

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 827**  
**89TH GENERAL ASSEMBLY**

1998

S3600.09T

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**AN ACT**

To repeal sections 32.110, 137.115 and 260.285, RSMo 1994, sections 32.115, 135.110, 447.700, 447.702, 447.704, 447.706 and 447.708, RSMo Supp. 1997, and sections 135.100, 135.208, 135.400, 253.557, 253.559, 620.1023 and 620.1039 as enacted by senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and approved by the governor, relating to tax credits administered by and relating to the department of economic development, and to enact in lieu thereof twenty-one new sections relating to the same subject.

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

Section A. Section 32.110, 137.115 and 260.285, RSMo 1994, sections 32.115, 135.110, 447.700, 447.702, 447.704, 447.706 and 447.708, RSMo Supp. 1997, and sections 135.100, 135.208, 135.400, 253.557, 253.559, 620.1023 and 620.1039 as enacted by senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and approved by the governor are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 32.110, 32.115, 135.100, 135.110, 135.208, 135.400, 137.115, 253.557, 253.559, 260.285, 447.700, 447.701, 447.702, 447.704, 447.706, 447.708, 620.1023, 620.1039, 1, 2 and 3, to read as follows:

32.110. Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the

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

proposal of the business firm; except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision (12) of section 32.105, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue. The total amount of tax credit granted for programs approved [under] **pursuant to** sections 32.100 to 32.125 [for the first fiscal year] shall not exceed [five million two hundred fifty thousand dollars to be increased by no more than one million seven hundred fifty thousand dollars each succeeding fiscal year until the total tax credit approved reaches eight million seven hundred fifty thousand dollars and after July 1, 1989, no more than fourteen million dollars of tax credit shall be approved in any fiscal year] **fourteen million dollars in fiscal year 1999 and twenty-two million dollars in fiscal year 2000, and any subsequent fiscal year**, except as otherwise provided for proposals approved [under] **pursuant to** section 32.111, **32.112** or 32.117. [The additional tax credits authorized by this section, to become effective after July 1, 1989, shall be increased by no more than two million dollars in any fiscal year.]

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

- (1) The annual tax on gross premium receipts of insurance companies in chapter 148, RSMo;
  - (2) The tax on banks determined [under] **pursuant to** subdivision (2) of subsection 2 of section 148.030, RSMo;
  - (3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;
  - (4) The tax on other financial institutions in chapter 148, RSMo;
  - (5) The corporation franchise tax in chapter 147, RSMo;
  - (6) The state income tax in chapter 143, RSMo; and
  - (7) The annual tax on gross receipts of express companies in chapter 153, RSMo.
2. For proposals approved [under] **pursuant to** section 32.110:

(1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

(2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy percent may be allowed for contributions to programs where activities fall within the scope of special program priorities as defined with the approval of the governor in regulations promulgated by the director of the department of economic development;

(3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for contributions to programs located in any community shall be equal to seventy percent of the total amount contributed where such community is a city, town or village which has fifteen thousand or less inhabitants as of the last decennial census and is located in a county which is either located in:

(a) An area that is not part of a standard metropolitan statistical area;

(b) A standard metropolitan statistical area but such county has only one city, town or village which has more than fifteen thousand inhabitants; or

(c) A standard metropolitan statistical area and a substantial number of persons in such county derive their income from agriculture. Such community may also be in an unincorporated area in such county as provided in subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit of the combined federal and state tax savings to the taxpayer exceed the amount contributed by the taxpayer during the tax year;

(4) Such tax credit allocation, equal to seventy percent of the total amount contributed, shall not exceed four million dollars in [any] fiscal year **1999 and six million dollars in fiscal year 2000 and any subsequent fiscal year**. When the [four] **maximum** dollar limit on the **seventy percent** tax credit allocation is committed, the tax credit allocation for such programs shall then be equal to fifty percent credit of the total amount contributed. Regulations establishing special program priorities are to be promulgated during the first month of each fiscal year and at such times during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty thousand dollars annually except as provided in subdivision (5) of this section. No tax credit shall be approved for any bank, bank and trust company, insurance company, trust company, national bank, savings association, or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution was made may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed. Except as otherwise provided for proposals approved [under] **pursuant to** section 32.111, 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to sections 32.100 to 32.125 exceed [twenty-two] **twenty-eight** million dollars in any one fiscal year, of which six million shall be credits allowed pursuant to

section 135.460, RSMo. If six million dollars in credits are not approved, then the remaining credits may be used for programs approved pursuant to sections 32.100 to 32.125;

(5) The credit may exceed two hundred fifty thousand dollars annually and shall not be limited if community services, crime prevention, education, job training, physical revitalization or economic development, as defined by section 32.105, is rendered in an area defined by federal or state law as an impoverished, economically distressed, or blighted area or as a neighborhood experiencing problems endangering its existence as a viable and stable neighborhood, or if the community services, crime prevention, education, job training, physical revitalization or economic development is limited to impoverished persons.

3. For proposals approved **[under] pursuant to** section 32.111:

(1) The amount of the tax credit shall not exceed fifty-five percent of the total amount invested in affordable housing assistance activities by a business firm. Whenever said investment is made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits may be claimed only where the loan or equity investment is accompanied by a donation which is eligible for federal income tax charitable deduction, and where the total value of the tax credits herein plus the value of the federal income tax charitable deduction is less than or equal to the value of the donation. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. If the affordable housing units for which a tax is claimed are within a larger structure, parts of which are not the subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced on a prorated basis in proportion to the ratio of the number of square feet devoted to the affordable housing units, for purposes of determining the amount of the tax credit. The total amount of tax credit granted for programs approved **[under] pursuant to** section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed two million dollars, to be increased by no more than two million dollars each succeeding fiscal year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

(2) For any year during the compliance period indicated in the land use restriction agreement, the owner of the affordable housing rental units for which a credit is being claimed shall certify to the commission that all tenants renting claimed units are income eligible for affordable housing units and that the rentals for each claimed unit are in compliance with the provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit the records and accounts of the owner to verify said certification;

(3) In the case of owner occupied affordable housing units, the qualifying owner occupant shall, before the end of the first year in which credits are claimed, certify to the commission that the occupant is income eligible during the preceding two years, and at the time of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further certify to the commission, before the end of the first year in which credits are claimed, that during the

compliance period indicated in the land use restriction agreement, the cost of the affordable housing unit to the occupant for the claimed unit can reasonably be projected to be in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant acquiring the affordable housing unit during the compliance period indicated in the land use restriction agreement shall make the same certification;

(4) If at any time during the compliance period the commission determines a project for which a proposal has been approved is not in compliance with the applicable provisions of sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one hundred fifty days of notice to the owner either seek injunctive enforcement action against the owner, or seek legal damages against the owner representing the value of the tax credits, or foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax credits allowed herein. The commission shall remit to the director of revenue the portion of the legal damages collected or the sale proceeds representing the value of the tax credits. However, except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for tax credits shall not be revoked.

