

FIRST REGULAR SESSION

# HOUSE BILL NO. 507

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES YATES (Sponsor), KRAUS, GRISAMORE,  
DUSENBERG AND LeVOTA (Co-sponsors).

1189L.01

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 620.1881, RSMo, and to enact in lieu thereof three new sections relating to certain tax credit programs administered by the department of economic development.

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

Section A. Section 620.1881, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 348.273, 348.274, and 620.1881, to read as follows:

**348.273. As used in sections 348.273 and 348.274, the following terms shall mean:**

(1) "Cash investment", money or money equivalent in consideration for qualified securities;

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

(3) "Distressed community", as defined in section 135.530, RSMo;

(4) "Investor", an individual who is an accredited investor, as defined in 17 CFR 230.501(a) as in effect on August 28, 2009, who seeks high returns through private investments in start-up companies and may seek active involvement in business, such as consulting and mentoring the entrepreneur;

(5) "Qualified Missouri business", a business that:

(a) Has not had annual gross revenues of more than five million dollars in the most recent tax year of the business;

(b) Has been in operation for less than five years;

(c) Does not have ownership interests including, but not limited to, common or preferred shares of stock that can be traded by the public via a stock exchange, electronic

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 **bold-face** type in the above bill is proposed language.

16 exchange, bulletin board, or other public marketplace on or before the date that a  
17 qualifying investment is made;

18 (d) Does not engage primarily in any one or more of the following enterprises:

19 a. A service provider, as defined in this section;

20 b. The business of banking, savings and loan or lending institutions, credit or  
21 finance, or financial brokerage or investments;

22 c. The provision of professional services, such as legal, accounting or engineering  
23 services;

24 d. Governmental, charitable, religious, or trade organizations;

25 e. The ownership, development, brokerage, sales or leasing of real estate;

26 f. Insurance;

27 g. Construction or construction management or contracting;

28 h. Business consulting or brokerage;

29 i. Any business engaged primarily as a passive business, having irregular or  
30 noncontinuous operations, or deriving substantially all of the income of the business from  
31 passive investments that generate interest, dividends, royalties, or capital gains, or any  
32 business arrangements the effect of which is to immunize an investor from risk of loss;

33 j. Any activity that is in violation of the law; and

34 k. Any business raising money primarily to purchase real estate, land, or fixtures;

35 and

36 (e) Falls within a standard industrial classification code;

37 (6) "Qualified securities", a cash investment through one or more forms of  
38 financial assistance and that have been approved in form and substance by the department.

39 Such forms of financial assistance include:

40 (a) Any form of equity, such as:

41 a. A general or limited partnership interest;

42 b. Common stock;

43 c. Preferred stock, with or without voting rights, without regard to seniority  
44 position, and whether or not convertible into common stock; or

45 d. Convertible debt; or

46 (b) A debt instrument, such as a note or debenture that is secured or unsecured,  
47 subordinated to the general creditors of the debtor and requires no payments of principal,  
48 other than principal payments required to be made out of any future profits of the debtor,  
49 for at least a seven-year period after commencement of such debt instrument's term;

50 (7) "Rural area", any city, town, or village with fewer than fifteen thousand  
51 inhabitants and located in any county that is not part of a standard metropolitan statistical

52 area as defined by the United States Department of Commerce or its successor agency.  
53 However, any such city, town, or village located in any county so defined as a standard  
54 metropolitan statistical area may be designated a rural area by the office of rural  
55 development if:

56 (a) A substantial number of persons in such county derive their income from  
57 agriculture;

58 (b) The county has only one city within the county having a population of more  
59 than fifteen thousand and is classified as a standard metropolitan statistical area; and

60 (c) All other cities, towns, and villages in that county have a population of less than  
61 fifteen thousand;

62 (8) "Service provider", services rendered by a person duly licensed, registered, or  
63 certified by this state as a member of any of the following professions:

64 (a) A certified public accountant;

65 (b) An architect;

66 (c) An attorney-at-law;

67 (d) A chiropractor;

68 (e) A dentist;

69 (f) An engineer;

