FIRST REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 468

96TH GENERAL ASSEMBLY

1352L.04C D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, 196.1109, 196.1115, 348.251, 348.253, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, and 348.300, RSMo, and to enact in lieu thereof twenty-three new sections relating to job development, retention, and training.

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

Section A. Sections 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, 196.1109, 196.1115, 348.251, 348.253, 348.256, 348.261, 348.262, 348.263, 348.264, 348.271, and 348.300, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 67.2050, 135.950, 135.953, 135.957, 135.960, 135.963, 135.967, 135.969, 144.810, 196.1109, 196.1115, 348.250, 348.251, 348.256, 348.257, 348.261, 348.262, 348.263, 348.264, 348.265, 348.269, 348.271, and 348.300, to read as follows:

67.2050. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Facility", a location composed of real estate, buildings, fixtures, machinery, and equipment;

(2) "Municipality", any county, city, incorporated town, or village of the state;

(3) "NAICS", the 2007 edition of the North American Industry Classification System developed under the direction and guidance of the federal Office of Management and Budget. Any NAICS sector, subsector, industry group, or industry identified in this section shall include its corresponding classification in previous and subsequent federal industry classification systems;

(4) "Technology business facility", a facility purchased, constructed, extended, or improved under this section, provided that such business facility is engaged in:

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.

(a) Wired telecommunications carriers (NAICS 517110); or

(b) Data processing, hosting, and related services (NAICS 518210); or

(c) Internet publishing and broadcasting and web search portals (NAICS 519130), at the business facility;

(5) "Technology business facility project" or "project", the purchase, construction, extension, and improvement of technology business facilities, whether of the facility as a whole or of any one or more of the facility's components of real estate, buildings, fixtures, machinery, and equipment.

2. The governing body of any municipality may:

(1) Carry out technology business facility projects for economic development under this section;

(2) Accept grants from the federal and state governments for technology business facility project purposes, and may enter into such agreements as are not contrary to the laws of this state and which may be required as a condition of grants by the federal government or its agencies; and

(3) Receive gifts and donations from private sources to be used for technology business facility project purposes.

3. The governing body of the municipality may enter into loan agreements, sell, lease, or mortgage to private persons, partnerships, or corporations any one or more of the components of a facility received, purchased, constructed, or extended by the municipality for development of a technology business facility project. The loan agreement, installment sale agreement, lease, or other such document shall contain such other terms as are agreed upon between the municipality and the obligor, provided that such terms shall be consistent with this section. When, in the judgment of the governing body of the municipality, the technology business facility project will result in economic benefits to the municipality, the governing body may lawfully enter into an agreement that includes nominal monetary consideration to the municipality in exchange for the use of one or more components of the facility.

4. Transactions involving the lease or rental of any components of a project under this section shall be specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761, and from the computation of the tax levied, assessed, or payable under the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745.

5. Leasehold interests granted and held under this section shall not be subject to property taxes.

6. Any payments in lieu of taxes expected to be made by any lessee of the project shall be applied in accordance with this section. The lessee may reimburse the municipality for its actual costs of administering the plan. All amounts paid in excess of such actual costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer or other financial officer to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity.

7. The county assessor shall include the current assessed value of all property within the affected taxing entities in the aggregate valuation of assessed property entered upon the assessor's book and verified under section 137.245, and such value shall be used for the purpose of the debt limitation on local government under section 26(b), article VI, Constitution of Missouri.

8. The governing body of any municipality may sell or otherwise dispose of the property, buildings, or plants acquired under this section to private persons or corporations for technology business facility project purposes upon approval by the governing body. The terms and method of the sale or other disposal shall be established by the governing body so as to reasonably protect the economic well-being of the municipality and to promote the development of technology business facility projects. A private person or corporation that initially transfers property to the municipality for the purposes of a technology business facility project and does not charge a purchase price to the municipality shall retain the right, upon request to the municipality, to have the municipality retransfer the donated property to the person or corporation at no cost.

135.950. The following terms, whenever used in sections 135.950 to 135.970 mean:

(1) "Average wage", the new payroll divided by the number of new jobs;

(2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;

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

(5) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The

department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, such taxpayer shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(6) "Department", the department of economic development;

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

(8) **"Dormant manufacturing plant", any parcel or parcels of real property encompassing not less than two hundred fifty acres that, within six years of the date of the notice of intent:**

(a) Was predominantly used for manufacturing or assembly and employed not less than three thousand persons but has since ceased all activity;

(b) Has been found, by an ordinance adopted by the governing body, to be a blighted area and designated for redevelopment; and

(c) Is:

a. Located in a census tract with, according to United States Census Bureau's American Community Survey based on the most recent of five-year period estimated data in which the estimate ends in either zero or five, a poverty rate of fifteen percent or more, or the median household income is below the statewide median household income or the metropolitan median household income for the metropolitan statistical area in which the property is located; or

b. Involved in funding provided by a federal agency of at least one million dollars to facilitate the redevelopment of such property;

(9) "Dormant manufacturing plant zone", includes and encompasses:

(a) Any dormant manufacturing plant;

(b) All parcels of real property which are immediately contiguous and adjacent to such dormant manufacturing plant; and

(c) All parcels of real property with boundaries which are within a distance of six thousand linear feet from the legal boundary or border of such dormant manufacturing plant;

(10) "Employee", a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;

[(9)**] (11)** "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

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

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved **or deemed approved** by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking places (NAICS subsector 722), however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied. Service industries may be eligible only if a majority of its annual revenues will be derived from out of the state;

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

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

[(12)**] (14)** "Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;

[(13)**] (15)** "Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

[(14)**] (16)** "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

[(15)**] (17)** "Megaproject", any manufacturing or assembling facility, approved by the department for construction and operation within an enhanced enterprise zone, which satisfies the following:

(a) The new capital investment is projected to exceed three hundred million dollars over a period of eight years from the date of approval by the department;

(b) The number of new jobs is projected to exceed one thousand over a period of eight years beginning on the date of approval by the department;

(c) The average wage of new jobs to be created shall exceed the county average wage;

(d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty percent of such insurance premiums; and

(e) An acceptable plan of repayment, to the state, of the tax credits provided for the megaproject has been provided by the taxpayer;

[(16)**] (18)** "NAICS", the **[**1997**] 2007** edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

[(17)**] (19)** "New business facility", a facility that satisfies the following requirements:

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

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

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an

enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision **[**(25)**] (27)** of this section;

[(18)**] (20)** "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 **or 135.969** is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

[(19)**] (21)** "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer **or on his or her behalf in the case of a lease,** as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by **section** 135.967 **or 135.969** is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

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

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

[(20)**] (22)** "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

[(21)**] (23)** "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

[(22)**] (24)** "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

[(23)**] (25)** "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent; or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

[(24)**] (26)** "Related taxpayer":

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

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

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(25)**] (27)** "Replacement business facility", a facility otherwise described in subdivision **[**(17)**] (19)** of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

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

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision **[**(19)**] (21)** of this section, in the new facility during the tax period for which the credits allowed in section

135.967 **or 135.969** are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

[(26)**] (28)** "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

135.953. 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

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

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

(a) Within the state of Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director; or

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

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

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

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

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

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq., for

an emergency proclaimed by the governor pursuant to section 44.100 due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

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

4. **Notwithstanding the requirements of subsection 1 of this section to the contrary, a dormant manufacturing plant zone may be designated as an enhanced enterprise zone if the dormant manufacturing plant zone meets the criteria set forth in subdivision (9) of section 135.950.**

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

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

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

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

2. The school district member and the affected taxing district member shall each have initial terms of five years. Of the five members appointed by the chief elected official, two shall have initial terms of four years, two shall have initial terms of three years, and one shall have an initial term of two years. Thereafter, members shall serve terms of five years. Each commissioner shall hold office until a successor has been appointed. All vacancies shall be filled in the same manner as the original appointment. For inefficiency or neglect of duty or misconduct in office, a member of the board may be removed by the applicable appointing authority.