4. For proposals approved **[under] pursuant to** section 32.112, the amount of the tax credit shall not exceed fifty-five percent of the total amount contributed to a neighborhood organization by business firms. Any tax credit not used in the period for which the credit was approved may be carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed. The total amount of tax credit granted for programs approved **[under] pursuant to** section 32.112 shall not exceed one million dollars for each fiscal year.

135.100. As used in sections 135.100 to 135.150 the following terms shall mean:

(1) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue producing enterprise in which the taxpayer intends to use the new business facility;

(2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue producing enterprise. Such facility shall not be considered a new business facility in the hands of the

taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise, the operation of the same or a substantially similar revenue producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision (10) of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

(5) "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(6) "New business facility income", the Missouri taxable income, as defined in chapter 143, RSMo, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in

the case of insurance companies, direct premiums as defined in chapter 148, RSMo. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, RSMo, or in the case of an insurance company, computed in accordance with chapter 148, RSMo, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The property factor is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32, RSMo;

(b) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32, RSMo. For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

(7) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section 135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month

during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(8) "Office", a regional, national or international headquarters, a telemarketing operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision (5) of this section;

(9) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer;

or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in section 318 of the U.S. Internal Revenue Code;

(10) "Replacement business facility", a facility otherwise described in subdivision (4) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue producing enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110,



135.225 and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision (8) of this section is established by a revenue producing enterprise other than a revenue producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of this section;

(11) "Revenue producing enterprise" means:

- (a) Manufacturing activities classified as SICs 20 through 39;
- (b) Agricultural activities classified as SIC 025;
- (c) Rail transportation terminal activities classified as SIC 4013;
- (d) Motor freight transportation terminal activities classified as SIC 4231;
- (e) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
- (f) Water transportation terminal activities classified as SIC 4491;
- (g) Wholesale trade activities classified as SICs 50 and 51;
- (h) Insurance carriers activities classified as SICs 631, 632 and 633;
- (i) Research and development activities classified as SIC 873, except 8733;
- (j) Farm implement dealer activities classified as SIC 5999;
- (k) Interexchange telecommunications services as defined in subdivision [(20)] **(24) or local exchange telecommunications services as defined in subdivision (31)** of section 386.020, RSMo, or training activities conducted by an interexchange telecommunications company **or by a local exchange telecommunications company** as defined in [subdivision (19)] **subdivisions (23) and (30)** of section 386.020, RSMo;
- (l) Recycling activities classified as SIC 5093;
- (m) Office activities as defined in subdivision (8) of this section, notwithstanding SIC classification;
- (n) Mining activities classified as SICs 10 through 14;
- (o) Computer programming, data processing and other computer-related activities classified as SIC 737;
- (p) The administrative management of any of the foregoing activities; or
- (q) Any combination of any of the foregoing activities;

(12) "Same or substantially similar revenue producing enterprise", a revenue producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue producing enterprise;

(13) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed;

(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, RSMo, and partnership or an insurance company subject to the tax imposed by chapter 148, RSMo, or in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916, RSMo.

135.110. 1. Any taxpayer who shall establish a new business facility shall be allowed a credit, each year for ten years, in an amount determined [under] **pursuant to** subsection 2 or 3 of this section, whichever is applicable, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or an insurance company which shall establish a new business facility by satisfying the requirements in subdivision [(8)] (7) of section 135.100 shall be allowed a credit against the tax otherwise imposed by chapter 148, RSMo, and in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, against any obligation imposed pursuant to section 375.916, RSMo, except that no taxpayer shall be entitled to multiple ten-year periods for subsequent expansions at the same facility, except as otherwise provided in this section. For the purpose of this section, the term "facility" shall mean, and be limited to, the facility or facilities which are located on the same site in which the new business facility is located, and in which the business conducted at such facility or facilities is directly related to the business conducted at the new business facility. Notwithstanding the provisions of this subsection, a taxpayer may be entitled to an additional ten-year period if a new business facility is expanded in the eighth, ninth or tenth year of the current ten-year period or in subsequent years following the expiration of the ten-year period, if the number of new business facility employees attributed to such expansion is at least twenty-five and the amount of new business facility investment attributed to such expansion is at least one million dollars. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years. The initial application for claiming tax credits must be made in the taxpayer's tax period immediately following the tax period in which commencement of commercial operations began at the new business facility. This provision shall have effect on all initial applications filed on or after August 28, 1992. No credit shall be allowed [under] **pursuant to** this section unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; except that the number of new business facility employees

engaged or maintained in employment by a revenue producing enterprise other than a revenue producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of section 135.100 which establishes an office as defined in subdivision (8) of section 135.100 shall equal or exceed twenty-five.

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

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

(2) Up to fifty percent of the business income tax otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or in the case of an insurance company, the tax on the direct premiums, as defined in chapter 148, RSMo, and in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, RSMo, against any obligation imposed pursuant to section 375.916, RSMo, if the business operates no other facilities in Missouri. In the case of an existing business facility operating more than one facility in Missouri, the credit allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision. Such credit shall be an amount equal to the sum of one hundred dollars for each new business facility employee plus one hundred dollars for each one hundred thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one percent or more) in new business facility investment. For the purpose of this section, tax credits earned by a taxpayer, who establishes a new business facility because it satisfies the requirements of paragraph (c) of subdivision (4) of section 135.100, shall offset the greater of the portion prescribed in subdivision (1) of this subsection or up to fifty percent of the business' tax provided the business operates no other facilities in Missouri. In the case of a business operating more than one facility in Missouri, the credit allowed in subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision.