70 (g) An optometrist;

71 (h) An osteopathic physician or surgeon;

72 (i) A physician, surgeon, or doctor of medicine;

73 (j) A veterinarian;

74 (k) A podiatrist;

75 (l) A pharmacist;

76 (m) A land surveyor;

77 (n) A licensed psychologist;

78 (o) A specialist in clinical social work;

79 (p) A licensed physical therapist;

80 (q) A landscape architect;

81 (r) A registered professional nurse;

82 (s) A real estate broker or salesperson;

83 (t) A geologist;

84 (u) A marriage counselor;

85 (v) A licensed physician assistant;

86 (w) A licensed occupational therapist;

87 (x) A licensed audiologist; and

88 (y) A licensed speech-pathologist.

2 348.274. 1. The department may authorize tax credits to encourage equity  
investment into technology-based early stage Missouri companies.

3 2. If a qualified Missouri business is approved by the department, the investors who  
4 contribute in equity investment in the qualified Missouri business may be issued a tax  
5 credit in the year the equity investment is made. The tax credit shall be in a total amount  
6 equal to fifty percent of such investors' equity investment in any qualified Missouri  
7 business, subject to the limitations set forth in subsection 5 of this section.

8 3. (1) Before an investor may be entitled to receive tax credits, as authorized by this  
9 section, such investor shall have made an equity investment in a qualified security of a  
10 qualified Missouri business. This business shall have been approved by the department  
11 as a qualified Missouri business prior to the date on which the cash investment was made.  
12 To be designated as a qualified Missouri business, a business shall make application to the  
13 department in accordance with the provisions of this section. Such application shall be in  
14 form and substance as required by the department but shall include at least the following:

15 (a) The name of the business and certified copies of the organizational documents  
16 of the business;

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

19 (c) A statement of the business innovative and proprietary technology, product, or  
20 service;

21 (d) A statement of the potential economic impact of the enterprise including the  
22 number, location, and types of jobs expected to be created;

23 (e) A description of the qualified securities to be issued, the consideration to be paid  
24 for the qualified securities, the amount of any tax credits requested, and the earliest year  
25 in which the tax credits may be redeemed;

26 (f) A statement of the amount, timing, and projected use of the proceeds to be  
27 raised from the proposed sale of qualified securities; and

28 (g) Other information as the department may request, such as the names,  
29 addresses, and taxpayer identification numbers of all investors who may qualify for the tax  
30 credit. Such list of investors who may qualify for the tax credits shall be amended as new  
31 qualified securities are sold or as any information on the list changes.

32 (2) No business shall be designated as a qualified Missouri business unless such  
33 business meets all of the following criteria:

34 (a) The business shall not have had annual gross revenues of more than three  
35 million dollars in the most recent tax year of the business;

36           (b) The business shall not have ownership interests including, but not limited to,  
37 common or preferred shares of stock that can be traded by the public via a stock exchange,  
38 electronic exchange, bulletin board, or other public market place on or before the date that  
39 a qualifying investment is made;

40           (c) The business shall not be engaged primarily in any one or more of the following  
41 enterprises:

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

44           b. Professional services, such as legal, accounting or engineering services;

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

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

47           e. Insurance;

48           f. Construction or construction management or contracting;

49           g. Business consulting or brokerage;

50           h. Any business engaged primarily as a passive business, having irregular or  
51 noncontinuous operations, or deriving substantially all of the income of the business from  
52 passive investments that generate interest, dividends, royalties, or capital gains, or any  
53 business arrangements the effect of which is to immunize an investor from risk of loss;

54           i. Any Missouri certified capital formation company;

55           j. Any activity that is in violation of the law; and

56           k. Any business raising money primarily to purchase real estate, land, or fixtures;

57           (d) The business shall satisfy all other requirements of this section.

