

FIRST REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 120**  
97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SCHMITT.

Offered February 26, 2013.

Senate Substitute adopted, February 26, 2013.

Taken up for Perfection February 26, 2013. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0722S.15P

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**AN ACT**

To repeal sections 135.305, 135.350, 135.352, 135.484, 143.119, 253.550, 253.557, 253.559, and 447.708, RSMo, and to enact in lieu thereof nineteen new sections relating to tax incentives, with an emergency clause for certain sections.

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

Section A. Sections 135.305, 135.350, 135.352, 135.484, 143.119, 253.550, 253.557, 253.559, and 447.708, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 67.2050, 135.305, 135.350, 135.352, 135.484, 135.1550, 135.1555, 135.1560, 135.1565, 135.1570, 135.1575, 144.810, 253.550, 253.557, 253.559, 348.273, 348.274, 447.708, and 1, to read as follows:

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

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

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

**(3) "NAICS", the 2007 edition of the North American Industry Classification System developed under the direction and guidance of the federal Office of Management and Budget. Any NAICS sector,**

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

10 subsector, industry group, or industry identified in this section shall  
11 include its corresponding classification in previous and subsequent  
12 federal industry classification systems;

13 (4) "Technology business facility", a facility purchased,  
14 constructed, extended, or improved under this section, provided that  
15 such business facility is engaged in:

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

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

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

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

27 2. The governing body of any municipality may:

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

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

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

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

47 result in economic benefits to the municipality, the governing body may  
48 lawfully enter into an agreement that includes nominal monetary  
49 consideration to the municipality in exchange for the use of one or  
50 more components of the facility.

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

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

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

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

74 8. The governing body of any municipality may sell or otherwise  
75 dispose of the property, buildings, or plants acquired under this section  
76 to private persons or corporations for technology business facility  
77 project purposes upon approval by the governing body. The terms and  
78 method of the sale or other disposal shall be established by the  
79 governing body so as to reasonably protect the economic well-being of  
80 the municipality and to promote the development of technology  
81 business facility projects. A private person or corporation that initially  
82 transfers property to the municipality for the purposes of a technology  
83 business facility project and does not charge a purchase price to the

84 **municipality shall retain the right, upon request to the municipality,**  
85 **to have the municipality retransfer the donated property to the person**  
86 **or corporation at no cost.**

87 **9. The provisions of this section shall not be construed to allow**  
88 **political subdivisions to provide telecommunications services or**  
89 **telecommunications facilities to the extent that they are prohibited**  
90 **from doing so by section 392.410.**

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

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

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

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

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

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

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

15 **Code, as amended;**

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

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

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

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

29 [(8)] (9) "Taxpayer", person, firm or corporation subject to the state  
30 income tax imposed by the provisions of chapter 143 (except withholding imposed  
31 by sections 143.191 to 143.265) or a corporation subject to the annual corporation  
32 franchise tax imposed by the provisions of chapter 147, or an insurance company  
33 paying an annual tax on its gross premium receipts in this state, or other  
34 financial institution paying taxes to the state of Missouri or any political  
35 subdivision of this state under the provisions of chapter 148, or an express  
36 company which pays an annual tax on its gross receipts in this state.

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

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

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

15 tax-exempt bond issuance.

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

26           **5.** The Missouri low-income housing tax credit shall be taken against the  
27 taxes and in the order specified pursuant to section 32.115. The credit authorized  
28 by this section shall not be refundable. Any amount of credit that exceeds the tax  
29 due for a taxpayer's taxable year may be carried back to any of the taxpayer's  
30 three prior taxable years or carried forward to any of the taxpayer's five  
31 subsequent taxable years. **For projects authorized on or after July 1, 2013,**  
32 **any amount of credit that exceeds the tax due for a taxpayer's taxable**  
33 **year may be carried forward to any of the taxpayer's two subsequent**  
34 **taxable years.**

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

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

48           **8. A taxpayer that receives state tax credits under the provisions**  
49 **of sections 253.545 to 253.559 shall be ineligible to receive state tax**  
50 **credits under the provisions of sections 135.350 to 135.363 for the same**

51 **project, if such project is not financed through tax exempt bond**  
52 **issuance.**

53 [7.] 9. The director of the department may promulgate rules and  
54 regulations necessary to administer the provisions of this section. No rule or  
55 portion of a rule promulgated pursuant to the authority of this section shall  
56 become effective unless it has been promulgated pursuant to the provisions of  
57 section 536.024.

