment area or a redevelopment project area affecting the
27 general land uses established under the redevelopment plan or the general nature of a
28 redevelopment project without holding a public hearing in accordance with this section. One
29 public hearing may be held for the simultaneous consideration of a redevelopment area,
30 redevelopment plan, redevelopment project, or redevelopment project area.

31 2. Notice of the public hearing required by this section shall be given by publication and
32 mailing. Notice by publication shall be given by publication at least twice, the first publication
33 to be not more than thirty days and the second publication to be not more than ten days prior to
34 the hearing, in a newspaper of general circulation in the proposed redevelopment area or
35 redevelopment project area, as applicable. Notice by mailing shall be given by depositing such
36 notice in the United States mail by certified mail addressed to the person or persons in whose
37 name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel
38 of land lying within the proposed redevelopment area or redevelopment project area, as
39 applicable. Such notice shall be mailed not less than ten working days prior to the date set for
40 the public hearing.

41 3. The notices issued under this section shall include the following:

42 (1) The time and place of the public hearing;

43 (2) The general boundaries of the proposed redevelopment area or redevelopment project
44 area, as applicable, by street location, where possible;

45 (3) A statement that all interested persons shall be given an opportunity to be heard at
46 the public hearing;

47 (4) A description of the redevelopment plan and the proposed redevelopment projects
48 and a location and time where the entire redevelopment plan or redevelopment projects proposed
49 may be reviewed by any interested party;

50 (5) A statement that [redevelopment financing involving tax revenues is being sought
51 for the project] **financial assistance is being sought under sections 99.1080 to 99.1092** and an
52 estimate of the amount of [local redevelopment financing that will be requested, if applicable]
53 **assistance that will be requested;** and

54 (6) Such other matters as the municipality or authority may deem appropriate.

55 4. Not less than forty-five days prior to the date set for the public hearing, the
56 municipality or authority shall give notice by mail as provided in subsection 2 of this section to
57 all taxing districts whose taxes are affected in the redevelopment area or redevelopment project
58 area, as applicable, and in addition to the other requirements under subsection 3 of this section,
59 the notice shall include an invitation to each taxing district to submit comments to the
60 municipality or authority concerning the subject matter of the hearing prior to the date of the
61 hearing.

62 5. A copy of any and all hearing notices required by this section shall be submitted by
63 the municipality or authority to the director of the department of economic development and the
64 date such notices were mailed or published, as applicable.

 99.1090. 1. A municipality shall submit an application to the department of economic
2 development for review and determination as to approval of the disbursement of the project costs
3 of one or more redevelopment projects from the downtown revitalization preservation fund. The
4 department of economic development shall forward the application to the commissioner of the
5 office of administration for approval. In no event shall any approval authorize a disbursement
6 of one or more redevelopment projects from the downtown revitalization preservation fund
7 which exceeds the allowable amount of other net new revenues derived from the redevelopment
8 area. An application submitted to the department of economic development shall contain the
9 following, in addition to the items set forth in section 99.1086:

10 (1) An estimate that one hundred percent of the local sales tax increment deposited to
11 the special allocation fund must and will be used to pay redevelopment project costs or
12 obligations issued to finance redevelopment project costs to achieve the objectives of the
13 redevelopment plan;

14 (2) Identification of the existing businesses located within the redevelopment project
15 area and the redevelopment area;

16 (3) The aggregate baseline year amount of state sales tax revenues reported by existing
17 businesses within the redevelopment project area. Provisions of section 32.057, RSMo,
18 notwithstanding, municipalities will provide this information to the department of revenue for
19 verification. The department of revenue will verify the information provided by the
20 municipalities within forty-five days of receiving a request for such verification from a
21 municipality;

22 (4) An estimate of the state sales tax increment **and state income tax increment** within
23 the redevelopment project area after redevelopment. The department of economic development
24 shall have the discretion to exempt smaller projects from this requirement;

25 (5) An affidavit that is signed by the developer or developers attesting that the provision
26 of subdivision (2) of subsection 2 of section 99.1086 has been met;

27 (6) The amounts and types of other net new revenues sought by the applicant to be
28 disbursed from the downtown revitalization preservation fund over the term of the
29 redevelopment plan;

30 (7) The methodologies and underlying assumptions used in determining the estimate of
31 the state sales tax increment **and state income tax increment**; and

32 (8) Any other information reasonably requested by the department of economic
33 development.

34 2. The department of economic development shall make all reasonable efforts to process
35 applications within a reasonable amount of time.

36 3. The department of economic development shall make a determination regarding the
37 application for a certificate allowing disbursements from the downtown revitalization
38 preservation fund and shall forward such determination to the commissioner of the office of
39 administration. In no event shall the amount of disbursements from the downtown revitalization
40 preservation fund approved for a project, in addition to any other state economic redevelopment
41 funding or other state incentives, exceed the projected state benefit of the redevelopment project,
42 as determined by the department of economic development through a cost-benefit analysis. Any
43 political subdivision located either wholly or partially within the redevelopment area shall be
44 permitted to submit information to the department of economic development for consideration
45 in its cost-benefit analysis. Upon approval of downtown revitalization preservation financing,
46 a certificate of approval shall be issued by the department of economic development containing
47 the terms and limitations of the disbursement.

48 4. At no time shall the annual amount of other net new revenues approved for
49 disbursements from the downtown revitalization preservation fund exceed fifteen million dollars.

50 5. Redevelopment projects receiving disbursements from the downtown revitalization
51 preservation fund shall be limited to receiving such disbursements for twenty-five years. The
52 approved term notwithstanding, downtown revitalization preservation financing shall terminate
53 when redevelopment financing for a redevelopment project is terminated by a municipality.

54 6. The municipality shall deposit payments received from the downtown revitalization
55 preservation redevelopment fund in a separate segregated account for other net new revenues
56 within the special allocation fund.

57 7. Redevelopment project costs may include, at the prerogative of the state, the portion
58 of salaries and expenses of the department of economic development and the department of
59 revenue reasonably allocable to each redevelopment project approved for disbursements from
60 the downtown revitalization preservation fund for the ongoing administrative functions
61 associated with such redevelopment project. Such amounts shall be recovered from new state

62 revenues deposited into the downtown revitalization preservation fund created under section
63 99.1092.

64 8. A redevelopment project approved for downtown revitalization preservation financing
65 shall not thereafter elect to receive tax increment financing under the real property tax increment
66 allocation redevelopment act, sections 99.800 to 99.865, and continue to receive downtown
67 revitalization financing under sections 99.1080 to 99.1092.

68 9. The department of economic development may establish the procedures and standards
69 for the determination and approval of applications by the promulgation of rules and publish
70 forms to implement the provisions of this section and section 99.1092.

71 10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
72 is created under the authority delegated in this section and section 99.1092 shall become
73 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
74 and, if applicable, section 536.028, RSMo. This section, section 99.1092, and chapter 536,
75 RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter
76 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
77 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
78 or adopted after August 28, 2005, shall be invalid and void.

99.1092. 1. There is hereby established within the state treasury a special fund to be
2 known as the "Downtown Revitalization Preservation Fund", to be administered by the
3 department of economic development. Any unexpended balance and any interest in the fund at
4 the end of the biennium shall be exempt from the provisions of section 33.080, RSMo, relating
5 to the transfer of unexpended balances to the general revenue fund. The fund shall consist of:

6 (1) The first fifteen million dollars of other net new revenues generated annually by the
7 redevelopment projects;

8 (2) Money received from costs charged under subsection 7 of section 99.1090; and

9 (3) Gifts, contributions, grants, or bequests received from federal, private, or other
10 sources.

