

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 620
92ND GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, April 3, 2003, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 620, adopted April 15, 2003.

Taken up for Perfection April 15, 2003. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

1562S.02P

AN ACT

To repeal sections 99.845, 100.710, 100.840, 100.850, and 178.892, RSMo, and to enact in lieu thereof ten new sections relating to job retention programs in the department of economic development, with contingent expiration dates and an emergency clause.

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

Section A. Sections 99.845, 100.710, 100.840, 100.850, and 178.892, RSMo, are
2 repealed and ten new sections enacted in lieu thereof, to be known as sections 99.845,
3 100.710, 100.840, 100.850, 135.276, 135.277, 135.279, 135.281, 135.283, and 178.892, to
4 read as follows:

99.845. 1. A municipality, either at the time a redevelopment project is approved
2 or, in the event a municipality has undertaken acts establishing a redevelopment plan
3 and redevelopment project and has designated a redevelopment area after the passage
4 and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are
5 in conformance with the procedures of sections 99.800 to 99.865, may adopt tax
6 increment allocation financing by passing an ordinance providing that after the total
7 equalized assessed valuation of the taxable real property in a redevelopment project
8 exceeds the certified total initial equalized assessed valuation of the taxable real
9 property in the redevelopment project, the ad valorem taxes, and payments in lieu of
10 taxes, if any, arising from the levies upon taxable real property in such redevelopment
11 project by taxing districts and tax rates determined in the manner provided in subsection

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

12 2 of section 99.855 each year after the effective date of the ordinance until redevelopment
13 costs have been paid shall be divided as follows:

14 (1) That portion of taxes, penalties and interest levied upon each taxable lot,
15 block, tract, or parcel of real property which is attributable to the initial equalized
16 assessed value of each such taxable lot, block, tract, or parcel of real property in the area
17 selected for the redevelopment project shall be allocated to and, when collected, shall be
18 paid by the county collector to the respective affected taxing districts in the manner
19 required by law in the absence of the adoption of tax increment allocation financing;

20 (2) Payments in lieu of taxes attributable to the increase in the current equalized
21 assessed valuation of each taxable lot, block, tract, or parcel of real property in the area
22 selected for the redevelopment project and any applicable penalty and interest over and
23 above the initial equalized assessed value of each such unit of property in the area
24 selected for the redevelopment project shall be allocated to and, when collected, shall be
25 paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a
26 special fund called the "Special Allocation Fund" of the municipality for the purpose of
27 paying redevelopment costs and obligations incurred in the payment thereof. Payments
28 in lieu of taxes which are due and owing shall constitute a lien against the real estate
29 of the redevelopment project from which they are derived and shall be collected in the
30 same manner as the real property tax, including the assessment of penalties and interest
31 where applicable. The municipality may, in the ordinance, pledge the funds in the
32 special allocation fund for the payment of such costs and obligations and provide for the
33 collection of payments in lieu of taxes, the lien of which may be foreclosed in the same
34 manner as a special assessment lien as provided in section 88.861, RSMo. No part of the
35 current equalized assessed valuation of each lot, block, tract, or parcel of property in the
36 area selected for the redevelopment project attributable to any increase above the total
37 initial equalized assessed value of such properties shall be used in calculating the
38 general state school aid formula provided for in section 163.031, RSMo, until such time
39 as all redevelopment costs have been paid as provided for in this section and section
40 99.850;

41 (3) For purposes of this section, "levies upon taxable real property in such
42 redevelopment project by taxing districts" shall not include the blind pension fund tax
43 levied under the authority of article III, section 38(b) of the Missouri Constitution, or the
44 merchants' and manufacturers' inventory replacement tax levied under the authority of
45 subsection 2 of section 6 of article X, of the Missouri Constitution, except in
46 redevelopment project areas in which tax increment financing has been adopted by
47 ordinance pursuant to a plan approved by vote of the governing body of the municipality

48 taken after August 13, 1982, and before January 1, 1998.

49 2. In addition to the payments in lieu of taxes described in subdivision (2) of
50 subsection 1 of this section, for redevelopment plans and projects adopted or
51 redevelopment projects approved by ordinance after July 12, 1990, and prior to August
52 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest
53 imposed by the municipality, or other taxing districts, which are generated by economic
54 activities within the area of the redevelopment project over the amount of such taxes
55 generated by economic activities within the area of the redevelopment project in the
56 calendar year prior to the adoption of the redevelopment project by ordinance, while tax
57 increment financing remains in effect, but excluding taxes imposed on sales or charges
58 for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant
59 to section 70.500, RSMo, licenses, fees or special assessments other than payments in
60 lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes
61 levied pursuant to section 94.660, RSMo, for the purpose of public transportation, shall
62 be allocated to, and paid by the local political subdivision collecting officer to the
63 treasurer or other designated financial officer of the municipality, who shall deposit such
64 funds in a separate segregated account within the special allocation fund. Any provision
65 of an agreement, contract or covenant entered into prior to July 12, 1990, between a
66 municipality and any other political subdivision which provides for an appropriation of
67 other municipal revenues to the special allocation fund shall be and remain enforceable.

