

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 112**  
**97TH GENERAL ASSEMBLY**

0461H.05C

D. ADAM CRUMBLISS, Chief Clerk

---

---

**AN ACT**

To repeal sections 99.1205, 135.680, and 620.1039, RSMo, and to enact in lieu thereof seven new sections relating to taxation, with an emergency clause for certain sections.

---

---

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

Section A. Sections 99.1205, 135.680, and 620.1039, RSMo, are repealed and seven new  
2 sections enacted in lieu thereof, to be known as sections 67.2050, 99.1205, 135.680, 144.810,  
3 348.273, 348.274, and 620.1039, to read as follows:

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

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

5 **(2) "Municipality", any county, city, incorporated town, village of the state, or any  
6 utilities board thereof;**

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

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

14 **(a) Data processing, hosting, and related services (NAICS 518210);**

15 **(b) Internet publishing and broadcasting and web search portals (NAICS 519130)  
16 at the business facility; or**

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.

17 (c) The transmission of voice, data, text, sound, and video using wired  
18 telecommunication networks (NAICS 517110);

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

23 2. The governing body of any municipality may:

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

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

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

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

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

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

50 6. Any payments in lieu of taxes expected to be made by any lessee of the project  
51 shall be applied in accordance with this section. The lessee may reimburse the municipality  
52 for its actual costs of administering the plan. All amounts paid in excess of such actual

53 costs shall, immediately upon receipt thereof, be disbursed by the municipality's treasurer  
54 or other financial officer to each affected taxing entity in proportion to the current ad  
55 valorem tax levy of each affected taxing entity.

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

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

71 9. The provisions of this section shall not be construed to allow political  
72 subdivisions to provide telecommunications services or telecommunications facilities to the  
73 extent that they are prohibited from doing so by section 392.410.

99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land  
2 Assemblage Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental  
5 assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant  
6 structures or any portion thereof, together with engineering costs, surveying costs, title  
7 insurance, and architectural and design costs incurred in connection with acquisition,  
8 financing, parcel consolidation or site and redevelopment area planning regarding one or  
9 more eligible parcels, and reasonable maintenance costs incurred to maintain an acquired  
10 eligible parcel for a period of [five] twelve years after the acquisition of such eligible parcel.  
11 Acquisition costs shall not include costs for [title insurance and survey,] attorney's fees,  
12 relocation costs, fines, or bills from a municipality;

13 (2) "Applicant", any person, firm, partnership, trust, limited liability company, or  
14 corporation which has:

15 (a) Incurred, within an eligible project area, acquisition costs for the acquisition of land  
16 sufficient to satisfy the requirements under subdivision (8) of this subsection; and

17 (b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal  
18 authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop  
19 an urban renewal area or a redevelopment area that includes all of an eligible project area or  
20 whose redevelopment plan or redevelopment area, which encompasses all of an eligible project  
21 area, has been approved or adopted under an economic incentive law. In addition to being  
22 designated the redeveloper, the applicant shall have been designated to receive economic  
23 incentives only after the municipal authority has considered the amount of the tax credits in  
24 adopting such economic incentives as provided in subsection 8 of this section **unless such**  
25 **economic incentives were approved for an eligible project area qualified as such under**  
26 **subparagraph c. of paragraph (b) of subdivision (8) of this subsection.** The redevelopment  
27 agreement shall provide that[:

28 a.] the funds generated through the use or sale of the tax credits issued under this section  
29 shall be used to redevelop the eligible project area[;

30 b.] . **Additionally, except for projects in eligible project areas qualified as such**  
31 **under subparagraph c. of paragraph (b) of subdivision (8) of this subsection, the**  
32 **redevelopment agreement shall provide that:**

33 a. No more than seventy-five percent of the urban renewal area identified in the urban  
34 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped  
35 by the applicant; and

36 [c.] b. The remainder of the urban renewal area or the redevelopment area shall be  
37 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its  
38 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

39 (3) "Certificate", a tax credit certificate issued under this section;

40 (4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to  
41 initiate an action in a court of competent jurisdiction to use the power of eminent domain to  
42 acquire a parcel within the eligible project area. Condemnation proceedings shall include any  
43 and all actions taken after the submission of a notice of intended acquisition to an owner of a  
44 parcel within the eligible project area by a municipal authority or any other person or entity under  
45 section 523.250;

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

47 (6) "Economic incentive laws", any provision of Missouri law pursuant to which  
48 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,  
49 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment  
50 projects approved or adopted which include the use of economic incentives to redevelop the land.

51 Economic incentive laws include, but are not limited to, the land clearance for redevelopment  
52 authority law under sections 99.300 to 99.660, the real property tax increment allocation  
53 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic  
54 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation  
55 program under sections 99.1080 to 99.1092;

56 (7) "Eligible parcel", a parcel:

57 (a) Which is located within an eligible project area;

58 (b) Which is to be redeveloped;

59 (c) On which the applicant has not commenced construction prior to November 28,  
60 2007;

61 (d) Which has been acquired **either directly by the applicant or on behalf of the**  
62 **applicant through one or more affiliated companies controlled by the applicant or under**  
63 **common ownership with the applicant;**

64 (e) **Which has been acquired** without the commencement of any condemnation  
65 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel  
66 acquired **before August 28, 2007**, by the applicant from a municipal authority shall not  
67 constitute an eligible parcel; and

68 [(e)] (f) On which all outstanding taxes, fines, and bills levied by municipal governments  
69 that were levied by the municipality during the time period that the applicant held title to the  
70 eligible parcel have been paid in full;

71 (8) "Eligible project area", an area which shall have satisfied the following requirements:

72 (a) The eligible project area shall consist of at least seventy-five acres and may include  
73 parcels within its boundaries that do not constitute an eligible parcel;

74 (b) At least eighty percent of the eligible project area shall be located within:

75 a. A Missouri qualified census tract area, as designated by the United States Department  
76 of Housing and Urban Development under 26 U.S.C. Section 42[, or within] ; **or**

77 b. A distressed community as that term is defined in section 135.530; **or**

78 c. **A redevelopment area as that term is defined under the real property tax**  
79 **increment allocation redevelopment act under sections 99.800 to 99.865 that:**

80 (i) **Contains at least three hundred acres of real property;**

81 (ii) **Includes or previously included in excess of one million square feet of**  
82 **commercial building space;**

83 (iii) **Contains eighty or more parcels; and**

84 (iv) **Is located within a low-income community as defined by 26 U.S.C. Section 45D**  
85 **as of January 1, 2011; or**

86 **d. Any area including and within one quarter mile of property formerly utilized by**  
87 **the state of Missouri as a penitentiary located in any home rule city with more than forty-**  
88 **one thousand but fewer than forty-seven thousand inhabitants and partially located in any**  
89 **county of the first classification with more than seventy thousand but fewer than eighty-**  
90 **three thousand inhabitants.**

91 (c) The eligible parcels acquired by the applicant within the eligible project area shall  
92 total at least fifty acres, which may consist of contiguous and noncontiguous parcels, **but shall**  
93 **not include any parcel acquired by the applicant from a municipal authority. Any**  
94 **applicant applying for credits for costs incurred within an eligible project area qualified**  
95 **as such under subparagraph c. of paragraph (b) of this subdivision shall own, either**  
96 **directly by the applicant or on behalf of the applicant through one or more affiliated**  
97 **companies controlled by the applicant or under common ownership with the applicant, at**  
98 **least one hundred fifty contiguous acres of real property, which may be separated by the**  
99 **width of public right-of-way, within the urban renewal area or redevelopment area**  
100 **containing such eligible project area;**

101 (d) **Other than in eligible project areas qualified as such under subparagraph c. of**  
102 **paragraph (b) of this subdivision,** the average number of parcels per acre in an eligible project  
103 area shall be four or more;

104 (e) Less than five percent of the acreage within the boundaries of the eligible project area  
105 shall consist of owner-occupied residences which the applicant has identified for acquisition  
106 under the urban renewal plan or the redevelopment plan pursuant to which the applicant was  
107 appointed or selected as the redeveloper or by which the person or entity was qualified as an  
108 applicant under this section on the date of the approval or adoption of such plan;

109 (9) "Interest costs", interest, loan fees, and closing costs, **any of which relate to or arise**  
110 **out of loans relating to acquisition costs, including without limitation, interest, loan fees,**  
111 **and closing costs associated with the refinancing of loans relating to acquisition costs.**  
112 Interest costs shall not include attorney's fees;

113 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of  
114 removing trash, and costs of cutting grass and weeds;

115 (11) "Municipal authority", any city, town, village, county, public body corporate and  
116 politic, political subdivision, or land trust of this state established and authorized to own land  
117 within the state;

118 (12) "Municipality", any city, town, village, or county;

119 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or  
120 recorded as the property of, one or more persons or entities;

121 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan  
122 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible  
123 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or  
124 eliminated by redevelopment or rehabilitation; and

125 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement  
126 into which the applicant entered with a municipal authority and which is the agreement for the  
127 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant  
128 was appointed or selected as the redeveloper or by which the person or entity was qualified as  
129 an applicant under this section; and such appointment or selection shall have been approved by  
130 an ordinance of the governing body of the municipality, or municipalities, or in the case of any  
131 city not within a county, the board of aldermen, in which the eligible project area is located. The  
132 redevelopment agreement shall include a time line for redevelopment of the eligible project area,  
133 **including deadlines for commencement of work and for project completion, and shall**  
134 **provide the municipal authority the right to terminate the rights of the redeveloper under**  
135 **the redevelopment agreement if such deadlines are not met.** The redevelopment agreement  
136 shall state that the named developer shall be subject to the provisions of chapter 290.

