

HOUSE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE

FOR  
SENATE BILL NO. 1155

1 AN ACT

2 To repeal sections 32.105, 32.110, 71.620,  
3 99.1000, 99.1018, 100.710, RSMo, and section  
4 100.850 as enacted by conference committee  
5 substitute for senate substitute for senate  
6 committee substitute for house committee  
7 substitute for house bill no. 289, ninety-  
8 second general assembly, first regular  
9 session, and section 100.850 as enacted by  
10 senate committee substitute for senate bill  
11 no. 620, ninety-second general assembly,  
12 first regular session, and to enact in lieu  
13 thereof twenty-nine new sections relating to  
14 economic development projects.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
16 AS FOLLOWS:

17 Section A. Sections 32.105, 32.110, 71.620, 99.1000,  
18 99.1018, 100.710, RSMo, and section 100.850 as enacted by  
19 conference committee substitute for senate substitute for senate  
20 committee substitute for house committee substitute for house  
21 bill no. 289, ninety-second general assembly, first regular  
22 session, and section 100.850 as enacted by senate committee  
23 substitute for senate bill no. 620, ninety-second general  
24 assembly, first regular session, are repealed and twenty-nine new  
25 sections enacted in lieu thereof, to be known as sections 32.105,

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

1 32.110, 71.620, 99.1000, 99.1018, 100.710, 100.850, 135.155,  
2 135.214, 135.216, 135.217, 135.218, 135.222, 135.261, 135.286,  
3 135.546, 135.1050, 135.1055, 135.1057, 135.1060, 135.1065,  
4 135.1070, 135.1075, 135.1078, 178.980, 178.981, 178.982, 178.983,  
5 178.984, to read as follows:

6 32.105. As used in sections 32.100 to 32.125, the following  
7 terms mean:

8 (1) "Affordable housing assistance activities", money, real  
9 or personal property, or professional services expended or  
10 devoted to the construction, or rehabilitation of affordable  
11 housing units;

12 (2) "Affordable housing unit", a residential unit generally  
13 occupied by persons and families with incomes at or below the  
14 levels described in this subdivision and bearing a cost to the  
15 occupant no greater than thirty percent of the maximum eligible  
16 household income for the affordable housing unit. In the case of  
17 owner-occupied units, the cost to the occupant shall be  
18 considered the amount of the gross monthly mortgage payment,  
19 including casualty insurance, mortgage insurance, and taxes. In  
20 the case of rental units, the cost to the occupant shall be  
21 considered the amount of the gross rent. The cost to the  
22 occupant shall include the cost of any utilities, other than  
23 telephone. If any utilities are paid directly by the occupant,  
24 the maximum cost that may be paid by the occupant is to be  
25 reduced by a utility allowance prescribed by the commission.

1 Persons or families are eligible occupants of affordable housing  
2 units if the household combined, adjusted gross income as defined  
3 by the commission is equal to or less than the following  
4 percentages of the median family income for the geographic area  
5 in which the residential unit is located, or the median family  
6 income for the state of Missouri, whichever is larger;  
7 ("geographic area" means the metropolitan area or county  
8 designated as an area by the federal Department of Housing and  
9 Urban Development under Section 8 of the United States Housing  
10 Act of 1937, as amended, for purposes of determining fair market  
11 rental rates):

12 Percent of State or  
13 Geographic Area Family

14 Size of Household	Median Income
15 One Person	35%
16 Two Persons	40%
17 Three Persons	45%
18 Four Persons	50%
19 Five Persons	54%
20 Six Persons	58%
21 Seven Persons	62%
22 Eight Persons	66%

23 (3) "Business firm", person, firm, a partner in a firm,  
24 corporation or a shareholder in an S corporation doing business  
25 in the state of Missouri and subject to the state income tax

1 imposed by the provisions of chapter 143, RSMo, or a corporation  
2 subject to the annual corporation franchise tax imposed by the  
3 provisions of chapter 147, RSMo, or an insurance company paying  
4 an annual tax on its gross premium receipts in this state, or  
5 other financial institution paying taxes to the state of Missouri  
6 or any political subdivision of this state pursuant to the  
7 provisions of chapter 148, RSMo, or an express company which pays  
8 an annual tax on its gross receipts in this state;

9 (4) "Commission", the Missouri housing development  
10 commission;

11 (5) "Community services", any type of counseling and  
12 advice, emergency assistance or medical care furnished to  
13 individuals or groups in the state of Missouri or transportation  
14 services at below-cost rates as provided in sections 208.250 to  
15 208.275, RSMo;

16 (6) "Crime prevention", any activity which aids in the  
17 reduction of crime in the state of Missouri;

18 (7) "Defense industry contractor", a person, corporation or  
19 other entity which will be or has been negatively impacted as a  
20 result of its status as a prime contractor of the Department of  
21 Defense or as a second or third tier contractor. A "second tier  
22 contractor" means a person, corporation or other entity which  
23 contracts to perform manufacturing, maintenance or repair  
24 services for a prime contractor of the Department of Defense, and  
25 a "third tier contractor" means a person, corporation or other

1 entity which contracts with a person, corporation or other entity  
2 which contracts with a prime contractor of the Department of  
3 Defense;

4 (8) "Doing business", among other methods of doing business  
5 in the state of Missouri, a partner in a firm or a shareholder in  
6 an S corporation shall be deemed to be doing business in the  
7 state of Missouri if such firm or S corporation, as the case may  
8 be, is doing business in the state of Missouri;

9 (9) "Economic development", the acquisition, renovation,  
10 improvement, or the furnishing or equipping of existing buildings  
11 and real estate in distressed or blighted areas of the state when  
12 such acquisition, renovation, improvement, or the furnishing or  
13 equipping of the business development projects will result in the  
14 creation or retention of jobs within the state; or, until June  
15 30, 1996, a defense conversion pilot project located in a  
16 standard metropolitan statistical area which contains a city with  
17 a population of at least three hundred fifty thousand  
18 inhabitants, which will assist Missouri-based defense industry  
19 contractors in their conversion from predominately  
20 defense-related contracting to nondefense-oriented manufacturing.  
21 Only neighborhood organizations, as defined in subdivision (15)  
22 of this section, may apply to conduct economic development  
23 projects. Prior to the approval of an economic development  
24 project, the neighborhood organization shall enter into a  
25 contractual agreement with the department of economic

1 development. Credits approved for economic development projects  
2 may not exceed four million dollars from within any one fiscal  
3 year's allocation, except that for fiscal years 2005, 2006, and  
4 2007 credits approved for economic development projects shall not  
5 exceed six million dollars. Neighborhood assistance program tax  
6 credits for economic development projects and affordable housing  
7 assistance as defined in section 32.111, may be transferred, sold  
8 or assigned by a notarized endorsement thereof naming the  
9 transferee;

10 (10) "Education", any type of scholastic instruction or  
11 scholarship assistance to an individual who resides in the state  
12 of Missouri that enables the individual to prepare himself or  
13 herself for better opportunities or community awareness  
14 activities rendered by a statewide organization established for  
15 the purpose of archeological education and preservation;

16 (11) ["Eligible farmers' market", a group of farmers, each  
17 of whom farms agricultural land located within this state which  
18 he or she rents or owns, and who have formed a group for the  
19 purpose of allowing each member farmer to sell his or her  
20 products derived from his or her farming activities to the public  
21 at a common structure or building when at least fifty percent of  
22 the costs of such structure or building are paid for by such  
23 group of farmers;

24 (12) "Eligible new generation cooperative", as defined in  
25 section 348.340, RSMo;

1           (13)] "Homeless assistance pilot project", the program  
2 established pursuant to section 32.117;

3           [(14)] (12) "Job training", any type of instruction to an  
4 individual who resides in the state of Missouri that enables the  
5 individual to acquire vocational skills so that the individual  
6 can become employable or be able to seek a higher grade of  
7 employment;

8           [(15)] (13) "Neighborhood organization", any organization  
9 performing community services or economic development activities  
10 in the state of Missouri and:

11           (a) Holding a ruling from the Internal Revenue Service of  
12 the United States Department of the Treasury that the  
13 organization is exempt from income taxation pursuant to the  
14 provisions of the Internal Revenue Code; or

15           (b) Incorporated in the state of Missouri as a  
16 not-for-profit corporation pursuant to the provisions of chapter  
17 355, RSMo; or

18           (c) Designated as a community development corporation by  
19 the United States government pursuant to the provisions of Title  
20 VII of the Economic Opportunity Act of 1964; [or

21           (d) Contributing funds to help finance a building or  
22 structure or purchase equipment located within this state and  
23 used to sell agricultural food products or to add value to food  
24 products produced in this state by members of an eligible new  
25 generation cooperative; or contributing funds to help finance a

1 building or structure or purchase equipment owned by a not-  
2 for-profit organization located within this state and used to  
3 sell agricultural food products or to add value to food products  
4 produced by family farms as defined in subdivision (4) of section  
5 350.010, RSMo, or family farm corporations as defined in  
6 subdivision (5) of section 350.010, RSMo;

7 16)] (14) "Physical revitalization", furnishing financial  
8 assistance, labor, material, or technical advice to aid in the  
9 physical improvement or rehabilitation of any part or all of a  
10 neighborhood area;

11 [(17)] (15) "S corporation", a corporation described in  
12 Section 1361(a)(1) of the United States Internal Revenue Code and  
13 not subject to the taxes imposed by section 143.071, RSMo, by  
14 reason of section 143.471, RSMo;

15 [(18)] (16) "Workfare renovation project", any project  
16 initiated pursuant to sections 215.340 to 215.355, RSMo.

17 32.110. Any business firm which engages in the activities  
18 of providing physical revitalization, economic development, job  
19 training or education for individuals, community services,  
20 [eligible farmers' markets] or crime prevention in the state of  
21 Missouri shall receive a tax credit as provided in section 32.115  
22 if the director of the department of economic development  
23 annually approves the proposal of the business firm; except that,  
24 no proposal shall be approved which does not have the endorsement  
25 of the agency of local government within the area in which the

1 business firm is engaging in such activities which has adopted an  
2 overall community or neighborhood development plan that the  
3 proposal is consistent with such plan. The proposal shall set  
4 forth the program to be conducted, the neighborhood area to be  
5 served, why the program is needed, the estimated amount to be  
6 contributed to the program and the plans for implementing the  
7 program. If, in the opinion of the director of the department of  
8 economic development, a business firm's contribution can more  
9 consistently with the purposes of sections 32.100 to 32.125 be  
10 made through contributions to a neighborhood organization as  
11 defined in subdivision [(15)] (13) of section 32.105, tax credits  
12 may be allowed as provided in section 32.115. The director of  
13 the department of economic development is hereby authorized to  
14 promulgate rules and regulations for establishing criteria for  
15 evaluating such proposals by business firms for approval or  
16 disapproval and for establishing priorities for approval or  
17 disapproval of such proposals by business firms with the  
18 assistance and approval of the director of the department of  
19 revenue. The total amount of tax credit granted for programs  
20 approved pursuant to sections 32.100 to 32.125 shall not exceed  
21 fourteen million dollars in fiscal year 1999 and twenty-six  
22 million dollars in fiscal year 2000, and any subsequent fiscal  
23 year, except as otherwise provided for proposals approved  
24 pursuant to section 32.111, 32.112 or 32.117. All tax credits  
25 authorized pursuant to the provisions of sections 32.100 to

1 32.125 may be used as a state match to secure additional federal  
2 funding. [The total amount of tax credits allowed for programs  
3 of neighborhood organizations defined pursuant to paragraph (d)  
4 of subdivision (15) of section 32.105 is two and one-half million  
5 dollars per fiscal year for fiscal years 2002 to 2006.]