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

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

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

28 4. **No tax credits provided under sections 135.475 to 135.487 shall**  
29 **be authorized on or after the effective date of this act. The provisions**

30 of this subsection shall not be construed to limit or in any way impair  
31 the department's ability to issue tax credits authorized prior to the  
32 effective date of this act, or a taxpayer's ability to redeem such tax  
33 credits.

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

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

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

9 (2) "Airport", an airport which is owned and operated by a city  
10 located within this state;

11 (3) "Chargeable kilo", the shipment of a kilo of freight, as  
12 measured by the greater of:

13 (a) Actual weight; or

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

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

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

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

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

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

135.1555. 1. For all fiscal years beginning on or after July 1,  
2 2013, a claiming freight forwarder shall be entitled to an air export tax

3 credit for the shipment of cargo on a qualifying outbound flight in an  
4 amount equal to forty cents per chargeable kilo.

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

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

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

135.1565. The total aggregate amount for air export tax credits  
2 authorized under section 135.1555 shall not exceed sixty million  
3 dollars. The amount of the air export tax credits issued under section  
4 135.1555 shall not exceed seven million five hundred thousand dollars  
5 for each fiscal year beginning on or after July 1, 2013.

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

135.1575. 1. The department may promulgate rules to implement  
2 the provisions of sections 135.1550 to 135.1575. Any rule or portion of  
3 a rule, as that term is defined in section 536.010 that is created under  
4 the authority delegated in this section shall become effective only if it  
5 complies with and is subject to all of the provisions of chapter 536, and,  
6 if applicable, section 536.028. This section and chapter 536 are

7 nonseverable and if any of the powers vested with the general assembly  
8 pursuant to chapter 536, to review, to delay the effective date, or to  
9 disapprove and annul a rule are subsequently held unconstitutional,  
10 then the grant of rulemaking authority and any rule proposed or  
11 adopted after the effective date of this act, shall be invalid and void.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

57           **(a) The facility is acquired by, or leased to, an operating**

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

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

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

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

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

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

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

92 (12) "New job" in the case of a new data center project, the total  
93 number of full-time employees located at a new data storage center for  
94 a period of up to thirty-six consecutive months from the date of

95 conditional approval for an exemption under this section. In the case  
96 of an expanding data storage center project, the total number of full-  
97 time employees located at the expanding data storage center that  
98 exceeds the greater of the number of full-time employees located at the  
99 project facility on the date of the submission of a project plan under  
100 this section or for the twelve-month period prior to the date of the  
101 submission of a project plan, the average number of full-time employees  
102 located at the expanding data storage center facility. In the event the  
103 expanding data storage center facility has not been in operation for a  
104 full twelve-month period at the time of the submission of a project plan,  
105 the total number of full-time employees located at the expanding data  
106 storage center that exceeds the greater of the number of full-time  
107 employees located at the project facility on the date of the submission  
108 of a project plan under this section or the average number of full-time  
109 employees for the number of months the expanding data storage center  
110 facility has been in operation prior to the date of the submission of the  
111 project plan;

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

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

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

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

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

132 the seller charged by law with collecting the sales tax from the  
133 purchaser.