3. For tax periods beginning after August 28, 1991, in the case of a taxpayer not operating

an existing business facility, the credit allowed by subsection 1 of this section shall offset the greater of:

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

(2) Up to one hundred percent of the business income tax otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or in the case of an insurance company, the tax on the direct premiums, as defined in chapter 148, RSMo, and in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, against any obligation imposed pursuant to section 375.916, RSMo, if the business has no other facilities operating in Missouri. In the case of a taxpayer not operating an existing business and operating more than one facility in Missouri, the credit allowed by subsection 1 of this section shall offset up to the greater of the portion prescribed in subdivision (1) of this subsection or twenty-five percent of the business' tax, except that no taxpayer operating more than one facility in Missouri shall be allowed to offset more than twenty-five percent of the taxpayer's business income tax in any tax period under the method prescribed in this subdivision. Such credit shall be an amount equal to the sum of seventy-five dollars for each new business facility employee plus seventy-five dollars for each one hundred thousand dollars, or major fraction thereof (which shall be deemed to be fifty-one percent or more) in new business facility investment.

4. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility because it qualifies as a separate facility **[under] pursuant to** subsection 6 of this section, and, in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (4) of section 135.100, or subdivision (10) of section 135.100, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement

occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation or the establishment of a new facility.

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

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

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

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

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

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

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

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership. This credit shall be apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last day of the taxpayer's tax period.

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

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

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

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

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

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

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

- (2) "Headquarters" means:

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

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

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

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

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

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

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

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

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

(2) In an amount not to exceed one hundred percent of such earned credits. The taxpayer acquiring the earned credits referred to as the assignee for the purpose of this subsection may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo, or in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, against any obligation imposed pursuant to section 375.916, RSMo. Unused credits in the hands of the assignee may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which commencement of commercial operations occurred at the new business

facility. The assignor shall enter into a written agreement with the assignee establishing the terms and conditions of the agreement and shall perfect such transfer by notifying the director in writing within thirty calendar days following the effective date of the transfer and shall provide any information as may be required by the director to administer and carry out the provisions of this subsection. Notwithstanding any other provision of law to the contrary, the amount received by the assignor of such tax credit shall be taxable as income of the assignor, and the difference between the amount paid by the assignee and the par value of the credits shall be taxable as income of the assignee.

135.208. 1. In addition to the number of enterprise zones authorized under the provisions of sections 135.206 and 135.210, the department of economic development shall designate one such zone in any county of the third class which is south of the Missouri River and which adjoins one county of the second class and also the state of Oklahoma. Such designation shall only be made if the area of the county which is to be included in the enterprise zone meets all the requirements of section 135.205.

2. In addition to the number of enterprise zones authorized under the provisions of sections 135.206 and 135.210, the department of economic development shall designate one such zone in any county of the third class which borders the Missouri River and which adjoins a county of the second class with a population of at least one hundred thousand inhabitants and which contains a branch of the state university. Such designation shall only be made if the area of the county which is to be included in the enterprise zone meets all the requirements of section 135.205.

3. In addition to the number of enterprise zones authorized under the provisions of sections 135.206, 135.210 and 135.256, the department of economic development shall designate one such zone in every county of the third class without a township form of government with a population of more than seven thousand eight hundred but less than ten thousand inhabitants located south of the Missouri River, which adjoins one third class county with a township form of government, and which adjoins no first or second class county. Such enterprise zone designation shall only be made if the area in the county which is to be included in the enterprise zone meets all the requirements of section 135.205.

4. In addition to the number of enterprise zones authorized pursuant to the provisions of sections 135.206, 135.210 and 135.256, the department of economic development shall designate one such zone in a city of the third class with a population of more than eight thousand but less than ten thousand located in a county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-two thousand. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section 135.205.

**5. In addition to the number of enterprise zones authorized pursuant to the**



**provisions of sections 135.206, 135.210 and 135.256, the department of economic development shall designate one such zone for any city with a home rule form of government and a population of at least one hundred ten thousand inhabitants but not more than one hundred thirty thousand inhabitants. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section 135.205.**

**6. In addition to the number of enterprise zones authorized pursuant to the provisions of sections 135.206, 135.210 and 135.256, the department of economic development shall designate one such zone for any county of the first classification without a charter form of government with a population of less than thirty thousand inhabitants. Such enterprise zone designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section 135.205.**

135.400. As used in sections 135.400 to 135.430, the following terms mean:

(1) "Certificate", a tax credit certificate issued by the department of economic development in accordance with sections 135.400 to 135.430;

(2) "Community bank", either a bank community development corporation or development bank, which are financial organizations which receive investments from commercial financial institutions regulated by the federal reserve, the office of the comptroller of the currency, the office of thrift supervision, or the Missouri division of finance. Community banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity investments in businesses or in real estate provided that such transactions have associated public benefits;

(3) "Community development corporation", a not for profit corporation and a recipient of Community Development Block Grant (CDBG) funds pursuant to the Housing Community Development Act of 1974. Such corporations design specific, comprehensive programs to stimulate economic development, housing or other public benefits leading to the development of economically sustainable neighborhoods or communities;

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

(5) "Director", the director of the department of economic development, or a person acting under the supervision of the director;

(6) "Investment", a transaction in which a Missouri small business or a community bank receives a monetary benefit from an investor **[under] pursuant to** the provisions of sections 135.403 to 135.414;

(7) "Investor", an individual, partnership, financial institution, trust or corporation meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

(8) "Missouri small business", an independently owned and operated business as defined

in Title 15 U.S.C. section 632(a) and as described by Title 13 C.F.R. Part 121, which is headquartered in Missouri and which employs at least eighty percent of its employees in Missouri, except that no such small business shall employ more than one hundred employees. Such businesses must be involved in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, insurance or professional services. For the purpose of qualifying for the tax credit pursuant to sections 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and marketing fuels derived from agriculture commodities, without regard for whether a cooperative marketing association has more than one hundred employees. **Cooperative marketing associations organized pursuant to chapter 274, RSMo, shall not be required to comply with the requirements of section 135.414;**

(9) "Primary employment", work which pays at least the minimum wage and which is not seasonal or part-time;

(10) "Principal owners", one or more persons who own an aggregate of fifty percent or more of the Missouri small business and who are involved in the operation of the business as a full-time professional activity;

(11) "Project", any commercial or industrial business or other economic development activity undertaken in a target area, designed to reduce conditions of blight, unemployment or widespread reliance on public assistance which creates permanent primary employment opportunities;

(12) "State tax liability", any liability incurred by a taxpayer [under] **pursuant to** the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

(13) "Target area", a group of blocks or a self-defined neighborhood where the rate of poverty in the area is greater than twice the national poverty rate and as defined by the department of social services in conjunction with the department of economic development. Areas of the state satisfying the criteria of this subdivision may be designated as a "target area" following appropriate findings made and certified by the departments of economic development and social services. In making such findings, the departments of economic development and social services may use any commonly recognized records and statistical indices published or made available by any agency or instrumentality of the federal or state government. No area of the state shall be a target area until so certified by the department of social services and the revitalization plan submitted pursuant to section 208.335, RSMo, has received approval.