11 2. Notwithstanding the provisions of section 144.700, RSMo, to the contrary, the
12 department of revenue shall annually submit the first fifteen million dollars of other net new
13 revenues generated by the redevelopment projects to the treasurer for deposit in the downtown
14 revitalization preservation fund.

15 3. The department of economic development shall annually disburse funds from the
16 downtown revitalization preservation fund in amounts determined under the certificates of
17 approval for projects, providing that the amounts of other net new revenues generated from the
18 redevelopment area have been verified and all of the conditions of sections 99.1080 to 99.1092
19 are met. If the revenues appropriated from the downtown revitalization preservation fund are

20 not sufficient to equal the amounts determined to be disbursed under such certificates of
21 approval, the department of economic development shall disburse the revenues on a pro rata
22 basis to all such projects and other costs approved under section 99.1090.

23 4. In no event shall the amounts distributed to a project from the downtown revitalization
24 preservation fund exceed the lesser of the amount of the certificates of approval for projects or
25 the actual other net new revenues generated by the projects.

26 5. The department of economic development shall not disburse any moneys from the
27 downtown revitalization preservation fund for any project which has not complied with the
28 annual reporting requirements determined by the department of economic development.

29 6. Money in the downtown revitalization preservation fund may be spent for the
30 reasonable and necessary costs associated with the administration of the program authorized
31 under sections 99.1080 to 99.1092.

32 7. No municipality shall obligate or commit the expenditure of disbursements received
33 from the downtown revitalization preservation fund prior to receiving a certificate of approval
34 for the redevelopment project generating other net new revenues. In addition, no municipality
35 shall commence work on a redevelopment project prior to receiving a certificate of approval for
36 the redevelopment project.

37 8. Taxpayers in any redevelopment area who are required to remit sales taxes under
38 chapter 144, RSMo, **or income tax withholdings under chapter 143, RSMo**, shall provide
39 additional information to the department of revenue in a form prescribed by the department by
40 rule. Such information shall include, but shall not be limited to, information upon which other
41 net new revenues can be calculated and sales tax generated in the redevelopment area by such
42 taxpayer in the baseline year and during the time period related to the **withholding or** sales tax
43 remittance.

44 9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
45 is created pursuant to the authority delegated in this section shall become effective only if it
46 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
47 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
48 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay
49 the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
50 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall
51 be invalid and void.

100.710. As used in sections 100.700 to 100.850, the following terms mean:

2 (1) "Assessment", an amount of up to five percent of the gross wages paid in one year
3 by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic

4 development project is located within a distressed community as defined in section 135.530,
5 RSMo;

6 (2) "Board", the Missouri development finance board as created by section 100.265;

7 (3) "Certificates", the revenue bonds or notes authorized to be issued by the board
8 pursuant to section 100.840;

9 (4) "Credit", the amount agreed to between the board and an eligible industry, but not
10 to exceed the assessment attributable to the eligible industry's project;

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

12 (6) "Director", the director of the department of economic development;

13 (7) "Economic development project":

14 (a) The acquisition of any real property by the board, the eligible industry, or its affiliate;
15 or

16 (b) The fee ownership of real property by the eligible industry or its affiliate; and

17 (c) For both paragraphs (a) and (b) of this subdivision, "economic development project"
18 shall also include the development of the real property including construction, installation, or
19 equipping of a project, including fixtures and equipment, and facilities necessary or desirable for
20 improvement of the real property, including surveys; site tests and inspections; subsurface site
21 work; excavation; removal of structures, roadways, cemeteries and other surface obstructions;
22 filling, grading and provision of drainage, storm water retention, installation of utilities such as
23 water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site
24 construction of utility extensions to the boundaries of the real property; and the acquisition,
25 installation, or equipping of facilities on the real property, for use and occupancy by the eligible
26 industry or its affiliates;

27 (8) "Eligible employee", a person employed on a full-time basis in a new job at the
28 economic development project averaging at least thirty-five hours per week who was not
29 employed by the eligible industry or a related taxpayer in this state at any time during the
30 twelve-month period immediately prior to being employed at the economic development project.
31 For an essential industry, a person employed on a full-time basis in an existing job at the
32 economic development project averaging at least thirty-five hours per week may be considered
33 an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

34 (9) "Eligible industry", a business located within the state of Missouri which is engaged
35 in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling
36 products, conducting research and development, or providing services in interstate commerce,
37 office industries, or agricultural processing, but excluding retail, health or professional services.
38 "Eligible industry" does not include a business which closes or substantially reduces its operation
39 at one location in the state and relocates substantially the same operation to another location in

40 the state. This does not prohibit a business from expanding its operations at another location in
41 the state provided that existing operations of a similar nature located within the state are not
42 closed or substantially reduced. This also does not prohibit a business from moving its
43 operations from one location in the state to another location in the state for the purpose of
44 expanding such operation provided that the board determines that such expansion cannot
45 reasonably be accommodated within the municipality in which such business is located, or in the
46 case of a business located in an incorporated area of the county, within the county in which such
47 business is located, after conferring with the chief elected official of such municipality or county
48 and taking into consideration any evidence offered by such municipality or county regarding the
49 ability to accommodate such expansion within such municipality or county. An eligible industry
50 must:

51 (a) Invest a minimum of fifteen million dollars, or ten million dollars for an office
52 industry, in an economic development project; and

53 (b) Create a minimum of one hundred new jobs for eligible employees at the economic
54 development project or a minimum of [five] **one** hundred jobs if the economic development
55 project is an office industry or a minimum of two hundred new jobs if the economic development
56 project is an office industry located within a distressed community as defined in section 135.530,
57 RSMo, or in the case of an approved company for a project for a world headquarters of a
58 business whose primary function is tax return preparation in any home rule city with more than
59 four hundred thousand inhabitants and located in more than one county, create a minimum of one
60 hundred new jobs for eligible employees at the economic development project. An industry that
61 meets the definition of "essential industry" may be considered an eligible industry for the
62 purposes of the program authorized by sections 100.700 to 100.850. Notwithstanding the
63 preceding provisions of this subdivision, a development agency, as such term is defined in
64 subdivision (3) of section 100.255, or a corporation, limited liability company, or partnership
65 formed on behalf of a development agency, at the option of the board, may be authorized to act
66 as an eligible industry with such obligations and rights otherwise applicable to an eligible
67 industry, including the rights of an approved company under section 100.850, so long as the
68 eligible industry otherwise meets the requirements imposed by this subsection;

69 (10) "Essential industry", a business that otherwise meets the definition of eligible
70 industry except an essential industry shall:

71 (a) Be a targeted industry;

72 (b) Be located in a home rule city with more than twenty-six thousand but less than
73 twenty-seven thousand inhabitants located in any county with a charter form of government and
74 with more than one million inhabitants or in a city of the fourth classification with more than

75 four thousand three hundred but fewer than four thousand four hundred inhabitants and located
76 in any county with a charter form of government and with more than one million inhabitants;

77 (c) Have maintained at least two thousand jobs at the proposed economic development
78 project site each year for a period of four years preceding the year in which application for the
79 program authorized by sections 100.700 to 100.850 is made and during the year in which said
80 application is made;

81 (d) Retain, at the proposed economic development project site, the level of employment
82 that existed at the site in the taxable year immediately preceding the year in which application
83 for the program, authorized by sections 100.700 to 100.850, is made. Retention of such level
84 of employment shall commence three years from the date of issuance of the certificates and
85 continue for the duration of the certificates; and

86 (e) Invest a minimum of five hundred million dollars in the economic development
87 project by the end of the third year after the issuance of the certificates under this program;