137 3. **Subject to the limitations provided in subsection 7 of this section,** any applicant  
138 shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148,  
139 except for sections 143.191 to 143.265, in an amount equal to fifty percent of the acquisition  
140 costs; **except that, the tax credit for reasonable demolition costs shall be in an amount equal**  
141 **to one hundred percent of such costs,** and one hundred percent of the interest costs incurred  
142 for a period of [five] **twelve** years after the acquisition of an eligible parcel. [No tax credits shall  
143 be issued under this section until after January 1, 2008.]

144 4. If the amount of such tax credit exceeds the total tax liability for the year in which the  
145 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be  
146 carried forward for credit against the taxes imposed under chapters 143, 147, and 148 for the  
147 succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall  
148 not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265. Applicants  
149 entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits  
150 granted to a partnership, a limited liability company taxed as a partnership, or multiple owners  
151 of property shall be passed through to the partners, members, or owners respectively pro rata or  
152 pursuant to an executed agreement among the partners, members, or owners documenting an  
153 alternate distribution method.

154 5. A purchaser, transferee, or assignee of the tax credits authorized under this section  
155 may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise  
156 imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265. A seller,

157 transferor, or assignor shall perfect such transfer by notifying the department in writing within  
158 thirty calendar days following the effective date of the transfer and shall provide any information  
159 as may be required by the department to administer and carry out the provisions of this section.

160         6. To claim tax credits authorized under this section, an applicant shall submit to the  
161 department an application for a certificate. An applicant shall identify the boundaries of the  
162 eligible project area in the application. The department shall verify that the applicant has  
163 submitted a valid application in the form and format required by the department. The department  
164 shall verify that the municipal authority held the requisite hearings and gave the requisite notices  
165 for such hearings in accordance with the applicable economic incentive act, and municipal  
166 ordinances. On [an annual] **a quarterly** basis, an applicant may file for the tax credit for the  
167 acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this  
168 section. If an applicant applying for the tax credit meets the criteria required under this section,  
169 the department shall issue a certificate in the appropriate amount. If an applicant receives a tax  
170 credit for maintenance costs as a part of the applicant's acquisition costs, the department shall  
171 post on its internet website the amount and type of maintenance costs and a description of the  
172 redevelopment project for which the applicant received a tax credit within thirty days after the  
173 department issues the certificate to the applicant.

174         7. The total aggregate amount of tax credits authorized under this section **after August**  
175 **28, 2013**, shall not exceed ninety-five million dollars. At no time shall the annual amount of the  
176 tax credits issued under this section exceed [twenty] **thirty** million dollars. If the tax credits that  
177 are to be issued under this section exceed, in any year, the [twenty] **thirty** million dollar  
178 limitation, the department shall either:

179             (1) Issue tax credits to the applicant in the amount of [twenty] **thirty** million dollars, if  
180 there is only one applicant entitled to receive tax credits in that year; or

181             (2) **(a)** Issue the tax credits [on a pro rata basis] to all applicants entitled to receive tax  
182 credits in that year **as provided in this subdivision. The department shall determine on an**  
183 **ongoing basis during the course of each calendar year the amount of tax credits that has**  
184 **been issued to each applicant for each eligible project area during such year, and the**  
185 **amount of tax credits remaining available for issuance with respect to such calendar year,**  
186 **if any.**

187             **(b) Applicants applying for tax credits with respect to projects located in eligible**  
188 **project areas qualified as such under subparagraph c. of paragraph (b) of subdivision (8)**  
189 **of subsection 2 of this section shall not, in the aggregate, be issued tax credits in excess of**  
190 **fifty percent of the annual thirty million dollar limitation with respect to such calendar**  
191 **year. If more than one applicant qualifies for issuance of tax credits under the preceding**  
192 **sentence in a given calendar year, such tax credits shall be issued on a pro rata basis.**

193 **Applicants applying for tax credits with respect to projects located in any other eligible**  
194 **project areas shall not, in the aggregate, be issued tax credits in excess of fifty percent of**  
195 **the annual thirty million dollar limitation with respect to such calendar year. If more than**  
196 **one applicant qualifies for issuance of tax credits under the preceding sentence in a given**  
197 **calendar year, such tax credits shall be issued on a pro rata basis.**

198 **(c) In the event that the department determines, as of December thirty-first of a**  
199 **given calendar year, that the full amount of tax credits available for such calendar year**  
200 **under paragraph (b) of this subdivision with respect to projects located in eligible project**  
201 **areas qualified as such under subparagraph c. of paragraph (b) of subdivision (8) of**  
202 **subsection 2 of this section was not issued, then the department shall make available for**  
203 **allocation to qualifying applicants with respect to projects located in any other eligible**  
204 **project areas the unissued amount of such tax credits. In the event that the department**  
205 **determines, as of December thirty-first of a given calendar year, that the full amount of tax**  
206 **credits available for such calendar year under paragraph (b) of this subdivision with**  
207 **respect to projects not located in eligible project areas qualified as such under**  
208 **subparagraph c. of paragraph (b) of subdivision (8) of subsection 2 of this section was not**  
209 **issued, then the department shall make available for allocation to qualifying applicants**  
210 **with respect to projects located in eligible project areas which qualified as such under**  
211 **subparagraph c. of paragraph (b) of subdivision (8) of subsection 2 of this section, the**  
212 **unissued amount of such tax credits.**

213 **(d) Any amount of tax credits, which an applicant is, or applicants are, entitled to receive**  
214 **on an annual basis and are not issued due to the [twenty] ~~thirty~~ million dollar limitation, shall**  
215 **be carried forward for the benefit of the applicant or applicants to subsequent years.**

216

217 No tax credits provided under this section shall be authorized after August 28, [2013] **2019**. Any  
218 tax credits which have been authorized on or before August 28, [2013] **2019**, but not issued, may  
219 be issued, subject to the limitations provided under this subsection, until all such authorized tax  
220 credits have been issued.

221 8. Upon issuance of any tax credits pursuant to this section, the department shall report  
222 to the municipal authority the applicant's name and address, the parcel numbers of the eligible  
223 parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for  
224 which tax credits were issued, and the total value of the tax credits issued. The municipal  
225 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but  
226 shall include [the] **issued** tax credits in any **subsequent** sources and uses and cost benefit  
227 analysis reviewed or created for the purpose of awarding other economic incentives. The amount  
228 of the tax credits shall not be considered an applicant's cost in the evaluation of the amount of

229 any award of any other economic incentives, but shall be considered in measuring the  
230 reasonableness of the rate of return to the applicant with respect to such award of other economic  
231 incentives. The municipal authority shall provide the report to any relevant commission, board,  
232 or entity responsible for the evaluation and recommendation or approval of other economic  
233 incentives to assist in the redevelopment of the eligible project area. Tax credits authorized  
234 under this section shall constitute redevelopment tax credits, as such term is defined under  
235 section 135.800, and shall be subject to all provisions applicable to redevelopment tax credits  
236 provided under sections 135.800 to 135.830.

237 **9. Following its initial application for tax credits under this section for eligible costs**  
238 **incurred in 2013 or any following year, and during the period it continues to seek tax**  
239 **credits under this section, an applicant shall submit to the department on a quarterly basis**  
240 **at the end of each calendar quarter a report affirming such applicant's continued**  
241 **qualification as an applicant under this section, describing the applicant's progress toward**  
242 **meeting the deadlines for commencement of work and for project completion established**  
243 **under its redevelopment agreement with the applicable municipal authority, and including**  
244 **copies of any written notices from such municipal authority asserting or threatening a**  
245 **termination of such development agreement due to a breach or default in the performance**  
246 **of such applicant's obligations under such redevelopment agreement. The department**  
247 **shall review annually the eligibility of each applicant to receive tax credits under this**  
248 **section. The department shall not issue to an applicant any tax credits provided under this**  
249 **section after the date upon which the governing body of the municipality, or municipalities,**  
250 **or in the case of any city not within a county, the board of aldermen, makes a finding that**  
251 **the applicant has failed to comply with deadlines regarding project commencement or**  
252 **completion or other material provisions of its redevelopment agreement with an applicant,**  
253 **and, in furtherance of such finding, the governing body validly adopts an ordinance**  
254 **terminating its redevelopment agreement with the applicant, with the result that such**  
255 **applicant no longer satisfies the requirements of paragraph (b) of subdivision (2) of**  
256 **subsection 2 of this section. The governing body shall notify the department of the**  
257 **governing body's findings and shall deliver to the department a certified copy of the**  
258 **ordinance terminating such redevelopment agreement as soon as practicable.**

259 **10.** The department may promulgate rules to implement the provisions of this section.  
260 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
261 authority delegated in this section shall become effective only if it complies with and is subject  
262 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
263 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant  
264 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are

265 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
266 or adopted after August 28, 2007, shall be invalid and void.