6 71.620. 1. Hereafter no person following for a livelihood  
7 the profession or calling of minister of the gospel, duly  
8 accredited Christian Science practitioner, teacher, professor in  
9 a college, priest, lawyer, certified public accountant, dentist,  
10 chiropractor, optometrist, chiropodist, physician or surgeon in  
11 this state shall be taxed or made liable to pay any municipal or  
12 other corporation tax or license fee of any description whatever  
13 for the privilege of following or carrying on such profession or  
14 calling, and, after December 31, 2003, no investment funds  
15 service corporation, as defined in section 143.451, RSMo, may be  
16 required to pay, or shall be taxed or made liable to pay any  
17 municipal or other corporation tax or license fee of any  
18 description whatever for the privilege of following or carrying  
19 on its business or occupation, in excess of or in an aggregate  
20 amount exceeding twenty-five thousand dollars annually, any law,  
21 ordinance or charter to the contrary notwithstanding.

22 2. No person following for a livelihood the profession of  
23 insurance agent or broker, veterinarian, architect, professional  
24 engineer, land surveyor, auctioneer, or real estate broker or  
25 salesman in this state shall be taxed or made liable to pay any

1 municipal or other corporation tax or license fee for the  
2 privilege of following or carrying on his or her profession by a  
3 municipality unless that person maintains a business office  
4 within that municipality.

5 3. Notwithstanding any other provision of law to the  
6 contrary, after September 1, 2004, no village with less than one  
7 thousand three hundred inhabitants shall impose a business  
8 license tax in excess of [ten] fifteen thousand dollars per  
9 license.

10 99.1000. As used in sections 99.1000 to 99.1060, unless the  
11 context clearly requires otherwise, the following terms shall  
12 mean:

13 (1) "Authority", the rural economic stimulus authority for  
14 a municipality, created pursuant to section 99.1006;

15 (2) "Baseline year", the calendar year prior to the  
16 adoption of an ordinance by the municipality approving a  
17 development project;

18 (3) "Collecting officer", the officer of the municipality  
19 responsible for receiving and processing payments in lieu of  
20 taxes, economic activity taxes other than economic activity taxes  
21 which are local sales taxes, and other local taxes other than  
22 local sales taxes, and, for local sales taxes and state taxes,  
23 the director of revenue;

24 (4) "Development area", an area designated by a  
25 municipality which area shall have the following characteristics:

1 (a) It includes only those parcels of real property  
2 directly and substantially benefited by the proposed development  
3 plan;

4 (b) It can be renovated through one or more development  
5 projects;

6 (c) It is contiguous, provided, however that a development  
7 area may include up to three noncontiguous areas selected for  
8 development projects, provided that each noncontiguous area meets  
9 the requirements of paragraphs (a) and (b) of this subdivision;  
10 and

11 (d) The development area shall not exceed ten percent of  
12 the entire area of the municipality.

13 Subject to the limitation set forth in this subdivision, the  
14 development area can be enlarged or modified as provided in  
15 section 99.1036;

16 (5) "Development facility", a facility producing either a  
17 good derived from an agricultural commodity or using a process to  
18 produce a good derived from an agricultural product;

19 (6) "Development plan", the comprehensive program of a  
20 municipality and to thereby enhance the tax bases of the taxing  
21 districts which extend into the development area through the  
22 reimbursement, payment, or other financing of development project  
23 costs in accordance with sections 99.1000 to 99.1060 and through  
24 the exercise of the powers set forth in sections 99.1000 to  
25 99.1060. The development plan shall conform to the requirements

1 of section 99.1027;

2 [(6)] (7) "Development project", any development project  
3 within a development area which creates a renewable fuel  
4 production facility or eligible new generation processing entity,  
5 and any such development project shall include a legal  
6 description of the area selected for such development project;

7 [(7)] (8) "Development project area", the area located  
8 within a development area selected for a development project;

9 [(8)] (9) "Development project costs" include such costs  
10 to the development plan or a development project, as applicable,  
11 which are expended on public property, buildings, or  
12 rights-of-ways for public purposes to provide infrastructure to  
13 support a development project. Such costs shall only be allowed  
14 as an initial expense which, to be recoverable, must be included  
15 in the costs of a development plan or development project, except  
16 in circumstances of plan amendments approved by the Missouri  
17 agricultural and small business development authority and the  
18 department of economic development. Such infrastructure costs  
19 include, but are not limited to, the following:

20 (a) Costs of studies, appraisals, surveys, plans, and  
21 specifications;

22 (b) Professional service costs, including, but not limited  
23 to, architectural, engineering, legal, marketing, financial,  
24 planning, or special services;

25 (c) Property assembly costs, including, but not limited to,

1 acquisition of land and other property, real or personal, or  
2 rights or interests therein, demolition of buildings, and the  
3 clearing and grading of land;

4 (d) Costs of rehabilitation, reconstruction, repair, or  
5 remodeling of existing public buildings and fixtures;

6 (e) Costs of construction of public works or improvements;

7 (f) Financing costs, including, but not limited to, all  
8 necessary expenses related to the issuance of obligations issued  
9 to finance all or any portion of the infrastructure costs of one  
10 or more development projects, and which may include capitalized  
11 interest on any such obligations and reasonable reserves related  
12 to any such obligations;

13 (g) All or a portion of a taxing district's capital costs  
14 resulting from any development project necessarily incurred or to  
15 be incurred in furtherance of the objectives of the development  
16 plan, to the extent the municipality by written agreement accepts  
17 and approves such infrastructure costs;

18 (h) Payments to taxing districts on a pro rata basis to  
19 partially reimburse taxes diverted by approval of a development  
20 project;

21 (i) State government costs, including, but not limited to,  
22 the reasonable costs incurred by the department of economic  
23 development, the agricultural and small business development  
24 authority, and the department of revenue in evaluating an  
25 application for and administering state supplemental rural

1 development financing for a development project; and

2 (j) Endowment of positions at an institution of higher  
3 education which has a designation as a Carnegie Research I  
4 University including any campus of such university system,  
5 subject to the provisions of section 99.1043;

6 [(9)] (10) "Economic activity taxes", the total additional  
7 revenue from taxes which are imposed by the municipality and  
8 other taxing districts, and which are generated by economic  
9 activities within each development project area which exceed the  
10 amount of such taxes generated by economic activities within such  
11 development project area in the baseline year; but excluding  
12 taxes imposed on sales or charges for sleeping rooms paid by  
13 transient guests of hotels and motels, licenses, fees, or special  
14 assessments. If a retail establishment relocates within one year  
15 from one facility to another facility within the same county and  
16 the municipality or authority finds that the retail establishment  
17 is a direct beneficiary of development financing, then for  
18 purposes of this definition, the economic activity taxes  
19 generated by the retail establishment shall equal the total  
20 additional revenues from taxes which are imposed by the  
21 municipality and other taxing districts which are generated by  
22 economic activities within the development project area which  
23 exceed the amount of taxes which are imposed by the municipality  
24 and other taxing districts which are generated by economic  
25 activities within the development project area generated by the

1 retail establishment in the baseline year;

2 (11) "Eligible new generation processing entity", as  
3 defined in section 348.432, RSMo;

4 ~~[(10)]~~ (12) "Major initiative", a development project  
5 that:

6 (a) Promotes the development of a facility producing either  
7 a good derived from an agricultural commodity or using a process  
8 to produce a good derived from an agricultural product, the  
9 estimated cost of which is in excess of the amount set forth  
10 below for the municipality, as applicable; or

11 (b) Promotes business location or expansion, the estimated  
12 cost of which is in excess of the amount set forth below for the  
13 municipality, and is estimated to create at least as many new  
14 jobs as set forth below within three years of such location or  
15 expansion:

16 Population of	Estimated	New Jobs
17 Municipality	Project Cost	Created
18 99,999 or less	\$3,000,000	at least 30;

19 ~~[(11)]~~ (13) "Municipality", any city, village,  
20 incorporated town, or any county of this state established on or  
21 prior to January 1, 2001;

22 ~~[(12)]~~ (14) "New job", any job defined as a new job  
23 pursuant to subdivision (10) of section 100.710, RSMo;

24 ~~[(13)]~~ (15) "Obligations", bonds, loans, debentures,

1 notes, special certificates, or other evidences of indebtedness  
2 issued by the municipality or authority, or other public entity  
3 authorized to issue such obligations pursuant to sections 99.1000  
4 to 99.1060 to carry out a development project or to refund  
5 outstanding obligations;

6 [(14)] (16) "Ordinance", an ordinance enacted by the  
7 governing body of any municipality or an order of the governing  
8 body of such a municipal entity whose governing body is not  
9 authorized to enact ordinances;

10 [(15)] (17) "Other net new revenues", the amount of state  
11 sales tax increment or state income tax increment or the  
12 combination of the amount of each such increment as determined  
13 under section 99.1045;

14 [(16)] (18) "Payment in lieu of taxes", those revenues  
15 from real property in each development project area, which taxing  
16 districts would have received had the municipality not adopted a  
17 development plan and the municipality not adopted development  
18 financing, and which would result from levies made after the time  
19 of the adoption of development financing during the time the  
20 current equalized value of real property in such development  
21 project area exceeds the total equalized value of real property  
22 in such development project area during the baseline year until  
23 development financing for such development project area expires  
24 or is terminated pursuant to sections 99.1000 to 99.1060;

25 [(17)] (19) "Renewable fuel production facility", a

1 facility producing an energy source which is derived from a  
2 renewable, domestically grown, organic compound capable of  
3 powering machinery, including an engine or power plant, and any  
4 by-product derived from such energy source;

5 [(18)] (20) "Special allocation fund", the fund of the  
6 municipality or its authority required to be established pursuant  
7 to section 99.1042 which special allocation fund shall contain at  
8 least four separate segregated accounts into which payments in  
9 lieu of taxes are deposited in one account, economic activity  
10 taxes are deposited in a second account, other net new revenues  
11 are deposited in a third account, and other revenues, if any,  
12 received by the authority or the municipality for the purpose of  
13 implementing a development plan or a development project are  
14 deposited in a fourth account;

15 [(19)] (21) "State income tax increment", the estimate of  
16 the income tax due the state for salaries or wages paid to new  
17 employees in new jobs at a business located in the development  
18 project area and created by the development project. The  
19 estimate shall be a percentage of the gross payroll which  
20 percentage shall be based upon an analysis by the department of  
21 revenue of the practical tax rate on gross payroll as a factor in  
22 overall taxable income. In no event shall the percentage exceed  
23 two percent;