58           (3) The portions of documents and other materials submitted to the department  
59 that contain trade secrets shall be kept confidential and shall be maintained in a secured  
60 environment by the director of the department. For the purposes of this section, such  
61 portions of documents and other materials shall mean any customer list, any formula,  
62 compound, production data, or compilation of information certain individuals within a  
63 commercial concern using such portions of documents and other material means to  
64 fabricate, produce, or compound an article of trade, or, any service having commercial  
65 value, which gives the user an opportunity to obtain a business advantage over competitors  
66 who do not know or use such service.

67           (4) A qualified Missouri business shall have the burden of proof to demonstrate to  
68 the department the qualifications of the business under this section and shall have the  
69 obligation to notify the department in a timely manner of any changes in the qualifications  
70 of the business or in the eligibility of investors to claim a tax credit for cash investment in  
71 a qualified security.

72           **4. The designation of a business as a qualified Missouri business shall be made by**  
73 **the department, and such designation shall be renewed annually. A business shall be so**  
74 **designated if the department determines, based upon the application submitted by the**  
75 **business and any additional investigation the staff of the department shall make, that the**  
76 **following criteria have been or shall be satisfied:**

77           **(1) The business has a reasonable chance of success;**

78           **(2) The ability of investors in the business to receive tax credits for cash investments**  
79 **in qualified securities of the business is necessary because funding otherwise available for**  
80 **the business is not available on commercially reasonable terms;**

81           **(3) The business has the reasonable potential to create measurable employment**  
82 **within the state;**

83           **(4) The business has an innovative and proprietary technology, product, and**  
84 **service;**

85           **(5) The existing owners of the business and other founders have made or are**  
86 **committed to make a substantial financial and time commitment to the business;**

87           **(6) The securities to be issued and purchased are qualified securities; and**

88           **(7) Binding commitments have been made by the business to the department for**  
89 **adequate reporting of financial data, including a requirement for an annual report, or, if**  
90 **required by the department, an annual audit of the financial and operational records of**  
91 **the business, the right of access to the financial records of the business, and the right of the**  
92 **department to record and publish normal and customary data and information related to**  
93 **the issuance of tax credits that are not otherwise determined to be trade or business**  
94 **secrets;**

95           **5. The department shall not issue tax credits of more than fifty thousand dollars**  
96 **to an investor per investment into a single, qualified Missouri company, or for tax credits**  
97 **totaling more than two hundred fifty thousand dollars in a single year per investor. The**  
98 **total amount of tax credits that may be allowed under this section shall not exceed six**  
99 **million dollars per tax year until 2016.**

100           **6. This tax credit may be used in its entirety in the taxable year in which the equity**  
101 **investment is made or the credit may be carried forward for use in any of the next three**  
102 **consecutive tax years until the total amount of the credit is used. The tax credits may be**  
103 **sold, assigned, exchanged, or otherwise transferred.**

104           **7. Tax credits may be used against the tax otherwise due under chapter 143, RSMo,**  
105 **not including sections 143.191 to 143.265, RSMo.**

106           **8. A qualified Missouri business for which credits have been issued that, within**  
107 **seven years of receiving tax credits under this section relocates its headquarters out of**

108 Missouri, ceases to employ eighty percent of its employees in Missouri, alters the principal  
109 nature of its operations, or divests itself of key assets shall upon demand by the department  
110 pay the state of Missouri an amount equal to the amount of credits issued to its  
111 contributors.

112 **9. The reasonable costs of the administration of this section, the review of**  
113 **applications for certification as qualified Missouri businesses, and the issuance of tax**  
114 **credits authorized by this section shall be reimbursed through fees paid by the qualified**  
115 **Missouri businesses and the investors or the transferees of investors, according to a**  
116 **reasonable fee schedule adopted by the department.**

117 **10. In addition to reports by the businesses to the department, the department shall**  
118 **also provide in its annual report information on the marketing and use of the investor tax**  
119 **credits. This report shall include the following:**

120 **(1) The amount of tax credits used in the previous fiscal year including what**  
121 **percentage was claimed by individuals and what percentage was claimed by firms and**  
122 **other entities;**

123 **(2) The types of businesses that benefited from the tax credits; and**

124 **(3) Any aggregate job creation or capital investment in Missouri that resulted from**  
125 **the use of the tax credits for a period of five years beginning from the date on which the**  
126 **tax credits were awarded.**