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

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

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

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

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

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

169           **(2) The department of economic development shall convey**  
170 **conditional approvals to the department of revenue and the identified**  
171 **project taxpayers. After a conditionally approved new facility has met**  
172 **the requirements in subsection 1 of this section for a new facility and**  
173 **the execution of the agreement specified in subsection 6 of this section,**  
174 **the project taxpayers shall provide proof of the same to the department**  
175 **of economic development. Upon verification of such proof, the**  
176 **department of economic development shall certify the new facility to**  
177 **the department of revenue as being eligible for the exemption dating**  
178 **retroactively to the first day of construction on the new facility. The**  
179 **department of revenue, upon receipt of adequate proof of the amount**  
180 **of sales taxes paid since the first day of construction, shall issue a**  
181 **refund of taxes paid but eligible for exemption under subsection 2 of**  
182 **this section to any applicable taxpayer and issue a certificate of**  
183 **exemption to each new project taxpayer for ongoing exemptions under**  
184 **subsection 2 of this section. The department of revenue shall issue**  
185 **such a refund within thirty days of receipt of certification from the**  
186 **department of economic development.**

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

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

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

204           **(1) All electrical energy, gas, water, and other utilities including**  
205 **telecommunication and internet services used in an expanding data**

206 storage center which, on an annual basis, exceeds the amount of  
207 electrical energy, gas, water, and other utilities including  
208 telecommunication and internet services used in the existing facility or  
209 the replaced facility prior to the expansion. For purposes of this  
210 subdivision only, "amount" shall be measured in kilowatt hours, gallons,  
211 cubic feet, or other measures applicable to a utility service as opposed  
212 to in dollars, to account for increases in utility rates;

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

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

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

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

239 (2) The department of economic development shall convey such  
240 conditional approval to the department of revenue and the identified  
241 project taxpayers. After a conditional approved facility has met the  
242 requirements in subsection 1 of this section, the project taxpayers shall

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

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

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

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

277 (2) In order to received exemptions under subsection 2 or 4 of  
278 this section, the project taxpayers shall enter into an agreement with  
279 the department of economic development providing for repayment

280 **penalties in the event the data storage center project fails to:**

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

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

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

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

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

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

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

253.550. 1. Any taxpayer incurring costs and expenses for the  
2 rehabilitation of eligible property, which is a certified historic structure or  
3 structure in a certified historic district, may, subject to the provisions of this  
4 section and section 253.559, receive a credit against the taxes imposed pursuant  
5 to chapters 143 and 148, except for sections 143.191 to 143.265, on such taxpayer  
6 in an amount equal to twenty-five percent of the total costs and expenses of  
7 rehabilitation incurred after January 1, 1998, which shall include, but not be

8 limited to, qualified rehabilitation expenditures as defined under section  
9 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related  
10 regulations thereunder, provided the rehabilitation costs associated with  
11 rehabilitation and the expenses exceed fifty percent of the total basis in the  
12 property and the rehabilitation meets standards consistent with the standards  
13 of the Secretary of the United States Department of the Interior for rehabilitation  
14 as determined by the state historic preservation officer of the Missouri  
15 department of natural resources.

16         2. During the period beginning on January 1, 2010, but ending on or after  
17 June 30, 2010, the department of economic development shall not approve  
18 applications for tax credits under the provisions of subsections 3 and 8 of section  
19 253.559 which, in the aggregate, exceed seventy million dollars, increased by any  
20 amount of tax credits for which approval shall be rescinded under the provisions  
21 of section 253.559. For each fiscal year beginning on or after July 1, 2010, **but**  
22 **ending on or before June 30, 2013**, the department of economic development  
23 shall not approve applications for tax credits under the provisions of subsections  
24 3 and 8 of section 253.559 which, in the aggregate, exceed one hundred forty  
25 million dollars, increased by any amount of tax credits for which approval shall  
26 be rescinded under the provisions of section 253.559. The limitations provided  
27 under this subsection shall not apply to applications approved under the  
28 provisions of subsection 3 of section 253.559 for projects to receive less than two  
29 hundred seventy-five thousand dollars in tax credits.