137.115. 1. All other laws to the contrary notwithstanding, the assessor or his deputies

in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in his city, county, town or district. Except as otherwise provided in subsection 3 of this section, he shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. He shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. He shall annually assess all real property in the following manner: New assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. He may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable real property in the county owned by the person, or under his care, charge or management, and all taxable tangible personal property owned by the person or under his care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If an assessment maintenance plan is agreed upon by the county assessor, the county governing body and the state tax commission within thirty days of submission to the state tax commission, the county shall be eligible for state cost-share funds as outlined in section 137.750. If the state tax commission fails to approve a plan within thirty days after the date submitted and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences within an additional thirty days, then the differences shall be submitted to the circuit court of the county involved for final resolution within an additional thirty days. The decision of the circuit court may be appealed pursuant to chapter 621, RSMo. In the event a valuation of subclass (1) real property within any first class charter county, or within a city not within a county, is made by a computer, computer assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

- (1) The findings of the assessor based on an appraisal of the property by generally accepted

appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percents of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles under section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent; [and]

(5) Poultry, twelve percent[.]; **and**

**(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.**

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

(1) For real property in subclass (1), nineteen percent;

(2) For real property in subclass (2), twelve percent; and

(3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a "parcel" for the purpose of reimbursement under section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in his judgment will fairly estimate the true value in money of the motor vehicle.

10. If the assessor increases the assessed valuation of any parcel of subclass (1) real property by more than seventeen percent since the last assessment, excluding increases due to new construction or improvements, then the assessor shall conduct a physical inspection of such property.

253.557. **1.** If the amount of such credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the state tax liability may

be carried back to any of the three preceding years [or] **and** carried forward for credit against the taxes imposed pursuant to chapter 143, RSMo, **and chapter 148, RSMo**, except for sections 143.191 to 143.265, RSMo, for the succeeding ten years, or until the full credit is used, whichever occurs first. **Not-for-profit entities, including but not limited to corporations organized as not-for-profit corporations pursuant to chapter 355, RSMo, shall be ineligible for the tax credits authorized under sections 253.545 through 253.561. Taxpayers eligible for such tax credits may transfer, sell or assign the credits.** Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting an alternate distribution method.

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

253.559. 1. To claim the credit authorized pursuant to sections 253.550 to 253.561 **of senate bill no. 1 of the second extraordinary session of the eighty-ninth general assembly and section 253.557 of this act**, the taxpayer shall apply to the department of economic development which, in consultation with the department of natural resources, shall determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation meets the standards of the Secretary of the United States Department of the Interior **for rehabilitation as determined by the state historic preservation officer of the Missouri department of natural resources. For financial institutions credits authorized pursuant to sections 253.550 to 253.561 shall be deemed to be "economic development credits" for purposes of section 148.064, RSMo.** The issuing of certificates of eligible credits to taxpayers shall be performed by the department of economic development. The taxpayer shall attach the certificate to all Missouri income tax returns on which the credit is claimed.

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

260.285. 1. Any manufacturer engaged in this state in production of a meat or poultry food product intended for human consumption that is recycling flexible cellulose casing manufactured from cotton linters used and consumed directly in the production of such food product shall be eligible for a credit as defined in subsection 2 of this section.

2. The credit authorized in subsection 1 shall be equal to the amount of state sales or use taxes paid by a manufacturer to a retailer on such packaging material which is subsequently recycled by either the manufacturer or other person or entity to which the manufacturer conveys such packaging materials, less any consideration received by the manufacturer for such conveyance.

3. A manufacturer shall claim the refund in the month following the month in which the material has been recycled or conveyed for recycling. When claiming a credit **[under] pursuant to** this section, a manufacturer shall provide a detailed accounting of the amount of packaging material recycled, amount of sales or use tax paid on such material, an affidavit attesting that the manufacturer is eligible **[under] pursuant to** the provisions of this section for the credit being claimed and any other documentation determined necessary by the director of the department of revenue. The director shall refund any valid credit claims within sixty days of receipt. If the director determines that a fraudulent claim for the credit has been filed, the director may assess a penalty in an amount not to exceed twice the amount of fraudulent credits claimed.

4. Payment of credits authorized by this section shall not alter the liability of a retailer regarding sales tax on such material. Credits authorized by this section shall be paid from funds appropriated for the refund of taxes.

5. This section shall become effective October 1, 1991. [This section shall expire October 1, 2001.]

447.700. As used in sections 447.700 to 447.718, the following terms mean:

(1) "Abandoned property", real property previously used for, or which has the potential to be used for, commercial or industrial purposes which reverted to the ownership of the state, a county, or municipal government, or an agency thereof, through donation, purchase, tax delinquency, foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure; **or a privately owned property endorsed by the city, or county if the property is not in a city, for inclusion in the program which will be transferred to a person other than the potentially responsible party as defined in chapter 260, RSMo, and has been vacant for a period of not less than three years from the time an application is made to the department of economic development;**

(2) "Allowable cost", all or part of the costs of project facilities, including the costs of acquiring the property, relocating any remaining occupants, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping or furnishing project facilities, **demolition**, site clearance and preparation, supplementing and relocating public capital improvements or utility facilities, designs, plans, specifications, surveys, studies and estimates of costs, expenses necessary or incident to determining the feasibility or practicability of assisting an eligible project or providing project facilities, architectural, engineering and legal service fees and expenses, the costs of conducting any other activities as part of a voluntary remediation and

such other expenses as may be necessary or incidental to the establishment or development of an eligible project and reimbursement of moneys advanced or applied by any governmental agency or other person for allowable costs;

(3) **"Applicant", the person that submits an application for consideration of a project or location or real property for financial, tax credit or other assistance pursuant to sections 447.700 to 447.718; an applicant may not be any party who intentionally or negligently caused the release or potential release of hazardous substances at the eligible project as that term is defined pursuant to chapter 260, RSMo;**