68 3. In addition to the payments in lieu of taxes described in subdivision (2) of
69 subsection 1 of this section, for redevelopment plans and projects adopted or
70 redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the
71 total additional revenue from taxes, penalties and interest which are imposed by the
72 municipality or other taxing districts, and which are generated by economic activities
73 within the area of the redevelopment project over the amount of such taxes generated
74 by economic activities within the area of the redevelopment project in the calendar year
75 prior to the adoption of the redevelopment project by ordinance, while tax increment
76 financing remains in effect, but excluding personal property taxes, taxes imposed on
77 sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes
78 levied pursuant to section 70.500, RSMo, or effective January 1, 1998, taxes levied for
79 the purpose of public transportation pursuant to section 94.660, RSMo, licenses, fees or
80 special assessments other than payments in lieu of taxes and penalties and interest
81 thereon, shall be allocated to, and paid by the local political subdivision collecting officer
82 to the treasurer or other designated financial officer of the municipality, who shall
83 deposit such funds in a separate segregated account within the special allocation fund.

84 4. Beginning January 1, 1998, for redevelopment plans and projects adopted or
85 redevelopment projects approved by ordinance and which have complied with subsections
86 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity
87 taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new
88 state revenues, as defined in subsection 8 of this section, estimated for the businesses
89 within the project area and identified by the municipality in the application required by
90 subsection 10 of this section, over and above the amount of such taxes reported by
91 businesses within the project area as identified by the municipality in their application
92 prior to the approval of the redevelopment project by ordinance, while tax increment
93 financing remains in effect, may be available for appropriation by the general assembly
94 as provided in subsection 10 of this section to the department of economic development
95 supplemental tax increment financing fund, from the general revenue fund, for
96 distribution to the treasurer or other designated financial officer of the municipality with
97 approved plans or projects.

98 5. The treasurer or other designated financial officer of the municipality with
99 approved plans or projects shall deposit such funds in a separate segregated account
100 within the special allocation fund established pursuant to section 99.805.

101 6. No transfer from the general revenue fund to the Missouri supplemental tax
102 increment financing fund shall be made unless an appropriation is made from the
103 general revenue fund for that purpose. No municipality shall commit any state revenues
104 prior to an appropriation being made for that project. For all redevelopment plans or
105 projects adopted or approved after December 23, 1997, appropriations from the new state
106 revenues shall not be distributed from the Missouri supplemental tax increment
107 financing fund into the special allocation fund unless the municipality's redevelopment
108 plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of
109 economic activity taxes generated by the project shall be used for eligible redevelopment
110 project costs while tax increment financing remains in effect. This account shall be
111 separate from the account into which payments in lieu of taxes are deposited, and
112 separate from the account into which economic activity taxes are deposited.

113 7. In order for the redevelopment plan or project to be eligible to receive the
114 revenue described in subsection 4 of this section, the municipality shall comply with the
115 requirements of subsection 10 of this section prior to the time the project or plan is
116 adopted or approved by ordinance. The director of the department of economic
117 development and the commissioner of the office of administration may waive the
118 requirement that the municipality's application be submitted prior to the redevelopment
119 plan's or project's adoption or the redevelopment plan's or project's approval by

120 ordinance.

121 8. For purposes of this section, "new state revenues" means:

122 (1) The incremental increase in the general revenue portion of state sales tax
123 revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are
124 constitutionally dedicated, taxes deposited to the school district trust fund in accordance
125 with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and
126 outboard motors and future sales taxes earmarked by law. The incremental increase in
127 the general revenue portion of state sales tax revenues for an existing or relocated
128 facility shall be the amount that current state sales tax revenue exceeds the state sales
129 tax revenue in the base year as stated in the redevelopment plan as provided in
130 subsection 10 of this section; or

131 (2) The state income tax withheld on behalf of new employees by the employer
132 pursuant to section 143.221, RSMo, at the business located within the project as
133 identified by the municipality. The state income tax withholding allowed by this section
134 shall be the municipality's estimate of the amount of state income tax withheld by the
135 employer within the redevelopment area for new employees who fill new jobs directly
136 created by the tax increment financing project.

137 9. Subsection 4 of this section shall apply only to blighted areas located in
138 enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted areas located
139 in federal empowerment zones, or to blighted areas located in central business districts
140 or urban core areas of cities which districts or urban core areas at the time of approval
141 of the project by ordinance, provided that the enterprise zones, federal empowerment
142 zones or blighted areas contained one or more buildings at least fifty years old; and

143 (1) Suffered from generally declining population or property taxes over the
144 twenty-year period immediately preceding the area's designation as a project area by
145 ordinance; or

146 (2) Was a historic hotel located in a county of the first classification without a
147 charter form of government with a population according to the most recent federal
148 decennial census in excess of one hundred fifty thousand and containing a portion of a
149 city with a population according to the most recent federal decennial census in excess
150 of three hundred fifty thousand.