135.680. 1. As used in **subsections 1 to 4 of** this section, the following terms shall  
2 mean:

3 (1) "Adjusted purchase price", the product of:

4 (a) The amount paid to the issuer of a qualified equity investment for such qualified  
5 equity investment; and

6 (b) The following fraction:

7 a. The numerator shall be the dollar amount of qualified low-income community  
8 investments held by the issuer in this state as of the credit allowance date during the applicable  
9 tax year; and

10 b. The denominator shall be the total dollar amount of qualified low-income community  
11 investments held by the issuer in all states as of the credit allowance date during the applicable  
12 tax year;

13 c. For purposes of calculating the amount of qualified low-income community  
14 investments held by an issuer, an investment shall be considered held by an issuer even if the  
15 investment has been sold or repaid; provided that the issuer reinvests an amount equal to the  
16 capital returned to or recovered by the issuer from the original investment, exclusive of any  
17 profits realized, in another qualified low-income community investment within twelve months  
18 of the receipt of such capital. An issuer shall not be required to reinvest capital returned from  
19 qualified low-income community investments after the sixth anniversary of the issuance of the  
20 qualified equity investment, the proceeds of which were used to make the qualified low-income  
21 community investment, and the qualified low-income community investment shall be considered  
22 held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

23 (2) "Applicable percentage", zero percent for each of the first two credit allowance dates,  
24 seven percent for the third credit allowance date, and eight percent for the next four credit  
25 allowance dates;

26 (3) "Credit allowance date", with respect to any qualified equity investment:

27 (a) The date on which such investment is initially made; and

28 (b) Each of the six anniversary dates of such date thereafter;

29 (4) "Long-term debt security", any debt instrument issued by a qualified community  
30 development entity, at par value or a premium, with an original maturity date of at least seven  
31 years from the date of its issuance, with no acceleration of repayment, amortization, or  
32 prepayment features prior to its original maturity date, and with no distribution, payment, or  
33 interest features related to the profitability of the qualified community development entity or the  
34 performance of the qualified community development entity's investment portfolio. The

35 foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument  
36 in situations where the issuer has defaulted on covenants designed to ensure compliance with this  
37 section or Section 45D of the Internal Revenue Code of 1986, as amended;

38 (5) "Qualified active low-income community business", the meaning given such term  
39 in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business  
40 that derives or projects to derive fifteen percent or more of its annual revenue from the rental or  
41 sale of real estate shall not be considered to be a qualified active low-income community  
42 business;

43 (6) "Qualified community development entity", the meaning given such term in Section  
44 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered  
45 into an allocation agreement with the Community Development Financial Institutions Fund of  
46 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal  
47 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area  
48 set forth in such allocation agreement;

49 (7) "Qualified equity investment", any equity investment in, or long-term debt security  
50 issued by, a qualified community development entity that:

51 (a) Is acquired after September 4, 2007, **but before July 1, 2010**, at its original issuance  
52 solely in exchange for cash;

53 (b) Has at least eighty-five percent of its cash purchase price used by the issuer to make  
54 qualified low-income community investments; and

55 (c) Is designated by the issuer as a qualified equity investment under this subdivision and  
56 is certified by the department of economic development as not exceeding the limitation contained  
57 in subsection 2 of this section. This term shall include any qualified equity investment that does  
58 not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified  
59 equity investment in the hands of a prior holder;

60 (8) "Qualified low-income community investment", any capital or equity investment in,  
61 or loan to, any qualified active low-income community business. With respect to any one  
62 qualified active low-income community business, the maximum amount of qualified low-income  
63 community investments made in such business, on a collective basis with all of its affiliates, that  
64 may be used from the calculation of any numerator described in subparagraph a. of paragraph  
65 (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or  
66 several qualified community development entities;

67 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding  
68 withholding tax imposed in sections 143.191 to 143.265, or otherwise due under section 375.916  
69 or chapter 147, 148, or 153;

70 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
71 excluding withholding tax imposed in sections 143.191 to 143.265, or the tax imposed in section  
72 375.916 or chapter 147, 148, or 153.

73 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits  
74 under this section. On each credit allowance date of such qualified equity investment the  
75 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit  
76 during the taxable year including such credit allowance date. The tax credit amount shall be  
77 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such  
78 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount  
79 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax  
80 credit claimed under this section shall be refundable or transferable. Tax credits earned by a  
81 partnership, limited liability company, S-corporation, or other pass-through entity may be  
82 allocated to the partners, members, or shareholders of such entity for their direct use in  
83 accordance with the provisions of any agreement among such partners, members, or  
84 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from  
85 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable  
86 years. The department of economic development shall limit the monetary amount of qualified  
87 equity investments permitted under this section to a level necessary to limit tax credit utilization  
88 at no more than twenty-five million dollars of tax credits in any fiscal year. Such limitation on  
89 qualified equity investments shall be based on the anticipated utilization of credits without regard  
90 to the potential for taxpayers to carry forward tax credits to later tax years.

91 3. The issuer of the qualified equity investment shall certify to the department of  
92 economic development the anticipated dollar amount of such investments to be made in this state  
93 during the first twelve-month period following the initial credit allowance date. If on the second  
94 credit allowance date, the actual dollar amount of such investments is different than the amount  
95 estimated, the department of economic development shall adjust the credits arising on the second  
96 allowance date to account for such difference.

97 4. The department of economic development shall recapture the tax credit allowed under  
98 this section with respect to such qualified equity investment under this section if:

99 (1) Any amount of the federal tax credit available with respect to a qualified equity  
100 investment that is eligible for a tax credit under this section is recaptured under Section 45D of  
101 the Internal Revenue Code of 1986, as amended; or

102 (2) The issuer redeems or makes principal repayment with respect to a qualified equity  
103 investment prior to the seventh anniversary of the issuance of such qualified equity investment.  
104 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the  
105 tax credit on a return.

106           5. The department of economic development shall promulgate rules to implement the  
107 provisions of this section, including recapture provisions on a scaled proportional basis, and to  
108 administer the allocation of tax credits issued for qualified equity investments, which shall be  
109 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined  
110 in section 536.010, that is created under the authority delegated in this section shall become  
111 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
112 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
113 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
114 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
115 rulemaking authority and any rule proposed or adopted after September 4, 2007, shall be invalid  
116 and void.

117           6. [For fiscal years following fiscal year 2010, qualified equity investments shall not be  
118 made under this section unless reauthorization is made pursuant to this subsection. For all fiscal  
119 years following fiscal year 2010, unless the general assembly adopts a concurrent resolution  
120 granting authority to the department of economic development to approve qualified equity  
121 investments for the Missouri new markets development program and clearly describing the  
122 amount of tax credits available for the next fiscal year, or otherwise complies with the provisions  
123 of this subsection, no qualified equity investments may be permitted to be made under this  
124 section. The amount of available tax credits contained in such a resolution shall not exceed the  
125 limitation provided under subsection 2 of this section. In any year in which the provisions of this  
126 section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by  
127 general law and not by concurrent resolution. Nothing in this subsection shall preclude a  
128 taxpayer who makes a qualified equity investment prior to the expiration of authority to make  
129 qualified equity investments from claiming tax credits relating to such qualified equity  
130 investment for each applicable credit allowance date.

131           7. Under section 23.253 of the Missouri sunset act:

132           (1) The provisions of the new program authorized under this section shall automatically  
133 sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly;  
134 and

135           (2) If such program is reauthorized, the program authorized under this section shall  
136 automatically sunset twelve years after the effective date of the reauthorization of this section;  
137 and

138           (3) This section shall terminate on September first of the calendar year immediately  
139 following the calendar year in which the program authorized under this section is sunset.  
140 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity  
141 investment prior to sunset of this section under the provisions of section 23.253 from claiming

142 tax credits relating to such qualified equity investment for each credit allowance date.]  
143 **Subsections 1 to 5 of this section shall apply to qualified equity investments made after**  
144 **September 4, 2007, but before July 1, 2010. Subsections 5 to 14 shall apply to qualified**  
145 **equity investments made after the effective date of this act.**

146 **7. As used in subsections 6 to 14 of this section, the following terms shall mean:**

147 **(1) "Applicable percentage", zero percent for each of the first two credit allowance**  
148 **dates, eleven percent for the next two credit allowance dates, and twelve percent for the**  
149 **next three credit allowance dates;**

150 **(2) "Credit allowance date", with respect to any qualified equity investment:**

151 **(a) The date on which such investment is initially made; and**

152 **(b) Each of the six anniversary dates of such date thereafter;**

153 **(3) "Long-term debt security", any debt instrument issued by a qualified**  
154 **community development entity, at par value or a premium, with an original maturity date**  
155 **of at least seven years from the date of its issuance, with no acceleration of repayment,**  
156 **amortization, or prepayment features prior to its original maturity date. The qualified**  
157 **community development entity that issues the debt instrument shall not make cash interest**  
158 **payments on the debt instrument during the period beginning on the date of issuance and**  
159 **ending on the final credit allowance date in an amount that exceeds the cumulative**  
160 **operating income, as defined by regulations adopted under Section 45D, Internal Revenue**  
161 **Code of 1986, as amended, of the qualified community development entity for that period**  
162 **prior to giving effect to the expense of such cash interest payments. The foregoing shall in**  
163 **no way limit the holder's ability to accelerate payments on the debt instrument in situations**  
164 **where the issuer has defaulted on covenants designed to ensure compliance with this**  
165 **section or Section 45D of the Internal Revenue Code of 1986, as amended;**

166 **(4) "Purchase price", the amount paid to the issuer of a qualified equity investment**  
167 **for such qualified equity investment;**

168 **(5) "Qualified active low-income community business", the meaning given such**  
169 **term in Section 45D of the Internal Revenue Code of 1986, as amended, and 26 C.F.R. Sec.**  
170 **1.45D-1, but limited to those businesses meeting the Small Business Administration size**  
171 **eligibility standards established in 13 C.F.R. 121.101-201 at the time the qualified low**  
172 **income community investment is made. A business shall be considered a qualified active**  
173 **low-income community business for the duration of the qualified community development**  
174 **entity's investment in, or loan to, the business if the entity reasonably expects, at the time**  
175 **it makes the investment or loan, that the business will continue to satisfy the requirements**  
176 **for being a qualified active low-income community business, other than the Small Business**  
177 **Administration size standards, throughout the entire period of the investment or loan. Any**

178 **business that derives or projects to derive seventy-nine percent or more of its annual**  
179 **revenue from the rental or sale of real estate shall not be considered to be a qualified active**  
180 **low-income community business. This exclusion does not apply to a business that is**  
181 **controlled by, or under common control with, another business if the second business:**

182 **(a) Does not derive or project to derive seventy-nine percent or more of its annual**  
183 **revenue from the rental or sale of real estate; and**

184 **(b) Is the primary tenant of the real estate leased from the first business;**

185 **(6) "Qualified community development entity", the meaning given such term in**  
186 **Section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity**  
187 **has entered into, for the current year or any prior year, an allocation agreement with the**  
188 **Community Development Financial Institutions Fund of the U.S. Treasury Department**  
189 **with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986,**  
190 **as amended, which includes the state of Missouri within the service area set forth in such**  
191 **allocation agreement. The term shall include subsidiary community development entities**  
192 **of any such qualified community development entity;**