(4) "Eligible project", abandoned **or underutilized** property to be acquired, established, expanded, remodeled, rehabilitated or modernized for industry, commerce, distribution or research, or any combination thereof, the operation of which, alone or in conjunction with other facilities, will create new jobs or preserve existing jobs and employment opportunities, attract new businesses to the state, prevent existing businesses from leaving the state and improve the economic welfare of the people of the state. The term "eligible project", without limitation, includes voluntary remediation conducted pursuant to sections 260.565 to 260.575, RSMo. To be an "eligible project" pursuant to sections 447.700 to 447.718, the obligations of the prospective [private party owner/operator] **applicant** and the governmental agency shall be defined in a written agreement signed by both parties. The facility, when completed, shall be operated in compliance with applicable federal, state and local environmental statutes, regulations and ordinances. **An "eligible project" shall be determined by consideration of the entire project. The definition or identification of an "eligible project" shall not be segmented into parts to separate commercial and industrial uses from residential uses;**

[(4)] (5) "Financial assistance", direct loans, loan guarantees, and grants [under] **pursuant to** sections 447.702[, 447.704 and] **to** 447.706; and tax credits, inducements and abatements [under] **pursuant to** section 447.708;

[(5)] (6) "Governmental action", any action by a state, county or municipal agency relating to the establishment, development or operation of an eligible project and project facilities that the governmental agency has authority to take or provide for the purpose under law, charter or ordinance, including but not limited to, actions relating to contracts and agreements, zoning, building, permits, acquisition and disposition of property, public capital improvements, utility and transportation service, taxation, employee recruitment and training, and liaison and coordination with and among governmental agencies;

[(6)] (7) "Governmental agency", the state, county and municipality and any department, division, commission, agency, institution or authority, including a municipal corporation, township, and any agency thereof and any other political subdivision or public corporation; the United States or any agency thereof; any agency, commission or authority established pursuant to an interstate compact or agreement and any combination of the above;



[(7)] **(8)** "Person", any individual, firm, partnership, association, limited liability company, corporation or governmental agency, and any combination thereof;

[(8)] **(9)** "Project facilities", buildings, structures and other improvements and equipment and other property or fixtures, excluding small tools, supplies and inventory, and [any one, part or combination of the above, comprising all or part of, or serving or being incidental to,] public capital improvements;

[(9)] **(10)** "Public capital improvements", capital improvements or facilities [that any] **owned by a governmental agency and which such agency** has authority to acquire, pay the costs of, [own,] maintain, relocate or operate, or to contract with other persons to have the same done, including but not limited to, highways, roads, streets, electrical, gas, water and sewer facilities, railroad and other transportation facilities, and air and water pollution control and solid waste disposal facilities;

**(11) "Underutilized", real property of which less than thirty-five percent of the commercially usable space of the property and improvements thereon, are used for their most commercially profitable and economically productive use; or property that was used by the state of Missouri as a correctional center for a period of at least one hundred years and which requires environmental remediation before redevelopment can occur, if approval from the general assembly has been given for any improvements to, or remediation, lease or sale of, said property;**

[(10)] **(12)** "Voluntary remediation", an action to remediate hazardous substances and hazardous waste pursuant to sections 260.565 to 260.575, RSMo.

**447.701. 1. The director of the department of economic development may consider the direct and indirect economic benefits projected to be provided by the eligible project. An applicant for funding or tax credit and exemption assistance pursuant to sections 447.702 to 447.708 may prepare and submit an estimate of the direct and indirect economic benefits in accordance with this section. The department of economic development may accept the applicant's projection of the economic benefit of the eligible project. The total amount of state funding, tax credits or tax exemptions for each eligible project shall be limited to the projected state economic benefit, as determined by the department of economic development.**

**2. In the event the owner sells the abandoned or underutilized property within a five-year period after the receipt of remediation tax credits, grants, loans or loan guarantee, subject to sections 447.700 to 447.718, the owner shall repay a portion of the tax credits and grant funds provided based on the percentage of the owner's investment for the project to the department of economic development's total financial assistance, upon achieving an annual internal rate of return of twenty-five percent. The internal rate of return calculation shall be documented by the owner's capital gains tax calculation. Owner investment is equity and debt for the eligible project.**

447.702. 1. The director of economic development, with the approval of the [directors] **director** of the department of natural resources [and department of revenue, and], subject to the other provisions of sections 447.700 to 447.718, may lend moneys in the property reuse fund to persons for the purpose of paying allowable costs of an eligible project if the director determines that:

(1) The project is an eligible project and is economically sound; except that, the costs of remediation may exceed the fair market value of the property prior to redevelopment;

(2) The borrower is unable to finance necessary allowable costs through ordinary financial channels [upon comparable terms], **and that the loan is the least amount necessary to cause the project to occur;**

(3) The amount to be lent from the property reuse fund will not exceed one million dollars of the total allowable costs of the eligible project;

(4) When completed, the **eligible project [facility will] is projected to** create not less than ten new jobs [providing not less than an average of thirty-five hours of employment per week per job], or shall retain a business which supplies not less than twenty-five existing jobs, **or a combination thereof**, providing not less than an average of thirty-five hours of employment per week per job. **Such projection shall be made by the department of economic development;**

(5) The eligible project could not be achieved in the local area in which it is to be located if the portion of the project to be financed by the loan instead were to be financed by a loan guarantee [under] **pursuant to** section 447.704; and

(6) The amount of the loan from the property reuse fund to be repaid will be adequately secured by a mortgage, lien, assignment or pledge at such amount and level of priority as the director may require.

2. The determinations of the director of economic development [under] **pursuant to** subsection 1 of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director.

3. Fees, charges, rates of interest, times of payment of interest and principal and other terms, conditions and provisions of, and security for, loans made from the property reuse fund pursuant to this section shall be such as the director of economic development determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making such loans shall be disbursed from the property reuse fund upon the written order of the director. The director shall give special consideration in setting the required job creation ratios and interest rates for loans that are for voluntary remediation actions.

4. The director of economic development may take all actions necessary or appropriate to collect or otherwise deal with any loan made under this section.