151 10. The initial appropriation of up to fifty percent of the new state revenues
152 authorized pursuant to subsections 4 and 5 of this section shall not be made to or
153 distributed by the department of economic development to a municipality until all of the
154 following conditions have been satisfied:

155 (1) The director of the department of economic development or his or her designee

156 and the commissioner of the office of administration or his or her designee have approved
157 a tax increment financing application made by the municipality for the appropriation of
158 the new state revenues. The municipality shall include in the application the following
159 items in addition to the items in section 99.810:

160 (a) The tax increment financing district or redevelopment area, including the
161 businesses identified within the redevelopment area;

162 (b) The base year of state sales tax revenues or the base year of state income tax
163 withheld on behalf of existing employees, reported by existing businesses within the
164 project area prior to approval of the redevelopment project;

165 (c) The estimate of the incremental increase in the general revenue portion of
166 state sales tax revenue or the estimate for the state income tax withheld by the employer
167 on behalf of new employees expected to fill new jobs created within the redevelopment
168 area after redevelopment;

169 (d) The official statement of any bond issue pursuant to this subsection after
170 December 23, 1997;

171 (e) An affidavit that is signed by the developer or developers attesting that the
172 provisions of subdivision (1) of section 99.810 have been met and specifying that the
173 redevelopment area would not be reasonably anticipated to be developed without the
174 appropriation of the new state revenues;

175 (f) The cost-benefit analysis required by section 99.810 includes a study of the
176 fiscal impact on the state of Missouri; and

177 (g) The statement of election between the use of the incremental increase of the
178 general revenue portion of the state sales tax revenues or the state income tax withheld
179 by employers on behalf of new employees who fill new jobs created in the redevelopment
180 area;

181 (2) The methodologies used in the application for determining the base year and
182 determining the estimate of the incremental increase in the general revenue portion of
183 the state sales tax revenues or the state income tax withheld by employers on behalf of
184 new employees who fill new jobs created in the redevelopment area shall be approved by
185 the director of the department of economic development or his or her designee and the
186 commissioner of the office of administration or his or her designee. Upon approval of the
187 application, the director of the department of economic development or his or her
188 designee and the commissioner of the office of administration or his or her designee shall
189 issue a certificate of approval. The department of economic development may request
190 the appropriation following application approval;

191 (3) The appropriation shall be either a portion of the estimate of the incremental

192 increase in the general revenue portion of state sales tax revenues in the redevelopment
193 area or a portion of the estimate of the state income tax withheld by the employer on
194 behalf of new employees who fill new jobs created in the redevelopment area as indicated
195 in the municipality's application, approved by the director of the department of economic
196 development or his or her designee and the commissioner of the office of administration
197 or his or her designee. At no time shall the aggregate annual appropriation of the new
198 state revenues for redevelopment areas exceed fifteen million dollars;

199 (4) Redevelopment plans and projects receiving new state revenues shall have a
200 duration of up to fifteen years, unless prior approval for a longer term is given by the
201 director of the department of economic development or his or her designee and the
202 commissioner of the office of administration or his or her designee; except that, in no
203 case shall the duration exceed twenty-three years.

204 11. In addition to the areas authorized in subsection 9 of this section, the funding
205 authorized pursuant to subsection 4 of this section shall also be available in a federally
206 approved levee district, where construction of a levee begins after December 23, 1997,
207 and which is contained within a county of the first classification without a charter form
208 of government with a population between fifty thousand and one hundred thousand
209 inhabitants which contains all or part of a city with a population in excess of four
210 hundred thousand or more inhabitants.

211 12. There is hereby established within the state treasury a special fund to be
212 known as the "Missouri Supplemental Tax Increment Financing Fund", to be
213 administered by the department of economic development. The department shall
214 annually distribute from the Missouri supplemental tax increment financing fund the
215 amount of the new state revenues as appropriated as provided in the provisions of
216 subsections 4 and 5 of this section if and only if the conditions of subsection 10 of this
217 section are met. The fund shall also consist of any gifts, contributions, grants or
218 bequests received from federal, private or other sources. Moneys in the Missouri
219 supplemental tax increment financing fund shall be disbursed per project pursuant to
220 state appropriations.

221 13. All personnel and other costs incurred by the department of economic
222 development for the administration and operation of subsections 4 to 12 of this section
223 shall be paid from the state general revenue fund. On an annual basis, the general
224 revenue fund shall be reimbursed for the full amount of such costs by the developer or
225 developers of the project or projects for which municipalities have made tax increment
226 financing applications for the appropriation of new state revenues, as provided for in
227 subdivision (1) of subsection 10 of this section. The amount of costs charged to each

228 developer shall be based upon the percentage arrived at by dividing the monetary
229 amount of the application made by each municipality for a particular project by the total
230 monetary amount of all applications received by the department of economic
231 development.

232 **14. For redevelopment plans or projects approved by ordinance that**
233 **result in net new jobs from the relocation of a national headquarters from**
234 **another state to the area of the redevelopment project, the economic activity**
235 **taxes and new state tax revenues shall not be based on a calculation of the**
236 **incremental increase in taxes as compared to the base year or prior calendar**
237 **year for such redevelopment project, rather the incremental increase shall be**
238 **the amount of total taxes generated from the net new jobs brought in by the**
239 **national headquarters from another state. In no event shall this subsection**
240 **be construed to allow a redevelopment project to receive an appropriation in**
241 **excess of up to fifty percent of the new state revenues.** 100.710. As used

2 in sections 100.700 to 100.850, the following terms mean:

3 (1) "Assessment", an amount of up to five percent of the gross wages paid in one
4 year by an eligible industry to all eligible employees in new jobs, or up to ten percent if
5 the economic development project is located within a distressed community as defined
6 in section 135.530, RSMo;

7 (2) "Board", the Missouri development finance board as created by section
8 100.265;

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

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

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

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

15 (7) "Economic development project":