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

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

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

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

43                 (a) Has incurred costs and expenses for an eligible property which exceed

44 the lesser of five percent of the total project costs or one million dollars and  
45 received an approved Part I from the Secretary of the United States Department  
46 of Interior; or

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

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

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

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

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

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

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

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

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

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

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

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

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

253.557. 1. If the amount of such credit exceeds the total tax liability for  
2 the year in which the rehabilitated property is placed in service, the amount that  
3 exceeds the state tax liability may be carried back to any of the three preceding  
4 years and carried forward for credit against the taxes imposed pursuant to  
5 chapter 143 and chapter 148, except for sections 143.191 to 143.265 for the  
6 succeeding ten years, or until the full credit is used, whichever occurs first. **For**  
7 **all tax credits authorized under the provisions of sections 253.545 to**  
8 **253.559 on or after the effective date of this act, if the total amount of**  
9 **such credit exceeds the total tax liability for the year in which the**

10 **rehabilitated property is placed in service, the amount that exceeds the**  
11 **state tax liability may be carried forward for credit against the taxes**  
12 **imposed pursuant to chapter 143 and chapter 148, except for sections**  
13 **143.191 to 143.265 for the succeeding two years, or until the full credit**  
14 **is used, whichever occurs first.** Not-for-profit entities, including but not  
15 limited to corporations organized as not-for-profit corporations pursuant to  
16 chapter 355 shall be ineligible for the tax credits authorized under sections  
17 253.545 [through 253.561] to **253.559. Any taxpayer that receives state tax**  
18 **credits under the provisions of sections 135.350 to 135.363 for a project**  
19 **that is not financed through tax exempt bonds issuance shall be**  
20 **ineligible for the state tax credits authorized under sections 253.545 to**  
21 **253.559 for the same project.** Taxpayers eligible for such tax credits may  
22 transfer, sell or assign the credits. Credits granted to a partnership, a limited  
23 liability company taxed as a partnership or multiple owners of property shall be  
24 passed through to the partners, members or owners respectively pro rata or  
25 pursuant to an executed agreement among [the] **such** partners, members or  
26 owners documenting an alternate distribution method.

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

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

10 2. Each application shall be reviewed by the department of economic  
11 development for approval. In order to receive approval, an application, other

12 than applications submitted under the provisions of subsection 8 of this section,  
13 shall include:

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

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

24 (3) The estimated cost of rehabilitation, the anticipated total costs of the  
25 project, the actual basis of the property, as shown by proof of actual acquisition  
26 costs, the anticipated total labor costs, the estimated project start date, and the  
27 estimated project completion date;

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

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

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

48 condition to any claim for such credits.

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

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

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

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

74 6. All taxpayers with applications receiving approval on or after the  
75 effective date of this act shall commence rehabilitation within two years of the  
76 date of issuance of the letter from the department of economic development  
77 granting the approval for tax credits. "Commencement of rehabilitation" shall  
78 mean that as of the date in which actual physical work, contemplated by the  
79 architectural plans submitted with the application, has begun, the taxpayer has  
80 incurred no less than ten percent of the estimated costs of rehabilitation provided  
81 in the application. Taxpayers with approval of a project shall submit evidence of  
82 compliance with the provisions of this subsection. If the department of economic  
83 development determines that a taxpayer has failed to comply with the

84 requirements provided under this section, the approval for the amount of tax  
85 credits for such taxpayer shall be rescinded and such amount of tax credits shall  
86 then be included in the **applicable** total amount of tax credits, provided under  
87 subsection 2, **5, or 8** of section 253.550, from which approvals may be  
88 granted. Any taxpayer whose approval shall be subject to rescission shall be  
89 notified of such from the department of economic development and, upon receipt  
90 of such notice, may submit a new application for the project.