24 [(20)] (22) "State sales tax increment", the incremental  
25 increase in the state sales tax revenue in the development

1 project area. In no event shall the incremental increase include  
2 any amounts attributable to retail sales unless the Missouri  
3 agricultural and small business development authority and the  
4 department of economic development are satisfied based on the  
5 information provided by the municipality or authority, and such  
6 entities have made a finding that a substantial portion of all  
7 but a de minimus portion of the sales tax increment attributable  
8 to retail sales is from new sources which did not exist in the  
9 state during the baseline year. In addition, the incremental  
10 increase for an existing facility shall be the amount by which  
11 the state sales tax revenue generated at the facility exceeds the  
12 state sales tax revenue generated at the facility in the baseline  
13 year. The incremental increase for a Missouri facility which  
14 relocates to a development project area shall be the amount by  
15 which the state sales tax revenue of the facility exceeds the  
16 state sales tax revenue for the facility in the calendar year  
17 prior to relocation;

18 [(21)] (23) "State sales tax revenues", the general  
19 revenue portion of state sales tax revenues received pursuant to  
20 section 144.020, RSMo, excluding sales taxes that are  
21 constitutionally dedicated, taxes deposited to the school  
22 district trust fund in accordance with section 144.701, RSMo,  
23 sales and use taxes on motor vehicles, trailers, boats and  
24 outboard motors and future sales taxes earmarked by law;

25 [(22)] (24) "Taxing districts", any political subdivision

1 of this state having the power to levy taxes; and

2        [(23)] (25) "Taxing district's capital costs", those costs  
3 of taxing districts for capital improvements that are found by  
4 the municipal governing bodies to be necessary and to directly  
5 result from a development project.

6        99.1018. 1. The authority created pursuant to section  
7 99.1006 shall constitute a public body corporate and politic,  
8 exercising public and essential governmental functions.

9        2. A municipality or an authority created pursuant to  
10 section 99.1006 shall have all the powers necessary or convenient  
11 to carry out and effectuate the purposes and provisions of  
12 sections 99.1000 to 99.1060, including the following powers in  
13 addition to others granted pursuant to sections 99.1000 to  
14 99.1060:

15        (1) To prepare or cause to be prepared and approve  
16 development plans and development projects to be considered at  
17 public hearings in accordance with sections 99.1000 to 99.1060  
18 and to undertake and carry out development plans and development  
19 projects which have been adopted by ordinance;

20        (2) To arrange or contract for the furnishing or repair, by  
21 any person or agency, public or private, of services, privileges,  
22 streets, roads, public utilities, or other facilities for or in  
23 connection with any development project; and notwithstanding  
24 anything to the contrary contained in sections 99.1000 to 99.1060  
25 or any other provision of law, to agree to any conditions that it

1 may deem reasonable and appropriate attached to federal financial  
2 assistance and imposed pursuant to federal law relating to the  
3 determination of prevailing salaries or wages or compliance with  
4 labor standards, in the undertaking or carrying out of any  
5 development project, and to include in any contract let in  
6 connection with any such development project provisions to  
7 fulfill such of the conditions as it may deem reasonable and  
8 appropriate;

9 (3) Within a development area, to acquire by purchase,  
10 lease, gift, grant, bequest, devise, obtain options upon, or  
11 otherwise acquire any real or personal property or any interest  
12 therein, necessary or incidental to a development project, all in  
13 the manner and at such price as the municipality or authority  
14 determines is reasonably necessary to achieve the objectives of a  
15 development plan;

16 (4) Within a development area, subject to provisions of  
17 section 99.1021 with regard to the disposition of real property,  
18 to sell, lease, exchange, transfer, assign, subdivide, retain for  
19 its own use, mortgage, pledge, hypothecate, or otherwise encumber  
20 or dispose of any real or personal property or any interest  
21 therein, all in the manner and at such price and subject to any  
22 covenants, restrictions, and conditions as the municipality or  
23 authority determines is reasonably necessary to achieve the  
24 objectives of a development plan; to make any such covenants,  
25 restrictions, or conditions as covenants running with the land,

1 and to provide appropriate remedies for any breach of any such  
2 covenants, restrictions, or conditions, including the right in  
3 the municipality or authority to terminate such contracts and any  
4 interest in the property created pursuant thereto;

5 (5) Within a development area, to clear any area by  
6 demolition or removal of existing buildings and structures;

7 (6) To install, repair, construct, reconstruct, or relocate  
8 streets, utilities, and site improvements as necessary or  
9 desirable for the preparation of a development area for use in  
10 accordance with a development plan;

11 (7) Within a development area, to fix, charge, and collect  
12 fees, rents, and other charges for the use of any real or  
13 personal property, or any portion thereof, in which the  
14 municipality or authority has any interest;

15 (8) To accept grants, guarantees, and donations of  
16 property, labor, or other things of value from any public or  
17 private source for purposes of implementing a development plan;

18 (9) In accordance with section 99.1021, to select one or  
19 more developers to implement a development plan, or one or more  
20 development projects, or any portion thereof;

21 (10) To charge as a development project cost the reasonable  
22 costs incurred by the municipality or authority, the department  
23 of economic development, the Missouri [development finance board]  
24 agricultural and small business development authority, or the  
25 department of revenue in evaluating, administering, or

1 implementing the development plan or any development project;

2 (11) To borrow money and issue obligations in accordance  
3 with sections 99.1000 to 99.1060 and provide security for any  
4 such loans or obligations;

5 (12) To insure or provide for the insurance of any real or  
6 personal property or operations of the municipality or authority  
7 against any risks or hazards, including the power to pay premiums  
8 on any such insurance; and to enter into any contracts necessary  
9 to effectuate the purposes of sections 99.1000 to 99.1060;

10 (13) Within a development area, to renovate, rehabilitate,  
11 own, operate, construct, repair, or improve any improvements,  
12 buildings, parking garages, fixtures, structures, and other  
13 facilities;

14 (14) To invest any funds held in reserves or sinking funds,  
15 or any funds not required for immediate disbursement, in property  
16 or securities in which savings banks may legally invest funds  
17 subject to their control; to redeem obligations at the redemption  
18 price established therein or to purchase obligations at less than  
19 redemption price, all obligations so redeemed or purchased to be  
20 canceled;

21 (15) To borrow money and to apply for and accept advances,  
22 loans, grants, contributions, and any other form of financial  
23 assistance from the federal government, state, county,  
24 municipality, or other public body or from any sources, public or  
25 private, for the purposes of implementing a development plan, to

1 give such security as may be required and to enter into and carry  
2 out contracts in connection therewith. A municipality or  
3 authority, notwithstanding the provisions of any other law, may  
4 include in any contract for financial assistance with the federal  
5 government for a project such conditions imposed pursuant to  
6 federal law as the municipality or authority may deem reasonable  
7 and appropriate and which are not inconsistent with the purposes  
8 of sections 99.1000 to 99.1060;

9 (16) To incur development project costs and make such  
10 expenditures as may be necessary to carry out the purposes of  
11 sections 99.1000 to 99.1060; and to make expenditures from funds  
12 obtained from the federal government without regard to any other  
13 laws pertaining to the making and approval of appropriations and  
14 expenditures;

15 (17) To loan the proceeds of obligations issued pursuant to  
16 sections 99.1000 to 99.1060 for the purpose of providing for the  
17 purchase, construction, extension, or improvement of public  
18 infrastructure related to a development project by a developer  
19 pursuant to a development contract approved by the municipality  
20 or authority in accordance with subdivision (2) of section  
21 99.1021;

22 (18) To declare any funds, or any portion thereof, in the  
23 special allocation fund to be excess funds, so long as such  
24 excess funds have not been pledged to the payment of outstanding  
25 obligations or outstanding development project costs, are not

1 necessary for the payment of development project costs incurred  
2 or anticipated to be incurred, and are not required to pay  
3 baseline state sales taxes and baseline state withholding taxes  
4 to the director of revenue. Any such funds deemed to be excess  
5 shall be disbursed in the manner of surplus funds as provided in  
6 section 99.1051;

7 (19) To pledge or otherwise expend funds deposited to the  
8 special allocation fund, or any portion thereof, for the payment  
9 or reimbursement of development project costs incurred by the  
10 authority, the municipality, a developer selected by the  
11 municipality or authority, or any other entity with the consent  
12 of the municipality or authority; to pledge or otherwise expend  
13 funds deposited to the special allocation fund, or any portion  
14 thereof, or to mortgage or otherwise encumber its property, or  
15 any portion thereof, for the payment of obligations issued to  
16 finance development project costs; provided, however, any such  
17 pledge or expenditure of economic activity taxes or other net new  
18 revenues shall be subject to annual appropriation by the  
19 municipality; and

20 (20) To exercise all powers or parts or combinations of  
21 powers necessary, convenient, or appropriate to undertake and  
22 carry out development plans and any development projects and all  
23 the powers granted pursuant to sections 99.1000 to 99.1060,  
24 excluding powers of eminent domain.

25 3. If any member of the governing body of the municipality,

1 a commissioner of the authority, or an employee or consultant of  
2 the municipality or authority, involved in the planning and  
3 preparation of a development project, owns or controls an  
4 interest, direct or indirect, in any property included in a  
5 development project area, the individual shall disclose the same  
6 in writing to the clerk of the municipality, and shall also so  
7 disclose the dates, terms, and conditions of any disposition of  
8 any such interest, which disclosures shall be acknowledged by the  
9 governing body of the municipality and entered upon the minutes  
10 books of the governing body of the municipality. If an  
11 individual holds such an interest, then that individual shall  
12 refrain from any further official involvement in regard to a  
13 development project and from voting on any matter pertaining to  
14 such development project or communicating with other  
15 commissioners or members of the authority or the municipality  
16 concerning any matter pertaining to such development project.  
17 Furthermore, subject to the succeeding sentence, no such member,  
18 commissioner, employee, or consultant shall acquire any interest,  
19 direct or indirect, in any property in a development project area  
20 or proposed development project area after either such individual  
21 obtains knowledge of a development project, or first public  
22 notice of such development project, or development project area  
23 pursuant to subsection 2 of section 99.1036, whichever first  
24 occurs. At any time after one year from the adoption of an  
25 ordinance designating a development project area, any

1 commissioner may acquire an interest in real estate located in a  
2 development project area so long as any such commissioner  
3 discloses such acquisition and refrains from voting on any matter  
4 related to the development project area in which the property  
5 acquired by such commissioner is located.

6 4. An authority created pursuant to section 99.1006 shall  
7 have the following powers in addition to others granted pursuant  
8 to sections 99.1000 to 99.1060:

9 (1) To sue and to be sued; to have a seal and to alter the  
10 same at the authority's pleasure; to have perpetual succession;  
11 to make and execute contracts and other instruments necessary or  
12 convenient to the exercise of the powers of the authority; and to  
13 make and from time to time amend and repeal bylaws, rules, and  
14 regulations, not inconsistent with sections 99.1000 to 99.1060,  
15 to carry out the provisions of sections 99.1000 to 99.1060;

16 (2) To delegate to a municipality or other public body any  
17 of the powers or functions of the authority with respect to the  
18 planning or undertaking of a development project, and any such  
19 municipality or public body is hereby authorized to carry out or  
20 perform such powers or functions for the authority;

21 (3) To receive and exercise powers delegated by any  
22 authority, agency, or agent of a municipality created pursuant to  
23 this chapter or chapter 353, RSMo, excluding powers of eminent  
24 domain.