5. The director of economic development may fix service charges for making of a

loan. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

447.704. 1. The director of economic development, with the approval of the [directors] **director** of the department of natural resources [and the department of revenue, and], subject to other applicable provisions of sections 447.700 to 447.718, may guarantee loans issued by private financial institutions to persons for the purpose of paying the allowable costs of an eligible project if:

(1) The project otherwise qualifies as an eligible project and is economically sound, except that the costs of remediation may exceed the fair market value of the property prior to redevelopment;

(2) The private lender is unwilling to make the loan without the guarantee, **and that the guarantee is the minimum necessary to cause the loan;**

(3) The amount to be guaranteed will not exceed one million dollars of the total allowable costs of the eligible project;

(4) The loan will be adequately secured by a mortgage, lien, assignment or pledge, at such a level of priority as is acceptable to the lender and the director of economic development; and

(5) When completed, the **eligible** project [facility will] **is projected to** create not less than ten new jobs [providing not less than an average of thirty-five hours of employment per week per job], or shall retain a business which supplies not less than twenty-five existing jobs, **or a combination thereof**, providing not less than an average of thirty-five hours of employment per week per job. **Such projection shall be made by the department of economic development.**

2. The determinations of the director of economic development [under] **pursuant to** subsection 1 of this section shall be conclusive for purposes of the validity of a guarantee agreement signed by the director.

3. Fees, charges, rates of interest, times of payment of interest and principal and other terms, conditions and provisions of, and security for, loans guaranteed from the property reuse fund pursuant to this section shall be such as the director of economic development determines to be appropriate and in furtherance of the purpose for which the guarantees are made. The director shall give special consideration in setting the required job creation ratios and project locations for loan guarantees that are for voluntary remediation actions. Interest rates on such guaranteed loans shall not exceed three percentage points above the prime interest rate and the director may require a lower rate be used as is appropriate based upon the financial merits of the application and financial statement of the borrower. Nor may the term of the underlying loan exceed twenty years.

4. The director of economic development may take all actions necessary or appropriate to collect on loan defaults and deficiencies or otherwise deal with the borrower for any loan guarantee made [under] **pursuant to** this section. The director of economic development shall

enact appropriate regulations establishing guidelines for the property reuse fund guarantee program, including guidelines regarding the manner and timing of payouts of guarantee moneys, the order and manner in which security, other than the underlying abandoned **or underutilized** property, provided by the borrower will be valued, and in the event of default or breach of this program, applied to the reduction of the borrower's debt prior to payment of guarantee moneys to the private lender. [In no event, shall valuation of the borrower's security exceed the amount of proceeds actually collected by the private lender through enforcement of its security interest.]

5. The director of economic development may fix service charges for making of a loan guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

6. The private lender shall be immune from any liability arising out of the performance of the project, including potential liability from the incomplete or unsuccessful remediation of the facility; its lender status by which it holds indicia of ownership primarily to protect its security interest; and any potential liability arising out of or under the environmental laws of this state pursuant to the protections of sections 427.011 to 427.041, RSMo. Upon written request from a private lender who has foreclosed upon the property of an eligible project and has held the abandoned **or underutilized** property for a period of at least two years, or longer, the director of the department of economic development shall use the guarantee moneys from the property reuse fund to repay the lender the unpaid amount of the defaulted loan [and title to the abandoned property shall revert to the original government agency owner]. Such written request by the private lender shall describe the efforts made to sell the property and, to the extent known, the reasons the property is unable to be sold to a new buyer.

447.706. 1. The director of economic development, with the approval of the [directors] **director** of the department of natural resources [and the department of revenue, and], subject to other applicable provisions of sections 447.700 to 447.718, may issue a grant to a [qualified recipient] **government agency** for the purpose of paying the allowable costs of **public capital improvements needed to cause** an eligible project if:

(1) The project otherwise qualifies as an eligible project and is economically sound[, except that the costs of remediation may exceed the fair market value of the property prior to redevelopment];

(2) The project proposed is a cooperative venture between a municipal or county government and a prospective private purchaser of the facility;

(3) The prospective purchaser is unable to finance the entire cost of the project through ordinary financial channels upon comparable terms and, further, a lender is unwilling to make the loan even with a loan guarantee [under] **pursuant to** section 447.704 [without such a grant];

(4)]. When completed, the **eligible** project [facility will] **is projected to** create not less than ten new jobs [providing not less than an average of thirty-five hours of employment per week

per job], or shall retain a business which supplies not less than twenty-five existing jobs, **or a combination thereof**, providing not less than an average of thirty-five hours of employment per week per job. **Such projection shall be made by the department of economic development; and**

~~[(5)]~~ **(4)** The amount to be issued in a grant shall not exceed one million dollars [of the total allowable costs of the eligible project;

(6) The amount to be issued in a grant shall fully perform the contractual obligations of the municipal or county government in the project with the prospective purchaser; and

(7) For any portion of the prospective purchaser's financial obligation which is financed, such loan shall be adequately secured by a mortgage, lien, assignment or pledge at such a level of priority as is acceptable to the lender and the director of economic development].

2. The determinations of the director of economic development [under] **pursuant to** subsection 1 of this section shall be conclusive for purposes of the validity of a grant agreement signed by the director.

3. [Fees, charges, rates of interest, times of payment of interest and principal and other terms, conditions and provisions of, and security for, loans guaranteed] **Grants** from the property reuse fund pursuant to this section shall be such as the director of economic development determines to be appropriate and in furtherance of the purpose for which the grants are made. The moneys used in making such grants shall be disbursed from the property reuse fund upon written order of the director of economic development. The director shall give special consideration in setting the required job creation ratios and project locations for project grants that are for voluntary remediation actions.

4. The director of economic development shall issue such grants to [the municipal or county government, or agency thereof designated by its mayor or executive officer,] **a governmental agency** to administer and direct the expenditure of the funds for [allowable costs of the eligible project] **public capital improvements**. Such grant money shall not be used to hire or pay additional employees of the recipient governmental agency.

5. The director of economic development may fix service charges for making of a property reuse grant. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

447.708. 1. For eligible projects [which meet the following criteria], the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective [purchaser and] operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and 135.200 to 135.256, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed

by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo]. The criteria to be met include:

- (1) The eligible project is located in an area in which:
  - (a) A large number of jobs have been lost;
  - (b) A large number of employers have closed;
  - (c) A large percentage of available production capacity is idle; or
  - (d) Meets the requirements prescribed in subdivisions (3) and (5) of subsection 2 of section 135.207, RSMo.