91         7. To claim the credit authorized under sections 253.550 to 253.559, a  
92 taxpayer with approval shall apply for final approval and issuance of tax credits  
93 from the department of economic development which, in consultation with the  
94 department of natural resources, shall determine the final amount of eligible  
95 rehabilitation costs and expenses and whether the completed rehabilitation meets  
96 the standards of the Secretary of the United States Department of the Interior  
97 for rehabilitation as determined by the state historic preservation officer of the  
98 Missouri department of natural resources. For financial institutions credits  
99 authorized pursuant to sections 253.550 to 253.561 shall be deemed to be  
100 economic development credits for purposes of section 148.064. The approval of  
101 all applications and the issuing of certificates of eligible credits to taxpayers shall  
102 be performed by the department of economic development. The department of  
103 economic development shall inform a taxpayer of final approval by letter and  
104 shall issue, to the taxpayer, tax credit certificates. The taxpayer shall attach the  
105 certificate to all Missouri income tax returns on which the credit is claimed.

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

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

120 property.

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

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

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

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

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

7 (3) "Investor":

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

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

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

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

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

23           **(5) "Permitted entity investor", any charitable organization which**  
24 **is exempt from federal income tax and whose Missouri unrelated**  
25 **business taxable income, if any, would be subject to the state income**  
26 **tax imposed under chapter 143, general partnership, limited**  
27 **partnership, small corporation described in section 143.471, revocable**  
28 **living trust, or limited liability company that has elected to be taxed as**  
29 **a partnership under the United States internal revenue code, and that**  
30 **was established and is operated for the purpose of making investments**  
31 **in other entitites;**

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

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

38           **(a) Any business owned by an individual;**

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

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

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

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

49           **a. A general or limited partnership interest;**

50           **b. Common stock;**

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

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

56           **(b) A debt instrument, such as a note or debenture that is**  
57 **secured or unsecured, subordinated to the general creditors of the**  
58 **debtor and requires no payments of principal, other than principal**  
59 **payments required to be made out of any future profits of the debtor,**

60 for at least a seven-year period after commencement of such debt  
61 instrument's term;

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

64 (10) "Tax credit", a credit against the tax otherwise due under  
65 chapter 143, excluding withholding tax imposed by sections 143.191 to  
66 143.265.

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

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

97 credit is used, whichever occurs first. If the investor is a permitted  
98 entity investor, the credit provided by this section shall be claimed by  
99 the owners of the permitted entity investor in proportion to their  
100 equity investment in the permitted entity investor.

101 (2) A cash investment in a qualified security shall be deemed to  
102 have been made on the date of acquisition of the qualified security, as  
103 such date is determined in accordance with the provisions of the  
104 Internal Revenue Code of 1986, as amended.

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

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

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

131 (6) During the fourth calendar quarter, a regional SBTDC in  
132 need of additional tax credits for transactions closing in the fourth  
133 calendar quarter may request that another regional SBTDC with

134 unallocated tax credits permit such unallocated tax credits to be  
135 allocated by the requesting SBTDC. No regional SBTDC shall be  
136 required to grant such request. When a granting SBTDC transfers the  
137 allocation of the unallocated tax credits to a requesting SBTDC under  
138 this subdivision, the granting SBTDC shall provide to the requesting  
139 SBTDC a written confirmation authorizing such transfer, the granting  
140 SBTDC shall include a copy of such written confirmation in its reports  
141 provided under section 348.274, and the requesting SBTDC shall include  
142 a copy of such written confirmation in its reports provided under  
143 section 348.274.

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

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

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

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

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

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

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

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

170       (3) The designation of a business as a qualified Missouri business

171 shall be made by the regional SBTDC, and such designation shall be  
172 renewed annually. A business shall be so designated if the regional  
173 SBTDC determines, based upon the application submitted by the  
174 business and any additional investigation the regional SBTDC shall  
175 make, that such business meets the criteria established by the  
176 department. Such criteria shall include at least the following:

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

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

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

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

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

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

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

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

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

200 e. Insurance;

201 f. Construction or construction management or contracting;

202 g. Business consulting or brokerage;

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

208 of loss;

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

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

212 k. Any gambling related business;

213 (f) The business has a reasonable chance of success;

214 (g) The business has the reasonable potential to create  
215 measurable employment within the region, this state, or both;

216 (h) The business has an innovative and proprietary technology,  
217 product, or service;