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

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

5. **In the case of a dormant manufacturing plant zone regarding which a finding of blight has been made as provided in subdivision (1) of subsection 1 of section 99.810, the commission created under section 99.820 may, at the sole option of the governing authority, supplant and replace the board established in accordance with subsection 1 of this section and the composition and organization of such commission shall be in accordance with section 99.820. If the governing authority elects for such commission to serve in the capacity of the enhanced enterprise zone board instead of this board established in accordance with subsection 1 of this section, the commission shall fulfill the role and duties of the board under subsection 6 of this section.**

6. The role of the board **or commission, as described in subsection 5 of this section,** shall be to conduct the activities necessary to advise the governing authority on the designation of an enhanced enterprise zone and any other advisory duties as determined by the governing authority. The role of the board **or commission** after the designation of an enhanced enterprise zone shall be review and assessment of zone activities as it relates to the annual reports as set forth in section 135.960.

135.960. 1. Any governing authority that desires to have any portion of a city or unincorporated area of a county under its control designated as an enhanced enterprise zone shall hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons who will be affected by such designation. The governing authority shall notify the director of such hearing at least thirty days prior thereto and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by such designation at least twenty days prior to the date of the hearing but not more than thirty days prior to such hearing. Such notice shall state the time, location, date, and purpose of the hearing. The director, or the director's designee, shall attend such hearing. **In the alternative, any governing authority that has made the necessary findings by ordinance to designate a dormant manufacturing plant zone as a blighted area as contemplated under subdivision (1) of subsection 1 of section 99.820, prior to December 31, 2012, shall not be required to conduct an additional public hearing to establish the dormant manufacturing plant zone as an enhanced enterprise zone so long as the governing authority notified the director of such hearing at least thirty days prior thereto. Any governing authority that seeks to make the necessary finding to designate a dormant manufacturing plant zone as an enhanced enterprise zone after December 31, 2012, may do so at a public hearing required under sections 99.820 and**

99.825 conducted by the commission, and such public hearing shall satisfy the public hearing requirement set forth in subsection 1 of this section so long as the governing authority shall notify the director of such hearing at least thirty days prior thereto.

2. After a public hearing is held as required in subsection 1 of this section, the governing authority may file a petition with the department requesting the designation of a specific area as an enhanced enterprise zone.

Such petition shall include, in addition to a description of the physical, social, and economic characteristics of the area:

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

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

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

(4) A plan to ensure that resources are available to assist area residents to participate in increased development through self-help efforts and in ameliorating any negative effects of designation of the area as an enhanced enterprise zone;

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

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

(7) A description or plan that demonstrates the requirements of subsection 4 of section 135.953.

3. An enhanced enterprise zone designation shall be effective upon such approval by the department and shall expire in twenty-five years. **Notwithstanding the requirements of subsection 2 of this section to the contrary, any dormant manufacturing plant zone that has been designated as a blighted area as contemplated under subdivision (1) of subsection 1 of section 99.820 by the governing body or any dormant manufacturing plant zone that has been otherwise designated as an enhanced enterprise zone by the governing authority**

under this section shall be deemed approved and designated as an enhanced enterprise zone without further approval of or additional action being taken by the department. This approval of the department of the dormant manufacturing plant zone as an enhanced enterprise zone and the designation of the dormant manufacturing plant zone as an enhanced enterprise zone shall be deemed effective when the governing authority provides written notice to the department of its intent to establish such enhanced enterprise zone and such notice is accompanied with a petition that includes all of the information required by subsection 2 of this section.

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

135.963. 1. Improvements made to real property as such term is defined in section 137.010 which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated, may, upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. In addition to enhanced business enterprises, a speculative industrial or warehouse building constructed by a public entity or a private entity if the land is leased by a public entity may be subject to such exemption.

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

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

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

speculative buildings is subject to the approval of the governing authority for a period not to exceed two years if the building is owned by a private entity and five years if the building is owned or ground leased by a public entity. This shall not preclude the building receiving an exemption for the remaining time period established by the governing authority if it was occupied by an enhanced business enterprise. The two- and five-year time periods indicated for speculative buildings shall not be an addition to the local abatement time period for such facility.

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

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

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section 99.855, 99.957, or 99.1042 and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, subdivision (2) of subsection 3 of section 99.957, or subdivision (2) of subsection 3 of section 99.1042 unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027.

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to **[**ten**] five** tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265. No taxpayer shall receive multiple **[**ten-year**] five-year** periods for subsequent expansions at the same facility. **Notwithstanding the provisions of this subsection, the provisions of section 135.969 shall govern the issuance of tax credits for a new business facility in a dormant manufacturing plant zone approved and designated as an enhanced enterprise zone, except for those tax credits to be issued with respect to such dormant manufacturing plant zone as provided in subsection 5 of this section.**

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to 135.286, or section 135.535, and may not simultaneously receive tax credits under sections 620.1875 to 620.1890 at the same facility.

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

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

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

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

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

(2) The sum calculated based upon **an amount not to exceed the sum of** the following:

(a) A **tax** credit **[**of four hundred dollars for**] up to two and one-half percent of the gross wages of** each new business facility employee employed within **[**an**] the** enhanced enterprise zone; **and**

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

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

(d)**]** A **tax** credit **[**equal**] up** to **[**two**] one-half of one** percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than twenty-four million dollars annually to be issued for all enhanced business enterprises **including any such enhanced business enterprises located in dormant manufacturing plant zones under section 135.969**.

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

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

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision **[**(19)**] (21)** of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision **[**(17)**] (19)** of section 135.950, or subdivision **[**(25)**] (27)** of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

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

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision **[**(17)**] (19)** of section 135.950 or subdivision **[**(25)**] (27)** of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision **[**(19)**] (21)** of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding

such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

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

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

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

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

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

135.969. 1. A taxpayer who establishes a new business facility in a dormant manufacturing plant zone approved or designated as an enhanced enterprise zone shall receive a tax credit each tax year for five tax years, in an amount determined as set forth in this section against the tax imposed by chapter 143 excluding withholding tax imposed by sections 143.191 to 143.265. No taxpayer shall receive multiple five-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in a dormant manufacturing plant zone approved or designated as an enhanced enterprise zone and accepts state tax credits under this section shall not also receive tax credits or other benefits for the same new jobs under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, section 135.967, and sections 620.1875 to 620.1890, unless such benefits are determined to be necessary by the department.

3. The taxpayer shall be entitled to receive the tax credit upon satisfaction of one of the following criteria:

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

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

4. The annual amount of tax credits to be issued for an enhanced business enterprise located in a dormant manufacturing plant zone shall be equal to the lesser of:

(1) The annual amount of projected state economic benefit for such enhanced business enterprise, as determined by the department; or

(2) An annual amount equal to the sum of the following:

(a) A tax credit equal to two and one-half percent of the gross wages of each new business facility employee employed within the enhanced enterprise zone; and

(b) A tax credit equal to one-half of one percent of new business facility investment within an enhanced enterprise zone.

5. As set forth in section 135.967, up to twenty-four million dollars of tax credits shall be authorized annually for issuance of tax credits for all enhanced enterprise zones including any tax credits issued with respect to dormant manufacturing plant zones.

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

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one million dollars

and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (21) of section 135.950.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (19) or subdivision (27) of section 135.950, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (19) or subdivision (27) of section 135.950, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision (21) of section 135.950 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which

credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

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

10. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the five succeeding taxable years for which the credit is issued.