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

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

19 (c) For both paragraphs (a) and (b) of subdivision (7) of this section, "economic
20 development project" shall also include the development of the real property including
21 construction, installation, or equipping of a project, including fixtures and equipment,
22 and facilities necessary or desirable for improvement of the real property, including
23 surveys; site tests and inspections; subsurface site work; excavation; removal of

24 structures, roadways, cemeteries and other surface obstructions; filling, grading and
25 provision of drainage, storm water retention, installation of utilities such as water,
26 sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site
27 construction of utility extensions to the boundaries of the real property; and the
28 acquisition, installation, or equipping of facilities on the real property, for use and
29 occupancy by the eligible industry or its affiliates;

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

38 (9) "Eligible industry", a business located within the state of Missouri which is
39 engaged in interstate or intrastate commerce for the purpose of manufacturing,
40 processing or assembling products, conducting research and development, or providing
41 services in interstate commerce, office industries, or agricultural processing, but
42 excluding retail, health or professional services. "Eligible industry" does not include a
43 business which closes or substantially reduces its operation at one location in the state
44 and relocates substantially the same operation to another location in the state. This
45 does not prohibit a business from expanding its operations at another location in the
46 state provided that existing operations of a similar nature located within the state are
47 not closed or substantially reduced. This also does not prohibit a business from moving
48 its operations from one location in the state to another location in the state for the
49 purpose of expanding such operation provided that the board determines that such
50 expansion cannot reasonably be accommodated within the municipality in which such
51 business is located, or in the case of a business located in an incorporated area of the
52 county, within the county in which such business is located, after conferring with the
53 chief elected official of such municipality or county and taking into consideration any
54 evidence offered by such municipality or county regarding the ability to accommodate
55 such expansion within such municipality or county. An eligible industry must:

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

58 (b) Create a minimum of one hundred new jobs for eligible employees at the
59 economic development project or a minimum of five hundred jobs if the economic

60 development project is an office industry or a minimum of two hundred new jobs if the
61 economic development project is an office industry located within a distressed community
62 as defined in section 135.530, RSMo. **An industry that meets the definition of**
63 **"essential industry" may be considered an eligible industry for the purposes**
64 **of the program authorized by sections 100.700 to 100.850;**

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

67 **(a) Be a targeted industry;**

68 **(b) Be located in a home rule city with more than twenty-six thousand**
69 **but less than twenty-seven thousand inhabitants located in any county with**
70 **a charter form of government and with more than one million inhabitants;**

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

76 **(d) For the duration of the certificates, retain at the proposed**
77 **economic development project site the level of employment that existed at the**
78 **site in the taxable year immediately preceding the year in which application**
79 **for the program authorized by sections 100.700 to 100.850 is made; and**

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

83 ~~[(10)]~~ **(11) "New job", a job in a new or expanding eligible industry not including**
84 **jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible**
85 **industry in the state. For an essential industry, an existing job may be**
86 **considered a new job for the purposes of the program authorized by sections**
87 **100.700 to 100.850;**

88 ~~[(11)]~~ **(12) "Office industry", a regional, national or international headquarters,**
89 **a telecommunications operation, a computer operation, an insurance company, or a credit**
90 **card billing and processing center;**

91 ~~[(12)]~~ **(13) "Program costs", all necessary and incidental costs of providing**
92 **program services including payment of the principal of premium, if any, and interest on**
93 **certificates, including capitalized interest, issued to finance a project, and funding and**
94 **maintenance of a debt service reserve fund to secure such certificates. Program costs**
95 **shall include:**

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

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

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

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

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

113 (f) All other costs of a nature comparable to those described in this subdivision;
114 [(13)] **(14)** "Program services", administrative expenses of the board, including
115 contracted professional services, and the cost of issuance of certificates;

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

100.840. 1. To provide funds for the present payment of the costs of economic
2 development projects, the board may borrow money and issue and sell certificates
3 payable from a sufficient portion of the future receipts of payments authorized by the
4 agreement. [The total amount of outstanding certificates sold by the board shall not
5 exceed seventy-five million dollars.] The receipts shall be pledged to the payment of
6 principal of and interest on the certificates. Certificates may be sold at public sale or
7 at private sale at par, premium, or discount of not less than ninety-five percent of the
8 par value thereof, at the discretion of the board, and may bear interest at such rate or
9 rates as the board shall determine, notwithstanding the provisions of section 108.170,
10 RSMo, to the contrary. Certificates may be issued with respect to a single project or
11 multiple projects and may contain terms or conditions as the board may provide by
12 resolution authorizing the issuance of the certificates.

13 2. Certificates issued to refund other certificates may be sold at public sale or at
14 private sale as provided in this section with the proceeds from the sale to be used for the
15 payment of the certificates being refunded. The refunding certificates may be exchanged
16 in payment and discharge of the certificates being refunded, in installments at different
17 times or an entire issue or series at one time. Refunding certificates may be sold or
18 exchanged at any time on, before, or after the maturity of the outstanding certificates
19 to be refunded. Certificates may be issued for the purpose of refunding a like, greater
20 or lesser principal amount of certificates and may bear a higher, lower or equivalent rate
21 of interest than the certificates being renewed or refunded.

22 3. The board shall determine if revenues provided in the agreement are sufficient
23 to secure the faithful performance of obligations in the agreement.

24 4. Certificates issued pursuant to this section shall not be deemed to be an
25 indebtedness of the state or the board or of any political subdivision of the state.