For the purpose of paragraph (a) of this subdivision, "large number of jobs" means one percent or more of the area's population according to the most recent decennial census. For the purpose of paragraph (b) of this subdivision, "large number of employers" means over five if the area is not located in a metropolitan statistical area and over ten if the area is in a metropolitan statistical area. "Metropolitan statistical area" includes those areas prescribed by the United States Department of Commerce;

**(2)], or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:**

**(1) For receipt of the ad valorem tax [exemption, in whole or in part, from one or more of the affected political subdivisions,] abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;**

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

**[(4)] (3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of section 135.245, RSMo, for application and use of the refund and the eligibility**

requirements of this section;

[(5)] **(4)** The eligible project [facility] operates in compliance with applicable environmental laws and regulations, including permitting and registration requirements, of this state as well as the federal and local requirements;

[(6)] **(5)** The **eligible** project [facility] operator shall file such reports as may be required by the director of economic development or the director's designee;

[(7)] **(6)** The taxpayer may claim **the** state tax credits **authorized by this subsection** and the state income exemption for a period not in excess of ten consecutive tax years. For the purpose of this section, "taxpayer" means an individual proprietorship, partnership or corporation described in section 143.441 or 143.471, RSMo, who operates an eligible project [facility]. The director shall determine the number of years the taxpayer may claim the state tax credits and the state income exemption. The director's determination shall be made annually, and shall be based on the **projected net state** economic benefits attributed to the eligible project; except that, the minimum number of tax periods for which the taxpayer may claim the state tax credits and the state income exemption shall be four. Incentives provided by local governing authorities may be provided for a period not to exceed fifteen years];

[(8)] **(7)** For the purpose of meeting the new job requirement prescribed in subdivisions **(1), (2), and (3)** [and (4)] of this subsection [and subsection 3 of this section], it shall be required that at least ten new jobs be created and maintained during the taxpayer's tax period for which the credits are earned, in the case of an eligible project that does not replace a similar facility in Missouri. "New job" means a person who was not previously employed by the taxpayer or related taxpayer within the twelve-month period immediately preceding the time the person was employed by that taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the same meaning as defined in subdivision (9) of section 135.100, RSMo;

[(9)] **(8)** For the purpose of meeting the existing job retention requirement, if the eligible project replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, it shall be required that at least twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a person who was previously employed by the taxpayer or related taxpayer, at a facility similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, within the tax period immediately preceding the time the person was employed by the taxpayer to work at, or in connection with, the eligible project on a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five

hours per week during the taxpayer's tax period for which the tax credits are earned;

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

[(11)] **(10)** Notwithstanding any provision of law to the contrary, for the purpose of this section, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment used at the eligible project during any tax year shall be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month of the tax year. If the eligible project is in operation for less than the entire tax year, the number of new jobs created and maintained, the number of existing jobs retained, and the value of new qualified investment created at the eligible project during any tax year shall be determined by dividing the sum of the number of individuals employed at the eligible project, or in the case of new qualified investment, the value of new qualified investment used at the eligible project, on the last business day of each full calendar month during the portion of the tax year during which the eligible project was in operation, by the number of full calendar months during such period;

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

2. The determination of the director of economic development pursuant to subsection 1 of this section, shall not affect requirements for the prospective purchaser to obtain the approval of the granting of [such tax credits and exemptions] **real property tax abatement** by the municipal or county government where the eligible project is located.

3. The director of the department of economic development, with the approval of the [directors] **director** of the department of natural resources [and the department of revenue], may, in addition to the tax credits allowed in subsection 1 of this section, grant a **remediation** tax credit to the [purchaser and operator of an eligible project facility, whether such facility is owned



by a governmental agency as defined in subdivision (6) of section 447.700 or by a private party for the full] **applicant for up to one hundred percent of the** costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, **demolition and asbestos abatement**, and direct utility charges for performing the voluntary remediation activities for the preexisting hazardous substance contamination and releases, including, but not limited to, the costs of performing operation and maintenance of the remediation equipment at the property beyond the year in which the systems and equipment are built and installed at the eligible project and the costs of performing the voluntary remediation activities over a period not in excess of four tax years following the taxpayer's tax year in which the system and equipment were first put into use at the eligible project, provided the remediation activities are the subject of a plan submitted to, and approved by, the director of natural resources pursuant to sections 260.565 to 260.575, RSMo. **The amount of remediation tax credits issued shall be limited to the least amount necessary to cause the project to occur, as determined by the director of the department of economic development.** The director may, with the approval of the director of natural resources, extend the tax credits allowed for performing voluntary remediation maintenance activities, in increments of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The remediation tax credit may be taken in the same tax year in which the [costs are incurred] **tax credits are received** or may be taken [in equal installments] over a period not to exceed twenty years[; provided that, once such an election has been made it cannot be changed]. The project facility [shall otherwise comply with the employment conditions described in subdivisions (2) and (3) of subsection 1 of this section] **is projected to create at least ten new jobs or at least twenty-five retained jobs, or a combination thereof, as determined by the department of economic development. No more than seventy-five percent of** earned remediation tax credits may be [approved only after the director of natural resources issues a "No Further Action" letter or covenant not to sue following completion of the voluntary remediation activities, or at the end of the tax period in which the voluntary remediation costs were incurred and the remediation equipment was capable of being operated, whichever is earlier] **issued when the remediation costs were paid, and the remaining percentage may be issued when the department of natural resources issues a "Letter of Completion" letter or covenant not to sue following completion of the voluntary remediation activities.** It shall not include any costs associated with ongoing operational environmental compliance of the facility or remediation costs arising out of spills, leaks, or other releases arising out of the ongoing business operations of the facility.

4. In the exercise of the sound discretion of the director of the department of economic

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

5. [For purposes of sections 447.700 to 447.718, an eligible facility owner and operator is assumed to be the same person, as that term is defined in sections 447.700 to 447.718. If the facility operator and the facility owner are separate persons, then the operator who directly creates the jobs shall be eligible to qualify for the credits and exemptions described.