127

128 **In addition, the annual report shall provide information regarding what businesses**  
129 **deriving a benefit from the tax credits remained in Missouri, what businesses ceased doing**  
130 **business, what businesses were purchased, and what businesses may have moved out-of-**  
131 **state and the reason for such move.**

620.1881. 1. The department of economic development shall respond within thirty days  
2 to a company who provides a notice of intent with either an approval or a rejection of the notice  
3 of intent. The department shall give preference to qualified companies and projects targeted at  
4 an area of the state which has recently been classified as a disaster area by the federal  
5 government. Failure to respond on behalf of the department of economic development shall  
6 result in the notice of intent being deemed an approval for the purposes of this section. A  
7 qualified company who is provided an approval for a project shall be allowed a benefit as  
8 provided in this program in the amount and duration provided in this section. A qualified  
9 company may receive additional periods for subsequent new jobs at the same facility after the  
10 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to  
11 620.1890. There is no limit on the number of periods a qualified company may participate in the  
12 program, as long as the minimum thresholds are achieved and the qualified company provides

13 the department with the required reporting and is in proper compliance for this program or other  
14 state programs. A qualified company may elect to file a notice of intent to start a new project  
15 period concurrent with an existing project period if the minimum thresholds are achieved and  
16 the qualified company provides the department with the required reporting and is in proper  
17 compliance for this program and other state programs; however, the qualified company may not  
18 receive any further benefit under the original approval for jobs created after the date of the new  
19 notice of intent, and any jobs created before the new notice of intent may not be included as new  
20 jobs for the purpose of benefit calculation in relation to the new approval.

21 2. Notwithstanding any provision of law to the contrary, any qualified company that is  
22 awarded benefits under this program may not simultaneously receive tax credits or exemptions  
23 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections  
24 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company  
25 under any other state programs for which the company is eligible and which utilize withholding  
26 tax from the new jobs of the company must first be credited to the other state program before the  
27 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.  
28 These other state programs include, but are not limited to, the new jobs training program under  
29 sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to  
30 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800  
31 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections  
32 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training  
33 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,  
34 but the department shall issue a refundable tax credit for the full amount of benefit allowed under  
35 this subdivision. The calendar year annual maximum amount of tax credits which may be issued  
36 to a qualifying company that also participates in the new job training program shall be increased  
37 by an amount equivalent to the withholding tax retained by that company under the new jobs  
38 training program. However, if the combined benefits of the quality jobs program and the new  
39 jobs training program exceed the projected state benefit of the project, as determined by the  
40 department of economic development through a cost-benefit analysis, the increase in the  
41 maximum tax credits shall be limited to the amount that would not cause the combined benefits  
42 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program  
43 who knowingly hires individuals who are not allowed to work legally in the United States shall  
44 immediately forfeit such benefits and shall repay the state an amount equal to any state tax  
45 credits already redeemed and any withholding taxes already retained.

46 3. The types of projects and the amount of benefits to be provided are:

47 (1) Small and expanding business projects: in exchange for the consideration provided  
48 by the new tax revenues and other economic stimuli that will be generated by the new jobs

49 created by the program, a qualified company may retain an amount equal to the withholding tax  
50 as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise  
51 be withheld and remitted by the qualified company under the provisions of sections 143.191 to  
52 143.265, RSMo, for a period of three years from the date the required number of new jobs were  
53 created if the average wage of the new payroll equals or exceeds the county average wage or for  
54 a period of five years from the date the required number of new jobs were created if the average  
55 wage of the new payroll equals or exceeds one hundred twenty percent of the county average  
56 wage;