218 (i) The existing owners of the business and other founders have  
219 made or are committed to make a substantial financial and time  
220 commitment to the business;

221 (j) The securities to be issued and purchased are qualified  
222 securities;

223 (k) The business has the reasonable potential to address the  
224 needs and opportunities specific to the region or this state, or both;

225 (l) The business has made binding commitments to the regional  
226 SBTDC for adequate reporting of financial data, including a  
227 requirement for an annual report, or, if required by the regional  
228 SBTDC, an annual audit of the financial and operational records of the  
229 business, the right of access to the financial records of the business,  
230 and the right of the regional SBTDC to record and publish normal and  
231 customary data and information related to the issuance of tax credits  
232 that are not otherwise determined to be trade or business secrets; and

233 (m) The business shall satisfy all other requirements of this  
234 section and section 348.274.

235 (4) Notwithstanding the requirements of subdivision (3) of this  
236 subsection, a business may be considered as a qualified Missouri  
237 business under the provisions of this section and section 348.274 if such  
238 business falls within a standard industrial classification code  
239 established by the department.

240 (5) A qualified Missouri business shall have the burden of proof  
241 to demonstrate to the regional SBTDC the qualifications of the business  
242 under this section.

243 6. Any rule or portion of a rule, as that term is defined in section  
244 536.010 that is created under the authority delegated in this section

245 and section 348.274 shall become effective only if it complies with and  
246 is subject to all of the provisions of chapter 536, and, if applicable,  
247 section 536.028. This section and chapter 536 are nonseverable and if  
248 any of the powers vested with the general assembly pursuant to chapter  
249 536, to review, to delay the effective date, or to disapprove and annul  
250 a rule are subsequently held unconstitutional, then the grant of  
251 rulemaking authority and any rule proposed or adopted after August  
252 28, 2013, shall be invalid and void.

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

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

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

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

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

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

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

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

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

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

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

67 assistance under this section and section 348.273.

68 (7) In the event that a business loses its designation as a  
69 qualified Missouri business, such business shall be precluded from  
70 being issued any additional tax credits with respect to the business,  
71 shall be precluded from being approved as a qualified Missouri  
72 business and shall repay any financial assistance to the regional  
73 SBTDC, in an amount to be determined by the regional SBTDC. Each  
74 qualified Missouri business that loses its designation as a qualified  
75 Missouri business shall enter into a repayment agreement with the  
76 regional SBTDC specifying the terms of such repayment obligation.

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

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

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

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

104 **qualified investor in the manner required by the department.**

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

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

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

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

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

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

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

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

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

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

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

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

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

140 **(c) The amount of allocated but unissued tax credits and the**

141 **information about the unissued tax credits set forth in subdivision (2)**  
142 **of this subsection;**

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

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

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

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

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

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

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

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

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

9 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax  
10 otherwise imposed by chapter 147, or the tax otherwise imposed by chapter  
11 148. **Notwithstanding any provisions of law to the contrary, the**  
12 **department shall not authorize tax credits and exemptions pursuant to**  
13 **this subsection after the effective date of this act.** For purposes of this  
14 subsection:

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

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

33 (3) For eligibility to receive the income tax refund pursuant to section  
34 135.245, the eligible project must create at least ten new jobs or retain businesses  
35 which supply at least twenty-five existing jobs, or combination thereof, and  
36 otherwise comply with the provisions of section 135.245 for application and use  
37 of the refund and the eligibility requirements of this section;

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

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

43 (6) The taxpayer may claim the state tax credits authorized by this  
44 subsection and the state income exemption for a period not in excess of ten

45 consecutive tax years. For the purpose of this section, "taxpayer" means an  
46 individual proprietorship, partnership or corporation described in section 143.441  
47 or 143.471 who operates an eligible project. The director shall determine the  
48 number of years the taxpayer may claim the state tax credits and the state  
49 income exemption based on the projected net state economic benefits attributed  
50 to the eligible project;