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

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

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

144.810. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Commencement of commercial operations", shall be deemed to occur during the first calendar year for which the data storage center or server farm facility is first available for use by the operating taxpayer, or first capable of being used by the operating taxpayer, as a data storage center or server farm facility;

(2) "Constructing taxpayer", where more than one taxpayer is responsible for a project, a taxpayer responsible for the purchase or construction of the facility, as opposed to a taxpayer responsible for the equipping and ongoing operations of the facility;

(3) "Data storage center" or "server farm facility" or "facility", a facility purchased, constructed, extended, improved, or operating under this section, provided that such business facility is engaged in:

(a) Wired telecommunications carriers (NAICS 517110); or

(b) Data processing, hosting, and related services (NAICS 518210); or

(c) Internet publishing and broadcasting and web search portals (NAICS 519130), at the business facility;

(4) "Existing facility", a data storage center or server farm facility in this state as it existed prior to August 28, 2011, as determined by the department;

(5) "Expanding facility" or "expanding data storage center or server farm facility", an existing facility or replacement facility that expands its operations in this state on or after August 28, 2011, and has net new investment related to the expansion of operations in this state of at least one million dollars during a period of up to twelve consecutive months. An expanding facility shall continue to be an expanding facility regardless of a subsequent change in or addition of operating taxpayers or constructing taxpayers;

(6) "Expanding facility project" or "expanding data storage center or server farm facility project", the purchase, construction, extension, improvement, equipping, and operation of an expanding facility;

(7) "NAICS", the 2007 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group, or industry identified in this section shall include its corresponding classification in previous and subsequent federal industry classification systems;

(8) "New facility" or "new data storage center or server farm facility", a facility in this state meeting the following requirements:

(a) The facility is acquired by, or leased to, an operating taxpayer on or after August 28, 2011. A facility shall be deemed to have been acquired by, or leased to, an operating taxpayer on or after August 28, 2011, if the transfer of title to an operating taxpayer, the transfer of possession under a binding contract to transfer title to an

operating taxpayer, or the commencement of the term of the lease to an operating taxpayer occurs on or after August 28, 2011, or, if the facility is constructed, erected, or installed by or on behalf of an operating taxpayer, such construction, erection, or installation is commenced on or after August 28, 2011;

(b) If such facility was acquired by an operating taxpayer from another person or persons on or after August 28, 2011, and such facility was employed prior to August 28, 2011, by any other person or persons in the operation of a data storage center or server farm facility, the facility shall not be considered a new facility;

(c) Such facility is not a replacement facility, as defined in this section;

(d) The new facility project investment is at least five million dollars during a period of up to thirty-six consecutive months. Where more than one taxpayer is responsible for a project, the investment requirement may be met by an operating taxpayer, a constructing taxpayer, or a combination of constructing taxpayers and operating taxpayers; and

(e) A new facility shall continue to be a new facility regardless of a subsequent change in or addition of operating taxpayers or constructing taxpayers;

(9) "New data storage center or server farm facility project", or "new facility project", the purchase, construction, extension, improvement, equipping, and operation of a new facility;

(10) "Operating taxpayer", where more than one taxpayer is responsible for a project, a taxpayer responsible for the equipping and ongoing operations of the facility, as opposed to a taxpayer responsible for the purchasing or construction of the facility;

(11) "Project taxpayers", each constructing taxpayer and each operating taxpayer for a data storage center or server farm facility project;

(12) "Replacement facility" or "replacement data storage center or server farm facility", a facility in this state otherwise described in subdivision (8) of this subsection, but which replaces another facility located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating within one year prior to the commencement of commercial operations at the new facility;

(13) "Taxpayer", the purchaser of tangible personal property or a service that is subject to state or local sales or use tax and from whom state or local sales or use tax is owed. "Taxpayer" shall not mean the seller charged by law with collecting the sales tax from the purchaser.

2. Beginning August 28, 2011, in addition to the exemptions granted under chapter 144, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235:

(1) All electrical energy, gas, water, and other utilities including telecommunication and internet services used in a new data storage center or server farm facility;

(2) All machinery, equipment, and computers used in any new data storage center or server farm facility; and

(3) All sales at retail of tangible personal property and materials for the purpose of constructing, repairing, or remodeling any new data storage center or server farm facility.

3. Any data storage center and server farm facility project seeking a tax exemption under subsection 2 of this section shall submit a project plan to the department of economic development, including identifying each known constructing taxpayer and each known operating taxpayer for the project. The department of economic development shall determine whether the project is eligible for the exemption under subsection 2 of this section conditional upon subsequent verification by the department that the project meets the requirement in paragraph (d) of subdivision (8) of subsection 1 of this section of at least five million dollars of new facility investment over a time period not to exceed thirty-six consecutive months. The department of economic development shall convey such conditional approval to the department of revenue and the identified project taxpayers. After a conditionally approved new facility project has met the investment amount, the project taxpayers shall provide proof of such investment to the department of economic development. Upon verification of such proof, the department of economic development shall certify the project to the department of revenue as being eligible for the exemption dating retroactively to the first day of the thirty-six month period or the first day of the new investment in the event the investment is met in less than thirty-six months. The department of revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day of the thirty-six month period, or the first day of the new investment in the event the investment is met in less than thirty-six months, shall issue a refund of sales taxes paid as set forth in this section to each operating taxpayer and each constructing taxpayer and issue a certificate of exemption to each new project taxpayer for ongoing exemptions under subsection 2 of this section.

4. Beginning August 28, 2011, in addition to the exemptions granted under chapter 144, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235:

(1) All electrical energy, gas, water, and other utilities including telecommunication and internet services used in an expanding data storage center or server farm facility which, on an annual basis, exceeds the amount of electrical energy, gas, water, and other utilities including telecommunication and internet services used in the existing facility or

the replaced facility prior to the expansion. "Amount" shall be measured in kilowatt hours, gallons, cubic feet, or other measures applicable to a utility service as opposed to in dollars, to account for increases in rates;

(2) All machinery, equipment, and computers used in any expanding data storage center or server farm facility, the cost of which, on an annual basis, exceeds the average of the previous three years' expenditures on machinery, equipment, and computers at the existing facility or the replaced facility prior to the expansion. Existing facilities or replaced facilities in existence for less than three years shall have the average expenditures calculated based upon the applicable time of existence; and

(3) All sales at retail of the tangible personal property and materials for the purpose of constructing, repairing, or remodeling any expanding data storage center or server farm facility.

5. Any data storage center and server farm facility project seeking a tax exemption under subsection 4 of this section shall submit an expanding project plan to the department of economic development, including identifying each known constructing taxpayer and each known operating taxpayer for the project. The project applicants shall also provide proof satisfactory to the department of economic development that the facility is an expanding facility and has net new investment related to the expansion of operations in this state of at least one million dollars during a time period not to exceed twelve consecutive months. Upon verification of such proof, the department of economic development shall certify the project to the department of revenue as being eligible for the exemption. The department of revenue shall issue a certificate of exemption to each expanding project taxpayer for ongoing exemptions under subsection 4 of this section.

6. The sales tax exemptions in subsections 2 and 4 of this section shall be tied to the new or expanding facility project. A certificate of exemption in the hands of a taxpayer that is no longer an operating or constructing taxpayer of the new or expanding facility project shall be invalid as of the date the taxpayer was no longer an operating or constructing taxpayer of the new or expanding facility project. New certificates of exemption shall be issued to successor constructing taxpayers and operating taxpayers at such new or expanding facility projects. The right to the exemption by successor taxpayers shall exist without regard to subsequent levels of investment in the new or expanding facility by successor taxpayers.

7. The department of economic development and the department of revenue shall cooperate in conducting random audits to make certain the intent of this section is followed.

