

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 518

90TH GENERAL ASSEMBLY  
1999

L2197.08T

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## AN ACT

To repeal section 67.1300, RSMo Supp. 1998, relating to economic development programs, and to enact in lieu thereof eight new sections relating to the same subject, with an emergency clause for certain sections.

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

Section A. Section 67.1300, RSMo Supp. 1998, is repealed and one new section enacted in lieu thereof, to be known as section 67.1300, to read as follows:

67.1300. 1. The governing body of any of the contiguous counties of the third classification without a township form of government enumerated in subdivisions (1) to (5) of this subsection or in any county of the fourth classification acting as a county of the second classification, having a population of at least forty thousand but less than forty-five thousand with a state university, and adjoining a county of the first classification with part of a city with a population of three hundred fifty thousand or more inhabitants or a county of the third classification with more than fifteen townships having a population of at least twenty-one thousand inhabitants or a county of the third classification without a township form of government and with a population of at least seven thousand four hundred but less than eight thousand inhabitants or any county of the third classification with a population greater than three thousand but less than four thousand or any county of the third classification with a population greater than six thousand one hundred but less than six thousand four hundred or any county of the third classification with a population greater than six thousand eight hundred but less than seven thousand or any county of the third classification with a population greater than seven thousand eight hundred but less than seven thousand nine hundred or any county of the third classification with a population greater than

eight thousand four hundred sixty but less than eight thousand five hundred or any county of the third classification with a population greater than nine thousand but less than nine thousand two hundred or any county of the third classification with a population greater than ten thousand five hundred but less than ten thousand six hundred or any county of the third classification with a population greater than twenty-three thousand five hundred but less than twenty-three thousand seven hundred or a county of the third classification with a population greater than thirty-three thousand but less than thirty-four thousand or a county of the third classification with a population greater than twenty thousand eight hundred but less than twenty-one thousand or a county of the third classification with a population greater than fourteen thousand one hundred but less than fourteen thousand five hundred or a county of the third classification with a population greater than twenty thousand eight hundred fifty but less than twenty-two thousand or a county of the third classification with a population greater than thirty-nine thousand but less than forty thousand or a county of the third classification with a township form of organization and a population greater than twenty-eight thousand but less than twenty-nine thousand or a county of the third classification with a population greater than fifteen thousand but less than fifteen thousand five hundred or a county of the third classification with a population greater than eighteen thousand but less than nineteen thousand seventy or a county of the third classification with a population greater than thirteen thousand nine hundred but less than fourteen thousand four hundred or a county of the third classification with a population greater than twenty-seven thousand but less than twenty-seven thousand five hundred or a county of the first classification without a charter form of government and a population of at least eighty thousand but not greater than eighty-three thousand or a county of the third classification with a population greater than fifteen thousand but less than fifteen thousand nine hundred without a township form of government which does not adjoin any county of the first, second or fourth classification or a county of the third classification with a population greater than twenty-three thousand but less than twenty-five thousand without a township form of government which does not adjoin any county of the second or fourth classification and does adjoin a county of the first classification with a population greater than one hundred twenty thousand but less than one hundred fifty thousand **or in any county of the fourth classification acting as a county of the second classification, having a population of at least forty-eight thousand** or any governing body of a municipality located in any of such counties may impose, by ordinance or order, a sales tax on all retail sales made in such county or municipality which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo:

(1) A county with a population of at least four thousand two hundred inhabitants but not more than four thousand five hundred inhabitants;

(2) A county with a population of at least four thousand seven hundred inhabitants but not more than four thousand nine hundred inhabitants;

(3) A county with a population of at least seven thousand three hundred inhabitants but not more than seven thousand six hundred inhabitants;

(4) A county with a population of at least ten thousand one hundred inhabitants but not more than ten thousand three hundred inhabitants; and

(5) A county with a population of at least four thousand three hundred inhabitants but not more than four thousand five hundred inhabitants.

2. The maximum rate for a sales tax pursuant to this section shall be one percent for municipalities and one-half of one percent for counties.

3. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the county or municipality submits to the voters of the county or municipality, at a regularly scheduled county, municipal or state general or primary election, a proposal to authorize the governing body of the county or municipality to impose a tax. Any sales tax imposed pursuant to this section shall not be authorized for a period of more than five years.

4. Such proposal shall be submitted in substantially the following form:

Shall the (city, town, village or county) of ..... impose a sales tax of ..... (insert amount) for the purpose of economic development in the (city, town, village or county)?

G YES

G NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall not impose the sales tax authorized in this section until the governing body of the county or municipality resubmits another proposal to authorize the governing body of the county or municipality to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon; however no such proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last such proposal.

5. All revenue received by a county or municipality from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for economic development purposes within such county or municipality for so long as the tax shall remain in effect.

6. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for economic development purposes within the county or municipality. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws

relating to the investment of other county or municipal funds.

7. All sales taxes collected by the director of revenue pursuant to this section on behalf of any county or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Economic Development Sales Tax Trust Fund".