88 (11) "New job", a job in a new or expanding eligible industry not including jobs of
89 recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the
90 state. For an essential industry, an existing job may be considered a new job for the purposes of
91 the program authorized by sections 100.700 to 100.850;

92 (12) "Office industry", a regional, national or international headquarters, a
93 telecommunications operation, a computer operation, an insurance company, or a credit card
94 billing and processing center;

95 (13) "Program costs", all necessary and incidental costs of providing program services
96 including payment of the principal of premium, if any, and interest on certificates, including
97 capitalized interest, issued to finance a project, and funding and maintenance of a debt service
98 reserve fund to secure such certificates. Program costs shall include:

99 (a) Obligations incurred for labor and obligations incurred to contractors, subcontractors,
100 builders and materialmen in connection with the acquisition, construction, installation or
101 equipping of an economic development project;

102 (b) The cost of acquiring land or rights in land and any cost incidental thereto, including
103 recording fees;

104 (c) The cost of contract bonds and of insurance of all kinds that may be required or
105 necessary during the course of acquisition, construction, installation or equipping of an economic
106 development project which is not paid by the contractor or contractors or otherwise provided for;

107 (d) All costs of architectural and engineering services, including test borings, surveys,
108 estimates, plans and specifications, preliminary investigations and supervision of construction,
109 as well as the costs for the performance of all the duties required by or consequent upon the
110 acquisition, construction, installation or equipping of an economic development project;

111 (e) All costs which are required to be paid under the terms of any contract or contracts
112 for the acquisition, construction, installation or equipping of an economic development project;
113 and

114 (f) All other costs of a nature comparable to those described in this subdivision;

115 (14) "Program services", administrative expenses of the board, including contracted
116 professional services, and the cost of issuance of certificates;

117 (15) "Targeted industry", an industry or one of a cluster of industries that is identified
118 by the department as critical to the state's economic security and growth and affirmed as such by
119 the joint committee on economic development policy and planning established in section
120 620.602, RSMo.

100.760. After receipt of an application, the board may, with the approval of the
2 department, enter into an agreement with an eligible industry for a credit pursuant to sections
3 100.700 to 100.850 if the board determines that all of the following conditions exist:

4 (1) The applicant's project will create new jobs that were not jobs previously performed
5 by employees of the applicant in Missouri;

6 (2) The applicant's project is economically sound and will benefit the people of Missouri
7 by increasing opportunities for employment and strengthening the economy of Missouri;

8 (3) Significant local incentives with respect to the project or eligible industry have been
9 committed, which incentives may consist of:

10 (a) Cash or in-kind incentives derived from any nonstate source, including incentives
11 provided by the affected political subdivisions, private industry and/or local chambers of
12 commerce or similar such organizations; and/or

13 (b) Relief from local taxes, in either case as acceptable to the board;

14 (4) Receiving the credit is a major factor in the applicant's decision to go forward with
15 the project and not receiving the credit will result in the applicant not creating new jobs in
16 Missouri; **and**

17 (5) Awarding the credit will result in an overall positive fiscal impact to the state[;

18 (6) There is at least one other state that the applicant verifies is being considered for the
19 project; and

20 (7) A significant disparity is identified, using best available data in the projected costs
21 for the applicant's project compared to the costs in the competing state, including the impact of
22 the competing state's incentive programs. The competing state's incentive program shall include
23 state, local, private and federal funds].

100.770. In determining the credit that should be awarded, the board shall take into
2 consideration the following factors:

3 (1) The economy of the county where the projected investment is to occur;

- 4 (2) The potential impact on the economy of Missouri;
- 5 (3) The payroll attributable to the project;
- 6 (4) The capital investment attributable to the project;
- 7 (5) The amount the average wage paid by the applicant exceeds the average wage paid
- 8 within the county in which the project will be located;
- 9 (6) The costs to Missouri and the affected political subdivisions with respect to the
- 10 project; **and**
- 11 (7) The financial assistance that is otherwise provided by Missouri and the affected
- 12 political subdivisions[; and
- 13 (8) The magnitude of the cost differential between Missouri and the competing state].

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

- 2 (1) "Adjusted purchase price", the product of:
 - 3 (a) The amount paid to the issuer of a qualified equity investment for such qualified
 - 4 equity investment; and
 - 5 (b) The following fraction:
 - 6 a. The numerator shall be the dollar amount of qualified low-income community
 - 7 investments held by the issuer in this state as of the credit allowance date during the applicable
 - 8 tax year; and
 - 9 b. The denominator shall be the total dollar amount of qualified low-income community
 - 10 investments held by the issuer in all states as of the credit allowance date during the applicable
 - 11 tax year;
 - 12 c. For purposes of calculating the amount of qualified low-income community
 - 13 investments held by an issuer, an investment shall be considered held by an issuer even if the
 - 14 investment has been sold or repaid; provided that the issuer reinvests an amount equal to the
 - 15 capital returned to or recovered by the issuer from the original investment, exclusive of any
 - 16 profits realized, in another qualified low-income community investment within twelve months
 - 17 of the receipt of such capital. An issuer shall not be required to reinvest capital returned from
 - 18 qualified low-income community investments after the sixth anniversary of the issuance of the
 - 19 qualified equity investment, the proceeds of which were used to make the qualified low-income
 - 20 community investment, and the qualified low-income community investment shall be considered
 - 21 held by the issuer through the seventh anniversary of the qualified equity investment's issuance;
- 22 (2) "Applicable percentage", zero percent for each of the first two credit allowance dates,
- 23 seven percent for the third credit allowance date, and eight percent for the next four credit
- 24 allowance dates;
- 25 (3) "Credit allowance date", with respect to any qualified equity investment:
 - 26 (a) The date on which such investment is initially made; and

27 (b) Each of the six anniversary dates of such date thereafter;

28 (4) "Long-term debt security", any debt instrument issued by a qualified community
29 development entity, at par value or a premium, with an original maturity date of at least seven
30 years from the date of its issuance, with no acceleration of repayment, amortization, or
31 prepayment features prior to its original maturity date, and with no distribution, payment, or
32 interest features related to the profitability of the qualified community development entity or the
33 performance of the qualified community development entity's investment portfolio. The
34 foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument
35 in situations where the issuer has defaulted on covenants designed to ensure compliance with this
36 section or Section 45D of the Internal Revenue Code of 1986, as amended;

37 (5) "Qualified active low-income community business", the meaning given such term
38 in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business
39 that derives or projects to derive fifteen percent or more of its annual revenue from the rental or
40 sale of real estate shall not be considered to be a qualified active low-income community
41 business;

42 (6) "Qualified community development entity", the meaning given such term in Section
43 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered
44 into an allocation agreement with the Community Development Financial Institutions Fund of
45 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal
46 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area
47 set forth in such allocation agreement;

48 (7) "Qualified equity investment", any equity investment in, or long-term debt security
49 issued by, a qualified community development entity that:

50 (a) Is acquired after September 4, 2007, at its original issuance solely in exchange for
51 cash;

52 (b) Has at least eighty-five percent of its cash purchase price used by the issuer to make
53 qualified low-income community investments; and

54 (c) Is designated by the issuer as a qualified equity investment under this subdivision and
55 is certified by the department of economic development as not exceeding the limitation contained
56 in subsection 2 of this section.