25 100.710. As used in sections 100.700 to 100.850, the

1 following terms mean:

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

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

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

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

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

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

18 (7) "Economic development project":

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

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

23 (c) For both paragraphs (a) and (b) of this subdivision,  
24 "economic development project" shall also include the development  
25 of the real property including construction, installation, or

1 equipping of a project, including fixtures and equipment, and  
2 facilities necessary or desirable for improvement of the real  
3 property, including surveys; site tests and inspections;  
4 subsurface site work; excavation; removal of structures,  
5 roadways, cemeteries and other surface obstructions; filling,  
6 grading and provision of drainage, storm water retention,  
7 installation of utilities such as water, sewer, sewage treatment,  
8 gas, electricity, communications and similar facilities; off-site  
9 construction of utility extensions to the boundaries of the real  
10 property; and the acquisition, installation, or equipping of  
11 facilities on the real property, for use and occupancy by the  
12 eligible industry or its affiliates;

13 (8) "Eligible employee", a person employed on a full-time  
14 basis in a new job at the economic development project averaging  
15 at least thirty-five hours per week who was not employed by the  
16 eligible industry or a related taxpayer in this state at any time  
17 during the twelve-month period immediately prior to being  
18 employed at the economic development project. For an essential  
19 industry, a person employed on a full-time basis in an existing  
20 job at the economic development project averaging at least  
21 thirty- five hours per week may be considered an eligible  
22 employee for the purposes of the program authorized by sections  
23 100.700 to 100.850;

24 (9) "Eligible industry", a business located within the  
25 state of Missouri which is engaged in interstate or intrastate

1 commerce for the purpose of manufacturing, processing or  
2 assembling products, conducting research and development, or  
3 providing services in interstate commerce, office industries, or  
4 agricultural processing, but excluding retail, health or  
5 professional services. "Eligible industry" does not include a  
6 business which closes or substantially reduces its operation at  
7 one location in the state and relocates substantially the same  
8 operation to another location in the state. This does not  
9 prohibit a business from expanding its operations at another  
10 location in the state provided that existing operations of a  
11 similar nature located within the state are not closed or  
12 substantially reduced. This also does not prohibit a business  
13 from moving its operations from one location in the state to  
14 another location in the state for the purpose of expanding such  
15 operation provided that the board determines that such expansion  
16 cannot reasonably be accommodated within the municipality in  
17 which such business is located, or in the case of a business  
18 located in an incorporated area of the county, within the county  
19 in which such business is located, after conferring with the  
20 chief elected official of such municipality or county and taking  
21 into consideration any evidence offered by such municipality or  
22 county regarding the ability to accommodate such expansion within  
23 such municipality or county. An eligible industry must:

24 (a) Invest a minimum of fifteen million dollars, or ten  
25 million dollars for an office industry, in an economic

1 development project; and

2 (b) Create a minimum of one hundred new jobs for eligible  
3 employees at the economic development project or a minimum of  
4 five hundred jobs if the economic development project is an  
5 office industry or a minimum of two hundred new jobs if the  
6 economic development project is an office industry located within  
7 a distressed community as defined in section 135.530, RSMo, in  
8 the case of an approved company for a project for a world  
9 headquarters of a business whose primary function is tax return  
10 preparation in any home rule city with more than four hundred  
11 thousand inhabitants and located in more than one county, create  
12 a minimum or one hundred new jobs for eligible employees at the  
13 economic development project. An industry that meets the  
14 definition of "essential industry" may be considered an eligible  
15 industry for the purposes of the program authorized by sections  
16 100.700 to 100.850;

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

20 (a) Be a targeted industry;

21 (b) Be located in a home rule city with more than  
22 twenty-six thousand but less than twenty-seven thousand  
23 inhabitants located in any county with a charter form of  
24 government and with more than one million inhabitants;

25 (c) Have maintained at least two thousand jobs at the

1 proposed economic development project site each year for a period  
2 of four years preceding the year in which application for the  
3 program authorized by sections 100.700 to 100.850 is made and  
4 during the year in which said application is made;

5 (d) For the duration of the certificates, retain at the  
6 proposed economic development project site the level of  
7 employment that existed at the site in the taxable year  
8 immediately preceding the year in which application for the  
9 program authorized by sections 100.700 to 100.850 is made; and

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

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

19 (12) "Office industry", a regional, national or  
20 international headquarters, a telecommunications operation, a  
21 computer operation, an insurance company, or a credit card  
22 billing and processing center;

23 (13) "Program costs", all necessary and incidental costs of  
24 providing program services including payment of the principal of  
25 premium, if any, and interest on certificates, including

1 capitalized interest, issued to finance a project, and funding  
2 and maintenance of a debt service reserve fund to secure such  
3 certificates. Program costs shall include:

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

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

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

15 (d) All costs of architectural and engineering services,  
16 including test borings, surveys, estimates, plans and  
17 specifications, preliminary investigations and supervision of  
18 construction, as well as the costs for the performance of all the  
19 duties required by or consequent upon the acquisition,  
20 construction, installation or equipping of an economic  
21 development project;

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

25 (f) All other costs of a nature comparable to those

1 described in this subdivision;

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

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

10 [100.850. 1. The approved company  
11 shall remit to the board a job development  
12 assessment fee, not to exceed five percent of  
13 the gross wages of each eligible employee  
14 whose job was created as a result of the  
15 economic development project, or not to  
16 exceed ten percent if the economic  
17 development project is located within a  
18 distressed community as defined in section  
19 135.530, RSMo, for the purpose of retiring  
20 bonds which fund the economic development  
21 project.

22 2. Any approved company remitting an  
23 assessment as provided in subsection 1 of  
24 this section shall make its payroll books and  
25 records available to the board at such  
26 reasonable times as the board shall request  
27 and shall file with the board documentation  
28 respecting the assessment as the board may  
29 require.

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

33 4. Any approved company which has paid  
34 an assessment for debt reduction shall be  
35 allowed a tax credit equal to the amount of  
36 the assessment. The tax credit may be  
37 claimed against taxes otherwise imposed by  
38 chapters 143 and 148, RSMo, except  
39 withholding taxes imposed under the  
40 provisions of sections 143.191 to 143.265,  
41 RSMo, which were incurred during the tax

1 period in which the assessment was made.  
2 5. In no event shall the aggregate  
3 amount of tax credits authorized by  
4 subsection 4 of this section exceed eleven  
5 million dollars annually.  
6 6. The director of revenue shall issue  
7 a refund to the approved company to the  
8 extent that the amount of credits allowed in  
9 subsection 4 of this section exceeds the  
10 amount of the approved company's income tax.]

11 100.850. 1. The approved company shall remit to the board  
12 a job development assessment fee, not to exceed five percent of  
13 the gross wages of each eligible employee whose job was created  
14 as a result of the economic development project, or not to exceed  
15 ten percent if the economic development project is located within  
16 a distressed community as defined in section 135.530, RSMo, for  
17 the purpose of retiring bonds which fund the economic development  
18 project.

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

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

26 4. Any approved company which has paid an assessment for  
27 debt reduction shall be allowed a tax credit equal to the amount  
28 of the assessment. The tax credit may be claimed against taxes  
29 otherwise imposed by chapters 143 and 148, RSMo, except  
30 withholding taxes imposed under the provisions of sections

1 143.191 to 143.265, RSMo, which were incurred during the tax  
2 period in which the assessment was made.

3 5. In no event shall the aggregate amount of tax credits  
4 authorized by subsection 4 of this section exceed [eleven]  
5 fifteen million dollars annually.

6 6. The director of revenue shall issue a refund to the  
7 approved company to the extent that the amount of credits allowed  
8 in subsection 4 of this section exceeds the amount of the  
9 approved company's income tax.

10 135.155. Notwithstanding any provision of the law to the  
11 contrary, no revenue-producing enterprise shall receive the  
12 incentives set forth in sections 135.100 to 135.150 for  
13 facilities commencing operations on or after January 2, 2005.

14 135.214. In addition to any other enterprise zones  
15 authorized in this chapter, the department of economic  
16 development shall designate one enterprise zone that shall be  
17 located partially in any city of the fourth classification with  
18 more than twelve thousand one hundred but less than twelve  
19 thousand four hundred inhabitants and partially in any city of  
20 the fourth classification with more than nine thousand six  
21 hundred but less than nine thousand seven hundred inhabitants and  
22 shall include all area in between any city of the fourth  
23 classification with more than twelve thousand one hundred but  
24 less than twelve thousand four hundred inhabitants and any city  
25 of the fourth classification with more than nine thousand six

1 hundred but less than nine thousand seven hundred inhabitants  
2 with specific boundaries to be determined by the department of  
3 economic development in conjunction with the governing authority  
4 of the county. Such enterprise zone designation shall only be  
5 made if the area that is to be included in the enterprise zone  
6 meets all the requirements of section 135.205.

7 135.216. In addition to any other enterprise zones  
8 authorized in this chapter, the department of economic  
9 development shall designate one enterprise zone within any county  
10 of the third classification without a township form of government  
11 and with more than thirty-one thousand but less than thirty-one  
12 thousand one hundred inhabitants. Such enterprise zone  
13 designation shall only be made if the area that is to be included  
14 in the enterprise zone meets all the requirements of section  
15 135.205.

16 135.217. In addition to any other enterprise zones  
17 authorized under this chapter, the department of economic  
18 development shall designate one enterprise zone that shall have  
19 boundaries that are the same as any county of the third  
20 classification without a township form of government and with  
21 more than thirteen thousand seventy-five but less than thirteen  
22 thousand one hundred seventy-five inhabitants. Such enterprise  
23 zone designation shall only be made if the area that is to be  
24 included in the enterprise zone meets all the requirements of  
25 section 135.205.

1           135.218. 1. Notwithstanding the provisions of section  
2 135.230, to the contrary, any enterprise zone designated in any  
3 county of the third classification with a township form of  
4 government and with more than thirteen thousand seven hundred but  
5 less than thirteen thousand eight hundred inhabitants or  
6 designated in any county of the third classification without a  
7 township form of government and with more than fifteen thousand  
8 seven hundred but less than fifteen thousand eight hundred  
9 inhabitants shall not expire before December 31, 2015.

10           2. In addition to the number of enterprise zones authorized  
11 by the provisions of sections 135.200 to 135.270, the department  
12 of economic development shall designate one such zone in every  
13 county of the third classification without a township form of  
14 government and with more than six thousand seven hundred fifty  
15 but less than six thousand eight hundred fifty inhabitants. Such  
16 designation shall only be made if the area in the county which is  
17 to be included in the enterprise zone meets all the requirements  
18 of section 135.205.