100.850. 1. The approved company shall remit to the board a job development
2 assessment fee, not to exceed five percent of the gross wages of each eligible employee
3 whose job was created as a result of the economic development project, or not to exceed
4 ten percent if the economic development project is located within a distressed
5 community as defined in section 135.530, RSMo, for the purpose of retiring bonds which
6 fund the economic development project.

7 2. Any approved company remitting an assessment as provided in subsection 1
8 of this section shall make its payroll books and records available to the board at such
9 reasonable times as the board shall request and shall file with the board documentation
10 respecting the assessment as the board may require.

11 3. Any assessment remitted pursuant to subsection 1 of this section shall cease
12 on the date the bonds are retired.

13 4. Any approved company which has paid an assessment for debt reduction shall
14 be allowed a tax credit equal to the amount of the assessment. The tax credit may be
15 claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except
16 withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo,
17 which were incurred during the tax period in which the assessment was made.

18 5. **In no event shall the aggregate amount of tax credits authorized by**
19 **subsection 4 of this section exceed eleven million dollars annually.**

20 6. The director of revenue shall issue a refund to the approved company to the
21 extent that the amount of credits allowed in subsection 4 of this section exceed the
22 amount of the approved company's income tax.

135.276. As used in sections 135.276 to 135.283, the following terms

2 **mean:**

3 (1) "Continuation of commercial operations", shall be deemed to occur
4 during the first taxable year following the taxable year during which the
5 business entered into an agreement with the department pursuant to section
6 135.283 in order to receive the tax exemption, tax credits and refundable
7 credits authorized by sections 135.276 to 135.283;

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

9 (3) "Director", the director of the department of economic development;

10 (4) "Enterprise zone", an enterprise zone created under section 135.210
11 that includes all or part of a home rule city with more than twenty-six
12 thousand but less than twenty-seven thousand inhabitants located in any
13 county with a charter form of government and with more than one million
14 inhabitants;

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

20 (6) "NAICS", the industrial classification as such classifications are
21 defined in the 1997 edition of the North American Industrial Classification
22 System Manual as prepared by the Executive Office of the President, Office
23 of Management and Budget;

24 (7) "Retained business facility", a facility in an enterprise zone
25 operated by the taxpayer which satisfies the following requirements as
26 determined by the department and included in an agreement with the
27 department:

28 (a) The taxpayer agrees to a capital investment project at the facility
29 of at least five hundred million dollars to take place over a period of two
30 consecutive taxable years ending no later than the fifth taxable year after
31 continuation of commercial operations;

32 (b) The taxpayer has maintained at least two thousand employees per
33 year at the facility for each of the five taxable years preceding the year of
34 continuation of commercial operations;

35 (c) The taxpayer agrees to maintain at least the level of employment
36 that it had at the facility in the taxable year immediately preceding the year
37 of continuation of commercial operations for ten consecutive taxable years
38 beginning with the year of the continuation of commercial

39 **operations. Temporary layoffs necessary to implement the capital investment**
40 **project will not be considered a violation of this requirement;**

41 **(d) The taxpayer agrees that the amount of the average wage paid by**
42 **the taxpayer at the facility will exceed the average wage paid within the**
43 **county in which the facility is located for ten consecutive taxable years**
44 **beginning with the year of the continuation of commercial operations;**

45 **(e) Significant local incentives with respect to the project or retained**
46 **facility have been committed, which incentives may consist of:**

47 **a. Cash or in-kind incentives derived from any nonstate source,**
48 **including incentives provided by the affected political subdivisions, private**
49 **industry and/or local chambers of commerce or similar such organizations; or**

50 **b. Relief from local taxes;**

51 **(f) Receipt of the tax exemption, tax credits, and refunds are major**
52 **factors in the taxpayer's decision to retain its operations at the facility in**
53 **Missouri and go forward with the capital investment project and not**
54 **receiving the exemption, credits, and refunds will result in the taxpayer**
55 **moving its operations out of Missouri; and**

56 **(g) There is at least one other state that the taxpayer verifies is being**
57 **considered as the site to which the facility's operations will be relocated;**

58 **(8) "Retained business facility employee", a person employed by the**
59 **taxpayer in the operation of a retained business facility during the taxable**
60 **year for which the credit allowed by section 135.279 is claimed, except that**
61 **truck drivers and rail and barge vehicle operators shall not constitute**
62 **retained business facility employees. A person shall be deemed to be so**
63 **employed if such person performs duties in connection with the operation of**
64 **the retained business facility on a regular, full-time basis. The number of**
65 **retained business facility employees during any taxable year shall be**
66 **determined by dividing by twelve the sum of the number of individuals**
67 **employed on the last business day of each month of such taxable year. If the**
68 **retained business facility is in operation for less than the entire taxable year,**
69 **the number of retained business facility employees shall be determined by**
70 **dividing the sum of the number of individuals employed on the last business**
71 **day of each full calendar month during the portion of such taxable year**
72 **during which the retained business facility was in operation by the number**
73 **of full calendar months during such period;**

74 **(9) "Retained business facility income", the Missouri taxable income, as**
75 **defined in chapter 143, RSMo, derived by the taxpayer from the operation of**

76 the retained business facility. If a taxpayer has income derived from the
77 operation of a retained business facility as well as from other activities
78 conducted within this state, the Missouri taxable income derived by the
79 taxpayer from the operation of the retained business facility shall be
80 determined by multiplying the taxpayer's Missouri taxable income, computed
81 in accordance with chapter 143, RSMo, by a fraction, the numerator of which
82 is the property factor, as defined in paragraph (a) of this subdivision, plus the
83 payroll factor, as defined in paragraph (b) of this subdivision, and the
84 denominator of which is two:

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

91 (b) The "payroll factor" is a fraction, the numerator of which is the total
92 amount paid during the tax period by the taxpayer for compensation to
93 persons qualifying as retained business facility employees at the retained
94 business facility, and the denominator of which is the total amount paid in
95 this state during the tax period by the taxpayer for compensation. The
96 compensation paid in this state shall be determined as provided in chapter
97 32, RSMo.