8. The department of economic development and the department of revenue shall jointly prescribe such rules and regulations necessary to carry out the provisions of this

section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

196.1109. All moneys that are appropriated by the general assembly from the life sciences research trust fund shall be appropriated to the life sciences research board to increase the capacity for quality of life sciences research at public and private not-for-profit institutions in the state of Missouri and to thereby:

(1) Improve the quantity and quality of life sciences research at public and private not-for-profit institutions, including but not limited to basic research (including the discovery of new knowledge), translational research (including translating knowledge into a usable form), and clinical research (including the literal application of a therapy or intervention to determine its efficacy), including but not limited to health research in human development and aging, cancer, endocrine, cardiovascular, neurological, pulmonary, and infectious disease, and plant sciences, including but not limited to nutrition and food safety; and

(2) Enhance technology transfer and technology commercialization derived from research at public and private not-for-profit institutions within the centers for excellence. For purposes of sections 196.1100 to 196.1130, "technology transfer and technology commercialization" includes stages of the regular business cycle occurring after research and development of a life science technology, including but not limited to reduction to practice, proof of concept, and achieving federal Food and Drug Administration, United States Department of Agriculture, or other regulatory requirements in addition to the definition in section 348.251. Funds received by the board may be used for purposes authorized in sections 196.1100 to 196.1130 and shall be subject to the restrictions of sections 196.1100 to 196.1130, including but not limited to the costs of personnel, supplies, equipment, and renovation or construction of physical facilities; provided that in any single fiscal year no more than **[**ten**] thirty** percent of the moneys appropriated shall be used for the construction of physical facilities and further provided that in any fiscal year **up to** eighty percent of the moneys shall be appropriated to build research capacity at public and private not-for-profit institutions and **at least** twenty percent **and no more than fifty percent** of the moneys shall be appropriated for grants to public or private not-for-profit institutions to promote life science technology transfer and technology commercialization.

Of the moneys appropriated to build research capacity, twenty percent of the moneys shall be appropriated to promote the development of research of tobacco-related illnesses.

196.1115. 1. The moneys appropriated to the life sciences research board that are not distributed by the board in any fiscal year to a center for excellence or a center for excellence endorsed program pursuant to section 196.1112, if any, shall be held in reserve by the board or shall be awarded on the basis of peer review panel recommendations for capacity building initiatives proposed by public and private not-for-profit academic, research, or health care institutions or organizations, or individuals engaged in competitive research in targeted fields consistent with the provisions of sections 196.1100 to 196.1130.

2. The life sciences research board may, in view of the limitations expressed in section 196.1130:

(1) Award and enter into grants or contracts relating to increasing Missouri's research capacity at public or private not-for-profit institutions;

(2) Make provision for peer review panels to recommend and review research projects;

(3) Contract for **[**administrative and**]** support services;

(4) Lease or acquire facilities and equipment;

(5) Employ administrative staff; and

(6) Receive, retain, hold, invest, disburse or administer any moneys that it receives from appropriations or from any other source.

3. **The Missouri technology corporation, established under section 348.251, shall serve as the administrative agent for the life sciences research board.**

4. The life sciences research board shall utilize as much of the moneys as reasonably possible for building capacity at public and private not-for-profit institutions to do research rather than for administrative expenses. The board shall not in any fiscal year expend more than two percent of the total moneys appropriated to it and of the moneys that it has in reserve or has received from other sources for its own administrative expenses **for appropriations over twenty million dollars; three percent for appropriations less than twenty million dollars but more than fifteen million dollars; four percent for appropriations less than fifteen million dollars but more than ten million dollars; five percent for appropriations less than ten million dollars**; provided, however, that the general assembly by appropriation from the life sciences research trust fund may authorize a limited amount of additional moneys to be expended for administrative costs.

348.250. Sections 348.250 to 348.275 shall be known and may be cited as the "Missouri Science and Innovation Reinvestment Act".

348.251. 1. As used in sections 348.251 to 348.266, the following terms mean:

(1) **"Applicable percentage", six percent for the fiscal year beginning July 1, 2012, and the next fourteen consecutive fiscal years; five percent for the immediately subsequent five fiscal years; and four percent for the immediately subsequent five fiscal years;**

(2) "Applied research", any activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue of science and innovation, including but not limited to translational research;

(3) "Base year", fiscal year ending June 30, 2011;

(4) "Base year gross wages", gross wages paid by science and innovation companies to science and innovation employees during fiscal year ending June 30, 2011;

(5) "Basic research", any original investigation for the advancement of scientific or technical knowledge of science and innovation;

(6) "Commercialization", any of the full spectrum of activities required for a new technology, product, or process to be developed from the basic research or conceptual stage through applied research or development to the marketplace, including without limitation, the steps leading up to and including licensing, sales, and service;

(7) "Corporation", the Missouri technology corporation established under this section;

(8) "Fields of applicable expertise", any of the following fields: science and innovation research, development, or commercialization, including basic research and applied research; corporate finance, venture capital, and private equity related to science and innovation; the business and management of science and innovation companies; education related to science and innovation; or civic or corporate leadership in areas related to science and innovation;

(9) "Inherent conflict of interest", a fundamental or systematic conflict of interest that prevents a person from serving as a disinterested director of the corporation and from routinely performing his or her duties as a director of the corporation;

(10) "NAICS industry groups" or "NAICS codes", the North American Industry Classification System developed under the auspices of the United States Office of Management and Budget and adopted in 1997, as may be amended, revised, or replaced by similar classification systems for similar uses from time to time;

(11) "Science and innovation", the use of compositions and methods in research, development, and manufacturing processes for such diverse areas as agriculture-biotechnology, animal health, biochemistry, bioinformatics, energy, environment, forestry, homeland security, information technology, medical devices, medical diagnostics, medical instruments, medical therapeutics, microbiology, nanotechnology, pharmaceuticals, plant biology, and veterinary medicine, including future developments in such areas;

(12) "Science and innovation company", a corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, person, group, or other entity that is:

(a) Engaged in the research, development, commercialization, or business of science and innovation in the state, including, without limitation, research, development, or production directed toward developing or providing science and innovation products, processes, or services for specific commercial or public purposes, including hospitals, nonprofit research institutions, incubators, accelerators, and universities currently located or involved in the research, development, commercialization, or business of science and innovation in the state; or

(b) Identified by the following NAICS industry groups or NAICS codes or any amended or successor code sections covering such areas of research, development, and commercial endeavors: 3251; 3253; 3254; 3391; 51121; 54138; 54171; 62231; 111191; 111421; 111920; 111998; 311119; 311211; 311221; 311222; 311223; 325193; 325199; 325221; 325222; 325611; 325612; 325613; 325311; 325312; 325314; 325320; 325411; 325412; 325414; 333298; 334510; 334516; 334517; 339111; 339112; 339113; 339114; 339115; 339116; 424910; 541710; 621511; and 621512.

Each of the above listed four-digit and five-digit codes shall include all six-digit codes in such four-digit and five-digit industry; however, each six-digit code shall stand alone and not indicate the inclusion of other omitted six-digit codes that also are subsets of the pertinent four-digit or five-digit industry to which the included six-digit code belongs;

(13) "Science and innovation employee", any employee, officer, or director of a science and innovation company who is a state income taxpayer and any employee of a university who is associated with or supports the research, development, commercialization, or business of science and technology in the state and is obligated to pay state income tax to the state;

(14) "Technology application", the introduction and adaptation of refined management practices in fields such as scheduling, inventory management, marketing, product development, and training in order to improve the quality, productivity and profitability of an existing firm. Technology application shall be considered a component of business modernization;

[(2) "Technology commercialization", the process of moving investment-grade technology from a business, university or laboratory into the marketplace for application;

(3)**] (15)** "Technology development", strategically focused research directed at developing investment-grade technologies which are important for market competitiveness.