8. The moneys in the local economic development sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and which was collected in each county or municipality imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the county or municipality and the public.

9. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county or municipality which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate municipal officer in the case of a municipal tax, and all expenditures of funds arising from the local economic development sales tax trust fund shall be by an appropriation act to be enacted by the governing body of each such county or municipality. Expenditures may be made from the fund for any economic development purposes authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

10. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties and municipalities.

11. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

12. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

13. For purposes of this section, the term "economic development" is limited to the following:

- (1) Operations of economic development or community development offices, including the salaries of employees;
- (2) Provision of training for job creation or retention;
- (3) Provision of infrastructure and sites for industrial development or for public infrastructure projects; and
- (4) Refurbishing of existing structures and property relating to community development.

Section B. Seven new sections are hereby enacted, to be known as sections 1, 2, 3, 4, 5, 6 and 7, to read as follows:

**Section 1. Sections 1 to 7 of this act shall be known and may be cited as the "Missouri New Enterprise Creation Act".**

**Section 2. As used in sections 1 to 7 of this act, the following terms mean:**

(1) **"Board", the Missouri seed capital investment board, as established pursuant to section 3 of this act;**

(2) **"Committed contributions", the total amount of qualified contributions that are committed to a qualifying fund by contractual agreement;**

(3) **"Corporation", the Missouri technology corporation as established pursuant to section 348.251, RSMo;**

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

(5) **"Director", the director of the department of economic development;**

(6) **"Follow-up capital", capital provided to a qualified business in which a qualified fund has previously invested seed capital or start-up capital. No more than forty percent of the qualified contributions to a qualified fund may be used for follow-up capital, and no qualified contributions which generate tax credits before the second round of allocations as authorized by section 6 of this act shall be used for follow-up capital investments;**

(7) **"Person", any individual, corporation, partnership, limited liability company or other entity;**

(8) **"Positive cash flow", total cash receipts from sales or services, but not from investments or loans, exceeding total cash expenditures as calculated on a fiscal year basis;**

(9) **"Qualified business", any independently owned and operated business which is headquartered and located in Missouri and which is involved in or intends to be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce. Such a business shall maintain its headquarters in Missouri for a period of at least three years from the date of receipt of a qualified investment or be subject to penalties pursuant to section 620.017, RSMo;**

(10) **"Qualified contribution", cash contributions to a qualified fund pursuant to**

**the terms of contractual agreements made between the qualified fund and a qualified economic development organization authorized by the board to enter into such contracts;**

**(11) "Qualified economic development organization", any corporation organized pursuant to the provisions of chapter 355, RSMo, that, as of January 1, 1991, had obtained a contract with the department to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in this state;**

**(12) "Qualified fund", a fund established by any corporation, partnership, joint venture, unincorporated association, trust or other organization established pursuant to the laws of Missouri and approved by the board or the corporation;**

**(13) "Qualified investment", any investment of seed capital, start-up capital or follow-up capital in a qualified business that does not cause more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualified business;**

**(14) "Seed capital", capital provided to a qualified business for research, development and precommercialization activities to prove a concept for a new product, process or service, and for activities related thereto; provided that, seed capital shall not be provided to any business which in a past fiscal year has experienced a positive cash flow;**

**(15) "Start-up capital", capital provided to a qualified business for use in preproduction product development, service development or initial marketing thereof; provided that, start-up capital shall not be provided to any business which has experienced a positive cash flow in a past fiscal year;**

**(16) "Uninvested capital", that portion of any qualified contribution to a qualified fund, other than management fees not to exceed three percent per year of committed contributions, qualified investments and other expenses or fees authorized by the board, that is not invested as a qualified investment within ten years of its receipt.**

**Section 3. There is hereby established the "Missouri Seed Capital Investment Board", to be composed of thirteen persons. One person shall be the director, or the director's designee, and each qualified economic development organization, not to exceed four, shall respectively be represented by one member appointed by each organization. Eight members shall be appointed by the governor with the advice and consent of the senate. Of these, one shall represent a major public research university located within the state, one shall represent a major private research university located within the state and the remaining six members shall have backgrounds in technology, banking, labor or small business development. The eight members appointed by the governor shall serve terms of three years; except that, of those first appointed, three**

shall serve for terms of three years, three for terms of two years and two for terms of one year. The members of the board shall annually elect one of its members who has been appointed by the governor as chairman of the board. At any meeting of the board, seven members must be present to constitute a quorum. The department shall provide support services necessary to carry out the duties of the board.