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

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

76 (9) In the case where an eligible project replaces a similar facility that  
77 closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which  
78 the tax credits are earned, the owner and operator of the eligible project shall  
79 provide the director with a written statement explaining the reason for  
80 discontinuing operations at the closed facility. The statement shall include a

81 comparison of the activities performed at the closed facility prior to the date the  
82 facility ceased operating, to the activities performed at the eligible project, and  
83 a detailed account describing the need and rationale for relocating to the eligible  
84 project. If the director finds the relocation to the eligible project significantly  
85 impaired the economic stability of the area in which the closed facility was  
86 located, and that such move was detrimental to the overall economic development  
87 efforts of the state, the director may deny the taxpayer's request to claim tax  
88 benefits;

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

105 (11) For the purpose of this section, "new qualified investment" means  
106 new business facility investment as defined and as determined in subdivision (7)  
107 of section 135.100 which is used at and in connection with the eligible  
108 project. "New qualified investment" shall not include small tools, supplies and  
109 inventory. "Small tools" means tools that are portable and can be hand held.

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

114 3. (1) The director of the department of economic development, with the  
115 approval of the director of the department of natural resources, may, [in addition  
116 to the tax credits allowed in subsection 1 of this section,] grant a remediation tax

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

143 (2) The amount of remediation tax credits issued shall be limited to the  
144 least amount necessary to cause the project to occur, as determined by the  
145 director of the department of economic development.

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

153 may be taken in the same tax year in which the tax credits are received or may  
154 be taken over a period not to exceed twenty years.

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

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

171 4. In the exercise of the sound discretion of the director of the department  
172 of economic development or the director's designee, the tax credits and  
173 exemptions described in this section may be terminated, suspended or revoked,  
174 if the eligible project fails to continue to meet the conditions set forth in this  
175 section. In making such a determination, the director shall consider the severity  
176 of the condition violation, actions taken to correct the violation, the frequency of  
177 any condition violations and whether the actions exhibit a pattern of conduct by  
178 the eligible facility owner and operator. The director shall also consider changes  
179 in general economic conditions and the recommendation of the director of the  
180 department of natural resources, or his or her designee, concerning the severity,  
181 scope, nature, frequency and extent of any violations of the environmental  
182 compliance conditions. The taxpayer or person claiming the tax credits or  
183 exemptions may appeal the decision regarding termination, suspension or  
184 revocation of any tax credit or exemption in accordance with the procedures  
185 outlined in subsections 4 to 6 of section 135.250. The director of the department  
186 of economic development shall notify the directors of the departments of natural  
187 resources and revenue of the termination, suspension or revocation of any tax  
188 credits as determined in this section or pursuant to the provisions of section

189 447.716.

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

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

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

200 (2) One hundred percent of the total business' income tax if the eligible  
201 facility does not replace a similar facility that closed elsewhere in Missouri prior  
202 to the end of the taxpayer's tax period in which the tax credits are earned, and  
203 further provided the taxpayer does not operate any other facilities besides the  
204 eligible project in Missouri; fifty percent of the total business' income tax if the  
205 eligible facility replaces a similar facility that closed elsewhere in Missouri prior  
206 to the end of the taxpayer's tax period in which the credits are earned, and  
207 further provided the taxpayer does not operate any other facilities besides the  
208 eligible project in Missouri; or twenty-five percent of the total business income if  
209 the taxpayer operates, in addition to the eligible facility, any other facilities in  
210 Missouri. In no case shall a taxpayer operating more than one eligible project in  
211 Missouri be allowed to offset more than twenty-five percent of the taxpayer's  
212 business income in any tax period. That portion of the taxpayer's income  
213 attributed to the eligible project as referenced in subdivision (1) of this  
214 subsection, for which the credits allowed in sections 135.110 and 135.225 and  
215 subsection 3 of this section, may apply, shall be determined in the same manner  
216 as prescribed in subdivision (6) of section 135.100. That portion of the taxpayer's  
217 franchise tax attributed to the eligible project for which the remediation tax  
218 credit may offset, shall be determined in the same manner as prescribed in  
219 paragraph (a) of subdivision (6) of section 135.100.