193 **(7) "Qualified equity investment", any equity investment in, or long-term debt**  
194 **security issued by, a qualified community development entity that:**

195 **(a) Is acquired after the effective date of this act, at its original issuance solely in**  
196 **exchange for cash;**

197 **(b) Has at least eighty-five percent of its cash purchase price used by the issuer to**  
198 **make qualified low-income community investments by the first anniversary of the initial**  
199 **credit allowance date; and**

200 **(c) Is designated by the issuer as a qualified equity investment under this**  
201 **subdivision and is certified by the department of economic development as not exceeding**  
202 **the limitation contained in subsection 8 of this section.**

203 **This term shall include any qualified equity investment that does not meet the provisions**  
204 **of paragraph (a) of this subdivision if such investment was a qualified equity investment**  
205 **in the hands of a prior holder;**

206 **(8) "Qualified low-income community investment", any capital or equity**  
207 **investment in, or loan to, any qualified active low-income community business;**

208 **(9) "Tax credit", a credit against the tax otherwise due under chapter 143,**  
209 **excluding withholding tax imposed in sections 143.191 to 143.265, or otherwise due under**  
210 **section 375.916 or chapter 147, 148, or 153;**

211 **(10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,**  
212 **excluding withholding tax imposed in sections 143.191 to 143.265, or the tax imposed in**  
213 **section 375.916 or chapter 147, 148, or 153.**

214           **8. Any entity that makes a qualified equity investment earns a vested right to tax**  
215 **credits under this section. On each credit allowance date of such qualified equity**  
216 **investment the entity, or subsequent holder of the qualified equity investment, shall be**  
217 **entitled to a tax credit during the taxable year including such credit allowance date. The**  
218 **tax credit amount shall be equal to the applicable percentage of the purchase price paid**  
219 **to the issuer of such qualified equity investment. The amount of the tax credit claimed**  
220 **shall not exceed the amount of the taxpayer's state tax liability for the tax year for which**  
221 **the tax credit is claimed. No tax credit claimed under this section shall be refundable or**  
222 **saleable on the open market. Tax credits earned by a partnership, limited liability**  
223 **company, S-corporation, or other pass-through entity may be allocated to the partners,**  
224 **members, or shareholders of such entity for their direct use in accordance with the**  
225 **provisions of any agreement among such partners, members, or shareholders. Any amount**  
226 **of tax credit that the taxpayer is prohibited by this section from claiming in a taxable year**  
227 **may be carried forward to any of the taxpayer's five subsequent taxable years. The**  
228 **department of economic development shall limit the monetary amount of qualified equity**  
229 **investments permitted under this section to a level necessary to limit tax credit utilization**  
230 **at no more than fifteen million dollars of tax credits in any fiscal year. Such limitation on**  
231 **qualified equity investments shall be based on the anticipated utilization of credits without**  
232 **regard to the potential for taxpayers to carry forward tax credits to later tax years.**

233           **9. The issuer of the qualified equity investment shall certify to the department of**  
234 **economic development the anticipated dollar amount of such investments to be made in**  
235 **this state during the first twelve-month period following the initial credit allowance date.**  
236 **If, on the second credit allowance date, the actual dollar amount of such investments is**  
237 **different than the amount estimated, the department of economic development shall adjust**  
238 **the credits arising on the second allowance date to account for such difference.**

239           **10. The department of economic development shall recapture the tax credit allowed**  
240 **under this section with respect to such qualified equity investment under this section if:**

241           **(1) Any amount of the federal tax credit available with respect to a qualified equity**  
242 **investment that is eligible for a tax credit under this section is recaptured under Section**  
243 **45D of the Internal Revenue Code of 1986, as amended;**

244           **(2) The issuer redeems or makes principal repayment with respect to a qualified**  
245 **equity investment prior to the seventh anniversary of the issuance of such qualified equity**  
246 **investment. Any tax credit that is subject to recapture shall be recaptured from the**  
247 **taxpayer that claimed the tax credit on a return;**

248           **(3) The issuer fails to invest an amount equal to eighty-five percent of the purchase**  
249 **price of the qualified equity investment in qualified low-income community investments**

250 in Missouri within twelve months of the issuance of the qualified equity investment and  
251 maintain at least eighty-five percent of such level of investment in qualified low-income  
252 community investments in Missouri until the last credit allowance date for the qualified  
253 equity investment. For purposes of this section, an investment shall be considered held by  
254 an issuer even if the investment has been sold or repaid if the issuer reinvests an amount  
255 equal to the capital returned to or recovered by the issuer from the original investment,  
256 exclusive of any profits realized, in another qualified low-income community investment  
257 within twelve months of the receipt of such capital. An issuer shall not be required to  
258 reinvest capital returned from qualified low-income community investments after the  
259 earlier of:

260 (a) The sixth anniversary of the issuance of the qualified equity investment, the  
261 proceeds of which were used to make the qualified low-income community investment; or

262 (b) The date by which a qualified community development entity has made  
263 qualified low-income community investments with the proceeds of such qualified equity  
264 investment on a cumulative basis equal to at least one hundred fifty percent of such  
265 proceeds.

266 If the requirements of either paragraph (a) or (b) of this subdivision are met, the qualified  
267 low-income community investment shall be considered held by the issuer through the  
268 seventh anniversary of the qualified equity investment's issuance; or

269 (4) At any time prior to the final credit allowance date of a qualified equity  
270 investment the issuer uses the cash proceeds of such qualified equity investment to make  
271 qualified low-income community investments in any one qualified active low-income  
272 community business, including affiliated qualified active low-income community business,  
273 exclusive of reinvestments of capital returned or repaid with respect to earlier investments  
274 in such qualified active low-income community business and its affiliates, in excess of  
275 twenty-five percent of such cash proceeds.

276 No recapture shall occur until the qualified community development entity shall have been  
277 given notice of noncompliance and afforded six months from the date of such notice to cure  
278 the noncompliance.

279 11. A qualified community development entity that seeks to have an equity  
280 investment or long-term debt security designated as a qualified equity investment and  
281 eligible for tax credits under this section shall pay a fee in the amount of one-half of one  
282 percent of the amount of the equity investment or long-term debt security requested to be  
283 designated as a qualified equity investment to the department of economic development for  
284 deposit in the new markets performance guarantee fund established by subsection 12 of  
285 this section. The entity shall forfeit the fee in its entirety if the qualified community

286 development entity or any subsidiary qualified community development entity that issues  
287 a qualified equity investment certified under this section fails to invest an amount equal  
288 to eighty-five percent of the purchase price of the qualified equity investment in qualified  
289 low-income community investments in Missouri within twelve months of the issuance of  
290 the qualified equity investment. The entity shall have six months from the date of notice  
291 of compliance with this requirement to cure this noncompliance. The fee shall be held in  
292 the new markets performance guarantee fund until such time as compliance with the  
293 provisions of this subsection shall have been established. The qualified community  
294 development entity may request a refund of the fee from the department no sooner than  
295 thirty days after meeting the requirements of this subsection. The department shall have  
296 thirty days to comply with such request or give notice of noncompliance.

297 **12.** There is hereby created in the state treasury the "New Markets Performance  
298 Guarantee Fund", which shall consist of money collected under subsection 11 of this  
299 section. The state treasurer shall be custodian of the fund. In accordance with sections  
300 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a  
301 dedicated fund and, upon appropriation, money in the fund shall be used solely for the  
302 administration of this section. Notwithstanding the provisions of section 33.080, to the  
303 contrary, any moneys remaining in the fund at the end of the biennium shall not revert to  
304 the credit of the general revenue fund. The state treasurer shall invest moneys in the fund  
305 in the same manner as other funds are invested. Any interest and moneys earned on such  
306 investments shall be credited to the fund.

307 **13. (1)** Once a qualified equity investment is designated as such by the department  
308 of economic development the investment shall be deemed "bound". A qualified equity  
309 investment may not be unbound unless all of the requirements of subdivision (2) of this  
310 subsection have been met. Until all qualified equity investments issued by a qualified  
311 community development entity are unbound under this subsection, the qualified  
312 community development entity shall not be entitled to distribute to its equity holders or  
313 make cash payments on long-term debt securities that have been designated as qualified  
314 equity investments in an amount that exceeds the sum of:

315 **(a)** The cumulative operating income, as defined by regulations adopted under  
316 Section 45D, Internal Revenue Code of 1986, as amended, earned by the qualified  
317 community development entity since issuance of the qualified equity investment, prior to  
318 giving effect to any expense from the payment of interest on long-term debt securities  
319 designated as qualified equity investments; and

320 **(b)** Fifty percent of the purchase price of the qualified equity investments issued by  
321 the qualified community development entity.