19           135.222. 1. In addition to any other enterprise zones  
20 authorized under this chapter, the department of economic  
21 development shall designate one enterprise zone that shall have  
22 boundaries that are the same as any city of the fourth  
23 classification with more than four thousand three hundred but  
24 less than four thousand five hundred inhabitants and located in  
25 any county of the first classification with more than

1 ninety-three thousand eight hundred but less than ninety-three  
2 thousand nine hundred inhabitants. Such enterprise zone  
3 designation shall only be made if the area that is to be included  
4 in the enterprise zone meets all the requirements of section  
5 135.205.

6 2. In addition to any other enterprise zones authorized  
7 under this chapter, the department of economic development shall  
8 designate one enterprise zone that shall have boundaries that are  
9 the same as any city of the fourth classification with more than  
10 five thousand four hundred but less than five thousand five  
11 hundred inhabitants and located in more than one county. Such  
12 enterprise zone designation shall only be made if the area that  
13 is to be included in the enterprise zone meets all the  
14 requirements of section 135.205.

15 135.261. In addition to all other enterprise zones  
16 authorized in this chapter, the department of economic  
17 development shall designate one such zone in any county of the  
18 third classification without a township form of government and  
19 with more than thirty-two thousand five hundred but less than  
20 thirty-two thousand six hundred inhabitants. Such enterprise  
21 zone designation shall only be made if such area which is to be  
22 included in the enterprise zone meets all the requirements of  
23 section 135.205.

24 135.286. 1. Notwithstanding any provision of law to the  
25 contrary, no revenue-producing enterprise shall receive the state

1 tax exemption, state tax credits, or state tax refund as provided  
2 in sections 135.200 to 135.283 for facilities commencing  
3 operations on or after January 1, 2005. This provision is not  
4 intended to affect in any way the local real property tax  
5 abatement authorized by section 135.215.

6 2. Notwithstanding subsection 4 of section 135.215 to the  
7 contrary, if an exemption pursuant to section 135.215 is granted  
8 on property prior to the expiration of the twenty-five year  
9 anniversary of the designation of the enterprise zone, the  
10 property may continue to receive that exemption for up to twenty-  
11 five years following the date the exemption on that property was  
12 granted, provided that the total number of years of exemption on  
13 that property shall not exceed twenty-five.

14 135.546. For all tax years beginning on or after January 1,  
15 2005, no tax credits shall be approved, awarded, or issued to any  
16 person or entity claiming any tax credit under section 135.545.

17 135.1050. The following terms, whenever used in sections  
18 135.1050 to 135.1075 mean:

19 (1) "Blighted area", an area which, by reason of the  
20 predominance of defective or inadequate street layout, unsanitary  
21 or unsafe conditions, deterioration of site improvements,  
22 improper subdivision or obsolete platting, or the existence of  
23 conditions which endanger life or property by fire and other  
24 causes, or any combination of such factors, retards the provision  
25 of housing accommodations or constitutes an economic or social

1 liability or a menace to the public health, safety, morals, or  
2 welfare in its present condition and use;

3 (2) "Board", an enhanced enterprise zone board established  
4 pursuant to section 135.1057;

5 (3) "Commencement of commercial operations", shall be  
6 deemed to occur during the first taxable year for which the new  
7 business facility is first put into use by the taxpayer in the  
8 enhanced business enterprise in which the taxpayer intends to use  
9 the new business facility;

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

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

13 (6) "Employee", a person employed by the enhanced business  
14 enterprise on:

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

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

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

22 (7) "Enhanced business enterprise", an industry or one of a  
23 cluster of industries that is either:

24 (a) Identified by the department as critical to the state's  
25 economic security and growth; or

1           (b) Will have an impact on industry cluster development, as  
2 identified by the governing authority in its application for  
3 designation of an enhanced enterprise zone and approved by the  
4 department; but excluding gambling establishments (NAICS industry  
5 group 7132), retail trade (NAICS sectors 44 and 45) and food and  
6 drinking places (NAICS subsector 722). Service industries may be  
7 eligible only if a majority of its annual revenues will be  
8 derived from services provided out of the state.

9           (8) "Existing business facility", any facility in this  
10 state which was employed by the taxpayer claiming the credit in  
11 the operation of an enhanced business enterprise immediately  
12 prior to an expansion, acquisition, addition, or replacement;

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

20           (10) "Governing authority", the body holding primary  
21 legislative authority over a county or incorporated municipality;

22           (11) "NAICS", the 1997 edition of the North American  
23 Industry Classification System as prepared by the Executive  
24 Office of the President, Office of Management and Budget. Any  
25 NAICS sector, subsector, industry group or industry identified in

1 this section shall include its corresponding classification in  
2 subsequent federal industry classification systems;

3 (12) "New business facility", a facility that satisfies the  
4 following requirements:

5 (a) Such facility is employed by the taxpayer in the  
6 operation of an enhanced business enterprise. Such facility shall  
7 not be considered a new business facility in the hands of the  
8 taxpayer if the taxpayer's only activity with respect to such  
9 facility is to lease it to another person or persons. If the  
10 taxpayer employs only a portion of such facility in the operation  
11 of an enhanced business enterprise, and leases another portion of  
12 such facility to another person or persons or does not otherwise  
13 use such other portions in the operation of an enhanced business  
14 enterprise, the portion employed by the taxpayer in the operation  
15 of an enhanced business enterprise shall be considered a new  
16 business facility, if the requirements of paragraphs (b), (c),  
17 and (d) of this subdivision are satisfied;

18 (b) Such facility is acquired by, or leased to, the  
19 taxpayer after December 31, 2004. A facility shall be deemed to  
20 have been acquired by, or leased to, the taxpayer after December  
21 31, 2004, if the transfer of title to the taxpayer, the transfer  
22 of possession pursuant to a binding contract to transfer title to  
23 the taxpayer, or the commencement of the term of the lease to the  
24 taxpayer occurs after December 31, 2004;

25 (c) If such facility was acquired by the taxpayer from

1 another taxpayer and such facility was employed immediately prior  
2 to the acquisition by another taxpayer in the operation of an  
3 enhanced business enterprise, the operation of the same or a  
4 substantially similar enhanced business enterprise is not  
5 continued by the taxpayer at such facility; and

6 (d) Such facility is not a replacement business facility,  
7 as defined in subdivision (16) of this section;

8 (13) "New business facility employee", an employee of the  
9 taxpayer in the operation of a new business facility during the  
10 taxable year for which the credit allowed by section 135.1070 is  
11 claimed, except that truck drivers and rail and barge vehicle  
12 operators and other operators of rolling stock for hire shall not  
13 constitute new business facility employees.

14 (14) "New business facility investment", the value of real  
15 and depreciable tangible personal property, acquired by the  
16 taxpayer as part of the new business facility, which is used by  
17 the taxpayer in the operation of the new business facility,  
18 during the taxable year for which the credit allowed by 135.1070  
19 is claimed, except that trucks, truck-trailers, truck  
20 semitrailers, rail vehicles, barge vehicles, aircraft and other  
21 rolling stock for hire, track, switches, barges, bridges,  
22 tunnels, and rail yards and spurs shall not constitute new  
23 business facility investments. The total value of such property  
24 during such taxable year shall be:

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

1           (b) Eight times the net annual rental rate, if leased by  
2 the taxpayer. The net annual rental rate shall be the annual  
3 rental rate paid by the taxpayer less any annual rental rate  
4 received by the taxpayer from subrentals. The new business  
5 facility investment shall be determined by dividing by twelve the  
6 sum of the total value of such property on the last business day  
7 of each calendar month of the taxable year. If the new business  
8 facility is in operation for less than an entire taxable year,  
9 the new business facility investment shall be determined by  
10 dividing the sum of the total value of such property on the last  
11 business day of each full calendar month during the portion of  
12 such taxable year during which the new business facility was in  
13 operation by the number of full calendar months during such  
14 period;

15           (15) "Related taxpayer":

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

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

20           (c) A corporation, partnership, trust or association  
21 controlled by an individual, corporation, partnership, trust or  
22 association in control of the taxpayer. "Control of a  
23 corporation" shall mean ownership, directly or indirectly, of  
24 stock possessing at least fifty percent of the total combined  
25 voting power of all classes of stock entitled to vote, "control

1 of a partnership or association" shall mean ownership of at least  
2 fifty percent of the capital or profits interest in such  
3 partnership or association, and "control of a trust" shall mean  
4 ownership, directly or indirectly, of at least fifty percent of  
5 the beneficial interest in the principal or income of such trust;  
6 ownership shall be determined as provided in Section 318 of the  
7 Internal Revenue Code of 1986, as amended;

8 (16) "Replacement business facility", a facility otherwise  
9 described in subdivision (12) of this section, hereafter referred  
10 to in this subdivision as "new facility", which replaces another  
11 facility, hereafter referred to in this subdivision as "old  
12 facility", located within the state, which the taxpayer or a  
13 related taxpayer previously operated but discontinued operating  
14 on or before the close of the first taxable year for which the  
15 credit allowed by this section is claimed. A new facility shall  
16 be deemed to replace an old facility if the following conditions  
17 are met:

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

23 (b) The old facility was employed by the taxpayer or a  
24 related taxpayer in the operation of an enhanced business  
25 enterprise and the taxpayer continues the operation of the same

1 or substantially similar enhanced business enterprise at the new  
2 facility.

3 Notwithstanding the preceding provisions of this subdivision, a  
4 facility shall not be considered a replacement business facility  
5 if the taxpayer's new business facility investment, as computed  
6 in subdivision (14) of this section, in the new facility during  
7 the tax period for which the credits allowed in 135.1070 are  
8 claimed exceed one million dollars and if the total number of  
9 employees at the new facility exceeds the total number of  
10 employees at the old facility by at least two;

11 (17) "Same or substantially similar enhanced business  
12 enterprise", an enhanced business enterprise in which the nature  
13 of the products produced or sold, or activities conducted, are  
14 similar in character and use or are produced, sold, performed, or  
15 conducted in the same or similar manner as in another enhanced  
16 business enterprise.

17 135.1055. 1. For purposes of sections 135.1050 to  
18 135.1075, an area must meet the following criteria in order to  
19 qualify as an enhanced enterprise zone:

20 (1) The area must be a blighted area, have pervasive  
21 poverty, unemployment and general distress; and

22 (2) At least sixty percent of the residents living in the  
23 area have incomes below ninety percent of the median income of  
24 all residents:

1           (a) Within the state of Missouri, according to the last  
2 decennial census or other appropriate source as approved by the  
3 director; or

4           (b) Within the county or city not within a county in which  
5 the area is located, according to the last decennial cernsus or  
6 other appropriate source as approved by the director; and

7           (3) The resident population of the area must be at least  
8 five hundred but not more than one hundred thousand at the time  
9 of designation as an enhanced enterprise zone if the area lies  
10 within a metropolitan statistical area, as established by the  
11 United States Census Bureau, or if the area does not lie within a  
12 metropolitan statistical area, the resident population of the  
13 area at the time of designation must be at least five hundred but  
14 not more than forty thousand inhabitants. If the population of  
15 the jurisdiction of the governing authority does not meet the  
16 minimum population requirements set forth in this subdivision,  
17 the population of the area must be at least fifty percent of the  
18 population of the jurisdiction. However, no enhanced enterprise  
19 zone shall be created which consists of the total area within the  
20 political boundaries of a county; and

21           (4) The level of unemployment of persons, according to the  
22 most recent data available from the United States Bureau of  
23 Census and approved by the director, within the area is equal to  
24 or exceeds the average rate of unemployment for:

25           (a) The state of Missouri over the previous twelve months;

1 or

2 (b) The county or city not within a county over the  
3 previous twelve months.