98 (10) "Retained business facility investment", the value of real and
99 depreciable tangible personal property, acquired by the taxpayer as part of
100 the retained business facility after the date of continuation of commercial
101 operations, which is used by the taxpayer in the operation of the retained
102 business facility, during the taxable year for which the credit allowed by
103 section 135.279 is claimed, except that trucks, truck-trailers, truck
104 semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for
105 hire, track, switches, barges, bridges, tunnels, rail yards, and spurs shall not
106 constitute retained business facility investments. The total value of such
107 property during such taxable year shall be:

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

109 (b) Eight times the net annual rental rate, if leased by the
110 taxpayer. The net annual rental rate shall be the annual rental rate paid by
111 the taxpayer less any annual rental rate received by the taxpayer from
112 subrentals. The retained business facility investment shall be determined by

113 **dividing by twelve the sum of the total value of such property on the last**
114 **business day of each calendar month of the taxable year. If the retained**
115 **business facility is in operation for less than an entire taxable year, the**
116 **retained business facility investment shall be determined by dividing the sum**
117 **of the total value of such property on the last business day of each full**
118 **calendar month during the portion of such taxable year during which the**
119 **retained business facility was in operation by the number of full calendar**
120 **months during such period;**

121 **(11) "Revenue-producing enterprise", manufacturing activities classified**
122 **as NAICS 336211.**

135.277. The provisions of chapter 143, RSMo, notwithstanding, one-half
2 **of the Missouri taxable income attributed to an approved retained business**
3 **facility that is earned by a taxpayer operating the approved retained business**
4 **facility may be exempt from taxation under chapter 143, RSMo. That portion**
5 **of income attributed to the retained business facility shall be determined in**
6 **a manner prescribed in paragraph (b) of subdivision (9) of section 135.276,**
7 **except that compensation paid to truck drivers, rail, or barge vehicle**
8 **operators shall be excluded from the fraction.**

135.279. 1. Any taxpayer that operates an approved retained business
2 **facility in an enterprise zone may be allowed a credit, each year for ten years,**
3 **in an amount determined pursuant to subsection 2 or 3 of this section,**
4 **whichever is applicable, against the tax imposed by chapter 143, RSMo,**
5 **excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, as**
6 **follows:**

7 **(1) The credit allowed for each retained business facility employee**
8 **shall be four hundred dollars, except that for each retained business facility**
9 **employee that exceeds the level of employment set forth in paragraph (b) of**
10 **subdivision (7) of section 135.276, the credit shall be five hundred**
11 **dollars. Transfers from another facility operated by the taxpayer in the state**
12 **will not count as retained business facility employees;**

13 **(2) An additional credit of four hundred dollars shall be granted for**
14 **each twelve-month period that a retained business facility employee is a**
15 **resident of an enterprise zone;**

16 **(3) An additional credit of four hundred dollars shall be granted for**
17 **each twelve-month period that the person employed as a retained business**
18 **facility employee is a person who, at the time of such employment by the new**
19 **business facility, met the criteria as set forth in section 135.240;**

20 **(4) To the extent that expenses incurred by a retained business facility**
21 **in an enterprise zone for the training of persons employed in the operation**
22 **of the retained business facility is not covered by an existing federal, state,**
23 **or local program, such retained business facility shall be eligible for a full tax**
24 **credit equal to eighty percent of that portion of such training expenses which**
25 **are in excess of four hundred dollars for each trainee who is a resident of an**
26 **enterprise zone or who was at the time of such employment at the retained**
27 **business facility unemployable or difficult to employ as defined in section**
28 **135.240, provided such credit shall not exceed four hundred dollars for each**
29 **employee trained;**

30 **(5) The credit allowed for retained business facility investment shall**
31 **be equal to the sum of ten percent of the first ten thousand dollars of such**
32 **qualifying investment, plus five percent of the next ninety thousand dollars**
33 **of such qualifying investment, plus two percent of all remaining qualifying**
34 **investments within an enterprise zone. The taxpayer's retained business**
35 **facility investment shall be reduced by the amount of investment made by the**
36 **taxpayer or related taxpayer which was subsequently transferred to the**
37 **retained business facility from another Missouri facility and for which credits**
38 **authorized in this section are not being earned.**

39 **2. The credits allowed by subsection 1 of this section shall offset the**
40 **greater of:**

41 **(1) Some portion of the income tax otherwise imposed by chapter 143,**
42 **RSMo, excluding withholding tax imposed by sections 143.191 to 143.265,**
43 **RSMo, with respect to such taxpayer's retained business facility income for**
44 **the taxable year for which such credit is allowed; or**