220 7. Taxpayers claiming the state tax benefits allowed in subdivisions (2)  
221 and (3) of subsection 1 of this section shall be required to file all applicable tax  
222 credit applications, forms and schedules prescribed by the director during the  
223 taxpayer's tax period immediately after the tax period in which the eligible  
224 project was first put into use. Otherwise, the taxpayer's right to claim such state

225 tax benefits shall be forfeited. Unused business facility and enterprise zone tax  
226 credits shall not be carried forward but shall be initially claimed for the tax  
227 period during which the eligible project was first capable of being used, and  
228 during any applicable subsequent tax periods.

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

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

246 10. In the case where an operator and assignor of an eligible project has  
247 been certified to claim state tax benefits allowed in subdivisions (2) and (3) of  
248 subsection 1 of this section, and sells or otherwise transfers title of the eligible  
249 project to another taxpayer or assignee who continues the same or substantially  
250 similar operations at the eligible project, the director shall allow the assignee to  
251 claim the credits for a period of time to be determined by the director; except  
252 that, the total number of tax periods the tax credits may be earned by the  
253 assignor and the assignee shall not exceed ten. To perfect the transfer, the  
254 assignor shall provide written notice to the director of the assignor's intent to  
255 transfer the tax credits to the assignee, the date the transfer is effective, the  
256 assignee's name, address, and the assignee's tax period, and the amount of tax  
257 credits to be transferred.

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

261 following:

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

263 (2) The partners of the partnership.

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

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

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

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

[143.119. 1. A self-employed taxpayer, as such term is used  
2 in the federal internal revenue code, who is otherwise ineligible for  
3 the federal income tax health insurance deduction under Section  
4 162 of the federal internal revenue code shall be entitled to a credit  
5 against the tax otherwise due under this chapter, excluding  
6 withholding tax imposed by sections 143.191 to 143.265, in an  
7 amount equal to the portion of such taxpayer's federal tax liability  
8 incurred due to such taxpayer's inclusion of such payments in  
9 federal adjusted gross income. The tax credits authorized under  
10 this section shall be nontransferable. To the extent tax credit  
11 issued under this section exceeds a taxpayer's state income tax  
12 liability, such excess shall be considered an overpayment of tax and  
13 shall be refunded to the taxpayer.

14 2. The director of the department of revenue shall  
15 promulgate rules and regulations to administer the provisions of  
16 this section. Any rule or portion of a rule, as that term is defined  
17 in section 536.010, that is created under the authority delegated in  
18 this section shall become effective only if it complies with and is  
19 subject to all of the provisions of chapter 536 and, if applicable,

20 section 536.028. This section and chapter 536 are nonseverable  
21 and if any of the powers vested with the general assembly pursuant  
22 to chapter 536 to review, to delay the effective date, or to  
23 disapprove and annul a rule are subsequently held  
24 unconstitutional, then the grant of rulemaking authority and any  
25 rule proposed or adopted after August 28, 2007, shall be invalid  
26 and void.]

Section B. Because immediate action is necessary to encourage economic  
2 development in the state, the enactment of sections 135.1550, 135.1555, 135.1560,  
3 135.1565, 135.1570, and 135.1575 and the repeal and reenactment of sections  
4 135.350, 135.352, 135.484, 253.550, 253.557, 253.559, and 447.708 of this act is  
5 deemed necessary for the immediate preservation of the public health, welfare,  
6 peace and safety, and is hereby declared to be an emergency act within the  
7 meaning of the constitution, and the enactment of sections 135.1550, 135.1555,  
8 135.1560, 135.1565, 135.1570, and 135.1575 and the repeal and reenactment of  
9 sections 135.350, 135.352, 135.484, 253.550, 253.557, 253.559, and 447.708 of this  
10 act shall be in full force and effect upon its passage and approval.

Bill ✓

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