4 2. Notwithstanding the requirements of subsection 1 of this  
5 section to the contrary, an enhanced enterprise zone may be  
6 established in an area located within a county for which public  
7 and individual assistance has been requested by the governor  
8 pursuant to Section 401 of the Robert T. Stafford Disaster Relief  
9 and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an  
10 emergency proclaimed by the governor pursuant to section 44.100,  
11 RSMo, due to a natural disaster of major proportions, if the area  
12 to be designated is blighted and sustained severe damage as a  
13 result of such natural disaster, as determined by the state  
14 emergency management agency. An application for designation as  
15 an enhanced enterprise zone pursuant to this subsection must be  
16 made before the expiration of one year from the date the governor  
17 requested federal relief for the area sought to be designated.

18 3. Notwithstanding the requirements of subsection 1 of this  
19 section to the contrary, an enhanced enterprise zone may be  
20 designated in a "county of declining population" if it meets the  
21 requirements of subdivisions (1), (3) and either (2) or (4) of  
22 subsection 1 of this section. For the purposes of this  
23 subsection, a "county of declining population" is one that has  
24 lost one percent or more of its population as demonstrated by  
25 comparing the most recent decennial census population to the next

1 most recent decennial census population for the county.

2 4. In addition to meeting the requirements of subsection 1,  
3 2, or 3 of this section, an area, to qualify as an enhanced  
4 enterprise zone, must be demonstrated by the governing authority  
5 to have either:

6 (1) The potential to create sustainable jobs in a targeted  
7 industry; or

8 (2) A demonstrated impact on local industry cluster  
9 development.

10 135.1057. 1. A governing authority planning to seek  
11 designation of an enhanced enterprise zone shall establish an  
12 enhanced enterprise zone board. The number of members on the  
13 board shall be seven. One member of the board shall be appointed  
14 by the school district or districts located within the area  
15 proposed for designation as an enhanced enterprise zone. One  
16 member of the board shall be appointed by other affected taxing  
17 districts. The remaining five members shall be chosen by the  
18 chief elected official of the county or municipality.

19 2. The school district member and the affected taxing  
20 district member shall each have initial terms of five years. Of  
21 the five members appointed by the chief elected official, two  
22 shall have initial terms of four years, two shall have initial  
23 terms of three years, and one shall have an initial term of two  
24 years. Thereafter, members shall serve terms of five years.  
25 Each commissioner shall hold office until a successor has been

1 appointed. All vacancies shall be filled in the same manner as  
2 the original appointment. For inefficiency or neglect of duty or  
3 misconduct in office, a member of the board may be removed by the  
4 applicable appointing authority.

5 3. A majority of the members shall constitute a quorum of  
6 such board for the purpose of conducting business and exercising  
7 the powers of the board and for all other purposes. Action may  
8 be taken by the board upon a vote of a majority of the members  
9 present.

10 4. The members of the board annually shall elect a chair  
11 from among the members.

12 5. The role of he board shall be to conduct the activities  
13 necessary to advise the governing authority on the designation of  
14 an enhanced enterprise zone and any other advisory duties as  
15 determined by the governing authority. The role of the board  
16 after the designation of an enhanced enterprise zone shall be  
17 review and assessment of zone activities as it relates to the  
18 annual reports as set forth in section 135.1060.

19 135.1060. 1. Any governing authority that desires to have  
20 any portion of a city or unincorporated area of a county under  
21 its control designated as an enhanced enterprise zone shall hold  
22 a public hearing for the purpose of obtaining the opinion and  
23 suggestions of those persons who will be affected by such  
24 designation. The governing authority shall notify the director  
25 of such hearing at least thirty days prior thereto and shall

1 publish notice of such hearing in a newspaper of general  
2 circulation in the area to be affected by such designation at  
3 least twenty days prior to the date of the hearing but not more  
4 than thirty days prior to such hearing. Such notice shall state  
5 the time, location, date, and purpose of the hearing. The  
6 director, or the director's designee, shall attend such hearing.

7 2. After a public hearing is held as required in subsection  
8 1 of this section, the governing authority may file a petition  
9 with the department requesting the designation of a specific area  
10 as an enhanced enterprise zone. Such petition shall include, in  
11 addition to a description of the physical, social, and economic  
12 characteristics of the area:

13 (1) A plan to provide adequate police protection within the  
14 area;

15 (2) A specific and practical process for individual  
16 businesses to obtain waivers from burdensome local regulations,  
17 ordinances, and orders which serve to discourage economic  
18 development within the area to be designated an enhanced  
19 enterprise zone, except that such waivers shall not substantially  
20 endanger the health or safety of the employees of any such  
21 business or the residents of the area;

22 (3) A description of what other specific actions will be  
23 taken to support and encourage private investment within the  
24 area;

25 (4) A plan to ensure that resources are available to assist

1 area residents to participate in increased development through  
2 self-help efforts and in ameliorating any negative effects of  
3 designation of the area as an enhanced enterprise zone;

4 (5) A statement describing the projected positive and  
5 negative effects of designation of the area as an enhanced  
6 enterprise zone;

7 (6) A specific plan to provide assistance to any person or  
8 business dislocated as a result of activities within the enhanced  
9 enterprise zone. Such plan shall determine the need of dislocated  
10 persons for relocation assistance; provide, prior to  
11 displacement, information about the type, location, and price of  
12 comparable housing or commercial property; provide information  
13 concerning state and federal programs for relocation assistance  
14 and provide other advisory services to displaced persons. Public  
15 agencies may choose to provide assistance under the Uniform  
16 Relocation and Real Property Acquisition Act, 42 U.S.C. section  
17 4601, et seq., to meet the requirements of this subdivision; and

18 (7) A description or plan that demonstrates the  
19 requirements of subsection 4 of section 135.1055.

20 3. An enhanced enterprise zone designation shall be  
21 effective upon such approval by the department and shall expire  
22 in twenty-five years.

23 4. Each designated enhanced enterprise zone board must  
24 report to the director on an annual basis regarding the status of  
25 the zone and business activity within the zone.

1           135.1065. 1. Improvements made to "real property" as such  
2 term is defined in section 137.010, RSMo, which are made in an  
3 enhanced enterprise zone subsequent to the date such zone or  
4 expansion thereto was designated, may, upon approval of an  
5 authorizing resolution by the governing authority having  
6 jurisdiction of the area in which the improvements are made, be  
7 exempt, in whole or in part, from assessment and payment of ad  
8 valorem taxes of one or more affected political subdivisions.

9           2. Such authorizing resolution shall specify the percent of  
10 the exemption to be granted, the duration of the exemption to be  
11 granted, and the political subdivisions to which such exemption  
12 is to apply and any other terms, conditions, or stipulations  
13 otherwise required. A copy of the resolution shall be provided  
14 to the director within thirty calendar days following adoption of  
15 the resolution by the governing authority.

16           3. No exemption shall be granted until the governing  
17 authority holds a public hearing for the purpose of obtaining the  
18 opinions and suggestions of residents of political subdivisions  
19 to be affected by the exemption from property taxes. The  
20 governing authority shall send, by certified mail, a notice of  
21 such hearing to each political subdivision in the area to be  
22 affected and shall publish notice of such hearing in a newspaper  
23 of general circulation in the area to be affected by the  
24 exemption at least twenty days prior to the hearing but not more  
25 than thirty days prior to the hearing. Such notice shall state

1 the time, location, date, and purpose of the hearing.

2 4. Notwithstanding subsection 1 of this section, at least  
3 one-half of the ad valorem taxes otherwise imposed on subsequent  
4 improvements to real property located in an enhanced enterprise  
5 zone shall become and remain exempt from assessment and payment  
6 of ad valorem taxes of any political subdivision of this state or  
7 municipality thereof for a period of not less than ten years  
8 following the date such improvements were assessed, provided the  
9 improved properties are used for enhanced business enterprises.

10 5. No exemption shall be granted for a period more than  
11 twenty-five years following the date on which the original  
12 enhanced enterprise zone was designated by the department.

13 6. The provisions of subsection 1 of this section shall not  
14 apply to improvements made to real property begun prior to August  
15 28, 2004.

16 7. The abatement referred to in this section shall not  
17 relieve the assessor or other responsible official from  
18 ascertaining the amount of the equalized assessed value of all  
19 taxable property annually as required by sections 99.855, 99.957,  
20 or 99.1042, RSMo, and shall not have the effect of reducing the  
21 payments in lieu of taxes referred to in subdivision (2) of  
22 subsection 1 of section 99.845, RSMo, subdivision (2) of  
23 subsection 3 of section 99.957, RSMo, or subdivision (2) of  
24 subsection 3 of section 99.1042, RSMo, unless such reduction is  
25 set forth in the plan approved by the governing body of the

1 municipality pursuant to subdivision (1) of section 99.820,  
2 section 99.942, or section 99.1027, RSMo.

3 135.1070. 1. A taxpayer who establishes a new business  
4 facility may, upon approval by the department, be allowed a  
5 credit, each tax year for up to ten tax years, in an amount  
6 determined as set forth in this section, against the tax imposed  
7 by chapter 143, RSMo, excluding withholding tax imposed by  
8 sections 143.191 to 143.265, RSMo. No taxpayer shall receive  
9 multiple ten-year periods for subsequent expansions at the same  
10 facility.

11 2. Notwithstanding any provision of law to the contrary,  
12 any taxpayer who establishes a new business facility in an  
13 enhanced enterprise zone and is awarded state tax credits under  
14 this section may not also receive tax credits under sections  
15 135.100 to 135.150, sections 135.200 to 135.268, or section  
16 135.535.

17 3. No credit shall be issued pursuant to this section  
18 unless:

19 (1) The number of new business facility employees engaged  
20 or maintained in employment at the new business facility for the  
21 taxable year for which the credit is claimed equals or exceeds  
22 two; and

23 (2) The new business facility investment for the taxable  
24 year for which the credit is claimed equals or exceeds one  
25 hundred thousand dollars.

1           4. The annual amount of credits allowed for an approved  
2 enhanced business enterprise shall be the lesser of:

3           (1) The annual amount authorized by the department for the  
4 enhanced business enterprise, which shall be limited to the  
5 projected state economic benefit, as determined by the  
6 department; or

7           (2) The sum calculated based upon the following:

8           (a) A credit of four hundred dollars for each new business  
9 facility employee employed within an enhanced enterprise zone;

10           (b) An additional credit of four hundred dollars for each  
11 new business facility employee who is a resident of an enhanced  
12 enterprise zone;

13           (c) An additional credit of four hundred dollars for each  
14 new business facility employee who is paid by the enhanced  
15 business enterprise a wage that exceeds the average wage paid  
16 within the county in which the facility is located, as determined  
17 by the department; and

18           (d) A credit equal to two percent of new business facility  
19 investment within an enhanced enterprise zone.