57 (2) Technology business projects: in exchange for the consideration provided by the new  
58 tax revenues and other economic stimuli that will be generated by the new jobs created by the  
59 program, a qualified company may retain an amount equal to a maximum of five percent of new  
60 payroll for a period of five years from the date the required number of jobs were created from  
61 the withholding tax of the new jobs that would otherwise be withheld and remitted by the  
62 qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average  
63 wage of the new payroll equals or exceeds the county average wage. An additional one-half  
64 percent of new payroll may be added to the five percent maximum if the average wage of the  
65 new payroll in any year exceeds one hundred twenty percent of the county average wage in the  
66 county in which the project facility is located, plus an additional one-half percent of new payroll  
67 may be added if the average wage of the new payroll in any year exceeds one hundred forty  
68 percent of the average wage in the county in which the project facility is located. The department  
69 shall issue a refundable tax credit for any difference between the amount of benefit allowed  
70 under this subdivision and the amount of withholding tax retained by the company, in the event  
71 the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified  
72 company under this subdivision. The calendar year annual maximum amount of tax credits that  
73 may be issued to any qualified company for a project or combination of projects is five hundred  
74 thousand dollars;

75 (3) High impact projects: in exchange for the consideration provided by the new tax  
76 revenues and other economic stimuli that will be generated by the new jobs created by the  
77 program, a qualified company may retain an amount from the withholding tax of the new jobs  
78 that would otherwise be withheld and remitted by the qualified company under the provisions  
79 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five  
80 years from the date the required number of jobs were created if the average wage of the new  
81 payroll equals or exceeds the county average wage of the county in which the project facility is  
82 located. The percentage of payroll allowed under this subdivision shall be three and one-half  
83 percent of new payroll if the average wage of the new payroll in any year exceeds one hundred  
84 twenty percent of the county average wage in the county in which the project facility is located.

85 The percentage of payroll allowed under this subdivision shall be four percent of new payroll if  
86 the average wage of the new payroll in any year exceeds one hundred forty percent of the county  
87 average wage in the county in which the project facility is located. An additional one percent  
88 of new payroll may be added to these percentages if local incentives equal between ten percent  
89 and twenty-four percent of the new direct local revenue; an additional two percent of new payroll  
90 is added to these percentages if the local incentives equal between twenty-five percent and  
91 forty-nine percent of the new direct local revenue; or an additional three percent of payroll is  
92 added to these percentages if the local incentives equal fifty percent or more of the new direct  
93 local revenue. The department shall issue a refundable tax credit for any difference between the  
94 amount of benefit allowed under this subdivision and the amount of withholding tax retained by  
95 the company, in the event the withholding tax is not sufficient to provide the entire amount of  
96 benefit due to the qualified company under this subdivision. The calendar year annual maximum  
97 amount of tax credits that may be issued to any qualified company for a project or combination  
98 of projects is seven hundred fifty thousand dollars. The calendar year annual maximum amount  
99 of tax credit that may be issued to any qualified company for a project or combination of projects  
100 may be increased up to one million dollars if the number of new jobs will exceed five hundred  
101 and if such action is proposed by the department and approved by the quality jobs advisory task  
102 force established in section 620.1887; provided, however, until such time as the initial at-large  
103 members of the quality jobs advisory task force are appointed, this determination shall be made  
104 by the director of the department of economic development. In considering such a request, the  
105 task force shall rely on economic modeling and other information supplied by the department  
106 when requesting the increased limit on behalf of the project;

107 (4) Job retention projects: a qualified company may receive a tax credit for the retention  
108 of jobs in this state, provided the qualified company and the project meets all of the following  
109 conditions:

110 (a) For each of the twenty-four months preceding the year in which application for the  
111 program is made the qualified company must have maintained at least one thousand full-time  
112 employees at the employer's site in the state at which the jobs are based, and the average wage  
113 of such employees must meet or exceed the county average wage;

114 (b) The qualified company retained at the project facility the level of full-time employees  
115 that existed in the taxable year immediately preceding the year in which application for the  
116 program is made;

117 (c) The qualified company is considered to have a significant statewide effect on the  
118 economy, and has been determined to represent a substantial risk of relocation from the state by  
119 the quality jobs advisory task force established in section 620.1887; provided, however, until

120 such time as the initial at-large members of the quality jobs advisory task force are appointed,  
121 this determination shall be made by the director of the department of economic development;

122 (d) The qualified company in the project facility will cause to be invested a minimum  
123 of seventy million dollars in new investment prior to the end of two years or will cause to be  
124 invested a minimum of thirty million dollars in new investment prior to the end of two years and  
125 maintain an annual payroll of at least seventy million dollars during each of the years for which  
126 a credit is claimed; and

127 (e) The local taxing entities shall provide local incentives of at least fifty percent of the  
128 new direct local revenues created by the project over a ten-year period.