2. The governor may, on behalf of the state and in accordance with chapter 355, RSMo, establish a private not-for-profit corporation named the "Missouri Technology Corporation", to

carry out the provisions of sections 348.251 to 348.266. As used in sections **[**348.251 to 348.266**] 348.250 to 348.275** the word "corporation" means the Missouri technology corporation authorized by this section. Before certification by the governor, the corporation shall conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment **[**upon**] on** the articles of incorporation, bylaws and **[**method**] methods** of operation of the corporation. Notice of the hearing shall be given at least fourteen days prior to the hearing.

348.256. **1.** The articles of incorporation **[**and**] ,** bylaws**, and methods of operation** of the Missouri technology corporation shall **[**provide that:**] be consistent with the provisions of sections 348.250 to 348.275.**

[(1)**] 2.** The purposes of the corporation are to contribute to the strengthening of the economy of the state through the development of science and **[**technology**] innovation**, to promote the modernization of Missouri businesses by supporting the transfer of science, technology and quality improvement methods to the workplace**[**, and**] ;** to enhance the productivity and modernization of Missouri businesses by providing leadership in the establishment of methods of technology application, technology commercialization and technology development; **to make Missouri businesses, institutions, and universities more competitive and increase their likelihood of success; to support and enhance local and regional strategies and initiatives that capitalize on the unique science and innovation assets across the state; to make Missouri a highly desirable state in which to conduct, facilitate, support, fund, and perform science and innovation research, development, and commercialization; to facilitate and effect the creation, attraction, retention, growth, and enhancement of both existing and new science and innovation companies in the state; to make Missouri a national and international leader in economic activity based on science and innovation; to enhance workforce development; to create and retain quality jobs; to advance scientific knowledge; and to improve the quality of life for the citizens of the state of Missouri in both urban and rural communities.**

[(2)**] 3.** The board of directors of the corporation **[**is**] shall be** composed of fifteen persons. The governor shall annually appoint one of its members, who must be from the private sector, as **[**chairman**] chairperson**. The board shall consist of the following members:

[(a)**] (1)** The director of the department of economic development, or the director's designee;

[(b)**] (2)** The president of the University of Missouri system, or the president's designee;

[(c)**] (3)** A member of the state senate, appointed by the president pro tem of the senate;

[(d)**] (4)** A member of the house of representatives, appointed by the speaker of the house;

[(e)**] (5)** Eleven members appointed by the governor, **[**two of which shall be from the public sector and nine members from the private sector who shall include, but shall not be limited to, individuals who represent technology-based businesses and industrial interests;

(f)**] with the advice and consent of the senate, who are recognized for outstanding knowledge, leadership, and expertise in one or more of the fields of applicable expertise.**

Each of the directors of the corporation who is appointed by the governor shall serve for a term of four years and until a successor is duly appointed**[**; except that, of the directors serving on the corporation as of August 28, 1995, three directors shall be designated by the governor to serve a term of four years, three directors shall be designated to serve a term of three years, three directors shall be designated to serve a term of two years, and two directors shall be designated to serve a term of one year. Each director shall continue to serve until a successor is duly appointed by the governor;

(3) The corporation may receive money from any source, may borrow money, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(4) The corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 348.261;

(5)**] .**

4. Any changes in the articles of incorporation or bylaws must be approved by the governor**[**;**] .**

[(6) The corporation shall submit an annual report to the governor and to the Missouri general assembly. The report shall be due on the first day of November for each year and shall include detailed information on the structure, operation and financial status of the corporation. The corporation shall conduct an annual public hearing to receive comments from interested parties regarding the report, and notice of the hearing shall be given at least fourteen days prior to the hearing; and

(7)**] 5. At the discretion of the state auditor,** the corporation is subject to an **[**annual**]** audit **[**by the state auditor**]** and **[**that**]** the corporation shall bear the full cost of the audit.

6. Each of the directors of the corporation provided for in subdivisions (1) and (2) of subsection 3 of this section shall remain a director until the designating individual specified in such subdivisions designates a replacement by sending a written communication to the governor and the chairperson of the board of the corporation; provided however, that if the director of economic development or the president of the University of Missouri system designates himself or herself to the corporation board, such person's service as a corporation director shall cease immediately when that person no longer serves as the director of economic development or as the president of the University

of Missouri system. Each of the directors of the corporation provided for in subdivisions (3) and (4) of subsection 3 of this section shall remain a director until the appointing member of the general assembly specific in such subdivisions appoints a replacement by sending a written communication to the governor and the chairperson of the corporation board; provided however, that if the speaker of the house or the president pro tem of the senate appoints himself or herself to the corporation board, such person's service as a corporation director shall cease immediately when that person no longer serves as the speaker of the house or the president pro tem of the senate.

7. Each of the eleven members of the board appointed by the governor shall:

(1) Hold office for the term of appointment and until the governor duly appoints his or her successor; provided that if a vacancy is created by the death, permanent disability, resignation, or removal of a director, such vacancy shall become immediately effective;

(2) Be eligible for reappointment, but members of the board shall not be eligible to serve more than two consecutive four-year terms and shall not be reappointed to the board until they have not served on the board for a period of at least four interim years;

(3) Not have a known inherent conflict of interest at the time of appointment; and

(4) Not have served in an elected office or a cabinet position in state government for a period of two years prior to appointment, unless otherwise provided in this section.

8. Any member of the board may be removed by affirmative vote of eleven members of the board for malfeasance or misfeasance in office, regularly failing to attend meetings, failure to comply with the corporation's conflicts of interest policy, conviction of a felony, or for any cause that renders the member incapable of or unfit to discharge the duties of a director of the corporation.

9. The board shall meet at least four times per year and at such other times as it deems appropriate, or upon call by the president or the chairperson, or upon written request of a majority of the directors of the board. Unless otherwise restricted by Missouri law, the directors may participate in a meeting of the board by means of telephone conference or other electronic communications equipment whereby all persons participating in the meeting can communicate clearly with each other, and participation in a meeting in such manner will constitute presence in person at such meeting.

10. A majority of the total voting membership of the board shall constitute a quorum for meetings. The board may act by a majority of those at any meeting where a quorum is present, except upon such issues as the board may determine shall require a vote of more members of the board for approval or as required by law. All resolutions and orders of the board shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board.

11. Members of the board shall serve without compensation. Members of the board attending meetings of the board, or attending committee or advisory meetings thereof, shall be paid mileage and all other applicable expenses, provided that such expenses are reasonable, consistent with policies established from time to time by the board, and not otherwise inconsistent with law.

12. The board may adopt, repeal, and amend such articles of incorporation, bylaws, and methods of operation that are not contrary to law or inconsistent with sections 348.250 to 348.275, as it deems expedient for its own governance and for the governance and management of the corporation and its committees and advisory boards; provided that any changes in the articles of incorporation or bylaws approved by the board must also be approved by the governor.