20           5. In no event shall the department authorize more than  
21 seven million dollars annually to be issued for all enhanced  
22 business enterprises.

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

1           (1) The taxpayer's new business facility investment in the  
2 expansion during the tax period in which the credits allowed in  
3 this section are claimed exceeds one hundred thousand dollars and  
4 if the number of new business facility employees engaged or  
5 maintained in employment at the expansion facility for the  
6 taxable year for which credit is claimed equals or exceeds two,  
7 and the total number of employees at the facility after the  
8 expansion is at least two greater than the total number of  
9 employees before the expansion; and

10           (2) The taxpayer's investment in the expansion and in the  
11 original facility prior to expansion shall be determined in the  
12 manner provided in subdivision (12) of section 135.1050.

13           7. The number of new business facility employees during any  
14 taxable year shall be determined by dividing by twelve the sum of  
15 the number of individuals employed on the last business day of  
16 each month of such taxable year. If the new business facility is  
17 in operation for less than the entire taxable year, the number of  
18 new business facility employees shall be determined by dividing  
19 the sum of the number of individuals employed on the last  
20 business day of each full calendar month during the portion of  
21 such taxable year during which the new business facility was in  
22 operation by the number of full calendar months during such  
23 period. For the purpose of computing the credit allowed by this  
24 section in the case of a facility which qualifies as a new  
25 business facility under subsection 6 of this section, and in the

1 case of a new business facility which satisfies the requirements  
2 of paragraph (c) of subdivision (10) of section 135.1050, or  
3 subdivision (14) of section 135.1050, the number of new business  
4 facility employees at such facility shall be reduced by the  
5 average number of individuals employed, computed as provided in  
6 this subsection, at the facility during the taxable year  
7 immediately preceding the taxable year in which such expansion,  
8 acquisition, or replacement occurred and shall further be reduced  
9 by the number of individuals employed by the taxpayer or related  
10 taxpayer that was subsequently transferred to the new business  
11 facility from another Missouri facility and for which credits  
12 authorized in this section are not being earned, whether such  
13 credits are earned because of an expansion, acquisition,  
14 relocation, or the establishment of a new facility.

15 8. In the case where a new business facility employee is a  
16 resident of an enhanced enterprise zone for less than a twelve-  
17 month period is employed for less than a twelve-month period, the  
18 credits allowed by paragraph (b) of subdivision (2) of subsection  
19 4 of this section shall be determined by multiplying four hundred  
20 dollars by a fraction, the numerator of which is the number of  
21 calendar days during the taxpayer's tax year for which such  
22 credits are claimed, in which the employee was a resident of an  
23 enhanced enterprise zone, and the denominator of which is three  
24 hundred and sixty-five.

25 9. For the purpose of computing the credit allowed by this

1 section in the case of a facility which qualifies as a new  
2 business facility pursuant to subsection 6 of this section, and  
3 in the case of a new business facility which satisfies the  
4 requirements of paragraph (c) of subdivision (12) of section  
5 135.1050 or subdivision (16) of section 135.1050, the amount of  
6 the taxpayer's new business facility investment in such facility  
7 shall be reduced by the average amount, computed as provided in  
8 subdivision (12) of section 135.1050 for new business facility  
9 investment, of the investment of the taxpayer, or related  
10 taxpayer immediately preceding such expansion or replacement or  
11 at the time of acquisition. Furthermore, the amount of the  
12 taxpayer's new business facility investment shall also be reduced  
13 by the amount of investment employed by the taxpayer or related  
14 taxpayer which was subsequently transferred to the new business  
15 facility from another Missouri facility and for which credits  
16 authorized in this section are not being earned, whether such  
17 credits are earned because of an expansion, acquisition,  
18 relocation, or the establishment of a new facility.

19 10. For a taxpayer with flow-through tax treatment to its  
20 members, partners, or shareholders, the credit shall be allowed  
21 to members, partners, or shareholders in proportion to their  
22 share of ownership on the last day of the taxpayer's tax period.

23 11. Credits may not be carried forward but shall be claimed  
24 for the taxable year during which commencement of commercial  
25 operations occurs at such new business facility, and for each of

1 the nine succeeding taxable years for which the credit is issued.

2 12. Certificates of tax credit authorized by this section  
3 may be transferred, sold, or assigned by filing a notarized  
4 endorsement thereof with the department that names the  
5 transferee, the amount of tax credit transferred, and the value  
6 received for the credit, as well as any other information  
7 reasonably requested by the department. The sale price cannot be  
8 less than seventy-five percent of the par value of such credits.

9 13. The director of revenue shall issue a refund to the  
10 taxpayer to the extent that the amount of credits allowed in this  
11 section exceeds the amount of the taxpayer's income tax.

12 135.1075. The department may adopt such rules, statements  
13 of policy, procedures, forms, and guidelines as may be necessary  
14 to carry out the provisions of sections 135.1050 to 135.1075.  
15 Any rule or portion of a rule, as that term is defined in section  
16 536.010, RSMo, that is created under the authority delegated in  
17 this section shall become effective only if it complies with and  
18 is subject to all of the provisions of chapter 536, RSMo, and, if  
19 applicable, section 536.028, RSMo. This section and chapter 536,  
20 RSMo, are nonseverable and if any of the powers vested with the  
21 general assembly pursuant to chapter 536, RSMo, to review, to  
22 delay the effective date, or to disapprove and annul a rule are  
23 subsequently held unconstitutional, then the grant of rulemaking  
24 authority and any rule proposed or adopted after August 28, 2004,  
25 shall be invalid and void.

1           135.1078. All enterprise zones designated before January 1,  
2 2006, shall be eligible to receive the tax benefits under  
3 sections 135.1050 through 135.1075, RSMo.

4           178.980. As used in sections 178.980 to 178.984, the  
5 following terms mean:

6           (1) "Agreement", the agreement between an employer and a  
7 junior college district concerning a project. An agreement may  
8 be for a period not to exceed ten years when the program services  
9 associated with a project are not in excess of five hundred  
10 thousand dollars. For a project where the associated program  
11 costs are greater than five hundred thousand dollars, the  
12 agreement may not exceed a period of eight years;

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

15           (3) "Capital investment", an investment in research and  
16 development, working capital, and real and tangible personal  
17 business property except inventory or property intended for sale  
18 to customers. Trucks, truck trailers, truck semi-trailers, rail  
19 and barge vehicles and other rolling stock for hire, track,  
20 switches, barges, bridges, tunnels, rail yards, and spurs shall  
21 not qualify as a capital investment. The amount of such  
22 investment shall be the original cost of the property if owned,  
23 or eight times the net annual rental rate if leased;

24           (4) "Certificate", industrial retained jobs training  
25 certificates issued under section 178.983;

1           (5) "Date of commencement of the project", the date of the  
2 agreement;

3           (6) "Employee", the person employed in a retained job;

4           (7) "Employer", the person maintaining retained jobs in  
5 conjunction with a project;

6           (8) "Industry", a business located within this state which  
7 enters into an agreement with a community college district and  
8 which is engaged in interstate or intrastate commerce for the  
9 purpose of manufacturing, processing, or assembling products,  
10 conducting research and development, or providing services in  
11 interstate commerce, but excluding retail services;

12           (9) "Program costs", all necessary and incidental costs of  
13 providing program services, including payment of the principal,  
14 premium, and interest on certificates, including capitalized  
15 interest, issued to finance a project, funding and maintenance of  
16 a debt service reserve fund to secure such certificates and  
17 wages, salaries and benefits of employees participating in on-  
18 the-job training;

19           (10) "Program services" includes, but is not limited to,  
20 the following:

21           (a) Retained jobs training;

22           (b) Adult basic education and job-related instruction;

23           (c) Vocational and skill-assessment services and testing;

24           (d) Training facilities, equipment, materials, and  
25 supplies;

1           (e) On-the-job training;

2           (f) Administrative expenses equal to seventeen percent of  
3 the total training costs, two percent to be paid to the  
4 department of economic development for deposit into the Missouri  
5 job development fund created under section 620.478, RSMo;

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

9           (h) Contracted or professional services; and

10          (i) Issuance of certificates;

11          (11) "Project", a training arrangement which is the subject  
12 of an agreement entered into between the community college  
13 district and an employer to provide program services that is not  
14 also the subject of an agreement entered into between a community  
15 college district and an employer to provide program services  
16 under sections 178.892 to 178.896;

17          (12) "Retained job", a job in a stable industry, not  
18 including jobs for recalled workers, which was in existence for  
19 at least two consecutive calendar years preceding the year in  
20 which the application for the retained jobs training program was  
21 made;

22          (13) "Retained jobs credit from withholding", the credit as  
23 provided in section 178.982;

24          (14) "Retained jobs training program", or "program", the  
25 project or projects established by a community college district

1 for the retention of jobs, by providing education and training of  
2 workers for existing jobs for stable industry in the state;

3 (15) "Stable industry", a business that otherwise meets the  
4 definition of industry and retains existing jobs. To be a stable  
5 industry, the business shall have:

6 (a) Maintained at least one hundred employees per year at  
7 the employer's site in the state at which the jobs are based, for  
8 each of the two calendar years preceding the year in which  
9 application for the program is made;

10 (b) Retained at that site the level of employment that  
11 existed in the taxable year immediately preceding the year in  
12 which application for the program is made; and

13 (c) Made or agree to make a capital investment aggregating  
14 at least one million dollars to acquire or improve long-term  
15 assets (including leased facilities) such as property, plant, or  
16 equipment (excluding program costs) at the employer's site in the  
17 state at which jobs are based over a period of three consecutive  
18 calendar years, as certified by the employer and:

19 a. Have made substantial investment in new technology  
20 requiring the upgrading of worker's skills; or

21 b. Be located in a border county of the state and represent  
22 a potential risk of relocation from the state; or

23 c. Be determined to represent a substantial risk of  
24 relocation from the state by the director of the department of  
25 economic development;

1           (16) "Total training costs", costs of training, including  
2 supplies, wages and benefits of instructors, subcontracted  
3 services, on-the-job training, training facilities, equipment,  
4 skill assessment, and all program services excluding issuance of  
5 certificates.

6           178.981. A community college district, with the approval of  
7 the department of economic development in consultation with the  
8 office of administration, may enter into an agreement to  
9 establish a project and provide program services to an employer.  
10 As soon as possible after initial contact between a community  
11 college district and a potential employer regarding the  
12 possibility of entering into an agreement, the district shall  
13 inform the division of workforce development of the department of  
14 economic development and the office of administration about the  
15 potential project. The division of workforce development shall  
16 evaluate the proposed project within the overall job training  
17 efforts of the state to ensure that the project will not  
18 duplicate other job training programs. The department of  
19 economic development shall have fourteen days from receipt of the  
20 application to approve or disapprove projects. If no response is  
21 received by the community college within fourteen days, the  
22 projects are approved. Any project that is disapproved must be  
23 in writing stating the reasons for the disapproval. If an  
24 agreement is entered into, the district and the employer shall  
25 notify the department of revenue within fifteen calendar days.