57 This term shall include any qualified equity investment that does not meet the provisions of
58 paragraph (a) of this subdivision if such investment was a qualified equity investment in the
59 hands of a prior holder;

60 (8) "Qualified low-income community investment", any capital or equity investment in,
61 or loan to, any qualified active low-income community business. With respect to any one
62 qualified active low-income community business, the maximum amount of qualified low-income

63 community investments made in such business, on a collective basis with all of its affiliates, that
64 may be used from the calculation of any numerator described in subparagraph a. of paragraph
65 (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or
66 several qualified community development entities;

67 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,
68 excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due
69 under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

70 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
71 RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax
72 imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

73 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits
74 under this section. On each credit allowance date of such qualified equity investment the
75 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit
76 during the taxable year including such credit allowance date. The tax credit amount shall be
77 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such
78 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount
79 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax
80 credit claimed under this section shall be refundable or transferable. Tax credits earned by a
81 partnership, limited liability company, S-corporation, or other pass-through entity may be
82 allocated to the partners, members, or shareholders of such entity for their direct use in
83 accordance with the provisions of any agreement among such partners, members, or
84 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from
85 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable
86 years. The department of economic development shall limit the monetary amount of qualified
87 equity investments permitted under this section to a level necessary to limit tax credit utilization
88 at no more than [fifteen] **twenty-seven million five hundred thousand** dollars of tax credits in
89 any fiscal year. Such limitation on qualified equity investments shall be based on the anticipated
90 utilization of credits without regard to the potential for taxpayers to carry forward tax credits to
91 later tax years.

92 3. The issuer of the qualified equity investment shall certify to the department of
93 economic development the anticipated dollar amount of such investments to be made in this state
94 during the first twelve-month period following the initial credit allowance date. If on the second
95 credit allowance date, the actual dollar amount of such investments is different than the amount
96 estimated, the department of economic development shall adjust the credits arising on the second
97 allowance date to account for such difference.

98 4. The department of economic development shall recapture the tax credit allowed under
99 this section with respect to such qualified equity investment under this section if:

100 (1) Any amount of the federal tax credit available with respect to a qualified equity
101 investment that is eligible for a tax credit under this section is recaptured under Section 45D of
102 the Internal Revenue Code of 1986, as amended; or

103 (2) The issuer redeems or makes principal repayment with respect to a qualified equity
104 investment prior to the seventh anniversary of the issuance of such qualified equity investment.

105

106 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the
107 tax credit on a return.

108 5. The department of economic development shall promulgate rules to implement the
109 provisions of this section, including recapture provisions on a scaled proportional basis, and to
110 administer the allocation of tax credits issued for qualified equity investments, which shall be
111 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined
112 in section 536.010, RSMo, that is created under the authority delegated in this section shall
113 become effective only if it complies with and is subject to all of the provisions of chapter 536,
114 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
115 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
116 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
117 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
118 after September 4, 2007, shall be invalid and void.

119 6. For fiscal years following fiscal year [2010] **2012**, qualified equity investments shall
120 not be made under this section unless reauthorization is made pursuant to this subsection. For
121 all fiscal years following fiscal year [2010] **2012**, unless the general assembly adopts a
122 concurrent resolution granting authority to the department of economic development to approve
123 qualified equity investments for the Missouri new markets development program and clearly
124 describing the amount of tax credits available for the next fiscal year, or otherwise complies with
125 the provisions of this subsection, no qualified equity investments may be permitted to be made
126 under this section. The amount of available tax credits contained in such a resolution shall not
127 exceed the limitation provided under subsection 2 of this section. In any year in which the
128 provisions of this section shall sunset pursuant to subsection 7 of this section, reauthorization
129 shall be made by general law and not by concurrent resolution. Nothing in this subsection shall
130 preclude a taxpayer who makes a qualified equity investment prior to the expiration of authority
131 to make qualified equity investments from claiming tax credits relating to such qualified equity
132 investment for each applicable credit allowance date.

133 7. Under section 23.253, RSMo, of the Missouri sunset act:

134 (1) The provisions of the new program authorized under this section shall automatically
135 sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly;
136 and

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

140 (3) This section shall terminate on September first of the calendar year immediately
141 following the calendar year in which the program authorized under this section is sunset.
142 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity
143 investment prior to sunset of this section under the provisions of section 23.253, RSMo, from
144 claiming tax credits relating to such qualified equity investment for each credit allowance date.

338.337. It shall be unlawful for any out-of-state wholesale drug distributor or
2 out-of-state pharmacy acting as a distributor to do business in this state without first obtaining
3 a license to do so from the board of pharmacy and paying the required fee. Application for an
4 out-of-state wholesale drug distributor's license under this section shall be made on a form
5 furnished by the board. The issuance of a license under sections 338.330 to 338.370 shall not
6 change or affect tax liability imposed by the Missouri department of revenue on any out-of-state
7 wholesale drug distributor or out-of-state pharmacy. Any out-of-state wholesale drug distributor
8 that is a drug manufacturer and which produces and distributes from a facility which has been
9 inspected and approved by the Food and Drug Administration [within the last two years] ,
10 **maintains current approval by the Food and Drug Administration, and has provided a**
11 **copy of the most recent Food and Drug Administration Establishment Inspection Report**
12 **to the board** and which is licensed by the state in which the distribution facility is located, **or**
13 **if located within a foreign jurisdiction, is authorized and in good standing to operate as a**
14 **drug manufacturer within such jurisdiction,** need not be licensed as provided in this section
15 but such out-of-state distributor shall register its business name and address with the board of
16 pharmacy and pay a filing fee of ten dollars.

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a
2 partnership, or any charitable organization which is exempt from federal income tax and whose
3 Missouri unrelated business taxable income, if any, would be subject to the state income tax
4 imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471,
5 RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same
6 meaning as prescribed in 26 U.S.C. 41, **except that such qualified research expenses shall be**
7 **limited to those incurred in the research and development of agricultural biotechnology,**
8 **plant genomics products, diagnostic and therapeutic medical devices, prescription**
9 **pharmaceuticals consumed by humans or animals, electronic patient health record**

10 **technology, or qualified research expenses incurred in the research, development or**
11 **manufacture of power system technology for aerospace, space, defense, or implantable or**
12 **wearable medical devices, or qualified research expenses incurred in the research,**
13 **development, or manufacturing of gears, speed changers, and industrial high speed drivers**
14 **utilized in the wind turbine industry.**

15 2. For tax years beginning on or after January 1, 2001, the director of the department of
16 economic development [may] **shall** authorize a taxpayer to receive a tax credit against the tax
17 otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes
18 withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half
19 percent of the excess of the taxpayer's qualified research expenses, as certified by the director
20 of the department of economic development, within this state during the taxable year over the
21 average of the taxpayer's qualified research expenses within this state over the immediately
22 preceding three taxable years; except that, no tax credit shall be allowed on that portion of the
23 taxpayer's qualified research expenses incurred within this state during the taxable year in which
24 the credit is being claimed, to the extent such expenses exceed two hundred percent of the
25 taxpayer's average qualified research expenses incurred during the immediately preceding three
26 taxable years.