129

130 The quality jobs advisory task force may recommend to the department of economic  
131 development that appropriate penalties be applied to the company for violating the agreement.  
132 The amount of the job retention credit granted may be equal to up to fifty percent of the amount  
133 of withholding tax generated by the full-time jobs at the project facility for a period of five years.  
134 The calendar year annual maximum amount of tax credit that may be issued to any qualified  
135 company for a job retention project or combination of job retention projects shall be seven  
136 hundred fifty thousand dollars per year, but the maximum amount may be increased up to one  
137 million dollars if such action is proposed by the department and approved by the quality jobs  
138 advisory task force established in section 620.1887; provided, however, until such time as the  
139 initial at-large members of the quality jobs advisory task force are appointed, this determination  
140 shall be made by the director of the department of economic development. In considering such  
141 a request, the task force shall rely on economic modeling and other information supplied by the  
142 department when requesting the increased limit on behalf of the job retention project. In no  
143 event shall the total amount of all tax credits issued for the entire job retention program under  
144 this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits  
145 shall be issued for job retention projects approved by the department after August 30, 2013;

146 (5) Small business job retention and flood survivor relief: a qualified company may  
147 receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood  
148 survivor relief in this state for each job retained over a three-year period, provided that:

149 (a) The qualified company did not receive any state or federal benefits, incentives, or tax  
150 relief or abatement in locating its facility in a flood plain;

151 (b) The qualified company and related companies have fewer than one hundred  
152 employees at the time application for the program is made;

153 (c) The average wage of the qualified company's and related companies' employees must  
154 meet or exceed the county average wage;

155 (d) All of the qualified company's and related companies' facilities are located in this  
156 state;

157 (e) The facilities at the primary business site in this state have been directly damaged by  
158 floodwater rising above the level of a five hundred year flood at least two years, but fewer than  
159 eight years, prior to the time application is made;

160 (f) The qualified company made significant efforts to protect the facilities prior to any  
161 impending danger from rising floodwaters;

162 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the  
163 qualified company and related companies retained, at the company's facilities in this state, at  
164 least the level of full-time, year-round employees that existed in the taxable year immediately  
165 preceding the year in which application for the program is made; and

166 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company  
167 cumulatively invests at least two million dollars in capital improvements in facilities and  
168 equipment located at such facilities that are not located within a five hundred year flood plain  
169 as designated by the Federal Emergency Management Agency, and amended from time to time.

170

171 The amount of the small business job retention and flood survivor relief credit granted may be  
172 equal to up to one hundred percent of the amount of withholding tax generated by the full-time  
173 jobs at the project facility for a period of three years. The calendar year annual maximum  
174 amount of tax credit that may be issued to any qualified company for a small business job  
175 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the  
176 maximum amount may be increased up to five hundred thousand dollars if such action is  
177 proposed by the department and approved by the quality jobs advisory task force established in  
178 section 620.1887. In considering such a request, the task force shall rely on economic modeling  
179 and other information supplied by the department when requesting an increase in the limit on  
180 behalf of the small business job retention and flood survivor relief project. In no event shall the  
181 total amount of all tax credits issued for the entire small business job retention and flood survivor  
182 relief program under this subdivision exceed five hundred thousand dollars annually.  
183 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued  
184 for small business job retention and flood survivor relief projects approved by the department  
185 after August 30, 2010.