13. A president shall direct and supervise the administrative affairs and the general management of the corporation. The president shall be a person of national prominence that has expertise and credibility in one or more of the fields of applicable expertise with a demonstrated track record of success in leading a mission-driven organization. The president's salary and other terms and conditions of employment shall be set by the board. The board may negotiate and enter into an employment agreement with the president of the corporation, which may provide for compensation, allowances, benefits, and expenses. The president of the corporation shall not be eligible to serve as a member of the board until two years after the end of his or her employment with the corporation. The president of the corporation shall be bound by, and agree to obey, the corporation's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

14. The corporation may employ such employees as it may require and upon such terms and conditions as it may establish that are consistent with state and federal law. The corporation may establish personnel, payroll, benefit, and other such systems as authorized by the board, and provide death and disability benefits. Corporation employees, including the president, shall be considered state employees for the purposes of membership in the Missouri state employees' retirement system and the Missouri consolidated health care plan. Compensation paid by the corporation shall constitute pay from a department for purposes of accruing benefits under the Missouri state employees' retirement system. The corporation may also adopt, in accordance with requirements of the federal Internal Revenue Code of 1986, as amended, a defined contribution plan sponsored by the corporation with respect to employees, including the president, employed by the corporation. Nothing in sections 348.250 to 348.275 shall be construed as placing any officer or employee of the corporation or member of the board in the classified or the unclassified service of the state of Missouri under Missouri laws and regulations governing

civil service. No employee of the corporation shall be eligible to serve as a member of the board until two years immediately following the end of his or her employment with the corporation. All employees of the corporation shall be bound by, and agree to obey, the corporation's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

15. No later than the first day of January each year, the corporation shall submit an annual report to the governor and to the Missouri general assembly which the corporation may contract with a third party to prepare and which shall include:

(1) A complete and detailed description of the operating and financial conditions of the corporation during the prior fiscal year;

(2) Complete and detailed information about the distributions from the Missouri science and innovation reinvestment fund and from any income of the corporation;

(3) Information about the growth of science and innovation research and industry in the state; and

(4) Information regarding financial or performance audits performed in such year, including any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the corporation.

16. The corporation shall keep its books and records in accordance with generally accepted accounting procedures. Within four months following the end of each fiscal year, the corporation shall cause a firm of independent certified public accountants of national repute to conduct and deliver to the board an audit of the financial statements of the corporation and an opinion thereon, to be conducted in accordance with generally accepted audit standards, provided, however, that this section shall be inapplicable if the board of directors of the corporation determines that insufficient funds have been appropriated to pay for the costs of compliance with these requirements.

17. Within four months following the end of every odd numbered fiscal year, beginning with fiscal year 2016, the corporation shall cause an independent firm of national repute that has expertise in science and innovation research and industry to conduct and deliver to the board an evaluation of the performance of the corporation for the prior two fiscal years, including detailed recommendations for improving the performance of the corporation, provided, however, that this section shall be inapplicable if the board of directors of the corporation determines that insufficient funds have been appropriated to pay for the costs of compliance with these requirements.

18. The corporation shall provide the state auditor a copy of the financial and performance evaluations prepared under subsections 16 and 17 of this section.

19. The corporation shall have perpetual existence until an act of law expressly dissolves the corporation; provided that no such law shall take effect so long as the corporation has obligations or bonds outstanding unless adequate provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the corporation, all property, funds, and assets thereof shall be vested in the state.

20. Except as provided under section 348.266, the state hereby pledges to, and agrees with, recipients of corporation funding or beneficiaries of corporation programs under sections 348.250 to 348.275 that the state shall not limit or alter the rights vested in the corporation under sections 348.250 to 348.275 to fulfill the terms of any agreements made or obligations incurred by the corporation with or to such third parties, or in any way impair the rights and remedies of such third parties until the obligations of the corporation and the state are fully met and discharged in accordance with sections 348.250 to 348.275.

21. The corporation shall be exempt from:

(1) Any general ad valorem taxes upon any property of the corporation acquired and used for its public purposes;

(2) Any taxes or assessments upon any projects or upon any operations of the corporation or the income therefrom;

(3) Any taxes or assessments upon any project or any property or local obligation acquired or used by the corporation under the provisions of sections 348.250 to 348.275, or upon income therefrom.

Purchases by the corporation to be used for its public purposes shall not be subject to sales or use tax under chapter 144. The exemptions hereby granted shall not extend to persons or entities conducting business on the corporations' property for which payment of state and local taxes would otherwise be required.

22. No funds of the corporation shall be distributed to its employees or members of the board; except that, the corporation may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the corporation shall be authorized and empowered to pay reasonable compensation for services rendered to, or for, its benefit relating to any of its lawful purposes, including to pay its employees reasonable compensation.

23. The corporation shall adopt and maintain a conflicts of interest policy to protect the corporation's interests by requiring disclosure by an interested party, appropriate recusal by such person, and appropriate action by the interested party or the board where a conflict of interest may exist or arise between the corporation and a director, officer, employee, or agent of the corporation.

348.257. 1. The board shall establish an executive committee of the corporation, to be composed of the chairperson, the vice-chairperson, and the secretary of the corporation, and two additional directors. The chairperson of the corporation shall serve as the chairperson of the executive committee.

2. The executive committee, in intervals between meetings of the board, may transact any business of the board that has been expressly delegated to the executive committee by the board. If so stipulated by the board, action delegated to the executive committee may be subject to subsequent ratification by the board; provided, however that until ratified or rejected by the board, any action delegated to, and taken by, the executive committee between meetings of the board will be binding upon the corporation as if ratified, and may be relied upon by third parties.

3. The board shall establish an audit committee of the corporation, to be composed of the chairperson of the corporation and four additional directors. The secretary of the corporation shall serve as the chairperson of the audit committee. The audit committee shall be responsible for oversight of the administration of the conflicts of interest policy, working with the president of the corporation to facilitate communications with the corporation's contract auditors, and such other responsibilities delegated to it by the board.

4. The board shall establish and maintain a research alliance of Missouri to be comprised of the chief research officers, or their designee, of the state's leading research universities and a representative of other leading not-for-profit research institutes headquartered in Missouri. Members of the research alliance of Missouri shall be selected for such terms of membership under such terms and condition as the board deems necessary and appropriate to advance the purposes of sections 348.250 to 348.275 and as comparable to other similar public sector bodies. The research alliance of Missouri shall elect a chairperson on an annual basis. The research alliance of Missouri shall prepare annual reports at the direction of the corporation that:

(1) Evaluate the specific areas of Missouri's research strengths and weaknesses and outline current research priorities of the state;

(2) Evaluate the ability of each member to realign their research and development resources, policies, and practices to seize emerging opportunities;

(3) Evaluate and summarize the best national and international practices for technology commercialization of university research and describe efforts that each university member has undertaken to implement best practices, including a description of the specific outcomes university members have achieved in technology commercialization; and

(4) Describe research collaborations by and between members and identify collaboration best practices that can or should be instituted in Missouri.

5. The board may establish other committees, both permanent and temporary, as it deems necessary. Such committees may include national strategic, scientific and/or commercialization advisory boards comprised of individuals of national or international prominence in science and innovation and/or the business and commercialization of science and innovation.

6. The board may establish rules, policies, and procedures for the selection and conduct of committees and advisory boards, and the research alliance of Missouri; provided however, that the members of such committees and advisory boards agree to be bound by a conflict of interest policy consistent with the highest ethical standards that is suitable for such advisory roles and annually complete and certify to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

348.261. **[**The corporation, after being certified by the governor as provided by section 348.251, may**] 1. Subject to the provisions of section 196.1127, the corporation shall have all of the powers necessary or convenient to carry out the purposes and provisions of sections 348.250 to 348.275, including the powers as specified therein, and without limitation, the power to**:

(1) Establish a statewide business modernization network to assist Missouri businesses in identifying ways to enhance productivity and market competitiveness;

(2) Identify scientific and technological problems and opportunities related to the economy of Missouri and formulate proposals to overcome those problems or realize those opportunities;

(3) Identify specific areas where scientific research and technological investigation will contribute to the improvement of productivity of Missouri manufacturers and farmers;

(4) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Missouri could be enhanced or increased if state resources were made available to assist in financing activities;

(5) Assist in establishing cooperative associations of universities in Missouri and of private enterprises for the purpose of coordinating research and development programs that will, consistent with the primary educational function of the universities, aid in the creation of new jobs in Missouri;

(6) Assist in financing the establishment and continued development of technology-intensive businesses in Missouri;