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

[7.] **6.** The total amount of the tax credits allowed in **subsection 1 of this section [447.708]** may not exceed the greater of:

- (1) That portion of the taxpayer's income attributed to the eligible project; or
- (2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in

any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of **this** section [447.708], may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

**[8.] 7.** Taxpayers claiming the state tax benefits allowed in subdivisions **(2) and (3)** [and **(4)**] of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

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

9. **[An operator of an eligible project] The recipient of remediation tax credits**, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed in subsection 3 of this section, to any other person, for the purpose of this subsection referred to as assignee[, who performed voluntary remediation activities at the eligible project, or to a third party provided that the operator of the eligible project who sells, assigns or transfers such credits uses not less than seventy percent of the proceeds of such transaction to finance, develop or improve the eligible project facility or another property approved by the director as an eligible project.] To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address and the assignee's tax period and the amount of tax credits to be transferred. The [assignee shall provide written notice to the director specifying the number of consecutive tax periods the transferred tax credits are to be claimed; except that, the] number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor previously claimed the credits before the transfer occurred.

**10.** In the case where an operator and assignor of an eligible project has been certified to claim state tax benefits allowed in subdivisions **(2) and (3)** [and **(4)**] of subsection 1 of this section,

and sells or otherwise transfers title of the eligible project to another taxpayer or assignee who continues the same or substantially similar operations at the eligible project, the director shall allow the assignee to claim the credits for a period of time to be determined by the director; except that, the total number of tax periods the tax credits may be earned by the assignor and the assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice to the director of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount of tax credits to be transferred.

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

- (1) The shareholders of the corporation described in section 143.471, RSMo;
- (2) The partners of the partnership.

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

620.1023. 1. There is hereby created in the state treasury a revolving fund to be administered by the department of economic development to be known as the "Business Extension Service Team Fund". The fund shall consist of all moneys which may be appropriated to it by the general assembly, gifts, contributions, grants or bequests received from federal, private or other sources. A percentage of the moneys in such fund shall be used by the department for grants or loans for qualified community development projects in order to create or retain jobs in any city not within a county [and], any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county **and any fourth class city with a population of at least three thousand five hundred inhabitants but not more than five thousand five hundred inhabitants which is located in a county of the first classification with a charter form of government with a population of at least nine hundred thousand inhabitants**, and shall be targeted toward economically blighted urban districts for new businesses, expansion of existing businesses and for employee training and housing. The department may require such grants or loans to be made on a matching fund basis. **Any city that receives funding from the business extension service team fund may use up to five percent of such grant or loan for administrative costs.** As used in this subdivision, "economically blighted urban districts" means areas which meet all of the following criteria:

- (1) The area is one of pervasive poverty, unemployment, and general distress;
- (2) The area is located wholly within an area which meets the requirements for federal assistance under section 119 of the Housing and Community Development Act of 1974, as

amended;

(3) At least sixty-five percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the last decennial census or other appropriate source as approved by the director of the department of economic development;

(4) The resident population of the area is at least four thousand at the time of designation as an economically blighted urban district. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction; and

(5) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director of the department of economic development, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis.

2. The department of economic development may use a percentage of the moneys in the fund established in subsection 1 of this section to directly contract with community development corporations established pursuant to section 135.400, RSMo, for the provision of job training or for creating or retaining jobs in any area meeting the criteria outlined in subsection 1 of this section.

3. All moneys remaining in the business extension service team fund at the end of the fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the business extension service team fund.

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471 or 148.370, RSMo, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41.

2. Beginning January 1, 1994, a taxpayer [shall] **may** be allowed a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, **if approved by the director of the department of economic development**, in an amount [equal] **up** to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director of the department of economic development, within this state during the taxable year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years. In

order to receive a tax credit pursuant to this section, certification by the director of the department of economic development shall be required as proof that the taxpayer made qualified research expenses during the taxable year.

3. The director of economic development shall prescribe the manner in which the tax credit may be claimed. The tax credit allowed by this section [shall] **may** be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application for claiming tax credits allowed in subsection 2 of this section shall be made in the taxpayer's tax period immediately following the tax period for which the credits are being claimed. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

**4. The aggregate of all tax credits authorized pursuant to this section shall not exceed ten million dollars in any taxable year.**

**Section 1. 1. Any automobile manufacturer or assembler, as defined by standard industrial classification code (SIC) number 3711, that is located within a state enterprise zone established pursuant to sections 135.200 to 135.256, RSMo, may make an application to the department of economic development for a strategic initiative investment income tax refund.**

**2. Such refunds shall be approved only if the total amount of tax credits certified for the automobile manufacturer or assembler in the four calendar years immediately preceding the year in which this section becomes effective exceeded the company's total Missouri tax on taxable income in those years by an amount equal to at least twenty million dollars. In such cases, a portion of tax credits earned shall constitute an overpayment of taxes and may be refunded to the taxpayer in the manner authorized by this section as a strategic initiative income tax fund.**

**3. The department shall evaluate and may approve such applications based upon**

**the importance of the manufacturer to the economy of Missouri, the company's investment of at least one hundred million dollars in new facilities or equipment, and the number of jobs to be created or retained as a result of new investment. Such applications may be approved annually for no longer than five successive years. The maximum amount of refund that may be awarded to the manufacturer or assembler shall not exceed two million dollars per year.**

**Section 2. 1. Beginning January 1, 1999, a taxpayer shall be granted a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo, for up to fifty percent of the amount of investment in production or production-related activities by a qualified film production company. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471, or 148.370, RSMo, and the term "qualified film production company" means any film production company with an expected in-state expenditure budget in excess of three hundred thousand dollars. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.**

**2. Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production company shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production company. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.**

**3. Tax credits certified pursuant to subsection 1 of this section shall not exceed five hundred thousand dollars per taxpayer, and shall not exceed a total for all tax credits certified of one million dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.**

**4. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 1 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset up to fifty percent of the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax**

**period in which the film production or production-related activities for which the credits are certified by the department occurred.**

**Section 3. For all tax years beginning on or after January 1, 1999, a grape grower or wine producer shall be allowed a tax credit against the state tax liability incurred pursuant to chapter 143, RSMo, exclusive of the provisions relating to the withholding of tax as provided in sections 143.191 to 143.265, RSMo, in an amount equal to twenty-five percent of the purchase price of all new equipment and materials used directly in the growing of grapes or the production of wine in the state. Each grower or producer shall apply to the department of economic development and specify the total amount of such new equipment and materials purchased during the calendar year. The department of economic development shall certify to the department of revenue the amount of such tax credit to which a grape grower or wine producer is entitled pursuant to this section. The provisions of this section notwithstanding, a grower or producer may only apply for and receive the credit authorized by this section for five tax periods.**

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