27 3. The director of economic development shall prescribe the manner in which the tax
28 credit may be applied for. The tax credit authorized by this section may be claimed by the
29 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that
30 becomes due in the tax year during which such qualified research expenses were incurred;
31 **provided, however, that if the return required to be filed under section 143.511 or 148.050,**
32 **RSMo, for such tax year has already been filed, the taxpayer may claim the tax credit**
33 **authorized by this section by claiming the tax credit against the tax liability imposed by**
34 **chapter 143 or 148, RSMo, in the tax year following the tax year in which such qualified**
35 **research expenses were incurred.** Where the amount of the credit exceeds the tax liability, the
36 difference between the credit and the tax liability may only be carried forward for the next five
37 succeeding taxable years **after the tax year in which the credit was first claimed** or until the
38 full credit has been claimed, whichever first occurs. The application for tax credits authorized
39 by the director pursuant to subsection 2 of this section shall be made **no earlier than January**
40 **first and** no later than [the end of] **July first of the calendar year immediately following the**
41 **calendar year in which** the taxpayer's tax period [immediately following the tax period] for
42 which the credits are being claimed **ended. The director shall act on any such application for**
43 **tax credits no sooner than August first but no later than August fifteenth of each year for**
44 **applications filed in that calendar year.**

45 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
46 assigned by filing a notarized endorsement thereof with the department which names the
47 transferee and the amount of tax credit transferred. The director of economic development may
48 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of
49 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year
50 commencing on or after January 1, [1996] **2010**, and ending not later than December 31, [1999]
51 **2016**. Such taxpayer shall file, by December 31, [2001] **2018**, an application with the
52 department which names the transferee, the amount of tax credit desired to be transferred, and
53 a certification that the funds received by the applicant as a result of the transfer, sale or
54 assignment of the tax credit shall be expended within three years at the state university for the
55 sole purpose of conducting research activities agreed upon by the department, the taxpayer and
56 the state university. Failure to expend such funds in the manner prescribed pursuant to this
57 section shall cause the applicant to be subject to the provisions of section 620.017.

58 5. No rule or portion of a rule promulgated under the authority of this section shall
59 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
60 RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and
61 repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of
62 any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of
63 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable
64 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
65 including the ability to review, to delay the effective date, or to disapprove and annul a rule or
66 portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking
67 authority and any rule so proposed and contained in the order of rulemaking shall be invalid and
68 void.

69 6. The aggregate of all tax credits authorized pursuant to this section shall not exceed
70 [nine] **ten** million [seven hundred thousand] dollars in any **calendar** year. **In the event that**
71 **total eligible claims for credits received in a calendar year exceed the annual cap, each**
72 **eligible claimant shall be issued credits based upon the following formula: the eligible**
73 **credits if the annual cap had not been exceeded multiplied by the ratio of the annual cap**
74 **divided by the total of all eligible claims for credits filed in that calendar year.**

75 7. [For all tax years beginning on or after January 1, 2005, no tax credits shall be
76 approved, awarded, or issued to any person or entity claiming any tax credit under this section.]
77 **No one taxpayer shall be issued more than thirty percent of the aggregate of all tax credits**
78 **authorized under this section in any calendar year.**

620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall
2 mean:

- 3 (1) "Approval", a document submitted by the department to the qualified company that
4 states the benefits that may be provided by this program;
- 5 (2) "Average wage", the new payroll divided by the number of new jobs;
- 6 (3) "Commencement of operations", the starting date for the qualified company's first
7 new employee, which must be no later than twelve months from the date of the approval;
- 8 (4) "County average wage", the average wages in each county as determined by the
9 department for the most recently completed full calendar year. However, if the computed county
10 average wage is above the statewide average wage, the statewide average wage shall be deemed
11 the county average wage for such county for the purpose of determining eligibility. The
12 department shall publish the county average wage for each county at least annually.
13 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company
14 that in conjunction with their project is relocating employees from a Missouri county with a
15 higher county average wage, the company shall obtain the endorsement of the governing body
16 of the community from which jobs are being relocated or the county average wage for their
17 project shall be the county average wage for the county from which the employees are being
18 relocated;
- 19 (5) "Department", the Missouri department of economic development;
- 20 (6) "Director", the director of the department of economic development;
- 21 (7) "Employee", a person employed by a qualified company;
- 22 (8) "Full-time employee", an employee of the qualified company that is scheduled to
23 work an average of at least thirty-five hours per week for a twelve-month period, and one for
24 which the qualified company offers health insurance and pays **with respect to small and**
25 **expanding business projects, technology business projects, and high-impact projects**, at
26 least fifty percent of such insurance premiums; **with respect to premium employment projects,**
27 **at least eighty percent of such insurance premiums**;
- 28 (9) "High-impact project", a qualified company that, within two years from
29 commencement of operations, creates one hundred or more new jobs;
- 30 (10) "Local incentives", the present value of the dollar amount of direct benefit received
31 by a qualified company for a project facility from one or more local political subdivisions, but
32 shall not include loans or other funds provided to the qualified company that must be repaid by
33 the qualified company to the political subdivision;
- 34 (11) "NAICS", the 1997 edition of the North American Industry Classification System
35 as prepared by the Executive Office of the President, Office of Management and Budget. Any
36 NAICS sector, subsector, industry group or industry identified in this section shall include its
37 corresponding classification in subsequent federal industry classification systems;

38 (12) "New direct local revenue", the present value of the dollar amount of direct net new
39 tax revenues of the local political subdivisions likely to be produced by the project over a
40 ten-year period as calculated by the department, excluding local earnings tax, and net new utility
41 revenues, provided the local incentives include a discount or other direct incentives from utilities
42 owned or operated by the political subdivision;

43 (13) "New investment", the purchase or leasing of new tangible assets to be placed in
44 operation at the project facility, which will be directly related to the new jobs;

45 (14) "New job", the number of full-time employees located at the project facility that
46 exceeds the project facility base employment less any decrease in the number of full-time
47 employees at related facilities below the related facility base employment. No job that was
48 created prior to the date of the notice of intent shall be deemed a new job. An employee that
49 spends less than fifty percent of the employee's work time at the facility is still considered to be
50 located at a facility if the employee receives his or her directions and control from that facility,
51 is on the facility's payroll, one hundred percent of the employee's income from such employment
52 is Missouri income, and the employee is paid at or above the state average wage;

53 (15) "New payroll", the amount of taxable wages of full-time employees, excluding
54 owners, located at the project facility that exceeds the project facility base payroll. If full-time
55 employment at related facilities is below the related facility base employment, any decrease in
56 payroll for full-time employees at the related facilities below that related facility base payroll
57 shall also be subtracted to determine new payroll;

58 (16) "Notice of intent", a form developed by the department, completed by the qualified
59 company and submitted to the department which states the qualified company's intent to hire new
60 jobs and request benefits under this program;

61 (17) "Percent of local incentives", the amount of local incentives divided by the amount
62 of new direct local revenue;

63 (18) **"Premium employment project", a qualified company that, within two years
64 from commencement of operations, creates one hundred or more new jobs and meets all
65 of the following requirements:**

66 (a) **The company and project qualify for the quality jobs act;**

67 (b) **The company offers all new employees health insurance, and pays at least eighty
68 percent of such premiums; and**

69 (c) **The wage for at least one hundred of the new jobs is equal to or greater than one
70 hundred eighty percent of the county average wage;**

71 (19) "Program", the Missouri quality jobs program provided in sections 620.1875 to
72 620.1890;

73 [(19)] **(20)** "Project facility", the building used by a qualified company at which the new
74 jobs and new investment will be located. A project facility may include separate buildings that
75 are located within [one mile] **fifteen miles** of each other or within the same county such that their
76 purpose and operations are interrelated;

77 [(20)] **(21)** "Project facility base employment", the greater of the number of full-time
78 employees located at the project facility on the date of the notice of intent or for the
79 twelve-month period prior to the date of the notice of intent, the average number of full-time
80 employees located at the project facility. In the event the project facility has not been in
81 operation for a full twelve-month period, the average number of full-time employees for the
82 number of months the project facility has been in operation prior to the date of the notice of
83 intent;

84 [(21)] **(22)** "Project facility base payroll", the total amount of taxable wages paid by the
85 qualified company to full-time employees of the qualified company located at the project facility
86 in the twelve months prior to the notice of intent, not including the payroll of the owners of the
87 qualified company unless the qualified company is participating in an employee stock ownership
88 plan. For purposes of calculating the benefits under this program, the amount of base payroll
89 shall increase each year based on an appropriate measure, as determined by the department;

90 [(22)] **(23)** "Project period", the time period that the benefits are provided to a qualified
91 company;