(7) Advise universities of the research needs of Missouri business and improve the exchange of scientific and technological information for the mutual benefit of universities and private business;

(8) Coordinate programs established by universities to provide Missouri businesses with scientific and technological information;

(9) Establish programs in scientific education which will support the accelerated development of technology-intensive businesses in Missouri;

(10) Provide financial assistance through contracts, grants and loans to programs of scientific and technological research and development;

(11) Determine how public universities can increase income derived from the sale or licensure of products or processes having commercial value that are developed as a result of university sponsored research programs;

(12) Contract with innovation centers, as established in section 348.271, small business development corporations, as established in sections 620.1000 to 620.1007, centers for advanced technology, as established in section 348.272, and other entities or organizations for the provision of technology application, technology commercialization and technology development services. **[**Such contracting procedures shall not be subject to the provisions of chapter 34; and**]** **;**

(13) Make direct seed capital or venture capital investments in Missouri business investment funds or businesses **[**which**]** **that** demonstrate the promise of growth and job creation. Investments from the corporation may be in the form of debt or equity in the respective businesses**;**

(14) Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions;

(15) Contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;

(16) Procure such insurance, participate in such insurance plans, or provide such self insurance or both as it deems necessary or convenient; provided however, the purchase of insurance, participation in an insurance plan, or creation of a self-insurance fund by the corporation shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the corporation or its officers, directors, employees, or agents are otherwise entitled;

(17) Partner with universities or other research institutions in Missouri to attract and recruit world-class science and innovation talent to Missouri;

(18) Expend any and all funds from the Missouri science and innovation reinvestment fund and all other assets and resources of the corporation for the exclusive purpose of fulfilling any purpose, power, or duty of the corporation under sections 348.250

to 348.275, including but not limited to implementing the powers, purposes, and duties of the corporation as enumerated in this section;

(19) Participate in joint ventures and collaborate with any taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity to facilitate any activities or programs consistent with the purpose and intent of sections 348.250 to 348.275; and

(20) In carrying out any activities authorized by sections 348.250 to 348.275, the corporation provides appropriate assistance, including the making of investments, grants, and loans, and providing time of employees, to any taxpayer, governmental body, or agency, insurer, university, or college of the state, or any other entity, whether or not any such taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity, is owned or controlled in whole or in part, directly or indirectly, by the corporation.

2. The corporation shall endeavor to maximize the amount of leveraging of nonstate resources, including public and private, cash and in-kind, attained with its investments, grants, loans, or other forms of support. In the case of investments, grants, loans, or other forms of support that emphasize or are specifically intended to impact a particular Missouri county, municipality, or other geographic subdivision of the state, or are otherwise local in nature, the corporation shall give consideration and weight to local matching funds and other matching resources, public and private.

3. Except as expressly provided in sections 348.250 to 348.275, all monies earned or received by the corporation, including all funds derived from the commercialization of science and innovation products, methods, services, and technology by the corporation, or any affiliate or subsidiary thereof, or from the Missouri science and innovation reinvestment fund, shall belong exclusively to and be subject to the exclusive control of the corporation.

4. The corporation shall have all the powers of a not-for-profit corporation established under Missouri law.

5. The corporation shall assume all moneys, property, or other assets remaining with the Missouri seed capital investment board, established in section 620.641. All powers, duties, and functions performed by the Missouri seed capital investment board shall be transferred to the Missouri technology corporation.

6. The corporation shall not be subject to the provisions of chapter 34.

348.262. In order to assist the corporation in achieving the objectives identified in section 348.261, the department of economic development may contract with the corporation for activities consistent with the corporation's purpose, as specified in **[**section 348.256**] sections 348.250 to 348.275**. When contracting with the corporation under the provisions of this section,

the department of economic development may directly enter into agreements with the corporation and shall not be bound by the provisions of chapter 34, RSMo.

348.263. 1. **[**The Missouri business modernization and technology corporation shall replace the corporation for science and technology. All moneys, property or any other assets remaining with the corporation for science and technology after all obligations are satisfied on August 28, 1993, shall be transferred to the Missouri business modernization and technology corporation. All powers, duties and functions performed by the Missouri corporation of science and technology on August 28, 1993, shall be transferred to the Missouri business modernization and technology corporation.**] Except as otherwise provided in sections 348.250 to 348.275, the corporation shall be subject to requirements applicable to governmental bodies and records contained in sections 610.010 to 610.225.**

2. **[**The Missouri technology corporation shall replace the Missouri business modernization and technology corporation. All moneys, property or any other assets remaining with the Missouri business modernization and technology corporation after all obligations are satisfied on August 28, 1994, shall be transferred to the Missouri technology corporation. All powers, duties and functions performed by the Missouri business modernization and technology corporation on August 28, 1994, shall be transferred to the Missouri technology corporation.**] In addition to the exceptions available under sections 610.010 to 610.225, the records of the corporation shall not be subject to the provisions of sections 610.010 to 610.225, when, upon determination by the corporation, the disclosure of the information in the records would be harmful to the competitive position of the corporation and such records contain:**

(1) Proprietary information gathered by, or in the possession of, the corporation from third parties pursuant to a promise of confidentiality;

(2) Contract cost estimates prepared for confidential use in awarding contracts for research, development, construction, renovation, commercialization, or the purchase of goods or services;

(3) Data, records, or information of a proprietary nature produced or collected by, or for, the corporation, its employees, officers, or members of its board;

(4) Third-party financial statements, records, and related data not publicly available that may be shared with the corporation;

(5) Consulting or other reports paid for by the corporation to assist the corporation in connection with its strategic planning and goals; or

(6) The determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the corporation.

3. In addition to the exceptions available under sections 610.010 to 610.225, the corporation, including the board, executive committee, audit committee, and research

alliance of Missouri, or other such committees or boards that the corporation may authorize from time to time, may discuss, consider, and take action on any the following in closed session, when upon determination by the corporation, including as appropriate the board, executive committee, audit committee, and research alliance of Missouri, or other such committees or boards that the corporation may authorize from time to time, disclosure of such items would be harmful to the competitive position of the corporation:

(1) Plans that could affect the value of property, real or personal, owned, or desirable for ownership by the corporation;

(2) The condition, acquisition, use, or disposition of real or personal property; or

(3) Contracts for applied research; basic research; science and innovation product development, manufacturing, or commercialization; construction and renovation of science and innovation facilities; or marketing or operational strategies.

4. Notwithstanding any other provision of this section, the corporation may not close a record that contains proprietary information about a limitation set forth in section 196.1127.

348.264. **[**1.**]** There is hereby established in the state treasury a special fund to be known as the "Missouri **[**Technology Investment**] Science and Innovation Reinvestment** Fund", which shall consist of all moneys which may be appropriated to it by the general assembly **based on the applicable percentage of the amount by which science and innovation employees' gross wages for the year exceeds the base year gross wages pursuant to section 348.265; other funds appropriated to it by the general assembly**, and also any gifts, contributions, grants or bequests received from federal, private or other sources. **[**Such moneys shall include federal funds which may be received from the National Institute for Science and Technology, the Small Business Administration and the Department of Defense through its Technology Reinvestment Program.**]** Money in the Missouri **[**technology investment program**] science and innovation reinvestment fund** shall be used to carry out the provisions of sections **[**348.251**] 348.250** to 348.275. Moneys for business modernization programs, technology application programs, technology commercialization programs and technology development programs established pursuant to the provisions of sections **[**348.251**] 348.250** to 348.275 shall be available from appropriations made by the general assembly from the Missouri **[**technology investment**] science and innovation reinvestment** fund. Any moneys remaining in the Missouri **[**technology investment**] science and innovation reinvestment** fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, but shall remain in the Missouri technology investment fund.