- 322           **(2) To be unbound, a qualified equity investment shall:**  
323           **(a) Be beyond its seventh credit allowance date;**  
324           **(b) Have been in compliance with subsection 10 of this section up through its**  
325 **seventh credit allowance date; and**  
326           **(c) Have had its proceeds invested in qualified active low-income community**  
327 **investments such that the total qualified active low-income community investments made,**  
328 **cumulatively including reinvestments, exceeds one hundred and fifty percent of its**  
329 **qualified equity investment.**
- 330           **(3) A community development entity that seeks to have a qualified equity**  
331 **investment unbound under this section shall send notice to the department of economic**  
332 **development of its request to be unbound along with evidence supporting the request. The**  
333 **qualified equity investment shall be deemed to have been in compliance with subsection 10**  
334 **of this section if no recapture action has been commenced by the department of economic**  
335 **development as of the seventh credit allowance date. Such request shall not be**  
336 **unreasonably denied and shall be responded to within thirty days of receiving the request.**  
337 **If the request is denied for any reason, the burden of proof shall be on the department in**  
338 **any administrative or legal proceeding that follows.**
- 339           **14. No qualified community development entity shall be entitled to pay to any**  
340 **affiliate of such qualified community development entity any fees in connection with any**  
341 **activity under this section prior to the being unbound under subsection 13 of this section**  
342 **of all qualified equity investments issued by such qualified community development entity.**  
343 **A qualified community development entity is not prohibited from allocating or distributing**  
344 **income earned by it to such affiliates or paying reasonable interest on amounts lent to the**  
345 **qualified community development entity by such affiliates.**
- 346           **15. Pursuant to section 23.253 of the Missouri sunset act:**
- 347           **(1) The provisions of the new program authorized under subsections 6 to 14 of this**  
348 **section shall sunset automatically six years after the effective date of this act, unless**  
349 **reauthorized by an act of the general assembly; and**
- 350           **(2) If such program is reauthorized, the program authorized under subsections 6**  
351 **to 14 of this section shall sunset automatically twelve years after the effective date of the**  
352 **reauthorization of subsections 6 to 14 of this section; and**
- 353           **(3) Subsections 6 to 14 of this section shall terminate on September first of the**  
354 **calendar year immediately following the calendar year in which the program authorized**  
355 **under subsections 6 to 14 of this section is sunset.**

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

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

7           (2) **"Constructing taxpayer"**, if more than one taxpayer is responsible for a project,  
8 a taxpayer responsible for the construction of the facility, as opposed to a taxpayer  
9 responsible for the equipping and ongoing operations of the facility;

10          (3) **"County average wage"**, the average wage in each county as determined by the  
11 department for the most recently completed full calendar year. However, if the computed  
12 county average wage is above the statewide average wage, the statewide average wage shall  
13 be deemed the county average wage for such county for the purpose of determining  
14 eligibility;

15          (4) **"Data storage center" or "facility"**, a facility constructed, extended, improved,  
16 or operating under this section, provided that such business facility is engaged primarily  
17 in:

18           (a) **Data processing, hosting, and related services (NAICS 518210);**

19           (b) **Internet publishing and broadcasting and web search portals (NAICS 519130),**  
20 **at the business facility; or**

21           (c) **Customer service, customer contact, or customer support operations through**  
22 **the use of computer databases and telecommunications services at the business facility;**

23          (5) **"Existing facility"**, a data storage center in this state as it existed prior to  
24 **August 28, 2013, as determined by the department;**

25          (6) **"Expanding facility" or "expanding data storage center"**, an existing facility  
26 **or replacement facility that expands its operations in this state on or after August 28, 2013,**  
27 **and has a net new investment related to the expansion of operations in this state of at least**  
28 **five million dollars during a period of up to twelve consecutive months and results in the**  
29 **creation of at least five new jobs during a period of up to twenty-four consecutive months**  
30 **from the date of conditional approval for an exemption under this section, if the average**  
31 **wage of the new jobs equals or exceeds one hundred and fifty percent of the county average**  
32 **wage. An expanding facility shall continue to be an expanding facility regardless of a**  
33 **subsequent change in or addition of operating taxpayers or constructing taxpayers;**

34          (7) **"Expanding facility project" or "expanding data storage center project"**, the  
35 **construction, extension, improvement, equipping, and operation of an expanding facility;**

36          (8) **"Investment"** shall include the value of real and depreciable personal property,  
37 **acquired as part of the new or expanding facility project which is used in the operation of**  
38 **the facility following conditional approval of an exemption under this section;**

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

44           **(10) "New facility" or "new data storage center", a facility in this state meeting the**  
45 **following requirements:**

46           **(a) The facility is acquired by, or leased to, an operating taxpayer on or after**  
47 **August 28, 2013. A facility shall be deemed to have been acquired by, or leased to, an**  
48 **operating taxpayer on or after August 28, 2013, if the transfer of title to an operating**  
49 **taxpayer, the transfer of possession under a binding contract to transfer title to an**  
50 **operating taxpayer, or the commencement of the term of the lease to an operating taxpayer**  
51 **occurs on or after August 28, 2013, or, if the facility is constructed, erected, or installed by**  
52 **or on behalf of an operating taxpayer, such construction, erection, or installation is**  
53 **commenced on or after August 28, 2013;**

54           **(b) If such facility was acquired by an operating or constructing taxpayer from**  
55 **another person or persons on or after August 28, 2013, and such facility was employed**  
56 **prior to August 28, 2013, by any other person or persons in the operation of a data storage**  
57 **center the facility shall not be considered a new facility;**

58           **(c) Such facility is not an expanding or replacement facility, as defined in this**  
59 **section;**

60           **(d) The new facility project investment is at least thirty-seven million dollars during**  
61 **a period of up to thirty-six consecutive months from the date of the conditional approval**  
62 **for an exemption under this section. If more than one taxpayer is responsible for a project,**  
63 **the investment requirement may be met by an operating taxpayer, a constructing taxpayer,**  
64 **or a combination of constructing taxpayers and operating taxpayers;**

65           **(e) At least thirty new jobs are created at the new facility during a period of up to**  
66 **thirty-six consecutive months from the date of conditional approval for an exemption**  
67 **under this section if the average wage of the new jobs equals or exceeds one hundred fifty**  
68 **percent of the county average wage; and**

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

71           **(11) "New data storage center project" or "new facility project", the construction,**  
72 **extension, improvement, equipping, and operation of a new facility;**

73           **(12) "New job" in the case of a new data center project, the total number of full-**  
74 **time employees located at a new data storage center for a period of up to thirty-six**

75 consecutive months from the date of conditional approval for an exemption under this  
76 section. In the case of an expanding data storage center project, the total number of full-  
77 time employees located at the expanding data storage center that exceeds the greater of the  
78 number of full-time employees located at the project facility on the date of the submission  
79 of a project plan under this section or for the twelve-month period prior to the date of the  
80 submission of a project plan, the average number of full-time employees located at the  
81 expanding data storage center facility. In the event the expanding data storage center  
82 facility has not been in operation for a full twelve-month period at the time of the  
83 submission of a project plan, the average number of full-time employees for the number  
84 of months the expanding data storage center facility has been in operation prior to the date  
85 of the submission of the project plan;

86 (13) "Notice of intent", a form developed by the department of economic  
87 development, completed by the project taxpayer, and submitted to the department, which  
88 states the project taxpayer's intent to construct or expand a data center and requests the  
89 exemptions under this program;

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

93 (15) "Project taxpayers", each constructing taxpayer and each operating taxpayer  
94 for a data storage center project;

95 (16) "Replacement facility", a facility in this state otherwise described in  
96 subdivision (7) of this subsection, but which replaces another facility located within the  
97 state, which the taxpayer or a related taxpayer previously operated but discontinued  
98 operating within one year prior to the commencement of commercial operations at the new  
99 facility;

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

104 2. In addition to the exemptions granted under chapter 144, project taxpayers for  
105 a new data storage center project shall be entitled, for a project period not to exceed fifteen  
106 years from the date of conditional approval under this section and subject to the  
107 requirements of subsection 3 of this section, to an exemption of one hundred percent of the  
108 state and local sales and use taxes defined, levied, or calculated under section 32.085,  
109 sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, limited to the  
110 net fiscal benefit of the state calculated over a ten-year period, on:

111           **(1) All electrical energy, gas, water, and other utilities including telecommunication**  
112 **and internet services used in a new data storage center;**

113           **(2) All machinery, equipment, and computers used in any new data storage center;**  
114 **and**

115           **(3) All sales at retail of tangible personal property and materials for the purpose**  
116 **of constructing any new data storage center.**

117

118 **The amount of any exemption provided under this subsection shall not exceed the**  
119 **projected net fiscal benefit to the state over a period of ten years, as determined by the**  
120 **department of economic development using the Regional Economic Modeling, Inc. data set**  
121 **or comparable data.**

122           **3. (1) Any data storage center project seeking a tax exemption under subsection**  
123 **2 of this section shall submit a notice of intent and a project plan to the department of**  
124 **economic development, which shall identify each known constructing taxpayer and known**  
125 **operating taxpayer for the project and include any additional information the department**  
126 **of economic development may require to determine eligibility for the exemption. The**  
127 **department of economic development shall review the project plan and determine whether**  
128 **the project is eligible for the exemption under subsection 2 of this section, conditional upon**  
129 **subsequent verification by the department that the project meets the requirements in**  
130 **subsection 1 of this section for a new facility project. The department shall make such**  
131 **conditional determination within thirty days of submission by the operating taxpayer.**  
132 **Failure of the department to respond within thirty days shall result in a project plan being**  
133 **deemed conditionally approved.**

134           **(2) The department of economic development shall convey conditional approvals**  
135 **to the department of revenue and the identified project taxpayers. After a conditionally**  
136 **approved new facility has met the requirements in subsection 1 of this section for a new**  
137 **facility and the execution of the agreement specified in subsection 6 of this section, the**  
138 **project taxpayers shall provide proof of the same to the department of economic**  
139 **development. Upon verification of such proof, the department of economic development**  
140 **shall certify the new facility to the department of revenue as being eligible for the**  
141 **exemption dating retroactively to the first day of construction on the new facility. The**  
142 **department of revenue, upon receipt of adequate proof of the amount of sales taxes paid**  
143 **since the first day of construction, shall issue a refund of taxes paid but eligible for**  
144 **exemption under subsection 2 of this section to each operating taxpayer and each**  
145 **constructing taxpayer and issue a certificate of exemption to each new project taxpayer for**  
146 **ongoing exemptions under subsection 2 of this section. The department of revenue shall**

147 issue such a refund within thirty days of receipt of certification from the department of  
148 economic development.

149 (3) Any project that does not meet the minimum investment or new job  
150 requirements of subsection 1 of this section may still be eligible for the exemption under  
151 subsection 2 of this section, as long as the exemptions for such project plan do not exceed  
152 the projected net fiscal benefit to the state over a period of ten years.

153 (4) The commencement of the exemption period may be delayed at the option of the  
154 operating taxpayer, but not more than twenty-four months after the execution of the  
155 agreement required under subsection 6 of this section.