45 **(2) If the taxpayer operates no other facility in Missouri, the credits**
46 **allowed in subsection 1 of this section shall offset up to fifty percent or, in the**
47 **case of an economic development project located within a distressed**
48 **community as defined in section 135.530, seventy-five percent of the business**
49 **income tax otherwise imposed by chapter 143, RSMo, excluding withholding**
50 **tax imposed by sections 143.191 to 143.265, RSMo, if the business operates no**
51 **other facilities in Missouri.**

52 **(3) If the taxpayer operates more than one facility in Missouri, the**
53 **credits allowed in subsection 1 of this section shall offset up to the greater of**
54 **the portion prescribed in subdivision (1) of this subsection or twenty-five**
55 **percent or, in the case of an economic development project located within a**
56 **distressed community as defined in section 135.530, thirty-five percent of the**

57 **business' tax, except that no taxpayer operating more than one facility in**
58 **Missouri shall be allowed to offset more than twenty-five percent or, in the**
59 **case of an economic development project located within a distressed**
60 **community as defined in section 135.530, thirty-five percent of the taxpayer's**
61 **business income tax in any tax period under the method prescribed in this**
62 **subdivision.**

63 **3. In the case where a person employed by the retained business**
64 **facility is a resident of the enterprise zone for less than a twelve-month**
65 **period, or in the case where a person employed as a retained business facility**
66 **employee is a person who, at the time of such employment by the retained**
67 **business facility, met the criteria as set forth in section 135.240, is employed**
68 **for less than a twelve-month period, the credits allowed by subdivisions (2)**
69 **and (3) of subsection 1 of this section shall be determined by multiplying the**
70 **dollar amount of the credit by a fraction, the numerator of which is the**
71 **number of calendar days during the taxpayer's tax year for which such**
72 **credits are claimed, in which the person met the requirements prescribed in**
73 **subdivision (2) or (3) of this subsection, and the denominator of which is three**
74 **hundred and sixty-five.**

75 **4. Notwithstanding any provision of law to the contrary, any taxpayer**
76 **who claims the exemption and credits allowed in sections 135.276 to 135.283**
77 **shall not be eligible to receive the exemption allowed in section 135.220, the**
78 **credits allowed in sections 135.225 and 135.235 and the refund authorized by**
79 **section 135.245 or the tax credits allowed in section 135.110. The taxpayer**
80 **must elect among the options. To perfect the election, the taxpayer shall**
81 **attach written notification of such election to the taxpayer's initial**
82 **application for claiming tax credits. The election shall be irreversible once**
83 **perfected.**

84 **5. A taxpayer shall not receive the income exemption described in**
85 **section 135.276 and the tax credits described in subsection 1 of this section**
86 **for any year in which the terms and conditions of sections 135.276 to 135.283**
87 **are not met. Such incentives shall not exceed the fifteen-year limitation**
88 **pursuant to subsection 1 of section 135.230 or the seven-year limitation**
89 **pursuant to subsection 5 of section 135.230.**

90 **6. The initial application for claiming tax credits must be made in the**
91 **taxpayer's tax period immediately following the tax period in which**
92 **commencement of commercial operations began at the new business facility.**

93 **7. Credits may not be carried forward but shall be claimed for the**

94 taxable year during which continuation of commercial operations occurs at
95 such retained business facility, and for each of the nine succeeding taxable
96 years.

135.281. 1. Any taxpayer operating an approved retained business
2 facility that is located within a state enterprise zone established pursuant to
3 sections 135.200 to 135.256 may make an application to the department of
4 economic development for an income tax refund.

5 2. Such refunds shall be approved only if the amount of tax credits
6 certified for the taxpayer in the taxable year exceeded the company's total
7 Missouri tax on taxable income in that year by an amount equal to at least
8 one million dollars. In such cases, a portion of tax credits earned shall
9 constitute an overpayment of taxes and may be refunded to the taxpayer in
10 the manner authorized by this section.

11 3. The department shall evaluate and may approve such applications
12 based upon the importance of the approved retained business facility to the
13 economy of Missouri, the company's investment of at least five hundred
14 million dollars in facilities or equipment, and the number of jobs to be
15 created or retained. Such applications may be approved annually for no
16 longer than five successive years. The maximum amount of refund that may
17 be awarded to the manufacturer or assembler shall not exceed two million
18 dollars per year. Notwithstanding other provisions of law to the contrary, if
19 the taxpayer's tax credits issued under sections 135.276 to 135.283 for a
20 taxable year exceed the taxpayer's taxable income by more than two million
21 dollars, the credits may be carried forward for five years or until used,
22 whichever is earlier, and may be included in refund amounts otherwise
23 authorized by this section.

135.283. 1. A taxpayer shall apply to the department for approval to
2 participate in the program authorized by sections 135.276 to 135.283. The
3 application shall be in a form prescribed by and contain all information
4 requested by the department to determine eligibility for the program and for
5 the department to make its decision whether to approve the taxpayer for
6 participation in the program.