[2. Notwithstanding the provisions of sections 173.500 to 173.565, RSMo, the Missouri technology investment fund shall be utilized to fund projects which would previously have been funded through the higher education applied projects fund.]

348.265. 1. As soon as practicable after August 28, 2011, the director of the department of economic development, with the assistance of the director of the department of revenue, shall establish the base year gross wages and report the amount of the base year gross wages to the president and board of the corporation, the governor, and the general assembly. Within one hundred eighty days after the end of each fiscal year beginning with the fiscal year ending June 30, 2011, and for each subsequent fiscal year prior to the end of the last funding year, the director of economic development, with the assistance of the director of the department of revenue, shall determine and report to the president and board of the corporation, governor, and general assembly the amount by which aggregate science and innovation employees' gross wages for the fiscal year exceeds the base year gross wages. The director of economic development and the director of the department of revenue may consider any verifiable evidence, including but not limited to the NAICS codes assigned or recorded by the United States Department of Labor for companies with employees in the state, when determining which organizations should be classified as science and innovation companies.

2. Notwithstanding section 23.250 to the contrary, for each of the twenty-five funding years, beginning July 1, 2011, the director of revenue shall transfer to the Missouri science and innovation reinvestment fund an amount equal to the product of the applicable percentage multiplied by an amount equal to the increase in aggregate science and innovation employees' gross wages for the prior fiscal year, over the base year gross wages. The director of revenue may make estimated payments to the Missouri science and innovation reinvestment fund more frequently based on estimates provided by the director of revenue and reconciled annually.

3. Local political subdivisions may contribute to the Missouri science and innovation reinvestment fund through a grant, contract, or loan by dedicating a portion of any sales tax or property tax increase resulting from increases in science and innovation company economic activity occurring after August 28, 2011, or other such taxes or fees as such local political subdivisions may establish.

4. Subject to the provisions of section 196.1127, funding generated by the provisions of this section shall be expended by the corporation to further its purposes as specified in section 348.256.

5. Upon enactment of this section, the corporation shall prepare a strategic plan for the use of the funding to be generated by the provisions of this section, and may consult with science and innovation partners, including, but not limited to the research alliance of

Missouri, as established in section 348.257; the life sciences research board established in section 196.1003; and the innovation centers or centers for advanced technology, as established in section 348.272. The corporation shall make a draft strategic plan available for public comment prior to publication of the final strategic plan.

348.269. 1. Nothing contained in sections 348.250 to 348.275 shall be construed as a restriction or limitation upon any powers that the corporation might otherwise have under chapter 355, and the provisions of sections 348.250 to 348.275 are cumulative to such powers.

2. Nothing in sections 348.250 to 348.275 shall be construed as allowing the board to sell the corporation or substantially all of the assets of the corporation, or to merge the corporation with another institution, without prior authorization by the general assembly.

3. Notwithstanding the provisions of section 23.253 to the contrary, the provisions of sections 348.250 to 348.275 shall not sunset. The provisions of sections 348.250 to 348.275 shall not terminate before the satisfaction of all outstanding obligations, notes, and bonds provided for under sections 348.250 to 348.275.

4. The provisions of sections 348.250 to 348.275 shall not terminate before the satisfaction of all outstanding obligations, notes, and bonds provided for under sections 348.250 to 348.275.

5. If any provision of this Act or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. Insofar as the provisions of sections 348.250 to 348.275 are inconsistent with the provisions of any other law, general, specific or local, the provisions of sections 348.250 to 348.275 shall be controlling.

348.271. 1. In order to foster the growth of Missouri's economy and to stimulate the creation of new jobs in **[**technology-based**] science and innovation-based** industry for the state's work force, the Missouri technology corporation, in accordance with the provisions of this section and within the limits of appropriations therefor is authorized to contract with Missouri not-for-profit corporations for the operation of innovation centers within the state. The primary emphasis of some, if not of all innovation centers, shall be in the areas of **[**technology commercialization, finance and business modernization. Innovation centers operated under the provisions of this section shall provide assistance to individuals and business organizations during the early stages of the development of new technology-based**] science and innovation-based** business ventures. Such assistance may include the provision of facilities, equipment, administrative and managerial support, planning assistance, and such other services and

programs that enhance the development of such ventures and such assistance may be provided for fees or other consideration.

2. The innovation centers operated under this section shall counsel and assist the new **[**technology-based**]** **science and innovation-based** business ventures in finding a suitable site in the state of Missouri for location of the business upon its graduation from the innovation program. Each innovation center shall annually submit a report of its activities to the department of economic development and the Missouri technology corporation which shall include, but not be limited to, the success rate of the businesses graduating from the center, the progress and locations of businesses which have graduated from the center, the types of businesses which have graduated from the center, and the number of jobs created by the businesses involved in the center.

3. Any contract signed between the corporation and any not-for-profit organization to operate an innovation center in accordance with the provisions of this section shall require that the not-for-profit organization must provide at least a one-hundred-percent match for the funding received from the corporation pursuant to appropriation therefor.

348.300. As used in sections 348.300 to 348.318, the following terms mean:

(1) "Commercial activity located in Missouri", any research, development, prototype fabrication, and subsequent precommercialization activity, or any activity related thereto, conducted in Missouri for the purpose of producing a service or a product or process for manufacture, assembly or sale or developing a service based on such a product or process by any person, corporation, partnership, joint venture, unincorporated association, trust or other organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity located in Missouri shall mean only such activity that is located within a distressed community, as defined in section 135.530;

(2) "Follow-up capital", capital provided to a commercial activity located in Missouri in which a qualified fund has previously invested seed capital or start-up capital and which does not exceed ten times the amount of such seed and start-up capital;

(3) "Person", any individual, corporation, partnership, or other entity, including any charitable corporation which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143;

(4) "Qualified contribution", cash contribution to a qualified fund;

(5) "Qualified economic development organization", any corporation organized under the provisions of chapter 355 which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of

Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections **[**348.253 to 348.266**] 348.250 to 348.275**;

(6) "Qualified fund", any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections **[**348.253 to 348.266**] 348.250 to 348.275** this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

(7) "Qualified investment", any investment of seed capital, start-up capital, or follow-up capital in any commercial activity located in Missouri;

(8) "Seed capital", capital provided to a commercial activity located in Missouri for research, development and precommercialization activities to prove a concept for a new product or process or service, and for activities related thereto;

(9) "Start-up capital", capital provided to a commercial activity located in Missouri for use in preproduction product development or service development or initial marketing thereof, and for activities related thereto;

(10) "State tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147 and 148, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions;

(11) "Uninvested capital", the amount of any distribution, other than of earnings, by a qualified fund made within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund which are not invested as qualified investments within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so invested exceeds ten percent of all such qualified contributions.

[348.253. 1. The Missouri technology corporation may contract with not-for-profit organizations to carry out the provisions of sections 348.251 to 348.275. By entering into such contracts, the corporation shall attempt to achieve the following objectives:

(1) The establishment of a research alliance which shall advance technology development, as defined in subdivision (3) of section 348.251. The corporation, in this capacity, shall have the authority to contract directly with centers for advanced technology, as established by section 348.272, and other not-for-profit entities. In proceeding with this objective, the corporation and centers for advanced technology shall utilize the results of targeted industry studies commissioned by the department of economic development;

(2) Technology commercialization, as defined in subdivision (2) of section 348.251;

(3) The establishment of a finance corporation to assist in the implementation of section 348.261; and

(4) The enhancement of technology application, as defined in subdivision (1) of section 348.251.

2. Any contract signed between the corporation and any not-for-profit organization, including innovation centers as defined in section 348.271, shall require that the not-for-profit organization must provide at least one-hundred-percent match for any funding received from the corporation through the technology investment fund, as established in section 348.264.**]**

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