156 4. In addition to the exemptions granted under chapter 144, upon approval by the  
157 department of economic development, project taxpayers for expanding data center projects  
158 may, for a period not to exceed ten years, be specifically exempted from state and local  
159 sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to  
160 144.525, sections 144.600 to 144.761, or section 238.235 on:

161 (1) All electrical energy, gas, water, and other utilities including telecommunication  
162 and internet services used in an expanding data storage center which, on an annual basis,  
163 exceeds the amount of electrical energy, gas, water, and other utilities including  
164 telecommunication and internet services used in the existing facility or the replaced facility  
165 prior to the expansion. For purposes of this subdivision only, "amount" shall be measured  
166 in kilowatt hours, gallons, cubic feet, or other measures applicable to a utility service as  
167 opposed to in dollars, to account for increases in utility rates;

168 (2) All machinery, equipment, and computers used in any expanding data storage  
169 center; and

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

172

173 The amount of any exemption provided under this subsection shall not exceed the  
174 projected net fiscal benefit to the state over a period of ten years, as determined by the  
175 department of economic development.

176 5. (1) Any data storage center project seeking a tax exemption under subsection  
177 4 of this section shall submit a notice of intent and a project plan to the department of  
178 economic development, which shall identify each known constructing taxpayer and each  
179 known operating taxpayer for the project and include any additional information the  
180 department of economic development may reasonably require to determine eligibility for  
181 the exemption. The department of economic development shall review the project plan and  
182 determine whether the project is eligible for the exemption under subsection 4 of this

183 section, conditional upon subsequent verification by the department that the project meets  
184 the requirements in subsection 1 of this section for an expanding facility project and the  
185 execution of the agreement specified in subsection 6 of this section. The department shall  
186 make such conditional determination within thirty days of submission by the operating  
187 taxpayer. Failure of the department to respond within thirty days shall result in a project  
188 plan being deemed conditionally approved.

189 (2) The department of economic development shall convey such conditional  
190 approval to the department of revenue and the identified project taxpayers. After a  
191 conditional approved facility has met the requirements in subsection 1 of this section, the  
192 project taxpayers shall provide proof of the same to the department of economic  
193 development. Upon verification of such proof, the department of economic development  
194 shall certify the project to the department of revenue as being eligible for the exemption  
195 dating retroactively to the first day of the expansion of the facility. The department of  
196 revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day  
197 of the expansion of the facility, shall issue a refund of taxes paid but eligible for exemption  
198 under subsection 4 of this section to any applicable project taxpayer and issue a certificate  
199 of exemption to any applicable project taxpayer for ongoing exemptions under subsection  
200 4 of this section. The department of revenue shall issue such a refund within thirty days  
201 of receipt of certification from the department of economic development.

202 (3) Any project that does not meet the minimum investment or new job  
203 requirements of subsection 1 of this section may still be eligible for the exemption under  
204 subsection 4 of this section, as long as the exemptions for such project plan do not exceed  
205 the projected net fiscal benefit to the state over a period of ten years.

206 (4) The commencement of the exemption period may be delayed at the option of the  
207 operating taxpayer, but not more than twenty-four months after the execution of the  
208 agreement required under subsection 6 of this section.

209 6. (1) The exemptions in subsections 2 and 4 of this section shall be tied to the new  
210 or expanding facility project. A certificate of exemption in the hands of a taxpayer that is  
211 no longer an operating or constructing taxpayer of the new or expanding facility project  
212 shall be invalid as of the date the taxpayer was no longer an operating or constructing  
213 taxpayer of the new or expanding facility project. New certificates of exemption shall be  
214 issued to successor constructing taxpayers and operating taxpayers at such new or  
215 expanding facility projects. The right to the exemption by successor taxpayers shall exist  
216 without regard to subsequent levels of investment in the new or expanding facility by  
217 successor taxpayers.

218 (2) As a condition of receiving an exemption under subsection 2 or 4 of this section,

219 the project taxpayers shall enter into an agreement with the department of economic  
220 development providing for repayment penalties in the event the data storage center project  
221 fails to comply with any of the requirements of this section.

222 (3) The department of revenue shall credit any amounts remitted by the project  
223 taxpayers under this subsection to the fund to which the sales and use taxes exempted  
224 would have otherwise been credited.

225 7. The department of economic development and the department of revenue shall  
226 cooperate in conducting random audits to ensure that the intent of this section is followed.

227 8. Notwithstanding any other provision of law to the contrary, no recipient of an  
228 exemption pursuant to this section shall be eligible for benefits under any business  
229 recruitment tax credit, as defined in section 135.800.

230 9. The department of economic development and the department of revenue shall  
231 jointly prescribe such rules and regulations necessary to carry out the provisions of this  
232 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
233 created under the authority delegated in this section shall become effective only if it  
234 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
235 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
236 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
237 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
238 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,  
239 shall be invalid and void.

240 10. This section shall terminate on September 1, 2019. The termination of this  
241 section shall not be construed to limit or in any way impair the exemption for any project  
242 approved prior to the termination of this section.

348.273. 1. This section and section 348.274 shall be known and may be cited as the  
2 "Missouri Angel Investment Incentive Act".

3 2. As used in this section and section 348.274, the following terms mean:

4 (1) "Cash investment", money or money equivalent contribution;

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

6 (3) "Investor":

7 (a) A natural person who is an accredited investor as defined in 17 CFR  
8 230.501(a)(5) or 17 CFR 230.501(a)(6), as in effect on August 28, 2013;

9 (b) A permitted entity investor who is an accredited investor as defined in 17 CFR  
10 230.501(a)(8), as in effect on August 28, 2013; or

11 (c) A natural person or permitted entity investor making an investment that is  
12 permitted under the Jumpstart Our Business Startups Act, Pub. L. No. 112-106, Sections

13 **301-305, 126 Stat. 315-323, as in effect on August 28, 2013.**

14

15 **A person who serves as an executive, officer, or employee of the business in which an**  
16 **otherwise qualified cash investment is made is not an investor, and such person shall not**  
17 **qualify for the issuance of tax credits for such investment;**

18 **(4) "MTC", the Missouri technology corporation, established under section**  
19 **348.250;**

20 **(5) "Owner", any natural person who is, directly or indirectly, a partner,**  
21 **stockholder, or member in a permitted entity investor;**

22 **(6) "Permitted entity investor", any charitable organization which is exempt from**  
23 **federal income tax and whose Missouri unrelated business taxable income, if any, would**  
24 **be subject to the state income tax imposed under chapter 143, general partnership, limited**  
25 **partnership, small corporation described in section 143.471, revocable living trust, or**  
26 **limited liability company that has elected to be taxed as a partnership under the United**  
27 **States internal revenue code, and that was established and is operated for the purpose of**  
28 **making investments in other entities;**

29 **(7) "Qualified knowledge-based company", a company based on the use of ideas**  
30 **and information to provide innovative technologies, products, and services;**

31 **(8) "Qualified Missouri business", the Missouri businesses that are approved and**  
32 **certified as qualified knowledge-based companies by the MTC that meet at least one of the**  
33 **following criteria:**

34 **(a) Any business owned by an individual;**

35 **(b) Any partnership, association, or corporation domiciled in Missouri; or**

36 **(c) Any corporation, even if a wholly owned subsidiary of a foreign corporation,**  
37 **that does business primarily in Missouri or does substantially all of such business's**  
38 **production in Missouri;**

39 **(9) "Qualified securities", a cash investment through any one or more forms of**  
40 **financial assistance as provided in this subdivision and that have been approved in form**  
41 **and substance by the department. Forms of such financial assistance include:**

42 **(a) Any form of equity, such as:**

43 **a. A general or limited partnership interest;**

44 **b. Common stock;**

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

47 **d. Any form of subordinate or convertible debt, or both, with warrants or other**  
48 **means of equity conversion attached; or**

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

53           **(10) "Tax credit", a credit against the tax otherwise due under chapter 143,**  
54 **excluding withholding tax imposed by sections 143.191 to 143.265.**

55           **3. The Missouri angel investment incentive act shall be administered by the MTC**  
56 **and the department, with the primary goal of encouraging individuals to provide seed-**  
57 **capital financing for emerging Missouri businesses engaged in the development,**  
58 **implementation, and commercialization of innovative technologies, products, and services.**  
59 **The MTC shall review applications from businesses requesting designation as a qualified**  
60 **Missouri business and allocate the amount of available tax credits among the qualified**  
61 **Missouri businesses. The department shall establish its own rules of procedure, including**  
62 **the form and substance of applications to be used by the MTC and the criteria to be**  
63 **considered by the MTC when evaluating a qualified Missouri business, such applications**  
64 **and criteria to be not less than the minimum requirements set forth in subsection 5 of this**  
65 **section. The department shall issue tax credits to qualified investors that make cash**  
66 **investments in qualified Missouri businesses that have been allocated available tax credits**  
67 **by the MTC.**

68           **4. (1) A tax credit shall be allowed for an investor's cash investment in the qualified**  
69 **securities of a qualified Missouri business. The credit shall be in a total amount equal to**  
70 **fifty percent of such investor's cash investment in any qualified Missouri business, subject**  
71 **to the limitations set forth in this subsection. This tax credit may be used in its entirety in**  
72 **the taxable year in which the cash investment is made except that no tax credit shall be**  
73 **allowed in a year prior to the year beginning January 1, 2014. If the amount by which that**  
74 **portion of the credit allowed by this section exceeds the investor's liability in any one**  
75 **taxable year, the remaining portion of the credit may be carried forward five years or until**  
76 **the total amount of the credit is used, whichever occurs first. If the investor is a permitted**  
77 **entity investor, the credit provided by this section shall be claimed by the owners of the**  
78 **permitted entity investor in proportion to their equity investment in the permitted entity**  
79 **investor.**

80           **(2) A cash investment in a qualified security shall be deemed to have been made on**  
81 **the date of acquisition of the qualified security, as such date is determined in accordance**  
82 **with the provisions of the Internal Revenue Code of 1986, as amended.**

83           **(3) The department shall not allow tax credits of more than fifty thousand dollars**  
84 **for a single qualified Missouri business or a total of two hundred fifty thousand dollars in**

85 tax credits for a single year per investor who is a natural person or owner of a permitted  
86 entity investor. No tax credits authorized by this section and section 348.274 shall be  
87 allowed for any cash investments in qualified securities for any year beginning after  
88 December 31, 2019. The total amount of tax credits allocated under this section shall not  
89 exceed six million dollars per year.