92 [(23)] **(24)** "Qualified company", a firm, partnership, joint venture, association, private
93 or public corporation whether organized for profit or not, or headquarters of such entity
94 registered to do business in Missouri that is the owner or operator of a project facility, offers
95 health insurance to all full-time employees of all facilities located in this state, and pays at least
96 fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890,
97 the term "qualified company" shall not include:

- 98 (a) Gambling establishments (NAICS industry group 7132);
99 (b) Retail trade establishments (NAICS sectors 44 and 45);
100 (c) Food and drinking places (NAICS subsector 722);
101 (d) Public utilities (NAICS 221 including water and sewer services);
102 (e) Any company that is delinquent in the payment of any nonprotested taxes or any
103 other amounts due the state or federal government or any other political subdivision of this state;
104 (f) Any company that has filed for or has publicly announced its intention to file for
105 bankruptcy protection;
106 (g) Educational services (NAICS sector 61);
107 (h) Religious organizations (NAICS industry group 8131);
108 (i) Public administration (NAICS sector 92);

109 (j) Ethanol distillation or production; or

110 (k) Biodiesel production. Notwithstanding any provision of this section to the contrary,
111 the headquarters or administrative offices of an otherwise excluded business may qualify for
112 benefits if the offices serve a multistate territory. In the event a national, state, or regional
113 headquarters operation is not the predominant activity of a project facility, the new jobs and
114 investment of such headquarters operation is considered eligible for benefits under this section
115 if the other requirements are satisfied;

116 [(24)] (25) "Qualified renewable energy sources" shall not be construed to include
117 ethanol distillation or production or biodiesel production; however, it shall include:

118 (a) Open-looped biomass;

119 (b) Close-looped biomass;

120 (c) Solar;

121 (d) Wind;

122 (e) Geothermal; and

123 (f) Hydropower;

124 [(25)] (26) "Related company" means:

125 (a) A corporation, partnership, trust, or association controlled by the qualified company;

126 (b) An individual, corporation, partnership, trust, or association in control of the
127 qualified company; or

128 (c) Corporations, partnerships, trusts or associations controlled by an individual,
129 corporation, partnership, trust or association in control of the qualified company. As used in this
130 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock
131 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
132 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent
133 of the capital or profits interest in such partnership or association, "control of a trust" shall mean
134 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal
135 or income of such trust, and ownership shall be determined as provided in Section 318 of the
136 Internal Revenue Code of 1986, as amended;

137 [(26)] (27) "Related facility", a facility operated by the qualified company or a related
138 company located in this state that is directly related to the operations of the project facility;

139 [(27)] (28) "Related facility base employment", the greater of the number of full-time
140 employees located at all related facilities on the date of the notice of intent or for the
141 twelve-month period prior to the date of the notice of intent, the average number of full-time
142 employees located at all related facilities of the qualified company or a related company located
143 in this state;

144 [(28)] (29) "Related facility base payroll", the total amount of taxable wages paid by the
145 qualified company to full-time employees of the qualified company located at a related facility
146 in the twelve months prior to the filing of the notice of intent, not including the payroll of the
147 owners of the qualified company unless the qualified company is participating in an employee
148 stock ownership plan. For purposes of calculating the benefits under this program, the amount
149 of related facility base payroll shall increase each year based on an appropriate measure, as
150 determined by the department;

151 [(29)] (30) "Rural area", a county in Missouri with a population less than seventy-five
152 thousand or that does not contain an individual city with a population greater than fifty thousand
153 according to the most recent federal decennial census;

154 [(30)] (31) "Small and expanding business project", a qualified company that within two
155 years of the date of the approval creates a minimum of twenty new jobs if the project facility is
156 located in a rural area or a minimum of forty new jobs if the project facility is not located in a
157 rural area and creates fewer than one hundred new jobs regardless of the location of the project
158 facility;

159 [(31)] (32) "Tax credits", tax credits issued by the department to offset the state income
160 taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided
161 for in this program;

162 [(32)] (33) "Technology business project", a qualified company that within two years of
163 the date of the approval creates a minimum of ten new jobs involved in the operations of a
164 company:

165 (a) Which is a technology company, as determined by a regulation promulgated by the
166 department under the provisions of section 620.1884 or classified by NAICS codes;

167 (b) Which owns or leases a facility which produces electricity derived from qualified
168 renewable energy sources, or produces fuel for the generation of electricity from qualified
169 renewable energy sources, but does not include any company that has received the alcohol
170 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section
171 40 of the tax code in the previous tax year; [or]

172 (c) Which researches, develops, or manufactures power system technology for:
173 aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; **or**

174 **(d) Which is a clinical molecular diagnostic laboratory focused on detecting and**
175 **monitoring infections in immunocompromised patient populations;**

176 [(33)] (34) "Withholding tax", the state tax imposed by sections 143.191 to 143.265,
177 RSMo. For purposes of this program, the withholding tax shall be computed using a schedule
178 as determined by the department based on average wages.

620.1881. 1. The department of economic development shall respond within thirty days
2 to a company who provides a notice of intent with either an approval or a rejection of the notice
3 of intent. The department shall give preference to qualified companies and projects targeted at
4 an area of the state which has recently been classified as a disaster area by the federal
5 government. Failure to respond on behalf of the department of economic development shall
6 result in the notice of intent being deemed an approval for the purposes of this section. A
7 qualified company who is provided an approval for a project shall be allowed a benefit as
8 provided in this program in the amount and duration provided in this section. A qualified
9 company may receive additional periods for subsequent new jobs at the same facility after the
10 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to
11 620.1890. There is no limit on the number of periods a qualified company may participate in the
12 program, as long as the minimum thresholds are achieved and the qualified company provides
13 the department with the required reporting and is in proper compliance for this program or other
14 state programs. A qualified company may elect to file a notice of intent to start a new project
15 period concurrent with an existing project period if the minimum thresholds are achieved and
16 the qualified company provides the department with the required reporting and is in proper
17 compliance for this program and other state programs; however, the qualified company may not
18 receive any further benefit under the original approval for jobs created after the date of the new
19 notice of intent, and any jobs created before the new notice of intent may not be included as new
20 jobs for the purpose of benefit calculation in relation to the new approval. **When a qualified
21 company has filed and received approval of a notice of intent and subsequently files
22 another notice of intent, the department shall apply the definition of project facility under
23 subdivision (20) of section 620.1878 to the new notice of intent as well as all previously
24 approved notices of intent and shall determine the application of the definitions of new job,
25 new payroll, project facility base employment, and project facility base payroll
26 accordingly.**

27 2. Notwithstanding any provision of law to the contrary, any qualified company that is
28 awarded benefits under this program may not simultaneously receive tax credits or exemptions
29 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
30 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company
31 under any other state programs for which the company is eligible and which utilize withholding
32 tax from the new jobs of the company must first be credited to the other state program before the
33 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.
34 These other state programs include, but are not limited to, the new jobs training program under
35 sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to
36 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800

37 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections
38 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training
39 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,
40 but the department shall issue a refundable tax credit for the full amount of benefit allowed under
41 this subdivision. The calendar year annual maximum amount of tax credits which may be issued
42 to a qualifying company that also participates in the new job training program shall be increased
43 by an amount equivalent to the withholding tax retained by that company under the new jobs
44 training program. However, if the combined benefits of the quality jobs program and the new
45 jobs training program exceed the projected state benefit of the project, as determined by the
46 department of economic development through a cost-benefit analysis, the increase in the
47 maximum tax credits shall be limited to the amount that would not cause the combined benefits
48 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program
49 who knowingly hires individuals who are not allowed to work legally in the United States shall
50 immediately forfeit such benefits and shall repay the state an amount equal to any state tax
51 credits already redeemed and any withholding taxes already retained.