1 An agreement may provide, but is not limited to:

2 (1) Payment of program costs, including deferred costs,  
3 which may be paid from one or a combination of the following  
4 sources:

5 (a) Funds appropriated by the general assembly from the  
6 Missouri community college job retention program fund and  
7 disbursed by the division of workforce development in respect of  
8 retained jobs credit from withholding to be received or derived  
9 from retained employment resulting from the project;

10 (b) Tuition, student fees, or special charges fixed by the  
11 board of trustees to defray program costs in whole or in part;

12 (c) Guarantee of payments to be received under paragraph  
13 (a) or (b) of this subdivision;

14 (2) Payment of program costs shall not be deferred for a  
15 period longer than ten years if program costs do not exceed five  
16 hundred thousand dollars, or eight years if program costs exceed  
17 five hundred thousand dollars from the date of commencement of  
18 the project;

19 (3) Costs of on-the-job training for employees shall  
20 include wages or salaries of participating employees. Payments  
21 for on-the-job training shall not exceed the average of fifty  
22 percent of the total percent of the total wages paid by the  
23 employer to each participant during the period of training.  
24 Payment for on-the-job training may continue for up to six months  
25 from the date of the employer's capital investment;

1           (4) A provision which fixes the minimum amount of retained  
2 jobs credit from withholding, or tuition and fee payments which  
3 shall be paid for program costs;

4           (5) Any payment required to be made by an employer is a  
5 lien upon the employer's business property until paid and has  
6 equal precedence with ordinary taxes and shall not be divested by  
7 a judicial sale. Property subject to the lien may be sold for  
8 sums due and delinquent at a tax sale, with the same forfeitures,  
9 penalties, and consequences as for the nonpayment of ordinary  
10 taxes. The purchasers at tax sale obtain the property subject to  
11 the remaining payments.

12           178.982. If an agreement provides that all or part of  
13 program costs are to be met by receipt of retained jobs credit  
14 from withholding, such retained jobs credit from withholding  
15 shall be determined and paid as follows:

16           (1) Retained jobs credit from withholding shall be based  
17 upon the wages paid to the employees in the retained jobs;

18           (2) A portion of the total payments made by the employer  
19 under section 143.221, RSMo, shall be designated as the retained  
20 jobs credit from withholding. Such portion shall be an amount  
21 equal to two and one-half percent of the gross wages paid by the  
22 employer for each of the first one hundred jobs included in the  
23 project and one and one-half percent of the gross wages paid by  
24 the employer for each of the remaining jobs included in the  
25 project. If business or employment conditions cause the amount

1 of the retained jobs credit from withholding to be less than the  
2 amount projected in the agreement for any time period, then other  
3 withholding tax paid by the employer under section 143.221, RSMo,  
4 shall be credited to the Missouri junior college retained job  
5 training fund by the amount of such difference. The employer  
6 shall remit the amount of the retained jobs credit to the  
7 department of revenue in the manner prescribed in section  
8 178.984. When all program costs, including the principal,  
9 premium, and interest on the certificates have been paid, the  
10 employer credits shall cease;

11 (3) The community college district participating in a  
12 project shall establish a special fund for and in the name of the  
13 project. All funds appropriated by the general assembly from the  
14 Missouri community college job training retention program fund  
15 and disbursed by the division of workforce development for the  
16 project and other amounts received by the district in respect of  
17 the project and required by the agreement to be used to pay  
18 program costs for the project shall be deposited in the special  
19 fund. Amounts held in the special fund may be used and disbursed  
20 by the district only to pay program costs for the project. The  
21 special fund may be divided into such accounts and subaccounts as  
22 shall be provided in the agreement, and amounts held therein may  
23 be invested in investments which are legal for the investment of  
24 the district's other funds;

25 (4) Any disbursement in respect of a project received from

1 the division of workforce development under sections 178.980 to  
2 178.984 and the special fund into which it is paid may be  
3 irrevocably pledged by a junior college district for the payment  
4 of the principal, premium, and interest on the certificate issued  
5 by a junior college district to finance or refinance, in whole or  
6 in part, the project;

7 (5) The employer shall certify to the department of revenue  
8 that the credit from withholding is in accordance with an  
9 agreement and shall provide other information the department may  
10 require;

11 (6) An employee participating in a project will receive  
12 full credit for the amount designated as a retained jobs credit  
13 from withholding and withheld as provided in section 143.221,  
14 RSMo;

15 (7) If an agreement provides that all or part of program  
16 costs are to be met by receipt of retained jobs credit from  
17 withholding, the provisions of this subsection shall also apply  
18 to any successor to the original employer until such time as the  
19 principal and interest on the certificates have been paid.

20 178.983. 1. To provide funds for the present payment of  
21 the costs of retained jobs training programs, a community college  
22 district may borrow money and issue and sell certificates payable  
23 from a sufficient portion of the future receipts of payments  
24 authorized by the agreement including disbursements from the  
25 Missouri community college job retention training program to the

1 special fund established by the district for each project. The  
2 total amount of outstanding certificates sold by all junior  
3 college districts shall not exceed fifteen million dollars,  
4 unless an increased amount is authorized in writing by a majority  
5 of members of the Missouri job training joint legislative  
6 oversight committee. The certificates shall be marketed through  
7 financial institutions authorized to do business in Missouri.  
8 The receipts shall be pledged to the payment of principal of and  
9 interest on the certificates. Certificates may be sold at public  
10 sale or at private sale at par, premium, or discount of not less  
11 than ninety-five percent of the par value thereof, at the  
12 discretion of the board of trustees, and may bear interest at  
13 such rate or rates as the board of trustees shall determine,  
14 notwithstanding the provisions of section 108.170, RSMo, to the  
15 contrary. However, chapter 176, RSMo, does not apply to the  
16 issuance of these certificates. Certificates may be issued with  
17 respect to a single project or multiple projects and may contain  
18 terms or conditions as the board of trustees may provide by  
19 resolution authorizing the issuance of the certificates.

20 2. Certificates issued to refund other certificates may be  
21 sold at public sale or at private sale as provided in this  
22 section with the proceeds from the sale to be used for the  
23 payment of the certificates being refunded. The refunding  
24 certificates may be exchanged in payment and discharge of the  
25 certificates being refunded, in installments at different times

1 or an entire issue or series at one time. Refunding certificates  
2 may be sold or exchanged at any time on, before, or after the  
3 maturity of the outstanding certificates to be refunded. They  
4 may be issued for the purpose of refunding a like, greater, or  
5 lesser principal amount of certificates and may bear a higher,  
6 lower, or equivalent rate of interest than the certificates being  
7 renewed or refunded.

8 3. Before certificates are issued, the board of trustees  
9 shall publish once a notice of its intention to issue the  
10 certificates, stating the amount, the purpose, and the project or  
11 projects for which the certificates are to be issued. A person  
12 may, within fifteen days after the publication of the notice, by  
13 action in the circuit court of a county in the district, appeal  
14 the decision of the board of trustees to issue the certificates.  
15 The action of the board of trustees in determining to issue the  
16 certificates is final and conclusive unless the circuit court  
17 finds that the board of trustees has exceeded its legal  
18 authority. An action shall not be brought which questions the  
19 legality of the certificates, the power of the board of trustees  
20 to issue the certificates, the effectiveness of any proceedings  
21 relating to the authorization of the project, or the  
22 authorization and issuance of the certificates from and after  
23 fifteen days from the publication of the notice of intention to  
24 issue.

25 4. The board of trustees shall make a finding based on

1 information supplied by the employer that revenues provided in  
2 the agreement are sufficient to secure the faithful performance  
3 of obligations in the agreement.

4 5. Certificates issued under this section shall not be  
5 deemed to be an indebtedness of the state or the community  
6 college district or of any other political subdivision of the  
7 state, and the principal and interest on such certificates shall  
8 be payable only from the sources provided in subdivision (1) of  
9 section 178.981 which are pledged in the agreement.

10 6. The department of economic development shall coordinate  
11 the retained jobs training program, and may promulgate rules that  
12 districts will use in developing projects with industrial  
13 retained jobs training proposals which shall include rules  
14 providing for the coordination of such proposals with the service  
15 delivery areas established in the state to administer federal  
16 funds pursuant to the federal Workforce Investment Act. No rule  
17 or portion of a rule promulgated pursuant to the authority of  
18 this section shall become effective unless it has been  
19 promulgated pursuant to chapter 536, RSMo.

20 7. No community college district may sell certificates as  
21 described in this section after July 1, 2014.

22 178.984. 1. There is hereby established within the state  
23 treasury a special fund, to be known as the "Missouri Community  
24 College Job Retention Training Program Fund", to be administered  
25 by the division of workforce development. The department of

1 revenue shall credit to the community college job retention  
2 training program fund, as received, all retained jobs credit from  
3 withholding remitted by employers pursuant to section 178.982.  
4 The fund shall also consist of any gifts, contributions, grants,  
5 or bequests received from federal, private, or other sources.  
6 The general assembly, however, shall not provide for any transfer  
7 of general revenue funds into the community college job retention  
8 training program fund. Moneys in the Missouri community college  
9 job retention training program fund shall be disbursed to the  
10 division of workforce development pursuant to regular  
11 appropriations by the general assembly. The division shall  
12 disburse such appropriated funds in a timely manner into the  
13 special funds established by community college districts for  
14 projects, which funds shall be used to pay program costs,  
15 including the principal, premium, and interest on certificates  
16 issued by the district to finance or refinance, in whole or in  
17 part, a project. Such disbursements by the division of workforce  
18 development shall be made to the special fund for each project in  
19 the same proportion as the retained jobs credit from withholding  
20 remitted by the employer participating in such project bears to  
21 the total retained jobs credit from withholding remitted by all  
22 employers participating in projects during the period for which  
23 the disbursement is made. Moneys for retained jobs training  
24 programs established under sections 178.980 to 178.984 shall be  
25 obtained from appropriations made by the general assembly from

1 the Missouri community college job retention training program  
2 fund. All moneys remaining in the Missouri community college job  
3 retention training program fund at the end of any fiscal year  
4 shall not lapse to the general revenue fund, as provided in  
5 section 33.080, RSMo, but shall remain in the Missouri community  
6 college job retention training program fund.

7 2. The department of revenue shall develop such forms as  
8 are necessary to demonstrate accurately each employer's retained  
9 jobs credit from withholding paid into the Missouri community  
10 college job retention training program fund. The retained jobs  
11 credit from withholding shall be accounted as separate from the  
12 normal withholding tax paid to the department of revenue by the  
13 employer. Reimbursements made by all employers to the Missouri  
14 community college job retention training program fund shall be no  
15 less than all allocations made by the division of workforce  
16 development to all community college districts for all job  
17 retention projects. The employer shall remit the amount of the  
18 retained job credit to the department of revenue in the same  
19 manner as provided in sections 143.191 to 143.265, RSMo.