90 (4) At the beginning of each calendar year, the department shall equally designate  
91 the tax credits available during that year for investments made in companies within each  
92 congressional district of the state. At the beginning of each calendar quarter, the  
93 department shall allocate to each congressional district one-fourth of the total tax credits  
94 designated to such district for the calendar year such that the MTC can allocate tax credits  
95 among the qualified Missouri businesses within such district. The department shall then  
96 issue tax credits to qualified investors for cash investments in such qualified Missouri  
97 businesses during that calendar quarter.

98 (5) At the end of each calendar quarter, the MTC shall report to the department  
99 any unallocated tax credits for the preceding quarter for each congressional district. Such  
100 report shall meet the requirements set forth in section 348.274. The department shall  
101 aggregate all such tax credits and reallocate them equally among the congressional districts  
102 as soon as possible during the next consecutive calendar quarter. Each congressional  
103 district shall receive such reallocation in addition to the new allocation of designated tax  
104 credits for such quarter.

105 (6) During the fourth calendar quarter, a congressional district in need of  
106 additional tax credits for transactions closing in the fourth calendar quarter may receive  
107 unallocated tax credits to the extent such credits are available. When the MTC transfers  
108 unallocated tax credits to another congressional district under this subdivision, the MTC  
109 shall provide to the department a written confirmation authorizing such transfer and the  
110 MTC shall include a copy of such written confirmation in its reports provided under  
111 section 348.274.

112 5. (1) Before an investor may be entitled to receive tax credits under this section  
113 and section 348.274, such investor shall have made a cash investment in a qualified security  
114 of a qualified Missouri business. The business shall have been approved by the MTC as  
115 a qualified Missouri business before the date on which the cash investment was made. To  
116 be designated as a qualified Missouri business, a business shall make application to the  
117 MTC in accordance with the provisions of this section.

118 (2) The application by a business to the MTC shall be in the form and substance  
119 as required by the department, but shall include at least the following:

120 (a) The name of the business and certified copies of the organizational documents

121 of the business;

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

124 (c) A statement of the potential economic impact of the enterprise, including the  
125 number, location, and types of jobs expected to be created;

126 (d) A description of the qualified securities to be issued, the consideration to be  
127 paid for the qualified securities, and the amount of any tax credits requested;

128 (e) A statement of the amount, timing, and projected use of the proceeds to be  
129 raised from the proposed sale of qualified securities; and

130 (f) Such other information as the MTC or the department may reasonably request.

131 (3) The designation of a business as a qualified Missouri business shall be made by  
132 the MTC, and such designation shall be renewed annually. A business shall be so  
133 designated if the MTC determines, based upon the application submitted by the business  
134 and any additional investigation the MTC shall make, that such business meets the criteria  
135 established by the department. Such criteria shall include at least the following:

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

138 (b) Businesses that are not bioscience businesses shall have been in operation for  
139 less than five years, and bioscience businesses shall have been in operation for less than ten  
140 years;

141 (c) The ability of investors in the business to receive tax credits for cash investments  
142 in qualified securities of the business is beneficial, because funding otherwise available for  
143 the business is not available on commercially reasonable terms;

144 (d) The business shall not have ownership interests including, but not limited to,  
145 common or preferred shares of stock, that can be traded via a public stock exchange before  
146 the date that a qualifying investment is made;

147 (e) The business shall not be engaged primarily in any one or more of the following  
148 enterprises:

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

151 b. The provision of professional services, such as legal, accounting, or engineering  
152 services;

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

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

155 e. Insurance;

156 f. Construction or construction management or contracting;

- 157           **g. Business consulting or brokerage;**
- 158           **h. Any business engaged primarily as a passive business, having irregular or**  
159 **noncontinuous operations, or deriving substantially all of the income of the business from**  
160 **passive investments that generate interest, dividends, royalties, or capital gains, or any**  
161 **business arrangements the effect of which is to immunize an investor from risk of loss;**
- 162           **i. Any activity that is in violation of the law;**
- 163           **j. Any business raising money primarily to purchase real estate, land, or fixtures;**  
164 **and**
- 165           **k. Any gambling-related business;**
- 166           **(f) The business has a reasonable chance of success;**
- 167           **(g) The business has the reasonable potential to create measurable employment**  
168 **within the region, this state, or both;**
- 169           **(h) The business has an innovative and proprietary technology, product, or service;**
- 170           **(i) The existing owners of the business and other founders have made or are**  
171 **committed to make a substantial financial and time commitment to the business;**
- 172           **(j) The securities to be issued and purchased are qualified securities;**
- 173           **(k) The business has the reasonable potential to address the needs and**  
174 **opportunities specific to the region, this state, or both;**
- 175           **(l) The business has made binding commitments to the MTC for adequate reporting**  
176 **of financial data, including a requirement for an annual report, or, if required by the**  
177 **MTC, an annual audit of the financial and operational records of the business, the right**  
178 **of access to the financial records of the business, and the right of the MTC to record and**  
179 **publish normal and customary data and information related to the issuance of tax credits**  
180 **that are not otherwise determined to be trade or business secrets; and**
- 181           **(m) The business shall satisfy all other requirements of this section and section**  
182 **348.274.**
- 183           **(4) Notwithstanding the requirements of subdivision (3) of this subsection, a**  
184 **business may be considered as a qualified Missouri business under the provisions of this**  
185 **section and section 348.274 if such business falls within a standard industrial classification**  
186 **code established by the department.**
- 187           **(5) A qualified Missouri business shall have the burden of proof to demonstrate to**  
188 **the MTC the qualifications of the business under this section.**
- 189           **(6) Any rule or portion of a rule, as that term is defined in section 536.010 that is**  
190 **created under the authority delegated in this section and section 348.274 shall become**  
191 **effective only if it complies with and is subject to all of the provisions of chapter 536, and,**  
192 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**

193 the powers vested with the general assembly pursuant to chapter 536, to review, to delay  
194 the effective date, or to disapprove and annul a rule are subsequently held  
195 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
196 after August 28, 2013, shall be invalid and void.

348.274. 1. (1) The MTC is authorized to allocate tax credits to qualified Missouri  
2 businesses. The department is authorized to issue tax credits to qualified investors in such  
3 qualified Missouri businesses. Such tax credits shall be allocated to those qualified  
4 Missouri businesses which, as determined by the MTC, are most likely to provide the  
5 greatest economic benefit to the region, the state, or both. The MTC may allocate, and the  
6 department may issue, whole or partial tax credits based on the MTC's assessment of the  
7 qualified Missouri businesses. The MTC may consider numerous factors in such  
8 assessment, including but not limited to the quality and experience of the management  
9 team, the size of the estimated market opportunity, the risk from current or future  
10 competition, the ability to defend intellectual property, the quality and utility of the  
11 business model, and the quality and reasonableness of financial projections for the  
12 business.

13 (2) Each qualified Missouri business for which the MTC has allocated tax credits  
14 such that the department can issue tax credits to the qualified investors of such qualified  
15 Missouri business shall submit to the MTC a report before such tax credits are issued. The  
16 MTC shall provide copies of this report to the department. Such report shall include the  
17 following:

18 (a) The name, address, and taxpayer identification number of each investor who  
19 has made cash investment in the qualified securities of the qualified Missouri business;

20 (b) Proof of such investment, including copies of the securities purchase agreements  
21 and cancelled checks or wire transfer receipts; and

22 (c) Any additional information as the MTC may reasonably require under this  
23 section and section 348.273.

24 2. (1) The state of Missouri shall not be held liable for any damages to any investor  
25 that makes an investment in any qualified security of a qualified Missouri business, any  
26 business that applies to be designated as a qualified Missouri business and is turned down,  
27 or any investor that makes an investment in a business that applies to be designated as a  
28 qualified Missouri business and is turned down.

29 (2) Each qualified Missouri business shall have the obligation to notify the MTC  
30 and the department in a timely manner of any changes in the qualifications of the business  
31 or in the eligibility of investors to claim a tax credit for cash investment in a qualified  
32 security.

33           **(3) The department shall provide the information specified in subdivision (3) of**  
34 **subsection 4 of this section to the department of revenue on an annual basis. The**  
35 **department shall conduct an annual review of the activities undertaken under this section**  
36 **and section 348.273 to ensure that tax credits issued under this section and section 348.273**  
37 **are issued in compliance with the provisions of this section and section 348.273 or rules and**  
38 **regulations promulgated by the MTC or the department with respect to this section and**  
39 **section 348.273.**

40           **(4) If the department determines that a business is not in substantial compliance**  
41 **with the requirements of this section and section 348.273 to maintain its designation, the**  
42 **department, by written notice, shall inform the business that such business will lose its**  
43 **designation as a qualified Missouri business one hundred twenty days from the date of**  
44 **mailing of the notice unless such business corrects the deficiencies and is once again in**  
45 **compliance with the requirements for designation.**

46           **(5) At the end of the one-hundred-twenty-day period, if the qualified Missouri**  
47 **business is still not in substantial compliance, the department shall send a notice of loss of**  
48 **designation to the business, the MTC, the director of the department of revenue, and to all**  
49 **known investors in the business.**

50           **(6) A business shall lose its designation as a qualified Missouri business under this**  
51 **section and section 348.273 by moving its operations outside Missouri within ten years after**  
52 **receiving financial assistance under this section and section 348.273.**

53           **(7) In the event that a business loses its designation as a qualified Missouri business,**  
54 **such business shall be precluded from being issued any additional tax credits with respect**  
55 **to the business, shall be precluded from being approved as a qualified Missouri business,**  
56 **and shall repay any financial assistance to the MTC in an amount to be determined by the**  
57 **MTC. Each qualified Missouri business that loses its designation as a qualified Missouri**  
58 **business shall enter into a repayment agreement with the MTC specifying the terms of such**  
59 **repayment obligation.**

60           **(8) Investors in a qualified Missouri business shall be entitled to keep all of the tax**  
61 **credits properly issued to such investors under this section and section 348.273.**

62           **(9) The portions of documents and other materials submitted the MTC or the**  
63 **department that contain trade secrets shall be kept confidential and shall be maintained**  
64 **in a secured environment by the MTC and the department, as applicable. For the purposes**  
65 **of this section and section 348.273, "trade secrets" means any customer lists, formulas,**  
66 **compounds, production data, or compilation of information that will allow individuals**  
67 **within a commercial concern using such information the means to fabricate, produce, or**  
68 **compound an article of trade, or perform any service having commercial value, which gives**

69 the user an opportunity to obtain a business advantage over competitors who do not know  
70 or use such service.