186 4. The qualified company shall provide an annual report of the number of jobs and such  
187 other information as may be required by the department to document the basis for the benefits  
188 of this program. The department may withhold the approval of any benefits until it is satisfied  
189 that proper documentation has been provided, and shall reduce the benefits to reflect any  
190 reduction in full-time employees or new payroll. Upon approval by the department, the qualified

191 company may begin the retention of the withholding taxes when it reaches the minimum number  
192 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be  
193 issued upon satisfaction by the department that the qualified company has exceeded the county  
194 average wage and the minimum number of new jobs. In such annual report, if the average wage  
195 is below the county average wage, the qualified company has not maintained the employee  
196 insurance as required, or if the number of new jobs is below the minimum, the qualified  
197 company shall not receive tax credits or retain the withholding tax for the balance of the benefit  
198 period. In the case of a qualified company that initially filed a notice of intent and received an  
199 approval from the department for high impact benefits and the minimum number of new jobs in  
200 an annual report is below the minimum for high impact projects, the company shall not receive  
201 tax credits for the balance of the benefit period but may continue to retain the withholding taxes  
202 if it otherwise meets the requirements of a small and expanding business under this program.

203 5. [The maximum calendar year annual tax credits issued for the entire program shall not  
204 exceed sixty million dollars.] Notwithstanding any provision of law to the contrary, the  
205 maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from  
206 ten million dollars to eight million dollars, with the balance of two million dollars transferred  
207 to this program. There shall be no limit on the amount of withholding taxes that may be retained  
208 by approved companies under this program.

209 6. The department shall allocate the annual tax credits based on the date of the approval,  
210 reserving such tax credits based on the department's best estimate of new jobs and new payroll  
211 of the project, and the other factors in the determination of benefits of this program. However,  
212 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.  
213 The allocation of tax credits for the period assigned to a project shall expire if, within two years  
214 from the date of commencement of operations, or approval if applicable, the minimum  
215 thresholds have not been achieved. The qualified company may retain authorized amounts from  
216 the withholding tax under this section once the minimum new jobs thresholds are met for the  
217 duration of the project period. No benefits shall be provided under this program until the  
218 qualified company meets the minimum new jobs thresholds. In the event the qualified company  
219 does not meet the minimum new job threshold, the qualified company may submit a new notice  
220 of intent or the department may provide a new approval for a new project of the qualified  
221 company at the project facility or other facilities.

222 7. For a qualified company with flow-through tax treatment to its members, partners, or  
223 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion  
224 to their share of ownership on the last day of the qualified company's tax period.

225 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,  
226 RSMo, and may not be carried forward but shall be claimed within one year of the close of the

227 taxable year for which they were issued, except as provided under subdivision (4) of subsection  
228 3 of this section.

229 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing  
230 a notarized endorsement thereof with the department that names the transferee, the amount of  
231 tax credit transferred, and the value received for the credit, as well as any other information  
232 reasonably requested by the department.

233 10. Prior to the issuance of tax credits, the department shall verify through the  
234 department of revenue, or any other state department, that the tax credit applicant does not owe  
235 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent  
236 fees or assessments levied by any state department and through the department of insurance,  
237 financial institutions and professional registration that the applicant does not owe any delinquent  
238 insurance taxes. Such delinquency shall not affect the authorization of the application for such  
239 tax credits, except that at issuance credits shall be first applied to the delinquency and any  
240 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue  
241 or the department of insurance, financial institutions and professional registration, or any other  
242 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first  
243 of any year and the application of tax credits to such delinquency causes a tax deficiency on  
244 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the  
245 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all  
246 available credits toward a tax delinquency, the administering agency shall notify the appropriate  
247 department and that department shall update the amount of outstanding delinquent tax owed by  
248 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax  
249 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions  
250 of other provisions of law.

251 11. Except as provided under subdivision (4) of subsection 3 of this section, the director  
252 of revenue shall issue a refund to the qualified company to the extent that the amount of credits  
253 allowed in this section exceeds the amount of the qualified company's income tax.

254 12. An employee of a qualified company will receive full credit for the amount of tax  
255 withheld as provided in section 143.211, RSMo.

256 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any  
257 person or circumstance is held invalid, the invalidity shall not affect other provisions or  
258 application of these sections which can be given effect without the invalid provisions or  
259 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared  
260 severable.

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