52 3. The types of projects and the amount of benefits to be provided are:

53 (1) Small and expanding business projects: in exchange for the consideration provided
54 by the new tax revenues and other economic stimuli that will be generated by the new jobs
55 created by the program, a qualified company may retain an amount equal to the withholding tax
56 as calculated under subdivision [(33)] **(34)** of section 620.1878 from the new jobs that would
57 otherwise be withheld and remitted by the qualified company under the provisions of sections
58 143.191 to 143.265, RSMo, for a period of three years from the date the required number of new
59 jobs were created if the average wage of the new payroll equals or exceeds the county average
60 wage or for a period of five years from the date the required number of new jobs were created
61 if the average wage of the new payroll equals or exceeds one hundred twenty percent of the
62 county average wage;

63 (2) Technology business projects: in exchange for the consideration provided by the new
64 tax revenues and other economic stimuli that will be generated by the new jobs created by the
65 program, a qualified company may retain an amount equal to a maximum of five percent of new
66 payroll for a period of five years from the date the required number of jobs were created from
67 the withholding tax of the new jobs that would otherwise be withheld and remitted by the
68 qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average
69 wage of the new payroll equals or exceeds the county average wage. An additional one-half
70 percent of new payroll may be added to the five percent maximum if the average wage of the
71 new payroll in any year exceeds one hundred twenty percent of the county average wage in the
72 county in which the project facility is located, plus an additional one-half percent of new payroll

73 may be added if the average wage of the new payroll in any year exceeds one hundred forty
74 percent of the average wage in the county in which the project facility is located. The department
75 shall issue a refundable tax credit for any difference between the amount of benefit allowed
76 under this subdivision and the amount of withholding tax retained by the company, in the event
77 the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
78 company under this subdivision. The calendar year annual maximum amount of tax credits that
79 may be issued to any qualified company for a project or combination of projects is five hundred
80 thousand dollars;

81 (3) High impact projects: in exchange for the consideration provided by the new tax
82 revenues and other economic stimuli that will be generated by the new jobs created by the
83 program, a qualified company may retain an amount from the withholding tax of the new jobs
84 that would otherwise be withheld and remitted by the qualified company under the provisions
85 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five
86 years from the date the required number of jobs were created if the average wage of the new
87 payroll equals or exceeds the county average wage of the county in which the project facility is
88 located. **For high-impact projects in a facility located within two adjacent counties the new**
89 **payroll shall equal or exceed the higher county average wage of the adjacent counties.** The
90 percentage of payroll allowed under this subdivision shall be three and one-half percent of new
91 payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent
92 of the county average wage in the county in which the project facility is located. The percentage
93 of payroll allowed under this subdivision shall be four percent of new payroll if the average wage
94 of the new payroll in any year exceeds one hundred forty percent of the county average wage in
95 the county in which the project facility is located. An additional one percent of new payroll may
96 be added to these percentages if local incentives equal between ten percent and twenty-four
97 percent of the new direct local revenue; an additional two percent of new payroll is added to
98 these percentages if the local incentives equal between twenty-five percent and forty-nine percent
99 of the new direct local revenue; or an additional three percent of payroll is added to these
100 percentages if the local incentives equal fifty percent or more of the new direct local revenue.
101 The department shall issue a refundable tax credit for any difference between the amount of
102 benefit allowed under this subdivision and the amount of withholding tax retained by the
103 company, in the event the withholding tax is not sufficient to provide the entire amount of benefit
104 due to the qualified company under this subdivision. The calendar year annual maximum
105 amount of tax credits that may be issued to any qualified company for a project or combination
106 of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount
107 of tax credit that may be issued to any qualified company for a project or combination of projects
108 may be increased up to one million dollars if the number of new jobs will exceed five hundred

109 and if such action is proposed by the department and approved by the quality jobs advisory task
110 force established in section 620.1887; provided, however, until such time as the initial at-large
111 members of the quality jobs advisory task force are appointed, this determination shall be made
112 by the director of the department of economic development. In considering such a request, the
113 task force shall rely on economic modeling and other information supplied by the department
114 when requesting the increased limit on behalf of the project;

115 (4) Job retention projects: a qualified company may receive a tax credit for the retention
116 of jobs in this state, provided the qualified company and the project meets all of the following
117 conditions:

118 (a) For each of the twenty-four months preceding the year in which application for the
119 program is made the qualified company must have maintained at least one thousand full-time
120 employees at the employer's site in the state at which the jobs are based, and the average wage
121 of such employees must meet or exceed the county average wage;

122 (b) The qualified company retained at the project facility the level of full-time employees
123 that existed in the taxable year immediately preceding the year in which application for the
124 program is made;

125 (c) The qualified company is considered to have a significant statewide effect on the
126 economy, and has been determined to represent a substantial risk of relocation from the state by
127 the quality jobs advisory task force established in section 620.1887; provided, however, until
128 such time as the initial at-large members of the quality jobs advisory task force are appointed,
129 this determination shall be made by the director of the department of economic development;

130 (d) The qualified company in the project facility will cause to be invested a minimum
131 of seventy million dollars in new investment prior to the end of two years or will cause to be
132 invested a minimum of thirty million dollars in new investment prior to the end of two years and
133 maintain an annual payroll of at least seventy million dollars during each of the years for which
134 a credit is claimed; and

135 (e) The local taxing entities shall provide local incentives of at least fifty percent of the
136 new direct local revenues created by the project over a ten-year period. The quality jobs advisory
137 task force may recommend to the department of economic development that appropriate
138 penalties be applied to the company for violating the agreement. The amount of the job retention
139 credit granted may be equal to up to fifty percent of the amount of withholding tax generated by
140 the full-time jobs at the project facility for a period of five years. The calendar year annual
141 maximum amount of tax credit that may be issued to any qualified company for a job retention
142 project or combination of job retention projects shall be seven hundred fifty thousand dollars per
143 year, but the maximum amount may be increased up to one million dollars if such action is
144 proposed by the department and approved by the quality jobs advisory task force established in

145 section 620.1887; provided, however, until such time as the initial at-large members of the
146 quality jobs advisory task force are appointed, this determination shall be made by the director
147 of the department of economic development. In considering such a request, the task force shall
148 rely on economic modeling and other information supplied by the department when requesting
149 the increased limit on behalf of the job retention project. In no event shall the total amount of
150 all tax credits issued for the entire job retention program under this subdivision exceed three
151 million dollars annually. Notwithstanding the above, no tax credits shall be issued for job
152 retention projects approved by the department after August 30, 2013;

153 (5) Small business job retention and flood survivor relief: a qualified company may
154 receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood
155 survivor relief in this state for each job retained over a three-year period, provided that:

156 (a) The qualified company did not receive any state or federal benefits, incentives, or tax
157 relief or abatement in locating its facility in a flood plain;

158 (b) The qualified company and related companies have fewer than one hundred
159 employees at the time application for the program is made;

160 (c) The average wage of the qualified company's and related companies' employees must
161 meet or exceed the county average wage;

162 (d) All of the qualified company's and related companies' facilities are located in this
163 state;

164 (e) The facilities at the primary business site in this state have been directly damaged by
165 floodwater rising above the level of a five hundred year flood at least two years, but fewer than
166 eight years, prior to the time application is made;

167 (f) The qualified company made significant efforts to protect the facilities prior to any
168 impending danger from rising floodwaters;

169 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the
170 qualified company and related companies retained, at the company's facilities in this state, at
171 least the level of full-time, year-round employees that existed in the taxable year immediately
172 preceding the year in which application for the program is made; and