71 (10) The MTC and the department may prepare and adopt procedures concerning  
72 the performance of the duties placed upon each respective entity by this section and section  
73 348.273.

74 3. Any qualified investor who makes a cash investment in a qualified security of a  
75 qualified Missouri business may transfer the tax credits such qualified investor may receive  
76 under subsection 4 of section 348.273 to any natural person. Such transferee may claim  
77 the tax credit against the transferee's Missouri income tax liability as provided in  
78 subdivision (1) of subsection 4 of section 348.273, subject to all restrictions and limitations  
79 set forth in this section and section 348.273. Only the full credit for any one investment  
80 shall be transferred, and this interest shall only be transferred one time. Documentation  
81 of any tax credit transfer under this section shall be provided by the qualified investor in  
82 the manner required by the department.

83 4. (1) Each qualified Missouri business for which tax credits have been issued  
84 under this section and section 348.273 shall report to the MTC on an annual basis, on or  
85 before February first. The MTC shall provide copies of the reports to the department.  
86 Such reports shall include the following:

87 (a) The name, address, and taxpayer identification number of each investor who  
88 has made cash investment in the qualified securities of the qualified Missouri business and  
89 has received tax credits for this investment during the preceding year;

90 (b) The amounts of these cash investments by each investor and a description of the  
91 qualified securities issued in consideration of such cash investments; and

92 (c) Any additional information as the MTC or the department may reasonably  
93 require under this section and section 348.273.

94 (2) The MTC shall report quarterly to the department on the allocation of the tax  
95 credits for each congressional district in the preceding calendar quarter. Such reports  
96 shall include:

97 (a) The amount of applications the MTC received for business in each  
98 congressional district;

99 (b) The number and ratio of successful applications to unsuccessful applications;

100 (c) The amount of tax credits allocated but not issued in each congressional district  
101 in the previous quarter, including what percentage was allocated to individuals and what  
102 percentage was allocated to investment firms;

103 (d) The amount of unallocated tax credits in each congressional district; and

104 (e) Such other information as reasonably agreed upon by the MTC and the

105 **department.**

106 **(3) The department shall also report annually to the governor, the president pro**  
107 **tempore of the senate, and the speaker of the house of representatives, on or before April**  
108 **first, on the allocation and issuance of the tax credits. Such reports shall include:**

109 **(a) The amount of tax credits issued in the previous fiscal year, including what**  
110 **percentage was issued to individuals and what percentage was issued to investment firms;**

111 **(b) The types of businesses that benefitted from the tax credits;**

112 **(c) The amount of allocated but unissued tax credits and the information about the**  
113 **unissued tax credits set forth in subdivision (2) of this subsection;**

114 **(d) Any aggregate job creation or capital investment in each congressional district**  
115 **that resulted from the use of the tax credits for a period of five years beginning from the**  
116 **date on which the tax credits were awarded;**

117 **(e) The manner in which the purpose of this section and section 348.273 has been**  
118 **carried out with regard to the region;**

119 **(f) The total cash investments made for the purchase of qualified securities of**  
120 **qualified Missouri businesses within each congressional district during the preceding year**  
121 **and cumulatively since the effective date of this section and section 348.273;**

122 **(g) An estimate of jobs created and jobs preserved by cash investments made in**  
123 **qualified Missouri businesses within each congressional district;**

124 **(h) An estimate of the multiplier effect on the economy of the region of the cash**  
125 **investments made under this section and section 348.273;**

126 **(i) Information regarding what businesses derived benefit from the tax credits**  
127 **remained in the applicable congressional district, what businesses ceased business, what**  
128 **businesses were purchased, and what businesses may have moved out of the congressional**  
129 **district or state and why.**

130 **(4) Any violation of the reporting requirements of this subsection by a qualified**  
131 **Missouri business may be grounds for the loss of designation of such qualified Missouri**  
132 **business, and such business that loses its designation as a qualified Missouri business shall**  
133 **be subject to the restrictions upon loss of designation set forth in subsection 2 of this**  
134 **section.**

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a  
2 partnership, or any charitable organization which is exempt from federal income tax and whose  
3 Missouri unrelated business taxable income, if any, would be subject to the state income tax  
4 imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471,  
5 RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same  
6 meaning as prescribed in 26 U.S.C. 41, **except that such qualified research expenses shall be**

7 **limited to those incurred in the research and development of agricultural biotechnology,**  
8 **plant genomics products, diagnostic and therapeutic medical devices, or prescription**  
9 **pharmaceuticals consumed by animals or those incurred in the research, development, or**  
10 **manufacture of power system technology for aerospace, space, defense, or implantable or**  
11 **wearable medical devices.**

12         2. For tax years beginning on or after January 1, 2001, the director of the department of  
13 economic development [may] **shall** authorize a taxpayer to receive a tax credit against the tax  
14 otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes  
15 withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half  
16 percent of the excess of the taxpayer's qualified research expenses, as certified by the director  
17 of the department of economic development, within this state during the taxable year over the  
18 average of the taxpayer's qualified research expenses within this state over the immediately  
19 preceding three taxable years; except that, no tax credit shall be allowed on that portion of the  
20 taxpayer's qualified research expenses incurred within this state during the taxable year in which  
21 the credit is being claimed, to the extent such expenses exceed two hundred percent of the  
22 taxpayer's average qualified research expenses incurred during the immediately preceding three  
23 taxable years.

24         3. The director of economic development shall prescribe the manner in which the tax  
25 credit may be applied for. The tax credit authorized by this section may be claimed by the  
26 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that  
27 becomes due in the tax year during which such qualified research expenses were incurred.  
28 Where the amount of the credit exceeds the tax liability, the difference between the credit and  
29 the tax liability may only be carried forward for the next five succeeding taxable years or until  
30 the full credit has been claimed, whichever first occurs. The application for tax credits  
31 authorized by the director pursuant to subsection 2 of this section shall be made **no earlier than**  
32 **January first and** no later than [the end of] **July first of the calendar year immediately**  
33 **following the calendar year in which** the taxpayer's tax period [immediately following the tax  
34 period] for which the credits are being claimed **ended. The director shall act on any such**  
35 **application for tax credits no sooner than August first but no later than August fifteenth**  
36 **of each year for applications filed in that calendar year.**

37         4. Certificates of tax credit issued pursuant to this section may be transferred, sold or  
38 assigned by filing a notarized endorsement thereof with the department which names the  
39 transferee and the amount of tax credit transferred. The director of economic development may  
40 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of  
41 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year  
42 commencing on or after January 1, [1996] **2014**, and ending not later than December 31, [1999]

43 **2020.** Such taxpayer shall file, by December 31, [2001] **2022**, an application with the  
44 department which names the transferee, the amount of tax credit desired to be transferred, and  
45 a certification that the funds received by the applicant as a result of the transfer, sale or  
46 assignment of the tax credit shall be expended within three years at the state university for the  
47 sole purpose of conducting research activities agreed upon by the department, the taxpayer and  
48 the state university. Failure to expend such funds in the manner prescribed pursuant to this  
49 section shall cause the applicant to be subject to the provisions of section 620.017.

50 5. No rule or portion of a rule promulgated under the authority of this section shall  
51 become effective unless it has been promulgated pursuant to the provisions of chapter 536,  
52 RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and  
53 repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of  
54 any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of  
55 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable  
56 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,  
57 including the ability to review, to delay the effective date, or to disapprove and annul a rule or  
58 portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking  
59 authority and any rule so proposed and contained in the order of rulemaking shall be invalid and  
60 void.

61 6. The aggregate of all tax credits authorized pursuant to this section shall not exceed  
62 [nine] ten million [seven hundred thousand] dollars in any **calendar year. In the event that**  
63 **total eligible claims for credits received in a calendar year exceed the annual cap, each**  
64 **eligible claimant shall be issued credits based upon the following formula: the eligible**  
65 **credits if the annual cap had not been exceeded multiplied by the ratio of the annual cap**  
66 **divided by the total of all eligible claims for credits filed in that calendar year.**

67 7. [For all tax years beginning on or after January 1, 2005, no tax credits shall be  
68 approved, awarded, or issued to any person or entity claiming any tax credit under this section]  
69 **No one taxpayer shall be issued more than thirty percent of the aggregate of all tax credits**  
70 **authorized under this section in any calendar year.**

Section B. Because immediate action is necessary to encourage economic development  
2 in the state, section 135.680 of A of this act is deemed necessary for the immediate preservation  
3 of the public health, welfare, peace and safety, and is hereby declared to be an emergency act  
4 within the meaning of the constitution, and section 135.680 of section A of this act shall be in  
5 full force and effect upon its passage and approval.

✓