7 2. The department may issue an approval contingent upon the
8 successful execution of an agreement between the department and the
9 taxpayer seeking approval of a facility as a retained business facility which
10 shall include, but not be limited to, the following:

11 (1) A detailed description of the project that is the subject of the

12 **agreement;**

13 **(2) A requirement that the taxpayer shall annually report to the**
14 **department the total amount of salaries and wages paid to eligible employees**
15 **in retained business facility jobs, and any other information the department**
16 **requires to confirm compliance with the requirements of sections 135.276 to**
17 **135.283;**

18 **(3) A requirement that the taxpayer shall provide written notification**
19 **to the director not more than thirty days after the taxpayer makes or receives**
20 **a proposal that would transfer the taxpayer's state tax liability obligations to**
21 **a successor taxpayer;**

22 **(4) A requirement that the taxpayer shall maintain operations at the**
23 **facility location for at least ten years at a certain employment level;**

24 **(5) The requirements otherwise required by sections 135.276 to 135.283;**
25 **and**

26 **(6) A provision for repayment of incentives upon breach of the**
27 **agreement.**

2 178.892. As used in sections 178.892 to 178.896, the following terms mean:

3 (1) "Agreement", the agreement, between an employer and a junior college
4 district, concerning a project. An agreement may be for a period not to exceed ten years
5 when the program services associated with a project are not in excess of five hundred
6 thousand dollars. For a project where associated program costs are greater than five
7 hundred thousand dollars, the agreement may not exceed a period of eight years. No
8 agreement shall be entered into between an employer and a community college district
9 which involves the training of potential employees with the purpose of replacing or
10 supplanting employees engaged in an authorized work stoppage;

11 (2) "Board of trustees", the board of trustees of a junior college district;

12 (3) "Certificate", industrial new jobs training certificates issued pursuant to
13 section 178.895;

14 (4) "Date of commencement of the project", the date of the agreement;

15 (5) "Employee", the person employed in a new job;

16 (6) "Employer", the person providing new jobs in conjunction with a project;

17 (7) "Essential industry", **a business that otherwise meets the definition**
18 **of industry but instead of creating new jobs maintains existing jobs. To be an**
19 **essential industry, the business must have maintained at least two thousand**
20 **jobs each year for a period of four years preceding the year in which**
21 **application for the program authorized by sections 178.892 to 178.896 is made**

22 **and must be located in a home rule city with more than twenty-six thousand**
23 **but less than twenty-seven thousand inhabitants located in any county with**
24 **a charter form of government and with more than one million inhabitants;**

25 **(8) "Existing job", a job in an essential industry that pays wages or**
26 **salary greater than the average of the county in which the project will be**
27 **located;**

28 **(9) "Industry", a business located within the state of Missouri which enters into**
29 **an agreement with a community college district and which is engaged in interstate or**
30 **intrastate commerce for the purpose of manufacturing, processing, or assembling**
31 **products, conducting research and development, or providing services in interstate**
32 **commerce, but excluding retail services. "Industry" does not include a business which**
33 **closes or substantially reduces its operation in one area of the state and relocates**
34 **substantially the same operation in another area of the state. This does not prohibit a**
35 **business from expanding its operations in another area of the state provided that**
36 **existing operations of a similar nature are not closed or substantially reduced;**

37 **[(8)] (10) "New job", a job in a new or expanding industry not including jobs of**
38 **recalled workers, or replacement jobs or other jobs that formerly existed in the industry**
39 **in the state. For an essential industry, an existing job shall be considered a**
40 **new job for the purposes of the new job training programs;**

41 **[(9)] (11) "New jobs credit from withholding", the credit as provided in section**
42 **178.894;**

43 **[(10)] (12) "New jobs training program" or "program", the project or projects**
44 **established by a community college district for the creation of jobs by providing**
45 **education and training of workers for new jobs for new or expanding industry in the**
46 **state;**

47 **[(11)] (13) "Program costs", all necessary and incidental costs of providing**
48 **program services including payment of the principal of, premium, if any, and interest on**
49 **certificates, including capitalized interest, issued to finance a project, funding and**
50 **maintenance of a debt service reserve fund to secure such certificates and wages, salaries**
51 **and benefits of employees participating in on-the-job training;**

52 **[(12)] (14) "Program services" includes, but is not limited to, the following:**

- 53 (a) New jobs training;
- 54 (b) Adult basic education and job-related instruction;
- 55 (c) Vocational and skill-assessment services and testing;
- 56 (d) Training facilities, equipment, materials, and supplies;
- 57 (e) On-the-job training;

58 (f) Administrative expenses equal to fifteen percent of the total training costs;

59 (g) Subcontracted services with state institutions of higher education, private
60 colleges or universities, or other federal, state, or local agencies;

61 (h) Contracted or professional services; and

62 (i) Issuance of certificates;

63 [(13)] **(15)** "Project", a training arrangement which is the subject of an
64 agreement entered into between the community college district and an employer to
65 provide program services;

66 [(14)] **(16)** "Total training costs", costs of training, including supplies, wages and
67 benefits of instructors, subcontracted services, on-the-job training, training facilities,
68 equipment, skill assessment and all program services excluding issuance of certificates.

Section B. The provisions of section A of this act shall expire on January 1, 2006,
2 if no essential industry retention projects have been approved by the department of
3 economic development by December 31, 2005. If an essential industry retention project
4 has been approved by the department of economic development by December 31, 2005,
5 the provisions of section A of this act shall expire on January 1, 2020.

Section C. Because of the need to retain vital jobs across the state, section A of
2 this act is deemed necessary for the immediate preservation of the public health, welfare,
3 peace and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and section A of this act shall be in full force and effect upon its
5 passage and approval.