173 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company
174 cumulatively invests at least two million dollars in capital improvements in facilities and
175 equipment located at such facilities that are not located within a five hundred year flood plain
176 as designated by the Federal Emergency Management Agency, and amended from time to time.
177 The amount of the small business job retention and flood survivor relief credit granted may be
178 equal to up to one hundred percent of the amount of withholding tax generated by the full-time
179 jobs at the project facility for a period of three years. The calendar year annual maximum
180 amount of tax credit that may be issued to any qualified company for a small business job

181 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the
182 maximum amount may be increased up to five hundred thousand dollars if such action is
183 proposed by the department and approved by the quality jobs advisory task force established in
184 section 620.1887. In considering such a request, the task force shall rely on economic modeling
185 and other information supplied by the department when requesting an increase in the limit on
186 behalf of the small business job retention and flood survivor relief project. In no event shall the
187 total amount of all tax credits issued for the entire small business job retention and flood survivor
188 relief program under this subdivision exceed five hundred thousand dollars annually.
189 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued
190 for small business job retention and flood survivor relief projects approved by the department
191 after August 30, 2010;

192 **(6) Premium employment projects: in exchange for the consideration provided by**
193 **the new tax revenues and other economic stimuli that will be generated by the new jobs**
194 **created by the program, a qualified company may retain an amount from the withholding**
195 **tax of the new jobs that would otherwise be withheld and remitted by the qualified**
196 **company under the provisions of sections 143.191 to 143.265, RSMo, equal to four percent**
197 **of new payroll for a period of five years from the date the required number of jobs were**
198 **created if the wages for at least one hundred new employees equal or exceed one hundred**
199 **eighty percent of the county average wage. An additional one percent of new payroll may**
200 **be added to this percentage if local incentives equal between ten percent and twenty-four**
201 **percent of the new direct local revenue; an additional two percent of new payroll is added**
202 **to this percentage if the local incentives equal between twenty-five percent and forty-nine**
203 **percent of the new direct local revenue; or an additional three percent of payroll is added**
204 **to this percentage if the local incentives equal fifty percent or more of the new direct local**
205 **revenue. The department shall issue a refundable tax credit for any difference between the**
206 **amount of benefit allowed under this subdivision and the amount of withholding tax**
207 **retained by the company, in the event the withholding tax is not sufficient to provide the**
208 **entire amount of benefit due to the qualified company under this subdivision. The amount**
209 **of tax credits issued to a qualified company for a premium employment project under this**
210 **subdivision shall not be included in determining the amount of tax credits that may be**
211 **issued to any qualified company under this section for a technology business project or a**
212 **high-impact project or in determining the maximum calendar year annual tax credits**
213 **issued for the entire program under subsection 5 of this section.**

214 4. The qualified company shall provide an annual report of the number of jobs and such
215 other information as may be required by the department to document the basis for the benefits
216 of this program. The department may withhold the approval of any benefits until it is satisfied

217 that proper documentation has been provided, and shall reduce the benefits to reflect any
218 reduction in full-time employees or new payroll. Upon approval by the department, the qualified
219 company may begin the retention of the withholding taxes when it reaches the minimum number
220 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be
221 issued upon satisfaction by the department that the qualified company has exceeded the county
222 average wage and the minimum number of new jobs. In such annual report, if the average wage
223 is below the county average wage, the qualified company has not maintained the employee
224 insurance as required, or if the number of new jobs is below the minimum, the qualified
225 company shall not receive tax credits or retain the withholding tax for the balance of the benefit
226 period. In the case of a qualified company that initially filed a notice of intent and received an
227 approval from the department for high impact benefits and the minimum number of new jobs in
228 an annual report is below the minimum for high impact projects, the company shall not receive
229 tax credits for the balance of the benefit period but may continue to retain the withholding taxes
230 if it otherwise meets the requirements of a small and expanding business under this program.
231 **In the case of a qualified company that initially filed a notice of intent and received an**
232 **approval from the department for premium employment benefits and the wages for at least**
233 **one hundred new employees in the annual report are below one hundred eighty percent**
234 **of the county average wage, the company shall not receive tax credits for the balance of the**
235 **benefit period but may continue to retain the withholding taxes if it otherwise meets the**
236 **requirements of a small and expanding business under this program or of a high-impact**
237 **project under this program.**

238 5. **Exclusive of tax credits issued under subdivision (6) of subsection 3 of this**
239 **section**, the maximum calendar year annual tax credits issued for the entire program shall not
240 exceed [sixty] **one hundred** million dollars. Notwithstanding any provision of law to the
241 contrary, the maximum annual tax credits authorized under section 135.535, RSMo, are hereby
242 reduced from ten million dollars to eight million dollars, with the balance of two million dollars
243 transferred to this program. There shall be no limit on the amount of withholding taxes that may
244 be retained by approved companies under this program **or the amount of tax credits issued**
245 **under subdivision (6) of subsection 3 of this section.**

246 6. The department shall allocate the annual tax credits based on the date of the approval,
247 reserving such tax credits based on the department's best estimate of new jobs and new payroll
248 of the project, and the other factors in the determination of benefits of this program. However,
249 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
250 The allocation of tax credits for the period assigned to a project shall expire if, within two years
251 from the date of commencement of operations, or approval if applicable, the minimum
252 thresholds have not been achieved. The qualified company may retain authorized amounts from

253 the withholding tax under this section once the minimum new jobs thresholds are met for the
254 duration of the project period. No benefits shall be provided under this program until the
255 qualified company meets the minimum new jobs thresholds. In the event the qualified company
256 does not meet the minimum new job threshold, the qualified company may submit a new notice
257 of intent or the department may provide a new approval for a new project of the qualified
258 company at the project facility or other facilities.

259 7. For a qualified company with flow-through tax treatment to its members, partners, or
260 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion
261 to their share of ownership on the last day of the qualified company's tax period.

262 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
263 RSMo, and may not be carried forward but shall be claimed within one year of the close of the
264 taxable year for which they were issued, except as provided under subdivision (4) of subsection
265 3 of this section.

266 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing
267 a notarized endorsement thereof with the department that names the transferee, the amount of
268 tax credit transferred, and the value received for the credit, as well as any other information
269 reasonably requested by the department.

270 10. Prior to the issuance of tax credits, the department shall verify through the
271 department of revenue, or any other state department, that the tax credit applicant does not owe
272 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
273 fees or assessments levied by any state department and through the department of insurance,
274 financial institutions and professional registration that the applicant does not owe any delinquent
275 insurance taxes. Such delinquency shall not affect the authorization of the application for such
276 tax credits, except that at issuance credits shall be first applied to the delinquency and any
277 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue
278 or the department of insurance, financial institutions and professional registration, or any other
279 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first
280 of any year and the application of tax credits to such delinquency causes a tax deficiency on
281 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
282 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all
283 available credits toward a tax delinquency, the administering agency shall notify the appropriate
284 department and that department shall update the amount of outstanding delinquent tax owed by
285 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
286 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
287 of other provisions of law.

288 11. Except as provided under subdivision (4) of subsection 3 of this section, the director
289 of revenue shall issue a refund to the qualified company to the extent that the amount of credits
290 allowed in this section exceeds the amount of the qualified company's income tax.

291 12. An employee of a qualified company will receive full credit for the amount of tax
292 withheld as provided in section 143.211, RSMo.

293 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any
294 person or circumstance is held invalid, the invalidity shall not affect other provisions or
295 application of these sections which can be given effect without the invalid provisions or
296 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
297 severable.

 Section B. Because immediate action is necessary to stimulate economic growth in
2 Missouri, 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 upon its
5 passage and approval.

✓