**Section 4. 1. The Missouri seed capital and commercialization strategy shall be jointly developed and approved by the boards of directors of all of the qualified economic development organizations and submitted as one plan to the board for its approval. The board shall not approve any qualified fund, exclusive of the fund approved by the corporation, unless such fund is described in the Missouri seed capital and commercialization strategy. The strategy shall include a proposal for the establishment and operation of between one and four qualified funds in Missouri, including the fund approved by the corporation pursuant to the provisions of section 7 of this act. The initial strategy shall be submitted to the board no later than July 1, 2000, and shall be approved or rejected by the board within three months of receipt. No tax credits authorized pursuant to the provisions of sections 1 to 7 of this act shall be awarded until such strategy has been approved by the board, other than tax credits authorized for qualified contributions to the fund approved by the corporation.**

**2. The department shall authorize the use of up to twenty million dollars in tax credits by the approved qualified funds, in aggregate pursuant to the provisions of section 6 of this act, with not more than five million dollars of tax credits being issued in any one year.**

**3. The board or corporation shall approve the professional managers employed by the qualified funds according to criteria similar to that used by the U.S. Small Business Administration's Small Business Investment Corporation Program.**

**4. The department may promulgate any rules and regulations necessary to administer the provisions of sections 1 to 7 of this act. No rule or regulation or portion of a rule or regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**

**5. The Missouri seed capital investment board shall report the following to the department:**

**(1) As soon as practicable after the receipt of a qualified contribution the name of each person from which the qualified contribution was received, the amount of each contributor's qualified contribution and the tax credits computed pursuant to this section;**

**(2) On a quarterly basis, the amount of qualified investments made to any qualified business;**

**(3) On a quarterly basis, verification that the investment of seed capital, start up capital, or follow up capital in a qualified business does not direct more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualifying business.**

**6. Each qualified fund shall provide annual audited financial statements, including the opinion of an independent certified public accountant, to the department within ninety days of the close of the state fiscal year. The audit shall address the methods of operation and conduct of the business of the qualified economic development organization to determine compliance with the statutes and program and program rules and that the qualified contributions received by the qualified fund have been invested as required by this section.**

**Section 5. 1. The board or corporation may authorize each qualified economic development organization to enter into contractual agreements with any qualified fund allowing such qualified fund to offer tax credits authorized pursuant to the provisions of sections 1 to 7 of this act to those persons making qualified contributions to the qualified fund. The board shall establish policies and procedures requiring each authorized qualified economic development organization to secure from each qualified fund and its investors the maximum fund equity interest possible, as dictated by market conditions, in exchange for the use of the tax credits. All tax credits authorized pursuant to sections 1 to 7 of this act shall be administered by the department.**

**2. Each qualified fund shall enter into a contract with one or more qualified economic development organizations which shall entitle all qualified economic development organizations in existence at that time to receive and share equally all distributions of equity and dividends or other earnings of the fund that are generated as a result of any equity interest secured as a result of actions taken to comply with subsection 1 of this section. Such contracts shall require the qualified funds to transfer to the board all distributions of dividends or other earnings of the fund that are owed to any qualified economic development organization that has dissolved or has ceased doing business for a period of one year or more.**

**3. All distributions of dividends, earnings, equity or the like owed pursuant to the provisions of sections 1 to 7 of this act to a qualified economic development organization by any qualified fund shall be paid to the qualified economic development organization. The qualified economic development organization shall use such payments solely for reinvestment in qualified funds in order to provide ongoing seed capital, start-up capital and follow-up capital for Missouri businesses. No qualified economic development organization may transfer any dividends, earnings, equity or the like owed it pursuant to sections 1 to 7 of this act to any other person or entity without the approval of the board.**



**Section 6. 1. The sole purpose of each qualified fund is to make investments. One hundred percent of investments made from qualified contributions shall be qualified investments.**

**2. Any person who makes a qualified contribution to a qualified fund shall receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, chapter 147, RSMo, or chapter 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount equal to one hundred percent of such person's qualified contribution.**

**3. Such person shall submit to the department an application for the tax credit on a form provided by the department. The department shall award tax credits in the order the applications are received and based upon the strategy approved by the board. Tax credits issued pursuant to this section may be claimed for the tax year in which the qualified contribution is made or in any of the following ten years, and may be assigned, transferred or sold.**

**4. There is hereby imposed on each qualified fund a tax equal to fifteen percent of the qualified fund's uninvested capital at the close of such qualified fund's tax year. For purposes of tax computation, any distribution made by a qualified fund during a tax year is deemed made at the end of such tax year. Each tax year, every qualified fund shall remit the tax imposed by this section to the director of the department of revenue for deposit in the state treasury to the credit of the general revenue fund.**

**Section 7. The provisions of sections 1 to 6 of this act to the contrary notwithstanding, one qualified fund shall be approved by the corporation as soon as practicable after the effective date of this section. Such fund need not be initially incorporated into the seed capital and commercialization strategy until after the appointment of the board. After the appointment of the board, all powers exercised by the corporation in relation to that fund shall be transferred to the board. The corporation shall approve the professional fund manager employed by the qualified fund established by this section.**

Section C. Because immediate action is necessary in order to provide entrepreneurial assistance to citizens dislocated from employment as a result of corporate layoffs, section B of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section B of this act shall be in full force and effect upon its passage and approval.

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